Senate Budget and Fiscal Review

Subcommittee No. 2, 2013 Agendas

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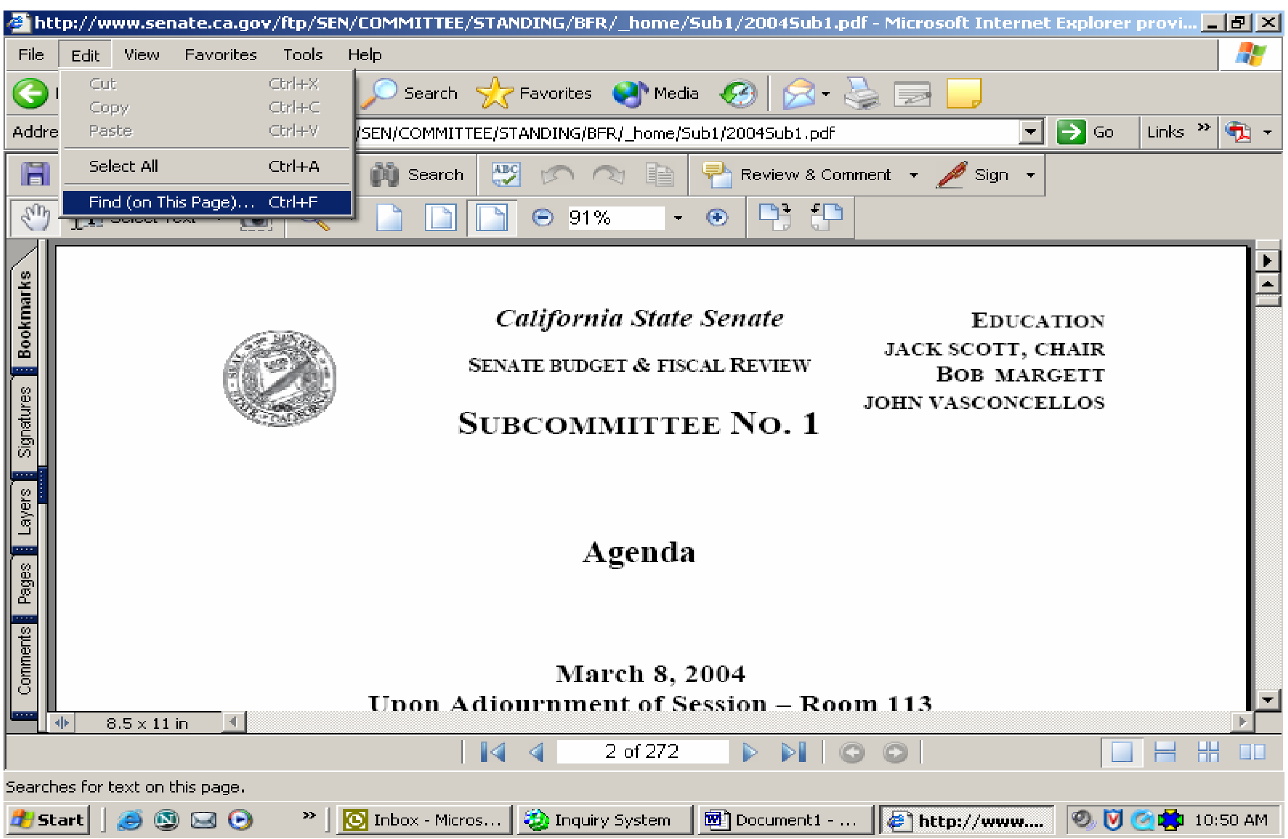

California High-Speed Rail Project:
How Should the State Safeguard the Public's Interest?

Joint Informational Hearing
Senate Transportation and Housing Committee and
Senate Budget and Fiscal Review, Subcommittee No. 2 Resources,
Environmental Protection, Energy and Transportation

Tuesday, February 26, 2013
State Capitol, John L. Burton Hearing Room 4203
1:30 PM

AGENDA

I. Welcome and Introductions

II. Sufficient State Management and Oversight

- Elaine Howle – California State Auditor
- Brian Kelly, Secretary – Business, Transportation and Housing Agency
- Jeff Morales, Executive Director – High-Speed Rail Authority
- Dan Richard, Chair – High-Speed Rail Authority

III. Project Inspection

- Brian Weatherford – Legislative Analyst's Office
- Lou Thompson, Member – HSRA Peer Review Group
- Brian Boudreau, Executive Director, Project Management Oversight – La Metro
- Malcolm Dougherty, Director – California Department of Transportation
- Jeff Morales, Executive Director – High-Speed Rail Authority

IV. Public Comment

California's High-Speed Rail Project:
How Should the State Safeguard the Public's Interest?

Joint Hearing
Transportation and Housing Committee
and Budget and Fiscal Review Subcommittee No. 2 on
Resources, Environmental Protection, Energy, and Transportation

February 26, 2013

Committee Background Report

I. Introduction

State law assigns the California High-Speed Rail Authority (HSRA) with responsibility for planning and implementing one of the most significant and expensive projects in the state's history. Proponents of the high-speed rail project see it as the singular opportunity to affect positively the growth and development of the state over the next millennium; they point to how New York City would have developed without its integrated subway system. Alternatively, opponents point out the uncertainties of the project, such as its unknown funding sources and the high levels of risk that plague most megaprojects.

Since 2007, the Senate has held over a dozen oversight hearings in order to increase the Legislature's understanding of the project and encourage the administration to effectively move the project forward. Over this time, independent entities such as the Legislative Analyst's Office, the Bureau of State Audits (State Auditor), and HSRA's own peer review group have raised many legitimate concerns about the development of the project.

This hearing continues the Senate's oversight work by focusing on two issues related to safeguarding the public's interest regarding the project. First, the hearing will examine how HSRA and the administration are addressing concerns about proper management and oversight of contractors involved in the project's development and construction. Second, the committee will contemplate what the proper role should be for publicly-employed inspectors of work completed by private contractors.

II. Background

Senate Bill 1420 (Kopp), Chapter 796, Statutes of 1996, created HSRA to direct development and implementation of inter-city high-speed rail service that would be fully coordinated with other public transportation services. A nine-member board governs HSRA. The governor appoints five members of the board, the Senate Rules Committee appoints two, and the Assembly Speaker appoints two. The board hires a CEO, currently Jeff Morales, to lead the

Authority. Until recently, HSRA was a small entity with limited funding that focused its efforts primarily on program level studies and other analyses. With the recent influx of state and federal funding, HSRA's size and scope of work has grown substantially. HSRA currently has 71.5 authorized staff positions and, while in the past it has struggled to fill many of these jobs, it has made substantial progress in filling key management jobs over the past year.

Assembly Bill 3034 (Galgiani), Chapter 267, Statutes of 2008, placed the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, also known as Prop 1A, before the voters. Passage of Prop 1A made available approximately $9.9 billion in general obligation bond funding for the project. Of this total amount, $950 million is set aside for capital improvements to existing intercity urban and commuter rail systems to provide direct connectivity to high-speed rail, are incorporated as part of high speed rail, or provide safety or capacity enhancements. The remaining $9 billion in Prop 1A funding is specifically set aside for the high-speed rail project.

Prop 1A establishes a path from Anaheim-Los Angeles Union Station to the San Francisco Transbay Terminal via Fresno and San Jose as the initial phase of the eventual statewide system. It 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 2 hours, 40 minutes. Further, Prop 1A requires that the bond funds used for construction of the high-speed line be matched 50/50 with other non-state dollars. Finally, Prop 1A requires HSRA to follow a number of steps in order to access funding for construction. Since approval of Prop 1A, the state has received a commitment of roughly $3.5 billion in federal funding for the high-speed rail project.

Recent Activity

In April of last year, HSRA released its revised 2012 Business Plan, which was a significant refinement of the draft plan presented to the Legislature fall of 2011. The 2012 plan includes enhancing local rail service immediately and sets a total projected cost of $68 billion for the initial phase of the HSR project. According to the revised plan, construction of the entire 520-mile system would be completed in 2028. Key features of the revised plan include the following:

- Construction of a 300-mile initial operating section of electrified rail from Merced to the San Fernando Valley, beginning in 2013 and completed within 10 years.

- Improvements to existing rail service in the Bay Area and Los Angeles regions (the "bookends") to prepare those regions for high-speed service. These include conversion of local diesel-powered rail systems to electric power and safety improvements such as positive train control, including upgrades on the Amtrak/Metrolink corridors between Los Angeles and Anaheim.

- The potential to access revenues generated through the state's newly implemented carbon trading program for the reduction of greenhouse gas emissions, known as "cap and trade," to match and supplement state bond funds should federal funding not become available to complete the system.

Following release of the revised 2012 Business Plan, the governor released his revised budget, which proposed the following appropriations:

- $5.9 billion ($3.2 billion federal funds, $2.6 billion Prop 1A bond funds) to construct an initial 130-mile segment of the high-speed rail project between Madera and Bakersfield.

- $253 million ($48 million federal funds, $204 million Prop 1A bond funds) for completion of environmental and preliminary design work for various segments of the system. This includes $152.4 million to complete environmental review for each of the 10 segments comprising the system, as well as $100.2 million to fund full preliminary design of the Merced-Fresno and Fresno-Bakersfield segments and partial design of other segments.

- $819 million (Prop 1A connectivity bond funds) for intercity (Caltrans-funded) and local rail operators to improve existing rail operations to enhance connectivity to the future high-speed rail system. This appropriation consists of $106 million for intercity projects to increase travel speeds and frequencies and $713 million for enhancements to local systems that will directly benefit the HSR project.

SB 1029, (Committee Budget and Fiscal Review), Chapter 152, Statutes of 2012, appropriated these funds along with an additional package of $1.1 billion in bond funds for investment in the bookends in northern and southern California. These bookend projects include $600 million primarily for electrification of the Caltrain corridor between San Francisco and San Jose and $500 million for projects to improve the Metrolink corridor between Palmdale and the San Fernando Valley. These improvements shorten travel times for commuter trains that will connect to the high-speed rail line as part of the blended system. Finally, SB 1029 includes extensive language that restricts expenditures or requires reporting to various control entities and to the Legislature.

Following the multi-billion dollar appropriation in SB 1029 to complete preliminary design and commence construction of the initial project phase, the governor's budget proposal for 2013-14 makes only minor modifications. The proposal adds 15.5 staff positions, most of which are in the area of software and information systems, but otherwise is not remarkable. The budget proposal also notes that local partners will submit to HSRA their final selection of specific projects for the bookend investments (the $1.1 billion noted above) by June of this year.

In September of 2012, the Federal Railroad Administration approved the required environmental impact assessments for the Merced-Fresno alignment and HSRA expects that the environmental clearance process for the Fresno-Bakersfield alignment should be concluded this spring. HSRA has divided the initial 130-mile segment in the Central Valley into five separate design-build contracts and has begun the process to award the first contract by this summer, initiating the beginning of construction on the project.

III. State Management and Oversight

In April 2010, the State Auditor released a report on HSRA identifying a number of concerns, including risk of an incomplete system because of inadequate planning, weak oversight, and lax contract management. In a follow up report published in January of 2012, the auditor identified a number of critical, ongoing problems involving HSRA's oversight of the high-speed rail program.

Specifically, the auditor concluded that HSRA's processes for monitoring the performance and accountability of its contractors — especially the Program Manager (Parsons Brinkerhoff or PB) — were inadequate. During the follow-up review, the auditor found that HSRA has continued to struggle to provide an appropriate level of oversight, in part because it was significantly understaffed. Without sufficient staffing, the state struggled to oversee its contractors and subcontractors, who at the time outnumbered HSRA employees by about 25 to one. As noted above, HSRA now has over 70 employees, but it is not clear what the best number of employees is to manage a project as large and complex as a statewide high-speed rail project.

In addition, the auditor's 2012 follow-up report revealed that HSRA failed to ensure that it and the public were aware of its contractors' and subcontractors' potential conflicts of interest. The report states that although HSRA's conflict-of-interest code requires its contractors to file statements of economic interest that help to identify any potential conflicts of interest that they may have, the review found that some of the contractors had failed to file their statements. Further, HSRA does not require all of its subcontractors to file statements of economic interest. As a result, HSRA has no way to verify that subcontractors do not have real or perceived conflicts of interest.

The follow up report also concluded that, in part because HSRA has so few staff, it has delegated significant control to its contractors. As a result, HSRA may not have the information necessary to make critical decisions about the program's future. For example, when the auditor reviewed three of the monthly progress reports that PB submitted to HSRA to inform it of the program's progress, the auditor found over 50 errors or inconsistencies of various types. Most significantly, the report noted differences between what was reported in the regional contractors' reports to PB and what PB summarized and reported to HSRA, thus demonstrating that PB had provided the HSRA board with misleading information. Additionally, at the time of the auditor's follow up report, HSRA had been minimally involved in the risk-management process, instead relying almost completely on PB to both identify and mitigate potential problems. According to the chief deputy director, PB was at the time more engaged than HSRA staff in risk management because HSRA had not been able to hire a risk manager. HSRA has since hired Jon Tapping, recently the risk manager for the San Francisco Bay Bridge project, to be HSRA's Risk Manager.

Since June of 2012, the administration has made significant progress addressing the state management and oversight issues that the auditor raised. The Governor's Reorganization Plan, which takes effect on July 1, 2013, removes some of HSRA's independence and places it within the newly-created Transportation Agency. This will presumably increase the accountability of the HSRA board and give more ownership of the project to the governor's administration, while also hopefully improving the integration of the project with other similar state efforts. In addition, HSRA has filled most of its executive leadership positions and is in the process of developing an organization it asserts will be sufficient to provide proper oversight and management of the project.

IV. Project Inspection

As mentioned earlier, HSRA plans to let multiple design-build contracts for construction of the system, and has already begun the process for the first construction segment in the Central Valley. Design-build is a method of procurement where the state contracts with a private general contractor to both design and build an infrastructure project. This is different than the state’s typical design-bid-build procurement process in which one private firm or state staff design a project and another private contractor constructs it. With design-build, the general contractor is responsible for subcontracting with other entities for design as well as construction of the project.

One of the benefits of procuring a project through design-build is the potential transfer of certain risks from the state to the contractor. For example, through the traditional design-bid-build procurement method, the state completes the design and then expects the contractor to construct the project as designed. If issues arise with the design, the contractor will often bill the state for the complication, increasing costs and delaying the project. With design-build, the private firm is responsible for the interface between the design and construction and has to deal with any complications that arise on its own. Further, design-build proponents generally believe that the private sector is often better able to develop innovative project designs and construction techniques than the state. Greater design and construction innovation could result in a variety of potential benefits, including lower project costs, higher quality, shorter construction schedules, and enhanced project features.

All public works projects, regardless of the procurement method, require a certain level of quality control to assure the infrastructure is built in a manner that keeps safe the public user of the facility. The level of project inspection completed by engineers employed directly by the public agency responsible for the facility may vary from state to state and even by project. In the case of federally-funded highways, the Federal Highway Administration (FHWA) requires the owner agency to maintain responsibility for the inspection and oversight. While it is possible for agencies to augment quality control staff with outside consultants, FHWA does not allow an agency to delegate the ultimate responsibility to a consulting firm; FHWA requires some level of verification and testing by the owner agency. The Federal Rail Administration, a separate division of the US Department of Transportation, is providing partial funding for the high-speed rail project, and it is at this time unclear what level of oversight it will require.

Through its design-build request for proposal (RFP), HSRA has outlined a four-level quality assurance/quality control plan. First, the RFP requires the design-build contractor to develop and submit to HSRA for approval its own quality management plan. This is typical in design-build as well as with traditional design-bid-build procurement. Second, the RFP requires the contractor to pay an independent consultant to review 100 percent of its inspection plans and procedures and report directly to HSRA all results of the review. HSRA suggests this full review is unique to its design-build proposal, and that this provides an extra layer of verification and review that is not typically found in design-bid-build procurement. A third layer of inspection is conducted by the construction management firm, whose role is similar to a general contractor. In the case of state highway projects, the California Department of Transportation (Caltrans) usually fills this role. When Caltrans implements design-bid-build, either state engineers or consultants conduct inspections of the contractor's work by doing verifications and randomized reviews of the contractor's quality management plan. The construction management firm will do this work for HSRA. Finally, HSRA engineers will perform statistically significant spot verifications of the tests and inspections conducted by the design-build contractor. HSRA suggests it initially will have around five in-house engineers doing this work and will contract with Caltrans for additional engineers, if necessary, to maintain proper oversight.

The model proposed by HSRA seems to be typical of that in other states that use design-build procurement. Florida's design-build Guidelines expressly describe a similar model. HSRA staff suggests Utah and Oregon have also successfully implemented this model. To further reassure the public, HSRA points out that anywhere the new facility interacts with existing infrastructure, whether highways, roads, railroads, or other utilities, the managing entities of that infrastructure will also participate in inspection and quality control processes.

V. Conclusion

Construction of the proposed high-speed rail project will take many years, with the first step in the process expected to begin this summer. While already giving the train the green light with initial appropriation last summer, the Legislature maintains responsibility to oversee the progress of the project and the administration's activities related to the public's interest. This hearing is an opportunity for members to exercise that oversight, and for the administration to reassure the Legislature that it is moving forward responsibly. Due to the project procurement timeline, however, HSRA warns that any changes to its proposed process will lead to delay and likely risk the project's future.

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

Jim Beall, Chair
Jim Nielsen
Hannah-Beth Jackson

Thursday, March 7, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

Items Proposed for Vote-Only

Items Proposed for Discussion

LAO Overview—Resources Departments

Resources—Environmental Protection—Energy—Transportation

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DEPARTMENTS PROPOSED FOR VOTE ONLY

3340 California Conservation Corps

1. **Data Collection and Reporting System.** Request to convert 2.0 limited-term positions to permanent for the Automated Data Collection and Reporting System. These positions were identified as appropriate for permanent during the workforce cap true-up conducted by the Department of Finance in 2012. Funding would also be redirected from OE&E used to pay outside contractors to oversee the development of this legacy system.

2. **Reappropriation of Proposition 84 Program Delivery Funding.** Request for reappropriation of $746,242 for continuation of projects delayed by the bond freeze in 2008-09. The CCC anticipates expenditure of these funds in a normal encumbrance period and is not requesting extension of liquidation.

3760 State Coastal Conservancy

3. **Public Access Program.** Request to appropriate $500,000 from the Coastal Access Account and $458,000 from the California Beach and Coastal Enhancement Fund for the annual implementation of the Conservancy's public access, education and related programs. These funds are dedicated annually to develop, operate and maintain public access-ways and to provide education related to coastal resources projects.

4. **Realignment of Baseline Funding.** Request to align funding with programs with a net-zero budget impact as part of a planned redesign of baseline allocations for the Conservancy due to expiring funding sources. This is a part of a Legislative and Administration effort to develop a long-term funding plan for the Conservancy.

5. **Capital Outlay—Coastal Conservancy Programs.** Request for $16.2 million (Proposition 84 bond funds) for capital outlay and local assistance to fulfill a multi-year capital investment plan including the California Coastal Trail, public access development in the Bay Area, and provide key trail connections.

6. **Capital Outlay—Reappropriations and Reimbursements (Propositions 84 and 40).** Request for reappropriation and reimbursement authority for Proposition 84 and 40 bond funds scheduled to expire on June 30, 2013. These were largely delayed due to the previous bond freeze. Future reappropriations are not expected to be needed.

3760 California Tahoe Conservancy

7. **Implementation of the Environmental Improvement Program (EIP).** Consistent with previous planning efforts, the Conservancy request $1 million (special funds and bond funds) for capital outlay related to the EIP and its strategic plan. This allows the Conservancy the ability to move forward with site rehabilitation and directed acquisition related to restoration of the lake.

Recommendation: **APPROVE** Items 1-7

Vote:

Overview of Natural Resources Budgets

Anthony Simbol, Legislative Analyst's Office

Major Resources Budget Summary—Selected Funding Sources

(Dollars in Millions)

Department	Actual 2011–12	Estimated 2012–13	Proposed 2013–14	Change From 2012–13	
				Amount	Percent
Water Resources					
General Fund	$89.6	$98.6	$97.4	–$1.2	–1.2%
State Water Project funds	1,074.0	1,231.9	1,295.9	64.0	5.2
Bond funds	623.7	1,973.3	1,072.3	–901.0	–45.7
Electric Power Fund	5,177.5	1,007.4	973.9	–33.5	–3.3
Other funds	89.7	148.0	139.2	–8.8	–6.0
Totals	**$7,054.6**	**$4,459.2**	**$3,578.7**	**–$880.5**	**–19.7%**
Forestry and Fire Protection (CalFire)					
General Fund	$651.0	$772.3	$678.7	–$93.6	–12.1%
Other funds	383.5	468.6	580.3	111.7	23.8
Totals	**$1,034.5**	**$1,240.9**	**$1,259.0**	**$18.1**	**1.5%**
Parks and Recreation					
General Fund	$121.2	$110.6	$114.6	$4.0	3.6%
Parks and Recreation Fund	136.0	148.1	130.3	–17.9	–12.1
Bond funds	273.2	311.9	79.3	–232.6	–74.6
Other funds	146.1	267.8	252.1	–15.7	–5.8
Totals	**$676.5**	**$838.5**	**$576.3**	**–$62.2**	**–31.3%**
Fish and Wildlife					
General Fund	$61.1	$61.1	$62.7	$1.6	2.7%
Fish and Game Fund	97.7	113.1	110.1	–3.1	–2.7
Bond funds	28.2	99.2	20.2	–78.9	–79.6
Other funds	168.9	210.6	173.3	–37.3	–17.7
Totals	**$356.0**	**$483.9**	**$366.3**	**–$117.6**	**–24.3%**
Resources Secretary					
Bond funds	$97.2	$66.4	—	–$66.4	—
Other funds	10.5	24.6	$22.1	–2.5	–10.2%
Totals	**$107.7**	**$91.1**	**$22.1**	**–$68.9**	**–75.7%**

0540 Secretary for Natural Resources

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

Governor's Budget. The Governor's January Budget includes $22 million to support the Secretary for Natural Resources. This is a $69 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

ITEMS PROPOSED FOR VOTE ONLY

1. **River Parkways Program.** Request to extend Proposition 50 funding for three river Parkways Program positions through June 30, 2017. The Secretary provides statewide oversight and administration for Proposition 50 and other grant funded programs. These positions would maintain that oversight through the life of the program.

2. **Environmental Resources Evaluation System Consolidation.** Request to shift position authority and funding from the Secretary for Natural Resources to the Department of Water Resources Division of Technology Services. This is a revenue/expenditure neutral shift designed to improve information technology by co-locating for efficient operations.

Recommendation: **APPROVE** Items 1-2

Vote:

Items Proposed for Discussion

1. Active Transportation Program—Information Item

The Budget proposes a shift of $134.2 million in state and federal resources and a reduction of five positions in 2014-15 to consolidate five existing programs into a single Active Transportation Program under the Transportation Agency. According to the Administration, "active transportation" refers to any method of travel that is human-powered, such as walking and bicycling. Currently, there are five separate programs that fund bicycle, pedestrian, and mitigation projects, including the federal Transportation Alternatives Program. Two programs under the Natural Resources Agency are proposed to be consolidated under this new Transportation Agency program.

- **Recreational Trails Program.** This program receives between $4 million and $6 million annually and is delivered through the Department of Parks and Recreation to state, local and nonprofit agencies. The main purposes of the funds are for non-motorized recreation – such as development and rehabilitation of trails and trailhead facilities, trail linking, and restoration of trail facilities. Motorized facilities complement activities by the Off-Highway Vehicle program and other motorized trail programs including restoration projects.
- **Environmental Enhancement and Mitigation Program (EEMP).** Provides up to $10 million per year in grants to local, state, and nonprofit agencies for four main categories of environmental impacts from transportation projects. These include urban forestry and landscaping, land acquisition and restoration (including wildlife habitat mitigation), roadside recreation, and general environmental mitigation related to a project.

Staff Comments. The goal of the proposal is to streamline eligibility for grants under several programs so project sponsors will not have to submit multiple applications for the same project. The new program is designed to fund only high-priority projects guided by the Sustainable Communities and Climate Protection Act of 2008 (SB 375). Staff have concerns that the programs proposed to be shifted from the Natural Resources Agency departments are not a good fit for this consolidated program and would lose their integrity. For example, the Active Transportation Program focuses on roadside projects such as landscaping and bicycle or walking paths. This would seem to de-prioritize more remote trails and trailhead restoration such as are accomplished by the California Conservation Corps and other trail-building groups. Also, urban forestry, a staple of the EEMP program might not be given as high a priority. In general, many environmental or restoration projects do not directly involve the building of a road and it is these projects that may be eliminated under this proposal.

Questions for the Agency. The subcommittee may wish to ask the following questions:

- Under the current programs, what percentage of the projects (and total funding) have been dedicated to mitigation or trails projects that have no active transportation component (such as trails for hiking, environmental restoration, or urban forestry)?

- What role will the Natural Resources Agency have in determining the appropriate mix of funding for grant proposals? Does the Administration believe the Transportation Agency has more experience determining the best resource conservation projects than the Natural Resources Agency?

- What projects would have been anticipated in the budget year had the funding remained at the Natural Resources Agency?

- Under the new proposal, how many non-transportation corridor trails will be eligible for funding, such as those located in State Parks and Recreation Areas?

Recommendation: Informational Item – Action to be Taken Under Transportation Agency.

Vote:

2. Reorganization of Ocean Programs

Budget Proposal. The Budget proposes to consolidate major policy setting for ocean programs into one location. Currently there are three entities within the Agency that set major ocean policy. These are: (1) the Natural Resources Agency Ocean Resource Management Program; (2) the State Coastal Conservancy's administration of the Ocean Protection Council (OPC), and the Department of Fish and Wildlife Marine Life Protection Program (MLPA). This proposal is designed to align the staffing and resources within the Resources Agency building, effectively shifting the OPC out of its current location, the Coastal Conservancy in Oakland, to Sacramento. The proposal shifts 8 positions, $1.3 million Environmental License Plate Fund (ELPF), and $600,000 bond funds to the Agency. The proposal also includes trailer bill language to shift the management functions of the OPC.

History of the Ocean Protection Council. The OPC was created in 2004 by the California Ocean Projection Act of 2004. The Council and staffing was placed in the State Coastal Conservancy for administrative purposes and because at the time, the main functions were allied with Conservancy grant-making and outreach activities. Ongoing funding for the Council was established in 2005-06 with a $1.2 million ELPF appropriation. Subsequent to that, bond and federal funding has been appropriated annually in varied amounts for specific programs, including the development of marine protected areas, mapping of the ocean floor, establishing the independent Ocean Science Trust as a science advisory panel, administering grant programs (with the Coastal Conservancy) and providing leadership in fisheries issues throughout the state.

Staff Comments. The proposal to shift the OPC to the Agency represents a fundamental change in the way the Council will proceed. Under the Coastal Conservancy, the mission of the OPC was largely to coordinate and assist in a number of complementary programs focusing on fisheries and oceans, including grant-making and scientific research. This has been very effective in accomplishing statutory and programmatic objectives of both agencies under the direction of the Secretary for Natural Resources.

Staff have some concerns that this shift would undermine some of the good work of the OPC in the long run – and break some of the strong ties the Council staff have made by working hand-in-hand with Coastal Conservancy staff and in the same building as the Ocean Science Trust. So too, with the shift of all ELPF funding to the Secretary's office, long-term funding baseline funding for the Coastal Conservancy, in as much as efficiency of co-location can have, will be lost.

Questions for the Agency. The Committee may wish to ask the following questions:

- This proposal seems to have more to it than simply funding efficiency. Why shouldn't the statutory changes proposed be moved through the policy committees where more input can be taken on impacts of this shift?

- Describe the overarching benefit this proposal will have to the public.

- Will this require staff to be moved or laid off in order to achieve the consolidation?

- What statutory changes will be necessary to shift the Council to the Agency Secretary and how will these change the nature of the Council?

Recommendation: Hold Open.

Vote:

3. Timber Harvest Plans (THP) – AB 1492 Implementation.

Budget Proposal. The LAO has provided a background and analysis of this issue that both summarizes the history of the AB 1492 legislation and THP programs as well as the budget year proposal.

LAO Analysis and Recommendations:

Background

Under the state's Z'Berg–Nejedly Forest Practice Act of 1973, timber harvesters must submit and comply with an approved THP. The THP describes the scope, yield, harvesting methods, and mitigation measures that the timber harvester intends to perform within a specified geographical area. The process of preparing a THP is functionally equivalent to preparing an environmental impact report (EIR). After the plan is prepared, it is reviewed and approved by the lead agency, the Department of Forestry and Fire Protection (CalFIRE), with assistance from the Department of Fish and Wildlife (DFW), the Department of Conservation (DOC), and the State Water Resources Control Board (SWRCB).

Prior to 2012–13, the above state regulatory activities were funded mainly from the General Fund. In addition, DFW and SWCRB also levied a few fees for various THP–related permits to support such activities. However, as a result of the state's fiscal condition over the last ten years, General Fund support for THP–related activities was reduced. This was particularly evident at DFW, which resulted in DFW only conducting a minimal review of THPs. As a result, the Legislature adopted Chapter 289, Statutes of 2012 (AB 1492, Blumenfield), which authorized a tax on the sale of lumber products in California effective January 2013 to replace both the General Fund and fee support of THP regulatory activities. Revenues collected from this tax are deposited into the Timber Regulation and Forest Restoration Fund.

Governor's Budget Proposes to Increase Staffing for THP Regulation

The Governor's budget for 2013–14 proposes an augmentation of $6.6 million from the Timber Regulation and Forest Restoration Fund and 49.3 new, three–year limited term positions for THP regulation. As indicated in Figure 6, the proposed positions and funding would be allocated across the four departments responsible for reviewing THPs, as well as to the Natural Resources Agency. The current total level of staffing across the four departments is 142 positions and the addition of proposed staff represents a 35 percent increase from current staffing levels.

Positions Proposed for Timber Harvest Plan Regulation

Agency/Department	2012–13 Positions	Proposed Increase for 2013–14 Position	Proposed Increase for 2013–14 Funding
Department of Fish and Wildlife	8.7	35.0	$4,306,000
CalFire	95.0	6.0	967,000
State Water Resources Control Board	26.4	4.3	620,000
Department of Conservation	12.1	2.0	515,000
Natural Resources Agency	—	2.0	217,000
Totals	**142.2**	**49.3**	**$6,625,000**

The proposed positions at DFW, SWCRB, and Department of Conservation (DOC) would restore staffing for THP regulation at these departments to their 2007 staffing levels, in order to ensure that THPs receive the legally required reviews. The additional six positions requested for CalFire are intended to allow the department to complete additional reporting requirements and search for opportunities to increase efficiency, as required by Chapter 289. According to the Administration, the two positions requested for the Natural Resources Agency will coordinate activities across the above resources departments and act as the point of contact for questions and information regarding the regulation of the state's timber harvest industry.

LAO Recommendation. We find that the requested positions and funding for THP regulation would help ensure that THPs receive the level of review required under existing state law, as well as meet the specific requirements of Chapter 289. Accordingly, we recommend that the Legislature approve the request for 49.3 positions and $6.6 million in funding from the Timber Regulation and Forest Restoration Fund. However, we would note that the workload associated with the THP program is consistent and ongoing, as is the proposed funding source. Thus, we further recommend that the Legislature approve the 47.3 requested positions for DFW, SWCRB, and DOC on a permanent basis, rather than on a three–year, limited–term basis as proposed by the Governor. Permanent position authority can help the departments attract a stronger pool of candidates, especially for the more technical positions such as foresters, geologists, and environmental scientists.

Staff Comments. Staff concurs with the LAO Analysis to approve the proposal and concurs that the positions should be permanent. Staff recommends all 49.3 positions be made permanent since this is an ongoing program. This will draw a stronger pool of candidates for all positions. Staff also recommends the department prioritize staffing in the Sierra Nevada where THPs need more attention and have recently had little to no scrutiny from DFW.

Recommendation: **APPROVE** with permanent position authority and priority for Sierra Nevada staffing.

Vote:

3110 Special Resources Programs—Tahoe Regional Planning Agency

Background. The Tahoe Environmental Improvement Program (EIP), a collaboration of over 50 state, federal, academic, local, and private interests, is a capital improvement program designed to achieve environmental standards in the Lake Tahoe basin. Program implementation began in 1997. Over a 20-year period, the program is estimated to cost approximately $1.5 billion.

The Lake Tahoe region has experienced environmental degradation for the past 100 years, most notably is the lake's water clarity and the health of the basin's forest lands. The lake's water clarity—which reflects water quality—has become the primary measure of the basin's environmental health.

To counter this degradation, the Tahoe Environmental Improvement Program (EIP) was established in 1997. The Tahoe EIP is a 20-year capital improvement program involving multiple state, federal, local, academic, and private entities. In 1997, the state signed memoranda of agreement with the federal government, Nevada, the Washoe Tribe, and the Tahoe Regional Planning Agency (TRPA) committing to implement and fund the Tahoe EIP. Over 50 entities are involved in implementing the program including the primary state agencies—the California Tahoe Conservancy and the Tahoe Regional Planning Agency (TRPA), a joint regional planning agency co-funded by the State of Nevada.

Regional Plan Update (TRPA). The TRPA recently finalized its 2012 Regional Plan Update as required by both the interstate compact and state legislation in Nevada. The agency’s efforts come amidst concern about whether or not the Tahoe Compact’s environmental thresholds (such as water clarity) will be met by efforts in the basin. This plan update responds to budget bill language adopted by the Legislature requiring TRPA to adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds.

Interstate Negotiations. In a recently enacted law (SB 271, Lee), the state of Nevada has threatened to withdraw from the Tahoe Compact unless the governing body of the TRPA adopts an updated Regional Plan and certain proposed amendments to the Compact including changes to the voting structure, considerations for the regional plan, and other items. The Nevada legislation demanded that the voting structure of TRPA be changed to accommodate more development in the Tahoe Basin and that an updated regional plan be adopted. An updated regional plan was adopted in December, 2012. The new regional plan was successfully developed through a formal bi-state consultation process. The changes in the voting structure would weaken conservation protections in the Tahoe Basin and in any event would require Congressional action to amend the Compact. Such measures are not possible through action of state legislatures.

In response to this, SB 630 (Pavley and Steinberg) was introduced this year to provide a contingency plan if Nevada adheres to its 2011 state law and withdraws from the bi-state compact. Under this scenario, the bill would be to re-establish the California Tahoe Regional Planning Agency. The Nevada Tahoe Regional Planning Agency still exists in law, though has not been functional under the bi-state compact.

2012 Budget Requirements. The 2012 budget required specific actions and reporting to take place over the budget year. These included the following:

- By January 1, 2013, the TRPA was required, in coordination with other state agencies, to (1) establish four-year measureable performance benchmarks for all of the implementation measures and programmatic provisions included in the 2012 regional update; (2) develop a comprehensive monitoring, evaluation, and reporting plan, including scope, schedule, and budget for various monitoring and threshold evaluations; and (3) ensure participating agencies perform scientific review.
- By February 15, 2013, the Tahoe Conservancy is required to submit an interagency cross-cut budget including expenditures, accomplishments and proposed budgets for the EIP.
- By April 1, 2013, the Natural Resources Agency is required to determine whether the regional plan update is consistent with the compact and submit this determination to the Legislature.

Staff Comments. Both the Conservancy and TRPA have met with Senate budget and policy staff to discuss their accomplishments regarding their efforts to meet the requirements of both budget and trailer bill language enacted in 2012. The subcommittee anticipated that as the Regional Plan Update was being completed, so too would the establishment of the benchmarks for implementation measures. This is common when developing a long-term plan such as was completed this December. The subcommittee also called for all thresholds to be given a benchmark and monitoring budget. This did not include a discussion of prioritization which would be part of the development of the Regional Plan. These benchmarks and thresholds would then have been reviewed independently by the scientific advisors selected.

The report received by TRPA proceeds in a very different direction. Instead of establishing benchmarks for threshold attainment, the TRPA submitted a report that sets forth a plan to prioritize thresholds for monitoring and reporting. Their argument is that there are too many thresholds to monitor, and many of these are less than useful for the overall health of the Tahoe Basin. With regard to establishment of benchmarks and performance measures, while the TRPA consulted with scientific advisors, it seems this relationship will be ongoing given that the prioritization will take some time.

Staff are concerned that the monitoring, development and budgeting of threshold benchmarks was not developed in conjunction with the Regional Plan, and therefore it is unclear how the Regional Plan will be measured as a long-term planning device. The TRPA has made it clear that there is a need for funding to be dedicated for review of the adequacy of the thresholds; however, no request has been received by the Legislature.

Questions for TRPA

- What is the status of the Nevada legislation? Under their two-year budget cycle, when would the California delegation be informed of adoption of their withdrawl from the compact?

- The report received does not establish measurable performance benchmarks as required by the budget and trailer bill language. Rather it sets out a plan for establishing and prioritizing these benchmarks. When can the Legislature expect to see a report that establishes the benchmarks?

- What will TRPA's role be in the annual reporting of the benchmarks? How will we be assured of the independent review by the Tahoe Science Consortium and UC Davis as required by California law?

- The report states that $1 million from California currently is directed toward monitoring in the lake. How much of this is directly from the TRPA budget?

Recommendation: HOLD OPEN.

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 includes $74.9 million and 475 positions for support of the Department. This is a decrease of $41 million from previous year expenditures due mostly to reductions in bond expenditures.

ITEMS PROPOSED FOR VOTE ONLY

1. **Watershed Coordinator Grants—Reappropriation of Proposition 84 Bond Funds.** Request to re-appropriate $109,000 in unencumbered Proposition 84 bond funds to finalize the implementation of the Watershed element of the CALFED Bay-Delta Program through the department's Statewide Watershed Program.

Recommendation: APPROVE Item 1

Vote:

Items Proposed for Discussion

1. Increased Funding for Abandoned Mine Remediation

Budget Proposal. The Budget proposes a baseline increased appropriation of $500,000 from the Abandoned Mine Reclamation and Minerals Fund (AMRMF). These funds will be used for remediation activities on hazardous abandoned mines. The federal Bureau of Land Management (BLM) works with the department's Abandoned Mine Lands Unit (AMLU) to inventory mine features and hazardous abandoned mines. The AMLU received $1.5 million in one-time American Recovery and Reinvestment Act (ARRA) funding from the BLM that runs out in June 2013. The department requests to continue a higher level of activity from AMRMF which is derived from the sale of gold and silver in the state.

Staff Comments. Staff have concerns about the highest priority for these funds. The ARRA program was designed to infuse states with one-time federal funds to increase economic activity nationwide. These funds were not intended to create permanent increases in funding for programs. The Department of Parks and Recreation has an ongoing need for funding for a specific mine remediation (Empire Mine) that is both ongoing and expensive to the state. The Subcommittee should consider whether these increased revenues to the AMRMF should be directed to create a permanent increase to a state program, or rather to meet the obligations of the state, offsetting a portion of the almost $5 million per year needed for the Empire Mine remediation.

Questions for the Agency. The Committee may wish to ask the following questions:

- Can the funding be used for state abandoned mine priorities, such as Empire Mine?

- Would use of the funds for the purpose proposed by the department provide a General Fund offset in any way?

Recommendation: DENY PROPOSAL. Instead approve $500,000 to the Department of Parks and Recreation to partially offset Empire Mine remediation General Fund costs in 2013-14.

Vote:

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes $491 million for state operations and bond expenditures, a decrease of $288.4 million from the 2012-13 budget. The decreases are mainly related to bond expenditures ($258.3 million), reductions in the Off-Highway Motor Vehicle Division ($8.8 million) and the State Parks and Recreation Fund ($17.9 million). Increases to the department are largely the result of the merger of the Department of Boating and Waterways which in 2013-14 will become a division within the Parks department.

ITEM PROPOSED FOR VOTE-ONLY

1. Transfer the Department of Boating and Waterways to the Department of Parks and Recreation. The budget implements the legislative actions of 2012 to merge Boating and Waterways into the department as a separate division. This is in accordance with the approved Governor's Reorganization Plan #2. The resulting augmentation to the department is an increase of $41 million. The reorganization results in the reduction of seven positions.

2. Quagga and Zebra Mussel Infestation. The budget proposes $235,000 (Harbors and Watercraft Fund [HWRF]) in annual baseline funding in order to implement Chapter 485, Statutes of 2012 (AB 2443), which requires the Department to convene a technical advisory committee of stakeholders to determine the amount of a vessel registration fee increase to fund a new local assistance program.

3. Local Assistance. Request for $28 million from special and federal funds for annual grants to various state, local and private entities. These include grants from the Off-Highway Vehicle Trust Fund, National Historic Preservation Fund and federal funds. Funding is consistent with previous grant years.

4. Local Assistance—Reversion Language. Requests to revert $8.8 million in the Habitat Conservation Fund after completion of various projects left a balance of unallocated funds. This ensures accurate fund balance reporting in this account.

5. Public Small Craft Harbor Loans. Request for $7.9 million (HWRF) in local assistance for the following projects: Santa Barbara Marina, Statewide Emergency Loans, and Statewide planning loans. This is consistent with previous allocations.

6. Public Boat Launching Facility Grants. Request for $8.8 million (HWRF) to continue a grant program for the following public facilities: Berenda Reservoir, Contra Loma Lake, Lodi Lake, Lake McClure, Noyo Inner Harbor, Red Bluff Front Park, Rio Vista, and statewide ramp repair, restrooms, launch facilities and signage.

7. Privately Owned Recreation Marina Loans. Request for $2.7 million (HWRF) for construction loans for private marinas statewide.

8. Concessions Program. The department requests approval to solicit new concessions or extend concessions for the following: Parks E-Store, Crystal Cove State Park, Folsom Lake State Recreation Area, Morrow Bay State Park, Old Sacramento State Historic Park, and Old Town San Diego State Historic Park.

Recommendation: APPROVE Items 1-8

Vote:

An Update on the State of State Parks

BACKGROUND:

2012 Budget Proposal—Park Closures and Budget Reductions. The 2012-13 budget year was a pivotal time for the Department of Parks and Recreation (Parks). The January budget implemented reductions of $22 million adopted the previous year as well as began a planned closure of 70 parks. As the budget season progressed, the Senate developed a long-term sustainable plan that would implement a series of actions to provide funding flexibility to the department. These included promoting revenue generating and entrepreneurial activities at the district level, increasing the flexibility of existing funding sources and allowing the department to access alternative funding sources for water and wastewater capital projects.

Hidden Funds and Personnel Violations Found Over Summer. In July 2012, after the budget had passed, the department was found to have been hiding funding from the Legislature and the Department of Finance. At the time, it was unclear whether the hidden funds encompassed the State Parks and Recreation Fund as well as the Off-Highway Vehicle Program Trust Fund. In addition, senior administrators at the department were found to have violated multiple personnel rules by approving vacation buyouts and out-of-class payments to various levels of personnel.

Legislative and Administration Response. The Legislature took immediate action to investigate the department's finances and the Administration's response to the department's actions. The department's senior administrators were removed from their positions and the Natural Resources Agency took over the day-to-day administration of the department. At the same time, a series of audits and investigations were started that are summarized below. These include audits by the Department of Finance's Office of State Audits and Evaluations, the California Department of Justice, the State Controller's Office and the Bureau of State Audits. At this time, results are available from all but the Bureau of State Audits which is due in February of this year.

The result of the immediate findings of the Legislature was the discovery of $21 million of one-time funds that were hidden by the department from the Legislature and the Department of Finance. The Legislature, as a result of its summer investigations, adopted AB 1478 (Leno) to address some of the key problems at the department and to provide the public with an immediate action plan for the department as the investigations continued.

Statutory Changes in AB 1478

Goal	Summary
Moratorium on Park Closures for Two Years	• Prohibits the department from closing or proposing the closure of a state park in the 2012-13 and 2013-14 fiscal years.
Matching Funds for Park Donors and Local Agreements	• Provides a one-time appropriation of $10 million from revenues generated by the department to be allocated to match contributions from donors and local partner agreements for 2012-13 and 2013-14.
Funding to Prevent Park Closures	• Provides a one-time appropriation of $10 million to parks that remain at-risk of closure in order to maintain a two-year moratorium on park closures.
Funding for Audits and Investigations	• Provides a one-time appropriation of $500,000 to ensure that all ongoing internal and external investigations into the department are fully funded.
Funding for Capital Projects	• Provides a $10 million one-time appropriation of bond funds for capital improvements projects to prevent full or partial park closures.
State Park and Recreation Commission	• Establishes criteria for membership positions on the commission including requirements for cultural and park management experience. • Requires the appointment of two ex officio legislative members by the Assembly and Senate Rules committees, respectively. • Allows the commission a more direct oversight role of the department, particularly over the department's deferred maintenance backlog.
Funding for the Park Enterprise Fund	• Clarifies funds appropriated to the California State Park Enterprise Fund, established to enable the department to set revenue targets and goals, are transferred appropriately from the State Parks and Recreation Fund. Provides for annual accounting and reporting.

SUMMARIZING AUDIT AND INVESTIGATION RESULTS:

The ongoing audits were mostly concluded in December of 2012. The results of these audits are summarized briefly below and discussed in more detail following the table.

Summary of Investigations and Findings

Investigator	Results
Department of Justice (Attorney General)	• Confirms deliberate hiding of $21 million State Parks and Recreation Fund from Legislature and Administration • Confirms no Off-Highway-Vehicle funds hidden • Recommends oversight measures
State Controller's Office	• Management processes circumvented for out-of-class payroll • Personal leave program violations • Retired annuitants and non-permanent employees exceeded hours allowed
Office of State Audits and Evaluation (OSAE)	• Key budgeting functions need improvement • Risks over State Park Contingent Funds • Key internal controls over procurement violated
Bureau of State Audits	• Department unable to determine the amount needed to operate parks at 2010 level • Department purposefully withheld information about funding • The determination to close parks was premature
Local District Attorney	• Declined to take up criminal charges
Fair Political Practices Commission	• Charged former deputy administrative director with multiple violations related to the vacation buyout and fined individual $7,000.

California Department of Justice/Attorney General (AG) Investigation. The AG was called upon to provide an independent review of the preliminary investigation into the department by the Natural Resources Agency that stated a discrepancy of up to $54 million dollars from two funds, the State Parks and Recreation Fund (SPRF) and Off Highway Vehicle (OHV) fund. The AG interviewed 44 former employees of the department, excluding former Director Ruth Coleman whose lawyer advised against an interview. The investigation concluded the following:

- There was no evidence of intentional or systematic failure to disclose OHV fund monies. Instead, the evidence indicates this discrepancy was due to historically erratic and disparate fund balances reported to DOF and the Controller's Office rather than any attempt to hide funds.

- The investigation did discover that the failure to accurately report all SPRF monies to DOF was conscious and deliberate. Initially these funds began and unintentionally grew due to a year-end reporting anomaly. However, by no later than 2003, and perhaps as early as 1999, the funds were deliberately kept hidden from DOF by fiscal managers at the department. Because the funds were never spent, however, the monies seem to have represented an essentially useless reserve by the department. The report concludes that with new coordination and oversight measures established by the Administration, a repeat of any such non-disclosure is less likely.

State Controller's Office Payroll Investigation. The State Controller's Office independently undertook a review of the department's payroll to confirm the payroll discrepancies reported to the Administration and Legislature. The investigation focused on payroll processes and internal controls, and out-of-class assignment pay. Their findings include:

- Management processes were circumvented for out-of-class pay leading to various problems including improper payment calculations for individuals.
- Personal leave program hours were inappropriately given to individuals on non-industrial disability insurance.
- Retired annuitants and various other non-permanent employees exceeded the number of hours allowed per year.

Department of Finance Office of State Audits and Evaluations (OSAE). The OSAE conducted an audit of the Parks Administrative Services Division to (1) determine the ending fund balances of both SPRF and OHV fund, (2) assess if key internal controls over the other funds are in place, and (3) assess if key internal controls are in place over procurement activities. In general, the audit found that the department must improve its accountability, transparency and communication to restore trust with the public, their partners and internally within the department. The audit recommends a corrective action plan to address its key findings. The audit determined:

- The governance structure over budgeting functions needs to be strengthened.
- Risks over State Park Contingent Fund exists.
- Key internal controls over procurement activities need improvement.

Bureau of State Audits. The Legislature requested a more comprehensive audit by the Bureau of State Audits (BSA). The first part of this audit was released in February 2013 and determined the following:

- Over the last 20 years, the department consistently underreported the fund balance amounts for its parks fund to Finance for use in the Governor's budget when compared to the fund balances reported to the State Controller for its annual budgetary report.
- Similarly, over the last 20 years, the department has almost always reported fund balances to Finance for its off-highway vehicle fund that differed from the balances reported to the State Controller. These differences ranged from a $35 million overstatement in fiscal year 2005–06 to the most recent $33.5 million understatement reported in fiscal year 2010–11.
- Although Finance notified the department of the differences in both these fund balances as early as 1999, the issue was not resolved until the fall of 2012.

- The department identified up to 70 of its 278 parks to close in order to achieve a budget reduction, yet it had limited documentation of its analysis in making its selection of the parks chosen for closure and, thus, we could not evaluate the reasonableness of its selection.
- The department does not budget or track expenditures at the park level and used outdated and incomplete cost data to analyze its budget. The department was not able to provide a verified budget by individual park for a given recent year to auditors leading them to question overall budget methods.

A second audit is scheduled to be delivered in summer 2013 that will go over more programmatic changes needed at the department.

ISSUES TO CONSIDER:

Funding shifts and funding increases mask a challenged budget environment. Over the past five years, the department has shifted its main source of funding from the General Fund to the State Parks and Recreation Fund (SPRF). On paper, this means that the department's spending power has effectively remained the same between these two funding sources since 2008-09. In fact, with other sources of funding, the department's overall budget has grown from $367 million to $432 million. Even excluding one-time bond expenditures, the budget has grown about 18 percent in the past several years. Much of this growth can be attributed to other funding sources including increased reimbursements, increases in the Off-Highway Vehicle Trust Fund, and other dedicated funding sources for specific purposes.

State Parks and Recreation Funding 2008-09 to 2013-14
(dollars in thousands)

	2009-10	2010-11	2011-12	2012-13	2013-14
General Fund	$120,720	$117,458	$121,219	$110,591	$114,552
State Parks and Recreation Fund	118,080	114,339	136,014	148,146	130,263
Other Funds	127,286	130,313	148,023	245,505*	229,383
Subtotal	**$366,086**	**$362,110**	**$405,256**	**$504,242**	**$474,198**
Bond Funds (One-Time)	40,542	116,243	255,309	275,452	17,131
Total (including bond funds)	**$406,628**	**$478,353**	**$660,565**	**$779,694**	**$491,329**

*Reflects the merger of the Department of Boating and Waterways into the Department of Parks and Recreation.

Parks Infrastructure Costs Are Increasing With An Aging System. During the time of the budget increases, costs to run state parks have also increased. Many state parks are over 50 years old and have an aging infrastructure, much like our state levees and wastewater infrastructures. Decades old septic systems designed for lower visitor usage are being put to the test and, in many cases, failing and requiring more and more costly repairs to maintain. Additionally, as we increase fees for park visitors, those visitors expect amenities that are reflective of an increased cost to use the park. Even such basics as flushing toilets and garbage service have increased in cost.

Revenue Generation Only as Good as Parks Makes It. The legislative discussion both before and after the summer revelations at the department focused on making the department more self-sustaining, and modernizing its revenue management. For example, small changes such as accepting credit cards at state parks, allowing for hourly parking at state beaches, and simply collecting revenue at popular state parks had been elusive for some time. The Legislature created a series of incentives for local districts to creatively approach revenue generation in ways that would not be prohibitive to visitors, while at the same time providing needed funding to enhance the visitor experience. Because this is a big shift in the way Parks conducts itself, the Legislature should continue to oversee how these funds are collected and used, and determined whether or not the department's districts embrace a new entrepreneurial spirit needed to keep Parks open.

Individual Parks Still Costing the State. As an example of increased costs, the Empire Mine State Park has cost the state $36 million over the past six years due to toxic runoff from the mining operation conducted there over 50 years ago. The park was a gold mine for 100 years until it closed in 1956. The state acquired the property in Grass Valley, with more than 850 acres of forested land, mine buildings, and historic properties in 1975. The state park was the subject of a series of lawsuits and cleanup and abatement orders related to the park's 367 miles of abandoned and flooded mine shafts and toxic legacy from gold mining. The rulings required the state to clean up toxic runoff from the gold mining legacy. The state has been in negotiations with the former owner over the cleanup since the orders were issued; however, according to the latest budget proposal, mediation has stalled while cleanup is still required. This year's budget includes again a $5.2 million General Fund allocation to this park.

A New Park Funding Obligation Has Arisen at Border Fields State Park. The department requests a $1.1 million ongoing augmentation from the State Parks and Recreation Fund to fund trash cleanup in the Goat Canyon area of the park, originating mainly from Mexico through the Tijuana River. Visitation to this park reached 45,000 in 2010; however, less than 5,000 visitors paid for entrance to the park. In addition, the majority of the visitors did not visit Goat Canyon but rather the beach areas that have direct access to the California-Mexico border. A nearby nature preserve also is served by visitors to the State Park system. Periodic funding has been allocated from other sources over time for cleanup but this is the first time the administration has proposed an ongoing program for the park. The question remains, if the state was on the verge of having to close state parks due to ongoing funding problems, what is the impact of expending $1.1 million annually from the Parks budget for this purpose?

Is it Time to Review The Size Of The State Parks System in a Meaningful Way? The vast majority of state parks have strong visitation or a clear cultural value to the state. However, one outcome of the Administration's proposal to close state parks is the idea that some state parks would be better served by other public entities, either through their local park systems, federal park and land management, or through some type of public or nonprofit management. Even those parks with high visitation might be eligible for a type of realignment of parks. The Administration's proposal from 2011 lacked the in-depth review and transparency necessary to open such a dialogue. At times, the Legislature was blindsided by announcements of park closures just hours after public hearings where such closures plans were directly requested by elected officials. Given the department's new management focus, a deliberate dialogue on the size and type of the State Park system would be in order.

Budget Proposals: New Parks Projects—Bond Funds and State Park and Recreation Fund

The Budget proposes five new programs and projects that relate to the long-term strategic plan of the department. These proposals are influenced by how the department moves forward with its planning and future projects.

1. **Americans with Disabilities Act (ADA) Program: Redistributed Proposition 12 Statewide Bond Costs and Proposition 84.** The budget requests $33.5 million (Proposition 12 bond funds). The request is for $3.1 million in 2013-14 and the balance beginning in 2014-15. These funds are being used to comply with a consent decree (*Tucker v. California Department of Parks and Recreation*) to remove physical and programmatic barriers to provide equal access to people with disabilities. According to the department, over $110 million is required to be spent on this over the next 10 years.

2. **Empire Mine State Historic Park.** Request for $5.2 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine. As shown below, including the proposed budget, over $36 million of state funds have been allocated to this single state park from bond funds, SPRF, and General Fund. The current proposal does not include any bond or special funds.

Empire Mine State Park Funding 2007-08 to 2013-14
(dollars in thousands)

	2007-09	2009-10	2010-11	2011-12	2012-13	2013-14
General Fund, Bond Funds and Special Funds	$5,236	$5,765	$4,070	$11,595	$4,594	$5,189
Total (all funds)						**$36,446**

3. **Goat Canyon Sediment Basin.** Request for $1 million ongoing and annually from SPRF to maintain sediment basins at Border Fields State Park. According to the LAO:

   The Border Fields State Park is on the Mexico border and includes the Tijuana Estuary—a significant wetland habitat—that runs through Mexico into the state park. In 2005, DPR constructed the Goat Canyon Sediment Basins in the park to help protect the estuary from the flow of water that washes in sediment and trash from Mexico. The basins, which are maintained by DPR, must be cleaned of the trash and maintained to comply with the California Environmental Quality Act and clean water regulations. In the past, such maintenance costs were funded by CalRecycle, as well as grants and donations from special interest groups. However, DPR indicates that these funding sources are no longer available to support such costs.

   The DPR is part of the California–Mexico Border Relations Council's Tijuana River Valley Recovery Team, which is a collaborative effort to keep the Tijuana watershed area free of trash and sediment. The team includes other state agencies and departments (such as CalEPA and the Department of Public Health), the federal and Mexican governments, and local and regional agencies. The team has historically relied on funding from various members to protect this area, in addition to federal grants. One of the challenges to securing ongoing funding is that there currently is no mechanism for seeking damages for environmental pollution from Mexico.

   Funds Requested to Support Goat Canyon Park Clean–up. The Governor's budget for 2013–14 requests $1 million annually from SPRF to support ongoing maintenance and clean–up at the Goat Canyon Sediment Basins at the Border Fields State Park. The SPRF is primarily funded by fee revenues and used to support the operations of the state park system.

4. **Capital Outlay—Angel Island Immigration Station Hospital Rehabilitation.** Requests $4.7 million (bond funds) and an ongoing baseline increase of $153,043 (SPRF) for increased maintenance and upkeep. The proposal states that there is no anticipated increased revenue generation from this proposal. The proposal is to rehabilitate a building on Angel Island for viewing and interpretation by the public.

5. **Capital Outlay—Los Angeles State Historic Park.** Request for $20.8 million (bond funds) and an ongoing baseline increase of $1 million, 8 permanent staff and five seasonal staff. Current revenue generation (without any capital outlay) is anticipated to be approximately $756,000 per year. After completion of the project and additional staff are added, this increases to $1.1 million, an increase of $344,000 per year. The project would include site work, utility infrastructure, landscaping and drainage.

Staff Comments. Given the more compelling evidence of mismanagement at the department that only recently has begun to be changed, staff have serious concerns about approving any new projects or programs with state funds. While the department submitted a report in April of 2012 detailing what should have been a budget by individual park, the Bureau of State Audits was neither able to verify these costs, nor determine if the department is currently able to budget by individual park unit. Add to this the varying figures given for deferred maintenance throughout the state park system and one is compelled to pause at requests for over $25 million for new projects from this department.

Staff recommends approving only those most pressing and required proposals where lack of funding will result in a legal action against the state. These include the ADA Compliance proposal and the Empire Mine State Historic Park. However, as discussed under the Department of Conservation, other funds may be available for Empire Mine from the Abandoned Mine Reclamation and Minerals Fund. As such, staff recommends holding this item open to determine if other funds may offset the General Fund obligation.

Staff further recommends holding open the Goat Canyon Sediment Basin. The LAO Recommends:

> ***Direct Department to Explore Other Funding Options.*** Last year, the state parks system faced serious funding challenges and the Legislature had to consider options to prevent the closure of up to 70 state parks. Since SPRF is one of the primary funding sources for park operations and maintenance, using these funds on an ongoing basis for clean–up activities (as proposed by the Governor) could put other parks in the system at risk of closure due to a lack of funding for operations. Moreover, DPR is not responsible for the accumulation of trash in the Border Fields State Park, and therefore the SPRF should not be the sole source of funding for the maintenance of the basins. Thus, we recommend that DPR present at budget committee hearings this spring an alternative proposal that includes funding from a variety of sources (such as other members of the Tijuana River Valley Recovery Team) for maintenance of the basins. In addition, the Legislature could pursue federal options to recover costs from Mexico, since Mexico is primarily responsible for the sediment and waste that flows into the park. Pending the additional information from DPR, we withhold recommendation on the Governor's proposal to use $1 million from the SPRF to maintain the Goat Canyon Basins.

Finally, staff recommends rejecting all capital outlay proposals by the department. While these individual projects may have merit, the Legislature has no way of determining the relative merits of these projects against those of the entire system. The department has not submitted a priority list of projects, nor reconciled the individual park unit budgets with the deferred maintenance. Therefore, with no benchmark to weigh against, these projects have no context within the park system. As an example, late in the 2012 session, the department came forward with a pressing need for capital improvements at Hearst Castle, resulting in a bond appropriation of $10 million ($6 million for a roof at Hearst and $4 million for statewide deferred maintenance). This was not part of budget discussions and had not been brought before the Legislature. This lack of foresight shows the fragmented way the department reviews and approves capital projects and is indicative of a need to deny capital projects until a clear project-specific strategic plan is created.

Questions for the Agency. The subcommittee may wish to ask the following questions:

- How can the department determine that a capital project has more merit than any other if it does not know the individual park unit budget and deferred maintenance costs?

- How can the department propose a new $1.1 million ongoing budget for Border Fields State Park when the Park's flexible budget has been reduced, nearly leading to the closure of state parks? How does this proposal fit in with the recent requirement to be more entrepreneurial at the individual park level?

- Similarly, the department is proposing capital projects that will necessitate new staffing that is not covered by anticipated new revenue. This seems to go against all of the efforts of previous years to approve projects that are revenue-generating first. Why is the department not more focused on revenue generating projects?

- What specific actions is the department taking to determine the correct size of the state park system, and to provide a true budget picture of the current and future needs of the system?

- Last year, the department brought a single capital project to the Legislature's attention after the budget had passed. Does the department anticipate an emergency appropriation need again this year? If so, for what?

- How will the department prove to this Legislature that the budget requests it is making are clear necessities, and are driven by focused demonstrated budgeting and need for the positions and work?

Recommendations:

1. HOLD OPEN Items 1-3. Require the department to return in April with updated proposals including other funding sources.
2. REJECT Items 4-5 (Capital Outlay).
3. As recommended by the Bureau of State Audits, require the department to submit, by December 1, 2013, a report to the Legislature including the following:
    a. Verified individual park unit budgets (including specific line items for staffing, ongoing state operations and maintenance, and deferred maintenance obligations). These budgets should specify how many days per week each park should be open and why. The figures should be based on fully operating 278 parks in 2010.
    b. By January 10, 2014, submit a report in conjunction with the annual budget release with a prioritized investment plan for capital outlay expenditures that adheres to the principal revenue generation goals of AB 1478. This should include funding requirements in a prioritized list for all individual park units including deferred maintenance obligations regardless of availability of existing funding.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

Jim Beall, Chair
Jim Nielsen
Hannah-Beth Jackson

Outcomes

Thursday, March 7, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

Items Proposed for Vote-Only

Items Proposed for Discussion

LAO Overview—Resources Departments

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

DEPARTMENTS PROPOSED FOR VOTE ONLY

3340 California Conservation Corps

1. **Data Collection and Reporting System.** Request to convert 2.0 limited-term positions to permanent for the Automated Data Collection and Reporting System. These positions were identified as appropriate for permanent during the workforce cap true-up conducted by the Department of Finance in 2012. Funding would also be redirected from OE&E used to pay outside contractors to oversee the development of this legacy system.

2. **Reappropriation of Proposition 84 Program Delivery Funding.** Request for reappropriation of $746,242 for continuation of projects delayed by the bond freeze in 2008-09. The CCC anticipates expenditure of these funds in a normal encumbrance period and is not requesting extension of liquidation.

3760 State Coastal Conservancy

3. **Public Access Program.** Request to appropriate $500,000 from the Coastal Access Account and $458,000 from the California Beach and Coastal Enhancement Fund for the annual implementation of the Conservancy's public access, education and related programs. These funds are dedicated annually to develop, operate and maintain public access-ways and to provide education related to coastal resources projects.

4. **Realignment of Baseline Funding.** Request to align funding with programs with a net-zero budget impact as part of a planned redesign of baseline allocations for the Conservancy due to expiring funding sources. This is a part of a Legislative and Administration effort to develop a long-term funding plan for the Conservancy.

5. **Capital Outlay—Coastal Conservancy Programs.** Request for $16.2 million (Proposition 84 bond funds) for capital outlay and local assistance to fulfill a multi-year capital investment plan including the California Coastal Trail, public access development in the Bay Area, and provide key trail connections.

6. **Capital Outlay—Reappropriations and Reimbursements (Propositions 84 and 40).** Request for reappropriation and reimbursement authority for Proposition 84 and 40 bond funds scheduled to expire on June 30, 2013. These were largely delayed due to the previous bond freeze. Future reappropriations are not expected to be needed.

3760 California Tahoe Conservancy

7. **Implementation of the Environmental Improvement Program (EIP).** Consistent with previous planning efforts, the Conservancy request $1 million (special funds and bond funds) for capital outlay related to the EIP and its strategic plan. This allows the Conservancy the ability to move forward with site rehabilitation and directed acquisition related to restoration of the lake.

Recommendation: **APPROVE** Items 1-7

Vote:

Items 1, 3, 4, 7 (2-1, Nielsen)
Items 2, 5, 6 (2-1, Nielsen)

0540 Secretary for Natural Resources

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

Governor's Budget. The Governor's January Budget includes $22 million to support the Secretary for Natural Resources. This is a $69 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

ITEMS PROPOSED FOR VOTE ONLY

1. **River Parkways Program.** Request to extend Proposition 50 funding for three river Parkways Program positions through June 30, 2017. The Secretary provides statewide oversight and administration for Proposition 50 and other grant funded programs. These positions would maintain that oversight through the life of the program.

2. **Environmental Resources Evaluation System Consolidation.** Request to shift position authority and funding from the Secretary for Natural Resources to the Department of Water Resources Division of Technology Services. This is a revenue/expenditure neutral shift designed to improve information technology by co-locating for efficient operations.

Recommendation: **APPROVE** Items 1-2

Vote:

3-0

Items Proposed for Discussion

1. Active Transportation Program—Information Item

Recommendation: Informational Item – Action to be Taken Under Transportation Agency.

Vote: Informational Item—No Vote

2. Reorganization of Ocean Programs

Budget Proposal. The Budget proposes to consolidate major policy setting for ocean programs into one location. Currently there are three entities within the Agency that set major ocean policy. These are: (1) the Natural Resources Agency Ocean Resource Management Program; (2) the State Coastal Conservancy's administration of the Ocean Protection Council (OPC), and the Department of Fish and Wildlife Marine Life Protection Program (MLPA). This proposal is designed to align the staffing and resources within the Resources Agency building, effectively shifting the OPC out of its current location, the Coastal Conservancy in Oakland, to Sacramento. The proposal shifts 8 positions, $1.3 million Environmental License Plate Fund (ELPF), and $600,000 bond funds to the Agency. The proposal also includes trailer bill language to shift the management functions of the OPC.

History of the Ocean Protection Council. The OPC was created in 2004 by the California Ocean Projection Act of 2004. The Council and staffing was placed in the State Coastal Conservancy for administrative purposes and because at the time, the main functions were allied with Conservancy grant-making and outreach activities. Ongoing funding for the Council was established in 2005-06 with a $1.2 million ELPF appropriation. Subsequent to that, bond and federal funding has been appropriated annually in varied amounts for specific programs, including the development of marine protected areas, mapping of the ocean floor, establishing the independent Ocean Science Trust as a science advisory panel, administering grant programs (with the Coastal Conservancy) and providing leadership in fisheries issues throughout the state.

Recommendation: Hold Open.

Vote: Move to <u>Approve</u> Proposal (Jackson)

2-0 (Nielsen)

3. Timber Harvest Plans (THP) – AB 1492 Implementation.

Budget Proposal. The LAO has provided a background and analysis of this issue that both summarizes the history of the AB 1492 legislation and THP programs as well as the budget year proposal.

Staff Comments. Staff concurs with the LAO Analysis to approve the proposal and concurs that the positions should be permanent. Staff recommends all 49.3 positions be made permanent since this is an ongoing program. This will draw a stronger pool of candidates for all positions. Staff also recommends the department prioritize staffing in the Sierra Nevada where THPs need more attention and have recently had little to no scrutiny from DFW.

Recommendation: **APPROVE** with permanent position authority and priority for Sierra Nevada staffing.

Vote:

APPROVE Staff Recommendation (all positions permanent)

2-0 (Nielsen)

3110 Special Resources Programs—Tahoe Regional Planning Agency

Recommendation: HOLD OPEN.

Note: The Tahoe Delegation summarized their actions to answer all of the subcommittees questions as proposed in the agenda and satisfied requests for information at or prior to the hearing. The following are follow up actions the subcommittee requested prior to our final May budget hearings (these mirror the discussion from the Tahoe delegation).

Vote: Motion to Direct Budget Staff and Agency to do the following (as stated by the Chair). 2-0 (Nielsen)

1. **Direct staff to prepare a proposal to allocate $100,000 to the Natural Resources Agency to start planning for a California only TRPA, and determine which budget this should go to in case Nevada speeds up its efforts to dissolve TRPA.**
2. **Direct staff to determine how much funding should be dedicated to the Tahoe Science Consortium and UC Davis Tahoe Environmental Research Center to accomplish the review of the adequacy of the thresholds.**
3. **Direct TRPA to send staff the amount of funding the goes directly to monitoring at TRPA from California, and have staff review this to see if there are other appropriate state agencies that could administer these funds.**
4. **We (at a future hearing) may consider holding funding for implementation of the Regional Plan, particularly for California-specific area plans, until we receive the report we requested.** ***(This item was discussed by the members of the Tahoe delegation who assured the subcommittee they were on track to deliver reporting as requested.)***

3480 Department of Conservation

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

Governor's Budget. The Governor's Budget includes $74.9 million and 475 positions for support of the Department. This is a decrease of $41 million from previous year expenditures due mostly to reductions in bond expenditures.

ITEMS PROPOSED FOR VOTE ONLY

1. **Watershed Coordinator Grants—Reappropriation of Proposition 84 Bond Funds.** Request to re-appropriate $109,000 in unencumbered Proposition 84 bond funds to finalize the implementation of the Watershed element of the CALFED Bay-Delta Program through the department's Statewide Watershed Program.

Recommendation: APPROVE Item 1

Vote: HELD OPEN

Items Proposed for Discussion

1. Increased Funding for Abandoned Mine Remediation

Budget Proposal. The Budget proposes a baseline increased appropriation of $500,000 from the Abandoned Mine Reclamation and Minerals Fund (AMRMF). These funds will be used for remediation activities on hazardous abandoned mines. The federal Bureau of Land Management (BLM) works with the department's Abandoned Mine Lands Unit (AMLU) to inventory mine features and hazardous abandoned mines. The AMLU received $1.5 million in one-time American Recovery and Reinvestment Act (ARRA) funding from the BLM that runs out in June 2013. The department requests to continue a higher level of activity from AMRMF which is derived from the sale of gold and silver in the state.

Staff Comments. Staff have concerns about the highest priority for these funds. The ARRA program was designed to infuse states with one-time federal funds to increase economic activity nationwide. These funds were not intended to create permanent increases in funding for programs. The Department of Parks and Recreation has an ongoing need for funding for a specific mine remediation (Empire Mine) that is both ongoing and expensive to the state. The Subcommittee should consider whether these increased revenues to the AMRMF should be directed to create a permanent increase to a state program, or rather to meet the obligations of the state, offsetting a portion of the almost $5 million per year needed for the Empire Mine remediation.

Questions for the Agency. The Committee may wish to ask the following questions:

- Can the funding be used for state abandoned mine priorities, such as Empire Mine?
- Would use of the funds for the purpose proposed by the department provide a General Fund offset in any way?

Recommendation: DENY PROPOSAL. Instead approve $500,000 to the Department of Parks and Recreation to partially offset Empire Mine remediation General Fund costs in 2013-14.

Vote: HELD OPEN

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes $491 million for state operations and bond expenditures, a decrease of $288.4 million from the 2012-13 budget. The decreases are mainly related to bond expenditures ($258.3 million), reductions in the Off-Highway Motor Vehicle Division ($8.8 million) and the State Parks and Recreation Fund ($17.9 million). Increases to the department are largely the result of the merger of the Department of Boating and Waterways which in 2013-14 will become a division within the Parks department.

ITEM PROPOSED FOR VOTE-ONLY

1. Transfer the Department of Boating and Waterways to the Department of Parks and Recreation. The budget implements the legislative actions of 2012 to merge Boating and Waterways into the department as a separate division. This is in accordance with the approved Governor's Reorganization Plan #2. The resulting augmentation to the department is an increase of $41 million. The reorganization results in the reduction of seven positions.

2. Quagga and Zebra Mussel Infestation. The budget proposes $235,000 (Harbors and Watercraft Fund [HWRF]) in annual baseline funding in order to implement Chapter 485, Statutes of 2012 (AB 2443), which requires the Department to convene a technical advisory committee of stakeholders to determine the amount of a vessel registration fee increase to fund a new local assistance program.

3. Local Assistance. Request for $28 million from special and federal funds for annual grants to various state, local and private entities. These include grants from the Off-Highway Vehicle Trust Fund, National Historic Preservation Fund and federal funds. Funding is consistent with previous grant years.

4. Local Assistance—Reversion Language. Requests to revert $8.8 million in the Habitat Conservation Fund after completion of various projects left a balance of unallocated funds. This ensures accurate fund balance reporting in this account.

5. Public Small Craft Harbor Loans. Request for $7.9 million (HWRF) in local assistance for the following projects: Santa Barbara Marina, Statewide Emergency Loans, and Statewide planning loans. This is consistent with previous allocations.

6. Public Boat Launching Facility Grants. Request for $8.8 million (HWRF) to continue a grant program for the following public facilities: Berenda Reservoir, Contra Loma Lake, Lodi Lake, Lake McClure, Noyo Inner Harbor, Red Bluff Front Park, Rio Vista, and statewide ramp repair, restrooms, launch facilities and signage.

7. Privately Owned Recreation Marina Loans. Request for $2.7 million (HWRF) for construction loans for private marinas statewide.

8. Concessions Program. The department requests approval to solicit new concessions or extend concessions for the following: Parks E-Store, Crystal Cove State Park, Folsom Lake State Recreation Area, Morrow Bay State Park, Old Sacramento State Historic Park, and Old Town San Diego State Historic Park.

Recommendation: APPROVE Items 1-8

Vote: HELD OPEN

Budget Proposals: New Parks Projects—Bond Funds and State Park and Recreation Fund

The Budget proposes five new programs and projects that relate to the long-term strategic plan of the department. These proposals are influenced by how the department moves forward with its planning and future projects.

1. **Americans with Disabilities Act (ADA) Program: Redistributed Proposition 12 Statewide Bond Costs and Proposition 84.** The budget requests $33.5 million (Proposition 12 bond funds). The request is for $3.1 million in 2013-14 and the balance beginning in 2014-15. These funds are being used to comply with a consent decree (*Tucker v. California Department of Parks and Recreation*) to remove physical and programmatic barriers to provide equal access to people with disabilities. According to the department, over $110 million is required to be spent on this over the next 10 years.

2. **Empire Mine State Historic Park.** Request for $5.2 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine. As shown below, including the proposed budget, over $36 million of state funds have been allocated to this single state park from bond funds, SPRF, and General Fund. The current proposal does not include any bond or special funds.

Empire Mine State Park Funding 2007-08 to 2013-14
(dollars in thousands)

	2007-09	2009-10	2010-11	2011-12	2012-13	2013-14
General Fund, Bond Funds and Special Funds	$5,236	$5,765	$4,070	$11,595	$4,594	$5,189
Total (all funds)						**$36,446**

3. **Goat Canyon Sediment Basin.** Request for $1 million ongoing and annually from SPRF to maintain sediment basins at Border Fields State Park. According to the LAO:

   The Border Fields State Park is on the Mexico border and includes the Tijuana Estuary—a significant wetland habitat—that runs through Mexico into the state park. In 2005, DPR constructed the Goat Canyon Sediment Basins in the park to help protect the estuary from the flow of water that washes in sediment and trash from Mexico. The basins, which are maintained by DPR, must be cleaned of the trash and maintained to comply with the California Environmental Quality Act and clean water regulations. In the past, such maintenance costs were funded by CalRecycle, as well as grants and donations from special interest groups. However, DPR indicates that these funding sources are no longer available to support such costs.

   The DPR is part of the California–Mexico Border Relations Council's Tijuana River Valley Recovery Team, which is a collaborative effort to keep the Tijuana watershed area free of trash and sediment. The team includes other state agencies and departments (such as CalEPA and the Department of Public Health), the federal and Mexican governments, and local and regional agencies. The team has historically relied on funding from various members to protect this area, in addition to federal grants. One of the challenges to securing ongoing funding is that there currently is no mechanism for seeking damages for environmental pollution from Mexico.

   Funds Requested to Support Goat Canyon Park Clean–up. The Governor's budget for 2013–14 requests $1 million annually from SPRF to support ongoing maintenance and clean–up at the Goat Canyon Sediment Basins at the Border Fields State Park. The SPRF is primarily funded by fee revenues and used to support the operations of the state park system.

4. **Capital Outlay—Angel Island Immigration Station Hospital Rehabilitation.** Requests $4.7 million (bond funds) and an ongoing baseline increase of $153,043 (SPRF) for increased maintenance and upkeep. The proposal states that there is no anticipated increased revenue generation from this proposal. The proposal is to rehabilitate a building on Angel Island for viewing and interpretation by the public.

5. **Capital Outlay—Los Angeles State Historic Park.** Request for $20.8 million (bond funds) and an ongoing baseline increase of $1 million, 8 permanent staff and five seasonal staff. Current revenue generation (without any capital outlay) is anticipated to be approximately $756,000 per year. After completion of the project and additional staff are added, this increases to $1.1 million, an increase of $344,000 per year. The project would include site work, utility infrastructure, landscaping and drainage.

Recommendations:

1. HOLD OPEN Items 1-3. Require the department to return in April with updated proposals including other funding sources.
2. REJECT Items 4-5 (Capital Outlay).
3. As recommended by the Bureau of State Audits, require the department to submit, by December 1, 2013, a report to the Legislature including the following:
    a. Verified individual park unit budgets (including specific line items for staffing, ongoing state operations and maintenance, and deferred maintenance obligations). These budgets should specify how many days per week each park should be open and why. The figures should be based on fully operating 278 parks in 2010.
    b. By January 10, 2014, submit a report in conjunction with the annual budget release with a prioritized investment plan for capital outlay expenditures that adheres to the principal revenue generation goals of AB 1478. This should include funding requirements in a prioritized list for all individual park units including deferred maintenance obligations regardless of availability of existing funding.

Vote: HELD OPEN

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, March 14, 2013
9:30 a.m. or Upon Adjournment of Session
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

Overview of Transportation Issues and Financing

Proposed Vote-Only Calendar:

Proposed Discussion / Vote Calendar:

Overview of Transportation Issues and Financing

Legislative Analyst's Office

Transportation Budget Summary—Selected Funding Sources

(Dollars in Millions)

	2011–12 Actual	2012–13 Estimated	2013–14 Proposed	Change From 2012–13 Amount	Change From 2012–13 Percent
Department of Transportation					
General Fund	$83.4	$83.4	$83.4	—	—
Special funds	3,758.8	3,760.8	4,004.0	$243.2	6.5%
Bond funds	1,703.1	3,766.2	2,297.9	–1,468.3	–39.0
Federal funds	4,720.5	4,482.5	4,602.2	119.8	2.7
Local funds	1,150.3	1,167.6	1,798.7	631.1	54.1
Totals	**$11,416.1**	**$13,260.5**	**$12,786.3**	**–$474.2**	**–3.6%**
High-Speed Rail Authority					
Bond funds	$74.2	$73.5	$2,281.8	$2,208.2	3,003.2%
Federal funds	37.6	2,358.7	958.5	–1,400.2	–59.4
Totals	**$111.8**	**$2,432.2**	**$3,240.2**	**$808.0**	**33.2%**
California Highway Patrol					
Motor Vehicle Account	$1,649.3	$1,747.3	$1,778.6	$31.4	1.8%
Other special funds	146.1	179.7	163.0	–16.7	–9.3
Federal funds	13.7	18.3	18.4	0.1	0.3
Totals	**$1,809.2**	**$1,945.3**	**$1,960.1**	**$14.8**	**0.8%**
Department of Motor Vehicles					
Motor Vehicle Account	$816.2	$867.5	$946.5	$79.0	9.1%
Other special funds	96.3	93.1	46.4	–46.7	–50.1
Federal funds	2.5	7.5	5.1	–2.4	–31.4
Totals	**$915.0**	**$968.0**	**$998.0**	**$30.0**	**3.1%**
State Transit Assistance					
Public Transportation Account	$369.0	$415.2	$392.0	–$23.2	–5.6%
Bond funds	767.0	598.2	479.7	–118.5	–19.8
Totals	**$1,136.0**	**$1,013.3**	**$871.7**	**–$141.7**	**–14.0%**

Note: Totals may not add due to rounding.

Item Number Department or Agency

0521 Transportation Agency

Agency Overview: The newly constituted Transportation Agency is a product of the Governor's Reorganization Plan #2 (GRP 2) and will be fully in place effective July 1, 2013. The new agency is a combination of departments now housed under the Business, Transportation and Housing (BT&H) Agency—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 adds 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 $101.5 million, all from special funds, federal trust funds and reimbursements. Most of the resources ($97.4 million) are used for the California Traffic Safety Program. Administrative costs of the Agency are $4.1 million in the budget year.

Items Proposed for Discussion and Vote:

1. **Governor's Reorganization Plan #2: Transportation Agency (Governor's Budget BCP#1):** The Governor's Budget proposes establishing budgetary authority and funding for the new Transportation Agency pursuant to GRP 2. The proposal will result in operational efficiencies, reduce agency staff to 26 compared to the current staffing level of 30, and achieve more focus on transportation issues.

   Background: The new Transportation Agency will include seven departments, all of which are transportation-focused. Other non-transportation departments currently in the BT&H Agency will be moved to the new Business, Consumer & Housing Agency and the Governor's Office of Business and Economic Development. The new Transportation Agency is intended to provide more focus and direction for transportation efforts.

   Staff Comment and Questions: The Governor's proposal for a dedicated Transportation Agency represents a distinct improvement over previous reorganization efforts. The Committee may wish to request a status report from the Agency and an indication of any current or recent achievements that have occurred as a result of the new organizational structure. The report from the Agency may include, at the Committee's request, an overview of its goals and how the new structure will work towards those goals.

<u>Questions:</u> (1) How has and will the new organization design result in furthering transportation goals and objectives in the state? (2) Have you any examples of "early wins" that demonstrate the value of the new agency design?

Staff Recommendation: Approve the request for funding and budgetary authority for the newly-established Transportation Agency.

<u>Vote:</u>

2. **Moving Ahead for Progress in the 21st Century Act (Informational Item):** The new federal Surface Transportation Act, Moving Ahead for Progress in the 21st Century Act (MAP-21), signed into law in July 2012, represents the most significant overhaul of federal surface transportation policy since the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991. Since that time there have been two multi-year transportation acts, the Transportation Efficiency Act for the 21st Century (TEA-21) in 1999 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU) in 2005. However, both of those measures largely built on the ISTEA framework and neither implemented major structural change. In contrast, by any measure, MAP-21 represents a major structural shift. The measure consolidates the total number of program funding streams from more than 100 to six core programs, and simultaneously increases flexibility in the use of the funding. The Act does not, however, significantly change the total amount of federal funding available to the state. MAP-21 also requires the Federal Highway Administration (FHWA) to establish various performance measures that will be used to evaluate states' progress toward various goals, such as pavement condition and collision/fatality reduction. However, many of these performance measures are not expected to be available until sometime in 2014.

   Under MAP-21, California is slated to receive an estimated $3.5 billion in total federal apportionments for federal fiscal year (FFY) 2013, which began October 1, 2012. This is approximately equal to the 2012 level and represents nearly 9.5 percent of the national total. In addition, local transit agencies in California will, cumulatively, receive approximately $1.0 billion in federal apportionments. However, under language recently adopted by the House of Representatives to fund the government beyond March 27, 2013, MAP-21 appropriations for the balance of 2013 could actually be cut. The Senate has indicated its intent to seek full funding for MAP-21 but as of the drafting of this report, that issue remains unresolved.

   The state is slated to receive a similar level of apportionments in FFY 2014. However, unlike prior surface transportation bills which typically cover five or six FFYs, MAP-21 is a two-year bill, meaning that anticipated federal funding levels beyond 2014 are uncertain. In recent years, revenues into the federal Highway Trust Fund (FHTF)—the primary source of federal transportation funding—have declined to the point that they are insufficient to support existing funding levels. In order to sustain 2012 funding levels in MAP-21, Congress authorized an $18.8

billion General Fund augmentation to the FHTF. Should Congress fail to enact a solution to address this structural funding gap, California (along with other states) could face a substantial drop in federal funding as soon as 2015.

Historically, federal Surface Transportation Act funding in California has been split between the state and locals with the state receiving approximately 63 percent state of overall funding and the locals 37 percent. With the consolidation of funding into six core programs, the Administration, in fall 2012, proposed maintaining this overall split for FFY 2013, in order not to impact ongoing funding for previously programmed projects. The Administration also determined that despite the consolidation, no immediate changes to state law would be required to implement this status quo scenario.

Staff Comment and Questions: Through consolidation of more than 100 federal funding streams into six core programs with significantly increased flexibility, MAP-21 may represent an opportunity for California to examine its funding priorities and ensure that the state is using its transportation funds on the most critical priorities. While heeding the caution that MAP-21 does not provide any additional revenue, and thus any spending increase in one area necessarily would require a reduction to existing programs or projects, the Legislature may wish to explore whether some restructuring or reprioritizing may be desirable.

The Administration has expressed a desire to refrain from enacting any major changes to state law until FHWA releases the performance measures that will drive the prioritization and use of federal funds going forward. However, the Legislature may wish to consider whether or not any immediate changes are necessary or appropriate. Moreover, even if the governor's proposed 'status-quo' budget is the prudent course in the short-term to ensure that already programmed projects are not adversely impacted, any potential changes could be phased-in over multiple years.

While the Administration has not proposed any statutory changes, they have engaged in ongoing discussions with stakeholders, including local and regional agencies, to address concerns regarding funding levels within the core MAP-21 programs.

> <u>*Questions:*</u> *(1) Can the department or agency comment on the status of funding under MAP-21 and the new design for the funding stream? What is the LAO perspective? (2) What are the options or alternative permutations for the state local split for the federal funding stream? (3) What is the impact of the most recent development regarding the full federal funding under the proposal?*

Staff Recommendation: Informational item.

2660 Department of Transportation

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

Budget Overview: The Governor's Budget proposed total expenditures of $12.8 billion ($83.4 million General Fund) and 19,773.5 positions. The largest sources of funds for the Department come from the State Transportation Account and the Federal Trust Fund. State sources of revenue for the department are diesel sales tax, gasoline fuel excise tax and weight fees. State sources of revenue constitute about $7.2 billion of the total available resources.

Item Proposed for <u>Vote Only</u>:

1. **Cash Accounting for Special Funds (Budget Trailer Bill):** The Governor's Budget proposes technical trailer bill language to clarify that, with respect to five specified funds—the Public Transportation Account (PTA), State Highway Account (SHA), Transportation Investment Fund (TIF), Transportation Deferred Investment Fund (TDIF), and the Traffic Congestion Relief Fund (TCRF)—the Department may use cash accounting procedures in reporting the fund balances to the State Controller and for budget purposes.

   Background: Legislation was originally enacted in 2002 authorizing Caltrans to use such procedures for the SHA. The law was amended in 2005 to its current form, including the other four accounts. The Administration indicates, however, that during a recent review of the statute, staff determined that the existing authority is not as clear as was originally intended. The proposed trailer bill language would remove any ambiguity with regard to Caltrans' authority to use a cash accounting method for reporting on the specified funds.

   Staff Comment: The proposed budget trailer bill would have no impact on Caltrans' existing accounting practices, but rather clarify existing authority.

   Staff Recommendation: Adopt placeholder trailer bill language**.**

   <u>Vote:</u>

Items Proposed for Discussion and Vote:

2. **Division of Local Assistance—Zero Based Budget (Governor's Budget BCP#1):** As a component of an effort to establish a zero based budget (ZBB) for Caltrans' Division of Local Assistance (DLA), the Governor's Budget has requested a staffing reduction of 23 positions for 2013-14, an additional reduction of two positions for 2014-15, and the exchange of $13.8 million in federal local subvention funds for State Highway Account funds beyond current levels. Three of the 2013-14 position reductions, as well as the 2014-15 reduction of two positions relate to the proposal to consolidate several existing funding programs into a new Active Transportation Program (ATP), presented as a separate agenda item. The proposal includes a request to convert 26 positions that ensure program compliance with state and federal mandates from limited-term to permanent.

   Background: The DLA is responsible for the distribution of over a billion dollars of state and federal funds to local and regional agencies. Specifically, DLA assists these agencies in ensuring that funding requirements are met, project applications are processed, and projects are delivered in accordance with federal and state mandates.

   In response to Governor's Executive Order (EO) B-13-11 and 2010-11 Supplemental Reporting Language (SRL), the Department of Finance (DOF) initiated a program-by-program ZBB review of Caltrans, beginning with the DLA. The EO requires departments to incorporate program-evaluation methods into the budget process. Such methods may include ZBB, development of performance measures, strategic planning, audits and program reviews. The SRL requires Caltrans, within 180 days of state-level implementation of a new Federal Transportation Act, to develop a baseline view of DLA's workload, including a listing of major activities performed, the level of resources needed to complete each activity, and how the workload aligns with current staffing levels.

   Detail: As a result of the Caltrans analysis, efficiencies were identified that enable a reduction of 15 positions across the 12 districts. Efficiencies and streamlining within headquarters have allowed for a reduction of five additional positions. The proposal also notes that the new federal law, Moving Ahead for Progress in the 21st Century (MAP-21) has significantly changed the way that federal funding flows to the state and has added flexibility and potential efficiencies to project delivery. Because the Federal Highway Administration (FHWA) has yet to finalize its guidance regarding implementation of the new law, the DLA will monitor changes and request additional resource changes in the future, as needed.

   As noted, the proposal includes a reduction of three positions in 2013-14 and two positions in 2014-15 related to the proposed consolidation of five grant programs into a new ATP. According to the Administration, the reductions would result from the eventual consolidation of the duties of eight existing positions to three positions. The existing positions proposed for consolidation include the following:

- Safe Routes to School (SR2S) Coordinator
- Assistant SR2S Coordinator
- Bicycle Facilities Program Manager
- Bicycle Transportation Account Program Coordinator
- Environmental Enhancement and Mitigation (EEM) Coordinator
- Transportation Enhancement Coordinator
- District Program Coordinators (two positions allocated across Caltrans' 12 districts).

The new positions proposed to be created include the following:

- ATP Coordinator
- Assistant ATP Coordinator
- District Program Coordinator

Some of the positions proposed for consolidation have existing duties beyond those directly associated with project administration. For example, the Bicycle Program Manager serves as the liaison to the California Bicycle Advisory Committee, a stakeholder group comprised of local officials and advocates. Additionally, federal law requires every state to fund a Bicycle-Pedestrian Coordinator responsible for promoting increased use of non-motorized facilities, as well as public education and safety. Finally, the Department's SR2S Coordinator serves as the liaison to its Safe Routes Advisory Committee, as well as coordinating with entities responsible for technical assistance and research involving best practices for safe routes projects.

The Administration indicates that the streamlining efforts associated with the ATP justify the resource reductions and that no adverse impacts have been identified, although duties will be reduced from current levels. It indicates that the Department will continue to assign a person or persons as the bicycle and pedestrian coordinators, but acknowledges that the duties of these positions may be consolidated and include other activities such as ATP coordination. With respect to the SR2S Coordinator, the Administration notes that this position is no longer required under federal law and that, while existing SR2S projects will continue to be supported, the non-ATP related duties of that position will no longer be supported after the proposed consolidation.

Caltrans' ZBB review also analyzed the department's so-called subvention exchange process. Federal law allows for local subvention funds (federal funds passed through the state to local agencies) to reimburse Caltrans for project support services provided by the DLA on behalf of local agency projects. However, federal regulations require that all such funds be applied to the budget of a specific project. Because of the structure and organization of the DLA, it is administratively infeasible to track the division's workload on a project-by-project basis, and thus, federal subvention funds cannot be used directly to support DLA work. To address this issue, the DLA, with FHWA approval, implemented the subvention exchange process in 2009-10. Through this process, DLA first calculates the total resources projected to be expended on behalf of local agencies for reimbursable activities. This level of funding is then debited off the top of the federal subvention funds prior to distribution. These funds are then swapped for State Highway Account (SHA) funds. The subvention funds are applied to the budgets of various state projects while the SHA funds, which need not be applied to specific project budgets, are used to fund DLA. The exchange basically reduces state costs by enabling local agencies to reimburse DLA for support of their projects. In the current year, Caltrans has exchanged $10.0 million of local subvention funds, and as a result of the ZBB analysis, has identified an additional $13.8 million in services that are eligible for exchange in 2013-14.

Staff Comment and Questions: Over the course of four years, the ZBB process will be used to analyze each of Caltrans' major programs to identify efficiencies and streamline, where appropriate. Thus, the current proposal is the first of a number of similar efforts that the Legislature can expect to consider over the next few years. While 20 of the proposed position reductions relate to identified efficiencies in existing workload activities, three of the proposed reductions for 2013-14 and the two proposed for 2014-15 would result from the creation of the proposed ATP. This component of the proposal, and the related consolidation of staff, does raise concerns regarding potential impacts to Caltrans' efforts to effectively support active transportation.

While the proposal suggests that the consolidation of five grant programs into one justifies a 62.5 percent reduction in staff resources, a review of the job descriptions of the positions slated for elimination indicates that some include substantial workload beyond grant administration. For example, the SR2S Coordinator duty statement indicates that at least 45 percent of the workload involves activities such as public awareness, training, interacting with internal and external stakeholders, and outreach to regional, state and national SR2S organizations. This position coordinates the Caltrans SR2S Advisory Committee, which recommends program improvements and best practices. It also serves as Caltrans' point of contact with the Technical Assistance Resource Center (TARC), which was set up by Caltrans in 2008 to support local agencies in developing effective projects.

Similarly, at least 55 percent of the Bike Facilities Program Manager's workload appears to involve duties other than administration of the BTA, including bicycle safety awareness, advocacy, training and support to internal staff and external agencies and providing expertise on bicycle transportation law, policy and programs. According to the duty statement, this individual serves as Caltrans' expert on bicycle transportation. It should be noted that federal law mandates that every state fund a Bicycle and Pedestrian Coordinator position.

The Administration has acknowledged that, under the proposed consolidation, some of non-grant administration duties of the affected positions would be reduced while others (including the SR2S Coordinator duties) would no longer be supported. This raises questions about the future of TARC, including whether California would remain a national leader on SR2S issues without a state level coordinator. Since the purpose of the ATP proposal is to heighten the profile of active transportation, such substantial reductions may send a confusing message. The Committee may wish to defer action on the ATP related reductions pending resolution of the issues related to the proposal itself. It may also wish to seek additional information from the Administration demonstrating how Caltrans' overall efforts to support active transportation would be preserved under this proposal.

Questions: *(1) How does the department plan to address the additional workload from the eight to three position reduction in the ATP that is not related to program administration? (2) What is the department's response to the observation regarding federal law requirements for the bicycle position, as well as how this will affect California's commitment to active transportation?*

Staff Recommendation: Approve reduction of 20 positions related to efficiencies identified in existing DLA workload, additional subvention exchange, and conversion of limited-term positions to permanent. Do not approve the five position reductions related to ATP program consolidation. Direct staff to obtain additional information regarding how Caltrans' commitment to active transportation will be preserved and enhanced in light of the reduction in dedicated staff resources imbedded in this proposal.

Vote:

3. **Active Transportation Program (Budget Trailer Bill):** The Governor's Budget proposes creation of the Active Transportation Program (ATP) through the consolidation of five existing programs into a single $134.2 million program. The five programs to be consolidated include the federal Transportation Alternatives Program (from MAP-21), which includes the Recreational Trails program, the state and federal Safe Routes to School Programs, the state Environmental Enhancement and Mitigation (EEM) Program, and the state Bicycle Transportation Account (BTA). This proposal is related to the resource reduction in the issue discussed above.

Background and Detail: By consolidating several small grant programs into a new larger program, this proposal is intended to enhance the profile of active transportation projects, defined as any method of travel that is human-powered. It also seeks to increase program efficiency by eliminating the need to administer these programs individually and to focus funding on high-priority projects to reduce greenhouse gas emissions, consistent with the objectives of Chapter 728, Statutes of 2008 (SB 375). The Administration indicates that, compared to the current arrangement, the ATP will have a greater capacity and more flexibility to fund larger projects by streamlining program workload and reducing duplication of support activities (such as individual program guideline development and maintenance, training, reporting, and information systems maintenance). Consistent with this approach, the Governor's Budget proposes to eliminate, over two years, five staff positions within Caltrans currently associated with administration of these programs.

The proposal seeks to achieve efficiency through creation of a single set of program guidelines and a single application and project selection process through which designated 'best projects' among all eligible categories would be identified and funded. Specifically, the proposed trailer bill language would require the California Transportation Commission (CTC) to develop guidelines and selection criteria for the new ATP, through a consultation process with specified entities including Caltrans, the Strategic Growth Council, the Department of Housing and Community Development, the Natural Resources Agency, the Air Resources Board, the Department of Public Health and the Office of Traffic Safety, as well as with metropolitan planning organizations and regional transportation planning agencies. The proposed language specifies a non-exhaustive list of eligible project types, including many types that are eligible under one or more existing programs. The language also specifies a non-exhaustive list of proposed selection criteria, most of which also are drawn from the criteria for the existing programs. The language does not specify how the various criteria should be applied in comparing the relative benefits of different project types.

Staff Comment and Questions: The Administration's proposal has some merit and there are likely to be some synergies involved in a unified program; however, there are also concerns. Collapsing multiple active transportation grant programs into one program with a single set of guidelines and selection criteria could have unintended adverse impacts for the types of projects funded by the current programs. The existing component programs have common elements, but each has different goals and objectives which are reflected in each program's individual guidelines and selection criteria. For example, the twin goals of the SR2S program are to both increase the number of K-12 students walking or biking to school and also improve safety for those students who do so. In contrast, BTA's primary objective is improving safety and accessibility for existing bicycle commuters. EEM funds a variety of project types, including landscaping and urban forestry designed to offset vehicle emissions, mitigation property acquisition, and roadside recreational enhancements. While such projects may have an active transportation component, this is not a primary objective of the program.

The proposal suggests that the ATP guidelines and project selection criteria will provide a framework through which these disparate types of projects will be compared and prioritized, as a single program. However, it is unclear how projects intended to achieve very different goals will be compared and the proposal includes no specifics. Nor is it apparent how the proposal's intent to prioritize projects that facilitate compliance with the Sustainable Communities and Climate Protection Act of 2008 (SB 375) may influence project selection. Without more specificity, it is impossible to determine how projects that meet the targeted goals and objectives of the individual component programs would fare.

To the extent that the Committee believes that ensuring the basic integrity and purpose of the various programs proposed for consolidation is important, it may wish to defer action on the proposed trailer bill language pending additional information. The Committee may wish to request that the Administration, in consultation with affected stakeholders, develop proposed program guidelines that preserve the basic goals and objectives of the component programs and ensure, at a minimum, a base funding level for each project type.

<u>Questions:</u> (1) How will comparisons of programs across categories be carried out, especially in view of the different goals and objectives? (2) Is it possible various programs be guaranteed a particular minimum level of funding or could some receive no funding at all? (3) Can you describe how the environmental mitigation portion fits in with ATP? (4) Would additional resources be required to administer the new proposed program, for example at the California Transportation Commission?

Staff Recommendation: Hold issue open. Request the Administration, in consultation with affected stakeholders, to develop program guidelines that more clearly specify eligible uses and selection criteria. Consider establishing a base minimum funding level for each project type.

<u>Vote:</u>

4. **Planning Program—Zero Based Budget (Governor's Budget BCP#2):** The Governor's Budget proposes to ZBB Caltrans' Division of Transportation Planning. To accomplish this, the Governor, requests a net increase of 10 positions and $8.4 million, for 2013-14. The proposal consists of a five position reduction and eight position redirection in the traditional planning program; staff workload adjustments for efficiencies that reduce positions by 19 in planning and increase positions by 36 in the Project Initiation Documents (PIDs) activities to accommodate workload; and, a reduction of two positions in other units. The net result is an increase in the program of 10 positions.

   Background and Detail: Caltrans' Division of Transportation Planning (DOTP) is responsible for implementing statewide transportation planning. DOTP includes five core programmatic areas: community planning, regional and interregional planning, system and freight planning, state planning and project scoping. DOPT is responsible for a wide variety of activities, including but not limited to review of local and tribal development proposals, general plans, provision of input to federal and regional entities regarding regional transportation plans, review of air quality and climate change scenarios, development of long-range highway system plans, preparation of the 25 year state transportation plan, and development of PIDs for both State Highway Operations and Protection Program (SHOPP) and non-SHOPP projects.

The first ZBB effort in DOTP began in 2009 and established an initial workload baseline for 2010-11. In 2009, the LAO raised several concerns with the PIDs program, specifically that Caltrans had not based staffing on workload, that it had no criteria for selecting SHOPP PIDs, and that there were gaps in the way it managed its PIDs work. The 2009 Budget Act required Caltrans to convene a stakeholder working group and identify options to streamline the process. Since that time, Caltrans has made efforts to address the LAO's concerns. It has reduced its inventory of completed PIDs by aligning completed PIDs with updated/revised SHOPP priorities. Caltrans now aligns staffing levels based on PID inventory and identified SHOPP PIDs based on the 10-Year SHOPP Plan. Caltrans has also undertaken efforts to streamline the development process for certain kinds of PIDs. Nevertheless, LAO continues to have concerns with the program, as noted below.

The Governor's Budget proposes an increase of 35 positions for SHOPP PID work, driven by the mix of projects in the 2013 10-Year SHOPP plan, and including the work associated with developing PIDs for projects due in the 2014 and 2016 SHOPP programming cycles. The primary reasons for the increase are that: (1) Caltrans no longer maintains a large inventory of completed PIDs, (2) the Department is behind in PIDs development due to a shortfall of personnel dollars, and (3) the mix of projects has shifted compared to prior fiscal years. The proposal also includes a net increase of one position for non-SHOPP PID work.

In addition to the positions request, the Governor is seeking an increase in SHA funding to true-up the PIDs personnel dollars. The program is currently experiencing a $6.2 million shortfall in its 2012-13 base that developed because, while Caltrans had adequate authorized staffing levels to handle ongoing workload, the personnel dollars were inadequate to fully fund those positions at the classifications hired by Caltrans. This proposal would align personnel dollars with existing classifications in the 2012-13 SHA PIDs program base, and accomplish this using $2.1 million in savings elsewhere in DOTP and additional an $4.1 million in SHA funding.

The overall ZBB of DOTP would partially offset the increased staffing in the PIDs program through the reduction of 24 positions elsewhere within DOTP. These reductions are the product of aligning staffing with workload, creating efficiencies where feasible and redirecting staff where appropriate. This includes a reduction of one position due to efficiencies created by moving from a one-year to a two-year BCP cycle for the PIDs program. An additional reduction of two positions is to be realized outside of DOTP from efficiencies achieved from the consolidation of the Division of Transportation Systems Information with the Division of Research and Innovation. This proposal results in a requested net increase of 10 positions overall.

The Governor's Budget indicates that in an effort to ensure that staff is performing work at the correct classification level, California Department of Human Resources (CalHR) will perform a review of the division to ensure consistency in compliance with state staffing requirements.

LAO Perspective: The LAO notes several concerns with the Governor's Budget proposal as well as the overall PIDs program. The LAO avers that the Administration understates the efficiencies that result from streamlining the PIDs and indicates the presence of an additional savings of $2.9 million and 21 positions. It indicates that the Department is unable to manage the current resources, as evidenced by the mismatch between funding levels and workload, and in addition, misattributes cost allocations between state funds and local reimbursements. Finally, the LAO urges that necessary budget adjustments pursuant to these issues occur in 2014-15. The LAO recommends modifying the current Caltrans request by reducing the PIDs program by $2.9 million and 21 positions.

Staff Comment and Questions: The proposal reflects the Administration's effort to streamline Caltrans' operations and realize efficiencies where possible. While the requested increase in PIDs resources is significant, it may not be unreasonable given that Caltrans has depleted its backlog of PIDs projects in recent years—the product of Proposition 1B and federal stimulus funding. Caltrans' efforts to streamline its PIDs program is ongoing, and although substantial progress has been made, the Department's personnel expenses overrun in the PIDs program and other issues are of concern. If it were necessary to hire at a classification level above that for which the program was budgeted, it is unclear why the department did not request an increase. The position review by CalHR is warranted and should ensure that workload and resources are properly aligned going forward. The Committee may wish to explore further the prudence of the proposal to move to a two-year BCP cycle for the PIDs program. Given that the program is still working to properly align resources, continued review on an annual basis may be appropriate.

<u>*Questions:*</u> *(1) How would the department respond to the reduction proposed by the LAO? What would be the impact on PIDs? What is the LAO basis for the cost savings estimates? (2) Would this reduction result in a staffing equivalent to the current year? (3) How should the allocation between state funding and local reimbursements be made and can this be adjusted to reflect an appropriate balance in the budget year? (4) Why was the resources-workload imbalance not addressed in prior years? How can the Committee be assured that this will be addressed? (5) Would a two-year budget cycle for PIDs be appropriate?*

Staff Recommendation: Hold issue open, pending receipt of additional information from the Department and the incorporation of concerns and issues that have been raised.

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

5. **Indirect Cost Allocation Plans—Incurred Cost Audits (Governor's Budget BCP#3):** The Governor's Budget requests a conversion of eight limited-term positions to permanent and to exchange $1.9 million in local federal subvention funds for an equivalent amount of State Highway Account Funds. These positions

were originally approved in fiscal year 2009-10 and approved for a two-year extension in 2011-12.

Background and Detail: Caltrans has a legal and fiduciary duty to ensure that all state and federal funds are expended in compliance with applicable laws, regulations and agreements. This includes an average of $1.3 billion in federal and state funds expended annually by local government agencies (LGA) within the state. Tools used to ensure proper federal reimbursement of LGAs include both Indirect Cost Allocation Plans (ICAP) and Incurred Cost Audits (ICA).

Federal regulations allow LGAs to seek reimbursement for indirect costs (administrative overhead) associated with eligible projects but require that the agency have an approved ICAP in place to justify those costs. Since 1994, Caltrans has been delegated by the Federal Highway Administration (FHWA) to approve ICAPs. ICAs are periodic audits of reimbursements by Caltrans to an LGA to determine if costs are adequately supported and consistent with all contract provisions, laws, regulations, policies and procedures. Improper reimbursement of LGAs can have significant consequences, particularly when federal funds are involved. If FHWA determines that reimbursements have occurred in error or for unallowable expenditures, Caltrans must reimburse these costs and seek reimbursement from the LGA. Improper reimbursement reduces the funding available for eligible project costs.

In 2009, Caltrans sought an increase of 12 positions to approve ICAPs and conduct ICAs because it had determined that its existing resources were insufficient to manage the existing workload and a substantial backlog had occurred. The department indicated that, based on its existing staffing levels, it would take 30 years to audit just the top 30 LGAs (out of at least 699 that receive funding through Caltrans). As a result, the department estimated that it was at risk of reimbursement for as much as $194 million per year due to errors and unallowable costs. The Legislature approved the positions as limited-term and reauthorized in 2011-12.

Because these positions perform work on behalf of local agencies, Caltrans is reimbursed for eligible work through the subvention exchange process (as described above.) To fund this, the Governor proposes to exchange $1.9 million in local federal subvention funds ($809,000 in personnel expenses and $1.1 million in operating expenses), for SHA funds.

Staff Comment: The positions were approved as limited-term because at the time it was unknown whether or not the increased workload would be permanent. The proposal seeks to convert eight of the positions to permanent status because it is apparent that the increased workload will be ongoing. According to the proposal, the limited duration of the positions has made them difficult to fill and has contributed to a high level of turnover. Under the law, an employee may not serve in a limited-term position for more than 24 months and, subsequently may not be rehired for an extended term, making it difficult for Caltrans to attract and retain qualified staff.

While Caltrans has been authorized for 12 positions since 2009, as recently as 2011-12, the vacancy rate was over one-third, at 4.3 positions. It is anticipated that converting the positions to permanent status will increase continuity and improve staff knowledge, experience, and level of productivity. The request for eight permanent positions approximates the current staffing level and projected workload. Because of the subvention exchange, this workload is effectively funded by the local agencies that benefit.

Staff Recommendation: Approve the conversion of eight limited-term positions to permanent, and the subvention exchange, as proposed

Vote:

6. **Proposition 1B Capital Needs (Governor's Budget BCP#4):** The Governor is requesting a total of $238.4 million in capital funding for projects in five categories within the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B). This proposal represents a ZBB and is based on the projects in each program for which the project proponent anticipates requesting an allocation of funding during 2013-14. This request is being made to ensure that adequate resources are appropriated to meet the anticipated need during the upcoming year.

Background: Proposition 1B was approved by the voters in 2006 and dedicates $19.9 billion over a ten-year period to fund a variety of projects, including the State Transportation Improvement Program (STIP), the SHOPP, congestion relief efforts, public transportation, reduction of air pollution and improved port security. It also provides funding to local agencies for road maintenance and improvements, safety, congestion relief, and seismic safety. Of the total funds, authorized under Proposition 1B, $12.0 billion is reserved for 10 programs funded through Caltrans. Appropriations are made annually to those programs based on anticipated project funding needs for that year. Through June 30, 2012 approximately $8.6 billion in appropriations had been allocated by the CTC for projects through these ten programs. Request detail is presented in the table below:

2013-14 Proposition 1B Capital Needs Requests

Fund	2013-14 Request (in thousands)
Trade Corridors Improvement Fund	$74,127
Public Transportation Modernization, Improvement and Service Enhancement Account—Intercity Rail	$30,517
Local Bridge Seismic Retrofit Account	$15,000
State Highway Operations and Protection Program	$77,965
State Route 99	$40,789
Total	**$238,398**

Staff Comment: This proposal represents anticipated funding requests as of the date of proposal development. Project schedules change and estimates sometimes need to be revised. In addition, the LAO has noted that Caltrans may have significant unspent balances from funds appropriated during 2012-13, which may reduce the funding needed for 2013-14. Given the need to clarify these issues, the Committee may wish to hold this item open until the spring when Caltrans may have a clearer picture as to the level of previously appropriated funding that may be available to be applied to 2013-14 project needs.

Staff Recommendation: Hold issue open.

Vote:

7. **Use of Miscellaneous Revenues for Debt Service (Budget Trailer Bill):** The Governor's Budget has proposes trailer bill language to make permanent the annual transfer of miscellaneous transportation revenue, such as rental income and the sale of surplus property, from the SHA to partially offset the cost of servicing transportation-related general obligation bond debt.

Background: As part of the 2010-11 Budget, legislation was enacted that directs miscellaneous transportation revenue to partially offset transportation-related debt service. Previously, these miscellaneous funds had flowed from the SHA to the PTA and eventually became available for transit related capital improvement purposes through the State Transportation Improvement Program (STIP). However, with the state facing severe General Fund budget cuts, these funds were redirected to debt service. Under current law, this redirection, which totals approximately $67 million annually, is slated to sunset at the end of FY 2012-13, after which the funds would flow back to the PTA. The proposal would eliminate the sunset, thereby making the funding shift permanent.

Staff Comment: In making permanent the transfer of miscellaneous special fund revenue to the General Fund for transportation-related debt service—a strategy that was originally proposed for three years as a budget balancing scheme—the Governor's Budget implicitly acknowledges that GO bond debt service represents a long-term, and growing, funding challenge for the state. Because the special fund revenues are being used to service transportation related debt, it can reasonably be argued that this is an appropriate measure. On the other hand, some transportation stakeholders contend that the state has huge transportation needs, particularly in the area of public transportation, and these revenues represent an opportunity to address these needs. The Committee may wish to consider whether it would be appropriate, rather than making the transfer of these revenues permanent, to instead simply extend the sunset. Given the state's continuing budgetary tightness and fiscal constraints, it is prudent to continue the shift of miscellaneous revenues to provide for General Fund debt service relief. However, there would appear to be no apparent down-side to extending the sunset for an additional one or two years as opposed to on a permanent basis.

Staff Recommendation: Approve alternative trailer bill language to extend shift of miscellaneous transportation revenue to the General Fund only for an additional year.

Vote:

8. Enhanced Transportation Bonds—Weight Fees (Budget Trailer Bill): The Governor's Budget proposes trailer bill language that would provide a new form of bond security for certain transportation bonds issued pursuant to Prop 1B. The proposed budget trailer bill would create a mechanism through which the first pledge for debt service on designated bonds would be from a newly-created transportation debt service fund funded from weight fees. The General Fund would serve as a back-stop for any required debt service that was not covered by amount in the transportation debt service fund. Such a bond structure is known in the municipal finance industry as a "double-barreled" or combination bond. Such bonds are secured by a defined revenue source as well as the full faith and credit of an issuer that has taxing power, and has both general obligation and revenue pledges. The administration has indicated that this double-barreled structure provides additional security for investors in the bonds and a potentially higher credit rating, resulting in reduced interest costs.

Background: The proposal is related to versions 1 and 2 of the fuel tax swap. Proposition 22 of 2010 imposed additional restrictions regarding eligible uses of tax revenue derived from gasoline and diesel fuel sales, and in most cases, made that revenue ineligible for payment of GO debt on transportation related bonds (as directed under version 1 of the fuel tax swap). Version 2 of the swap, in AB 105, Statutes of 2011, reenacted the fuel tax swap legislation to conform to Prop 22 and discontinue the use of fuel revenue for GO debt. Instead, truck weight fee revenue was substituted as a source of payment for GO debt. In general, the fuel tax swap legislation lowered the sales tax on gasoline and increased the excise tax on gasoline. This transportation refinancing was revenue neutral for consumers but made transportation funds more flexible to fund a greater variety of transportation programs, including restoration of certain mass transportation programs. Another benefit of the fuel tax swap was that Prop 42 funding for highways and local roads was preserved.

Current law permanently directs truck weight fee revenue to the General Fund for eligible debt service in a given fiscal year. In the absence of this provision, the weight fee revenue would otherwise be used to fund highway repair projects and the administration of Caltrans. Annual truck weight fee revenue currently exceeds eligible debt service, but excess truck weight fee revenue was transferred to the General Fund in 2010-11 and 2011-12 as a pre-funding of out-year bond debt. Both types of transfers to the General Fund, either for current-year or for out-year GO bond debt, provide a General Fund budget benefit in the year the transfer is made. This proposal adds an additional tool for servicing transportation debt by adding weight fees as a first pledge.

Staff Comment and Questions: The Governor's proposed trailer bill would not have an impact on the amount of General Fund savings that have been achieved by shifting weight fees to the General Fund in order to pay for debt service. Instead any new bonds or refinancing bonds designated under the enhanced program would be paid first from the transportation debt service fund, thus reducing the impact on the General Fund. The only change provided in the trailer bill is to pledge these revenues first, using the General Fund a back-stop, instead of transferring the fees to the General Fund. Weight fees in excess of required current debt service would continue to be shifted to the General Fund as pre-funding of future debt service. The projected total weight fee revenue for 2012-13 is $932 million and for 2013-14 is about $946 million. The projected advance payment on debt service is $331.8 million and $38.7 million in 2012-13 and 2013-14, respectively.

> *<u>Questions:</u> (1) When will debt service on bonds that are eligible exceed the amount of weight fees? (2) Are enhanced bonds a means of extending the time period for such coverage?*

Staff Recommendation: Approve the Administration's placeholder trailer bill language to provide for enhanced security for designated transportation bonds.

<u>Vote:</u>

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that would be fully coordinated with other public transportation services. Until California voters approved the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, also known as Prop 1A, the HSRA was a small entity with limited funding that focused its efforts primarily on program level studies and other analyses. Since approval of Prop 1A, and the receipt of $3.5 billion in additional federal funding through the American Recovery and Reinvestment Act (ARRA) in 2009 and 2010, the HSRA's size and scope of work has grown substantially. Federal funding requires a substantial state match and would not be available to the HSRA absent Prop 1A.

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 71.5 authorized staff positions (up from 32.4 in 2011-12) and, while in the past it has struggled to fill many of these jobs, it has made substantial progress in filling key management jobs over the past year. Last fall, it hired the last of three regional directors and the Chief Program manager. Effective July 1, 2013, pursuant to the GRP 2, the department will report to the new Transportation Agency.

Budget Summary: HSRA operates five programs: department administration; program management and contract oversight; public information and communications; fiscal and other external contract; and blended system projects. The HSRA has expanded from 32.4 positions in 2011-12, to 71.5 positions in the current year, basically reflective of additional responsibilities as funding has increased. Funding for the department is from federal funds and state bond funds for both operating and capital expenditures. Operating support increased from $14.7 million in 2011-12 to $24.5 million in the current year. Capital expenditure grew from $97.1 million in 2011-12 to an estimated $2.4 billion in 2013-14. Following the multi-billion dollar appropriation in the 2012-13 budget to complete preliminary design and commence construction of the initial project phase, the Governor's Budget makes only minor modifications. The budget adds 15.5 staff positions, most of which are in the area of software and information systems. Capital expenditures are expected to be $3.1 billion.

Background: Under Prop 1A, approximately $9.9 billion in general obligation bond funding is authorized for the project. The funds are subject to appropriation by the Legislature. Of this total amount, $950 million is set aside for capital improvements to existing intercity urban and commuter rail systems to provide direct connectivity to high-speed rail. These are incorporated as part of high-speed rail or provide safety or capacity enhancements. The remaining $9.0 billion in Prop 1A is specifically set aside for the high-speed rail project. Up to $450 million 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. 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 2 hours, 40 minutes. Phase 1 of the project by segment is shown in the LAO graphic below.

Figure 12

High-Speed Rail Construction to Start in 2013

In April 2012, the HSRA released its revised 2012 Business Plan, which represented a significant shift in direction. Its prior draft Business Plan, released in November of 2011, had outlined a five step strategy to complete Phase 1 of the project, from San Francisco to Anaheim, and tagged the cost of this phase at $98 billion. The April 2012 revised Business Plan was billed by the HSRA as a significant refinement of the original plan, and which would enhance local rail service immediately and, over the long-term, cut costs by $30 billion for Phase 1, to a total of $68 billion. According to the revised plan, construction of the entire 520-mile system would be completed in 2028. Key features of the revised plan include the following:

- Construction of a 300-mile initial Operating Section of electrified rail from Merced to the San Fernando Valley, beginning in 2013 and completed within 10 years.
- Improvements to existing rail service in the Bay Area and Los Angeles regions (the bookends), including conversion of local diesel-powered rail systems to electric power and safety improvements such as positive train control.
- Cost reduction of $30 billion relative to the 2011 draft plan, achieved through use of a blended approach, various cost savings, and revised inflation assumptions.

Following release of the revised 2012 Business Plan, the governor released his revised budget which proposed the following appropriations:

- $5.9 billion ($3.2 billion federal funds, $2.6 billion Prop 1A bond funds) to construct an initial 130 mile segment of the high-speed rail project between Madera and Bakersfield.
- $253 million ($48 million federal funds, $204 million Prop 1A bond funds) for completion of environmental and preliminary design work for various segments of the system. This includes $152.4 million to complete environmental review for each of the 10 segments comprising the system, as well as $100.2 million to fund full preliminary design of the Merced-Fresno and Fresno-Bakersfield segments and partial design of other segments.
- $819 million (Prop 1A connectivity bond funds) for intercity (Caltrans funded) and local rail operators to improve existing rail operations to improve connectivity to the future high-speed rail system. This appropriation consists of $106 million for intercity projects to increase travel speeds and frequencies and $713 million for enhancements to local systems that will directly benefit the HSR project.

These appropriations were included in SB 1029 (Chapter 152, Statutes of 2012) along with an additional package of $1.1 billion in bond funds for investment in the bookends in northern and southern California regions needed to improve travel times for trains providing service as part of the blended system. These projects include $600 million primarily for electrification of the Caltrain corridor between San Francisco and San Jose and $500 million for projects to improve the Metrolink corridor between Palmdale and the San Fernando Valley. The legislation included extensive language that restricts expenditures or requires reporting to various control entities and to the Legislature. Review or approval is required at specified points in the process from the Secretary of Business, Transportation and Housing Agency (or its successor), the Public Works Board (PWB), the DOF, and the Joint Legislative Budget Committee, as well as other legislative committees.

The HSRA received final approval of the environmental documentation for the segment between Merced and Fresno in September 2012 and in January 2013 received approval from the PWB to acquire the necessary land, or right–of–way, between Madera and Fresno. The HSRA currently expects to receive final approval of the environmental documentation for the segment between Fresno and Bakersfield in the fall of 2013. The HSRA is using a design–build procurement process to complete the final engineering design and to construct the rail line. Under design–build, the state contracts with a general contractor to design and build the project. The project in the Central Valley is divided into four contiguous construction packages. A fifth construction package will lay track along the entire corridor after the other construction packages are completed. Five bids for the design and construction of the first construction package—the rail line between Madera and downtown Fresno—were received in January 2013 and HSRA expects to award the contract this summer. Awards for the remaining construction packages are expected to be made in 2014.

HSRA and the agency provided an update on the project status, management, oversight and inspection at a joint hearing of Senate Budget and Fiscal Review, Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation and the Senate Transportation and Housing Committee on February 26, 2013. The background paper is located at:
http://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/SUB2/2262013Sub2JtHearingHighSpeedRail.pdf

Item Proposed for Vote Only:

1. **Outreach and Communications (Governor's Budget BCP#5):** The Governor's Budget requests funding of $500,000 to continue statewide environmental and design-build construction package outreach and communications services in conjunction with the high-speed rail project. The funding would be used to supplement the HSRA staff.

   Background: The Budget Act of 2012 authorized 4 positions, and an additional one-time $500,000, to enable the HSRA to transform its efforts from a contract service model to a service model supported with state employees. This proposal would continue the same level of funding as received in the current year. The private contractor activities would include participating in general outreach and communications work, developing and implementing outreach strategies for acquisition for right-of-way, and designing a planning meeting involving stakeholders.

   Staff Comment: Given the ongoing activities of the HSRA, and in particular the critical construction phase which is about to begin, the proposal raises no concerns.

   State Recommendation: Approve the request.

   Vote:

Items Proposed for <u>Discussion and Vote</u>:

2. **High-Speed Rail Authority—Project Update Report (Informational Item):** Under Provision 4 of Items 2665 (High-Speed Rail Authority) of the Budget Act of 2012 in SB 1029 (Chapter 152, Statutes of 2012) the HSRA is to submit to the Legislature on a semi-annual basis a status report on the progress for the high-speed rail system during each period in which appropriated funds are encumbered. The report provides updates on a section-by-section basis (for Phase 1—San Francisco to Anaheim and Phase 2—Los Angeles to San Diego), updated financial information, current and projected schedule, major milestones achieved and prospective, central outstanding issues, and key risk areas and risk mitigation plans.

   In the report, there were noted significant delays in the current and projected timetable. For example, the construction package for Package 1 was shifted from early 2013 to summer 2013. Additional revised dates are part of other sections of the project. Much of this has been addressed and incorporated into the project planning. However, the flexibility of the timetable and specifically the impact of any delays on the HSRA budget and financial condition are a continuing key area of concern for the Legislature. In addition, the HSRA report identifies key risk areas, including:

   - Business Risk—Variability in ridership and revenues; Costs of project
   - Investment Risk—Factors affecting capital requirements
   - Financing and Funding Risk—Factors affecting project financing
   - Litigation Risk—Status of and impact of suits

   Staff Comment: In its presentation before the joint hearing of Senate Budget and Fiscal Review, Subcommittee No.2 on Resources, Environmental Protection, Energy and the Transportation and Senate Transportation and Housing Committee, HSRA focused on state oversight. However, the goal of budget hearings is to go a step further and translate the information and products obtained in this oversight effort into budgetary and fiscal terms. To further this objective, the Committee may want to request the HSRA to provide an assessment of the current schedule and risk factors and how these are being addressed in order to mitigate any negative budgetary or other fiscal impacts.

   Staff Recommendation: Informational item.

3. **Staff Management Plan Implementation (Governor's Budget BCP#1):** The Governor's Budget proposes an increase of 20 positions and $1.6 million (Prop 1A bond funds) for administrative and programming functions. The positions are largely related to technology and address transportation planning, business services, audits, information technology, small business advocacy, financial operations and project

oversight. The proposal is in furtherance of the HSRA staff management plan to build in-house expertise and become less reliant on outside resources. The proposal would result in displacing existing reliance on interagency agreements and consulting services.

Background: In October 2012, HSRA provided a staff management report to the Legislature, as required by legislation. In this report, HSRA indicated that most of its managerial vacancies had been filled, and also provided strategic guidelines for its continued transformation from a planning organization to an organization responsible for delivering the largest capital outlay project in the state. The HSRA also reconfirmed its commitment to maintaining a lean organizational structure in which the engineering design and construction is performed by external consultants. Relying heavily on external consultants requires effective oversight by state staff. Accordingly, the HSRA also reported that it will need to add roughly 60 permanent state staff over the next two years to manage these contracts and oversee the increasingly large number of external consultants. Specifically, the above report stated that HSRA will request an additional 30 engineering positions, 13 planning positions, and about 20 finance and administrative positions to help integrate high–speed rail with local transportation systems, manage the various contracts, and provide oversight of the design–builders. The Governor's budget proposes 20 additional positions including two positions for transportation planning and 18 positions for finance and administration. These 20 proposed positions are consistent with the HSRA's approach described above.

LAO Perspective: The LAO indicates that the proposed positions are justified on a workload basis, and observes that increases in the number of contract management and oversight staff require additional business support activities that are best done in-house.

Staff Comment: The proposal raises no concerns with staff.

Staff Recommendation: Approve the request for additional administrative positions and $1.6 million in additional resources.

Vote:

4. **Financial Consulting Services (Governor's Budget BCP#2):** The Governor's Budget proposes additional funding for the continuation of the financial consulting services. The funding request is for $3.8 million (Prop 1A bond funds) and pays for an additional year with the current financial consultant KPMG. The consultant's duties would include providing financial advisory services to HSRA to develop analyses to support financial planning efforts and potential procurements for the project, including: options analyses, finance plans for specific corridors, credit enhancement opportunities, and the impact of phasing. These duties relate to the

2012 Business Plan, Central Valley procurement support, funding analysis, Phase 1 procurement support, and Caltrain electrification.

Background: The HSRA hired the current financial consultant in June 2011 to assist with the development of the business and funding plans of the high-speed rail project. In addition to assisting with the funding and financing aspects of the project, the financial consultant assisted with the development and validation of the ridership and revenue projections found in the 2012 Business Plan and the review and analysis of financial statements for construction firms submitting proposals in response to the HSRA request for qualifications for the initial construction segment.

LAO Perspective: External financial consultancy provides some specialized and intermittent services that would be difficult for state staff to perform; however, the LAO finds that some of the identified tasks (such as revising the existing financial plans and writing several chapters of the next iteration of the business plan) would be more appropriate for, and less costly if performed by, existing state staff. Consequently, the LAO recommends the Legislature reduce funding for financial services consulting by $1.25 million in Proposition 1A bond funds—from $3.75 million to $2.5 million (the amount of the 2012–13 appropriation).

Staff Comment: The workload analyses and data provided by the HSRA to date do not provide a convincing basis upon which to provide a 50 percent increase in the contract amount from the prior year. In addition, although costs savings for specialized financial services may be realized through external contracts, more routine analyses should be performed internally in concert with the department's overall management and staffing direction. On the other hand, an arbitrary reduction to the prior year amount seems without sufficient analytical basis to warrant support at this time. The proposal requires additional data and comment from the Department or DOF as well as the LAO in order to facilitate a sound decision.

> *Questions:* *(1) Can the HSRA provide additional detail that would warrant the proposed increase in the outside contract? (2) What is the expectation in the future—and the timing—to incorporate any of these activities within the HSRA?*

Staff Recommendation: Hold issue open.

Vote:

5. **Program Management Oversight—Transition to State Staffing (Governor's Budget BCP#4):** HSRA is requesting in the Governor's Budget, $4.1 million (Prop 1A bond funds) to continue through the budget year its existing contract with the firm that provides project management oversight services (PMO). The Governor's budget indicates that the services of the retained firm—TY Lin—is needed to provide staff augmentation to the HSRA for management and oversight of the program management team's (PMT) contract and to perform administrative support for

certain internal HSRA activities. The proposal also includes budget bill language (BBL) that would allow the HSRA to transition certain duties to state staff.

Background: The current contractor was retained in 2010, and has had previous extensions of its contract since that initial period. Actual expenditures on the contract were $1.3 million in 2009-10, $2.9 million in 2010-11 and $3.0 million in 2011-12. The authorized expenditure level in 2012-13 is $5.0 million. The PMO would continue its duties to: monitor PMT performance; review work methods, products, and schedules of the PMT and regional consultants; and, coordinate critical milestones for engineering and design work. The PMO also has performed programmatic reviews involving management tools, performance and deliverables. In previous hearing, the HSRA has been urged to bring additional expertise onto the state payroll and reduce reliance on outside contractors.

LAO Recommendation: The LAO recommends approving the request for contract funding because it is necessary to continue this critical oversight function. It also recommends rejecting the BBL, because it would not allow for appropriate legislative oversight of the establishment of new permanent state positions.

Staff Comment and Questions: HSRA's proposed BBL comes unaccompanied by a detailed staffing plan that would indicate what the personnel and resource need is and the particular expertise that would be used to carry-out the oversight duties. Having a clear and detailed plan is needed in order to ensure that the most cost–effective approach is taken. The proposed BBL would authorize HSRA to transfer funds appropriated for the program management and oversight contract to state administration to fund these additional positions without appropriate legislative oversight. Although the BBL is in keeping with expressed legislative interest, it is open-ended and provides no additional opportunity for legislative input. HSRA should provide additional staffing information regarding the proposed conversion at the hearing. The Committee may want to consider alternative BBL that could provide some flexibility under constrained circumstances.

> *Questions:* *(1) is there, or will there be, an additional detailed staffing plan update that would flesh-out the proposed BBL?*

Staff Recommendation: Approve PMO contract of $4.1 million with existing contractor. Do not approve proposed BBL and request additional staffing information plans and timing from HSRA.

Vote:

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, March 14, 2013
9:30 a.m. or Upon Adjournment of Session
Room: 2040

Consultant: Mark Ibele

Agenda Actions

Transportation

Overview of Transportation Issues and Financing

Proposed Vote-Only Calendar:

<u>Item 1.</u> Cash Accounting for Special Funds (Budget TBL): Adopt Proposed TBL (3-0).

<u>Item 1.</u> Outreach and Communications (BCP#5): Approve Proposed BCP (2-1) [Nielsen].

Proposed Discussion / Vote Calendar:

<u>Item 1.</u> GRP 2 Transportation Agency Funding and Budget Authority (BCP#3): Approve Proposed BCP (3-0).

<u>Item 2.</u> MAP-2: Informational.

Item 2. **Division of Local Assistance-Zero Based Budget (BCP#1) (1) Approve Reduction of 20 Positions Related to Departmental Efficiencies But Not Position Reductions Related to Active Transportation Program and Approve Additional Subvention Exchange (3-0). (2) Approve Conversion of Limited-Term Positions to Permanent: (2-1) [Nielsen].**
Item 3. **Active Transportation Program (Budget TBL). Hold Open.**
Item 4. **Planning Program-Zero Based Budget (BCP#2). Hold Open.**
Item 5. **Indirect Cost Allocation Plans-Incurred Cost Audits (BCP#3): Approve Proposed BCP (3-0)**
Item 6. **Proposition 1B Capital Needs (BCP#4): Hold Open.**
Item 7. **Use of Miscellaneous Revenues for Debt Service (Budget TBL): Adopt Alternative Budget TBL Language Continuing Shift of Miscellaneous Revenue to General Fund Through 2013-14 (3-0).**
Item 8. **Enhanced Transportation Bonds-Weight Fees (Budget TBL): Adopt Proposed TBL (3-0).**

Item 2. **High-Speed Rail Authority-Project Update Report: Informational.**
Item 3. **Staff Management Plan Implementation (BCP#1): Approve Proposed BCP (2-1) [Nielsen].**
Item 4. **Financial Consulting Services (BCP#2): Hold Open.**
Item 5. **Program Management Oversight-Transition to State Staffing (BCP#4): Approve Appropriation for Project Management Oversight Contract But Not Proposed BBL (2-1) [Nielsen].**

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

Thursday, March 21, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

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 916-324-9335. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR VOTE ONLY

3560 State Lands Commission

1. **Oil and Gas Review and Oversight.** Request for three permanent positions to review and monitor state oil and gas lease activities to ensure compliance with lease terms. Funding will be dedicated from existing reimbursement agreements. This proposal is consistent with legislative direction to increase oversight of oil and gas leases.

2. **Selby Slag Site Remediation.** Request for $396,000 (one-time, General Fund) to pay the proportional share of hazardous waste remediation costs at Selby, California. This funding is pursuant to a 1989 Consent Judgment requiring the State Lands Commission to pay 38 percent of costs for the site remediation.

7300 Agriculture Labor Relations Board

3. **Funding for the Administration of the Board.** Request to appropriate $502,000 (Labor and Workforce Development Fund) and four new positions to meet administrative requirements. This proposal will allow the board to fund location-specific personnel and travel as required by diverse California agriculture labor needs.

8570 Department of Food and Agriculture

4. **California Special Interest License Plate – "CalAgPlate."** Request for $477,000 (Specialized License Plate Fund) to award grants to agricultural education organizations with funds already received from the sales and renewals of the legislatively and Department of Motor Vehicles authorized specialized agriculture license plate.

Recommendation: APPROVE Items 1-4

Vote:

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's Budget includes $366.3 million and 2,527 positions for DFW. Decreases in federal and other special funds are the results of a concerted effort to re-align reimbursements and annual funding with historical expenditures and current revenues. Reductions in bond expenditures are the result of the near-depletion of available bond funds.

Items Proposed for Vote-Only

1. **Proposition 99 Cleanup Language.** Per recommendation by the Bureau of State Audits, revise PRC 712.5 to eliminate outdated statute that was revised by subsequent statute in 2005. This allows funding from the Environmental License Plate Fund to be used for Fish and Wildlife activities as required by Proposition 99.

2. **Interoperable Narrowband Radio and Infrastructure Modernization Project—Year Three.** In continuance of a proposal ($1.5 million, Environmental License Plate Fund) approved in this subcommittee, this is the third year of a multi-year proposal to fund the timely implementation of a modernization of radio operations to improve the ability of wardens to communication within DFW and to its sister law enforcement agencies at the local, state and federal level.

3. **Technical Funding Shift Adjustment to the Fisheries Restoration Grant Program.** Request to shift ongoing Federal reimbursement authority ($20 million) from state operations to local assistance for grant funds awarded to nonprofit organizations, government agencies, and Indian tribes under the Fisheries Restoration Grant Program. This is a technical shift to properly characterize grant expenditures.

4. **Dreissenid Mussel Prevention.** Request for $126,000 and one position (Harbors and Watercraft Revolving Fund) to implement Chapter 485, Statutes of 2012 (AB 2443, Williams) that requires DFW to increase Quagga and Zebra (Dreissenid) muscle prevention efforts and control activities. The LAO recommends this be reduced to $75,000 given that the statute allows for a half-year program in the budget year.

Recommendation: **APPROVE** Items 1-3. Item 4, **APPROVE** $75,000 per LAO.

Vote:

Items Proposed for Discussion

1. Improper Use of Lease Proceeds

Lands Program Background. The Lands Program is responsible for assisting Regional staff in the management of over 1,000,000 acres of fish and wildlife habitat. In total, the DFW manages 711 properties throughout the state. These properties provide habitat for a rich diversity of fish, wildlife, and plant species and comprise habitats from every major ecosystem in the state. In addition, the Lands Program also administers several private lands conservation programs designed to assist landowners with the management of wetlands, riparian habitats, native grasslands and wildlife-friendly farmlands.

Bureau of State Audits Findings and Recommendations. In December 2012, the Bureau of State Audits (BSA) found that a supervisor with DFW improperly implemented an agricultural lease agreement. The supervisor directed the lessee to use state funds derived from the lease to purchase $53,813 in goods and services that did not provide the improvements and repairs the lease required. In addition, the supervisor required the lessee to provide the State with $5,000 in Home Depot gift cards, but this supervisor could not demonstrate that the purchases he and other state employees made with the gift cards paid for improvements or any other identifiable state purpose. The BSA recommended DFW seek corrective and disciplinary action against the supervisor. The BSA also suggested a review of lease terms, tracking systems and reconciliation of payment records, among other things. The DFW agreed with the audit recommendations.

Systematic Violations of Law Discovered by Department Leadership. The DFW, having had a scathing view of its program through this supervisor's actions, undertook a broader review of the Lands Program and leasing activities. This was a comprehensive review of the entire leasing program which covers a million acres in public lands and about 700 separate leases and permits to graze. This Administration-driven review discovered new "systemic violations of law" with the department's grazing and agriculture lease program.

The review discovered numerous instances (over 50) where lease payments were made but never deposited in state coffers. These payments were used for other public and perhaps private purposes (for example property or building improvements, or agricultural equipment). The department also discovered widespread non-payment of monies owed to the state under lease arrangements that were never collected or even referred to Sacramento for further action.

Statute Provides No Incentive to Manage Lands. Fish and Game Code 1348, subdivision (c)(2) authorizes DFW to lease property and requires it to deposit proceeds in the Wildlife Restoration Fund. This fund, which receives revenues from several sources, is administered by the Wildlife Conservation Board. Moneys from the funds are used to acquire lands and construct facilities suitable for recreation and fish and wildlife purposes. None of the funds from the leased lands is used for management of these lands, creating a perverse incentive to find other means to fund ongoing costs on state leased lands.

Staff Comments. Staff have grave concerns about mismanagement in state agencies particularly related to special funds and fee revenues. From the Department of Parks and

Recreation's senior-level mismanagement, to systematic budgetary violations at the California Public Utilities Commission, and now the Department of Fish and Wildlife—staff are concerned that there is a clear missing link in fiscal management in state agencies. These agencies are entrusted with ratepayer, fee payer, and lease payer funds (special funds). While these are not General Fund, it seems very clear that the Administration and the Department of Finance has long-held that these funds are less critical for oversight than the General Fund. The recent scandals certainly have been a wake-up call to the Legislature and the Administration about the role of oversight and control agencies, such as the Department of Finance.

Staff and the members of this subcommittee have on numerous occasions vocally disagreed with the presumption that fees are less important or should have less oversight than general tax dollars. In fact, it is these funds that should have the most scrutiny since they are directed for a specific purpose, and under law, that purpose must be fulfilled by these fees (and no other purpose). Members of this budget subcommittee spend a great majority of their time reviewing these special funds and the use of these funds on behalf of the public fee payer. One cannot imagine that an individual who pays into a lease would approve of state employees misusing these funds, even if that misuse had a short term benefit for the lease site. This type of activity in a state agency reduces the ability of government to do its public-trust due diligence.

Questions for the Agency. The department should address these questions in their opening statement:

- Since this has effectively been going on for multiple years, how much money was directed to improper purposes?

- What happens to the agricultural leases today? For those who have not been paying, will they now be required to pay back their lease payments from past years?

- Clearly funding for land acquisition may not be the highest priority for a state that can barely manage the lands it currently owns. What should the state be directing lease funds towards?

- Have the individuals that were involved all been discovered and removed from state service? Have these violations been shifted for criminal prosecution to the Attorney General's office? Has the Fair Political Practices Commission been given the cases?

- How will this Legislature have any confidence in the DFW's programs? What specific actions will the Administration take to bring public confidence back?

Recommendation: Reduce Funding for Agriculture and Lease Program by $1,000,000 until the Administration to return with specific proposals for how to rectify this situation. Direct committee staff to work with DFW to provide a proposed statutory amendment to allow lease revenues to be used directly for management of leased lands.

Vote:

2. Bay Delta Conservation—Interagency Ecological Program (IEP)

Budget Proposal. The budget proposes $1.1 million reimbursement authority from the Department of Water Resources (DWR) and 11 positions for monitoring and reporting related to the State and Federal Water Projects Operations Permits as part of the Fish Restoration Program Agreement. Seven of the positions are proposed to be funded with the reimbursement authority as mitigation for the operations of the state and federal water projects. Four positions are to continue the implementation of the Interagency Ecological Program (IEP), using existing resources, as part of the Bay Delta Conservation Plan (BDCP).

Staff Comments. The proposal for monitoring and reporting related to the water project proposals has merit; however, staff have concerns that the state is providing more than its share of the mitigation required by the permits. This proposal is funded by ratepayers of the State Water Project, not those of the federal projects. It would seem appropriate to consider what obligations the federal government has undertaken to mitigate its federal projects in recent years.

In addition, the proposal continues to increase staffing for the IEP, a program designed to provide research and monitoring for fisheries and water agencies. While the IEP has merit, without a final and approved Delta Plan, it is difficult to determine how this monitoring program will fit into the final version of the Delta Plan. The Subcommittee may wish to hold off on new BDCP proposals until the final Delta Plan is released.

Questions for the Department. The department should address the following questions in its opening statement:

- What is the status of federal funding for this program given that this is both a state and federal obligation?
- What is the consequence of approving only the seven positions that are directly required by the water project permits and holding off on new BDCP proposals until a final draft BDCP is approved.

Recommendation:

APPROVE $1.1 million and seven positions.
HOLD OPEN four Interagency Ecological Program positions.

Vote:

3. Salton Sea Restoration

Budget Proposal. The budget requests $12.1 million from Proposition 84 bond funds for the restoration of 800-1200 acres of habitat at the Salton Sea, which will include monitoring and pilot studies related to the habitat restoration. The DFW also requests reappropriation of funds in order to provide additional funding for the restoration project, which is estimated to cost approximately $28 million to complete.

Staff Comments. In the 2012, the Legislature rejected a proposal to fund ongoing work at the Salton Sea but approved $2 million from bond funds to produce a report detailing a cost-implementation plan for Salton Sea restoration efforts. This came after significant discussion of the cost of restoration options, and the state's required obligations per the decade-old Quantification Settlement Agreement. This proposal was vetoed by the Governor.

Questions for the Department. The department should address the following questions in its opening statement:

- What has changed in terms of local support for the state restoration efforts proposed here?
- How will the Resources Agency contain costs in a program that has been estimated to cost anywhere from $100 million to several billions of dollars?
- What direct mitigation impacts will locals see with this funding and how does this match up with other projects locally funded?

Recommendation: APPROVE

Vote:

3680 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. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

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

Governor’s Budget. The Governor’s Budget includes $3.5 billion (including infrastructure expenditures) and 3,495 positions for support of DWR. The proposed budget represents an overall decrease of $481 million and an increase of 18 positions from the 2012-13 budget. This decrease is mainly attributed to a decrease in bond funds ($493 million) and a decrease in the CERS division ($33 million). Increases are attributed to reimbursement authority, federal and other funds.

Items Proposed for Vote-Only

Item	Issue	Funding
1	**Central Valley Flood Protection Board – Legal Counsel**. The budget requests to shift legal counsel from Department of Justice to the DWR resulting in a savings of $25,000 annually.	-$25,000 (General Fund)
2	**Central Valley Flood Protection Board –Technical Implementation Support.** Request for $650,000 ongoing to implement the recently adopted Flood Protection Plan.	$650,000 (Proposition 1E bond funds)
3	**Low Intensity Chemical Dosing.** Request for $550,000 over two years to complete a project designed to improve water quality related to agricultural drainage.	$550,000 (Proposition 13 bond funds)
4	**Multi-Benefit Planning and Feasibility Studies.** Request for $9.6 million over three years to support 13.3 existing positions from Chapter 4 of Proposition 84.	$9.6 million (Proposition 84 bond funds)
5	**Salton Sea Restoration Program—Species Conservation Habitat Program.** Proposal for $2 million in reimbursement authority over two years for baseline staff support activities associated with the Species Conservation Habitat Proposal.	$2 million (reimbursement authority)
6	**Information Technology Consolidation—CERES.** Conforming action to previous issue under Secretary for Natural Resources (Agency). This proposal would consolidate IT functions throughout the Agency by transferring the California Environmental Resources Evaluation System from Agency to the department.	No cost
7	**Capital Outlay—American River Watershed, Folsom Dam Raise Project.** Request to continue the re-evaluation, design and construction phases of the project and provides the state matching funds for this joint state and federal project.	$3.3 million (Proposition 1E bond funds)
8	**Capital Outlay—Feather River Urban Flood Risk Reduction Project.** Request for the three-year construction phase of the Sutter Butte Flood Control Agency's Feather River West Levee Project. The project is designed for 200-year flood protection.	$77 million (Proposition 1E bond funds)
9	**Capital Outlay—Folsom Dam Modifications Project.** Request for $40.9 million to continue construction to increase the level of protection from flooding to Sacramento. This secures $75 million in federal funds and $12 million in local funding matches.	$28.8 million (Proposition 1E bond funds); $12.2 million (reimbursement authority)
10	**Capital Outlay—Lower Cache Creek, Yolo County, Woodland Area Project.** Request for the non-federal share of participation with local and federal agencies to evaluate feasible flood protection alternatives for 200-year flood protection.	$374,000 (Proposition 1E bond funds); $103,000 (reimbursement authority)

Item	Issue	Funding
11	**Capital Outlay—Lower San Joaquin River.** Proposal to evaluate feasible flood protection alternatives to provide at least 200-year flood protection including the areas of Stockton, Lathrop and Manteca.	$572,000 (Proposition 1E bond funds)
12	**Capital Outlay—Marysville Ring Levee Reconstruction Project.** Request to fund the non-federal share with the US Army Corps of Engineers in the Yuba River Basin. This includes design and construction phases of the project.	$8.7 million (Proposition 1E bond funds); $3.7 million (reimbursement authority)
13	**Capital Outlay—Sacramento River Flood Control System Evaluation.** Request state support costs of the non-federal share of the project. Other local cost-share will be in the form of in-kind work. This proposal will assess protection by non-urban levees and prioritize deficiencies.	$333,000 (Proposition 1E bond funds)
14	**Capital Outlay—Sutter Basin Feasibility Study.** Request to evaluate the feasible flood protection in the urban area within the Yuba City Basin in the State Plan of Flood Control.	$790,000 (Proposition 1E bond funds); $494,000 (reimbursement authority)
15	**Capital Outlay—West Sacramento Project.** Request for re-evaluation of alternatives to provide consistent flood protection to the City of West Sacramento. This will secure $1 million in federal funds and $500,000 local funds.	$1.2 million (Proposition 1E bond funds); $500,000 (reimbursement authority)
16	**Capital Outlay—West Stanislaus County, Orestimba Creek Project.** Request to fund completion of the feasibility phase of the project to protect the town of Newman, state transportation facilities, local infrastructure and nearby flood land.	$204,000 (Proposition 84 bond funds)
17	**Capital Outlay—Yuba River Basin Project.** Request for non-federal share of funding to evaluate flood protection for Marysville, Linda, Olivehurst, and Arboga and the surrounding vicinity.	$323,000 (Proposition 1E bond funds); $322,000 (reimbursement authority)
18	**Capital Outlay—Salton Sea Species Conservation Habitat Project.** Request for construction phase of funding to shallow water, saline habitat per terms of the Quantification Settlement Agreement terms and state mitigation obligations. Conforms to a previous Department of Fish and Wildlife proposal.	$22.6 million (Proposition 84 bonds funds); $5.7 million (Proposition 50 bond funds)

Recommendation: **APPROVE** Items 1-18.

Vote:

Items Proposed for Discussion

1. FloodSAFE California Program

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. This changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

Following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s, was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, DWR proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

Governor's Budget. The Governor requests continued FloodSAFE funding of $98.1 million as part of the multi-year approach to improving flood control.

Staff Comments. This request represents a continuation of activities funded in prior years. After multiple years, DWR has completed and the Central Valley Flood Protection Board adopted, the Central Valley Flood Protection Plan, a major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events. The department is prepared to update this Subcommittee on its progress with the FloodSAFE program and how this proposal fits into the long-term flood protection plan statewide.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the status of the implementation of the Central Valley Flood Protection Plan? How does this proposal fit in with the plan? What tangible objectives will be accomplished with this appropriation?
- Please update the Subcommittee on efforts to address flood risk, not only in the Central Valley, but the Statewide Plan of Flood Control (including areas outside the Central Valley)?

Recommendation: APPROVE

Vote:

2. San Joaquin River Restoration Program Implementation

San Joaquin River Lawsuit Settlement. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state's Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to "restore and maintain fish populations" in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over $700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

State's Role in the Restoration. Proposition 84, passed by the voters in November 2006, includes $100 million allocated to the Secretary for Resources for the restoration of the San Joaquin River, for the purpose of implementing the court settlement to restore flows and the salmon population to the river. While the state is not a party to the lawsuit, the Department of Fish and Game (DFG), the Department of Water Resources (DWR), the Resources Agency, and the California Environmental Protection Agency have entered into a memorandum of understanding (MOU) with the settling parties regarding the state's role in the restoration. The MOU has been incorporated into the settlement agreement.

Pursuant to the MOU, the Administration is proposing to spend $100 million of Proposition 84 funds over a period of five years on restoration activities. Proposition 84 funds are proposed for land and easement purchases, channel improvements, and research projects. Two specific priority areas identified by the Administration are the creation of a bypass around Mendota Pool (which would prevent fish from passing through Mendota Dam) and isolating an existing gravel pit located along the San Joaquin River in Fresno (to prevent migrating salmon from becoming trapped in the gravel pit during high river flows).

Budget Proposal. The budget proposes about $10 million of Proposition 84 bond funds to the Secretary for Natural Resources for purposes of implementing the lawsuit settlement. (These funds would be used by DWR [$12.7 million] for carrying out the actual restoration activities.)

LAO Recommends Legislative Prerogative to Ensure Proposition 84 Funds Are Spent Wisely. According to the LAO in its 2007-08 Analysis, Proposition 84 provides that before funds can be spent for the San Joaquin River restoration settlement, they must be appropriated by Legislature. While the Administration's MOU references the availability of Proposition 84 funds for purposes of the settlement, the MOU cannot obligate the Legislature to take a particular action in exercising its appropriation authority. In exercising its authority, the Legislature should ensure not only that the proposed expenditures are consistent with the bond measure, but also that funds are spent wisely and effectively.

Staff Comments. This appropriation would bring the total allocated to this settlement agreement to $57.9 million, a little over half of the funds available in the bond chapter. While there is a state interest in restoring the San Joaquin River and also in preserving the use of river water for agriculture, it is important to note that the state is not directly responsible for the condition of the San Joaquin River that led to the lawsuit. Staff are concerned that discussion at the federal level has stalled and that there is less interest in allocating the substantial funds necessary to pay for this federal obligation. The Federal Government has set aside revenues from farmers who benefit from water diverted from the San Joaquin River; however, a major appropriation for full restoration of the river has, to date, been elusive.

Questions for the Department. The department should address the following questions in its opening statement:

- What is the status of federal funding for this program, including funding for the full restoration of the river as is consistent with the settlement agreement?
- At the current rate, the state could exhaust its bond funds for this purpose within five years. If the federal government does not take over major restoration efforts by this time, what will the state have received for its commitment of $100 million dollars?
- What is the status of HR 1837 (Nunes) that would repeal the San Joaquin River settlement?

Recommendation: HOLD OPEN

Vote:

3. Proposition 84 Integrated Regional Water Management (IRWM)

Background. The IRWM program within DWR is an effort to encourage disparate water interests to share ideas on ways to improve all aspects of water management and develop projects that provide multiple benefits. Under the IRWM program, DWR competitively awards both planning grants to help organizations develop IRWM plans and implementation grants to construct specific projects. For example, through this program, DWR funded a project in the Bay Area intended to improve water quality and reduce flooding by improving storm water management.

The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) established the IRWM program and allocated $250 million to DWR and $250 million to SWRCB. Proposition 84, approved by voters in 2006, allocated an additional $1 billion to DWR to support additional IRWM grants. The DWR has awarded all of the Proposition 50 funds allocated for planning and implementation grants and is currently soliciting applications for the second round of Proposition 84 implementation grants. The department expects to award $131 million in Proposition 84 funds for the second round of grants in late 2013. Afterwards, DWR intends to begin the process for making a third round of grants. These particular grant awards are anticipated to be made in 2014–15.

Budget Proposal. The Governor's budget for 2013–14 requests the following for the IRWM program:

- $472.5 million in Proposition 84 funds for the third round of grant funding, exclusively for implementation grants.
- $6 million in Proposition 84 funds over four years to fund existing positions to develop specific guidelines, solicit proposals, review technical details of IRWM plans and proposals, and manage award contracts.
- $1.5 million in Proposition 50 funds over three years to fund existing positions to evaluate project performance and continue oversight of the outstanding awards.

LAO Recommendation. LAO Recommends that the Legislature deny the Governor's proposal to provide $472.5 million in Proposition 84 funds for additional implementation grants. The requested funding is unnecessary in 2013–14 because DWR does not plan to award any of these implementation grants until 2014–15. However, the LAO recognizes the need to develop guidelines and review applications in the budget year. Therefore, the LAO recommends approving the $7.5 million requested to support the positions that will manage the program.

Recommendation: APPROVE the LAO Recommendation (Deny $472.5 million but approve $7.5 million for support positions to manage the program.)

Vote:

4. Lake Perris Dam and Recreation Area

Background. Lake Perris is a reservoir at the southern end of the SWP, which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. In addition, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, DWR identified potential seismic safety risks in a section of the foundation of Perris Dam and subsequently lowered the water level at the lake to ensure public safety. However, DWR indicates that the lake cannot remain at this lower level indefinitely because it is needed as an emergency supply storage facility for the SWP and serves as an important recreation area.

Budget Proposal. The DWR proposes to remediate the dam and return the lake to its historical operating level. The estimated total cost of this project is $287 million, with the cost being split between the water agencies that contract with DWR to receive water from the SWP (contractors) and the state. The state's share of costs is based on Chapter 867, Statutes of 1961 (AB 261, Davis)—the Davis–Dolwig Act—which states that the contractors should not be charged for the costs incurred to enhance fish and wildlife or provide recreation on the SWP (Davis–Dolwig costs). A recent recalculation of Davis–Dolwig costs by DWR determined the state's share of Lake Perris repair costs would be about one–third of the total estimated cost, which amounts to $92 million.

The Governor's budget for 2013–14 includes funding to begin the remediation of the Perris Dam as proposed by DWR. Specifically, the budget proposes $11.3 million from Proposition 84 for DWR to fund 11 existing positions and various costs, such as for final design, real property acquisitions, and environmental fees. The remaining state cost of $80 million would be partially supported by $27 million from Proposition 84 upon appropriation by the Legislature.

LAO Concerns with Proposal. In reviewing the proposed project and funding requests, the LAO has identified three primary concerns that merit legislative consideration. Specifically, the LAO finds:

- ***Project Costs Uncertain.*** The cost estimate cited by DWR for the project in the budget proposal is roughly $200 million lower than a previous study commissioned by the department in 2006, which estimated a total project cost of $488 million. However, the department has not been able to explain what specific factors account for this significant difference in cost. Thus, the actual cost of the project is unclear at this time. If the cost ends up being much closer to the previous estimate, the state's share of the cost would be greater—$157 million.

- ***Funding Source for State Share Not Fully Identified.*** As indicated above, DWR proposes to use Proposition 84 funds to support $38 million of the total estimated state cost of $92 million. At this time, DWR has not identified a funding source for the remainder of the state's share of the project costs. The Administration plans to submit a proposal to fund the remaining state costs prior to spring budget hearings. In the past, the General Fund or other state funds (such as tidelands oil revenues) have been used to pay Davis–Dolwig costs.

- ***There May Be More Cost–Effective Alternatives to Achieve Same Objectives.*** According to the EIR for the proposed project, several alternative approaches would also address the public safety concerns regarding the current condition of the dam. These alternatives include (1) reducing the lake's capacity, (2) making Lake Perris a recreation–only facility, and (3) decommissioning the dam. According to the EIR, reducing the lake's capacity and decommissioning the dam would also meet the objective of maintaining SWP water deliveries. While decommissioning the dam would limit recreational opportunities at Lake Perris, nearby facilities such as Lake Elsinore provide similar opportunities. The LAO notes that DWR did not estimate the cost of these other alternatives in analyzing each alternative, as part of the project's EIR. As a result, the Legislature is unable to weigh the cost of the various proposals against the objectives they meet.

LAO Recommendations.

"In view of the substantial cost of the proposed project and the lack of an identified funding source for the project's total cost, we recommend that the Legislature deny the request to begin funding dam remediation at Lake Perris in the budget year. This is because the Legislature currently lacks sufficient information to determine the most effective approach to address the problems regarding Lake Perris. Specifically, the Legislature needs information about the state's cost for the project, likely funding sources, and a full vetting of the alternatives for Lake Perris. Thus, we also recommend that the Legislature direct DWR to provide the estimated total cost (including what the state's cost would be) of three of the alternatives identified in the project's EIR—making Lake Perris a recreation–only facility, fixing the dam with reduced capacity, and decommissioning the dam—prior to continuing work on its preferred alternative. The DWR should report on the cost estimates prior to January 1, 2014, in order to provide the Legislature appropriate information to consider as it decides how to move forward with addressing the concerns with Lake Perris. It will also be important for the Legislature to identify and prioritize its objectives for making changes to Lake Perris in order to decide what attributes, if any, of Lake Perris should be preserved and to weigh those objectives against the estimated cost of various alternatives.

In addition, we recommend that the Legislature direct DWR to report at budget hearings this spring on why the cost estimates for the proposed project have changed. We note that DWR has the authority to use contractor funds to pay for the continuation of design work on its preferred alternative project—remediation of the dam. Accordingly, pending delivery of the cost estimates for the other alternatives, we also recommend the Legislature direct DWR to stop work temporarily on the design of its preferred alternative so that any unnecessary expenditures are not made before the Legislature fully considers the project."

Staff Comments. As part of the multi-year settlement of the Davis-Dolwig funding issues in the last budget cycle between the Administration and the Legislature, all parties agreed that the Lake Perris Dam remediation issue would be put over until this year for discussion. The LAO has raised a number of valid concerns with the proposal that are shared by staff. Of primary concern is the precedent of approving bond funding for this purpose that was never part of a legislatively approved budget proposal. While Lake Perris is part of the State Water Project, a bond and statutorily authorized project, it is difficult to conceive that a poorly engineered dam providing significant recreational benefits in relation to the water benefit, would be approved by the Legislature with general taxpayer dollars. Critical oversight and conservative use of ratepayer funds should be a primary concern.

The DWR has generally addressed the costs of the dam, at about $92 million for state funded obligations. This proposal only allocates $38 million of this in the budget. The Administration has said it will be prepared at spring budget hearings to address how it plans to pay for the remaining state-funded share of this proposal. At this point in time, however, the dam exists, the recreation is well-established so the Legislature is now faced with the following decision: *Should this dam continue to exist given the significant costs to remediate the engineering and structural defects and if so, is this the most fiscally prudent and water-sensitive use of scarce bond funds?*

Questions for the Agency. The department should address these questions in their opening statement:

- What is the position of the Metropolitan Water District and other water agencies on the remediation of Lake Perris Dam who will be the primary supporter of the project?

- What is the total state general taxpayer obligation for the rebuild of Lake Perris Dam and how does the department propose to fund this obligation for the full cost of the project?

Recommendation: Staff recommends the Subcommittee approve one of two outcomes:

1. **DENY BUDGET PROPOSAL**, thus agreeing that $92 million is too much money to spend on essentially the redevelopment of a recreation project in Southern California, and direct the DWR to come up with a proposal that does not include recreation at Lake Perris Dam. This would, in-effect, require the de-watering of the remaining lake levels at Perris and would change the State Park at the site into a non-water based park. DWR would be required to return with a proposal for a non-lake terminus such as water towers requiring less treatment downstream.

2. **APPROVE BUDGET PROPOSAL,** thus agreeing that Lake Perris Dam should be rebuilt as the terminus for the State Water Project, and that 32 percent of its function should be recreation. This continues the status quo operation of the facility including recreation and downstream water treatment costs.

Vote:

5. State Water Project (SWP) Hydropower Relicensing and Regulatory Management Consolidation

Budget Proposal. The budget proposes a baseline increase of $602,000 (SWP funds) and three new permanent positions to establish a core team to secure a new operating license for the South SWP Hydropower Facilities. These positions would join the Hydropower Licensing Planning and Compliance Office and the SWP Power and Risk office. Both of these offices collectively represent the state in negotiation over hydropower relicensing with federal and state agencies.

Staff Comments. In previous year discussions, this Subcommittee has raised concerns about the ability of state agencies to obligate the General Fund to future costs. The Davis-Dolwig Act generally allows for this practice, with the department building and negotiating recreation facilities at SWP locations, then billing the state for the portion it deems appropriate for recreation to the general taxpayer (either through tax dollars or bond funds). Management of a State Park or state-paid boating facility is not considered sufficient for cost-sharing under the Administration's interpretation. Last year a $10 million per year appropriation was approved from the Harbors and Watercraft Revolving Fund to pay for state obligations for recreation at these water-based facilities. This funding pays the state-share of SWP operations costs throughout the system, not direct recreation benefits, per the Administration's interpretation of the statute.

The question of future obligations of the state for new and future recreation facilities at federally authorized hydropower sites is unanswered. The department is authorized to negotiate on behalf of the state, and to enter into binding agreements with the federal government obligating the state to recreation-related costs that its SWP partners do not need to pay. Rather, the state general taxpayer must pick up these costs. It would seem that the Legislature, whose role is to appropriate funding, should have some say in any obligations the department may wish to put on the General Fund, bond funds, or other taxes of the state.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the impact of having legislative review of federal hydropower relicenses that require future general taxpayer funding for recreation facilities?

Recommendation: APPROVE proposal with trailer bill language requiring the department to submit any relicensing proposal to the Legislature for 30-day review prior to final approval in cases where future general taxpayer dollars may be required for approppropriation.

Vote:

6. Fish Passage Improvement Program

Budget Proposal. The budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes $349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program.

Staff Comments. The Administration's proposal has merit. The FPIP and ERP programs have provided needed fish barrier assessments, design and construction over the past five years. Funding for these projects and positions has been shared between the Department of Fish and Wildlife and the DWR.

Several new projects have been identified that would meet the criteria of the FPIP and ERP programs including those with multiple-benefits (including flood control) in the Central Valley. It would seem a good time to discuss how final dollars from both Propositions 50 and 84 are proposed to be allocated, what reversions are likely to be seen by this subcommittee, and what project applicants should prepare as they seek state funding.

Questions for the Agency. The department should address these questions in their opening statement:

- What are the remaining fund balances for the FPIP and ERP chapters in all bond funds, and what reversions might we expect to see over the next years?
- What should project proponents be prepared for as they seek funding from the state for projects that fit the FPIP and ERP program criteria?

Recommendation: APPROVE

Vote:

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

Thursday, March 21, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

OUTCOMES

Items Proposed for Vote-Only

Items Proposed for Discussion

DEPARTMENTS PROPOSED FOR VOTE ONLY

3560 State Lands Commission

1. **Oil and Gas Review and Oversight.** Request for three permanent positions to review and monitor state oil and gas lease activities to ensure compliance with lease terms. Funding will be dedicated from existing reimbursement agreements. This proposal is consistent with legislative direction to increase oversight of oil and gas leases.

2. **Selby Slag Site Remediation.** Request for $396,000 (one-time, General Fund) to pay the proportional share of hazardous waste remediation costs at Selby, California. This funding is pursuant to a 1989 Consent Judgment requiring the State Lands Commission to pay 38 percent of costs for the site remediation.

7300 Agriculture Labor Relations Board

3. **Funding for the Administration of the Board.** Request to appropriate $502,000 (Labor and Workforce Development Fund) and four new positions to meet administrative requirements. This proposal will allow the board to fund location-specific personnel and travel as required by diverse California agriculture labor needs.

8570 Department of Food and Agriculture

4. **California Special Interest License Plate – "CalAgPlate."** Request for $477,000 (Specialized License Plate Fund) to award grants to agricultural education organizations with funds already received from the sales and renewals of the legislatively and Department of Motor Vehicles authorized specialized agriculture license plate.

Recommendation: **APPROVE** Items 1-4

Vote:

Items 2, 4 Approve (2-0)

Items 1,3 Hold Open

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's Budget includes $366.3 million and 2,527 positions for DFW. Decreases in federal and other special funds are the results of a concerted effort to re-align reimbursements and annual funding with historical expenditures and current revenues. Reductions in bond expenditures are the result of the near-depletion of available bond funds.

Items Proposed for Vote-Only

1. **Proposition 99 Cleanup Language.** Per recommendation by the Bureau of State Audits, revise PRC 712.5 to eliminate outdated statute that was revised by subsequent statute in 2005. This allows funding from the Environmental License Plate Fund to be used for Fish and Wildlife activities as required by Proposition 99.

2. **Interoperable Narrowband Radio and Infrastructure Modernization Project—Year Three.** In continuance of a proposal ($1.5 million, Environmental License Plate Fund) approved in this subcommittee, this is the third year of a multi-year proposal to fund the timely implementation of a modernization of radio operations to improve the ability of wardens to communication within DFW and to its sister law enforcement agencies at the local, state and federal level.

3. **Technical Funding Shift Adjustment to the Fisheries Restoration Grant Program.** Request to shift ongoing Federal reimbursement authority ($20 million) from state operations to local assistance for grant funds awarded to nonprofit organizations, government agencies, and Indian tribes under the Fisheries Restoration Grant Program. This is a technical shift to properly characterize grant expenditures.

4. **Dreissenid Mussel Prevention.** Request for $126,000 and one position (Harbors and Watercraft Revolving Fund) to implement Chapter 485, Statutes of 2012 (AB 2443, Williams) that requires DFW to increase Quagga and Zebra (Dreissenid) mussel prevention efforts and control activities. The LAO recommends this be reduced to $75,000 given that the statute allows for a half-year program in the budget year.

Recommendation: **APPROVE** Items 1-3. Item 4, **APPROVE** $75,000 per LAO.

Vote: **Items 1-3 Approve (2-0)**

Item 4 Hold Open

Items Proposed for Discussion

1. Improper Use of Lease Proceeds

Recommendation: Reduce Funding for Agriculture and Lease Program by $1,000,000 until the Administration to return with specific proposals for how to rectify this situation. Direct committee staff to work with DFW to provide a proposed statutory amendment to allow lease revenues to be used directly for management of leased lands.

Vote:
HOLD OPEN
Staff directed to work on trailer bill language as laid out in the Recommendation. The department was requested to return in spring hearings to update the subcommittee on progress with its specific proposals per the staff recommendation.

2. Bay Delta Conservation—Interagency Ecological Program (IEP)

Budget Proposal. The budget proposes $1.1 million reimbursement authority from the Department of Water Resources (DWR) and 11 positions for monitoring and reporting related to the State and Federal Water Projects Operations Permits as part of the Fish Restoration Program Agreement. Seven of the positions are proposed to be funded with the reimbursement authority as mitigation for the operations of the state and federal water projects. Four positions are to continue the implementation of the Interagency Ecological Program (IEP), using existing resources, as part of the Bay Delta Conservation Plan (BDCP).

Recommendation:

APPROVE $1.1 million and seven positions.
HOLD OPEN four Interagency Ecological Program positions.

Vote:

(2-0)
APPROVE $1.1 million and seven positions.
HOLD OPEN four Interagency Ecological Program positions.

3. Salton Sea Restoration

Budget Proposal. The budget requests $12.1 million from Proposition 84 bond funds for the restoration of 800-1200 acres of habitat at the Salton Sea, which will include monitoring and pilot studies related to the habitat restoration. The DFW also requests reappropriation of funds in order to provide additional funding for the restoration project, which is estimated to cost approximately $28 million to complete.

Staff Comments. In the 2012, the Legislature rejected a proposal to fund ongoing work at the Salton Sea but approved $2 million from bond funds to produce a report detailing a cost-implementation plan for Salton Sea restoration efforts. This came after significant discussion of the cost of restoration options, and the state's required obligations per the decade-old Quantification Settlement Agreement. This proposal was vetoed by the Governor.

Questions for the Department. The department should address the following questions in its opening statement:

- What has changed in terms of local support for the state restoration efforts proposed here?
- How will the Resources Agency contain costs in a program that has been estimated to cost anywhere from $100 million to several billions of dollars?
- What direct mitigation impacts will locals see with this funding and how does this match up with other projects locally funded?

Recommendation: APPROVE

Vote: HOLD OPEN

3680 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. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

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

Governor’s Budget. The Governor’s Budget includes $3.5 billion (including infrastructure expenditures) and 3,495 positions for support of DWR. The proposed budget represents an overall decrease of $481 million and an increase of 18 positions from the 2012-13 budget. This decrease is mainly attributed to a decrease in bond funds ($493 million) and a decrease in the CERS division ($33 million). Increases are attributed to reimbursement authority, federal and other funds.

Items Proposed for Vote-Only

Item	Issue	Funding
1	**Central Valley Flood Protection Board – Legal Counsel**. The budget requests to shift legal counsel from Department of Justice to the DWR resulting in a savings of $25,000 annually.	-$25,000 (General Fund)
2	**Central Valley Flood Protection Board –Technical Implementation Support.** Request for $650,000 ongoing to implement the recently adopted Flood Protection Plan.	$650,000 (Proposition 1E bond funds)
3	**Low Intensity Chemical Dosing.** Request for $550,000 over two years to complete a project designed to improve water quality related to agricultural drainage.	$550,000 (Proposition 13 bond funds)
4	**Multi-Benefit Planning and Feasibility Studies.** Request for $9.6 million over three years to support 13.3 existing positions from Chapter 4 of Proposition 84.	$9.6 million (Proposition 84 bond funds)
5	**Salton Sea Restoration Program—Species Conservation Habitat Program.** Proposal for $2 million in reimbursement authority over two years for baseline staff support activities associated with the Species Conservation Habitat Proposal.	$2 million (reimbursement authority)
6	**Information Technology Consolidation—CERES.** Conforming action to previous issue under Secretary for Natural Resources (Agency). This proposal would consolidate IT functions throughout the Agency by transferring the California Environmental Resources Evaluation System from Agency to the department.	No cost
7	**Capital Outlay—American River Watershed, Folsom Dam Raise Project.** Request to continue the re-evaluation, design and construction phases of the project and provides the state matching funds for this joint state and federal project.	$3.3 million (Proposition 1E bond funds)
8	**Capital Outlay—Feather River Urban Flood Risk Reduction Project.** Request for the three-year construction phase of the Sutter Butte Flood Control Agency's Feather River West Levee Project. The project is designed for 200-year flood protection.	$77 million (Proposition 1E bond funds)
9	**Capital Outlay—Folsom Dam Modifications Project.** Request for $40.9 million to continue construction to increase the level of protection from flooding to Sacramento. This secures $75 million in federal funds and $12 million in local funding matches.	$28.8 million (Proposition 1E bond funds); $12.2 million (reimbursement authority)
10	**Capital Outlay—Lower Cache Creek, Yolo County, Woodland Area Project.** Request for the non-federal share of participation with local and federal agencies to evaluate feasible flood protection alternatives for 200-year flood protection.	$374,000 (Proposition 1E bond funds); $103,000 (reimbursement authority)

Item	Issue	Funding
11	**Capital Outlay—Lower San Joaquin River.** Proposal to evaluate feasible flood protection alternatives to provide at least 200-year flood protection including the areas of Stockton, Lathrop and Manteca.	$572,000 (Proposition 1E bond funds)
12	**Capital Outlay—Marysville Ring Levee Reconstruction Project.** Request to fund the non-federal share with the US Army Corps of Engineers in the Yuba River Basin. This includes design and construction phases of the project.	$8.7 million (Proposition 1E bond funds); $3.7 million (reimbursement authority)
13	**Capital Outlay—Sacramento River Flood Control System Evaluation.** Request state support costs of the non-federal share of the project. Other local cost-share will be in the form of in-kind work. This proposal will assess protection by non-urban levees and prioritize deficiencies.	$333,000 (Proposition 1E bond funds)
14	**Capital Outlay—Sutter Basin Feasibility Study.** Request to evaluate the feasible flood protection in the urban area within the Yuba City Basin in the State Plan of Flood Control.	$790,000 (Proposition 1E bond funds); $494,000 (reimbursement authority)
15	**Capital Outlay—West Sacramento Project.** Request for re-evaluation of alternatives to provide consistent flood protection to the City of West Sacramento. This will secure $1 million in federal funds and $500,000 local funds.	$1.2 million (Proposition 1E bond funds); $500,000 (reimbursement authority)
16	**Capital Outlay—West Stanislaus County, Orestimba Creek Project.** Request to fund completion of the feasibility phase of the project to protect the town of Newman, state transportation facilities, local infrastructure and nearby flood land.	$204,000 (Proposition 84 bond funds)
17	**Capital Outlay—Yuba River Basin Project.** Request for non-federal share of funding to evaluate flood protection for Marysville, Linda, Olivehurst, and Arboga and the surrounding vicinity.	$323,000 (Proposition 1E bond funds); $322,000 (reimbursement authority)
18	**Capital Outlay—Salton Sea Species Conservation Habitat Project.** Request for construction phase of funding to shallow water, saline habitat per terms of the Quantification Settlement Agreement terms and state mitigation obligations. Conforms to a previous Department of Fish and Wildlife proposal.	$22.6 million (Proposition 84 bonds funds); $5.7 million (Proposition 50 bond funds)

Recommendation: APPROVE Items 1-18.

Vote: Items 4, 6-17 Approve (2-0)

Items 1-3, 4, 18 Hold Open

Items Proposed for Discussion

1. FloodSAFE California Program

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. This changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

Following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s, was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, DWR proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

Governor's Budget. The Governor requests continued FloodSAFE funding of $98.1 million as part of the multi-year approach to improving flood control.

Staff Comments. This request represents a continuation of activities funded in prior years. After multiple years, DWR has completed and the Central Valley Flood Protection Board adopted, the Central Valley Flood Protection Plan, a major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events. The department is prepared to update this Subcommittee on its progress with the FloodSAFE program and how this proposal fits into the long-term flood protection plan statewide.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the status of the implementation of the Central Valley Flood Protection Plan? How does this proposal fit in with the plan? What tangible objectives will be accomplished with this appropriation?
- Please update the Subcommittee on efforts to address flood risk, not only in the Central Valley, but the Statewide Plan of Flood Control (including areas outside the Central Valley)?

Recommendation: APPROVE

Vote: HOLD OPEN

2. San Joaquin River Restoration Program Implementation

San Joaquin River Lawsuit Settlement. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state's Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to "restore and maintain fish populations" in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over $700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

Budget Proposal. The budget proposes about $10 million of Proposition 84 bond funds to the Secretary for Natural Resources for purposes of implementing the lawsuit settlement. (These funds would be used by DWR [$12.7 million] for carrying out the actual restoration activities.)

Recommendation: HOLD OPEN

Vote: HOLD OPEN

3. Proposition 84 Integrated Regional Water Management (IRWM)

Budget Proposal. The Governor's budget for 2013–14 requests the following for the IRWM program:

- $472.5 million in Proposition 84 funds for the third round of grant funding, exclusively for implementation grants.
- $6 million in Proposition 84 funds over four years to fund existing positions to develop specific guidelines, solicit proposals, review technical details of IRWM plans and proposals, and manage award contracts.
- $1.5 million in Proposition 50 funds over three years to fund existing positions to evaluate project performance and continue oversight of the outstanding awards.

LAO Recommendation. LAO Recommends that the Legislature deny the Governor's proposal to provide $472.5 million in Proposition 84 funds for additional implementation grants. The requested funding is unnecessary in 2013–14 because DWR does not plan to award any of these implementation grants until 2014–15. However, the LAO recognizes the need to develop guidelines and review applications in the budget year. Therefore, the LAO recommends approving the $7.5 million requested to support the positions that will manage the program.

Recommendation: **APPROVE** the LAO Recommendation (Deny $472.5 million but approve $7.5 million for support positions to manage the program.)

Vote: **APPROVE the LAO Recommendation**
(Deny $472.5 million but approve $7.5 million for support positions to manage the program.)
(2-0)

4. Lake Perris Dam and Recreation Area

Background. Lake Perris is a reservoir at the southern end of the SWP, which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. In addition, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, DWR identified potential seismic safety risks in a section of the foundation of Perris Dam and subsequently lowered the water level at the lake to ensure public safety. However, DWR indicates that the lake cannot remain at this lower level indefinitely because it is needed as an emergency supply storage facility for the SWP and serves as an important recreation area.

Budget Proposal. The DWR proposes to remediate the dam and return the lake to its historical operating level. The estimated total cost of this project is $287 million, with the cost being split between the water agencies that contract with DWR to receive water from the SWP (contractors) and the state. The state's share of costs is based on Chapter 867, Statutes of 1961 (AB 261, Davis)—the Davis–Dolwig Act—which states that the contractors should not be charged for the costs incurred to enhance fish and wildlife or provide recreation on the SWP (Davis–Dolwig costs). A recent recalculation of Davis–Dolwig costs by DWR determined the state's share of Lake Perris repair costs would be about one–third of the total estimated cost, which amounts to $92 million.

The Governor's budget for 2013–14 includes funding to begin the remediation of the Perris Dam as proposed by DWR. Specifically, the budget proposes $11.3 million from Proposition 84 for DWR to fund 11 existing positions and various costs, such as for final design, real property acquisitions, and environmental fees. The remaining state cost of $80 million would be partially supported by $27 million from Proposition 84 upon appropriation by the Legislature.

Recommendation: Staff recommends the Subcommittee approve one of two outcomes:

1. **DENY BUDGET PROPOSAL**, thus agreeing that $92 million is too much money to spend on essentially the redevelopment of a recreation project in Southern California, and direct the DWR to come up with a proposal that does not include recreation at Lake Perris Dam. This would, in-effect, require the de-watering of the remaining lake levels at Perris and would change the State Park at the site into a non-water based park. DWR would be required to return with a proposal for a non-lake terminus such as water towers requiring less treatment downstream.

2. **APPROVE BUDGET PROPOSAL,** thus agreeing that Lake Perris Dam should be rebuilt as the terminus for the State Water Project, and that 32 percent of its function should be recreation. This continues the status quo operation of the facility including recreation and downstream water treatment costs.

Vote: HOLD OPEN

5. State Water Project (SWP) Hydropower Relicensing and Regulatory Management Consolidation

Budget Proposal. The budget proposes a baseline increase of $602,000 (SWP funds) and three new permanent positions to establish a core team to secure a new operating license for the South SWP Hydropower Facilities. These positions would join the Hydropower Licensing Planning and Compliance Office and the SWP Power and Risk office. Both of these offices collectively represent the state in negotiation over hydropower relicensing with federal and state agencies.

Staff Comments. In previous year discussions, this Subcommittee has raised concerns about the ability of state agencies to obligate the General Fund to future costs. The Davis-Dolwig Act generally allows for this practice, with the department building and negotiating recreation facilities at SWP locations, then billing the state for the portion it deems appropriate for recreation to the general taxpayer (either through tax dollars or bond funds). Management of a State Park or state-paid boating facility is not considered sufficient for cost-sharing under the Administration's interpretation. Last year a $10 million per year appropriation was approved from the Harbors and Watercraft Revolving Fund to pay for state obligations for recreation at these water-based facilities. This funding pays the state-share of SWP operations costs throughout the system, not direct recreation benefits, per the Administration's interpretation of the statute.

The question of future obligations of the state for new and future recreation facilities at federally authorized hydropower sites is unanswered. The department is authorized to negotiate on behalf of the state, and to enter into binding agreements with the federal government obligating the state to recreation-related costs that its SWP partners do not need to pay. Rather, the state general taxpayer must pick up these costs. It would seem that the Legislature, whose role is to appropriate funding, should have some say in any obligations the department may wish to put on the General Fund, bond funds, or other taxes of the state.

Recommendation: APPROVE proposal with trailer bill language requiring the department to submit any relicensing proposal to the Legislature for 30-day review prior to final approval in cases where future general taxpayer dollars may be required for appropropriation.

Vote: APPROVE RECOMMENDATION (2-0)

6. Fish Passage Improvement Program

Budget Proposal. The budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes $349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program.

Staff Comments. The Administration's proposal has merit. The FPIP and ERP programs have provided needed fish barrier assessments, design and construction over the past five years. Funding for these projects and positions has been shared between the Department of Fish and Wildlife and the DWR.

Several new projects have been identified that would meet the criteria of the FPIP and ERP programs including those with multiple-benefits (including flood control) in the Central Valley. It would seem a good time to discuss how final dollars from both Propositions 50 and 84 are proposed to be allocated, what reversions are likely to be seen by this subcommittee, and what project applicants should prepare as they seek state funding.

Questions for the Agency. The department should address these questions in their opening statement:

- What are the remaining fund balances for the FPIP and ERP chapters in all bond funds, and what reversions might we expect to see over the next years?
- What should project proponents be prepared for as they seek funding from the state for projects that fit the FPIP and ERP program criteria?

Recommendation: APPROVE

Vote: HOLD OPEN

Senate Budget and Fiscal Review—Mark Leno, Chair

Joint Subcommittee Hearing Agenda

Subcommittee #1 on Education
Senator Marty Block, Chair
Senator Roderick D. Wright
Senator Mark Wyland

Subcommittee #2 on Resources, Environmental Protection, Energy, and Transportation
Senator Jim Beall, Chair
Senator Hannah-Beth Jackson
Senator Jim Nielsen

Thursday, April 4, 2013
9:30 a.m. or upon adjournment of session
Room 3191, State Capitol

Consultants: Kim Connor, Catherine Freeman, and Kris Kuzmich

PROPOSITION 39

GENERAL BACKGROUND

Proposition 39 Raises Additional State Revenues and Designates Half the Funding for Energy Projects. Proposition 39, the California Clean Energy Jobs Act of 2012, requires most multistate businesses to determine their California taxable income using a single sales factor method. (Previously, state law allowed such businesses to pick one of two different methods to determine the amount of taxable income associated with California and taxable by the state.) This change has the effect of increasing state corporate tax revenue.

For a five-year period (2013-14 through 2017-18), Proposition 39 requires that half of the annual revenue raised from the measure, up to $550 million, be transferred to a new Clean Energy Job Creation Fund to support projects intended to improve energy efficiency and expand the use of alternative energy (Proposition 39 text below).

> "*The sum of five hundred fifty million dollars ($550,000,000) shall be transferred from the General Fund to the Job Creation Fund in fiscal years 2013-14, 2014-15, 2015-16, 2016-17, and 2017-18. Moneys in the fund shall be available for appropriation for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation*."

Proposition 39 specifically requires that the funds maximize energy and job benefits by supporting:

- ✓ Energy efficiency retrofits and alternative energy projects in public schools, colleges, universities, and other public facilities;
- ✓ Financial and technical assistance for energy retrofits; and
- ✓ Job training and workforce development programs related to energy efficiency and alternative energy.

Proposition 39 also requires that funded programs be coordinated with the California Energy Commission (CEC) and California Public Utilities Commission (CPUC) in order to avoid duplication and leverage existing energy efficiency and alternative energy efforts.

In addition, Proposition 39 states that the funding is to be appropriated only to agencies with established expertise in managing energy projects and programs.

Proposition 39 Affects School Funding by Raising Proposition 98 Minimum Guarantee. Proposition 98, passed by voters in 1988 and modified in 1990, requires a minimum level of state and local funding each year for school and community college districts. This funding level is commonly known as the Proposition 98 minimum guarantee. Though the Legislature can suspend the guarantee and fund at a lower level, it typically decides to provide funding equal to or greater than the guarantee. The Proposition 98 guarantee can grow with increases in state GF revenues (including those collected from state corporate income taxes). Accordingly, the revenues raised by Proposition 39 can affect the state's Proposition 98 funding requirements.

Existing State Energy Efficiency and Alternative Energy Programs. In general, energy efficiency refers to the installation of energy-efficient technologies or measures that are designed to reduce energy usage and eliminate energy losses in buildings. Thus, energy efficiency incentive programs aim to reduce energy usage while maintaining a comparable level of service, thereby saving energy consumers money on their utility bills. In comparison, alternative energy refers to energy that comes from "renewable" sources, meaning sources that are not finite and do not use up natural resources like more traditional forms of energy that rely on fossil fuels. Currently, California maintains over a dozen major programs that are intended to support the development of energy efficiency and alternative energy in the state. Over the past 10 to 15 years, the state has spent a combined total of roughly $15 billion on such efforts.

Most Programs Maintained by CEC and CPUC. The various energy efficiency and alternative energy programs are administered by multiple state departments, including CEC and CPUC. Energy efficiency upgrades and retrofits have been supported through programs at the CEC (such as Bright Schools and the Energy Conservation Program), as well as through programs directed by the CPUC and administered by the state's investor-owned utilities (IOUs) (such as appliance rebate programs). Funding from these programs has been allocated to various entities, including many school and community college districts. In determining which projects to fund, the CEC and the IOUs provide energy audits to evaluate what types of upgrades would result in the most cost-effective energy savings; these programs also provide financing options for these upgrades.

ISSUE 1: GOVERNOR'S PROPOSITION 39 PROPOSAL

Panelists: Department of Finance
California Department of Education
California Community College Chancellor's Office

Proposal Summary: The Administration projects that Proposition 39 will increase state revenue by $440 million in 2012-13 and $900 million in 2013-14. The Governor's budget proposal includes all revenue raised by Proposition 39 in calculating Proposition 98 funding, which has the effect of increasing the minimum guarantee by $426 million in 2012-13 and **$520 million** in 2013-14. The Governor appropriates **$450 million** of this Proposition 98 funding in 2013-14 for a K-14 education energy efficiency program in order to satisfy the energy efficiency requirements of Proposition 39 that commence in that year. Of this amount, the Governor appropriates **$400.5 million** to the California Department of Education (CDE) for allocation to K-12 school districts, charter schools and county offices of education and **$49.5 million** to the California Community Colleges Chancellor's Office (CCCCO) for allocation to community college districts. The Governor requires CDE and CCCCO to allocate these funds on a per student basis.

2012-13 Funding. The budget includes a $426 million increase in the Proposition 98 minimum guarantee for K-12 schools and community colleges as a result of new revenues generated by Proposition 39 in 2012-13. The budget does not direct these funds for any specific purpose.

The budget does not propose any funding for an energy efficiency program in 2012-13 since Proposition 39 does not require establishment of such a program until 2013-14.

The budget assumes $440 million in total Proposition 39 revenues in 2012-13, of which $426 million is appropriated for Proposition 98 pursuant to Test 1 calculations utilized by the Administration. The remaining $14 million in Proposition 39 revenues provides General Fund savings in 2012-13.

2013-14 Funding. The budget provides a $520 million increase in the Proposition 98 minimum guarantee for K-12 schools and community colleges as a result of new revenue generated by Proposition 39 in 2013-014.

The budget proposes to allocate all energy efficiency funding required by Proposition 39 <u>within</u> the $520 million in Proposition 98 funding provided under the Governor's proposal. Specifically, the budget proposes to expend $450 million of the $520 million in Proposition 98 funds to establish a new Energy Efficiency Program for K-12 schools and community colleges in 2013-14.

Of the $450 million proposed for the Energy Efficiency Program in 2013-14, $400.5 million (89 percent) is appropriated for K-12 school districts, charter schools, and county offices of education and $49.5 million (11 percent) is appropriated for community college districts. The Department of Education and the Community College Chancellor's Office would be responsible for allocating funding on a per student basis within their respective systems.

The budget estimates $900 million in total Proposition 39 revenues in 2013-14. Under the Governor's calculations, which assume Test 3 factors applied to total estimated Proposition 39 revenues, the Proposition 98 minimum guarantee increases by $520 million in 2013-14. The budget proposes $380 million in remaining revenues as General Fund savings in 2013-14.

2014-15 through 2017-18 Funding. The Governor proposes to continue energy efficiency funding for K-12 schools and community colleges at $500 million for four additional years, from 2014-15 through 2017-18. This assumes $1.0 billion in total Proposition 39 revenues, with half provided for energy efficiency per the proposition during this timeframe. (The Governor's proposal is limited to these four years, since Proposition 39 does not require energy efficiency funding beyond 2017-18.)

Parameters of the Proposition 39 Energy Efficiency Investment Program. Under the Governor's proposal, CDE and the CCCCO would issue guidelines for prioritizing the use of the funds. The CDE and the CCCCO are required to consult with CEC and CPUC in developing these guidelines. At a minimum, the guidance is required to reflect the state's energy "loading order," and further specify that school and community college districts give consideration to all of the following in the planning and design of their local projects:

- ✓ Each project should be focused on in-state job creation and energy benefits;
- ✓ Each project should be cost effective, with total benefits exceeding project cost over time;
- ✓ Each project should include documentation on project specifications, costs, and projected energy savings; and
- ✓ Eligible projects may include technical assistance costs associated with the identification, evaluation, and implementation of projects.

The state's energy "loading order" guides the state's energy policies and decisions according to the following order of priority: (1) decreasing electricity demand by increasing energy efficiency; (2) responding to energy demand by reducing energy usage during peak hours; (3) meeting new energy generation needs with renewable resources; and (4) meeting new energy generation needs with clean fossil-fueled generation.

School and community college districts would also be encouraged to partner as practicable with the California Conservation Corps and local community conservation corps programs in the design and implementation of local projects.

CDE and CCCCO State Operations. The Governor's budget proposes to provide CDE with one permanent position ($109,000) to help implement and oversee the Proposition

39 program. The Governor proposes no additional positions for the CCCCO for the administration of Proposition 39.

Accountability Requirements. Upon project completion, school and community college districts are required to report by October 1 of the subsequent fiscal year their project expenditure information to CDE and the CCCCO, respectively. The CDE and CCCCO would then compile these reports and transmit the information to the Citizens Oversight Board by November 1 of each year for its review and evaluation. Proposition 39 funding received by school and community college districts would also be subject to annual financial audits as required under current law.

ISSUE 2: LAO'S ALTERNATIVE PROPOSITION 39 PROPOSAL

Panelist: Legislative Analyst's Office

Proposal Summary: The LAO's alternative proposes that all the Proposition 39 revenues required to be used on energy-related projects be excluded from the Proposition 98 calculation and not count spending from these revenues as Proposition 98 expenditures. In addition, the LAO proposes that the CEC should instead administer a competitive grant process in which all public agencies, including school and community college districts, could apply and receive funding based on identified facility needs.

Exclude Energy-Related Funding From Proposition 98 Minimum Guarantee. The LAO alternative excludes from the Proposition 98 calculation all Proposition 39 revenues required to be used on energy-related projects. This approach is consistent with the LAO's view of how revenues are to be treated for the purposes of calculating the minimum guarantee. This approach would reduce the minimum guarantee by roughly $260 million. Additionally, the $450 million to be spent on energy-related projects should be reclassified as a non-Proposition 98 expenditure (though the state still could choose to spend these monies on school and community college districts).

Alternative Increases Proposition 98 Operational Support by $190 Million. The LAO alternative would result in $190 million in additional operational Proposition 98 support for schools and community colleges. This amount is the net effect of two factors. On the one hand, by excluding Proposition 39 revenue from the Proposition 98 calculation, the minimum guarantee falls by $260 million in 2013-14. On the other hand, by not using Proposition 98 funding for school energy projects, spending falls by $450 million relative to the Governor's budget plan. Thus, maintaining spending at the revised minimum guarantee would result in an additional $190 million in operational funding. Under this approach, the $450 million still needs to be used for energy-related projects, and it could be used for schools and community colleges to the extent the basic provisions of Proposition 39 are met. From the state's perspective, this approach increases total state costs by $190 million and, thus, could result in reduced spending on non-Proposition 98 General Fund programs.

Allocation via a Competitive Grant Process Led by the CEC. To ensure that the state meets the requirements of Proposition 39 and maximizes energy and job benefits, the LAO alternative designates the CEC as the lead agency, in consultation with the CPUC and other experienced entities, for Proposition 39 Energy Funds. The CEC would be directed to develop and implement a competitive grant process in which all public agencies could apply for Proposition 39 funding on a project-by-project basis. In order to ensure that the state maximizes energy benefits, this competitive process should consider and weigh all factors that affect energy consumption. The LAO notes that the CEC could create a tiered system that categorizes facilities based on a high-, medium-, and low-energy intensity or need. Based on that categorization, funding should be provided to facilities with the greatest relative need in coordination with other existing energy efficiency programs.

Require Applicants to Provide Certain Energy-Related Information. To qualify for grant funding and assist CEC in evaluating potential projects, the LAO alternative would require applicants to first have an energy audit to identify the cost-effective energy efficiency upgrades that could be made, similar to the types of audits currently provided through the CEC and the IOUs. As part of the application, facilities should also provide information regarding the climate zone, size, design, and age of a building.

ISSUE 3: TREATMENT OF PROPOSITION 39 REVENUES IN CALCULATING THE PROPOSITION 98 MINIMUM GUARANTEE

Panelists: Department of Finance
Legislative Analyst's Office

Issue Description: The Governor and the LAO treat Proposition 39 revenues very differently for purposes of calculating the Proposition 98 minimum guarantee. In so doing, the Governor and LAO take very different approaches to the expenditure of Proposition 39 revenues in the overall budget architecture beginning in 2013-14.

Comparison of the Governor and LAO Approaches:

Governor's Approach. According to the Department of Finance (DOF), unless expressly excluded, all proceeds from taxes deposited in the General Fund are used in the calculation of the Proposition 98 minimum guarantee. Therefore, the Governor's budget proposal includes all of the **estimated $900 million** raised by Proposition 39 in the calculation of the Proposition 98 minimum guarantee. This treatment has the effect of increasing the minimum guarantee by **$520 million** in 2013-14. The Governor counts **$450 million** of this Proposition 98 funding in satisfaction of the energy efficiency funding required by Proposition 39, eliminating any need for Non-Proposition 98 funding for this purpose. Therefore, the remaining **$260 million** in Proposition 39 revenues provide savings in the form of General Fund offsets in 2013-14.

LAO Alternative Approach. According to the LAO, revenues are to be excluded from the Proposition 98 calculation if the Legislature cannot use them for general purposes, typically due to restrictions created by a voter approved initiative or constitutional amendment. Therefore, the LAO excludes $450 million required to be used for energy related projects under Proposition 39 from the Proposition 98 calculation. Applying the Proposition 98 calculation to the remaining $450 million provides $260 million in Proposition 98 funding in 2013-14. This is $260 million less than the $520 million in Proposition 98 funding provided by the Governor.

In addition, the LAO would also reclassify the $450 million that must be spent on energy related projects as Non-Proposition 98 expenditures, but assumes the state could still choose to spend these funds on K-12 schools and community colleges.

Overall, the LAO approach would result in an additional $190 million in Proposition 39 expenditures for K-12 schools and community colleges in 2013-14. This would reduce state savings by the same amount necessitating new non-Proposition 98 General Fund reductions of $190 million in 2013-14.

Figure 1 below displays the impact of the different approaches taken by the Governor and LAO in the treatment of Proposition 39 revenues for purposes of calculating Proposition 98 funding and expending Proposition 39 funds.

Figure 1: Summary Impact of Different Treatment of Proposition 39 Revenues in Calculating the Proposition 98 Guarantee

2013-14 (In thousands)	Governor	LAO	Difference
Proposition 98 Funding			
Operational funding for schools and community colleges	$55,750	$55,940	$190
Energy project funding, only schools and community colleges	450	0	-450
Subtotals, Proposition 98	*($56,200)*	*($55,940)*	*(-$260)*
Non-Proposition 98 Funding			
Energy project funding, all allowable projects including schools and community colleges	0	$450	$450
Total Spending	**$56,200**	**$56,390**	**$190**

Source: LAO

LAO Concerns with Governor's Approach:

- **Varies Significantly From LAO's Longstanding View of Proposition 98**. The Governor applies all revenue raised by Proposition 39 – including the revenue required to be spent on energy-related projects – toward the Proposition 98 calculation. Per the LAO, the Governor's treatment of these revenues is a serious departure from its longstanding view, developed over many years with guidance from Legislative Counsel, of how revenues are to be treated for the purposes of Proposition 98. Per the LAO, the Proposition 39 voter guide reflected this interpretation by indicating that funds required to be used for energy-related projects would be *excluded* from the Proposition 98 calculation.

- **Could Lead to Greater Manipulation of the Minimum Guarantee.** The Governor's approach assumes that all tax revenues deposited directly into the General Fund *must* be included in the Proposition 98 calculation, whereas any tax revenues deposited directly into a special fund must be excluded from the calculation. The LAO argues that the Governor's approach could lead to greater manipulation of the minimum guarantee by opening the door to all types of accounting shifts. The LAO notes that the state could, for example, require that all sales tax revenues be deposited directly into a special fund rather than the General Fund, thereby excluding the revenues from the Proposition 98 calculation. Per the LAO, this type of a shift could undermine the meaningfulness of the guarantee and render it effectively useless in setting a minimum funding requirement. The LAO believes that Proposition 98 minimum funding calculations should not rely on what fund they are deposited into, but on their use. In the LAO's view, revenues are excluded if they are clearly removed from the Legislature's control – typically by constitutional or voter-approved action.

Subcommittee Questions: Based on the above comments, the Subcommittees may wish to ask the following questions of DOF and LAO:

1. **Major Reasons for Differences**. Clearly, the Administration and LAO have two different interpretations of how to calculate Proposition 98 funding from state Proposition 39 revenues. What are the fundamental reasons behind each interpretation?

2. **Historical Examples.** What other examples can both DOF and LAO point to that support their interpretation of how Proposition 39 revenues should be treated for purposes of calculating the Proposition 98 minimum guarantee?

3. **Future Implications.** What are the future implications of the Governor's treatment of Proposition 39 revenues for purposes of calculating Proposition 98? What are the future implications for the LAO's approach?

4. **State General Fund Savings.** The LAO approach would increase operational funding for K-14 education by $190 million, which would necessitate Non-Proposition General Fund reductions of an equal amount in 2013-14? Does the LAO have recommendations for achieving these savings?

Staff Recommendation. Hold this issue open.

ISSUE 4: ENERGY EFFICIENCY PROGRAM PARAMETERS

Panelists: Department of Finance
Legislative Analyst's Office
California Department of Education
California Community Colleges Chancellor's Office

Issue Description: The DOF and LAO offer two different proposals to comply with energy efficiency requirements outlined in Proposition 39 for expenditure of those revenues, as displayed in Figure 2 below.

Figure 2: Summary of DOF and LAO Proposition 39 Energy Efficiency Proposals

Proposition 39 Terms	DOF Proposal	LAO Alternative
Control Entity	CDE and CCCCO.	CEC, in consultation with the CPUC and other experienced entities.
Allocation Method	Per-student basis.	Competitive grants.
Eligible Recipients	School and community college districts.	All public agencies.
CEC and CPUC Coordination	CDE and CCCCO are required to consult with both entities in the development of guidelines prioritizing use of the funds.	CEC is lead agency in consultation with CPUC.
Energy Efficiency Retrofits and Alternative Energy Projects Specifics *Leverage Existing Energy Efficiency Efforts*	Guidelines will reflect the state's energy "loading order," and require further specifications for project planning and design, including each project be: (a) focused on energy benefits; (b) cost effective, with total benefits exceeding project cost over time; and (c) include documentation on project specifications, costs, and projected energy savings.	Competitive process should consider and weigh all factors that affect energy consumption. The CEC could create a tiered system that categorizes facilities based on a high-, medium-, and low-energy intensity or need, whereby funding should be provided to facilities with the greatest relative need in coordination with other existing energy efficiency programs.

Figure 2: Summary of DOF and LAO Proposition 39 Energy Efficiency Proposals, continued

Proposition 39 Terms	DOF Proposal	LAO Alternative
Job Training/Workforce Development Specifics	Each project should be focused on in-state job creation. Encourages coordination with California Conservation Corps.	Unclear.
Technical Assistance for Energy Retrofits Allowed	Yes.	Unclear.
Control Entity Established Expertise in Managing Energy Projects and Programs	Unclear.	Yes.
Reporting	Upon project completion, school and community college districts report by October 1 of the subsequent fiscal year their project expenditure information to CDE and the CCCCO, respectively.	Unclear.
Audits	Expenditure of these funds would be subject to existing annual school and community college district financial audits as required under current law.	Applicants required to first have an energy audit to identify the cost-effective energy efficiency upgrades that could be made. As part of the application, facilities should also provide information regarding the climate zone, size, design, and age of a building.
State Operations Staffing Resources	$109,000 and one position to CDE; no additional resources for the CCCCO.	Unclear.

Subcommittee Questions: The Subcommittees may wish to ask the following questions of DOF, LAO, CDE, and CCCCO:

1. **Per-Student Versus Energy-Based Allocations.** The allocation of Proposition 39 funds to K-12 school districts, charter schools, county offices of education, and community college districts on a per student basis ensures that all districts receive funding, but it could be at the exclusion of other eligible projects that potentially could achieve a greater level of energy benefit.

    a. What are other benefits/trade-offs of providing Proposition 39 revenues on a per student basis?

    b. Has the Administration assessed whether the per student allocation results in funds flowing to districts that may not have as pressing energy retrofit needs as other districts might have? Do charter schools have the same needs as K-12 school districts and county offices of education?

    c. The Governor's proposal has been criticized that it does not take into account energy consumption differences; i.e., the need for energy efficiency projects varies by district, with the need depending on the size, age, and climate zone of the facilities in each district. Why aren't these factors included in the Governor's proposal?

2. **Focus on K-14 Education; Other Higher Education Segments Excluded**. The Administration identifies K-12 school facilities as the single largest capital outlay investment made by the state since the mid-1990s. (The LAO reports that since 1998 the state has invested more than $30 billion in school bond funding to modernize and construct K-12 facilities.) The state has also made significant capital outlay investment in higher education facilities. (According to the LAO, the state has spent an estimated $10.1 billion on higher education infrastructure in the last ten years.)

    a. Why does the Governor's proposal exclude the UC and CSU systems?

    b. Are the UC and CSU systems just as well positioned to undertake projects that would reduce their current utility requirements and expand the use of renewable energy resources?

    c. Would it be possible to include the UC and CSU systems in the Governor's plan and still maintain a substantial focus on K-12 schools and community colleges?

3. **Energy Needs of Other Public Facilities Not Included.** Per Proposition 39, Clean Energy Job Creation Funds shall be available for projects that create jobs in California improving energy efficiency and expanding clear energy generation including all of the following: public schools, universities and colleges, and other public buildings and facilities.

a. What savings could be achieved by expanding the Governor's proposal to include other state facilities, especially 24-hour facilities such as state hospitals?

b. Did the Governor consider savings associated with municipal facilities, including 24-hour facilities?

4. **Consistency of Proposals with Intent of Proposition 39.**

a. Proposition 39 requires that monies from the Clean Energy Job Creation Fund be appropriated only to agencies with established expertise in managing energy projects and programs. Under the Governor's proposal, how do the Department of Education and the Chancellor's Office comply with this requirement?

b. Proposition 39 states that projects must be selected based on the number of in-state jobs they would create and their energy benefits. How does the Administration's proposal comply with this requirement? How does the LAO alternative comply with this requirement?

c. How does each proposal respond to the requirement that the total benefits of each project be greater than total costs over time; i.e., what requirements would be in place to ensure that facilities upgraded with Proposition 39 funds remain in use long enough for the benefits to outweigh the costs?

d. Both proposals focus on energy efficiency. Proposition 39 allows for energy upgrades (such as solar panel installation) that may, in some cases, have more long term financial savings. Are these options allowable under the Governor's proposal or the LAO alternative?

e. How does each proposal incorporate the California Conservation Corps and other existing workforce development programs to train and employ disadvantaged youth, veterans, and others on energy efficiency and clean energy projects?

5. **Timetable for Proposals.** Under both proposals, how quickly will the funding flow?

a. What is the timeline for grant guidelines development and finalization?

b. What is the timeline for project start and completion?

c. What is the timeline for reporting to be completed?

6. **Smaller K-12 School Districts**. How does the Administration respond to the concern that smaller school districts may carry funds over during the five-year life of the program (to increase the total resources available for a project), effectively

preventing use of the funds to immediately achieve benefits intended by Proposition 39. Does this concern argue for a minimum grant size for smaller school districts?

7. **Accountability.** Under the Governor's proposal, school and community college districts are required to report project expenditure information to CDE and the CCCCO, respectively by October 1st of the following fiscal year. The CDE and CCCCO would then compile these reports and transmit the information to the Citizens Oversight Board by November 1 of each year for its review and evaluation. Proposition 39 funding received by school and community college districts would also be subject to annual financial audits as required under current law.

    a. What accountability provisions, including reporting, are included in the LAO proposal?

8. **State Operations – Staffing.**

    a. Why does the Administration propose staffing resources only for the Department of Education and not for the community colleges Chancellor's Office?

    b. Under the LAO alternative, will the California Energy Commission need additional staffing resources to implement the competitive grant program?

9. **State & Local Savings.** California's K-12 system includes 962 districts and 9,895 schools, and it serves 6.2 million students. It has been reported that schools account for nearly 12 percent of commercial energy consumption, and the 2011 General Fund expenditures for utility bills at California public schools exceeded $1 billion – more than was spent on school books and supplies, combined.

    a. Has the Administration modeled the potential savings to local school and community college district budgets under the Governor's proposal?

    b. Under Proposition 98, will local savings from the Governor's proposal produce savings for the state?

    c. Under the LAO proposal, the state would lose $190 million in General Fund savings compared to the Governor's proposal. Could any of these additional costs be offset by other state savings in the short-term or long-term? For example, if energy efficiency funding were also provided for the CSU and UC systems, could these investments result in the need for less funding?

Staff Recommendation. Hold this issue open.

Senate Budget and Fiscal Review—Mark Leno, Chair

Joint Subcommittee Hearing Agenda

Subcommittee #1 on Education
Senator Marty Block, Chair
Senator Roderick D. Wright
Senator Mark Wyland

Subcommittee #2 on Resources, Environmental Protection, Energy, and Transportation
Senator Jim Beall, Chair
Senator Hannah-Beth Jackson
Senator Jim Nielsen

Thursday, April 4, 2013
9:30 a.m. or upon adjournment of session
Room 3191, State Capitol

Consultants: Kim Connor, Catherine Freeman,
and Kris Kuzmich

PROPOSITION 39

OUTCOME: ALL ISSUES HELD OPEN.

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.

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

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

Thursday, April 11, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

Items Proposed for Vote-Only

Items Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

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DEPARTMENTS PROPOSED FOR VOTE ONLY

3100 California Science Center

1. **Reimbursement Authority Reduction.** Request for a $413,000 reduction in reimbursement authority to reflect more accurately the reimbursement expenditure level realized in the Governor's Budget display. No impact to General Fund or position authority.

3960 Department of Toxic Substances Control

2. **Registered Environmental Assessor Program.** Request to eliminate position and expenditure authority pursuant to Chapter 39, Statutes of 2012 (SB 1018, Leno) for the Registered Environmental Assessor Program.

3980 Office of Environmental Health Hazard Assessment

3. **Renewable Energy Resources: Risk Assessment of Biomethane.** Request $139,000 and one position from the Public Utilities Reimbursement Account to comply with Chapter 602, Statutes of 2012 (AB 1900, Gatto), and corresponding budget trailer bill language.

4. **Toxicologic Evaluation and Outreach to Combat Invasive Species.** Request for one position (reimbursement authority from the California Department of Food and Agriculture) to provide scientific support to combat Asian Citrus Psyllid and other invasive pest species.

3810 Santa Monica Mountains Conservancy

5. **Capital Outlay and Local Assistance Grants – Santa Monica Mountains Zone and Rim of the Valley Trail Corridor Projects.** Request for three separate extensions of liquidations from 2004 and 2006-2008 (Proposition 12 and 40 bond funds) as well as a new appropriation for the remainder of Proposition 12 funds in the amount of $43,000 to continue the existing approved strategic plan for the Conservancy.

6. **Baseline Support Budget.** Request for reversion of previous year's Proposition 84 bond funds and reduction of existing allocations by $55,000 to maintain existing baseline support budget.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

7. **Proposition 50 Reversion.** Request to revert $273,000 from 2006 a capital outlay appropriation to provide funding for program delivery consistent with bond requirements. This would maintain existing staffing levels and operating budgets.

3830 San Joaquin River Conservancy

8. **Environmental Restoration, Public Access and Recreation.** Request $1 million (reimbursement authority) to continue the Conservancy's capital improvement program for the benefit of the public. These Proposition 84 funds are appropriated to the Wildlife Conservation Board on behalf of the Conservancy.

3850 Coachella Mountain Conservancy

9. **Continued Land Acquisition Program (Spring Finance Letter).** Request for appropriation anew from expired appropriations to continue the mission of the Conservancy. Funds are intended to be used for the original purpose of the appropriations (which expired in 2009 and 2010). This includes $343,000 (Proposition 12), $456,000 (Proposition 40); $3.3 million (Proposition 84); and, $384,000 (Proposition 84).

Recommendation: **APPROVE** Items 1-9

Vote:

3940 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. The state contracts to provide fire protection and prevention services in six local areas.

Governor's Budget. The Governor's Budget includes $1.3 billion ($678.7 million General Fund) and 6,886 positions for the Department.

Items Proposed for Vote-Only

1. **Cooperative Forestry Assistance Renewal.** The Governor's Budget requests Federal Trust Fund ($7,493,000 in the budget year and $37,465,000 over the following five years) and ten limited-term position authority (through June 30, 2018) to provide grant administration and technical oversight for the department's Cooperative Forestry Assistance (CFA) programs. The requested funding is necessary to provide assistance to California's private forest landowners and urban community forests. Current funding expires on June 30, 2013.

2. **AB 1566—Above Ground Petroleum Storage Act Oversight.** The Governor's Budget requests $366,000 and two permanent positions from the Unified Program Account (UPA) and $309,000 UPA ongoing to perform field evaluations, conduct necessary research, develop policy and guidance, and provide technical support to the Certified Unified Program Agencies who oversee the Aboveground Petroleum Storage Act Program, authorized by AB 1566, Statutes of 2012.

3. **Baker Fire Station—Relocate Facility (Capital Outlay).** The Governor's Budget requests a supplemental appropriation ($200,000, Public Buildings Construction Fund) to acquire a suitable parcel to relocate the two-engine Baker Fire Station. This request is a scope change to the design and construction appropriation included in the 2010-11 Budget Act (Lease Revenue Bonds, $10,415,000). The current lease holder has not agreed to the terms of a lease required by Bond Counsel, driving the need to acquire a new site to build the fire station.

4. **Parkfield Fire Station—Relocate Facility (Capital Outlay).** The Governor's Budget requests a supplemental appropriation ($283,000, Public Buildings Construction Fund) to acquire a suitable parcel to relocate the one-engine Parkfield Fire Station. This request is a scope change to the design and construction appropriation included in the 2009-10 Budget Act (Lease Revenue Bonds, $7,209,000). The property is no longer a viable site due to a major archaeological finding on the property.

5. **Administrative Correction Advances.** The Governor's Budget requests a change in statutory responsibilities, pursuant to Budget Letter BL 11-18, to eliminate the non-critical functions and reduce the statutory responsibilities of the Department, which will allow CalFIRE to meet workload within its authorized spending levels. This is a no cost and no savings proposal because any unqualified marginal savings from eliminating this workload will be redirected back into core mission services and provides more complete internal customer services.

Staff Comments: Staff concurs with the necessity of the above proposals. However, in order to continue strong oversight of the department's activities, staff recommends the subcommittee approve Item 5 (Administrative Correction Advances) with the understanding that this will be modified to continue reporting of information related to: (1) internal accounting, administrative control and monitoring; and, (2) fire prevention activities (to the extent these are not included in other reports); and, (3) State Board of Forestry regulatory actions (to the extent another form of reporting is not available).

Recommendation:

APPROVE Items 1-4.
Item 5, **APPROVE** modified proposal.

Vote:

Items Proposed for Discussion

1. WiFITER FUND (Information Item)

In late January 2013, CalFIRE disclosed that the Department of Finance was investigating a special account related to the settlement of claims against those who have negligently started fires. Since that time, questions have been raised about the legitimacy of this account and the Bureau of State Audits (BSA) has included this special account in its audit of 10 funds outside the state treasury. With the help of CalFIRE, pertinent details of the Fund, including what it was used for, when it was created, and who managed it follows.

Background. According to CalFIRE, the Wildland Fire Investigation Training and Equipment Fund, commonly referred to as the WiFITER Fund, was conceived as a way to better train, and equip the individuals responsible for conducting wildland fire investigations at both the State and local level. The WiFITER Fund was modeled on similar funds held by other public agencies. The Fund allowed for specialized training to further the purpose of CalFIRE's mandate to recover fire suppression costs. The account never contained more than $1.7 million at one time and over its seven-years of existence, it totaled $3.66 million.

In 2005, an initial Memorandum of Agreement (MOU) was signed between CalFIRE and the California District Attorneys' Association (CDAA) to establish the WiFITER Fund and to outline the duties of the various participants. CDAA was initially chosen because it manages similar funds.

CalFIRE argues that the Fund has been an instrumental tool in ensuring that the investigators, case managers, and staff who participate in the cost recovery process receive the training and equipment necessary to effectively perform their jobs. A few of the successes achieved, in part as a result of WiFITER Fund sponsored training and equipment are the following:

- Investigators involved in the Esperanza Fire investigation and subsequent capital murder conviction received arson investigation, surveillance, and origin and cause classes/training.

- Lead investigating officer for the Witch Fire received surveillance, origin and cause and fire scene documentation classes/training.

- Lead investigating officer for the Guejito Fire received origin and cause and fire scene documentation classes/training.

In August 2008, an internal audit was initiated as a result of questions regarding the consistency of expenditures between the northern and southern regions. The final audit report was posted on the State's transparency website. In addition, CalFIRE, through its Financial Integrity and State Managers Accountability Report, informed Department of Finance (DOF), Joint Legislative Audit Committee (JLAC), and Bureau of State Audits (BSA) of the existence of the WiFITER Fund.

In October 2011, CalFIRE and CDAA entered into a revised MOU to implement recommendations from CalFIRE's internal audit. In addition, the revised MOU reduced the expenditure fee paid to CDAA from 15 percent to 5 percent.

Discussions among CalFIRE's Executive Team regarding the proper place for CalFIRE's Law Enforcement Program began in Spring 2012. The Civil Cost Recovery Program is a part of CalFIRE's Law Enforcement Program. It was the CalFIRE Director's recommendation that supervision of the Law Enforcement Program be moved from the Office of the State Fire Marshall to the Deputy Director of Fire Protection. Pending the restructuring of the Law Enforcement Program, Director Pimlott ordered the WiFITER Fund frozen. This was also done to ensure that all intended beneficiaries of the WiFITER Fund were provided the ability to propose appropriate projects.

On December 10, 2012, CDAA notified CalFIRE that it intended to terminate the MOU. CalFIRE is presently working to ensure the monies currently in the WiFITER Fund (approximately $800,000) are deposited into an appropriate account. In addition, CalFIRE is working to establish a method to fund the training and equipment paid for from the WiFITER Fund that was instrumental in the success of the Civil Cost Recovery Program.

Staff Comments. The department has expressed that the fund has been an invaluable tool in ensuring that the investigators, case managers and staff who participate in the cost recovery process receive the training and equipment necessary to effectively perform their jobs, and that they have never attempted to hide the existence of the fund.

Staff agrees that there is ample precedent in state government regarding the direction of lawsuit settlement funds to multiple uses. For example, the regional water boards may require funds to be used for supplemental environmental programs outside of state government in addition to a direct monetary payment to the state. The Attorney General similarly has authority to settle lawsuits in any number of creative manners. Staff also agrees that CalFIRE never attempted to hide the existence of this fund. On the contrary, the DOF, JLAC, and BSA were notified of the existence of the WiFITER Fund in 2009.

Questions for the Agency. The subcommittee may wish to ask the Department of Finance the following question:

- What would be the impact of trailer bill language requiring all state agencies to report to the Legislature within 30 days of settlement of funds that are not directed into state-managed accounts?

Recommendation: Due to (1) recent action by the Joint Legislative Audit Committee to order an audit of this fund, and (2) pending litigation impacting the fund, staff recommends this remain an informational item.

Vote:

2. Local Government Cooperative Agreements

Budget Proposal. The Governor's Budget requests $41,254,000 in reimbursements and 283.5 positions starting in Fiscal Year (FY) 2013-14 related to providing fire protection services to the cities of Colton, Jurupa Valley, Morgan Hill, Norco, and Soledad; Towns of Paradise and Tiburon; San Miguel Fire Protection District; Groveland Community Services District; and County of Riverside for an expanded scope.

Background. Current law authorizes CalFIRE to enter into Cooperative Fire Protection Reimbursement Agreements ("Cooperative Agreements") for the purpose of preventing and suppressing forest fires or other fires in any lands within any county, city, or district that makes an appropriation for that purpose. CalFIRE has entered into multiple cooperative agreements to provide fire protection services for the above named communities who reimburse CalFIRE for the cost of providing the service.

CalFIRE has entered into multiple cooperative agreements that have varying start dates. Based upon those start dates, CalFIRE requests $31,812,000 reimbursements in the current year and $41,254,000 reimbursements in the budget (ongoing) related to the cost of providing the service to the communities. CalFIRE has submitted a Section 28 application to the Department of Finance and to the Joint Legislative Budget Committee (JLBC) for the budget year.

Staff Comments. Staff have some concerns that the timing of these cooperative agreements makes oversight difficult. It would be helpful, moving forward, if the Department of Finance and CalFIRE work with staff to explore a process that aligns contract start times more closely with the legislative and budget calendars, including control language as needed.

Questions for the Department. The department should address the following questions in its opening statement:

- What would be the impact of shifting the cooperative agreements to mirror the state budget cycle in order to get more input on these important agreements?

- What would be the impact of informing either JLBC or individual legislators whose districts have a pending contract prior to finalizing those agreements to allow for more oversight of the contracts?

Recommendation:

APPROVE budget proposal.

Vote:

3. Vegetation Treatment Program

Background. The State Board of Forestry and Fire Protection (BOF) proposes to initiate a California Statewide Vegetation Treatment Program (VTP). The proposed program is intended to lower the risk of catastrophic wildfires on nonfederal lands by reducing hazardous fuels. The VTP goals include control of unwanted vegetation, including invasive species, improvement of rangeland for livestock grazing, improvement of fish and wildlife habitat, enhancement and protection of riparian areas and wetlands, and improvement of water quality in priority watersheds. The initiation of this program is a project, subject to California Environmental Quality Act (CEQA). As the CEQA lead agency, the BOF will provide policy direction for implementation of the VTP to CalFIRE, which administers a wide range of vegetation management programs.

According to the department, the purpose of the VTP is to modify vegetation on wildlands to reduce the costs and losses associated with wildfires and to enhance the condition of forests, rangelands, and watersheds. The need for the VTP is based on the fact that the wildlands of California are naturally fire prone. Past land and fire management practices have had the effect of increasing the intensity, rate of spread, as well as the annual acreage burned on these lands (BOF, 1996). Although the citizens of California expect these lands to provide a wide range of sustainable economic and non-economic benefits, the state's expanding population increases the risk of arson or unintentional fire starts that jeopardize these expectations. The natural communities of plants and animals on these lands are at risk from catastrophic wildfire. Also at risk are the communities that interface with these wildlands, including those within wildland-urban interface (WUI) and rural areas. Strategic management and control of wildland vegetation is essential to the safety, health, recreational, and economic well-being of California's citizens.

Goals of Program. The VTP has multiple goals which can be summarized below:

1. Maintain and enhance forest and range land resources including forest health to benefit present and future generations.

2. Modify wildland fire behavior to help reduce catastrophic losses to life and property consistent with public expectation for fire protection.

3. Reduce the severity and associated suppression costs of wildland fires by altering the volume and continuity of wildland fuels.

4. Reduce the risk of large, high intensity fires by restoring a natural range of fire-adapted plant communities through periodic low intensity vegetation treatments.

5. Maintain or improve long term air quality through vegetation treatments that reduce the severity of large, uncontrolled fires that release air pollutants and greenhouse gases.

6. Vary the spatial and temporal distribution of vegetation treatments within and across watersheds to reduce the detrimental effects of wildland fire on watershed health.

7. Reduce noxious weeds and non-native invasive plants to increase desirable plant species and improve browse for wildlife and domestic stock.

8. Improve wildlife habitat by spatially and temporally altering vegetation structure and composition, creating a mosaic of successional stages within various vegetation types.

9. Provide a CEQA-compliant programmatic review document process/mechanism for other state or local agencies, which have a vegetation management program/project consistent with the VTP, to utilize this guiding document to implement their vegetation treatment programs/project.

The VTP proposes to treat vegetation in order to meet the purposes established above. Vegetation management activities include the removal, rearrangement, or conversion of vegetation using various treatments. Treatment methods include prescribed fire, mechanical, manual, prescribed herbivory (such as use of goats or sheep to reduce vegetation), and herbicide. Vegetative treatments may be applied singly or in any combination needed for a particular vegetation type to meet specific resource management objectives. The method or methods used will be those that are most likely to achieve the desired objectives while protecting natural resource values.

The general suite of treatments likely to be initiated under the proposed VTP in any decade would comprise about 2.16 million acres and would include:

- Prescribed fire (underburn, jackpot burn, broadcast burn, pile burn, establishment of control lines) – about 53 percent of treatments.

- Mechanical (chaining, tilling, mowing, roller chopping, masticating, brushraking, skidding and removal, chipping, piling, pile burning) – about 18 percent of treatments.

- Manual (hand pull and grub, thin, prune, hand pile, lop and scatter, hand plant, pile burn) – about 10 percent of treatments.

- Prescribed herbivory (targeted grazing or browsing by cattle, horses, sheep, or goats) – about 10 percent of treatments.

- Herbicides (ground applications only, such as backpack spray, hypohatchet, pellet dispersal, etc.) – about nine percent of treatments.

The VTP would be limited by five landscape constraints that describe where the VTP could be applied, and by 15 minimum management requirements that limit how program practices would be modified to reduce impacts.

Staff Comments. Concerns have been raised about the extent of the VTP in the wildland interface, particularly in Southern California areas with sage scrub, chaparral, and other shrub-dominated communities. Additionally, concern has been raised about the focus of the Wildland-Urban Interface (WUI) components and the robustness of the program overall.

Questions for the Department. The department should address the following questions in its opening statement:

- What would be the impact of excluding all sage, chaparral, and other shrub-dominated communities and riparian areas from the VTP in most cases?
- Is it possible to tighten the language regarding the WUI to maintain defensible space around structures and maintain or create fuel breaks that meet very clear definitions (and eliminate those that do not)?
- Can the program be made more robust as a percentage of the overall budget for fire education and prevention programs?

Recommendation:

Vote:

3930 Department of Pesticide Regulation

The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department: (1) evaluates the public health and environmental impact of pesticide use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

Governor's Budget. The Governor's Budget includes $80.9 million (no GF) for support of the DPR, a decrease of approximately $1.5 million, or two percent, under current year expenditures. This decrease is almost entirely in special funds.

Items Proposed for Vote-Only

1. **Structural Pest Control Board—Reimbursement Authority.** The Governor requests increased reimbursement authority of $284,000 that was inadvertently excluded from the original Governor's Reorganization Plan No. 2 of 2012. This will enable the board by coordinating statutorily required training and investigation activities related to enforcement of structural pest control laws and regulations at the local level.

Recommendation: **APPROVE** Item 1.

Vote:

Items Proposed for Discussion

1. Mitigating Pesticide Use to Protect Environment

Governor's Proposal. The Governor requests $788,000 ($783,000 ongoing) from the Department of Pesticide Regulation Fund (DPR Fund) and five permanent positions to address workload issues associated with its continuous evaluation of pesticides. The focus of this work will have adverse effects on wildlife and the environment including pollinators (bees) impacted by neonicotinoid pesticides, wildlife impacted by rodenticides, and pesticides that impact water quality.

LAO Recommendation. The LAO recommends rejecting one position and the related funding of $105,00 associated with enforcement because the department was unable to demonstrate increased workload for enforcement activities.

Staff Comments. Staff have reviewed this request and concur with its necessity along with the LAO recommendation. However, questions have come up regarding the department's timely completion of risk assessments for all pesticides. These statutorily required risk assessments provide the framework for the department to assess toxicity and exposure to pesticides in all environmental pathways.

According to the department's website, there are 82 high priority pesticides that are currently or are planned to be assessed by the department. Of these, ten have changed in the past two years. This raises the question of the capacity of the department to complete these critical risk assessments. While staff concurs with the need for this proposal, the department should address why there have not been more changes to the number and type of pesticides to be assessed, and what its improved process for risk assessment will be under this proposal.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the current backlog of risk assessments at the department (if such a backlog were defined as a pesticide submitted to the department for review that has not had a completed risk assessment in over two years)?

- What would be the impact of requiring the department to complete five risk assessments on high priority pesticides per year?

Recommendation:

(1) APPROVE LAO Recommendation (four positions and $683,000).
(2) APPROVE Budget Bill Language requiring the department to complete five risk assessments on high priority pesticides per year.

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 (no General Fund) and 687 positions for support of the department.

Items Proposed for Vote-Only

1. **Transfer of the Office of Education and the Environment (OEE) to CalRecycle.** Request to complete statutorily required transfer of OEE from Cal-EPA to CalRecycle. This is a net-zero shift in positions. A total of $2.3 million (expenditure authority) and 10 positions are proposed to be shifted. This proposal includes trailer bill language.

2. **Shift CalRecycle from Resources Agency to Cal-EPA.** Request to complete statutorily authorized transfer of CalRecycle to Cal-EPA. This proposal was approved and completes the Governor's Reorganization Plan No. 2 that was approved by the Little Hoover Commission in May 2012, and was subsequently not rejected by either house of the Legislature. There is no budget or position impact to this shift.

3. **Cleanup Trailer Bill Language for Carpet and Paint.** Request for trailer bill language for both the Architectural Paint Recovery Program and Carpet Stewardship Program in order to change the payment of the administrative fees supporting these programs from yearly to quarterly in arrears in order to improve cash flow for the programs.

4. **Captive Insurance: Solid Waste Facilities.** Request for $260,000 in reimbursement authority to implement Chapter 713, Statutes of 2012 (AB 480, Solario). AB 480 temporarily revises the conditions under which the use of captive insurance as a financial assurance mechanism for solid waste landfills would be allowed.

5. **Hazardous Waste Grant Authority.** Request for $81,000 (Integrated Waste Management Fund) to supplement the Household Hazardous Waste Grant Program. This allocates the department's receipt of judgment funds from *People v. Costco*, which require the retail chain to pay for mishandling of hazardous waste material.

Recommendation: APPROVE Items 1-5.

Vote:

1. Beverage Container Recycling Program Reform

Background. The Beverage Container Recycling Program covers the majority of disposable beverage containers sold in the state. The program encourages the voluntary recycling of certain beverage containers by guaranteeing a minimum payment (termed California Redemption Value [CRV]) for each container returned to certified recyclers. In 2010-11, over 20 billion containers covered by the program were sold and about 17 billion were recycled, reflecting an 85 percent recycling rate.

The CRV is the primary source of funding for the Beverage Container Recycling Fund (BCRF). For each beverage container subject to the CRV sold to retailers, distributors make redemption payments that are collected by the department and deposited into the BCRF. This CRV cost is passed on to retailers who collect the CRV from consumers for each applicable beverage container sold. Consumers can recoup the cost of the CRV by redeeming empty recyclable beverage containers with a recycler. Recyclers are in turn reimbursed by the department for redeemed CRV.

The BCRF's expenditures fit into two main categories: (1) CRV reimbursements to recyclers and (2) program expenses (including for administration, grant programs, and education and outreach) that are funded from unredeemed CRV. Several budget and policy efforts over the past year have enabled the department to (1) reduce fraudulent recycling in the state, and (2) move to improve fiscal integrity of the program.

Governor's Proposal. The Governor requests to shift the balance of its efforts from primarily encouraging recycling to an increased emphasis on program fiscal integrity, quality control and better use of information resources consistent with administrative and legislative direction over the past few years. Specifically, the department requests appropriation authority and eight positions on a three-year limited-term basis, and trailer bill language, to implement the following first steps.

1. Introduce a new certification application review process that (a) is based on standards of performance and accountability, including a more significant effort to prepare program participants for success and (b) adequate certification review time to ensure that certified entities serve the public and the program.

2. Introduce a formal and ongoing training program (with staff presence in both northern and southern California) that is complemented by a robust technical assistance team which actively consults with industry regarding best practices that increase recycling while fostering the efficiency of operations.

3. Require program participants to adopt the Division of Recycling Integrated Information System (DORiis) that is currently used by 57 percent of participants collectively accounting for more than 72 percent of dollars paid out of the fund to processors and more than 50 percent of dollars paid in.

4. Simplify the payment rates for beverage containers and reduce potential losses to the program by eliminating the use of commingled rates at all recycling centers (does not impact curbside recycling programs).

5. Clarify statute regarding out-of-state fraud and regulations.

Staff Comments. Staff have reviewed this request and concur with its necessity. This represents the first phase of a multi-year effort to reform the BCRF and to re-establish consistency in the recycling programs.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the department considering for future phases of the BCRF reform and how does this first phase fit into these plans?

- Will the funding provided be available after the first three years of the program and, if so, should we consider permanent positions?

Recommendation: **APPROVE** as proposed, including trailer bill language.

Vote:

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (Regional Boards) preserve and enhance the quality of California's water resources and ensure proper allocation and effective use. These objectives are achieved through the Water Quality and Water Rights programs.

Governor's Budget. The Governor's Budget includes $675 million ($15 million General Fund) and 1,505 positions for support of the State Water Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Criteria for Indirect Potable Reuse of Recycled Water.** Request $700,000 (Waste Discharge Permit Fund) to support efforts by the California Department of Public Health to adopt water recycling criteria for indirect potable use.

2. **Augment Water Rights Program 20 Federal Authority for US Bureau of Reclamation Reimbursement.** Request for $75,000 (reimbursement authority) for the cost of administering water rights held by the U.S. Bureau of Reclamation. The cost of the administering these water rights is covered through a reimbursement contract with the Bureau rather than traditional water rights fees.

3. **Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program Subaccount Consolidation.** The budget proposes to consolidate local assistance and funding authority to reflect the elimination of the Installed Underground Storage Tank Program.

4. **Align Underground Storage Tank Cleanup Fund Authority.** The budget proposes a reduction of $48 million in state operations authority as a planned phase down of funding for the program. This proposal aligns funding authority with statutory fee levels.

5. **Underground Storage Tank Cleanup Fund Orphan Site Cleanup Fund Reappropriation.** The budget proposes a reappropriation of $6.2 million of unspent local assistance funds from 2009-10. These funds are used to reduce groundwater pollution through the cleanup of petroleum contaminated sites.

6. **Technical Bond Adjustments.** The budget requests a one-time reversion of specified amounts for various fiscal years of state operations funds for Propositions 13, 50, and 84, and the appropriation anew for funding of new projects under existing programs.

7. **Wastewater Operator Certification Fund Augmentation.** The budget requests an augmentation of $586,000 for the Wastewater Operator Certification Fund to (1) support new workload of certifying operators for privately-owned treatment plants per revised regulations, and (2) maintain the current workload of certifying publicly-owned wastewater treatment plant operators.

Staff Comments. Staff concurs with the necessity of these proposals.

Recommendation: **APPROVE** Items 1-7.

Vote:

Items Proposed for Discussion

1. Groundwater and Drinking Water Cleanup

BACKGROUND:

Funding for Groundwater and Drinking Water Cleanup. Over the past several years, the Legislature has focused oversight efforts on the provision of safe drinking water throughout the state, and in particular to small, disadvantaged communities mainly in rural areas. The 1969 Porter-Cologne Water Quality Act established the state's role in the protection of water quality and was followed by various groundwater and drinking water protection laws throughout the following decades. The Legislature, starting in 2008, has held numerous oversight hearings discussing groundwater and drinking water legislation, with a focus on providing clean drinking water, and looking at the root causes of water quality degradation. The conclusion of these hearings, as well as various reports, is that the majority of water supply in California is safe and clean. However, where there are gaps in some areas, the provision of water is a challenge, particularly in small, disadvantaged and rural communities.

Chapter 1, Statutes of 2008 (SBx2 1, Perata), required the State Water Resources Control Board (State Board), in consultation with other agencies, to prepare a report to the Legislature to outlining the causes of groundwater contamination and identifying potential remediation solutions and funding sources to recover state costs of providing clean drinking water to all communities. This report, prepared by UC Davis researchers, provides the basis for much of the groundwater and drinking water discussion this year. In addition, Chapter 685, Statutes of 2012 (AB 685, Eng) declares that it is the established policy of the state that every human have the right to water for domestic uses. The bill requires state agencies to consider this as they move forward with water policies in the future. The Legislative Analyst's Office, Senate Office of Research and UC Davis all provide a good background for this budget discussion, which are summarized in this analysis.

The Groundwater-Drinking Water Connection. Throughout the state, groundwater supplies all or part of the water supply for public water systems. In any given year, groundwater may contribute between 20 and 40 percent of the state's water supply. However, in many communities where surface water (rivers and streams) are not accessible or economically feasible, groundwater provides 100 percent of a community's water supply. Nearly half of all Californian's obtain at least some of their water from groundwater.

What is A Small, Disadvantaged Community? For the purposes of state water programs, a small disadvantaged community (SDAC) is a community with a population of less than 20,000 persons and a median household income of less than 80 percent of the statewide median. The challenges SDACs face in implementing wastewater projects generally result from a lack of adequate local monetary resources, combined with insufficient access to technical expertise. Due to their small rate base, SDACs lack the economies of scale to build and maintain adequate water systems. They are also commonly located in rural, sparsely-populated areas, that require greater pipeline and pumping infrastructure. Many SDACs are on failing septic systems or have old and undersized wastewater treatment plants that cannot meet current water quality standards. Some residents are even forced to discharge wash water directly onto their lawns and/or experience sewage overflowing into their houses and yards. Such systems can cause significant health and safety problems, endanger surface water uses, and pose a threat to groundwater supplies.

State Agencies Involved with Groundwater/Drinking Water

Department	Key Water Quality Responsibilities
Department of Public Health	• Enforces the federal and state safe drinking-water acts. • Ensures the quality of the state's drinking water from the point where water is pumped from a drinking water well or surface water intake point.
California State Water Resources Control Board and Regional Water Quality Control Boards	• Protects the quality of surface water and groundwater to the point where the water enters a drinking water well or surface water intake point.
California Department of Pesticide Regulation	• Develops mitigation measures to prevent pesticide contamination of groundwater and surface water.
California Department of Toxic Substances Control	• Ensures that groundwater at toxic sites is monitored and remediated.
Office of Environmental Health Hazard Assessment	• Performs health risk assessments related to setting drinking water standards.
California Public Utilities Commission	• Ensures that customers of regulated water utilities receive reliable service.
Delta Stewardship Council	• Improves Sacramento–San Joaquin Delta water quality for drinking, agriculture, the environment, and Delta species.

Source: Senate Office of Research, 2011

What Happens When Groundwater is Contaminated? Groundwater can be an inexpensive water source. However, discovery of contamination in a drinking water well often leads to closure of the well. In areas where other sources of water or alternate groundwater resources are not available, bottled water may be the only available water supply. In 2007, approximately 1.5 million California residents – four percent of the population that gets water from public water systems, received water from a system that had a monitoring or reporting violation under the Safe Drinking Water Act. In the Tulare Lake Basin and Salinas Valley, both subject of an intensive analysis of water pollution, about 254,000 people are at risk for nitrate contamination of their drinking water. The Department of Public Health reported that nitrate was detected in 921 public drinking water wells, mostly in agricultural areas, prior to a 2008 hearing.

According to a 2008 LAO report, cleaning up groundwater can be very expensive. For example, the Underground Storage Tank (UST) Cleanup Fund was established in 1989 to provide financial assistance to owners and operators of USTs containing petroleum to remediate conditions caused by leaking USTs—which include contamination of groundwater supplies. Annual expenditures have varied between $180 million to $289 million in the ten years prior to 2008, and individual site cleanups have reached as much as $1.5 million. In some cases, where contamination is too severe, the groundwater supply is completely lost and the only solution is to either seal the groundwater basin or to "pump and treat"—meaning removing the water from the basin, treating it and discharging into another water system. Groundwater systems with this type of contamination generally remain out of service for drinking water purposes in perpetuity.

Why Focus on Nitrates? Groundwater use is prevalent throughout California but no more so than in the Central Valley and rural agricultural areas where more than 85 percent of community public water systems rely on groundwater for at least part of their drinking water supply. According to the UC Davis report, nitrate is one of California's most widespread groundwater contaminants. This is, in part, because many rural areas get water from shallow wells. These wells in turn are contaminated by both household wastewater and agricultural runoff. While nitrogen is part of the natural environmental cycle, it is also key to food production and is a major component in commercial fertilizers. Because of this, nitrate concentrations have increased and continue to do so, particularly in rural areas. Too much nitrogen in drinking water can cause many human health problems, particularly in infants and children.

Historical Funding of Groundwater and Drinking Water Programs. Regulation of water quality, both drinking water and source water (such as groundwater) has historically been paid for by the general public, mainly through fees to public and private water and wastewater providers. A portion of these fees are used by the state to regulate, monitor and clean up water quality. The Federal government also provides between $5 and $10 million per year for water quality programs, mainly through federally authorized revolving loan funds that provide low or no-interest loans for infrastructure investments at the Department of Public Health (DPH) and the State Board. Funding for individual cleanups are generally ordered by a court and can reach millions of dollars paid either by responsible parties or by the government, where no responsible party can be found.

Options for Funding Groundwater Cleanup in Small, Disadvantaged Communities. The UC Davis study on nitrates in drinking water recommended several options for funding water quality improvements. Recognizing that nitrates are a primary source of ongoing and legacy contamination of water quality in these systems, the report provides a series of options to fund both groundwater cleanup and safe drinking water systems in areas with nitrate water contamination. These include fixed fees on drinking water, groundwater pumping fees, fertilizer taxes, property taxes and fees on bottled water. Each option has advantages and disadvantages, and each varies in the direct incentive to reduce nitrates.

GOVERNOR'S PROPOSAL:

No Comprehensive Proposal. The Governor's budget does not include a formal proposal for comprehensive funding for small, disadvantaged community water systems. The Administration intends to recommend efficiencies and alignments to ensure access to safer water. While no timetable has been set, the budget states that the State Water Board will recommend potential funding mechanisms to provide disadvantaged communities with safe, affordable, and reliable drinking water. Stakeholders will be consulted in the development of a proposal to improve the administration of water programs and implement sustainable funding mechanisms.

Small Community Grant Program. The budget also includes a proposal to augment $7 million in local assistance authority for the State Water Pollution Control Revolving Fund Small Community Grant Fund (Grant Fund). This fund is designed to assist small disadvantaged communities with their wastewater infrastructure needs. The grant fund was established in 2008 through an annual charge on financial agreements in lieu of interest. These charges are anticipated to collect about $7.1 million in the budget year and supplement bond funds that were appropriated by the Legislature in previous years. New bond funds designated for small disadvantaged community (SDAC) wastewater projects have not been approved since 2002.

In recognition of the repayment challenges facing SDACs, the Legislature and water boards allowed for principal forgiveness funds, which are similar to grant funds, within the Clean Water State Revolving Fund program in 2009. This was in conjunction with an influx of funds from the American Recovery and Reinvestment Act (ARRA) program. Principal forgiveness and grant funding for SDAC Wastewater project demand is mainly for upfront planning costs to get projects moving forward with construction. The state board encourages the use of the funds in order to prevent enforcement actions for non-compliance in these water systems, and to help SDACs develop long-term wastewater system development.

ISSUES TO CONSIDER:

Action on Small Disadvantaged Communities. Given the number of reports on SDACs and the comprehensive analysis provided by the UC Davis nitrate report, the Legislature should have enough information to begin a discussion of policy and funding options. The complexity of the issue will necessitate both a budget and policy response. Several issues to consider include:

- Should smaller community water and wastewater systems be required to combine in order to achieve greater efficiency of service?
- Should the Legislature further restrict nitrate contamination in rural areas, and if so, what would be the impact to these communities?
- If it is possible to treat nitrate contaminated water, what funding mechanism provides the most options for comprehensive water quality solutions with the least financial impact?
- What would be the impact on disadvantaged communities of making well logs public?

Shifting Drinking Water to the Water Board. Though the budget does not specifically address this issue, there are hints that the Administration is considering a shift that would place the Department of Public Health (DPH) drinking water programs under the State Water Board's jurisdiction. This would allow for the combination of the two federally funded infrastructure loan programs (drinking water and wastewater), and could bring efficiencies in the administration of water programs, particularly in rural areas. SB 117 (formerly authored by Senator Rubio), introduced this year, would transfer the various duties and responsibilities imposed on the DPH by the California Safe Drinking Water Act to the State Board and make conforming changes.

Questions for the Agency. The department should address these questions in their opening statement:

- What progress has been made on determining whether integration of the drinking water programs with water board programs makes sense?

- What are the current funding options available to the state to comprehensively address both ongoing monitoring of groundwater as well as cleanup and treatment of contaminated drinking water, particularly from nitrates?

Recommendations:

1. **APPROVE** the budget proposal for Revolving Loan Fund augmentation.

2. **REQUEST** the Administration to return at May Revision with a proposal to elevate the drinking water program by shifting it to Cal-EPA.

3. **APPROVE** placeholder TBL to require well logs to be made public.

4. **APPROVE** budget bill language requiring the department to include a budget proposal in January 2014 that addresses concerns raised by this subcommittee and its internal and contracted reports that indicate a need for ongoing and permanent solutions to nitrate groundwater contamination.

Vote:

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

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

Thursday, April 11, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

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.

DEPARTMENTS PROPOSED FOR VOTE ONLY

3100 California Science Center

1. **Reimbursement Authority Reduction.** Request for a $413,000 reduction in reimbursement authority to reflect more accurately the reimbursement expenditure level realized in the Governor's Budget display. No impact to General Fund or position authority.

3960 Department of Toxic Substances Control

2. **Registered Environmental Assessor Program.** Request to eliminate position and expenditure authority pursuant to Chapter 39, Statutes of 2012 (SB 1018, Leno) for the Registered Environmental Assessor Program.

3980 Office of Environmental Health Hazard Assessment

3. **Renewable Energy Resources: Risk Assessment of Biomethane.** Request $139,000 and one position from the Public Utilities Reimbursement Account to comply with Chapter 602, Statutes of 2012 (AB 1900, Gatto), and corresponding budget trailer bill language.

4. **Toxicologic Evaluation and Outreach to Combat Invasive Species.** Request for one position (reimbursement authority from the California Department of Food and Agriculture) to provide scientific support to combat Asian Citrus Psyllid and other invasive pest species.

3810 Santa Monica Mountains Conservancy

5. **Capital Outlay and Local Assistance Grants – Santa Monica Mountains Zone and Rim of the Valley Trail Corridor Projects.** Request for three separate extensions of liquidations from 2004 and 2006-2008 (Proposition 12 and 40 bond funds) as well as a new appropriation for the remainder of Proposition 12 funds in the amount of $43,000 to continue the existing approved strategic plan for the Conservancy.

6. **Baseline Support Budget.** Request for reversion of previous year's Proposition 84 bond funds and reduction of existing allocations by $55,000 to maintain existing baseline support budget.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

7. **Proposition 50 Reversion.** Request to revert $273,000 from 2006 a capital outlay appropriation to provide funding for program delivery consistent with bond requirements. This would maintain existing staffing levels and operating budgets.

3830 San Joaquin River Conservancy

8. **Environmental Restoration, Public Access and Recreation.** Request $1 million (reimbursement authority) to continue the Conservancy's capital improvement program for the benefit of the public. These Proposition 84 funds are appropriated to the Wildlife Conservation Board on behalf of the Conservancy.

3850 Coachella Mountain Conservancy

9. **Continued Land Acquisition Program (Spring Finance Letter).** Request for appropriation anew from expired appropriations to continue the mission of the Conservancy. Funds are intended to be used for the original purpose of the appropriations (which expired in 2009 and 2010). This includes $343,000 (Proposition 12), $456,000 (Proposition 40); $3.3 million (Proposition 84); and, $384,000 (Proposition 84).

Recommendation: **APPROVE** Items 1-9

Vote:
Items 1-4 (3-0)
Items 5-9 (2-1, Nielsen)

3940 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. The state contracts to provide fire protection and prevention services in six local areas.

Governor's Budget. The Governor's Budget includes $1.3 billion ($678.7 million General Fund) and 6,886 positions for the Department.

Items Proposed for Vote-Only

1. **Cooperative Forestry Assistance Renewal.** The Governor's Budget requests Federal Trust Fund ($7,493,000 in the budget year and $37,465,000 over the following five years) and ten limited-term position authority (through June 30, 2018) to provide grant administration and technical oversight for the department's Cooperative Forestry Assistance (CFA) programs. The requested funding is necessary to provide assistance to California's private forest landowners and urban community forests. Current funding expires on June 30, 2013.

2. **AB 1566—Above Ground Petroleum Storage Act Oversight.** The Governor's Budget requests $366,000 and two permanent positions from the Unified Program Account (UPA) and $309,000 UPA ongoing to perform field evaluations, conduct necessary research, develop policy and guidance, and provide technical support to the Certified Unified Program Agencies who oversee the Aboveground Petroleum Storage Act Program, authorized by AB 1566, Statutes of 2012.

3. **Baker Fire Station—Relocate Facility (Capital Outlay).** The Governor's Budget requests a supplemental appropriation ($200,000, Public Buildings Construction Fund) to acquire a suitable parcel to relocate the two-engine Baker Fire Station. This request is a scope change to the design and construction appropriation included in the 2010-11 Budget Act (Lease Revenue Bonds, $10,415,000). The current lease holder has not agreed to the terms of a lease required by Bond Counsel, driving the need to acquire a new site to build the fire station.

4. **Parkfield Fire Station—Relocate Facility (Capital Outlay).** The Governor's Budget requests a supplemental appropriation ($283,000, Public Buildings Construction Fund) to acquire a suitable parcel to relocate the one-engine Parkfield Fire Station. This request is a scope change to the design and construction appropriation included in the 2009-10 Budget Act (Lease Revenue Bonds, $7,209,000). The property is no longer a viable site due to a major archaeological finding on the property.

5. **Administrative Correction Advances.** The Governor's Budget requests a change in statutory responsibilities, pursuant to Budget Letter BL 11-18, to eliminate the non-critical functions and reduce the statutory responsibilities of the Department, which will allow CalFIRE to meet workload within its authorized spending levels. This is a no cost and no savings proposal because any unqualified marginal savings from eliminating this workload will be redirected back into core mission services and provides more complete internal customer services.

Staff Comments: Staff concurs with the necessity of the above proposals. However, in order to continue strong oversight of the department's activities, staff recommends the subcommittee approve Item 5 (Administrative Correction Advances) with the understanding that this will be modified to continue reporting of information related to: (1) internal accounting, administrative control and monitoring; and, (2) fire prevention activities (to the extent these are not included in other reports); and, (3) State Board of Forestry regulatory actions (to the extent another form of reporting is not available).

Recommendation:

APPROVE Items 1-4.
Item 5, **APPROVE** modified proposal.

Vote:

Items 1-4 (3-0)
Item 5 (2-0, Nielsen)

Items Proposed for Discussion

1. WiFITER FUND (Information Item)

Recommendation: Due to (1) recent action by the Joint Legislative Audit Committee to order an audit of this fund, and (2) pending litigation impacting the fund, staff recommends this remain an informational item.

Vote: (No Action)

Staff instructed to work on drafting language to provide greater oversight and notification on off-budget accounts including settlement funds.

2. Local Government Cooperative Agreements

Recommendation:

APPROVE budget proposal.

Vote: (2-0, Jackson)

3. Vegetation Treatment Program

Recommendation:

Vote: Item Held Open until May 9

3930 Department of Pesticide Regulation

Items Proposed for Vote-Only

1. **Structural Pest Control Board—Reimbursement Authority.** The Governor requests increased reimbursement authority of $284,000 that was inadvertently excluded from the original Governor's Reorganization Plan No. 2 of 2012. This will enable the board by coordinating statutorily required training and investigation activities related to enforcement of structural pest control laws and regulations at the local level.

Recommendation: **APPROVE** Item 1.

Vote: (3-0) ***Items Proposed for Discussion***

1. Mitigating Pesticide Use to Protect Environment

Recommendation:

(1) APPROVE LAO Recommendation (four positions and $683,000).

(2) APPROVE Budget Bill Language requiring the department to complete five risk assessments on high priority pesticides per year.

Vote: (3-0) to approve the proposal as budgeted (5 positions) with budget bill language including the following:

- **Require an efficiency study to improve the ability of the department to streamline risk assessments and reduce backlogs due January 10, 2014.**
- **Conduct 5 risk assessments per year with a focus on health impacts.**

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 (no General Fund) and 687 positions for support of the department.

Items Proposed for Vote-Only

1. **Transfer of the Office of Education and the Environment (OEE) to CalRecycle.** Request to complete statutorily required transfer of OEE from Cal-EPA to CalRecycle. This is a net-zero shift in positions. A total of $2.3 million (expenditure authority) and 10 positions are proposed to be shifted. This proposal includes trailer bill language.

2. **Shift CalRecycle from Resources Agency to Cal-EPA.** Request to complete statutorily authorized transfer of CalRecycle to Cal-EPA. This proposal was approved and completes the Governor's Reorganization Plan No. 2 that was approved by the Little Hoover Commission in May 2012, and was subsequently not rejected by either house of the Legislature. There is no budget or position impact to this shift.

3. **Cleanup Trailer Bill Language for Carpet and Paint.** Request for trailer bill language for both the Architectural Paint Recovery Program and Carpet Stewardship Program in order to change the payment of the administrative fees supporting these programs from yearly to quarterly in arrears in order to improve cash flow for the programs.

4. **Captive Insurance: Solid Waste Facilities.** Request for $260,000 in reimbursement authority to implement Chapter 713, Statutes of 2012 (AB 480, Solario). AB 480 temporarily revises the conditions under which the use of captive insurance as a financial assurance mechanism for solid waste landfills would be allowed.

5. **Hazardous Waste Grant Authority.** Request for $81,000 (Integrated Waste Management Fund) to supplement the Household Hazardous Waste Grant Program. This allocates the department's receipt of judgment funds from *People v. Costco*, which require the retail chain to pay for mishandling of hazardous waste material.

Recommendation: APPROVE Items 1-5.

Vote: All items held open

1. Beverage Container Recycling Program Reform

Recommendation: **APPROVE** as proposed, including trailer bill language.

Vote: **Held Open**

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (Regional Boards) preserve and enhance the quality of California's water resources and ensure proper allocation and effective use. These objectives are achieved through the Water Quality and Water Rights programs.

Governor's Budget. The Governor's Budget includes $675 million ($15 million General Fund) and 1,505 positions for support of the State Water Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Criteria for Indirect Potable Reuse of Recycled Water.** Request $700,000 (Waste Discharge Permit Fund) to support efforts by the California Department of Public Health to adopt water recycling criteria for indirect potable use.

2. **Augment Water Rights Program 20 Federal Authority for US Bureau of Reclamation Reimbursement.** Request for $75,000 (reimbursement authority) for the cost of administering water rights held by the U.S. Bureau of Reclamation. The cost of the administering these water rights is covered through a reimbursement contract with the Bureau rather than traditional water rights fees.

3. **Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program Subaccount Consolidation.** The budget proposes to consolidate local assistance and funding authority to reflect the elimination of the Installed Underground Storage Tank Program.

4. **Align Underground Storage Tank Cleanup Fund Authority.** The budget proposes a reduction of $48 million in state operations authority as a planned phase down of funding for the program. This proposal aligns funding authority with statutory fee levels.

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6. **Technical Bond Adjustments.** The budget requests a one-time reversion of specified amounts for various fiscal years of state operations funds for Propositions 13, 50, and 84, and the appropriation anew for funding of new projects under existing programs.

7. **Wastewater Operator Certification Fund Augmentation.** The budget requests an augmentation of $586,000 for the Wastewater Operator Certification Fund to (1) support new workload of certifying operators for privately-owned treatment plants per revised regulations, and (2) maintain the current workload of certifying publicly-owned wastewater treatment plant operators.

Staff Comments. Staff concurs with the necessity of these proposals.

Recommendation: **APPROVE** Items 1-7.

Vote:

Items 2-6 (2-0, Jackson)
Items 1, 7 (Held Open)

Items Proposed for Discussion

1. Groundwater and Drinking Water Cleanup

Recommendations:

1. **APPROVE** the budget proposal for Revolving Loan Fund augmentation.

2. **REQUEST** the Administration to return at May Revision with a proposal to elevate the drinking water program by shifting it to Cal-EPA.

3. **APPROVE** placeholder TBL to require well logs to be made public.

4. **APPROVE** budget bill language requiring the department to include a budget proposal in January 2014 that addresses concerns raised by this subcommittee and its internal and contracted reports that indicate a need for ongoing and permanent solutions to nitrate groundwater contamination.

Vote:

Item 1 (2-0, Jackson)
Items 2-4 Held Open

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, April 18, 2013
Upon Adjournment of Committee on Budget and Fiscal Review
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

Proposed Discussion / Vote Calendar:

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.

Item Number   Department or Agency

2600   California Transportation Commission

Agency Overview: The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs. Beginning in 2013-14, the CTC will fall under the purview of the new Transportation Agency, pursuant to the Governor's Reorganization Plan #2 (GRP 2).

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

Issues proposed for Discussion / Vote:

1. **California Transportation Commission's Projects (Information Item).** State law mandates that the CTC report to the Legislature each year identifying timely and relevant transportation issues facing the state and summarizing its major policy decisions in the past year. Overall, in 2011-12, the CTC allocated over $5.5 billion in state and federal transportation funding, helping the state to achieve transportation construction activity in excess of $9.5 billion in state construction contracts. This is the seventh consecutive year that the CTC has allocated more than $4 billion to transportation projects.

   The CTC continued its role with the delivery of the Proposition 1B Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006. To date, the CTC allocated over $9.5 billion of the $11.6 billion of Proposition 1B funds under its purview, primarily to projects that were ready to commence construction. In addition, the CTC adopted the 2012 State Transportation Improvement Program for 2012-13 through 2016-17. The adopted program includes $2.5 billion in highway and road projects, about $511 million in rail and transit projects and about $418 million in transportation enhancement projects.

   Given the increasing transportation needs, there will be pressure to do more with fewer resources, requiring collaboration among departments over this next year to identify and support, as applicable, initiatives that if implemented, would streamline business practices, reduce regulatory barriers, eliminate threats of unnecessary litigation, and incentivize wise land-use and other decisions. Identifying the role of the state with regard to the development and management of the transportation system is a critical factor that will shape these discussions.

In its report, the CTC identified the following issues as a focus for the current year

- **Statewide Transportation System Needs Assessment.** In response to a statewide multimodal needs assessment presented to the Commission in 2011, the CTC is focusing on identifying recommendations for revenue solutions and cost savings measures that, if implemented, would address the projected funding shortfall. The needs assessment identified a projected $296 billion funding shortfall over the next ten years.

- **New Federal 'Moving Ahead for Progress in the 21st Century Act' (MAP-21).** MAP-21 makes significant changes to the federal transportation program and funds for surface programs for federal fiscal years 2012-13 and 2013-14. The two years of funding in MAP-21 provide more financial certainty than the series of continuing resolutions passed since the expiration of the prior federal Surface Transportation Act (SAFETEA-LU). The CTC is working with its transportation partners in recommending any legislative actions that may be necessary to fully implement MAP-21 going forward.

- **Innovative Delivery Methods for Transportation Projects.** The lack of clarity and the uncertainty of the public-private partnership (P3) process outlined in Streets and Highways Code Section 143, and how the Administration and the Legislature may respond to future projects may lead to diminished interest by private and public sectors in pursuing additional P3 projects. CTC indicates that it is critical that legislation is enacted to provide the necessary clarifications and intent for P3 projects in California.

Staff Comment and Questions: CTC staff should provide the committee with a brief overview of its current activities and emphasis for the budget year. Given the increasing demands for transportation maintenance and improvements, the committee should be provided information on funding alternatives.

> <u>*Questions*</u>*: (1) What types of alternative funding mechanisms and project delivery approaches is the CTC developing or working on? (2) Is legislation currently necessary for MAP-21? Are there other measures that should be undertaken for this proposal to be implemented appropriately, or has the time passed given that we are well into the two-year program time? (3) Given the largely problematic history of P3 projects, what role should this approach play in implementing statewide projects? (4) Can the Agency provide its perspective on the work groups related to the needs assessment?*

Staff Recommendation: No action required. Information item.

2. **Public Private Partnership Review (Budget Bill Language).** The Administration requests budget bill language that would authorize the Department of Finance to augment the CTC's budget—with reporting to the Joint

Legislative Budget Committee (JLBC)—by up to $400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design-build contract method and the public-private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), Section 143 of the Streets and Highways Code, which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2011 Budget Act included this language, but the Administration inadvertently omitted it from this year's budget proposal. No Finance Letter has been submitted but the CTC has indicated it supports restoration of this budget bill language for the 2013 Budget Act.

The consultant will provide expertise, advice, representation, and assistance in order to fulfill the CTC's responsibilities in the event it receives a Public Private Partnership proposal. The consultant will provide an opinion as to whether the proposal submitted by Caltrans and/or regional or local transportation entities meets the CTC's scope and criteria for approval. The consultant will provide the CTC with an independent evaluation and report of the reasonableness of the information presented in relation to a P3 project, including, but not limited to, the reasonableness of financing methods, lifecycle cost, cash flow analyses, cost/benefit analysis, debt structuring, and other financial models and/or reports submitted to the CTC.

Staff Comment: The CTC spent $160,000 in consulting services to review the most-recent P3 project proposal—Doyle Drive in San Francisco. Funding authority anticipates about two P3 projects for annual review, with an average cost of $200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment. The budget bill language would allow for the expenditure if projects come forth, but the project review would need to be approved by DOF with notification to the JLBC. Caltrans has provided a listing of potential P3 projects that may come forward in the budget year and in future years.

Staff Recommendation: Approve the proposed budget bill language.

Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles. The department operates the following programs: the vehicle and vessel identification and compliance; driver licensing and personal identification; driver safety; occupational licensing and investigative services; and the new motor vehicle board.

Budget Overview: The Governor proposes total expenditures of $994 million (special funds and reimbursements) and 8,209 positions, which, after technical adjustments, is fairly similar to the adjusted 2012-13 funding level. The increase of roughly $50 million from current year to budget year is largely related to an increase in resources due to the cessation at the end of the fiscal year of the day per month furloughs for state employees.

Items Proposed for Discussion and Vote:

1. **Information Technology Modernization Project (Information Item).** The DMV initiated the Information Technology Modernization (ITM) Program in 2006 as a means to replace the department's 40-year old legacy computer systems with a sustainable, scalable, and readily supported technology solution. The cost of the system was estimated to be $242 million. The project was designed to be implemented as several subprojects, each of which was to be independently operational. In 2007, DMV awarded a $76 million contract to Electronic Data Systems (EDS) to update the state's driver license and vehicle registration systems. (EDS was purchased by Hewlett-Packard Enterprise Services [HPES] in 2008.) As of the date of this analysis, $50 million of the $76 million contract has been paid to HPES for work on the four subprojects, including the completed upgrade of the driver license system.

   The department updated the cost and modified the schedule through a Special Project Report (SPR) in September 2008. Updated information received through the planning phase reduced total project cost to $208 million. The project's development, conversion, and consulting services cost categories were reduced by $50 million. Updated cost estimates for other categories increased somewhat, resulting in a net overall cost reduction of $34 million from the previously approved $242 million. Although the planning and procurement phases took five months longer than expected, the SPR modified the schedule to start project tasks sooner and in parallel so that the full implementation would remain as previously scheduled for May 2013.

   Over the last year, DMV worked to complete the project on schedule. As the project progressed, disagreements arose between the department and HPES regarding the quantity of vendor staff necessary, and their required experience, to effectively manage the workload and maintain the project on schedule. According to DMV, the disagreements seriously and negatively affected the project schedule, and it became evident to DMV that the May 2013 completion date was not achievable. The department entered into a discussion with HPES to establish a plan for resetting the project's trajectory towards a successful completion. The major concerns of DMV were documented in a cure notice issued in May 7, 2012, which expressed significant concerns regarding HPES's ability to successfully complete the project. According to the DMV cure letter, HPES failed to provide acceptable and timely work products and was in breach of contact. The DMV specifically raised concerns regarding the: (1) lack of key vendor staff and inadequate staff experience; (2) vehicle registration replacement system delays and lack of schedule; and (3) programming language replacement delays and lack of schedule.

HPES submitted a response to the cure notice as required on May 23, 2012. In its response, HPES acknowledged the need to address the issues raised by DMV, offered a description of the actions it would take to resolve DMV's concerns, and provided a series of recommendations intended to enhance the prospect of successfully completing the project. The DMV and HPES attempted to work towards a mutual agreement for resolving the issues raised by DMV in the cure notice. After eight months of discussion, DMV and HPES had not reached a mutual agreement regarding the cure notice issues, mainly regarding: (1) the timeframe for completing the remaining subprojects; and (2) the personnel needed and their required level of expertise.

Based on the lack of progress in the discussions, the California Technology Agency (CTA) terminated the ITM Project on January 31, 2013. The letter notifying DMV of the project's termination directed the department to immediately suspend all work related to certain activities, but directed DMV to complete the driver license component of the project. At the time of the termination, the driver license upgrade had been implemented in all 170 field offices and call centers. However, while deployment of the new driver license system to DMV Headquarters had been initiated, this project component was not yet complete.

Subsequent to the project termination, DMV signed a contract amendment with HPSE to reduce the scope of work and shorten the effective duration of the project. As part of the contract amendment, DMV and HPES agreed to a closure plan that called for final activities associated with the upgrade of the driver license system to be completed by March 31, 2013. HPES also agreed to provide DMV documentation to assist with the state's management of this system. Finally, HPES agreed to pay DMV $1 million (netting amounts still owed by the state against amounts paid for work that was complete but no longer usable given the termination of the project).

As of January 2013, a total of $135 million has been spent on the project including: (1) $50 million paid to HPES for work on updating the driver license system; (2)

$15 million paid to various other contractors for services including project oversight; (3) $18 million spent on DMV staff working on the project; and (4) $32 million spent on data center services, including data storage.

The DMV and CTA are currently collaborating to determine the best way to complete the remaining parts of the ITM Project, including the upgrade to the state's vehicle registration system. According to DMV, it intends to work with CTA and an independent contractor to both assess the challenges of the ITM Project and also document possible lessons learned, before a proposal to complete the remaining components of the project is developed. The timeline for completing this analysis is unknown, but DMV indicates it prefers a thorough evaluation rather than moving forward with a new proposal to complete the vehicle registration and other project components prematurely.

Staff Comment and Questions: As the department winds down the activities associated with the early termination of the ITM project, there are some key areas of concern for the Legislature. Some of these relate to the particular project, such as how much of the state's substantial investment can be salvaged. Other issues are broader and relate to the overall design of the state's approach to information technology projects and the level of oversight required.

Questions: *(1) Given the state's sizable investment in the ITM project, how much of this capital investment can be fully utilized? (2) How much of the additional functionality associated with the 'completed' components is lost due to the early termination? (3) Is the department's legacy system adequate to address the state's needs in the foreseeable future? (4) What is the current thinking regarding investment in needed technology improvements for the department? (5) Can the department and CTA address the lessons that can be applied from DMV's ITM experience? (6) When will the assessment of the ITM project be completed and in what format will it be made available to the Legislature?*

Staff Recommendation: No action required. Information item.

Vote:

2. **Autonomous Vehicles Safety and Performance (Governor's Budget BCP #6).** The Governor's Budget proposes a resource increase of $980,000 (special funds) and two, limited-term PYs for start-up costs associated with the implementation of Chapter 570, Statutes of 2012 (SB 1298, Padilla), which allows for the testing of autonomous vehicles by designees of an autonomous technology manufacturer. The budget increase is made up of $750,000 designated for contract payments to the Institute of Transportation Studies at UC Berkeley for development assistance with respect to regulatory drafting and $230,000 for state staffing.

Background: Autonomous vehicles (also known as a robotic cars or driverless vehicles) are capable of fulfilling the transportation capabilities of a traditional car without on-board guidance. As autonomous vehicles, they are capable of sensing the environment and navigating without immediate human input. Under the 2012 statute, DMV has been charged with the responsibility of adopting regulations no later than January 1, 2016, to specify insurance requirements, and for test, equipment and performance standards to ensure the safe operation of autonomous vehicles. The DMV is expected only to develop high-level regulations by 2015. Once the high-level standards are in place, the DMV will continue working with experts to develop more specific safety and performance standards. The completion of the detailed performance standards are expected to be completed in 2018-19 and may require additional funding in the future.

Staff Comments: Staff has no concerns with this proposal.

Staff Recommendation: Approve the budget request.

Vote:

3. **Grass Valley Field Office Replacement Project (Governor's Budget Capital Outlay BCP #1).** The Governor's Budget proposes funding of $6.5 million (special funds) for the construction phase of the Grass Valley DMV Field Office. The funding will come from the Motor Vehicle Account, State Transportation Fund, and the State Highway Account. The total cost of the project is $7.7 million. The preliminary plan phase of the project was funded in 2011-12 at a cost of $648,000 and the working drawing phase was funded in the current year at a cost of $526,000. This proposal continues the funding for the completion of the already-approved project.

   Background: Currently, the DMV shares a building with Department of California Highway Patrol (CHP), which, according to state standards, is space deficient by almost 300 percent. In addition to being undersized, the department reports that it lacks numerous critical space areas that are necessary for particular aspects of licensing and safety program delivery, including test stations, secured storage, and examiner workstations. The office is non-ADA compliant and is considered non-compliant infrastructure according to the California Building Code.

   Under the project proposed, CHP will vacate its part of the current building in 2013, and DMV will construct a new facility using the entire site. The project is a continuation of the previously approved project components in 2011-12 and 2012-13. The project will alleviate current space deficiencies and bring the facility into compliance with current fire, life safety and accessibility codes and regulations. The project meets DMV's strategic plan departmental goals as set forth in the department's 5-year infrastructure plan.

   Staff Comments: Staff has no concerns with this proposal.

Staff Recommendation: Approve the budget request.

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 on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for state employees and property. In addition to administration, the department manages three large programs relating to traffic management, regulation and inspection, and vehicle ownership security. Traffic management initiatives are designed to reduce impacts of traffic accidents, reduce traffic delays, provide protection and assistance to the public, and curtail terrorist threats. Regulation and inspection efforts are implemented through 16 facilities statewide and designed to reduce incidence of truck and bus accidents, protect the public from impacts of hazardous spills and improper operation of certain vehicles, protect farmworkers and children in specified vehicles, and ensure the payment of proper registration fees. Vehicle ownership security efforts are focused on vehicle theft prevention, assistance and training of CHP personnel, and investigation and prosecution of vehicle theft.

Budget Overview: The Governor's Budget proposes total expenditures of $1.9 billion (no General Fund) and 11,053 funded positions, an increase of roughly $35 million from the adjusted current-year level. Effective July 1, 2013, the department is moving from the Business, Transportation and Housing Agency to the Transportation Agency, pursuant to the Governor's Reorganization Plan #2 (GRP 2). Since departmental programs drive the need for infrastructure investment, the department has a related capital outlay program to support this requirement. The budget proposals for the budget are largely related to capital requirements and facility needs.

Items Proposed for <u>Vote Only:</u>

1. **Reduction in Reimbursement Authority (Governor's Budget BCP #3).** The Governor's Budget proposes that the reimbursement authority for CHP be reduced to more accurately reflect actual expenditures that occur. Reimbursement authority would be reduced by $17.8 million from $112.5 million in 2012-13 to $94.7 million in the 2013-14 budget.

   Background: Reimbursement constitutes about five percent of the funding for CHP. A review in recent years indicates that CHP's reimbursement authority is regularly in excess of actual expenditures. The proposal would thus improve the transparency of the budget by bringing its reimbursement authority to more closely align with anticipated spending levels.

   Staff Comment: Staff has no concerns with the proposal.

   Staff Recommendation: Approve the request.

   <u>Vote:</u>

2. **Augmentation for New Lease (Governor's Budget BCP #2).** The Governor's Budget proposes an increase in funding to accommodate expenses associated with the department's Bakersfield office. The requested increase is for $2.1 million (special funds) in the budget year and $2.4 million (special funds) beginning in 2014-15. The request is pursuant to a 2008-09 CHP request to replace the Bakersfield area office, which was approved by the Legislature. The budget year funding is largely for moving expenses, with occupancy lease payments constituting the major component in the out-years.

   Background: The CHP requested project approval in 2008-09 to replace the Bakersfield Area office using a lease-purchase option as outlined in Capital Outlay Finance Letter #3. Subsequently, the department's estimate of occupancy cost was approved and construction of the facility has been scheduled. The proposal is consistent with the department's five-year infrastructure plan and the CHP anticipates occupying the new facility in 2013-14.

   Staff Comment: The project will provide for a much-needed improvement in the department's infrastructure.

   Staff Recommendation: Approve the budget request.

   <u>Vote:</u>

Items Proposed for <u>Discussion and Vote:</u>

3. **Statewide Advance Planning and Site Selection (Governor's Budget Capital Outlay BCP #12.02).** The Governor's Budget calls for $1.5 million in funding (special funds) to begin studies to determine the replacement of up to five facilities and identify suitable parcels for these facilities. $400,000 is requested for the first activity and $1.1 million for the latter. In addition, the Administration requests budget bill language that would allow an augmentation of up to $10.0 million for parcel acquisition in the event that a parcel becomes available outside of the budget cycle.

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

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

Area office replacements can be procured in one of a few ways. The most common are ‘build-to-suit’ leases and direct capital outlay. With the build-to-suit procurement method, CHP contracts with a private developer to construct a facility and agrees to lease the facility from the developer for a predetermined number of years. At specified times during the built-to-suit lease, CHP has the option to purchase the facility from the developer. With the direct capital outlay procurement method, DGS uses funds from the MVA to both purchase the property and contract with a private developer to design and build the CHP facility. Under direct capital outlay, the state owns the facility and does not have ongoing lease payments.

Staff Comment and Questions: There is no question that much of CHP’s infrastructure is deficient, necessitating repair or replacement. Improvements cannot be accomplished all at once, for both capacity and financial reasons. Therefore, there must be a prioritization for carrying-out the required capital replacement program. The CHP has provided a document that indicates the facilities with a 5 or 6 denotation; however, additional information regarding the department’s plan for replacement, the order in which the 80 some odd facilities should be replaced, and the criteria (in addition to seismic rating) used for the prioritization has not be made available. In particular, this budget proposal does not indicate which five offices will be replaced and how they were chosen.

In addition, the Administration has proposed to use capital outlay for the five unspecified offices, whereas, previously it has argued that build-to-suit (discussed above) is more appropriate. It is not apparent why the Administration proposed last fall to replace three area offices with build-to-suit leases and now proposes to use a capital outlay method to replace five offices. Staff recognizes that there may be circumstances that favor one approach or the other; however, the Administration has not been able to explain what criteria it uses to select between capital outlay and build-to-suit approaches.

Last fall, in a letter response to a notification from DGS of its intent to execute three separate build-to-suit lease agreements on behalf of the CHP, the Chair of the Joint Legislative Budget Committee (JLBC) raised several issues, including the (1) absence of an updated CHP facilities plan that outlines its facility needs and priorities, and (2) lack of an assessment of the relative benefits of financing projects with the build-to-suit process or capital outlay. While the department has indicated that facility needs and priorities will be addressed in the 2013 Five-Year Infrastructure Plan, no systematic analysis has been made available to the Legislature regarding capital outlay and build-to-suit approaches. The JLBC expressed that such an assessment is essential to ensure that the most cost–effective method is chosen when building new CHP facilities.

Given the very real need for replacement or retrofitting of CHP infrastructure and the specific land requirements that make suitable properties hard to secure, the committee may want to consider approving the $400,000 for advance planning and $1.1 million for site selection, allowing these activities to run concurrently. However, unless the department can provide information at the hearing as to the five offices to be replaced and the selection criteria, such approval could be contingent on the receipt of the infrastructure plan that details the CHP's five-year needs. In addition, the approval could be coupled with the requirement to issue a report analyzing the appropriate application of the capital outlay and build-to-suit procurement methods. The proposed budget bill language addresses a potential issue regarding property availability and timing, but would circumvent the ability of the Legislature to adequately review and approve specific projects.

> *Questions:* *(1) What are the criteria that are used to analyze whether build-to-suit or capital outlay is the proper procurement method? (2) Can build-to-suit procurement be used for projects where the state owns the land? (3) What is the typical cost differential between build-to-suit and capital outlay?*

Staff Recommendation: Hold open appropriation request pending receipt of information that details the department's infrastructure priorities, such as the 2013 Five-Year Infrastructure Plan or a similar report. Adopt supplemental reporting language that requires the department, along with the Department of Finance, to develop criteria for using capital outlay or build-to-suit procurement methods. Reject proposed budget bill language.

Vote:

4. **Santa Fe Springs Area Office Replacement Facility (Governor's Budget Capital Outlay BCP #12.01).** The Governor's Budget proposes funding of $21.4 million (special funds) for the construction phase of the Santa Fe Springs area office. The entire project will consist of acquiring a four acre site (state surplus property), developing preliminary plans and working drawings, and constructing the building. Construction funds were approved in 2011-12, but because of site search delays, these funded were reverted. Thus, this request would reappropriate funds for the project.

   Background: The project has been delayed previously because of difficulties in locating a suitable site for the area office. The initial approval and appropriation occurred in 2007-08. In 2010-11, $1.3 million was approved for working drawings. In 2010, a site was identified and working drawing proceeded; however, this site later fell through and the working drawings effort was suspended. The CHP has now identified four potential sites for the project, the working drawings phase has resumed and acquisition is anticipated in 2013.

The current facility has been occupied for 45 years, is occupied well in excess of capacity, and no longer meets CHP's operational requirements. In addition, the building has structural, electrical, plumbing, and other deficiencies. The facility was designed for 60 male officers, and now has 135 male and females officers assigned. By way of comparison, offices with similar numbers of personnel are three times as large. The limited physical site precludes additions or renovations to the building. The structure is identified seismically as a 5 or 6 according to the DGS/CHP survey.

Staff Comment and Questions: Staff agrees with the necessity of approving funding for this proposal. One of the alternatives indicates that a build-to-suit approach would result in potentially completing the project at a slightly lower cost. However, the CHP indicates that this option is not suitable for the surplus property identified, resulting in further delays to find an alternative site. It also appears that the build-to-suit option may have increased costs due longer lease term if the state is not able to exercise a purchase option in the first two years.

Questions: *(1) What would be the delay if the CHP were to use build-to-suit rather than capital outlay on the project?*

Staff Recommendation: Approve the budget request.

Vote:

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, April 18, 2013
Upon Adjournment of Committee on Budget and Fiscal Review
Room: 2040

Consultant: Mark Ibele

Actions

Transportation

Proposed Discussion / Vote Calendar:

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

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

Thursday, April 25, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

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.

DEPARTMENTS PROPOSED FOR VOTE ONLY

0555 Secretary for Cal-EPA

1. **Transfer of the Office of Education and the Environment to the Department of Resources Recycling and Recovery (CalRecycle).** Pursuant to Chapter 39, Statutes of 2012 (SB 1018, Leno), this proposal transfers the Office of Education and the Environment from the Secretary's office at Cal-EPA to CalRecycle. The proposal shifts 10 positions and associated funding for the program.

Recommendation: APPROVE Item 1.

Vote:

3720 California Coastal Commission

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

Governor's Budget. The Governor's Budget includes $17.8 million for the operation of the Coastal Commission. This is a reduction of $300,000, mostly reflected in the completion of a significant data project at the Commission.

Items Proposed for Vote-Only

1. **Coastal and Marine Education Whale Tail License Plate Program.** The Governor's Budget requests $357,000 from the Coastal Beach and Coastal Enhancement Account (funds derived from the sale of Whale Tail license plates) for grants to nonprofits and government agencies consistent with its strategic program.

Recommendation: **APPROVE** Item 1.

Vote:

Items Proposed for Discussion

1. Adapting to Climate Change—Commission Responsibilities

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

In preparing to develop LCPs, many local governments have chosen to divide their coastal zone territory into several segments. This is done when a local government's coastal jurisdiction encompasses several distinct regions with different land use issues. A separate LCP is developed for each coastal segment. There are currently 128 coastal segments within the 76 coastal cities and counties.

An LCP must contain (1) a land use plan and (2) zoning ordinances to implement the land use plan. In general, LCPs must be designed to ensure maximum public access to the coast, provide recreational facilities, protect the marine environment, and otherwise promote the goals and objectives of the Coastal Act.

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

The Commission’s status of LCP review includes:

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

Sea Level Rise Adds Complexity. As has been seen throughout the country with Hurricane Sandy, as well as the recent “king tides” (very high tides) in Southern California, much of the developed California coast is susceptible to the impacts of sea level rise. In recent events, high tides inundated parts of the Pacific Coast Highway, Huntington Beach and other low-lying areas of Southern California. Parts of the San Francisco Bay Area also experienced flooding, including portions of Highway One in Marin County. These very high tides are considered a good indicator of the possible impacts of sea level rise and create challenges for local planners and developers in low lying areas.

Many of the areas without certified LCPs are at sea level, with significant development. These include most of the City of Los Angeles, including the airport, as well as parts of San Pedro and Venice. Also among the non-certified LCPs are the Santa Ana River, San Diego’s Mission Bay and the City of Santa Monica.

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

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

Questions for the Commission. The Commission should address the following questions in their opening statement.

- The commission cannot continue to be the coastal permitting agency for 36 jurisdictions along the California coast, particularly in light of sea level rise. How would the commission proposed to close this gap and help the remaining local entities to update their LCPs?
- What concerns does the commission have about sea level rise, particularly in areas where LCPs have not been certified?
- What would it take to make significant progress in updating and approving these LCPs and how do we ensure that those without certified LCPs move to certify?

Recommendation: Informational Item.

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 PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes $1.4 billion and 1,053 positions to support the CPUC in the budget year.

Items Proposed for Discussion

1. Update on Safety Oversight

Last year, the California Public Utilities Commission (CPUC) came to the Legislature with its "Global Safety" budget change proposal, claiming the San Bruno explosion was a "game changer" with regard to how the CPUC viewed its safety responsibility. The Legislature approved 22 positions to strengthen safety oversight and enforcement over gas, electric, communications and rail public utilities.

Background. On September 9, 2010, a natural gas transmission pipeline, owned and operated by Pacific Gas and Electric (PG&E), ruptured in a residential area in the city of San Bruno, California. The accident killed eight people, injured many more, and caused significant property damage. The released natural gas ignited sometime after the rupture and the resulting fire destroyed 37 homes and damaged 18 others.

Prior to the San Bruno explosion, the CPUC's safety staffing levels reflected its expectation that utilities inherently recognize public safety as their top priority. Thus, the CPUC focused on fulfilling its own state and federal mandates, primarily through audits, inspections, and after-the-fact investigations, conducted within industry-specific programs, in a reactive mode. The CPUC stated that San Bruno "was a game-changer in terms of how the commission intends to conduct critical safety oversight going forward. Recommendations from gas safety experts, the Independent Review Panel (IRP or Panel) and the National Transportation Safety Board (NTSB), as well as our own lessons learned, apply across all industries under our jurisdiction."

California's energy and transportation systems are antiquated, overloaded, prone to accidents, and need closer scrutiny. The majority of the electrical system was installed in the 1950s and 1960s, which means such facilities are nearing the end of their useful lives. Generators, poles, wires, pipelines, and tracks constructed in lightly populated areas in the 1950s, are now surrounded by homes, parks and schools. For example, PG&E installed the San Bruno gas transmission line in 1956, well before housing development in the area.

Safety Culture Investigation. Last year, the CPUC admitted that policy objectives took priority over safety, prior to the San Bruno explosion. CPUC's reactive safety strategy, premised on the assumption that utilities recognized public safety as their top priority, was inherently misguided. Both the NTSB recommendations and the IRP report validated the need for a comprehensive relook at natural gas pipeline safety and additional activities and resources at both the State and Federal level to ensure safe operation and support comprehensive safety program reform.

In the Fall of 2012, the CPUC engaged an independent consulting firm, for an undisclosed amount, to facilitate its "Safety Culture Change" project. This project began with an initial discovery phase, which consisted of a document review, interviews and focus groups. The purpose of this phase was to uncover the existing culture, identify culture changes needed, and to develop a draft problem statement that would allow the CPUC to plan its culture change strategy.

A report of this discovery phase was released to the CPUC on January 25, 2013. It identifies significant cultural problems at the CPUC and a fundamental failure of leadership. The report strongly suggests that safety concerns continue to be a secondary priority at the CPUC and this message is transmitted from leadership to staff and the utilities it regulates. Through months of focus groups and interviews with employees, the report identifies a few of the prevailing perceptions of the employees at the CPUC:

- "For the past ten years we have been mostly focused on climate change policies. Everything else takes a back seat. We have not been focused on creating the safety infrastructure."

- There has been a lot of lip service to safety. I have not seen enough action yet to back up the talk."

- "When Commissioners vote, they don’t support safety, so there’s no incentive for the utilities to be safer. If they knew they were 100 percent liable for safety problems, they’d take it more seriously. If the commission lets them put the burden on ratepayers, rather than shareholders, there is no incentive for the utilities to change.”

The core mission of the CPUC is to ensure "safe, reliable utility service and infrastructure at reasonable rates." In the past several years, the CPUC has focused on other non-statutorily directed activities, including the Electric Program Investment Charge (EPIC), the Climate Change Institute, grants of ratepayer funds to Lawrence Livermore Laboratory, and implementing the 33 percent Renewables Portfolio Standard (RPS) several years prior to Legislative direction. Results of the San Bruno explosion investigation revealed that the CPUC was unaware of PG&E's under-spending on gas safety measures. In so directing resources to unauthorized activities, the CPUC has neglected its statutorily and constitutionally-mandated core functions to ensure compliance with safety requirements.

Staff Comments. This issue provides a basis for discussion of several items in the agenda that following. While there may be a response to the issue of prioritizing safety, it seems clear that the CPUC has spent considerable time on some policy objectives while deprioritizing critical functions such as safety, budgeting, and basic ratemaking. In meetings with staff of the CPUC, generally the discussion focuses on requests for more positions at all levels because, for example, when proceedings come up, there are not enough administrative law judges to hear cases, or not enough individuals to budget. These requests make it seem as though the CPUC is short-staffed, and unable to complete its basic core functions. As will be discussed under other items, staff suggests the CPUC is fully staffed and rather would better serve the public and its mission by eliminating unnecessary and extracurricular policy projects and focus its staff from top to bottom on its core mission—safety oversight and ratemaking.

Recommendation: Informational Item.

2. Public Utilities Commission Performance Audit

Background. On January 10, 2013, the Department of Finance (DOF) Office of State Audits and Evaluations (OSAE) released its performance audit of the CPUC budget process. The audit identified significant weaknesses with CPUC's budget operations that negatively affect the commission's ability to prepare and present reliable and accurate budget information. Specifically, the audit found that:

- The organizational structure of CPUC does not facilitate cohesive budgeting practices.

- The CPUC's budget forecasting methodologies produced results that differed significantly from actual results, with most of these differences unexplainable.

- Cases of fiscal mismanagement in which accounting records for certain funds were misrepresented and incorrect. For example, OSAE identified records that did not include certain fund transactions that ranged from roughly $40,000 to $275 million.

- The CPUC's reconciliations of certain funds—where there were differences between DOF and State Controller's Office records—were inaccurate. (In order to reconcile current year, as well as past variances, the Administration made total budget adjustments in the hundreds of millions of dollars.)

- According to the audit, CPUC must implement and strengthen the fiscal controls over its budgeting practices and procedures in order to produce reliable and accurate budgetary information for the Governor, the Legislature, DOF, and other stakeholders.

Governor's Proposal. The Governor requests $210,000 and 3 positions to provide budget support to the CPUC, including internal budgeting allocations and expenditure monitoring reporting.

LAO Concerns. The LAO reviewed the audit and found that in addition to the questionable internal budgeting functions, external auditing functions were also deficient. Specifically:

> "We find that the above OSAE audit raises several issues that merit legislative oversight, in order to ensure that CPUC's budget process becomes more transparent and accurate. We also note that the audit's findings regarding problems with the commission's internal budgeting and accounting practices raise questions about CPUC's ability to effectively audit the records and accounts of the utilities that it regulates. Under current law, CPUC is required to audit at least once every three years utility "balancing accounts." (Balancing accounts are authorized by the CPUC for specific projects, programs, or other requirements that the utility must implement in accordance with CPUC decisions.) These accounts are established by the utilities and used to track revenues and expenditures for such activities as electricity procurement, energy efficiency programs, and the EPIC program.

> Balancing accounts help to ensure that ratepayers only pay CPUC-authorized amounts and that the utilities will be able to recover the amounts needed to support their revenue requirements or costs. If a utility receives more revenue than is needed from ratepayers, then ratepayers receive a credit. Alternatively, if the utility has not received enough revenue, then ratepayers will be required to pay more to make up the difference."

Initial Legislative Response. The chairs of the Senate Budget Subcommittee #2, Assembly Budget Subcommittee #3 and the chairs of both the Assembly and Senate energy and utilities committees wrote a letter to the Joint Legislative Audit Committee recommending further audits of the CPUC's external auditing functions. Specifically, the question of balancing accounts and monitoring of the Investor Owned Utility funds was questioned.

Staff also performed a statutory review of the pertinent sections of code. Of relevance, Public Utilities Code (PUC), Section 314.5 states:

> "The commission shall inspect and audit the books and records for regulatory and tax purposes (a) at least once in every three years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving over 1,000 customers, and (b) at least once in every five years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving 1,000 or fewer customers. An audit conducted in connection with a rate proceeding shall be deemed to fulfill the requirements of this section. Reports of such inspections and audits and other pertinent information shall be furnished to the State Board of Equalization for use in the assessment of public utilities."

Staff Comments. The OSAE follows years of questions brought to the CPUC on: (1) its ability to manage funds; (2) the use of staff for policy purposes while budget monitoring seemed to be missing; and, (3) questions about fund balances on the many off-budget accounts managed by the CPUC.

In meetings with budget staff, CPUC executives attempted to divert responsibility for its external auditing functions to the Division of Ratepayer Advocates (DRA). (DRA will come before this committee under a separate item). However, as the LAO points out, the CPUC must audit utility balancing accounts (external accounts) every three years. The CPUC executives attempted to state that the DRA is required to conduct these audits with positions that have been approved by the Legislature over the years. After a review of statute, it is clear that statute authorizes the DRA to conduct audits in order to objectively review the CPUC's ratemaking cases. It is also clear that should DRA conduct an audit, the CPUC may use this in its evaluation of the utilities. However, nowhere in statute does it say that the DRA is responsible for conducting the every-three-year audits required by Section 314.5.

There remain several questions for the CPUC. Among them is the clear question of why budgeting is given such a low priority at the executive level of the Commission. The CPUC maintains that one person manages budgets for the over 1,000 person department, including managing funds for all of the relevant accounts maintained. This seems both highly unlikely and highly suspect.

The basic checks and balances seem to be missing, more so than in any other agency brought before this subcommittee. In most cases, the CPUC says that those responsible for budgeting were given "other policy duties" that subsumed their jobs. Culpability seems to remain at the highest levels of the agency, rather than line staff. The development of policy, rather than the execution of the core mission of the CPUC, will be discussed in the next agenda item.

Staff are reluctant to recommend approving additional positions for the CPUC. This issue, combined with others on this agenda, does not paint a picture of a capable state agency, particularly one whose responsibilities go far beyond simple rate-setting but rather to the core of safety in utilities, transit and rail. However, it seems clear that the CPUC does not have any budget staff with the exception of the recent hire of a budget administrator (whose recent promotion leaves no dedicated budget staff at the CPUC). Normally, in circumstances such as these where a need is clear but questions remain about the functions of the department, staff recommends limited-term positions. In this case, that recommendation might result in the hiring of lesser-caliber individuals who may not be able to manage the significant problems presented by the CPUC budget. Staff will reserve its recommendations for executive staff until a later agenda item.

It is apparent that the CPUC personnel, who were supposed to be maintaining budgets for the agency, were likely added more than 10 years ago and converted to other purposes over the years. Therefore, it seems clear that a reduction in staffing corresponding to the increase in budget staff is necessary. Staff recommends three positions in CPUC be made limited-term for one year and that these positions be made eligible for conversion to permanent only after a full review the CPUC's budgeting functions in the forthcoming year. These positions should be at the program administration level.

Questions for the Agency. The CPUC should address these questions in their opening statement:

- The CPUC has consistently maintained that it has never received budget staff; however, in the current Salaries and Wages there are a number of positions that could be budget-related. Many of these were approved many years ago as the divisions were established. What impact has the conversion of budget-related positions to policy had on the CPUC and could these audit findings have been prevented with some simple budgeting and accounting directed by executive staff?

- Describe the corrective actions that the CPUC will take to correct this problem in the forthcoming years. Does the commission believe that a lack of internal controls and fiscal management compounded other problems that the Commission is currently facing?

Recommendation:

(1) APPROVE budget proposal as budgeted.
(2) CONVERT three program administration level positions to one-year limited-term until such time as the CPUC can demonstrate the disposition of its original budget positions.

Vote:

3. Trusts and Entities Created by the PUC

Background. The CPUC is entrusted with rate-making at investor-owned utilities. Within this capacity, the CPUC reviews current policy and attempts to set rates in a manner that is forward thinking and in compliance with the terms of state law. In recent years, the Commission has extended its reach a number of times beyond its rate-making capabilities, spending considerable time and effort to create entities that use ratepayer funds but are outside the state budget process. It is common for Commissioners or their designees to serve on these nonprofits as board members, officers, or advisors. In many of these cases, the Legislature has stepped in to stop these practices. This issue was highlighted in the adoption of a report annually to the legislature (PUC Section 326.5) in 2008, wherein the Legislature required the Commission to report on expenditures from specific non-budget entities established by the CPUC.

Lawrence Livermore National Laboratory ($150 Million Project). in July 2011, the CPUC sought authority to increase customer rates to recover more than $150 million for research conducted by Lawrence Livermore National Laboratory (LLNL) for a five-year cooperative research and development agreement entitled "California Energy Systems for the 21st Century Project," (CES-21 Project). The CPUC issued a decision in late 2012 authorizing the utilities to enter into the agreement, and to provide the CPUC with a list of proposed projects annually. The utilities would be exempt from anti-trust laws. There was no competitive solicitation for this project or consideration of other currently pending proposals at both the Legislature and the CPUC, such as the Public Goods Charge and the Electric Program Investment Charge.

Commissioners Directing Programs Outside Ratemaking Process. It is clear from the public record of the CPUC proceedings that this proposal was not only directed by the CPUC, but that for more than a year prior to the application's submission, the president of the CPUC worked with the utilities and LLNL to develop the proposal. The president, as revealed in now-public email records, oversaw the shaping of the proposal and calling it the "overall grand project with all three energy utilities." The entirety of this project would be undertaken outside the State's budget process, with utilities required to send their contributions directly to LLNL, with no state review.

Upon developing the proposal, the president of the CPUC assigned the approval of this project to himself. He then approved the proposal in its entirety.

Circumvention of Legislative and Budget Process. The CPUC has crossed the line between budget and policy, both of which are the purview of the Legislature. The CPUC in its quasi-legislative capacity, has attempted to usurp the Legislative branch's prerogative to determine what future projects and policies make sense. The major five-year proposal described above should be vetted in the Legislature, either in a policy bill or in the budget process. The manner in which this project was approved would circumvent both of these processes and effectively challenge the notion of checks and balances.

Staff Comments. As will be discussed in a later agenda item, this is not the first or the only proposal the Commission has approved recently that circumvents Legislative authority. At the same time, the CPUC annually requests multiple positions to continue its work. It would seem that the establishment of these programs and policies that circumvent legislative authority, including all research, proceedings and Administrative Law Judge time should be considered an extracurricular activity of the CPUC and as such, subject to budget reduction. Not only should the use of CPUC staff and time be subject to legislative review, they also should be subject to Legislative approval through the policy process.

Questions for the Agency. The CPUC should address these questions in their opening statement:

- What other projects is the CPUC currently considering that would either direct utilities to establish programs outside of Legislative purview or would establish a nonprofit without the approval of the Department of Finance ?

- What was the role of the other commissioners in establishing this proposal?

Recommendations:

(1) APPROVE a request to the Fair Political Practices Commission to review the CPUC practice of directing, adjudicating and approving the establishment of nonprofits for possible conflict of interest or bequest violations.

(2) APPROVE trailer bill language halting the establishment of California Energy Systems for the 21st Century Project (Lawrence Livermore) and to refund all ratepayer funds that have been directed to this project.

3) APPROVE trailer bill language that prohibits the CPUC from creating non-state entities through decisions, settlements, rules, orders, or mergers.

5) APPROVE trailer bill language that prohibits the CPUC from awarding contracts to non-profits in which a sitting commissioner serves as an employee, officer, or director.

6) APPROVE trailer bill language that prohibits CPUC commissioners from serving on commission-established non-state entities.

Vote:

4. Energy Program Investment Charge (EPIC)

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

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

2012 Budget Action. In the 2012 Budget, the Legislature approved $1 million from the EPIC and 4.5 positions specifically to complete an investment plan for the future appropriations from this charge, established for the CPUC (and also described above) in the 2012 budget. Considerable thought was given to this appropriation given as was established administratively. Specifically the budget trailer bill requires the CPUC to administer the fund, and funds are required to be collected by the CPUC and forwarded to the CEC for administration. The budget trailer bill language specifically did not authorize the levy of this charge at the CPUC or increase the amount collected for an existing charge.

Governor's Overall 2013-14 EPIC Proposal. The Governor requests baseline authority for 55.5 position, $575,000 in technical assistance funds and $159.3 million in project funds for the implementation and execution of the EPIC program (the majority of which will be discussed under a separate agenda item within the California Energy Commission). The proposal includes an additional $25 million in EPIC Funds the CPUC may approve for the New Solar Homes Partnership program. Proposed expenditures would roughly be broken out with $76 million for applied research, $62 million for demonstration and deployment, and $20 million for market facilitation. All funding for the programs would be derived from utility ratepayers. The program would increase to $185 million in 2014-15.

The proposal continues to assume that the EPIC Program will be developed fully by the CPUC, who would then direct the CEC programs related to EPIC. The Legislature would essentially be approving programs already developed by the CPUC. In addition, the CPUC could develop programs and activities by the investor-owned utilities that would not be subject to legislative budgetary review.

Circumvention of the Legislature. As will be discussed under the California Energy Commission items, the state currently spends over $1 billion per year on energy efficiency programs, most of this derived directly from utility ratepayers. In developing the EPIC Program at the CPUC, the Administration purposefully bypassed the Legislature after the failed reauthorization of the Energy Public Goods Charge. The Legislature should consider whether or not the CPUC is the appropriate place to allow new policies to be developed, including those that increase costs to energy customers in the state. Is it appropriate for one state agency to develop programs for another state agency without statutory approval by the Legislature? If so, what would stop the CPUC from developing any number of off-budget activities without statutory approval?

The EPIC program continues funding for activities that were authorized by two-thirds vote of the state Legislature. These original funds were approved as a tax for basic activities such as research and development. This new program did not have such authorization. The CPUC should describe the nexus between the program activities and fee payers, based on fee versus tax-related case law. The Administration also has not submitted a plan for proposed expenditures under the EPIC program as required by the 2012 budget. Therefore, there is little review for the budget change proposal.

Governor's Proposal (CPUC). The budget requests $88,000 and one position to oversee the EPIC program development at the CPUC.

Staff Comments. As with the previous item, this proposal undoes the balance of authority between the three branches of government by bypassing the Legislature. As such the policy has not been vetted in a legislative hearing, rather through the ratemaking processes of the CPUC. The position requested seems quite unnecessary since it is clear the CPUC redirected multiple internal staff to develop the program, review comments from stakeholders, develop the regulatory policy and framework, and to adjudicate the ratemaking case.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the status of any lawsuits on this item and what is the nature of the complaints?

- Statute requires the utilities to direct funds to the CPUC for transfer to the CEC. In meetings with legislative staff, this did not seem to be the case. Describe the discrepancy.

Recommendation:

(1) DENY the proposal.
(2) REQUIRE the CPUC to account for all personnel hours used to develop and adjudicate this program, including at the commissioner level.

Vote:

5. Expanding Policy Programs at CPUC—Demand-Side Program Facilitation and Expansion

Governor's Proposal. The Governor requests one position and $88,000 from the PUC Utilities Reimbursement Account to enable the growth and integration of demand response into wholesale markets.

Staff Comments. Based on the overabundance of staff and time to develop policies outside of the legislative process, staff recommends the commission absorb the costs of this proposal.

Recommendation: **DENY** proposal.

Vote:

6. Administrative Law Judge Support for Recent Legislation

Governor's Proposal. The Governor requests two administrate law judge (ALJ) positions and $231,000 from the PUC Utilities Reimbursement Account to implement the requirements of recently passed legislation.

Staff Comments. Based on the overabundance of staff and time to develop policies outside of the legislative process, staff recommends the commission absorb the costs of this proposal and redirect current ALJ positions to appropriately focus on statutory requirements.

Recommendation: **DENY** proposal.

Vote:

7. High-Speed Rail Oversight

Governor's Proposal. The Governor requests 3.0 positions and $330,000 from the Public Transportation Account, State Transportation Fund, to oversee the design and construction of California's new High-Speed Rail system. The CPUC is required to oversee rail safety systems in California including the High-Speed Rail system. The CPUC requests staff to review design, construction and operation of equipment, and associated electrical facilities.

LAO Recommendation. Reject proposed funding for CPUC.

> "Our analysis finds that the requested funding for CPUC to develop high–speed rail regulations is premature given the reality that California's high–speed train service will not be in operation before 2021 at the earliest."

Staff Comments. Staff concurs with the LAO.

Recommendation: **REJECT** proposal.

Vote:

8660 Division of Ratepayer Advocates (California Public Utilities Commission)

The Division of Ratepayer Advocates (DRA) is an independent division of the California Public Utilities Commission (CPUC) that advocates solely on behalf of residential and small commercial utility ratepayers. As the only state agency charged with this responsibility, DRA plays a critical role in ensuring that the customers of California's investor-owned utilities are represented at the CPUC and in other forums that affect how much consumers will pay for utility services and the quality of those services. DRA's staff of experts performs detailed analyses in the areas of communications, energy, and water to determine the impact that they will have on ratepayers' bills, as well as the impacts on safety and service quality. Additionally, DRA evaluates the environmental impact of regulatory issues and seeks to ensure that any utility actions will comport with CPUC rules and California laws.

Governor's Budget. The Governor's Budget includes $24.4 million for the operation of the DRA. DRA's staff consists of 137 technical, policy, and financial analysts with professional backgrounds as engineers, auditors, and economists with expertise in regulatory issues related to electricity, natural gas, telecommunications, and water industries in California.

Introduction. The DRA usually comes before this subcommittee under the auspices of the CPUC. However, in recent years considerable tension has emerged in hearings and prehearings between staff of the DRA and the CPUC. Therefore, this subcommittee will hear the DRA as a separate and stand-alone entity to review its budget proposals.

Background. Since its establishment in 1984 by the CPUC and subsequent codification (Chapter 856, Statutes of 1996) as an independent entity within the PUC, the DRA has provided a voice for lower rates at CPUC proceedings and other forums. Various legislative efforts over the years have sought to give the DRA more independence from the CPUC while keeping it as a division of the Commission and therefore allowing it access to information provided during hearings and proceedings. At this time, the DRA is maintained as a division within the CPUC, requesting and reporting its budget through the CPUC executive management. The DRA is also referred to in statute as the Office of Ratepayer Advocates.

Concerns About DRA Budget Processes. As has been discussed in previous agenda items, the CPUC has had considerable problems in its development of the annual budget, creating difficulties for legislative oversight. In order to develop its budget, the DRA submits its budget request to the executive staff of the CPUC which then may adjust this request before final submission to the Department of Finance and Legislature. This process is appropriate for divisions reporting directly to the Executive Director; however, the DRA Director is appointed by the Governor and confirmed by the Senate. Within other state agencies, separate entities are generally either budgeted entirely outside the governing agency or are allotted a clear "line item" annually, that separates the chain of command.

Governor's Proposals. The Governor's budget includes three separate requests for DRA.

1. **DRA Energy Financial Examiners.** Request for two positions and $151,000 from the PUC Ratepayer Advocate Account to perform audits of energy companie's financial records, in conjunction with General Rate Cases, natural gas proceedings, the Energy Resource Recovery Account, and other proceedings initiated by the CPUC or the investor-owned utilities.

2. **DRA Water Auditors.** Request for two positions and $151,000 from the PUC Ratepayer Advocate Account to meet the increased workload associated with inspection of water utilities' accounting records. The two positions will be assigned to DRA's Water Branch which has experienced significant increases in both the frequency and complexity of utility rate requests within the past four years.

3. **DRA Gas Safety.** Increase of one position and $89,000 from the PUC Ratepayer Advocate Account, to accommodate expanding workload related to natural gas safety. This will allow DRA to keep pace in this increasing workload area.

Staff Comments. Staff are concerned about oversight of DRA in the budget process and have concerns about the current structure and management of DRA. There is also some confusion about the name of the Division.

Recommendation:

1. **APPROVE** Items 1-3.
2. **APPROVE** trailer bill language that changes the name of the "Division of Ratepayer Advocates" to the "Office of Ratepayer Advocates."
3. **APPROVE** trailer bill language that requires DRA to submit its budget to the Department of Finance directly.
4. **APPROVE** trailer bill language that allows DRA to employ its own personnel, including attorneys, instead of having them supplied by the CPUC.

Vote:

3360 Energy Resources Conservation Development Commission (California Energy Commission)

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

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

Items Proposed for Vote-Only

1. **Finance Letter—Appliance Efficiency Database Modernization.** The budget requests $2.4 million to replace the current system with an automated system to allow manufacturers to electronically complete and submit necessary applications and appliance data. This proposal is supported by a completed Feasibility Study Report.

2. **Conversion of Two Limited-Term Positions to Permanent.** The budget requests authority to convert two limited-term positions to permanent to continue implementation of the ongoing and permanent solar electric mandates in Chapter 132, Statutes of 2006 (SB 1, Murray). These positions were originally made limited-term in 2007 and extended twice, based on ongoing workload associated with the legislation.

Recommendation: APPROVE Items 1-2.

Vote:

Items Proposed for Discussion

1. Public Goods Charge Ramp Down

Governor's Proposal. The Governor's budget identifies the reduction of nine positions ($980,000) and the elimination of new project funding in response to the January 1, 2012 sunset of the authority to collect the Public Goods Charge (PGC) on January 1, 2012. As a result, no additional funds were collected after January 1, 2012, and the duties and positions necessary to administer the Renewable Energy and Public Interest Energy Research Programs are required to ramp down.

Proposed Ramp-Down. Beginning in 1996, a series of legislative efforts have authorized ratepayer funding to increase the proportion of research and development, renewable energy, and energy efficiency servicing California utility customers. Following the failed renewal of the PGC, the CEC must reduce activities in the following areas:

- Renewables Facilities Programs
- Emerging Renewables Program
- Consumer Education Program
- New Solar Homes Partnership
- Public Interest Energy Research Program

Because funding for many of these programs creates an ongoing workload, the PGC ramp-down is anticipated to take several years.

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

- How long will the PGC ramp-down take?
- What are the direct impacts of the reduction of these funds on current programs and is there any effort to renew the PGC through statute?

Recommendation: **APPROVE** proposal.

Vote:

2. Implementation of the Electric Program Investment Charge (EPIC) and Energy Efficiency Programs Statewide

BACKGROUND:

During the 2012 session, the Legislature considered multiple policy and budget proposals to increase energy efficiency and its funding. These included an Administration proposal to reinstate the Public Goods Charge through a California Public Utilities Commission (CPUC) rulemaking process (discussed below under the Electricity Procurement Investment Charge header), various greenhouse gas emission reduction programs that target energy programs, and renewable energy bills.

Given what seemed to be an abundance of existing energy-efficiency programs, the 2012 budget required the LAO to review energy efficiency programs throughout state government and to provide both (1) a list of all programs and funding related to energy efficiency and alternative energy, and (2) provide a preliminary assessment of these programs in terms of priority, overlap, and redundancy. The LAO report is partially summarized in this analysis on current energy efficiency budget issues.

Summary of State Energy Efficiency and Alternative Energy Programs

Program Category	2012-13	Cumulative Funding to Date
Energy Efficiency (Investor Owned Utility, federal funding and state financing programs)	$1 billion	$9.5 billion
Renewable Energy (Public Interest Renewable Energy Program, Go Solar California Program, Self-Generation Incentive Program, And Clean Energy Upgrade Financing Program	$317 million	$4.2 billion
Advanced Transportation and Low-Carbon Fuels	$250 million	$683 million
Energy Research	$44 million	$556 million
Totals	**$1.6 billion**	**$15 billion**

a) Source: Legislative Analyst's Office, 2012

In no less than 10 separate programs, and spanning five state departments, over $1.6 billion was spent directly on energy efficiency and alternative energy programs. Cumulatively, to date, nearly $15 million has been spent by the state. The vast majority of funding for these programs comes from utility ratepayers. Most of these programs are located in three state departments: the CPUC, the California Energy Resource Conservation and Development Commission (CEC), and the California Alternative Energy and Advanced Transportation Authority.

NEW PROGRAMS AND THE BIGGER PICTURE:

Cap and Trade Funding. In the near future, new funding will be available to support programs as a result of the state's cap-and-trade auctions, a tool to reduce greenhouse gas emissions (GHG). As part of the Global Warming Solutions Act of 2006, commonly referred to as AB 32, the goal of reducing greenhouse gas emissions to 1990 levels by 2020 was established in statute. AB 32 revenues generated from the auctions constitute a mitigation fee, and a nexus must exist between an activity for which the fee is paid and the adverse effects related to the activity on which that fee is levied. Therefore, in order for their use to be valid as mitigation fees, revenues from cap-and-trade auctions must be used only to mitigate GHG emissions or the harms caused by these emissions. A number of the existing energy efficiency and alternative energy programs currently also have a focus on GHG emission reductions. It is conceivable that the new auction revenues could either supplant or be used in addition to funding for these existing programs. The Governor has not released his expenditure plan for auction credits and therefore it is unknown what the budget proposals may entail.

Proposition 39, passed in November 2012, eliminates the ability of multi-state businesses to choose the way in which their taxable income is determined. As a result, some corporations will pay higher taxes, resulting in projected revenues of $1 billion per year. Under the measure, half the annual revenues—up to $550 million—will be deposited into a new Clean Energy Job Creation Fund to support projects intended to improve energy efficiency and expand the use of alternative energy for a five-year period (2013-14 through 2017-18). The Legislature will determine spending from the fund and is required to use the monies for cost-effective projects run by agencies with expertise in managing energy projects. These projects must also be coordinated with the CEC, CPUC, and with a newly-established nine-member oversight board to annually review spending from the program. Proposition 39 requires funds to be used to support:

- Energy efficiency retrofits and alternative energy projects in public schools, colleges, universities, and other public facilities;
- Finance and technical assistance for energy retrofits; and,
- Job training and workforce development related to energy efficiency and alternative energy.

Why State Program Funding is Not the Whole Picture. One cannot review energy efficiency in the state solely on the basis of state-funded programs. In addition to programs where funding is managed through state agencies, other actions and agencies impact our state's overall energy efficiency and may have had even more profound effects. For example, both the state and federal government have building standards that reduce energy usage in all new construction. Appliances have minimum energy standards and a federal "energy star" program that allows consumers to compare and choose energy efficient products. Commercial buildings, outdoor lighting and many other areas of energy are regulated by both state and local agencies. In many cases, locals may go further than the state. Local water and energy utilities (those local entities that provide water and energy directly to customers), also have programs designed to reduce energy usage—including many programs independently not managed by the state.

GOVERNOR'S PROPOSAL:

Proposition 39. The Governor's budget includes all of the revenue derived from proposition 39 in the calculation of the education Proposition 98 minimum guarantee. The budget proposes to use that funding for energy efficiency projects at schools and community colleges. This was discussed at length in the Senate Budget Joint Hearing of Subcommittees #1 and #2 on April 4, 2013.

Electricity Procurement Investment Charge (EPIC). The Governor's proposal for EPIC is discussed on page 15 of the agenda.

ISSUES TO CONSIDER:

LAO Analysis and Recommendations. The LAO reviewed the various energy efficiency and alternative energy programs for overlap and coordination issues. They recommend a comprehensive strategy be developed that: (1) avoids program duplication, particularly where departments have overlapping jurisdiction; (2) align programs with legislative priorities, including those the CPUC administers for investor-owned utilities; (3) measures program effectiveness across the state agencies.

The LAO has made a strong case for development of unified energy efficiency and alternative energy policies. The lack of coordination makes it difficult to determine where scarce resources should be directed, and how much a given ratepayer should pay. This also sets up an unbalanced ratepayer system wherein those in investor-owned utilities ratepayer areas pay into a statewide program while those in other areas, such as those in publicly-owned utilities ratepayer areas, do not. The Legislature should consider policy before budget, and should determine which activities should be funded by clarifying statute before budget actions take place.

EPIC Program—Legislative Involvement Needed? The state currently spends over $1 billion per year on energy efficiency programs, most of this derived directly from utility ratepayers. In developing the EPIC Program at the CPUC, the Administration purposefully bypassed the Legislature after the failed reauthorization of the Energy Public Goods Charge. As discussed under the CPUC, the Legislature should consider whether or not the CPUC is the appropriate place to allow new policies to be developed, including those that increase costs to energy customers in the state. Is it appropriate for one state agency to develop programs for another state agency without statutory approval by the Legislature? If so, what would stop the CPUC from developing any number of off-budget activities without statutory approval?

The EPIC program continues funding for activities that were previously authorized by two-thirds vote of the state Legislature. However, this new program did not have such an authorization. The CPUC and CEC should describe the nexus between the program activities and fee payers based on fee versus tax-related case law. The Administration also has not submitted a plan for proposed expenditures under the EPIC program as required by the 2012 budget. Therefore, there is little review for the budget change proposal.

Staff Comments. The CEC has spent considerable time and effort to develop the EPIC Investment Plan. This plan largely mirrors previous efforts to renew the Public Goods Charge. Given lingering questions about the nature of the charge and its status as a fee or a tax, it would be premature to authorize any spending for this program without clear statutory authorization. However with statutory authorization, the plan for expenditure of funds including the ramp-down of previous PGC programs and possible shifts to new and emerging research and development programs may be a worthwhile policy discussion.

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

- This program clearly needs to be authorized by the Legislature in statute that includes program parameters, focus and goals. The CPUC does not set renewable or energy efficiency policy for this state. Can the Administration produce draft legislation authorizing this program for review by budget and policy committees?

- What is the impact of holding off funding for this program until statute authorizes the expenditure of funds.

Recommendation:

(1) APPROVE positions and funding provisionally such that no positions may be added, nor funds expended, until a statute expressly authorizes the EPIC program including program provisions.

Vote:

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

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

Thursday, April 25, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040

Consultant: Catherine Freeman

OUTCOMES

Items Proposed for Vote-Only

Items Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

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

DEPARTMENTS PROPOSED FOR VOTE ONLY

0555 Secretary for Cal-EPA

1. **Transfer of the Office of Education and the Environment to the Department of Resources Recycling and Recovery (CalRecycle).** Pursuant to Chapter 39, Statutes of 2012 (SB 1018, Leno), this proposal transfers the Office of Education and the Environment from the Secretary's office at Cal-EPA to CalRecycle. The proposal shifts 10 positions and associated funding for the program.

Recommendation: APPROVE Item 1.

Vote:

2-1 (Nielsen)

3720 California Coastal Commission

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

Governor's Budget. The Governor's Budget includes $17.8 million for the operation of the Coastal Commission. This is a reduction of $300,000, mostly reflected in the completion of a significant data project at the Commission.

Items Proposed for Vote-Only

1. **Coastal and Marine Education Whale Tail License Plate Program.** The Governor's Budget requests $357,000 from the Coastal Beach and Coastal Enhancement Account (funds derived from the sale of Whale Tail license plates) for grants to nonprofits and government agencies consistent with its strategic program.

Recommendation: APPROVE Item 1.

Vote:

3-0

Items Proposed for Discussion

1. Adapting to Climate Change—Commission Responsibilities

Recommendation: Informational Item.

Motion: **Direct up to $4 million from Tidelands Oil Revenue in 2013-14 and 2014-15 to the Coastal Commission to update LCPs. The priority shall be LCPs that have not been certified in order to remove the day to day permitting functions of those areas from the Coastal Commission. Funding should be split $1 million for local assistance grant programs and $3 million for Coastal Commission staffing.**

Vote:

2-1 (Nielsen)

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 PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes $1.4 billion and 1,053 positions to support the CPUC in the budget year.

Items Proposed for Discussion

1. Update on Safety Oversight

Recommendation: Informational Item.

The CPUC committed to the committee to work with the Investor Owned Utilities to get more inspections done.

2. Public Utilities Commission Performance Audit

Governor's Proposal. The Governor requests $210,000 and 3 positions to provide budget support to the CPUC, including internal budgeting allocations and expenditure monitoring reporting.

Recommendation:

(1) APPROVE budget proposal as budgeted.
(2) CONVERT three program administration level positions to one-year limited-term until such time as the CPUC can demonstrate the disposition of its original budget positions.

The CPUC acknowledged that it currently has 10 budget control officers in program positions.

Motion:

(1) Require the CPUC to absorb the positions by shifting either vacant positions or converting program positions to the budget office immediately.

(2) Require the CPUC to report back on September 1, 2013 on their progress in establishing the new budget office and filling the positions. The report should also include an analysis of what the budget office should look like

Vote:

3-0

3. Trusts and Entities Created by the PUC

Background. The CPUC is entrusted with rate-making at investor-owned utilities. Within this capacity, the CPUC reviews current policy and attempts to set rates in a manner that is forward thinking and in compliance with the terms of state law. In recent years, the Commission has extended its reach a number of times beyond its rate-making capabilities, spending considerable time and effort to create entities that use ratepayer funds but are outside the state budget process. It is common for Commissioners or their designees to serve on these nonprofits as board members, officers, or advisors. In many of these cases, the Legislature has stepped in to stop these practices. This issue was highlighted in the adoption of a report annually to the legislature (PUC Section 326.5) in 2008, wherein the Legislature required the Commission to report on expenditures from specific non-budget entities established by the CPUC.

Recommendations:

(1) APPROVE a request to the Fair Political Practices Commission to review the CPUC practice of directing, adjudicating and approving the establishment of nonprofits for possible conflict of interest or bequest violations.

VOTE: 2-1 (Jackson)

(2) APPROVE trailer bill language halting the establishment of California Energy Systems for the 21st Century Project (Lawrence Livermore) and to refund all ratepayer funds that have been directed to this project.

Vote: 2-0 (Jackson)

3) APPROVE trailer bill language that prohibits the CPUC from creating non-state entities through decisions, settlements, rules, orders, or mergers *without a legislative approval process.*

Vote: 3-0

5) APPROVE trailer bill language that prohibits the CPUC from awarding contracts to non-profits in which a sitting commissioner serves as an employee, officer, or director.

Vote: 3-0

6) APPROVE trailer bill language that prohibits CPUC commissioners from serving on commission-established non-state entities.

Vote: 3-0

4. Energy Program Investment Charge (EPIC)

Governor's Overall 2013-14 EPIC Proposal. The Governor requests baseline authority for 55.5 position, $575,000 in technical assistance funds and $159.3 million in project funds for the implementation and execution of the EPIC program (the majority of which will be discussed under a separate agenda item within the California Energy Commission). The proposal includes an additional $25 million in EPIC Funds the CPUC may approve for the New Solar Homes Partnership program. Proposed expenditures would roughly be broken out with $76 million for applied research, $62 million for demonstration and deployment, and $20 million for market facilitation. All funding for the programs would be derived from utility ratepayers. The program would increase to $185 million in 2014-15.

The proposal continues to assume that the EPIC Program will be developed fully by the CPUC, who would then direct the CEC programs related to EPIC. The Legislature would essentially be approving programs already developed by the CPUC. In addition, the CPUC could develop programs and activities by the investor-owned utilities that would not be subject to legislative budgetary review.

Recommendation:

(1) DENY the proposal.

(2) REQUIRE the CPUC to account for all personnel hours including positions and all expenditures used to develop and adjudicate this program, including at the commissioner level, with a report to the Legislature to coincide with the budget (by January 10, 2014).

Vote:

2-0 (Jackson)

5. Expanding Policy Programs at CPUC—Demand-Side Program Facilitation and Expansion

Governor's Proposal. The Governor requests one position and $88,000 from the PUC Utilities Reimbursement Account to enable the growth and integration of demand response into wholesale markets.

Staff Comments. Based on the overabundance of staff and time to develop policies outside of the legislative process, staff recommends the commission absorb the costs of this proposal.

Recommendation: DENY proposal.

Vote:
2-0 (Jackson)

6. Administrative Law Judge Support for Recent Legislation

Governor's Proposal. The Governor requests two administrate law judge (ALJ) positions and $231,000 from the PUC Utilities Reimbursement Account to implement the requirements of recently passed legislation.

Staff Comments. Based on the overabundance of staff and time to develop policies outside of the legislative process, staff recommends the commission absorb the costs of this proposal and redirect current ALJ positions to appropriately focus on statutory requirements.

Recommendation: DENY proposal.

Vote:
2-0 (Jackson)

7. High-Speed Rail Oversight

Governor's Proposal. The Governor requests 3.0 positions and $330,000 from the Public Transportation Account, State Transportation Fund, to oversee the design and construction of California's new High-Speed Rail system. The CPUC is required to oversee rail safety systems in California including the High-Speed Rail system. The CPUC requests staff to review design, construction and operation of equipment, and associated electrical facilities.

LAO Recommendation. Reject proposed funding for CPUC.

> "Our analysis finds that the requested funding for CPUC to develop high–speed rail regulations is premature given the reality that California's high–speed train service will not be in operation before 2021 at the earliest."

Staff Comments. Staff concurs with the LAO.

Recommendation: **REJECT** proposal.

Vote:
2-0 (Jackson)

8660 Division of Ratepayer Advocates (California Public Utilities Commission)

Governor's Proposals. The Governor's budget includes three separate requests for DRA.

1. **DRA Energy Financial Examiners.** Request for two positions and $151,000 from the PUC Ratepayer Advocate Account to perform audits of energy companie's financial records, in conjunction with General Rate Cases, natural gas proceedings, the Energy Resource Recovery Account, and other proceedings initiated by the CPUC or the investor-owned utilities.

2. **DRA Water Auditors.** Request for two positions and $151,000 from the PUC Ratepayer Advocate Account to meet the increased workload associated with inspection of water utilities' accounting records. The two positions will be assigned to DRA's Water Branch which has experienced significant increases in both the frequency and complexity of utility rate requests within the past four years.

3. **DRA Gas Safety.** Increase of one position and $89,000 from the PUC Ratepayer Advocate Account, to accommodate expanding workload related to natural gas safety. This will allow DRA to keep pace in this increasing workload area.

Staff Comments. Staff are concerned about oversight of DRA in the budget process and have concerns about the current structure and management of DRA. There is also some confusion about the name of the Division.

Recommendation:

1. **APPROVE** Items 1-3.
2. **APPROVE** trailer bill language that changes the name of the "Division of Ratepayer Advocates" to the "Office of Ratepayer Advocates."
3. **APPROVE** trailer bill language that requires DRA to submit its budget to the Department of Finance directly.
4. **APPROVE** trailer bill language that allows DRA to employ its own personnel, including attorneys, instead of having them supplied by the CPUC *and as its own department.*.

Vote:

2-0 (Jackson)

3360 Energy Resources Conservation Development Commission (California Energy Commission)

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

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

Items Proposed for Vote-Only

1. **Finance Letter—Appliance Efficiency Database Modernization.** The budget requests $2.4 million to replace the current system with an automated system to allow manufacturers to electronically complete and submit necessary applications and appliance data. This proposal is supported by a completed Feasibility Study Report.

2. **Conversion of Two Limited-Term Positions to Permanent.** The budget requests authority to convert two limited-term positions to permanent to continue implementation of the ongoing and permanent solar electric mandates in Chapter 132, Statutes of 2006 (SB 1, Murray). These positions were originally made limited-term in 2007 and extended twice, based on ongoing workload associated with the legislation.

Recommendation: **APPROVE** Items 1-2.

Vote:

Item #1 2-0 (Jackson)

Item #2 (Hold Open)

Items Proposed for Discussion

1. Public Goods Charge Ramp Down

Governor's Proposal. The Governor's budget identifies the reduction of nine positions ($980,000) and the elimination of new project funding in response to the January 1, 2012 sunset of the authority to collect the Public Goods Charge (PGC) on January 1, 2012. As a result, no additional funds were collected after January 1, 2012, and the duties and positions necessary to administer the Renewable Energy and Public Interest Energy Research Programs are required to ramp down.

Recommendation: **APPROVE** proposal.

Vote:
2-0 (Jackson)

2. Implementation of the Electric Program Investment Charge (EPIC) and Energy Efficiency Programs Statewide

Recommendation:

(1) APPROVE positions and funding provisionally such that no positions may be added, nor funds expended, until a statute expressly authorizes the EPIC program including program provisions.

Vote:
HOLD OPEN

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

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

Thursday, May 9, 2013
9:30 a.m. or Upon Adjournment of
Public Employment and Retirement Committee
Hearing Room 2040

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.

DEPARTMENTS PROPOSED FOR VOTE ONLY

0540 Secretary for Natural Resources

1. **Proposition 84—Ocean Protection Trust Fund (Finance Letter).** Request to appropriate the unencumbered balance of funds ($20.2 million) previously appropriated to the State Coastal Conservancy for grant programs administered by the Ocean Protection Council. This is consistent with the subcommittee's previous action on March 7 to consolidate ocean programs at the Secretary for Natural Resources.

2. **Proposition 84 Reappropriation—Strategic Growth Council Urban Greening Program (Finance Letter).** Request for reappropriation of $1.7 million from terminated grants to allow funds to be included in the third and final round of Urban Greening grants, as required by the bond.

Recommendation: Approve Items 1-2

Vote:

3125 California Tahoe Conservancy

3. **Proposition 84—Environmental Improvement Plan Funding (Finance Letter).** Request for reversion and reappropriation of $4 million (Proposition 84 bond funds) to fund land acquisitions and site improvements for the Lake Tahoe Environmental Improvement Program. This is consistent with the Conservancy's plans to consolidate land holdings to streamline state and federal land management.

Recommendation: Approve Item 3

Vote:

3340 California Conservation Corps

4. **Increase of Reimbursement Authority (Finance Letter).** Request for an increase of $163,000 (Collins-Dugan Reimbursement Account) to perform property maintenance for the California Department of Transportation. Activities include trash and weed removal, graffiti abatement, and erosion control.

5. **Capital Outlay Reappropriation (Finance Letter).** Request for reappropriation for the capital project phase of the Delta Service Center to include acquisition, preliminary plans, working drawings and construction. At this point, the working drawings are nearly complete and construction is scheduled to begin on time in 2013-14.

Recommendation: **Approve** Items 4-5

Vote:

3360 Energy Resources Conservation Development Commission

6. **Conversion of Two Limited-Term Positions to Permanent.** The Governor's budget requests authority to convert two limited-term positions to permanent to continue implementation of the ongoing and permanent solar electric mandates in Chapter 132, Statutes of 2006 (SB 1, Murray). These positions were originally made limited-term in 2007 and extended twice, based on ongoing workload associated with the legislation. (Held open on April 25.)

7. **Implementation of the Electric Program Investment Charge (EPIC).** The Governor's budget requests baseline authority for 55.5 position, $575,000 in technical assistance funds and $159.3 million in project funds for the implementation and execution of the EPIC. The proposal includes an additional $25 million in EPIC Funds the CPUC may approve for the New Solar Homes Partnership Program. Proposed expenditures would roughly be broken out with $76 million for applied research, $62 million for demonstration and deployment, and $20 million for market facilitation. All funding for the program would be derived from utility ratepayers. The program would increase to $185 million in 2014-15. (This item was heard and held open on April 25.)

Recommendation:

Approve Item 6.

Approve Item 7 positions and funding provisionally such that no positions may be added, nor funds expended, until a statute expressly authorizes the EPIC program, including program provisions.

Vote:

3480 Department of Conservation

8. **Watershed Coordinator Grants—Reappropriation of Proposition 84 Bond Funds.** Request to reappropriate $109,000 in unencumbered Proposition 84 bond funds to finalize the implementation of the watershed element of the CALFED Bay-Delta Program through the department's Statewide Watershed Program. (Held Open on March 7.)

9. **Increased Funding for Abandoned Mine Remediation**. The Governor's budget proposes a baseline increased appropriation of $500,000 from the Abandoned Mine Reclamation and Minerals Fund (AMRMF). These funds will be used for remediation activities on hazardous abandoned mines. This program requests to continue a temporarily increased program level allowed for under the American Reinvestment and Recovery Act (ARRA). (This item was heard and held open on March 7.)

10. **Strategic Growth Council—Continuation of Grant Program (Finance Letter).** Request for reversion of Proposition 84 bond funds ($14.8 million) related to the Sustainable Communities Planning Grant and Incentive Program, and appropriation of $18 million (Proposition 84 bond funds) to both support the competitive grant program and to fund the third of three rounds of grants for the program. Provisional language allows for encumbrance until June 30, 2016.

Recommendation:

Approve Items 8 and 10.

Deny Item 9. Instead approve $500,000 to the Department of Parks and Recreation to partially offset Empire Mine remediation General Fund costs in 2013-14 (Staff Recommendation on March 7).

Vote:

3560 State Lands Commission

11. **Oil and Gas Review and Oversight.** Request for three permanent positions to review and monitor state oil and gas lease activities to ensure compliance with lease terms. Funding will be dedicated from existing reimbursement agreements. This proposal is consistent with legislative direction to increase oversight of oil and gas leases.

12. **Elimination of Rent-Free Use of Property for Private Piers.** Request for $184,000 (General Fund) to eliminate the rent-free use of state property for private piers. Chapter 585, Statues of 2011 (SB 152, Pavley), increased billable leases by more than 1,300 leases over a ten-year period. Prior to this change in statute, only 900 revenue producing leases were billed. This change increases workload to 2,200 leases necessary for rent review. Additional General Fund revenues are estimated at $2.25 million annually after a 10-year transition period.

Recommendation: **Approve** Items 11-12.

Vote:

3640 Wildlife Conservation Board

13. **San Joaquin River Conservancy—Reappropriation.** The Governor's budget requests reappropriation of $4.8 million (Proposition 84 bond funds), to develop the San Joaquin River Parkway. This project was delayed due to the 2008 bond freeze.

14. **Sacramento-San Joaquin Delta NCCP Reappropriation**. The Governor's budget requests reappropriation of $5.5 million of the original $24 million appropriation. This will allow the board to continue administering grants to local agencies to implement and to assist in the establishment of NCCPs for the areas in and around the Sacramento-San Joaquin Delta.

15. **Proposition 84 Planning and Acquisition Funding (Finance Letter).** The Governor's budget requests reappropriation of $15.1 million (Proposition 84 bond funds) including $1.5 million for the Oak Woodlands Conservation Program, $2.4 million for grants to assist famers to integrate activities with ecosystem restoration and wildlife protection, and $1.3 million for the Rangeland, Grazing Land and Grassland Program. In addition, the budget requests reappropriation of $10 million for the Sacramento-San Joaquin Delta Natural Community Conservation Plan.

Recommendation: **Approve** Items 13-15.

Vote:

3760 State Coastal Conservancy

16. **Fund Shift to Realign Base Budget (Finance Letter).** Request to realign several base budget items to reflect the consolidation of ocean programs at the Secretary for Natural Resources, as well as to follow a 2012 budget request to provide a long-term manageable baseline funding plan. There is no net increase in funding with this proposal.

Recommendation: **Approve** Item 16.

Vote:

3860 Department of Water Resources (DWR)

17. **Central Valley Flood Protection Board – Legal Counsel.** The Governor's budget requests to shift legal counsel from Department of Justice to the DWR, resulting in a savings of $25,000 (General Fund) annually. (Held open on March 21.)

18. **Central Valley Flood Protection Board –Technical Implementation Support**. Request for $650,000 (Proposition 1E bond funds) ongoing to implement the recently adopted Flood Protection Plan. (Held open on March 21.)

19. **Low Intensity Chemical Dosing.** Request for $550,000 (Proposition 13 bond funds) over two years to complete a project designed to improve water quality related to agricultural drainage.

20. **Salton Sea Restoration Program—Species Conservation Habitat Program.** Proposal for $2 million in reimbursement authority over two years for baseline staff support activities associated with the Species Conservation Habitat Proposal. (Held open on March 21.)

21. **Capital Outlay—Salton Sea Species Conservation Habitat Project.** Request for construction phase of funding to shallow water, saline habitat per terms of the Quantification Settlement Agreement terms and state mitigation obligations. Conforms to a previous Department of Fish and Wildlife proposal. The budget requests $22.6 million (Proposition 84 bonds funds) and $5.7 million (Proposition 50 bond funds). (Held open on March 21.)

22. **FloodSAFE California Program.** The Governor's budget requests continued FloodSAFE funding of $98.1 million as part of the multi-year approach to improving flood control. This request represents a continuation of activities funded in prior years. After multiple years, DWR has completed, and the Central Valley Flood Protection Board adopted, the Central Valley Flood Protection Plan, a major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events. (Held open on March 21.)

23. **Fish Passage Improvement Program.** The Governor's budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes $349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program. (Held open on March 21.)

24. **Technical Adjustments, Reappropriations, Extensions of Liquidation Periods and Reversions: Non-Capital Outlay—Finance Letter.** The budget requests various reversions, reappropriations and extensions of liquidation on existing projects to continue state operations for mainly flood-related projects in the Sacramento Valley.

25. **Reappropriations and Extensions of Liquidation: Capital Outlay—Finance Letter.** The budget requests reappropriation and extension of liquidation of $78 million (bond funds and reimbursements) for ongoing flood-related projects, mainly in the Sacramento Valley.

Recommendation: Approve Items 17-25.

Vote:

3940 State Water Resources Control Board

26. **Criteria for Indirect Potable Reuse of Recycled Water.** Request for $700,000 (Waste Discharge Permit Fund) to support efforts by the California Department of Public Health to adopt water recycling criteria for indirect potable use. (Held open on April 11.)

27. **Wastewater Operator Certification Fund Augmentation.** The budget requests an augmentation of $586,000 for the Wastewater Operator Certification Fund to (1) support new workload of certifying operators for privately-owned treatment plants per revised regulations, and (2) maintain the current workload of certifying publicly-owned wastewater treatment plant operators. (Held open on April 11.)

Recommendation: Approve Items 26-27.

Vote:

3970 Department of Resources Recycling and Recovery

28. **Transfer of the Office of Education and the Environment (OEE) to CalRecycle.** Request to complete statutorily required transfer of OEE from Cal-EPA to CalRecycle. This is a net-zero shift in positions. A total of $2.3 million (expenditure authority) and 10 positions are proposed to be shifted. This proposal includes trailer bill language. (Held open on April 11.)

29. **Shift CalRecycle from Resources Agency to Cal-EPA.** Request to complete statutorily authorized transfer of CalRecycle to Cal-EPA. This proposal was approved and completes the Governor's Reorganization Plan No. 2 that was approved by the Little Hoover Commission in May 2012, and was subsequently not rejected by either house of the Legislature. There is no budget or position impact to this shift. (Held open on April 11.)

30. **Cleanup Trailer Bill Language for Carpet and Paint.** Request for trailer bill language for both the Architectural Paint Recovery Program and Carpet Stewardship Program in order to change the payment of the administrative fees supporting these programs from yearly to quarterly in arrears in order to improve cash flow for the programs. (Held open on April 11.)

31. **Captive Insurance: Solid Waste Facilities.** Request for $260,000 in reimbursement authority to implement Chapter 713, Statutes of 2012 (AB 480, Solario). AB 480 temporarily revises the conditions under which the use of captive insurance as a financial assurance mechanism for solid waste landfills would be allowed. (Held open on April 11.)

32. **Hazardous Waste Grant Authority.** Request for $81,000 (Integrated Waste Management Fund) to supplement the Household Hazardous Waste Grant Program. This allocates the department's receipt of judgment funds from *People v. Costco*, which requires the retail chain to pay for mishandling of hazardous waste material. (Held open on April 11.)

33. **Beverage Container Recycling Reform.** The Governor requests to shift the balance of its efforts from primarily encouraging recycling to an increased emphasis on program fiscal integrity, quality control and better use of information resources, consistent with administrative and legislative direction over the past few years. Specifically, the department requests appropriation authority and eight positions on a three-year limited-term basis, and trailer bill language. (Held open on April 11.)

Recommendation: Approve Items 28-33.

Vote:

7300 Agricultural Labor Relations Board

34. **Funding for the Administration of the Board.** Request to appropriate $502,000 (Labor and Workforce Development Fund) and four new positions to meet administrative requirements. This proposal will allow the board to fund location-specific personnel and travel as required by diverse California agriculture labor needs.

Recommendation: **Approve** Item 34.

Vote:

Recommendation:

Vote:

3450 Department of Forestry and Fire Protection (CalFIRE)

Items Proposed for Discussion

1. Vegetation Treatment Program

Background. The State Board of Forestry and Fire Protection (BOF) proposes to initiate a California Statewide Vegetation Treatment Program (VTP). The proposed program is intended to lower the risk of catastrophic wildfires on nonfederal lands by reducing hazardous fuels. The VTP goals include control of unwanted vegetation, including invasive species, improvement of rangeland for livestock grazing, improvement of fish and wildlife habitat, enhancement and protection of riparian areas and wetlands, and improvement of water quality in priority watersheds. The initiation of this program is a project, subject to California Environmental Quality Act (CEQA). As the CEQA lead agency, the BOF will provide policy direction for implementation of the VTP to CalFIRE, which administers a wide range of vegetation management programs.

According to the department, the purpose of the VTP is to modify vegetation on wildlands to reduce the costs and losses associated with wildfires and to enhance the condition of forests, rangelands, and watersheds. The need for the VTP is based on the fact that the wildlands of California are naturally fire prone. Past land and fire management practices have had the effect of increasing the intensity, rate of spread, as well as the annual acreage burned on these lands (BOF, 1996). Although the citizens of California expect these lands to provide a wide range of sustainable economic and non-economic benefits, the state’s expanding population increases the risk of arson or unintentional fire starts that jeopardize these expectations. The natural communities of plants and animals on these lands are at risk from catastrophic wildfire. Also at risk are the communities that interface with these wildlands, including those within wildland-urban interface (WUI) and rural areas. Strategic management and control of wildland vegetation is essential to the safety, health, recreational, and economic well-being of California’s citizens.

Goals of Program. The VTP has multiple goals which are summarized below:

1. Maintain and enhance forest and range land resources including forest health to benefit present and future generations.

2. Modify wildland fire behavior to help reduce catastrophic losses to life and property consistent with public expectation for fire protection.

3. Reduce the severity and associated suppression costs of wildland fires by altering the volume and continuity of wildland fuels.

4. Reduce the risk of large, high intensity fires by restoring a natural range of fire-adapted plant communities through periodic low intensity vegetation treatments.

5. Maintain or improve long-term air quality through vegetation treatments that reduce the severity of large, uncontrolled fires that release air pollutants and greenhouse gases.

6. Vary the spatial and temporal distribution of vegetation treatments within and across watersheds to reduce the detrimental effects of wildland fire on watershed health.

7. Reduce noxious weeds and non-native invasive plants to increase desirable plant species and improve browse for wildlife and domestic stock.

8. Improve wildlife habitat by spatially and temporally altering vegetation structure and composition, creating a mosaic of successional stages within various vegetation types.

9. Provide a CEQA-compliant programmatic review document process/mechanism for other state or local agencies, which have a vegetation management program/project consistent with the VTP, to utilize this guiding document to implement their vegetation treatment programs/project.

The VTP proposes to treat vegetation in order to meet the purposes established above. Vegetation management activities include the removal, rearrangement, or conversion of vegetation using various treatments. Treatment methods include prescribed fire, mechanical, manual, prescribed herbivory (such as use of goats or sheep to reduce vegetation), and herbicide. Vegetative treatments may be applied singly or in any combination needed for a particular vegetation type to meet specific resource management objectives. The method or methods used will be those that are most likely to achieve the desired objectives while protecting natural resource values.

The general suite of treatments likely to be initiated under the proposed VTP in any decade would comprise about 2.16 million acres and would include:

- Prescribed fire (underburn, jackpot burn, broadcast burn, pile burn, establishment of control lines) – about 53 percent of treatments.

- Mechanical (chaining, tilling, mowing, roller chopping, masticating, brushraking, skidding and removal, chipping, piling, pile burning) – about 18 percent of treatments.

- Manual (hand pull and grub, thin, prune, hand pile, lop and scatter, hand plant, pile burn) – about 10 percent of treatments.

- Prescribed herbivory (targeted grazing or browsing by cattle, horses, sheep, or goats) – about 10 percent of treatments.

- Herbicides (ground applications only, such as backpack spray, hypohatchet, pellet dispersal, etc.) – about nine percent of treatments.

The VTP would be limited by five landscape constraints that describe where the VTP could be applied, and by 15 minimum management requirements that limit how program practices would be modified to reduce impacts.

Staff Comments. Concerns have been raised about the extent of the VTP in the wildland interface, particularly in Southern California areas with sage scrub, chaparral, and other shrub-dominated communities. Additionally, concern has been raised about the focus of the Wildland-Urban Interface (WUI) components and the robustness of the program overall.

Questions for the Department. The department should address the following questions in its opening statement:

- What would be the impact of excluding all sage, chaparral, and other shrub-dominated communities and riparian areas from the VTP in most cases?

- Is it possible to tighten the language regarding the WUI to maintain defensible space around structures and maintain or create fuel breaks that meet very clear definitions (and eliminate those that do not)?

- Can the program be made more robust as a percentage of the overall budget for fire education and prevention programs?

Recommendation:

Vote:

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Items Proposed for Vote-Only

1. **Conservation and Mitigation Banking.** Request for $1.3 million (Fish and Game Preservation Fund) and 9 positions to fund the first phase of the Conservation and Mitigation Banking Program which was established through Chapter 565, Statutes of 2012 (SB 1148, Pavley). This also establishes a dedicated account within the Fish and Game Preservation Fund.

2. **Scientific Collecting Permit Program (Finance Letter).** Request for $517,000 and five positions (Fish and Game Preservation Fund) to fund implementation and administration of the Scientific Collecting Permits Program per Chapter 555, Statutes of 2012 (AB 2402, Huffman). Statute requires the department to receive and review scientific permit applications, issue permits, and manage the required submission of results.

3. **Bond Reversions and Appropriations—Finance Letter**. Request to revert $53 million from previous Proposition 13, 50 and 84 appropriations and to appropriate anew a like amount for (1) integrating agricultural activities with ecosystem restoration in the Delta; (2) the ecosystem restoration program; (3) the Delta Natural Communities Conservation Plan; (4) the coastal salmon and steelhead fisheries project; and, (5) interim water supply and quality projects. Each category corresponds to the voter-approved bonds.

Recommendation: **APPROVE** Items 1-3.

Vote:

Items Proposed for Discussion

2. Improper Use of Lease Proceeds

Lands Program Background. The Lands Program is responsible for assisting regional staff in the management of over 1,000,000 acres of fish and wildlife habitat. In total, the DFW manages 711 properties throughout the state. These properties provide habitat for a rich diversity of fish, wildlife, and plant species and comprise habitats from every major ecosystem in the state. In addition, the Lands Program also administers several private lands conservation programs designed to assist landowners with the management of wetlands, riparian habitats, native grasslands and wildlife-friendly farmlands.

Previous Subcommittee Actions. In April of this year, the department came forward with the discovery of systematic violations of law in its land management program. The Director of Fish and Wildlife testified before this subcommittee forthrightly and included both the department's efforts, as well as outside audits undertaken by the Administration to correct the problem. The subcommittee commended the Director for his role in removing personnel from positions of authority and undertaking a thorough review of the land management program.

Statute Provides No Incentive to Manage Lands. As discussed in the previous hearing, Fish and Game Code 1348, Subdivision (c)(2), authorizes DFW to lease property and requires it to deposit proceeds in the Wildlife Restoration Fund. This fund, which receives revenues from several sources, is administered by the Wildlife Conservation Board. Moneys from the funds are used to acquire lands and construct facilities suitable for recreation and fish and wildlife purposes. None of the funds from the leased lands is used for management of these lands, creating an incentive to find other means to fund ongoing costs on state-leased lands.

Governor's Proposal. Following legislative review of the lease management problem, the subcommittee recommended statute be changed to allow money from leases to be used for management of those leases. The Governor submitted an April Finance Letter to increase reimbursements from agriculture and grazing leases by $2.5 million and trailer bill language to clarify that revenue generated from leases is authorized to be used to improve and maintain the intrinsic and ecological values of wildlife areas, ecological reserves, and other managed lands.

Staff Comments. Staff concurs with the necessity of this proposal. The department should provide an update on this issue for the subcommittee.

Recommendation: Approve Finance Letter and trailer bill language.

Vote:

3790 Department of Parks and Recreation

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

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

ITEM PROPOSED FOR VOTE-ONLY

1. **Transfer the Department of Boating and Waterways to the Department of Parks and Recreation.** The Governor's budget implements the legislative actions of 2012 to merge the Department of Boating and Waterways into the department as a separate division. This is in accordance with the approved Governor's Reorganization Plan #2. The resulting augmentation to the department is an increase of $41 million. The reorganization results in the reduction of seven positions. (Held open on March 7.)

2. **Quagga and Zebra Mussel Infestation.** The Governor's budget proposes $235,000 (Harbors and Watercraft Fund [HWRF]) in annual baseline funding in order to implement Chapter 485, Statutes of 2012 (AB 2443), which requires the department to convene a technical advisory committee of stakeholders to determine the amount of a vessel registration fee increase to fund a new local assistance program. (Held open on March 7.)

3. **Local Assistance.** Request for $28 million from special and federal funds for annual grants to various state, local and private entities. These include grants from the Off-Highway Vehicle Trust Fund, National Historic Preservation Fund and federal funds. Funding is consistent with previous grant years. (Held open on March 7.)

4. **Local Assistance—Reversion Language.** Request to revert $8.8 million in the Habitat Conservation Fund, after completion of various projects left a balance of unallocated funds. This ensures accurate fund balance reporting in this account. (Held open on March 7.)

5. **Public Small Craft Harbor Loans.** Request for $7.9 million (HWRF) in local assistance for the following projects: Santa Barbara Marina, Statewide Emergency Loans, and Statewide planning loans. This is consistent with previous allocations. (Held open on March 7.)

6. **Public Boat Launching Facility Grants.** Request for $8.8 million (HWRF) to continue a grant program for the following public facilities: Berenda Reservoir, Contra Loma Lake, Lodi Lake, Lake McClure, Noyo Inner Harbor, Red Bluff Front Park, Rio Vista, and statewide ramp repair, restrooms, launch facilities and signage. (Held open on March 7.)

7. **Privately Owned Recreation Marina Loans.** Request for $2.7 million (HWRF) for construction loans for private marinas statewide. (Held open on March 7.)

8. **Concessions Program.** The department requests approval to solicit new concessions or extend concessions for the following: Parks E-Store, Crystal Cove State Park, Folsom Lake State Recreation Area, Morrow Bay State Park, Old Sacramento State Historic Park, and Old Town San Diego State Historic Park. (Held open on March 7.)

9. **Sacramento-San Joaquin Delta Invasive Species Control—Finance Letter.** Request for $742,000 (HWRF) for the purpose of controlling two invasive species within the Sacramento-San Joaquin Delta: water hyacinth and spongeplant. Of the proposed amount, $167,000 is for control of water hyacinth and $575,000 is for the control of spongeplant.

10. **Reappropriation of Local Assistance Project Funding—Finance Letter**. Request for two reappropriations of local assistance funding. (1) $426,000 in Proposition 12 funding for the YMCA of San Diego County: Border View Expansion Project. (2) $11.6 million Proposition 40 for the Railroad Technology Museum grant rehabilitation and facilities plan.

11. **Local Assistance Reappropriations (Districts).** It is requested that a local assistance grant be re-appropriated to the City of Pasadena in the amount of $381,153 (Proposition 40); and that three additional local assistance grants be appropriated anew for the County of Modoc, $21,674, County of Sacramento, $143,604 (Proposition 40), and Museum of Tolerance ($2 million).

12. **Extension of Liquidation—Trailer Bill Language**. The department requests trailer bill language to extend the department's authority to manage major capital outlay projects from January 1, 2014 to January 1, 2019. This will allow the department to maintain internal project management of its capital outlay project resulting in cost savings and timely delivery.

Recommendation: Approve Items 1-12

Vote:

1. Budget Proposals: New Parks Projects—Bond Funds and State Park and Recreation Fund

The Governor's budget proposes five programs and projects that relate to the long-term strategic plan of the department. These proposals are influenced by how the department moves forward with its planning and future projects. These items were heard on March 7 of this year.

1. **Americans with Disabilities Act (ADA) Program: Redistributed Proposition 12 Statewide Bond Costs and Proposition 84.** The Governor's budget requests $33.5 million (Proposition 12 bond funds). The request is for $3.1 million in 2013-14 and the balance beginning in 2014-15. These funds are being used to comply with a consent decree (*Tucker v. California Department of Parks and Recreation*) to remove physical and programmatic barriers in order to provide equal access to people with disabilities. According to the department, over $110 million is required to be spent on this over the next 10 years.

2. **Empire Mine State Historic Park.** Request for $5.2 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine. Over $36 million of state funds have been allocated to this single state park from bond funds, SPRF, and General Fund, including in the proposed budget. The current proposal does not include any bond or special funds.

3. **Capital Outlay—Angel Island Immigration Station Hospital Rehabilitation.** Requests $4.7 million (bond funds), and an ongoing baseline increase of $153,043 (SPRF), for increased maintenance and upkeep. The proposal states that there is no anticipated increased revenue generation from this proposal. The proposal is to rehabilitate a building on Angel Island for viewing and interpretation by the public.

4. **Capital Outlay—Los Angeles State Historic Park.** Request for $20.8 million (bond funds) and an ongoing baseline increase of $1 million, eight permanent staff and five seasonal staff. Current revenue generation (without any capital outlay) is anticipated to be approximately $756,000 per year. After completion of the project and additional staff are added, this increases to $1.1 million, an increase of $344,000 per year. The project would include site work, utility infrastructure, landscaping and drainage.

5. **Goat Canyon Sediment Basin.** Request for $1 million ongoing and annually from SPRF to maintain sediment basins at Border Fields State Park. According to the LAO:

   "The Border Fields State Park is on the Mexico border and includes the Tijuana Estuary—a significant wetland habitat—that runs through Mexico into the state park. In 2005, DPR constructed the Goat Canyon Sediment Basins in the park to help protect the estuary from the flow of water that washes in sediment and trash from Mexico. The basins, which are maintained by DPR, must be cleaned of the trash and maintained to comply with the California Environmental Quality Act and clean water regulations. In the past, such maintenance costs were funded by CalRecycle, as well as grants and donations from special interest groups. However, DPR indicates that these funding sources are no longer available to support such costs.

   The DPR is part of the California–Mexico Border Relations Council's Tijuana River Valley Recovery Team, which is a collaborative effort to keep the Tijuana watershed area free of trash and sediment. The team includes other state agencies and departments (such as CalEPA and the Department of Public Health), the federal and Mexican governments, and local and regional agencies. The team has historically relied on funding from various members to protect this area, in addition to federal grants. One of the challenges to securing ongoing funding is that there currently is no mechanism for seeking damages for environmental pollution from Mexico."

   Funds Requested to Support Goat Canyon Park Cleanup. The Governor's budget for 2013–14 requests $1 million annually from SPRF to support ongoing maintenance and clean–up at the Goat Canyon Sediment Basins at the Border Fields State Park. The SPRF is primarily funded by fee revenues and used to support the operations of the state park system.

Staff Comments and Previous Subcommittee Actions. The subcommittee heard these issues on March 7 and held these items open. The department should be prepared to update the subcommittee on the proposals. Specifically, the department should update the committee on:

- What attempts have been made to secure other sources of funding for the Goat Canyon Sediment Basin, particularly from the federal government?

- How will the capital outlay proposals fit into the strategic plan and recent legislation that requires the department to be more entrepreneurial?

Staff Recommendation:

1. Approve Item 1.

2. Item 2, Approve less $500,000 (General Fund). In a conforming action, approve $500,000 from the Abandoned Mine Reclamation and Minerals Fund to replace $500,000 General Fund of this proposal.

3. Items 3 and 4, Approve with provisional language requiring that the department to specifically include these projects in its forthcoming strategic and proposed (below) capital improvement plans.

4. Item 5, Approve the governor's proposal on a limited basis for a three year period, with adoption of budget control language requiring the Department of Parks & Recreation, in consultation with other state and federal agencies participating in the Tijuana River Valley recovery team, to explore and report back to the Legislature by September 1, 2016 on any other potential funding sources that might be available to cover the ongoing annual costs of maintaining the Goat Canyon sediment basins in Border Fields State Park.

5. As recommended by the Bureau of State Audits, approve the following reporting language in both supplemental reporting language and trailer bill language:

   a) Require the department to submit, by December 1, 2013, a report to the Legislature on verified individual park unit budgets (including specific line items for staffing, ongoing state operations and maintenance, and deferred maintenance obligations). These budgets should specify how many days per week each park should be open and why. The figures should be based on fully operating 278 parks in 2010.

   b) By January 10, 2014, submit a report the legislature, in conjunction with the annual budget release, with a prioritized infrastructure plan for the state parks system that adheres to the principal revenue generation goals of AB 1478. This should include funding requirements in a prioritized list for all individual park units, including capital outlay projects and deferred maintenance obligations, regardless of availability of existing funding. The department shall develop this infrastructure plan in consultation with the State Park And Recreation Commission.

Recommendation. **Approve** staff recommendation.

Vote:

3960 Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; federal funds; and GF.

Items Proposed for Discussion

1. Hazardous Waste Fee Reform

Governor's Proposal. The Governor proposes to modify the hazardous waste fees in the Hazardous Waste Control Account (HWCA) to simplify the hazardous waste fee system, align the fees with public policy and program objectives, assess the fees more fairly on those who generate waste, and provide more stability to the funding source for Department of Toxic Substances Control's (DTSC) Hazardous Waste Management Program. Specifically the proposal:

- Eliminates the Disposal Fee, flat rate permitting activity fees, Environmental Protection Agency (EPA) Identification Verification Fee and the Manifest User Fee;

- Changes the current tiered Generator Fee to a per ton Generation and Handling Fee, revises the per ton fee rate from an average of $50 per ton to $25.70 per ton ($23.27 per ton for used oil), and expands the universe of businesses required to pay the fee; and makes minor changes to facility fees;

- Trailer bill language is required to accomplish these changes.

Background. DTSC's Hazardous Waste Management Program is funded primarily from the HWCA. Many of DTSC's core efforts, including hazardous waste facility inspections, criminal investigations, enforcement of hazardous waste laws, and other hazardous waste-related activities are funded by HWCA. DTSC is responsible for ensuring hazardous wastes generated are managed safely and properly to prevent harm to public health and the environment.

HWCA is supported primarily by hazardous waste fees and corrective action/cost recoveries. The hazardous waste fees come from a complex system of fees paid by a broad spectrum of businesses that generate or manage hazardous wastes. This fee system, which is vital to allowing DTSC to continue to fulfill these essential public health and environmental protection responsibilities, is facing challenges due to changing businesses and industrial trends.

Impacts on Other Agencies. This proposal will impact the Board of Equalization (BOE). BOE has the responsibility for collecting the majority of DTSC's fees. The Hazardous Waste Control Account Fee Reform proposal will eliminate two of the fees currently collected by BOE—the Disposal Fee and Activity Fee. In addition, this proposal will increase the number of businesses required to pay a generation and handling fee, which will increase the number of accounts BOE will be required to maintain. DTSC estimates that the number of generation and handling accounts BOE must oversee could rise by over 3,000 or 61 percent.

This proposal will also impact the California Department of Resources Recycling and Recovery (CalRecycle). CalRecycle implements the Used Oil Recycling Program, which develops and promotes the collection and recycling of used oil, to provide an alternative to the illegal disposal of used oil. Through its program, CalRecycle has established a statewide network of collection centers and performed outreach to inform and motivate the public to recycle used oil. DTSC has been working closely with CalRecycle to ensure that DTSC's Hazardous Waste Control Account Fee Reform proposal does not adversely impact the generators that accept used oil from the public. To avoid unintended impacts on the program, DTSC has included language in its fee reform proposal that would exempt certified collection centers from paying the Generation and Handling Fee on used oil they collect from the "do-it-yourself" oil changing public.

Impacts on Fee Payers. This proposal will directly impact businesses generating and handling hazardous waste in California. Hazardous Waste Land Disposal Facilities should support the aspect of the Hazardous Waste Control Account fee reform that eliminates the Disposal Fee, as generators may find it more economical to dispose of hazardous waste in California than out-of-state. Some hazardous waste generators will find that the revised Generation and Handling Fee will reduce their fees because the current tiered Generator Fee system has the largest generators paying the smallest per ton fee. Currently a large quantity generator of hazardous waste (2,000 tons or more) would pay an effective rate of $41.73 per ton at 2,000 tons while businesses generating more than five tons and less than 2,000 tons pay effective per ton rates ranging from a low of $8.71 per ton (those generating 24 tons) and a high of $83.46 per ton (those generating 50, 250, or 500 tons). The average per ton rate of the current system is $50 per ton.

Under the proposed fee system, all generators would pay $25.70 per ton. Used oil made up 20 percent of the total hazardous waste disposed in 2011 and is very labor intensive for DTSC with respect to complaints, inspection, permitting and corrective action. Businesses generating and handling used oil do not currently pay generator fees. Under the proposed Hazardous Waste Control Account Reform, these businesses will pay a reduced Generation and Handling Fee of $23.27 per ton when they take the used oil to a recycling or transfer facility, otherwise they will pay the full fee. The fee is reduced to take into account $720,000 DTSC receives annually in funding from the Used Oil Recycling Account to inspect and enforce used oil transfer facilities and used oil re-refineries.

Generator Fee Reform. The most significant change included in the proposed fee reform is in the Generator Fee. Generator Fee "tiers" are eliminated and replaced with a uniform rate per ton. Under the current generator fee, businesses pay an effective per ton fee ranging from a low of $8.71 per ton to a high of $83.46 per ton, with an average rate of $50 per ton. The higher per ton rates are paid by businesses at the lower end of one of the seven tiers. For example, a business generating 499 tons in a year would pay a generator fee of $20,865 in 2013—this equates to an effective rate of $41.81 per ton.

A business generating 500 tons would pay a generator fee of $41,730 or an effective rate of $83.46 per ton. This significant increase in the generator fee could be an incentive for some generators to store hazardous waste at their facility for longer than authorized.

Businesses generating 2,000 tons or more per year pay a generator fee of $83,460. There is no incentive to reduce generation of hazardous waste as the generator fee does not increase once the 2,000 ton cap is reached.

Proposed Generation and Handling Fee. The Generator Fee will be revised and renamed the Generation and Handling Fee, to be assessed on a per ton basis. DTSC proposes to set the initial Generation and Handling Fee at $25.70 per ton ($23.27 per ton for used oil). These rates represent a revenue neutral proposal of $ 36,850,667.

Exemptions from Generator Fees. The existing generator fee structure contains specific exemptions and fee accommodations for specified circumstances. DTSC's proposal manages those as follows:

Eliminates exemptions for:

- Cap of 2,000 tons per generator per site per year. (Provides an incentive to reduce the generation of hazardous waste.)
- Treatment, storage and disposal facilities and consolidated transporters (these businesses are regulated by DTSC, generate hazardous wastes in their operations, create workload for DTSC, and should pay the fees into the HWCA).
- Used oil will be charged a reduced fee per ton (provides an incentive to reduce the generation of used oil).
- Refunds of generator fees paid to Certified Unified Program Agencies. Currently this exemption is only operative if DTSC determines that it has a significant fund balance in HWCA to allow the refunds to be paid. This exemption has never been used, as DTSC has never had an excessive fund balance in HWCA.

Creates an exemption for:

- Used oil collected by used oil collection centers certified by CalRecycle (encourages the use of these collection facilities by the public to reduce illegal disposal of used oil).

Activity Fee Reform. The existing hazardous waste fee structure allows a permit applicant to choose one of two options: 1) to pay a flat fee established in statute to pay for DTSC's review and evaluation of its application; 2) to enter a reimbursement agreement with DTSC to pay for DTSC's actual costs in reviewing and evaluating its application. The flat fee rates, when initially established in statute, were thought to be sufficient to pay for DTSC's review costs. In DTSC's experience, however, its costs have significantly exceeded the revenues collected through the current activity fee. Rough estimates show that the activity fee covers only about one third of DTSC's actual costs. DTSC's fee reform proposal would eliminate the flat activity fee option, and require all permit applicants to enter a reimbursement agreement with DTSC to pay DTSC's actual costs.

Elimination of the Disposal Fee, Manifest User Fee and EPA ID Verification Fee. Due to the complexity of the fee system, most generators, in addition to paying the generator fee, also pay disposal, manifest user, and EPA ID verification fees. Many facilities, in addition to the annual facility fee, pay the manifest user, EPA ID verification and disposal and activity fees. The existing fee system is unnecessarily complex, and is more costly and burdensome in terms of collection and recordkeeping for both DTSC and the fee payers. DTSC's fee reform proposal would eliminate the Disposal, Manifest User, and EPA ID Verification Fees.

Staff Comments: The Governor's proposed restructuring is necessary to set fee levels to cover the cost of the hazardous waste management program, more fairly distribute the fee burden to the regulated fee payers, and provide stability and sustainability in the HWCA.

Since 2001, the projected HWCA revenue from fees has never been sufficient to cover the projected costs of authorized Hazardous Waste Management Program expenditure authority. As a consequence, to fund DTSC's Hazardous Waste Management Program, a significant fund balance has been required. This proposal simplifies the hazardous waste fee system, reduces the number of different fees paid by most hazardous waste generators, facilities, and transporters, creates a more equitable fee system, and allows DTSC to be reimbursed for its full costs.

Recommendation: **Approve** Proposal.

Vote:

8570 Department of Food and Agriculture

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

Governor's Budget. The Governor's budget includes $343 million ($62 million GF) for support of the CDFA, a decrease of approximately $3 million, mainly due to fluctuations in various statewide pest control efforts.

Items Proposed for Discussion

1. Reappropriation—Relocation: Yermo Agriculture Inspection Station

Budget Proposal. The Governor's budget requests reappropriation of $47.5 million in lease-revenue bond funding for construction of CDFA's portion of a joint border protection station and California Highway Patrol truck inspection station on Interstate 15 near the Nevada border. Specifically, the project authorizes the construction of a CDFA border protection station in Mountain Pass, California to replace the aging facility currently located in Yermo, California. The new station is intended to improve CDFA's ability to prevent harmful pests and other potential threats to humans and vegetation from entering the state.

The facility is designed as a joint construction project with the California Highway Patrol (CHP). Combining two agencies into one project is intended to reduce the cost and environmental impact by 50 percent. The station upgrade is intended to improve CDFA performance through modern technology and a safer environment by increasing lane size and using crash barriers.

Staff Comments. In preliminary discussions with the California Department of Transportation (Caltrans) and the California Department of Food and Agriculture, the LAO has identified some potential issues that warrant further discussion. When initially approved by the Legislature in 1999, both aspects of the project were intended to be designed and constructed by Caltrans. However, repeated delays have occurred and, as a result Caltrans plans to construct the truck inspection station separately from the border protection station. In addition, significant costs for design have been incurred that exceed the previously approved support budget. For instance, Caltrans has spent $9 million to date, designing the border protection station, and expects to spend an additional $1.5 million over the next 9 to 12 months to update the design further.

When the Legislature approved funding for this project in 2009, these support costs were estimated to cost only about $1.5 million. Further discussions with the Administration are needed to determine what actions may need to be taken to ensure the successful completion of the project.

Staff recommends denying the reappropriation until the Administration returns with a clear understanding of the costs associated with this project and a proposal for lowering costs associated with this project.

Questions for the Department. The department should address the following questions in their opening statement.

- What was the original cost of the project and what is the current projected cost of the project?
- Why weren't these concerns brought before the Legislature earlier so an appropriate intervention could be taken?
- What is the role of CDFA in overseeing this capital outlay project, including monitoring costs?
- What would be the impact of shifting the construction and planning of the project from Caltrans to the Department of General Services?

Recommendation: Deny proposal.

Vote:

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

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

Thursday, May 9, 2013
9:30 a.m. or Upon Adjournment of
Public Employment and Retirement Committee
Hearing Room 2040

Consultant: Catherine Freeman
OUTCOMES

Items Proposed for Vote-Only

Items Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

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

DEPARTMENTS PROPOSED FOR VOTE ONLY

0540 Secretary for Natural Resources

1. **Proposition 84—Ocean Protection Trust Fund (Finance Letter).** Request to appropriate the unencumbered balance of funds ($20.2 million) previously appropriated to the State Coastal Conservancy for grant programs administered by the Ocean Protection Council. This is consistent with the subcommittee's previous action on March 7 to consolidate ocean programs at the Secretary for Natural Resources.

2. **Proposition 84 Reappropriation—Strategic Growth Council Urban Greening Program (Finance Letter).** Request for reappropriation of $1.7 million from terminated grants to allow funds to be included in the third and final round of Urban Greening grants, as required by the bond.

Recommendation: **Approve** Items 1-2

Vote: 2-1 (Nielsen)

3125 California Tahoe Conservancy

3. **Proposition 84—Environmental Improvement Plan Funding (Finance Letter).** Request for reversion and reappropriation of $4 million (Proposition 84 bond funds) to fund land acquisitions and site improvements for the Lake Tahoe Environmental Improvement Program. This is consistent with the Conservancy's plans to consolidate land holdings to streamline state and federal land management.

Recommendation: **Approve** Item 3

Vote: 2-1 (Nielsen)

3340 California Conservation Corps

4. **Increase of Reimbursement Authority (Finance Letter).** Request for an increase of $163,000 (Collins-Dugan Reimbursement Account) to perform property maintenance for the California Department of Transportation. Activities include trash and weed removal, graffiti abatement, and erosion control.

5. **Capital Outlay Reappropriation (Finance Letter).** Request for reappropriation for the capital project phase of the Delta Service Center to include acquisition, preliminary plans, working drawings and construction. At this point, the working drawings are nearly complete and construction is scheduled to begin on time in 2013-14.

Recommendation: **Approve** Items 4-5

Vote: 3-0

3360 Energy Resources Conservation Development Commission

6. **Conversion of Two Limited-Term Positions to Permanent.** The Governor's budget requests authority to convert two limited-term positions to permanent to continue implementation of the ongoing and permanent solar electric mandates in Chapter 132, Statutes of 2006 (SB 1, Murray). These positions were originally made limited-term in 2007 and extended twice, based on ongoing workload associated with the legislation. (Held open on April 25.)

7. **Implementation of the Electric Program Investment Charge (EPIC).** The Governor's budget requests baseline authority for 55.5 position, $575,000 in technical assistance funds and $159.3 million in project funds for the implementation and execution of the EPIC. The proposal includes an additional $25 million in EPIC Funds the CPUC may approve for the New Solar Homes Partnership Program. Proposed expenditures would roughly be broken out with $76 million for applied research, $62 million for demonstration and deployment, and $20 million for market facilitation. All funding for the program would be derived from utility ratepayers. The program would increase to $185 million in 2014-15. (This item was heard and held open on April 25.)

Recommendation:

Approve Item 6.

Approve Item 7 positions and funding provisionally such that no positions may be added, nor funds expended, until a statute expressly authorizes the EPIC program, including program provisions.

Vote: 2-1 (Nielsen)

3480 Department of Conservation

8. **Watershed Coordinator Grants—Reappropriation of Proposition 84 Bond Funds.** Request to reappropriate $109,000 in unencumbered Proposition 84 bond funds to finalize the implementation of the watershed element of the CALFED Bay-Delta Program through the department's Statewide Watershed Program. (Held Open on March 7.)

9. **Increased Funding for Abandoned Mine Remediation**. The Governor's budget proposes a baseline increased appropriation of $500,000 from the Abandoned Mine Reclamation and Minerals Fund (AMRMF). These funds will be used for remediation activities on hazardous abandoned mines. This program requests to continue a temporarily increased program level allowed for under the American Reinvestment and Recovery Act (ARRA). (This item was heard and held open on March 7.)

10. **Strategic Growth Council—Continuation of Grant Program (Finance Letter).** Request for reversion of Proposition 84 bond funds ($14.8 million) related to the Sustainable Communities Planning Grant and Incentive Program, and appropriation of $18 million (Proposition 84 bond funds) to both support the competitive grant program and to fund the third of three rounds of grants for the program. Provisional language allows for encumbrance until June 30, 2016.

Recommendation:

Approve Items 8 and 10.

Deny Item 9. Instead approve $500,000 to the Department of Parks and Recreation to partially offset Empire Mine remediation General Fund costs in 2013-14 (Staff Recommendation on March 7).

Vote: 2-1 (Nielsen)

3560 State Lands Commission

11. **Oil and Gas Review and Oversight.** Request for three permanent positions to review and monitor state oil and gas lease activities to ensure compliance with lease terms. Funding will be dedicated from existing reimbursement agreements. This proposal is consistent with legislative direction to increase oversight of oil and gas leases.

12. **Elimination of Rent-Free Use of Property for Private Piers.** Request for $184,000 (General Fund) to eliminate the rent-free use of state property for private piers. Chapter 585, Statues of 2011 (SB 152, Pavley), increased billable leases by more than 1,300 leases over a ten-year period. Prior to this change in statute, only 900 revenue producing leases were billed. This change increases workload to 2,200 leases necessary for rent review. Additional General Fund revenues are estimated at $2.25 million annually after a 10-year transition period.

Recommendation: **Approve** Items 11-12.

Vote: 2-1 (Nielsen)

3640 Wildlife Conservation Board

13. **San Joaquin River Conservancy—Reappropriation.** The Governor's budget requests reappropriation of $4.8 million (Proposition 84 bond funds), to develop the San Joaquin River Parkway. This project was delayed due to the 2008 bond freeze.

14. **Sacramento-San Joaquin Delta NCCP Reappropriation**. The Governor's budget requests reappropriation of $5.5 million of the original $24 million appropriation. This will allow the board to continue administering grants to local agencies to implement and to assist in the establishment of NCCPs for the areas in and around the Sacramento-San Joaquin Delta.

15. **Proposition 84 Planning and Acquisition Funding (Finance Letter).** The Governor's budget requests reappropriation of $15.1 million (Proposition 84 bond funds) including $1.5 million for the Oak Woodlands Conservation Program, $2.4 million for grants to assist famers to integrate activities with ecosystem restoration and wildlife protection, and $1.3 million for the Rangeland, Grazing Land and Grassland Program. In addition, the budget requests reappropriation of $10 million for the Sacramento-San Joaquin Delta Natural Community Conservation Plan.

Recommendation: **Approve** Items 13-15.

Vote:
Items 13-14: 2-1 (Nielsen)
Item 15: 3-0

3760 State Coastal Conservancy

16. **Fund Shift to Realign Base Budget (Finance Letter).** Request to realign several base budget items to reflect the consolidation of ocean programs at the Secretary for Natural Resources, as well as to follow a 2012 budget request to provide a long-term manageable baseline funding plan. There is no net increase in funding with this proposal.

Recommendation: Approve Item 16.

Vote: 2-1 (Nielsen)

3860 Department of Water Resources (DWR)

17. **Central Valley Flood Protection Board – Legal Counsel.** The Governor's budget requests to shift legal counsel from Department of Justice to the DWR, resulting in a savings of $25,000 (General Fund) annually. (Held open on March 21.)

18. **Central Valley Flood Protection Board –Technical Implementation Support**. Request for $650,000 (Proposition 1E bond funds) ongoing to implement the recently adopted Flood Protection Plan. (Held open on March 21.)

19. **Low Intensity Chemical Dosing.** Request for $550,000 (Proposition 13 bond funds) over two years to complete a project designed to improve water quality related to agricultural drainage.

20. **Salton Sea Restoration Program—Species Conservation Habitat Program.** Proposal for $2 million in reimbursement authority over two years for baseline staff support activities associated with the Species Conservation Habitat Proposal. (Held open on March 21.)

21. **Capital Outlay—Salton Sea Species Conservation Habitat Project.** Request for construction phase of funding to shallow water, saline habitat per terms of the Quantification Settlement Agreement terms and state mitigation obligations. Conforms to a previous Department of Fish and Wildlife proposal. The budget requests $22.6 million (Proposition 84 bonds funds) and $5.7 million (Proposition 50 bond funds). (Held open on March 21.)

22. **FloodSAFE California Program.** The Governor's budget requests continued FloodSAFE funding of $98.1 million as part of the multi-year approach to improving flood control. This request represents a continuation of activities funded in prior years. After multiple years, DWR has completed, and the Central Valley Flood Protection Board adopted, the Central Valley Flood Protection Plan, a major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events. (Held open on March 21.)

23. **Fish Passage Improvement Program.** The Governor's budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes $349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program. (Held open on March 21.)

24. **Technical Adjustments, Reappropriations, Extensions of Liquidation Periods and Reversions: Non-Capital Outlay—Finance Letter.** The budget requests various reversions, reappropriations and extensions of liquidation on existing projects to continue state operations for mainly flood-related projects in the Sacramento Valley.

25. **Reappropriations and Extensions of Liquidation: Capital Outlay—Finance Letter.** The budget requests reappropriation and extension of liquidation of $78 million (bond funds and reimbursements) for ongoing flood-related projects, mainly in the Sacramento Valley.

Recommendation: Approve Items 17-25.

Vote:
Items 17-23: 2-1 (Nielsen)
Items 24-25: 3-0

3940 State Water Resources Control Board

26. **Criteria for Indirect Potable Reuse of Recycled Water.** Request for $700,000 (Waste Discharge Permit Fund) to support efforts by the California Department of Public Health to adopt water recycling criteria for indirect potable use. (Held open on April 11.)

27. **Wastewater Operator Certification Fund Augmentation.** The budget requests an augmentation of $586,000 for the Wastewater Operator Certification Fund to (1) support new workload of certifying operators for privately-owned treatment plants per revised regulations, and (2) maintain the current workload of certifying publicly-owned wastewater treatment plant operators. (Held open on April 11.)

Recommendation: Approve Items 26-27.

Vote: 2-1 (Nielsen)

3970 Department of Resources Recycling and Recovery

28. **Transfer of the Office of Education and the Environment (OEE) to CalRecycle.** Request to complete statutorily required transfer of OEE from Cal-EPA to CalRecycle. This is a net-zero shift in positions. A total of $2.3 million (expenditure authority) and 10 positions are proposed to be shifted. This proposal includes trailer bill language. (Held open on April 11.)

29. **Shift CalRecycle from Resources Agency to Cal-EPA.** Request to complete statutorily authorized transfer of CalRecycle to Cal-EPA. This proposal was approved and completes the Governor's Reorganization Plan No. 2 that was approved by the Little Hoover Commission in May 2012, and was subsequently not rejected by either house of the Legislature. There is no budget or position impact to this shift. (Held open on April 11.)

30. **Cleanup Trailer Bill Language for Carpet and Paint.** Request for trailer bill language for both the Architectural Paint Recovery Program and Carpet Stewardship Program in order to change the payment of the administrative fees supporting these programs from yearly to quarterly in arrears in order to improve cash flow for the programs. (Held open on April 11.)

31. **Captive Insurance: Solid Waste Facilities.** Request for $260,000 in reimbursement authority to implement Chapter 713, Statutes of 2012 (AB 480, Solario). AB 480 temporarily revises the conditions under which the use of captive insurance as a financial assurance mechanism for solid waste landfills would be allowed. (Held open on April 11.)

32. **Hazardous Waste Grant Authority.** Request for $81,000 (Integrated Waste Management Fund) to supplement the Household Hazardous Waste Grant Program. This allocates the department's receipt of judgment funds from *People v. Costco*, which requires the retail chain to pay for mishandling of hazardous waste material. (Held open on April 11.)

33. **Beverage Container Recycling Reform.** The Governor requests to shift the balance of its efforts from primarily encouraging recycling to an increased emphasis on program fiscal integrity, quality control and better use of information resources, consistent with administrative and legislative direction over the past few years. Specifically, the department requests appropriation authority and eight positions on a three-year limited-term basis, and trailer bill language. (Held open on April 11.)

Recommendation: Approve Items 28-33.

Vote:
Items 28-32 2-1 (Nielsen)
Item 33: 3-0

7300 Agricultural Labor Relations Board

34. Funding for the Administration of the Board. Request to appropriate $502,000 (Labor and Workforce Development Fund) and four new positions to meet administrative requirements. This proposal will allow the board to fund location-specific personnel and travel as required by diverse California agriculture labor needs.

Recommendation: **Approve** Item 34.

Vote: 2-1 (Nielsen)

Recommendation:

Vote:

3450 Department of Forestry and Fire Protection (CalFIRE)

Items Proposed for Discussion

1. Vegetation Treatment Program

Background. The State Board of Forestry and Fire Protection (BOF) proposes to initiate a California Statewide Vegetation Treatment Program (VTP). The proposed program is intended to lower the risk of catastrophic wildfires on nonfederal lands by reducing hazardous fuels. The VTP goals include control of unwanted vegetation, including invasive species, improvement of rangeland for livestock grazing, improvement of fish and wildlife habitat, enhancement and protection of riparian areas and wetlands, and improvement of water quality in priority watersheds. The initiation of this program is a project, subject to California Environmental Quality Act (CEQA). As the CEQA lead agency, the BOF will provide policy direction for implementation of the VTP to CalFIRE, which administers a wide range of vegetation management programs.

According to the department, the purpose of the VTP is to modify vegetation on wildlands to reduce the costs and losses associated with wildfires and to enhance the condition of forests, rangelands, and watersheds. The need for the VTP is based on the fact that the wildlands of California are naturally fire prone. Past land and fire management practices have had the effect of increasing the intensity, rate of spread, as well as the annual acreage burned on these lands (BOF, 1996). Although the citizens of California expect these lands to provide a wide range of sustainable economic and non-economic benefits, the state's expanding population increases the risk of arson or unintentional fire starts that jeopardize these expectations. The natural communities of plants and animals on these lands are at risk from catastrophic wildfire. Also at risk are the communities that interface with these wildlands, including those within wildland-urban interface (WUI) and rural areas. Strategic management and control of wildland vegetation is essential to the safety, health, recreational, and economic well-being of California's citizens.

Goals of Program. The VTP has multiple goals which are summarized below:

1. Maintain and enhance forest and range land resources including forest health to benefit present and future generations.

2. Modify wildland fire behavior to help reduce catastrophic losses to life and property consistent with public expectation for fire protection.

3. Reduce the severity and associated suppression costs of wildland fires by altering the volume and continuity of wildland fuels.

4. Reduce the risk of large, high intensity fires by restoring a natural range of fire-adapted plant communities through periodic low intensity vegetation treatments.

5. Maintain or improve long-term air quality through vegetation treatments that reduce the severity of large, uncontrolled fires that release air pollutants and greenhouse gases.

6. Vary the spatial and temporal distribution of vegetation treatments within and across watersheds to reduce the detrimental effects of wildland fire on watershed health.

7. Reduce noxious weeds and non-native invasive plants to increase desirable plant species and improve browse for wildlife and domestic stock.

8. Improve wildlife habitat by spatially and temporally altering vegetation structure and composition, creating a mosaic of successional stages within various vegetation types.

9. Provide a CEQA-compliant programmatic review document process/mechanism for other state or local agencies, which have a vegetation management program/project consistent with the VTP, to utilize this guiding document to implement their vegetation treatment programs/project.

The VTP proposes to treat vegetation in order to meet the purposes established above. Vegetation management activities include the removal, rearrangement, or conversion of vegetation using various treatments. Treatment methods include prescribed fire, mechanical, manual, prescribed herbivory (such as use of goats or sheep to reduce vegetation), and herbicide. Vegetative treatments may be applied singly or in any combination needed for a particular vegetation type to meet specific resource management objectives. The method or methods used will be those that are most likely to achieve the desired objectives while protecting natural resource values.

The general suite of treatments likely to be initiated under the proposed VTP in any decade would comprise about 2.16 million acres and would include:

- Prescribed fire (underburn, jackpot burn, broadcast burn, pile burn, establishment of control lines) – about 53 percent of treatments.

- Mechanical (chaining, tilling, mowing, roller chopping, masticating, brushraking, skidding and removal, chipping, piling, pile burning) – about 18 percent of treatments.

- Manual (hand pull and grub, thin, prune, hand pile, lop and scatter, hand plant, pile burn) – about 10 percent of treatments.

- Prescribed herbivory (targeted grazing or browsing by cattle, horses, sheep, or goats) – about 10 percent of treatments.

- Herbicides (ground applications only, such as backpack spray, hypohatchet, pellet dispersal, etc.) – about nine percent of treatments.

The VTP would be limited by five landscape constraints that describe where the VTP could be applied, and by 15 minimum management requirements that limit how program practices would be modified to reduce impacts.

Staff Comments. Concerns have been raised about the extent of the VTP in the wildland interface, particularly in Southern California areas with sage scrub, chaparral, and other shrub-dominated communities. Additionally, concern has been raised about the focus of the Wildland-Urban Interface (WUI) components and the robustness of the program overall.

Questions for the Department. The department should address the following questions in its opening statement:

- What would be the impact of excluding all sage, chaparral, and other shrub-dominated communities and riparian areas from the VTP in most cases?
- Is it possible to tighten the language regarding the WUI to maintain defensible space around structures and maintain or create fuel breaks that meet very clear definitions (and eliminate those that do not)?
- Can the program be made more robust as a percentage of the overall budget for fire education and prevention programs?

Recommendation: (none)

Motion (Jackson): **Adopt Trailer Bill Language that will do the following related to the VTP:**

1. Excludes chaparral in SoCal.
2. Requires independent peer review.
3. For first two years, limits work in WUI as specified.
4. Limits other fuel reduction to emergency routes for public
5. Board shall identify how the funding will meet certain criteria that implements SB 1241.
6. No "checklist" for tiered projects. Must following tiering provisions of CEQA.
7. Five-year sunset to allow for program review.

Vote: 2-1 (Nielsen)

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Items Proposed for Vote-Only

1. **Conservation and Mitigation Banking.** Request for $1.3 million (Fish and Game Preservation Fund) and 9 positions to fund the first phase of the Conservation and Mitigation Banking Program which was established through Chapter 565, Statutes of 2012 (SB 1148, Pavley). This also establishes a dedicated account within the Fish and Game Preservation Fund.

2. **Scientific Collecting Permit Program (Finance Letter).** Request for $517,000 and five positions (Fish and Game Preservation Fund) to fund implementation and administration of the Scientific Collecting Permits Program per Chapter 555, Statutes of 2012 (AB 2402, Huffman). Statute requires the department to receive and review scientific permit applications, issue permits, and manage the required submission of results.

3. **Bond Reversions and Appropriations—Finance Letter**. Request to revert $53 million from previous Proposition 13, 50 and 84 appropriations and to appropriate anew a like amount for (1) integrating agricultural activities with ecosystem restoration in the Delta; (2) the ecosystem restoration program; (3) the Delta Natural Communities Conservation Plan; (4) the coastal salmon and steelhead fisheries project; and, (5) interim water supply and quality projects. Each category corresponds to the voter-approved bonds.

Recommendation: **APPROVE** Items 1-3.

Vote: 2-1 (Nielsen)

Items Proposed for Discussion

2. Improper Use of Lease Proceeds

Lands Program Background. The Lands Program is responsible for assisting regional staff in the management of over 1,000,000 acres of fish and wildlife habitat. In total, the DFW manages 711 properties throughout the state. These properties provide habitat for a rich diversity of fish, wildlife, and plant species and comprise habitats from every major ecosystem in the state. In addition, the Lands Program also administers several private lands conservation programs designed to assist landowners with the management of wetlands, riparian habitats, native grasslands and wildlife-friendly farmlands.

Previous Subcommittee Actions. In April of this year, the department came forward with the discovery of systematic violations of law in its land management program. The Director of Fish and Wildlife testified before this subcommittee forthrightly and included both the department's efforts, as well as outside audits undertaken by the Administration to correct the problem. The subcommittee commended the Director for his role in removing personnel from positions of authority and undertaking a thorough review of the land management program.

Statute Provides No Incentive to Manage Lands. As discussed in the previous hearing, Fish and Game Code 1348, Subdivision (c)(2), authorizes DFW to lease property and requires it to deposit proceeds in the Wildlife Restoration Fund. This fund, which receives revenues from several sources, is administered by the Wildlife Conservation Board. Moneys from the funds are used to acquire lands and construct facilities suitable for recreation and fish and wildlife purposes. None of the funds from the leased lands is used for management of these lands, creating an incentive to find other means to fund ongoing costs on state-leased lands.

Governor's Proposal. Following legislative review of the lease management problem, the subcommittee recommended statute be changed to allow money from leases to be used for management of those leases. The Governor submitted an April Finance Letter to increase reimbursements from agriculture and grazing leases by $2.5 million and trailer bill language to clarify that revenue generated from leases is authorized to be used to improve and maintain the intrinsic and ecological values of wildlife areas, ecological reserves, and other managed lands.

Staff Comments. Staff concurs with the necessity of this proposal. The department should provide an update on this issue for the subcommittee.

Recommendation: **Approve** Finance Letter and trailer bill language.

Vote: 3-0

3790 Department of Parks and Recreation

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

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

ITEM PROPOSED FOR VOTE-ONLY

1. **Transfer the Department of Boating and Waterways to the Department of Parks and Recreation.** The Governor's budget implements the legislative actions of 2012 to merge the Department of Boating and Waterways into the department as a separate division. This is in accordance with the approved Governor's Reorganization Plan #2. The resulting augmentation to the department is an increase of $41 million. The reorganization results in the reduction of seven positions. (Held open on March 7.)

2. **Quagga and Zebra Mussel Infestation.** The Governor's budget proposes $235,000 (Harbors and Watercraft Fund [HWRF]) in annual baseline funding in order to implement Chapter 485, Statutes of 2012 (AB 2443), which requires the department to convene a technical advisory committee of stakeholders to determine the amount of a vessel registration fee increase to fund a new local assistance program. (Held open on March 7.)

3. **Local Assistance.** Request for $28 million from special and federal funds for annual grants to various state, local and private entities. These include grants from the Off-Highway Vehicle Trust Fund, National Historic Preservation Fund and federal funds. Funding is consistent with previous grant years. (Held open on March 7.)

4. **Local Assistance—Reversion Language.** Request to revert $8.8 million in the Habitat Conservation Fund, after completion of various projects left a balance of unallocated funds. This ensures accurate fund balance reporting in this account. (Held open on March 7.)

5. **Public Small Craft Harbor Loans.** Request for $7.9 million (HWRF) in local assistance for the following projects: Santa Barbara Marina, Statewide Emergency Loans, and Statewide planning loans. This is consistent with previous allocations. (Held open on March 7.)

6. **Public Boat Launching Facility Grants.** Request for $8.8 million (HWRF) to continue a grant program for the following public facilities: Berenda Reservoir, Contra Loma Lake, Lodi Lake, Lake McClure, Noyo Inner Harbor, Red Bluff Front Park, Rio Vista, and statewide ramp repair, restrooms, launch facilities and signage. (Held open on March 7.)

7. **Privately Owned Recreation Marina Loans.** Request for $2.7 million (HWRF) for construction loans for private marinas statewide. (Held open on March 7.)

8. **Concessions Program.** The department requests approval to solicit new concessions or extend concessions for the following: Parks E-Store, Crystal Cove State Park, Folsom Lake State Recreation Area, Morrow Bay State Park, Old Sacramento State Historic Park, and Old Town San Diego State Historic Park. (Held open on March 7.)

9. **Sacramento-San Joaquin Delta Invasive Species Control—Finance Letter.** Request for $742,000 (HWRF) for the purpose of controlling two invasive species within the Sacramento-San Joaquin Delta: water hyacinth and spongeplant. Of the proposed amount, $167,000 is for control of water hyacinth and $575,000 is for the control of spongeplant.

10. **Reappropriation of Local Assistance Project Funding—Finance Letter**. Request for two reappropriations of local assistance funding. (1) $426,000 in Proposition 12 funding for the YMCA of San Diego County: Border View Expansion Project. (2) $11.6 million Proposition 40 for the Railroad Technology Museum grant rehabilitation and facilities plan.

11. **Local Assistance Reappropriations (Districts).** It is requested that a local assistance grant be re-appropriated to the City of Pasadena in the amount of $381,153 (Proposition 40); and that three additional local assistance grants be appropriated anew for the County of Modoc, $21,674, County of Sacramento, $143,604 (Proposition 40), and Museum of Tolerance ($2 million).

12. **Extension of Liquidation—Trailer Bill Language**. The department requests trailer bill language to extend the department's authority to manage major capital outlay projects from January 1, 2014 to January 1, 2019. This will allow the department to maintain internal project management of its capital outlay project resulting in cost savings and timely delivery.

Recommendation: Approve Items 1-12

Vote:
Items 1, 2, 10: 2-1 (Nielsen)
Items 3-9, 12: 3-0
Item 11: 2-0 (Nielsen not voting)

1. Budget Proposals: New Parks Projects—Bond Funds and State Park and Recreation Fund

The Governor's budget proposes five programs and projects that relate to the long-term strategic plan of the department. These proposals are influenced by how the department moves forward with its planning and future projects. These items were heard on March 7 of this year.

1. **Americans with Disabilities Act (ADA) Program: Redistributed Proposition 12 Statewide Bond Costs and Proposition 84.** The Governor's budget requests $33.5 million (Proposition 12 bond funds). The request is for $3.1 million in 2013-14 and the balance beginning in 2014-15. These funds are being used to comply with a consent decree (*Tucker v. California Department of Parks and Recreation*) to remove physical and programmatic barriers in order to provide equal access to people with disabilities. According to the department, over $110 million is required to be spent on this over the next 10 years.

2. **Empire Mine State Historic Park.** Request for $5.2 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine. Over $36 million of state funds have been allocated to this single state park from bond funds, SPRF, and General Fund, including in the proposed budget. The current proposal does not include any bond or special funds.

3. **Capital Outlay—Angel Island Immigration Station Hospital Rehabilitation.** Requests $4.7 million (bond funds), and an ongoing baseline increase of $153,043 (SPRF), for increased maintenance and upkeep. The proposal states that there is no anticipated increased revenue generation from this proposal. The proposal is to rehabilitate a building on Angel Island for viewing and interpretation by the public.

4. **Capital Outlay—Los Angeles State Historic Park.** Request for $20.8 million (bond funds) and an ongoing baseline increase of $1 million, eight permanent staff and five seasonal staff. Current revenue generation (without any capital outlay) is anticipated to be approximately $756,000 per year. After completion of the project and additional staff are added, this increases to $1.1 million, an increase of $344,000 per year. The project would include site work, utility infrastructure, landscaping and drainage.

5. **Goat Canyon Sediment Basin.** Request for $1 million ongoing and annually from SPRF to maintain sediment basins at Border Fields State Park. According to the LAO:

   "The Border Fields State Park is on the Mexico border and includes the Tijuana Estuary—a significant wetland habitat—that runs through Mexico into the state park. In 2005, DPR constructed the Goat Canyon Sediment Basins in the park to help protect the estuary from the flow of water that washes in sediment and trash from Mexico. The basins, which are maintained by DPR, must be cleaned of the trash and maintained to comply with the California Environmental Quality Act and clean water regulations. In the past, such maintenance costs were funded by CalRecycle, as well as grants and donations from special interest groups. However, DPR indicates that these funding sources are no longer available to support such costs.

   The DPR is part of the California–Mexico Border Relations Council's Tijuana River Valley Recovery Team, which is a collaborative effort to keep the Tijuana watershed area free of trash and sediment. The team includes other state agencies and departments (such as CalEPA and the Department of Public Health), the federal and Mexican governments, and local and regional agencies. The team has historically relied on funding from various members to protect this area, in addition to federal grants. One of the challenges to securing ongoing funding is that there currently is no mechanism for seeking damages for environmental pollution from Mexico."

   Funds Requested to Support Goat Canyon Park Cleanup. The Governor's budget for 2013–14 requests $1 million annually from SPRF to support ongoing maintenance and clean–up at the Goat Canyon Sediment Basins at the Border Fields State Park. The SPRF is primarily funded by fee revenues and used to support the operations of the state park system.

Staff Comments and Previous Subcommittee Actions. The subcommittee heard these issues on March 7 and held these items open. The department should be prepared to update the subcommittee on the proposals. Specifically, the department should update the committee on:

- What attempts have been made to secure other sources of funding for the Goat Canyon Sediment Basin, particularly from the federal government?

- How will the capital outlay proposals fit into the strategic plan and recent legislation that requires the department to be more entrepreneurial?

Staff Recommendation: (Votes taken separately—motion to approve each individually)

1. Approve Item 1.

Vote: 3-0

2. Item 2, Approve less $500,000 (General Fund). In a conforming action, approve $500,000 from the Abandoned Mine Reclamation and Minerals Fund to replace $500,000 General Fund of this proposal.

Vote: 2-1 (Nielsen) (both the reduction of GF and the replacement of special funds)

3. Items 3 and 4, Approve with provisional language requiring that the department to specifically include these projects in its forthcoming strategic and proposed (below) capital improvement plans.

Vote: 2-1 (Nielsen)

4. Item 5, Approve the governor's proposal on a limited basis for a three year period, with adoption of budget control language requiring the Department of Parks & Recreation, in consultation with other state and federal agencies participating in the Tijuana River Valley recovery team, to explore and report back to the Legislature by September 1, 2016 on any other potential funding sources that might be available to cover the ongoing annual costs of maintaining the Goat Canyon sediment basins in Border Fields State Park.

Vote: 2-1 (Nielsen)

5. As recommended by the Bureau of State Audits, approve the following reporting language in both supplemental reporting language and trailer bill language:

Vote: 3-0

   a) Require the department to submit, by December 1, 2013, a report to the Legislature on verified individual park unit budgets (including specific line items for staffing, ongoing state operations and maintenance, and deferred maintenance obligations). These budgets should specify how many days per week each park should be open and why. The figures should be based on fully operating 278 parks in 2010.

   b) By January 10, 2014, submit a report the legislature, in conjunction with the annual budget release, with a prioritized infrastructure plan for the state parks system that adheres to the principal revenue generation goals of AB 1478. This should include funding requirements in a prioritized list for all individual park units, including capital outlay projects and deferred maintenance obligations, regardless of availability of existing funding. The department shall develop this infrastructure plan in consultation with the State Park And Recreation Commission.

Recommendation. **Approve** staff recommendation.

3960 Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; federal funds; and GF.

Items Proposed for Discussion

1. Hazardous Waste Fee Reform

Governor's Proposal. The Governor proposes to modify the hazardous waste fees in the Hazardous Waste Control Account (HWCA) to simplify the hazardous waste fee system, align the fees with public policy and program objectives, assess the fees more fairly on those who generate waste, and provide more stability to the funding source for Department of Toxic Substances Control's (DTSC) Hazardous Waste Management Program. Specifically the proposal:

- Eliminates the Disposal Fee, flat rate permitting activity fees, Environmental Protection Agency (EPA) Identification Verification Fee and the Manifest User Fee;

- Changes the current tiered Generator Fee to a per ton Generation and Handling Fee, revises the per ton fee rate from an average of $50 per ton to $25.70 per ton ($23.27 per ton for used oil), and expands the universe of businesses required to pay the fee; and makes minor changes to facility fees;

- Trailer bill language is required to accomplish these changes.

Recommendation: Approve Proposal.

Vote: HOLD OPEN

8570 Department of Food and Agriculture

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

Governor's Budget. The Governor's budget includes $343 million ($62 million GF) for support of the CDFA, a decrease of approximately $3 million, mainly due to fluctuations in various statewide pest control efforts.

Items Proposed for Discussion

1. Reappropriation—Relocation: Yermo Agriculture Inspection Station

Budget Proposal. The Governor's budget requests reappropriation of $47.5 million in lease-revenue bond funding for construction of CDFA's portion of a joint border protection station and California Highway Patrol truck inspection station on Interstate 15 near the Nevada border. Specifically, the project authorizes the construction of a CDFA border protection station in Mountain Pass, California to replace the aging facility currently located in Yermo, California. The new station is intended to improve CDFA's ability to prevent harmful pests and other potential threats to humans and vegetation from entering the state.

The facility is designed as a joint construction project with the California Highway Patrol (CHP). Combining two agencies into one project is intended to reduce the cost and environmental impact by 50 percent. The station upgrade is intended to improve CDFA performance through modern technology and a safer environment by increasing lane size and using crash barriers.

Staff Comments. In preliminary discussions with the California Department of Transportation (Caltrans) and the California Department of Food and Agriculture, the LAO has identified some potential issues that warrant further discussion. When initially approved by the Legislature in 1999, both aspects of the project were intended to be designed and constructed by Caltrans. However, repeated delays have occurred and, as a result Caltrans plans to construct the truck inspection station separately from the border protection station. In addition, significant costs for design have been incurred that exceed the previously approved support budget. For instance, Caltrans has spent $9 million to date, designing the border protection station, and expects to spend an additional $1.5 million over the next 9 to 12 months to update the design further.

When the Legislature approved funding for this project in 2009, these support costs were estimated to cost only about $1.5 million. Further discussions with the Administration are needed to determine what actions may need to be taken to ensure the successful completion of the project.

Staff recommends denying the reappropriation until the Administration returns with a clear understanding of the costs associated with this project and a proposal for lowering costs associated with this project.

Questions for the Department. The department should address the following questions in their opening statement.

- What was the original cost of the project and what is the current projected cost of the project?
- Why weren't these concerns brought before the Legislature earlier so an appropriate intervention could be taken?
- What is the role of CDFA in overseeing this capital outlay project, including monitoring costs?
- What would be the impact of shifting the construction and planning of the project from Caltrans to the Department of General Services?

Recommendation: Deny proposal.

Vote: 3-0 to
Approve with provisional budget language such that the project planning phases may continue for one year and the department will submit an informational budget proposal describing future phases of the project, and clearing up any discrepancies in previous budget proposals. This would be submitted in the January 10, 2014 budget.

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, May 16, 2013
9:30 a.m. or Upon Adjournment of Session
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

Proposed Vote-Only Calendar:

Proposed Discussion / Vote Calendar:

2660 Department of Transportation

Issue Proposed for Discussion / Vote:

1. **Planning Program—Zero Based Budget (Governor's Budget BCP #2).** The subcommittee discussed this issue at its March 14 hearing and held it open. The Governor's Budget proposes to zero base budget (ZBB) Caltrans' Division of Transportation Planning. To accomplish this, the Governor, requests a net increase of 10 positions and $8.4 million, for 2013-14. The proposal consists of a five position reduction and an eight position redirection in the traditional planning program; staff workload adjustments for efficiencies that reduce positions by 19 in planning and increase positions by 36 in the Project Initiation Documents (PIDs) activities to accommodate workload; and, a reduction of two positions in other units. The net result is an increase in the program of 10 positions.

   Background and Detail. Caltrans' Division of Transportation Planning (DOTP) is responsible for implementing statewide transportation planning. DOTP includes five core programmatic areas: community planning, regional and interregional planning, system and freight planning, state planning and project scoping. DOPT is responsible for a wide variety of activities, including but not limited to review of local and tribal development proposals, general plans, provision of input to federal and regional entities regarding regional transportation plans, review of air quality and climate change scenarios, development of long-range highway system plans, preparation of the 25-year state transportation plan, and development of PIDs for both State Highway Operations and Protection Program (SHOPP) and non-SHOPP projects.

   The first ZBB effort in DOTP began in 2009 and established an initial workload baseline for 2010-11. In 2009, the LAO raised several concerns with the PIDs program, specifically that Caltrans had not based staffing on workload, that it had no criteria for selecting SHOPP PIDs, and that there were gaps in the way it managed its PIDs work. The 2009 Budget Act required Caltrans to convene a stakeholder working group and identify options to streamline the process. Since that time, Caltrans has made efforts to address the LAO's concerns. It has reduced its inventory of completed PIDs by aligning completed PIDs with updated/revised SHOPP priorities. Caltrans now aligns staffing levels based on PID inventory and identified SHOPP PIDs based on the 10-Year SHOPP Plan. Caltrans has also undertaken efforts to streamline the development process for certain kinds of PIDs. Nevertheless, LAO continues to have concerns with the program, as noted below.

   The Governor's Budget proposes an increase of 35 positions for SHOPP PID work, driven by the mix of projects in the 2013 10-Year SHOPP plan, and including the work associated with developing PIDs for projects due in the 2014 and 2016 SHOPP programming cycles. The primary reasons for the increase are that: (1) Caltrans no longer maintains a large inventory of completed PIDs, (2) the Department is behind in PIDs development due to a shortfall of personnel dollars, and (3) the mix of projects has shifted compared to prior fiscal years. The proposal also includes a net increase of one position for non-SHOPP PID work.

In addition to the positions request, the Governor is seeking an increase in State Highway Account (SHA) funding to true-up the PIDs personnel dollars. The program is currently experiencing a $6.2 million shortfall in its 2012-13 base that developed because, while Caltrans had adequate authorized staffing levels to handle ongoing workload, the personnel dollars were inadequate to fully fund those positions at the classifications hired by Caltrans. This proposal would align personnel dollars with existing classifications in the 2012-13 SHA PIDs program base, and accomplish this using $2.1 million in savings elsewhere in DOTP and an additional $4.1 million in SHA funding.

The overall ZBB of DOTP would partially offset the increased staffing in the PIDs program through the reduction of 24 positions elsewhere within DOTP. These reductions are the product of aligning staffing with workload, creating efficiencies where feasible and redirecting staff where appropriate. This includes a reduction of one position due to efficiencies created by moving from a one-year to a two-year BCP cycle for the PIDs program. An additional reduction of two positions is to be realized outside of DOTP from efficiencies achieved from the consolidation of the Division of Transportation Systems Information with the Division of Research and Innovation. This proposal results in a requested net increase of 10 positions overall.

The Governor's Budget indicates that in an effort to ensure that staff is performing work at the correct classification level, California Department of Human Resources (CalHR) will perform a review of the division to ensure consistency in compliance with state staffing requirements.

LAO Perspective. The LAO has noted several concerns with the Governor's Budget proposal, as well as the overall PIDs program. The LAO avers that the Administration understates the efficiencies that result from streamlining the PIDs and indicates the presence of an additional savings of $2.9 million and 21 positions. It indicates that the department is unable to manage the current resources, as evidenced by the mismatch between funding levels and workload, and in addition, misattributes cost allocations between state funds and local reimbursements. Finally, the LAO urges that necessary budget adjustments pursuant to these issues occur in 2014-15. The LAO recommends modifying the current Caltrans request by reducing the PIDs program by $2.9 million and 21 positions.

Staff Comment. The proposal reflects the Administration's effort to streamline Caltrans' operations and realize efficiencies where possible. While the requested increase in PIDs resources is significant, it may not be unreasonable given that Caltrans has depleted its backlog of PIDs projects in recent years—the product of Proposition 1B and federal stimulus funding. Caltrans' efforts to streamline its PIDs program is ongoing, and although substantial progress has been made, the department's personnel expenses overrun in the PIDs program and other issues are of concern. If it were necessary to hire at a classification level above that for which the program was budgeted, it is unclear why the department did not request an increase. The position review by CalHR is warranted and should ensure that workload and resources are properly aligned going forward.

At the direction of the subcommittee, staff met with Caltrans and LAO to discuss the concerns associated with this proposal. Caltrans indicated that it believes the data and descriptive narrative in the BCP were being misinterpreted and the back-up that justified the positions should be used to determine the staffing needs for the local planning. The budget request stems from a thorough review of the resource needs using ZBB methodology that resulted in a determination that the current level of resources was insufficient. LAO's observations that the actual resource needs for streamlined documents are unknown and should be monitored are well taken, and Caltrans has agreed to report to LAO actual workload levels for PID preparation. A prudent approach at this juncture would be to approve the request and adopt supplemental reporting language so that the resource needs of PIDs can be monitored and oversight of the positions can continue. This action would conform to the Assembly action for this item.

Staff Recommendation. Approve budget request and supplemental reporting language regarding PIDs resources needs, thus conforming to the Assembly action.

Vote:

2720 Department of California Highway Patrol

Issues Proposed for Vote Only:

1. **California Highway Patrol Enhanced Radio System Phase I and II (Spring Capital Outlay Letters 1 and 2).** The department has requested a reappropriation of $6.7 million (Phase I) and $12.8 million (Phase II) for the enhanced radio system. Phase I includes $847,000 for design and $5.9 million for construction of the tower and vault replacement components of the system. Two of the selected sites experienced delays due to lease negotiations—including with the US Forest Service—that have taken longer than expected and are now anticipated to be completed in the budget year. For Phase II, the reappropriation request is for acquisition of one site, working drawing for three sites, and construction phases for six sites. The reappropriation is necessary to ensure that the projects continue to move forward in the light of unexpected delays. Site acquisitions have been delayed due to lease negotiations with various parties and the need to complete the National Environmental Protection Act review process.

   For both Phase I and Phase II, the reappropriation request is necessary for the construction phase to ensure CHP's ability to continue forward with the project and address deteriorating radio communications infrastructure and improve radio interoperability among various public agencies.

   Staff Comment. Staff has no concerns with this proposal.

   Staff Recommendation. Approve Capital Outlay Letters 1 and 2 for the reappropriation of funding for the CHP enhanced radio system.

   Vote:

2. **Statewide Advance Planning and Site Selection (Governor's Budget Capital Outlay BCP #12.02).** This issue was discussed at the subcommittee's April 18th hearing and the appropriation request was held open. The Governor's Budget calls for $1.5 million in funding (special funds) to begin studies to determine the replacement of up to five facilities and identify suitable parcels for these facilities. $400,000 is requested for the first activity and $1.1 million for the latter. In addition, the Administration requests budget bill language that would allow an augmentation of up to $10.0 million for parcel acquisition in the event that a parcel becomes available outside of the budget cycle. The budget bill language was rejected at the April 18th hearing.

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

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

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

Staff Comment. There is no question that much of CHP's infrastructure is deficient, necessitating repair or replacement. Improvements cannot be accomplished all at once, for both capacity and financial reasons. Therefore, there must be a prioritization for carrying-out the required capital replacement program. The CHP has provided a document that indicates the facilities with a 5 or 6 denotation; however, additional information regarding the department's plan for replacement, the order in which the 80 some odd facilities should be replaced, and the criteria (in addition to seismic rating) used for the prioritization has not be made available. In particular, this budget proposal does not indicate which five offices will be replaced and how they were chosen.

In addition, the Administration has proposed to use capital outlay for the five unspecified offices, whereas, previously it has argued that build-to-suit (discussed above) is more appropriate. It is not apparent why the Administration proposed last fall to replace three area offices with build-to-suit leases and now proposes to use a capital outlay method to replace five offices. Staff recognizes that there may be circumstances that favor one approach or the other; however, the Administration has not been able to explain what criteria it uses to select between capital outlay and build-to-suit approaches.

Last fall, in a letter response to a notification from DGS of its intent to execute three separate build-to-suit lease agreements on behalf of the CHP, the Chair of the Joint

Legislative Budget Committee (JLBC) raised several issues, including the (1) absence of an updated CHP facilities plan that outlines its facility needs and priorities, and (2) lack of an assessment of the relative benefits of financing projects with the build-to-suit process or capital outlay. While the department has indicated that facility needs and priorities will be addressed in the 2013 Five-Year Infrastructure Plan, no systematic analysis has been made available to the Legislature regarding capital outlay and build-to-suit approaches. The JLBC expressed that such an assessment is essential to ensure that the most cost–effective method is chosen when building new CHP facilities.

Given the very real need for replacement or retrofitting of CHP infrastructure and the specific land requirements that make suitable properties hard to secure, the committee may want to consider approving the $400,000 for advance planning and $1.1 million for site selection, allowing these activities to run concurrently. Following the April 18th hearing, staff received additional information on the capital outlay process and the future plans. Based on these discussions, staff recommends approval of the request. DOF acknowledged the value of establishing guidelines regarding when capital outlay and build to suit are appropriate methods of infrastructure acquisition and agreed to participate with Department of General Services (DGS) in a process to develop these guidelines. At its April 18 hearing, the subcommittee approved supplemental reporting language that requires DOF, in consultation with DGS, to develop guidelines for using capital outlay or build-to-suit procurement methods. DOF and LAO could be directed to work with staff to develop suitable supplemental reporting language.

Staff Recommendation. Approve the appropriation request of $1.5 million.

Vote:

Issues Proposed for Discussion / Vote:

1. **Santa Fe Springs Area Office Replacement Facility (Governor's Budget Capital Outlay BCP #12.01 and Spring Capital Outlay Finance Letter #3).** This issue was discussed at the subcommittee's April 18 hearing and held open at the request of the Department of Finance. The Governor's Budget proposed funding of $21.4 million (special funds) for the construction phase of the Santa Fe Springs area office. After the budget was released, it was determined that the identified property was no longer suitable for the project. The Spring Letter requests that the Governor's Budget be decreased by $21.4 million to adjust for this delay in the project. Because new property must now be identified, the Department of California Highway Patrol (CHP) requests a reappropriation of $4.9 million for acquisition and preliminary plans funding for the Santa Fe Springs area office.

Background: The project has been delayed previously because of difficulties in locating a suitable site for the area office. The initial approval and appropriation occurred in 2007-08. In 2010-11, $1.3 million was approved for working drawings. In 2010, a site was identified and working drawing proceeded; however, this site later fell through and the working drawings effort was suspended. The CHP has now identified four potential sites for the project, the working drawings phase has resumed and acquisition is anticipated in 2013. The most recent delay in the project was caused by a determination that the property identified in the Governor's Budget would not be suitable due to costly road improvements required to accommodate CHP's commercial truck and bus citation clearance activities.

The current facility has been occupied for 45 years, is occupied well in excess of capacity, and no longer meets CHP's operational requirements. In addition, the building has structural, electrical, plumbing, and other deficiencies. The facility was designed for 60 male officers, and now has 135 male and females officers assigned. By way of comparison, offices with similar numbers of personnel are three times as large. The limited physical site precludes additions or renovations to the building. The structure is identified seismically as a 5 or 6 according to the DGS/CHP survey.

Staff Comment: Staff agrees with the necessity of approving funding for this proposal. The numerous delays are largely the result of CHP's specific location and property requirements. The necessity of the replacement facility has not changed.

Staff Recommendation: Approve the Spring Capital Outlay Finance Letter, reducing the Governor's Budget by $21.4 and reappropriating $4.9 million for planning and property for the Santa Fe Springs Area replacement facility.

Vote:

2665 High-Speed Rail Authority

Issue Proposed for Vote-Only:

1. **Financial Consulting Services (Governor's Budget BCP #2).** This item was heard at the Subcommittee's March 14 hearing and held open pending the receipt of additional data regarding the consultant's cost. The Governor's Budget proposes additional funding for the continuation of the financial consulting services for the High Speed Rail Authority (HSRA). The funding request is for $3.8 million (Prop 1A bond funds) and pays for an additional year with the current financial consultant KPMG. The consultant's duties would include providing financial advisory services to HSRA to develop analyses to support financial planning efforts and potential procurements for the project, including: options analyses, finance plans for specific corridors, credit enhancement opportunities, and the impact of phasing. These duties relate to the 2012 Business Plan, Central Valley procurement support, funding analysis, Phase 1 procurement support, and Caltrain electrification.

   Background. The HSRA hired the current financial consultant in June 2011 to assist with the development of the business and funding plans of the high-speed rail project. In addition to assisting with the funding and financing aspects of the project, the financial consultant assisted with the development and validation of the ridership and revenue projections found in the 2012 Business Plan and the review and analysis of financial statements for construction firms submitting proposals in response to the HSRA request for qualifications for the initial construction segment.

   LAO Perspective. External financial consultancy provides some specialized and intermittent services that would be difficult for state staff to perform; however, the LAO finds that some of the identified tasks (such as revising the existing financial plans and writing several chapters of the next iteration of the business plan) would be more appropriate for, and less costly, if performed by existing state staff. Consequently, the LAO recommends the Legislature reduce funding for financial services consulting by $1.25 million in Proposition 1A bond funds—from $3.75 million to $2.5 million (the amount of the 2012–13 appropriation).

   Staff Comment. The initial workload analyses and data provided by the HSRA to date did not provide a convincing basis upon which to provide a 50 percent increase in the contract amount from the prior year. Subsequent data and information provided by the department indicated the increased workload that would be expected of the consultant in 2013-14, justifying the increased resources required.

   Staff Recommendation. Approve as budgeted.

   Vote:

Issues Proposed for <u>Discussion and Vote:</u>

1. **Budget Statement Consolidation (Committee Issue—Proposed Budget Bill Language).** Under existing law, pursuant to SB 1029 (Chapter 152, Statutes of 2012) the HSRA budget for certain capital outlay components (environmental clearance and preliminary engineering) are differentiated by segment, as presented in items 2665-304 and 2665-305. That is, funds may be expended according to the schedule for each isolated segment of the project. The HSRA has suggested a budget consolidation approach which would combine the segments and allow for increased budget flexibility. The proposal would enable the HSRA to better adapt to changing project conditions as planning continues. It would also simplify accounting and the process and payment of invoices, which can currently involve splitting costs among the various segments and items of appropriation.

   Staff Comment. The proposed budget bill language would facilitate the HSRA's ability to manage the project financially and reduce administrative tasks. The budgetary consolidation of segments would not affect the requirement to report semi-annually to the Legislature on the actual expenditures by segment. In addition, none of the additional reporting language required of the HSRA would be affected by the budget consolidation proposal. The HSRA worked with DOF in constructing the proposed budget bill language and staff has reviewed the language

   Staff Recommendation. Approve the proposed budget bill language consolidating capital outlay planning items.

   <u>Vote:</u>

2. **Additional Administrative Support Staff (Spring Finance Letter #1).** The HSRA has requested $4.8 million (prop 1A bond funds) and a net 44 positions to support administration and programmatic functions of the HSRA. Of the total request, $826,000 is for a baseline adjustment to bring the HSRA funding for authorized positions in line with salaries paid to current staff, $631,000 for additional office space for increased staffing, and the remainder for salaries and benefits for the requested positions. The annual cost of the request is $5.5 million but is discounted based on a staggered hiring process over a three month period beginning in July and ending in September. The requested positions will increase the HSRA's control over the high-speed rail project, effectively manage its administrative and programmatic operations, and perform essential functions in-house.

   Background. In accordance with the staff management plan, required under SB 1029, the HSRA has three areas of guiding principle for its organizational structure and staffing:

- Governance and oversight shall be provided by the HSRA Board and government employees.
- Accelerating delivery of California's high-speed rail project through cost effective and innovative practice is in the public interest.
- Administrative functions may be supported through partnerships arranged with other governmental agencies.

The request is in keeping with the department's overall staff goals to bring staffing in-house using agency employees. The request, combined with the HSRA existing staff, the January administration and oversight request (approved by the subcommittee at its March 14 hearing), and the Program Management Plan furthers the process of concentrating expertise in-house. The additional resources will provide a much needed administrative support for the HSRA. In previous years, the HSRA has focused on planning, environmental and design activities, but is now engaged in new activities associated with construction and right-of-way acquisition. This increase in workload will result in the HSRA taking over activities previously addressed using contractors and other agencies, new workload related to a substantial increase in both the number and the frequency of the claims submitted to the federal government, and workload driven by increased accounting and reporting requirements.

Staff Comments. As the proposal essentially begins to follow through on the HSRA's staff management plan, staff has no concerns with the proposal.

Staff Recommendation. Approve the budget request.

Vote:

3. **Program Management Staff for Project Delivery Functions (Spring Finance Letter #2 and Budget Bill Language).** The HSRA has requested approval of 41 new positions and $265,000 (Prop 1A bond funds) to bring project management and oversight activities in-house. The positions will be funded primarily by redirecting $4.1 million expenditure authority originally proposed in the Governor's Budget for project management and oversight contracts. The Governor's Budget proposal was approved by the subcommittee at its hearing on March 14 (except for the accompanying proposed budget bill language). This current proposal would render the budget bill language proposed in the January budget unnecessary and provide for a conversion of the funding for the contract to be used for direct staffing. This current proposal also includes budget bill language for the HSRA (and the Department of Transportation, Item 2660) to provide for optional reimbursement authority for up to $10 million for both the HSRA and the Department of Transportation to allow for effective use of existing state staff.

Background and Detail. As with the prior proposal, the request from HSRA is in keeping with the overall principle of bringing management administration and oversight into the HSRA organizational structure. The HSRA has been criticized for understaffing, which has impeded its ability to provide adequate oversight for the high speed rail project. With limited staff, the HSRA has had to rely heavily on the project management team, project oversight team, and regional consultant to help manage the project. The shift to state staffing will address this issue by including positions for transportation and planning, environmental planning, right-of-way acquisition, risk management project and contract management, engineering oversight, construction management, contract management and architectural and engineering contract administration. The hiring for the positions will be staggered over a three month period.

Staff Comments and Questions. The proposal is consistent with the HSRA management plan and should result in additional management and oversight capabilities.

> *<u>Questions:</u> (1) Under what circumstance would the reimbursement authority occur and involving what types of activities? (2) What is the reasoning behind the $10 million threshold?*

Staff Recommendation. Approve the budget request and budget bill language.

<u>Vote:</u>

4. **Loan from Public Transportation Account, State Transportation Fund (Spring Finance Letter #3 Budget Bill Language).** The HSRA has requested provisional language to allow for a loan of $26.2 million from the Public Transportation Account of the State Transportation Fund to the High-Speed Passenger Train Bond Fund to cover the state operations cost of the HSRA. In order to streamline and mitigate litigation risk, the HSRA is pursuing a validation action to affirm in court that the proposed project funding is consistent with the Proposition 1A Bond Act. A validation action is a process through which a public entity may choose to validate an action, including the authority underlying a bond issuance or the procedural elements that comprise certain financings, in order to erase any associated uncertainty. The public entity files a validation action in court, in effect, asking those who would contest the process or structure to come forward.

   Proposal Detail. The proposed budget bill language allows the Director of Finance to make the transfer and to order repayment in the event that (1) the fund or account from which the loan was made has a need for the moneys, or (2) there is no longer a need for the moneys in the fund or account that received the loan. The loan would be repayable along with interest calculated at the rate of the Pooled Money Investment Account.

Staff Comments and Questions. The validation action is a prudent step for the HSRA and the loan will facilitate the on-going tasks of the authority and prevent any possible delays. One concern is that the DOF affirm that activities funded by the Public Transportation Account would not at all be impeded by the loan and how that determination would be made.

> *<u>Questions:</u> (1) Who will determine whether or not the fund or account is in need of the repayment from HSRA? (2) What are the determinants of 'need' in this situation? (3) Should the fund be required to maintain a minimum balance that could result in a restriction on the loan amount?*

Staff Recommendation. Adopt proposed budget bill language.

<u>Vote:</u>

5. **Process for Relocation of Utilities (Spring Finance Letter—Proposed Trailer Bill).** The HSRA has requested statutory changes that address the process and rules for the relocation of utilities outside of the right-of-way for the high speed rail project. The proposed trailer bill language has been modeled after existing language used by Caltrans for the relocation of utilities in other transportation projects. The HSRA indicates that without the trailer bill language, the project could experience delays or incur unnecessary costs. The HSRA indicates in its request that utility companies are familiar with the proposal and accept the current procedures with respect to other transportation projects.

Background and Detail. The HSRA had the statutory authorization to relocate utilities in order to conduct construction on the high speed rail project; however, no statutory framework exists for this process. Instead, the HSRA has relied upon reaching a mutual agreement with utility companies, but lacks the leverage to compel utility companies to negotiate. The result can be that the project would be subject to delays if agreements are not in place when construction is ready to commence.

The proposed solution would establish procedures for reimbursement or payment of utility relocation costs, clarifying the HSRA's utility relocation process on land acquired for the high speed rail project. The proposed trailer bill language would provide that HSRA will pay for the reasonable and necessary costs of removal and relocation of the utilities that are within the right-of-way. Costs of certain relocations with the right-of-way would also be covered by the HSRA. A credit would be made to the HSRA for improvements to the utility, salvage value of materials, and changes in the useful life of any replacement property.

Staff Comment. Staff has no concerns with the proposed language. The language would establish a process for relocating utilities similar to the process used by Caltrans.

Staff Recommendation: Approve placeholder trailer bill language.

Vote:

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Thursday, May 16, 2013
9:30 a.m. or Upon Adjournment of Session
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

ACTIONS

Proposed Vote-Only Calendar:

2720 Department of California Highway Patrol 4

1. **Approved Highway Patrol Enhanced Radio System Phase I and II (Spring Capital Outlay Letters 1 and 2) 3-0**
2. **Approved Statewide Advanced Planning and Site Selection (Governor's Budget Capital Outlay BCP #12.02) 3-0**

2665 High-Speed Rail Authority.. 8

1. **Approved Financial Consulting Services (Governor's Budget BCP #2) 2-1 (Nielson no)**

Proposed Discussion / Vote Calendar:

2660 Department of Transportation 1

1. **Reinstated positions related to Complete Streets Program; approved remainder of budget request relating to Planning Program; approved supplemental reporting language (Governor's Budget BCP #2) 2-1 (Nielson no)**

2720 Department of California Highway Patrol 6

1. **Approved Santa Fe Springs Area Office Replacement Facility (Governor's Budget Capital Outlay BCP #12.01 and Spring Capital Outlay Finance Letter #3) 3-0**

2665 High-Speed Rail Authority.. 9

1. **Approved Budget Statement Consolidation (Budget Bill Language) 2-1 (Nielson no)**

2. **Approved Additional Administrative Support Staff (Spring Finance Letter #1) 2-1 (Nielson no)**
3. **Approved Program Management Staff for Project Delivery Function (Spring Finance Letter #2 and Budget Bill Language) 2-1 (Nielson no)**
4. **Approved Loan from Transportation Account, State Transportation Fund (Spring Finance Letter #3, Budget Bill Language) 2-1 (Nielson no)**
5. **Approved Process for Relocating Utilities (Spring Finance Letter, Proposed Trailer Bill Language) 2-1 (Nielson no)**

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 — Agenda

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

Tuesday, May 21, 2013
10:00 a.m.
Hearing Room 112

Consultant: Catherine Freeman

Items Proposed for Vote-Only

Items Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

DEPARTMENTS PROPOSED FOR VOTE ONLY

3600 Department of Fish and Wildlife (DFW)

1. **Salton Sea Restoration.** The DFW requests $12.1 million from Proposition 84 bond funds dedicated to Salton Sea Restoration programs for restoration of 800-1,200 acres of habitat at the Salton Sea, which will include monitoring and pilot studies related to the habitat project. The request also includes reappropriation of Proposition 84 and Salton Sea Restoration Funds in order to provide addition funding for the restoration project, which is estimated to cost approximately $28 million. This compliments previous related subcommittee actions.

2. **Dreissenid Mussel Prevention.** The DFW requests $126,000 and one position (Harbors and Watercraft Revolving Fund) to implement Chapter 485, Statutes of 2012 (AB 2443, Williams) that requires DFW to increase Quagga and Zebra (Dreissenid) mussel prevention efforts and control activities. The LAO recommends this be reduced to $75,000 given that the statute allows for a half-year program in the budget year.

Recommendation: **Approve** Item 1.
Approve Item 2 at reduced level ($75,000 per LAO).

Vote:

3780 Native American Heritage Commission

3. **Tribal Advisor to the Governor.** The Governor requests reclassification of two positions and a baseline increase of $140,000 (General Fund) for increased activities related to the Tribal Advisor to the Governor. This position provides advice and is a liaison on tribal issues statewide.

Recommendation: **Approve** Item 3.

Vote:

3810 Santa Monica Mountains Conservancy (SMMC)

4. **Reversion and Reappropriation of Proposition 84 Bond Funds.** The Conservancy expects to fund roughly $4-5 million in projects and grants during 2013-14. The Conservancy's Proposition 84 capital outlay appropriations will be unavailable for encumbrance after 6/30/13. Without reappropriation or a new appropriation, the SMMC will not be able to fund these projects during 2013-14 and the projects would be delayed a year.

Recommendation: **Revert** the unencumbered balances ($6.6 million) in the 2007, 2008, and 2009 Proposition 84 appropriations. **Approve** a new appropriation for the same purposes. **Revert** $25,000 of Proposition 50 appropriation.

Vote:

3885 Delta Stewardship Council

5. **Delta Plan Implementation.** The Council requests to replace existing and expiring bond funding with $777,000 General Fund to maintain the existing level of positions at the Council. This would allow the positions to continue as the Council transitions into performing operation activities associated with the Delta Plan. The Council anticipates adopting the final draft of the plan in spring of 2013, and ongoing resources will be necessary for implementation.

6. **Reimbursement Authority—Delta Science Programs.** The Council requests an increase of $6 million (Reimbursement Authority) to provide for an interagency agreement between the Department of Water Resources (DWR) and the Council. This action will conform to the DWR request to extend the liquidation period for Proposition 84 bond funds appropriated for research activities related to the Sacramento-San Joaquin Delta.

Recommendation: **Approve** Items 5-6.

Vote:

8570 Department of Food and Agriculture

7. **Citrus Pest and Disease Prevention Program.** The May Revision requests an increase of $2.5 million (Department of Food and Agriculture Fund) for two years to provide resources to enhance the Asian Citrus Psyllid and Huanglongbing Mitigation Project. The Asian Citrus Psyllid are the carriers for Huanglongbing disease which is fatal to citrus trees.

Recommendation: **Approve** Item 7.

Vote:

8660 California Public Utilities Commission (CPUC)

8. **Extension of Liquidation—Funding for Outside Legal Counsel for Energy Crisis Litigation.** The May Revision requests a one-year extension of the liquidation period for continued assistance by outside legal counsel and economic consultants, as well as expert witnesses in litigation by the CPUC before the Federal Energy Regulatory Commission (FERC), which seeks refunds of several billion dollars for overcharges during the 2000-2001 energy crisis.

9. **Conforming Action—Non-State Entities.** This subcommittee took action on April 25 to prohibit the CPUC from awarding contracts to non-profits in which a sitting commissioner serves as an employee, officer, or director and to prohibit CPUC commissioners from serving on commission-established non-state entities. The Assembly Budget subcommittee took a similar action but included executive staff, as well. Staff recommends a conforming action.

10. **Conforming Action—Performance Budgeting**. The Assembly Budget Subcommittee took action to require the CPUC to address budgeting given recent concerns about proper budgeting and accountability. Staff recommends a conforming action to require the CPUC to conduct a zero-based budget and performance budgeting exercise.

Recommendation: **Approve** Items 8-10.

Vote:

3340 California Conservation Corps

Items Proposed for Discussion

1. Fire Prevention Activities in the State Responsibility Area

May Revise Proposal Summary. The Governor's May Revision proposes $5 million in Proposition 40 bond funds annually for the next three years to support fire prevention activities by the California Conservation Corps (CCC). Specifically, this proposal would: (1) fund the baseline program ($2.4 million per year) to perform hazardous fuel reduction and watershed restoration projects to improve forests' resistance to fire; (2) expand this program ($2.2 million per year) to support an increase of 45 full-time equivalent corpsmember positions to perform additional activities and 7.5 associated administrative positions; and, (3) fund 5 positions for administration related to the existing and expanded program. These activities would be performed within the areas where the state is responsible for wildland fire protection—also known as the State Responsibility Area (SRA).

LAO Recommendation. "If the Legislature chooses to approve the Governor's proposal, it may wish to consider a more appropriate funding source than Proposition 40. Specifically, the State Responsibility Area Fire Fund receives revenue from a fee that is generally used to support fire prevention activities within the SRA. Currently, there is adequate funding available from this fund to support these proposed activities. In contrast, the funds from Proposition 40 have a variety of potential uses, such as for projects to protect beaches, rivers, or lakes from sediment or other types of pollution. In addition, these expenditures from bond funds would be repaid with interest from the state's General Fund and generally, bond funds are used for infrastructure projects, rather than funding positions at state departments."

Staff Comments. Staff concurs with the LAO recommendation. This issue highlights a broader concern about the use of the SRA Fee. As this fee is established in law and the Board of Forestry has developed regulations for disbursement of the fund to locals for local grant programs, it would seem prudent to give fee payers as much of a direct benefit as is possible under this fund. Therefore staff recommends a further $15 million be added to the budget to provide for the establishment of a local assistance grant program for fire prevention activities under the Department of Forestry and Fire Protection.

Recommendation. Approve LAO Recommendation to fund with SRA Fee. Approve additional $15 million for a Fire Prevention local assistance program under the Department of Forestry and Fire Protection.

Vote:

3540 Department of Forestry and Fire Protection

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 wildland 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. The state contracts to provide fire protection and prevention services in six local areas.

Items Proposed for Vote-Only

1. **Aviation Management Unit Contract Increase.** The May Revision includes an increase of $952,000 (General Fund) for CalFIRE's Aviation Management Unit. This proposal is intended to provide logistical support to coordinate acquisition of parts for the existing CalFIRE aviation fleet. This proposal does not purchase or include capital investments beyond logistical support and coordination of acquisitions.

2. **CalFIRE Emergency Fund.** The May Revision proposes an increase of $51 million General Fund to reflect historic expenditures for emergency wildfire suppression costs. This increases the Emergency Fund (E-Fund) to $172 million annually. The E-Fund provides funding to CalFIRE for the state's emergency fire suppression efforts, above and beyond its base budget. This new funding level reflects the state's current five-year average cost for fighting major wildfires in the state.

3. **Department of Justice Legal Services Reappropriation**. The May Revision proposes reappropriation and extension of liquidation related to ongoing litigation. This allows expenditures to be made to fund the costs of litigation when they are expected to occur.

4. **Capital Outlay Reappropriations**. Consistent with its current strategic plan and past actions, the budget includes a reappropriation of funds for various phases of major capital outlay projects. These projects have previously been approved and are mainly for fire station and conservation camp construction projects.

Recommendation: **APPROVE** Items 1-4.

Vote:

Items Proposed for Discussion

1. Fire Severity, Treatment, Education, Prevention and Planning (STEPP)

Proposal Summary. The Department of Forestry and Fire Protection (CalFIRE) requests $11.7 million (State Responsibility Area [SRA] Fee) and 65.1 positions to address fire severity, treatment, education, prevention and planning. The request is proposed to implement the provisions of Chapter 311, Statutes of 2012 (SB 1241, Kehoe) related to fire severity and planning. This proposal also includes fuel treatment through the Vegetation Management Program and education of homeowners on ways to prevent the ignition and spread of unwanted human-caused fires by hiring dedicated, seasonal Defensible Space Forestry Aid inspectors.

Background. To provide fire protection in the SRA, CalFire engages in various activities to address fire severity, treatment, education, prevention, and planning (STEPP). For example, CalFire's vegetation management program is a cost–sharing program between CalFIRE and local landowners that reduces the fuel that can potentially start fires by clearing brush, creating fuel breaks, and prescribed burns. The department also enforces defensible space requirements for structures within the SRA. Chapter 311, Statutes of 2012 (SB 1241, Kehoe), requires local agencies to address fire risks in SRAs and very high fire hazard severity zones (VHFHSZ) in the safety element of their general plan by identifying available fire protection and suppression services. About 10 percent of the VHFHSZ are located in local responsibility areas, in which local agencies are responsible for fire prevention and protection. The remaining zones are located in SRAs.

Trailer Bill Language. Under the Governor's plan, some of the requested funding and positions would be used to support activities outside of the SRA—specifically, lands adjacent to the SRA. As a result, the Governor also proposes budget trailer bill language to allow this type of activity.

Staff Comments. On the whole, this proposal has merit where the actions take place within the SRA. The proposal to support activities that are outside the SRA, but impacting lands and structures within the SRA is also a laudable goal. However, staff have concerns about the use of the SRA Fund in any area outside the SRA. Legislative Counsel has advised caution when applying the "beneficiary pays" principle, and Proposition 26 principles, to this proposal. Therefore staff recommends the funding and positions be approved but not the trailer bill language. This effectively requires CalFIRE to keep its activities within the SRA and adheres to advice from the Legislature's Counsel on this proposal.

Staff additionally recommends provisional language to limit proposed fire prevention activities to those under the current program guidelines, in order to allow further discussion of the Vegetation Management Program programmatic environmental impact report, and to allow the Board of Forestry to have a meeting in Southern California. Staff will work with CalFIRE on the language.

Recommendation. Approve budget proposal. Reject trailer bill language. Adopt provisional language regarding the Vegetation Management Program.

Vote:

2. Civil Cost Recovery Program

Background. The civil cost recovery program within CalFIRE seeks to recover the costs of state fire suppression activities, and related costs, from anyone who starts a fire through negligent or unlawful actions. The program has been in place for many years and has resulted in net recoveries to the state's General Fund in the millions of dollars, annually. As part of the 2011–12 budget, CalFire received an additional ten positions, on a two–year limited–term basis to increase the amount of civil costs recovered. Historically, activities related to the civil cost recovery program, including the additional ten limited–term positions, have been funded from the General Fund.

Governor's Proposal. The Governor's budget for 2013–14 requests permanent position authority for the ten positions initially provided in 2011–12 for the civil cost recovery program. The Governor proposes $1.7 million from the SRA Fire Fund to support these positions.

LAO Recommendations. The civil cost recovery program has been successful and has resulted in returning millions of dollars to the state's General Fund. The LAO recommends the Legislature approve the ten positions requested on a permanent basis to further these efforts. However, based on an opinion from Legislative Counsel, using SRA Fire Funds for this purpose is not legally permissible unless legislation is passed to change the SRA fee into a tax. This is because civil cost recovery-related activities are not specified in Chapter 8 as a permissible use. While the civil cost recovery program's existence may deter future negligent behavior, thus reducing some fire risk, the program is not directly related to fire prevention and it is not limited to recovery within the SRA. Therefore, unless legislation is enacted changing the nature of the SRA charge, LAO recommends the Legislature fund these positions from the General Fund.

Staff Recommendation. Staff reviewed this proposal and several others over the past few years. Legislative Counsel testified before this subcommittee on this item, and clearly stated their concern about using SRA funds for Civil Cost Recovery. It was the understanding of most legislative staff that the proposals (including one last year) were to be funded by the General Fund. Therefore staff recommends the proposal be approved with General Fund.

Recommendation. Approve positions. Shift all program funding to General Fund.

Vote:

3. Fireworks Disposal and Management

Governor's Proposal. The Administration requests $500,000 General Fund ongoing for the Office of the State Fire Marshal (OSFM) Fireworks Disposal Program, under the Fire Engineering Division. Funding would enable the OSFM to provide service in the statewide fireworks enforcement and disposal process. This augmentation is intended to resolve an issue related to seized illegal and dangerous fireworks stockpiled throughout the state. As part of this proposal, local fire agencies would be allowed to sell stockpiled fireworks back to licensed retailers or export them.

Background. Health and Safety Code (HSC) Section 12726 delegates to the OSFM the responsibility for the destruction of dangerous and illegal fireworks, once they are seized by local fire departments or law enforcement agencies. The State Fire Marshal Fireworks Enforcement and Disposal Fund (Fireworks Fund) was created to collect moneys from increased fines and penalties from the seizure of illegal fireworks. Monies deposited into the fund are available, upon appropriation, to the OSFM for exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the education of public safety agencies in the proper handling and management of dangerous fireworks. According to the Administration, the funding source has not been adequate because local jurisdictions often opt to assess an administrative fine that is kept at the local level, rather than remitted to the state. Because of concerns about open burning of fireworks, which has been the long-time method of destroying the fireworks, seized materials need to be gathered and shipped to a destruction facility approved by the Department of Toxic Substances Control. This has increased the cost of fireworks disposal.

Alternatives Proposed. The budget proposes to increase General Fund expenditures by $500,000 per year indefinitely as part of a compromise with stakeholders. The budget proposal also outlines two additional alternatives. The first would increase the already authorized licensing fee on fireworks importers and exporters, wholesalers and retailers. The second would change existing statute to remove the responsibility of OSFM for the disposal of seized fireworks.

Staff Recommendation. Staff have serious concerns with this proposal. This issue has not been before this subcommittee before and does not seem to provide a long-term solution to the problem at hand. First, the proposal simply allocates money for "an ever-increasing volume of illegal and dangerous fireworks." Second, the proposal seems allows locals to either sell these seized fireworks back to licensed retailers within the state or export them. This seems highly contradictory to the role of OSFM, the Department of Forestry and Fire Protection and local fire agencies.

Both alternative statutory proposals have merit and should be vetted in policy committee. Staff recommends this proposal be brought before the Legislature in the policy committees, and that those who have been working on the proposal seek an alternative that does not include allocating General Fund to a program that was not intended to be a General Fund supported program.

Recommendation. Reject proposal.

Vote:

3110 Special Resources Programs—Tahoe Regional Planning Agency

Regional Plan Update (TRPA). The TRPA recently finalized its 2012 Regional Plan Update, as required by both the interstate compact and state legislation in Nevada. The agency's efforts come amidst concern about whether or not the Tahoe Compact's environmental thresholds (such as water clarity) will be met by efforts in the basin. This plan update responds to budget bill language adopted by the Legislature requiring TRPA to adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds.

Interstate Negotiations. In a recently enacted law (SB 271, Lee), the state of Nevada has threatened to withdraw from the Tahoe Compact, unless the governing body of the TRPA adopts an updated Regional Plan and certain proposed amendments to the Compact including changes to the voting structure, considerations for the regional plan, and other items. The Nevada legislation demanded that the voting structure of TRPA be changed to accommodate more development in the Tahoe Basin and that an updated regional plan be adopted. An updated regional plan was adopted in December, 2012. The new regional plan was successfully developed through a formal bi-state consultation process. The changes in the voting structure would weaken conservation protections in the Tahoe Basin and, in any event, would require Congressional action to amend the Compact. Such measures are not possible through action of state legislatures.

Previous Subcommittee Actions. This subcommittee heard this item on March 7, where representatives of TRPA and the Tahoe Science Consortium provided an update on their progress implementing a monitoring program and with SB 271 in Nevada. The TRPA and representatives of the State of Nevada have largely come to agreement on the most difficult of issues.

Staff Comments. Many of the issues discussed at the March 7 hearing have been worked out with the Administration, TRPA, and the State of Nevada. However, there still remains a question about funding for continued independent monitoring of threshold attainment. Staff have reviewed the State's commitment to TRPA and finds California has the ability to direct funding to high priority uses, while maintaining TRPA's core functions. Discussions with both the Nevada and California representatives have shown the need for an independent science focus in the basin, one that might better be provided by a non-planning agency with a direct scientific mission. In addition, the budget should include a continued reference to the TRPA progress on the establishment targets as a condition of budget actions, and should include budget transparency necessary to both states in their deliberations of the agency.

Staff Recommendation: Approve trailer bill language to establish a Tahoe Science Trust as an independent, bi-state scientific agency to provide such functions as peer review, monitoring, and threshold evaluation. In order to establish this trust, (1) appropriate $550,000 (one-time) from Tahoe pier lease revenues and $170,000 annually (Environmental License Plate Fund) to the Tahoe Science Trust for continued scientific review of environmental threshold monitoring in the Basin. Reduce TRPA appropriation by $170,000.

Staff recommends approving placeholder trailer bill language to establish the trust and budget bill language as specified below.

Budget Bill Language—Special Resources Programs (Tahoe Regional Planning Agency)

1. On or before January 31, 2014, establish revised targets for all of the key Regional Plan and Regional Plan Update implementation measures (in addition to the 14 targets adopted in May 2013) , and describe their expected contribution to threshold attainment. These targets will provide a basis for evaluating the effectiveness of the 2012 Regional Plan Update, for developing a comprehensive monitoring program by July 2014, and for developing amendments as part of the 2016 Regional Plan Update to maintain progress toward threshold attainment.

3. Provide complete budget transparency on a line-item basis so that California and Nevada can learn where each state's appropriations are spent.

4. Develop metrics and enforceable mechanisms to improve best management practice compliance for all structures including those that may be included in local area plans.

Recommendation: Approve staff recommendation to establish the Tahoe Science Trust, provide one-time initial funding from Tahoe pier leases (existing funding) in the amount of $550,000, shift $170,000 Environmental License Plate fund from TRPA to the Tahoe Science Trust, and provide trailer bill and budget bill language as specified.

Vote:

3790 Department of Parks and Recreation

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

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

Items Proposed for Vote-Only

1. **Technical Correction to Parks Commission Trailer Bill Language.** Existing law provides for the appointment of members of the Legislature to various boards, commissions or similar multi-member bodies. This includes appointments of both Assembly and Senate appointees to the Parks Commission. A technical change is needed to allow for an appointed member of the Legislature to designate an alternative to serve on the commission.

2. **Technical Correction to Previous Action.** On May 9, the subcommittee took action to fund both the Railroad Technology Museum with Proposition 40 bond funds and the Museum of Tolerance with General Fund. As a technical correction, staff recommends funding the Museum of Tolerance ($2 million) with Proposition 40 bond funds, reducing the Railroad Technology Proposition 40 appropriation by a like amount and replacing this funding with eligible Proposition 84 bond funds.

Recommendation: **APPROVE** Items 1-2.

Vote:

Items Proposed for Discussion

2. Reversions and Reappropriations—Capital Outlay

Proposal Summary. The department annually includes in the budget a request for reversions, reappropriations and appropriations anew for projects that are currently underway. This year's proposal includes various projects, including the California Indian Heritage Center, California Indian Museum, Leo Carrillo State Park, Eastshore State Park, Fort Ord Dunes State Park, and Silverwood Lake State Recreation Area. Each project is underway and will continue with reappropriations.

Off-Highway Vehicle Park Acquisitions. The budget requests reappropriation of capital outlay funds from the Off-Highway Vehicle Trust Fund for two projects: (1) Southern California Opportunity Purchase; and (2) Carnegie State Vehicular Recreation Area (SVRA). As with any acquisition, these acquisitions and construction are subject to a high level of scrutiny. The SVRAs are often contentious in local areas with as many supporters as opponents. Funding is available specifically for the purpose of enhancing these SVRAs and for acquisitions that add to the off-highway park system.

Concerns about Mitigation for Off-Highway Vehicle Parks. Concerns have been raised regarding construction and acquisition related to Carnegie SVRA, including plans to expand the park and increase user experiences. The concept of construction and acquisition is well within the scope and mission of the Off-Highway division at State Parks. However, it is unclear whether the department is doing all it can to ensure that all impacts of the parks are mitigated fully prior to approval of a proposal. With funding available, this should not be an issue for these parks.

Staff Comments. Staff recognizes the need to enhance existing SVRAs and to provide funding for opportunity acquisitions in the Off-Highway Division, within the mission of the overall State Park system. However, there seems to be no reason that the Director of the State Parks should not be able to certify to the Legislature that these projects meet all mitigation requirements under law and ensure compliance with the California Environmental Quality Act, nor provide the Legislature and public the share the cost and progress of restoration efforts to meet fully mitigated criteria. Staff recommends the following Trailer Bill Language:

> Prior to final approval of any new Off-Highway Vehicle land acquisitions or State Vehicular Area acquisitions, the Director of Parks and Recreation shall make a written finding that the acquisition cost includes adequate funding to fully mitigate all impacts of the acquisition and the operations of the park.
>
> The Department of Parks and Recreation shall complete a full review pursuant to the California Environmental Quality Act (Division 13 ([commencing with Section 21000] of the Public Resources Code) of all Off-Highway Vehicle land or State Vehicular Area acquisitions.

Recommendation. Approve as proposed with trailer bill language.

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. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As previously noted, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Items Proposed for Vote-Only

1. **American River Water Information System.** Request for $653,000 each year, for three years, from Proposition 40 to support a real-time ground-based measurement network of snowpack, soil moisture, and vegetation state across watersheds. This practical research is intended to provide interpretation and integration of remote sensing data and information management to help DWR estimate runoff in critical watersheds.

2. **Water Use Efficiency, Desalination and Recycling.** The budget proposes $12.8 million (bond funds) to fund new and existing water use efficiency grants and desalination of brackish and ocean water grants, water recycling projects and administrative costs for water conservation projects.

3. **Sacramento River Anadromous Fish Protection.** Request for $5 million (Proposition 40 bond funds) to provide for the state’s share of a state, local, and federal project on the Sacramento River. The project will include the installation of a fish screen for Anadromous fish protection and enhancement at the water intake project on the Sacramento River.

Recommendation: APPROVE Items 1-3.

Vote:

Items Proposed for Discussion

1. San Joaquin River Restoration Program Implementation

San Joaquin River Lawsuit Settlement. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state's Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to "restore and maintain fish populations" in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over $700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

State's Role in the Restoration. Proposition 84, passed by the voters in November 2006, includes $100 million allocated to the Secretary for Resources for the restoration of the San Joaquin River, for the purpose of implementing the court settlement to restore flows and the salmon population to the river. While the state is not a party to the lawsuit, the Department of Fish and Wildlife (DFW), the Department of Water Resources (DWR), the Resources Agency, and the California Environmental Protection Agency have entered into a memorandum of understanding (MOU) with the settling parties regarding the state's role in the restoration. The MOU has been incorporated into the settlement agreement.

Pursuant to the MOU, the Administration is proposing to spend $100 million of Proposition 84 funds over a period of five years on restoration activities. Proposition 84 funds are proposed for land and easement purchases, channel improvements, and research projects. Two specific priority areas identified by the Administration are the creation of a bypass around Mendota Pool (which would prevent fish from passing through Mendota Dam) and isolating an existing gravel pit located along the San Joaquin River in Fresno (to prevent migrating salmon from becoming trapped in the gravel pit during high river flows).

Budget Proposal. The budget proposes about $10 million of Proposition 84 bond funds to the Secretary for Natural Resources for purposes of implementing the lawsuit settlement

LAO Recommends Legislative Prerogative to Ensure Proposition 84 Funds Are Spent Wisely. According to the LAO in its 2007-08 Analysis, Proposition 84 provides that before funds can be spent for the San Joaquin River restoration settlement, they must be appropriated by the Legislature. While the Administration's MOU references the availability of Proposition 84 funds for purposes of the settlement, the MOU cannot obligate the Legislature to take a particular action in exercising its appropriation authority. In exercising its authority, the Legislature should ensure that the proposed expenditures are consistent with the bond measure and that funds are spent wisely and effectively.

Staff Comments. This issue was heard in the subcommittee on March 21 of this year. At that time, federal funds were uncertain. The state's appropriation would bring the total allocated to this settlement agreement to $57.9 million, a little over half of the funds available in the bond chapter. While there is a state interest in restoring the San Joaquin River, and also in preserving the use of river water for agriculture, it is important to note that the state is not directly responsible for the condition of the San Joaquin River that led to the lawsuit. Staff are concerned that discussion at the federal level has stalled and that there is less interest in allocating the substantial funds necessary to pay for this federal obligation. The Federal Government has set aside revenues from farmers who benefit from water diverted from the San Joaquin River; however, a major appropriation for full restoration of the river has, to date, been elusive.

Questions for the Department. The department should address the following questions in its opening statement:

- What is the status of federal funding for this program, including funding for the full restoration of the river consistent with the settlement agreement? Is this included in the legislation passed by the U.S. Senate last week?
- At the current rate, the state could exhaust its bond funds for this purpose within five years. If the federal government does not take over major restoration efforts by this time, what will the state have received for its commitment of $100 million dollars?
- What is the status of HR 1837 (Nunes) that would repeal the San Joaquin River settlement?

Recommendation:

Vote:

2. Lake Perris Dam and Recreation Area

Background. Lake Perris is a reservoir at the southern end of the SWP, which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. In addition, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, DWR identified potential seismic safety risks in a section of the foundation of Perris Dam and subsequently lowered the water level at the lake to ensure public safety. However, DWR indicates that the lake cannot remain at this lower level indefinitely because it is needed as an emergency supply storage facility for the SWP and serves as an important recreation area.

Budget Proposal. The DWR proposes to remediate the dam and return the lake to its historical operating level. The estimated total cost of this project was $287 million in January, with the cost being split between the water agencies that contract with DWR to receive water from the SWP (contractors) and the state. The state's share of costs is based on Chapter 867, Statutes of 1961 (AB 261, Davis)—the Davis–Dolwig Act—which states that the contractors should not be charged for the costs incurred to enhance fish and wildlife or provide recreation on the SWP (Davis–Dolwig costs). A recent recalculation of Davis–Dolwig costs by DWR determined the state's share of Lake Perris repair costs would be about $92 million, about one–third of the total estimated cost..

Updated Proposal. The estimated total cost of this project in the January Budget was $287 million. In the intervening time period, and in consultation with the Division of Safety of Dams and representatives of the state water contractors, DWR has revised the costs of the retrofit down to $141 million. With the overall reduced project cost, the total state share identified by DWR is $46.9 million, with $37.7 million requested for FYs 2013-14 and 2014-15. Water users have also invested substantially in an upgraded water treatment plan to handle the type of water coming from this full body contact reservoir.

Recommendation: Staff recommends approving the project as modified.

Vote:

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

Items Proposed for Vote Only

1. **Clean Air Act—Ambient Air Quality.** The budget requests five permanent positions and a technical budget adjustment that realigns federal grant funds and respective state funding match. This realignment is needed to meet federal mandates tied to the grant funds. The mandates are focused on data quality. This is a net zero cost proposal to the state.

2. **Clean School Buses—Children's Health Initiative.** The budget requests authority to expend funds that have reverted from Proposition 40 ($419,000) and Proposition 1B ($700,000), and technical changes to allow for the disbursement of these funds. The requested funds will be used to replace pre-1987 model-year school buses with new lower-emitting models and retrofit existing buses with ARB-verified emission control equipment. The filters will reduce particulate matter emissions by 85 percent from each retrofitted bus.

Recommendation: APPROVE Items 1-2.

Vote:

Items Proposed for Discussion

1. Cap and Trade Program—Loan to the General Fund

Proposal Summary. The Governor's May Revision proposes to loan $500 million from the Greenhouse Gas (GHG) Reduction Fund (Cap and Trade auction revenues) to the General Fund. While the Air Resources Board (ARB) submitted its three-year “Cap and Trade” Auction Proceeds Investment Plan (Investment Plan) with the May Revision, as required by Chapter 807, Statutes of 2012 (AB 1532, Pérez), the Governor's May Revision did not include the highly anticipated expenditure plan that was to accompany it.

Background. The goal of the State's climate plan is to reduce Green House Gas (GHG) emissions to 1990 levels by the end of this decade. The Cap and Trade program, a key element in this Administration’s plan to achieve these goals, sets a statewide limit on the sources of greenhouse gases and establishes a financial incentive for long-term investments in cleaner fuels and more efficient energy use. As part of its program, the Air Resources Board (ARB) will give free allowances to the State’s large industrial emitters, as well as the State's electric utilities, in order to reduce the economic impact of the Cap and Trade program.

The ARB has conducted two auctions of GHG emission allowances as part of a market‑based compliance mechanism. These auctions resulted in an approximated $139 million in proceeds to the state. One more auction for the fiscal year was scheduled on May 16, 2013. This is significantly less than the $1 billion in cap and trade revenues anticipated in the Governor's proposed 2012-13 budget.

Staff Comments. The Governor’s January 2013 Budget originally proposed offsetting a total of $500 million General Fund spending associated with greenhouse gas mitigation ($200 million in the current year and $300 million in the budget year). The Governor’s May Revision proposal now proposes loaning that amount to the General Fund.

According to the Governor, this short-term loan approach allows further time for agencies to design, develop, integrate, and/or modify their programs in a way that maximizes long-term greenhouse gas reductions. In addition, it is intended to provide ARB time to complete the statutorily required update of the AB 32 Scoping Plan, due at the end of 2013, in order to better inform investment decisions. The Governor has stated that this approach is also “fiscally prudent, particularly during this initial stage of program implementation, as the amount of auction proceeds that will be generated in 2013-14 is unknown.” While the Governor contends that loaning these proceeds will not interfere with the objectives of the three year investment plan or AB 32, it is unclear when the loan will be repaid and how that will impact achieving the goals of AB 32.

The Governor’s proposal took most of those working on the Cap and Trade program, including hundreds of stakeholders who have spent countless hours at meetings convened by the Administration, by surprise. In discussions with the Administration, those attending the meetings fully expected the administration to convert the broad work of the investment plan into a specific expenditure plan given the abundance of time the Administration had to work on these issues. Numerous proposals, with specific expenditure details, have been submitted to the Administration that meet the criteria set forth in its investment plan.

Staff are concerned that the shift of funding away from the purposes for which the funds were received is not consistent with previous Administration statements, and confuses the issue of reduction of greenhouse gas emissions with Cap and Trade revenues by 2020. The lack of a repayment date for the General Fund loan, coupled with the lack of effort to identify current and ready-to-move projects does not seem in keeping with statements of the Air Resources Board and Governor in the past year.

Questions for the Department of Finance:

- Has the Administration ever loaned money to the General Fund prior to expenditure from that fund for the purpose of the fund?

- AB 1532 required the Administration to submit a proposal at May Revision for how auction revenues would be appropriated from the GHG Reduction Fund. How does the absence of such an expenditure plan comport with AB 1532? Does this loan reduce GHGs?

- Why did the Administration not consider using a portion of the funds as a loan and the remainder for emission reduction projects that are unambiguously defensible, such as for projects where ARB has an approved offset protocol?

- Why didn't the Administration provide a repayment date for the General Fund Loan?

Recommendation:

Vote:

2. Cap and Trade Auction—Oversight and Budgetary Actions

Governor's Proposal. The May Revision includes an increase of $1.3 million and two positions from the Cost of Implementation Account to enhance oversight of Cap and Trade auction activities and budgetary administration. This proposal includes $1 million for contracts to audit the Air Resources Board's internal processes, procedures, and security protocols, as well as the the external contractors conducting the Cap and Trade auctions and collecting funds.

Staff Recommendation. Staff have concerns about increasing the Cost of Implementation Fee when the state has not begun the public work of the Cap and Trade program through expenditure of Cap and Trade auction funds for their intended benefit. In addition, concerns have been raised about the independence of an oversight or audit contractor hired by the department.

Recommendation. Approve with funding from the Greenhouse Gas Reduction Fund. Approve up to $1 million to the Bureau of State Audits for the audit function proposed for contract.

Vote:

3. Western Climate Initiative, Inc.

Governor's Proposal. The Governor's May Revision proposes to provide a new Budget Act item to separately identify resources for the Western Climate Initiative (WCI), Inc., to provide greater transparency regarding expenditures for access to WCI services. This is a $0 action item.

Staff Recommendation. This proposal has merit and is consistent with discussions between the Administration and Legislature.

Recommendation. Approve.

Vote:

4. Control Section 15.11 Elimination

Governor's Proposal. The May Revision proposes to eliminate Control Section 15.11 to conform with the Cap and Trade auction General Fund loan from the Greenhouse Gas Reduction loan.

Staff Recommendation. Staff concurs with the need to eliminate the current Control Section 15.11, however it may be necessary to return to this issue in the future should the Legislature reject the Governor's proposed General Fund loan.

Recommendation.

Vote:

5. Office of Environmental Health Hazard Assessment – SB 535 Implementation Fund Shift (Item 3980)

Governor's Proposal. The Governor's January budget included $577,000 for the Office of Environmental Health Hazard Assessment from the Greenhouse Gas Reduction Fund to identify disadvantaged communities in California, as required by Chapter 830, Statutes of 2012 (SB 535, De León). The Governor's May Revision proposes to shift funding for SB 535 implementation from the Greenhouse Gas Reduction Fund to the Cost of Implementation Account in Air Pollution Control Fund. This action is necessary to conform with the proposal above, for a Cap and Trade Program one-time General Fund loan from the GHG Reduction Fund.

Staff Recommendation. Staff finds the proposal to be appropriate in its original form, with funding from the GHG Reduction Fund. At this time, an increase in the Cost of Implementation Fee for new programs does not seem warranted.

Recommendation. Approve $577,000 from the Greenhouse Gas Reduction Fund.

Vote:

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

Tuesday, May 21, 2013
10:00 a.m.
Hearing Room 112

Consultant: Catherine Freeman
OUTCOMES

Items Proposed for Vote-Only

Items Proposed for Discussion

New Item: The Subcommittee referred the Department of Toxic Substances Control Hazardous Waste Fee Reform proposal to full budget committee.

DEPARTMENTS PROPOSED FOR VOTE ONLY

3600 Department of Fish and Wildlife (DFW)

1. **Salton Sea Restoration.** The DFW requests $12.1 million from Proposition 84 bond funds dedicated to Salton Sea Restoration programs for restoration of 800-1,200 acres of habitat at the Salton Sea, which will include monitoring and pilot studies related to the habitat project. The request also includes reappropriation of Proposition 84 and Salton Sea Restoration Funds in order to provide addition funding for the restoration project, which is estimated to cost approximately $28 million. This compliments previous related subcommittee actions.

2. **Dreissenid Mussel Prevention.** The DFW requests $126,000 and one position (Harbors and Watercraft Revolving Fund) to implement Chapter 485, Statutes of 2012 (AB 2443, Williams) that requires DFW to increase Quagga and Zebra (Dreissenid) mussel prevention efforts and control activities. The LAO recommends this be reduced to $75,000 given that the statute allows for a half-year program in the budget year.

Recommendation: **Approve** Item 1.
Approve Item 2 at reduced level ($75,000 per LAO).

Vote: 2-1 (Nielsen)

3780 Native American Heritage Commission

3. **Tribal Advisor to the Governor.** The Governor requests reclassification of two positions and a baseline increase of $140,000 (General Fund) for increased activities related to the Tribal Advisor to the Governor. This position provides advice and is a liaison on tribal issues statewide.

Recommendation: **Approve** Item 3.

Vote: 2-1 (Nielsen)

3810 Santa Monica Mountains Conservancy (SMMC)

4. **Reversion and Reappropriation of Proposition 84 Bond Funds.** The Conservancy expects to fund roughly $4-5 million in projects and grants during 2013-14. The Conservancy's Proposition 84 capital outlay appropriations will be unavailable for encumbrance after 6/30/13. Without reappropriation or a new appropriation, the SMMC will not be able to fund these projects during 2013-14 and the projects would be delayed a year.

Recommendation: **Revert** the unencumbered balances ($6.6 million) in the 2007, 2008, and 2009 Proposition 84 appropriations. **Approve** a new appropriation for the same purposes. **Revert** $25,000 of Proposition 50 appropriation.

Vote: 2-1 (Nielsen)

3885 Delta Stewardship Council

5. **Delta Plan Implementation.** The Council requests to replace existing and expiring bond funding with $777,000 General Fund to maintain the existing level of positions at the Council. This would allow the positions to continue as the Council transitions into performing operation activities associated with the Delta Plan. The Council anticipates adopting the final draft of the plan in spring of 2013, and ongoing resources will be necessary for implementation.

6. **Reimbursement Authority—Delta Science Programs.** The Council requests an increase of $6 million (Reimbursement Authority) to provide for an interagency agreement between the Department of Water Resources (DWR) and the Council. This action will conform to the DWR request to extend the liquidation period for Proposition 84 bond funds appropriated for research activities related to the Sacramento-San Joaquin Delta.

Recommendation: **Approve** Items 5-6.

Vote: 2-1 (Nielsen)

8570 Department of Food and Agriculture

7. **Citrus Pest and Disease Prevention Program.** The May Revision requests an increase of $2.5 million (Department of Food and Agriculture Fund) for two years to provide resources to enhance the Asian Citrus Psyllid and Huanglongbing Mitigation Project. The Asian Citrus Psyllid are the carriers for Huanglongbing disease which is fatal to citrus trees.

Recommendation: **Approve** Item 7.

Vote: 3-0

8660 California Public Utilities Commission (CPUC)

8. **Extension of Liquidation—Funding for Outside Legal Counsel for Energy Crisis Litigation.** The May Revision requests a one-year extension of the liquidation period for continued assistance by outside legal counsel and economic consultants, as well as expert witnesses in litigation by the CPUC before the Federal Energy Regulatory Commission (FERC), which seeks refunds of several billion dollars for overcharges during the 2000-2001 energy crisis.

9. **Conforming Action—Non-State Entities.** This subcommittee took action on April 25 to prohibit the CPUC from awarding contracts to non-profits in which a sitting commissioner serves as an employee, officer, or director and to prohibit CPUC commissioners from serving on commission-established non-state entities. The Assembly Budget subcommittee took a similar action but included executive staff, as well. Staff recommends a conforming action.

10. **Conforming Action—Performance Budgeting**. The Assembly Budget Subcommittee took action to require the CPUC to address budgeting given recent concerns about proper budgeting and accountability. Staff recommends a conforming action to require the CPUC to conduct a zero-based budget and performance budgeting exercise.

Recommendation: **Approve** Items 8-10.

Vote: 3-0

3340 California Conservation Corps

Items Proposed for Discussion

1. Fire Prevention Activities in the State Responsibility Area

May Revise Proposal Summary. The Governor's May Revision proposes $5 million in Proposition 40 bond funds annually for the next three years to support fire prevention activities by the California Conservation Corps (CCC). Specifically, this proposal would: (1) fund the baseline program ($2.4 million per year) to perform hazardous fuel reduction and watershed restoration projects to improve forests' resistance to fire; (2) expand this program ($2.2 million per year) to support an increase of 45 full-time equivalent corpsmember positions to perform additional activities and 7.5 associated administrative positions; and, (3) fund 5 positions for administration related to the existing and expanded program. These activities would be performed within the areas where the state is responsible for wildland fire protection—also known as the State Responsibility Area (SRA).

LAO Recommendation. "If the Legislature chooses to approve the Governor's proposal, it may wish to consider a more appropriate funding source than Proposition 40. Specifically, the State Responsibility Area Fire Fund receives revenue from a fee that is generally used to support fire prevention activities within the SRA. Currently, there is adequate funding available from this fund to support these proposed activities. In contrast, the funds from Proposition 40 have a variety of potential uses, such as for projects to protect beaches, rivers, or lakes from sediment or other types of pollution. In addition, these expenditures from bond funds would be repaid with interest from the state's General Fund and generally, bond funds are used for infrastructure projects, rather than funding positions at state departments."

Staff Comments. Staff concurs with the LAO recommendation. This issue highlights a broader concern about the use of the SRA Fee. As this fee is established in law and the Board of Forestry has developed regulations for disbursement of the fund to locals for local grant programs, it would seem prudent to give fee payers as much of a direct benefit as is possible under this fund. Therefore staff recommends a further $15 million be added to the budget to provide for the establishment of a local assistance grant program for fire prevention activities under the Department of Forestry and Fire Protection.

Recommendation. Approve LAO Recommendation to fund with SRA Fee. Approve additional $15 million for a Fire Prevention local assistance program under the Department of Forestry and Fire Protection.

Vote: Motion to approve staff recommendation and to add $1.5 million (General Fund) for career development (conforms to Assembly action).
2-1 (Nielsen)

3540 Department of Forestry and Fire Protection

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 wildland 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. The state contracts to provide fire protection and prevention services in six local areas.

Items Proposed for Vote-Only

1. **Aviation Management Unit Contract Increase.** The May Revision includes an increase of $952,000 (General Fund) for CalFIRE's Aviation Management Unit. This proposal is intended to provide logistical support to coordinate acquisition of parts for the existing CalFIRE aviation fleet. This proposal does not purchase or include capital investments beyond logistical support and coordination of acquisitions.

2. **CalFIRE Emergency Fund.** The May Revision proposes an increase of $51 million General Fund to reflect historic expenditures for emergency wildfire suppression costs. This increases the Emergency Fund (E-Fund) to $172 million annually. The E-Fund provides funding to CalFIRE for the state's emergency fire suppression efforts, above and beyond its base budget. This new funding level reflects the state's current five-year average cost for fighting major wildfires in the state.

3. **Department of Justice Legal Services Reappropriation**. The May Revision proposes reappropriation and extension of liquidation related to ongoing litigation. This allows expenditures to be made to fund the costs of litigation when they are expected to occur.

4. **Capital Outlay Reappropriations**. Consistent with its current strategic plan and past actions, the budget includes a reappropriation of funds for various phases of major capital outlay projects. These projects have previously been approved and are mainly for fire station and conservation camp construction projects.

Recommendation: **APPROVE** Items 1-4.

Vote: Items 1, 2, 4: 3-0. CalFIRE agreed to consider GHG Reduction Fund as an option for future helicopter purchases.

Item 3: 2-1 (Nielsen)

Items Proposed for Discussion

1. Fire Severity, Treatment, Education, Prevention and Planning (STEPP)

Proposal Summary. The Department of Forestry and Fire Protection (CalFIRE) requests $11.7 million (State Responsibility Area [SRA] Fee) and 65.1 positions to address fire severity, treatment, education, prevention and planning. The request is proposed to implement the provisions of Chapter 311, Statutes of 2012 (SB 1241, Kehoe) related to fire severity and planning. This proposal also includes fuel treatment through the Vegetation Management Program and education of homeowners on ways to prevent the ignition and spread of unwanted human-caused fires by hiring dedicated, seasonal Defensible Space Forestry Aid inspectors.

Trailer Bill Language. Under the Governor's plan, some of the requested funding and positions would be used to support activities outside of the SRA—specifically, lands adjacent to the SRA. As a result, the Governor also proposes budget trailer bill language to allow this type of activity.

Staff Comments. On the whole, this proposal has merit where the actions take place within the SRA. The proposal to support activities that are outside the SRA, but impacting lands and structures within the SRA is also a laudable goal. However, staff have concerns about the use of the SRA Fund in any area outside the SRA. Legislative Counsel has advised caution when applying the "beneficiary pays" principle, and Proposition 26 principles, to this proposal. Therefore staff recommends the funding and positions be approved but not the trailer bill language. This effectively requires CalFIRE to keep its activities within the SRA and adheres to advice from the Legislature's Counsel on this proposal.

Staff additionally recommends provisional language to limit proposed fire prevention activities to those under the current program guidelines, in order to allow further discussion of the Vegetation Management Program programmatic environmental impact report, and to allow the Board of Forestry to have a meeting in Southern California. Staff will work with CalFIRE on the language.

Recommendation. Approve budget proposal. Reject trailer bill language. Adopt provisional language regarding the Vegetation Management Program.

Vote:

Motion #1: Budget Proposal and Provisional Language only
2-1 (Nielsen)

Motion #2: Reject Trailer Bill
3-0

2. Civil Cost Recovery Program

Background. The civil cost recovery program within CalFIRE seeks to recover the costs of state fire suppression activities, and related costs, from anyone who starts a fire through negligent or unlawful actions. The program has been in place for many years and has resulted in net recoveries to the state's General Fund in the millions of dollars, annually. As part of the 2011–12 budget, CalFire received an additional ten positions, on a two–year limited–term basis to increase the amount of civil costs recovered. Historically, activities related to the civil cost recovery program, including the additional ten limited–term positions, have been funded from the General Fund.

Governor's Proposal. The Governor's budget for 2013–14 requests permanent position authority for the ten positions initially provided in 2011–12 for the civil cost recovery program. The Governor proposes $1.7 million from the SRA Fire Fund to support these positions.

LAO Recommendations. The civil cost recovery program has been successful and has resulted in returning millions of dollars to the state's General Fund. The LAO recommends the Legislature approve the ten positions requested on a permanent basis to further these efforts. However, based on an opinion from Legislative Counsel, using SRA Fire Funds for this purpose is not legally permissible unless legislation is passed to change the SRA fee into a tax. This is because civil cost recovery-related activities are not specified in Chapter 8 as a permissible use. While the civil cost recovery program's existence may deter future negligent behavior, thus reducing some fire risk, the program is not directly related to fire prevention and it is not limited to recovery within the SRA. Therefore, unless legislation is enacted changing the nature of the SRA charge, LAO recommends the Legislature fund these positions from the General Fund.

Staff Recommendation. Staff reviewed this proposal and several others over the past few years. Legislative Counsel testified before this subcommittee on this item, and clearly stated their concern about using SRA funds for Civil Cost Recovery. It was the understanding of most legislative staff that the proposals (including one last year) were to be funded by the General Fund. Therefore staff recommends the proposal be approved with General Fund.

Recommendation. Approve positions. Shift all program funding to General Fund.

Vote: 2-0 (Nielsen not voting)

3. Fireworks Disposal and Management

Governor's Proposal. The Administration requests $500,000 General Fund ongoing for the Office of the State Fire Marshal (OSFM) Fireworks Disposal Program, under the Fire Engineering Division. Funding would enable the OSFM to provide service in the statewide fireworks enforcement and disposal process. This augmentation is intended to resolve an issue related to seized illegal and dangerous fireworks stockpiled throughout the state. As part of this proposal, local fire agencies would be allowed to sell stockpiled fireworks back to licensed retailers or export them.

Alternatives Proposed. The budget proposes to increase General Fund expenditures by $500,000 per year indefinitely as part of a compromise with stakeholders. The budget proposal also outlines two additional alternatives. The first would increase the already authorized licensing fee on fireworks importers and exporters, wholesalers and retailers. The second would change existing statute to remove the responsibility of OSFM for the disposal of seized fireworks.

Staff Recommendation. Staff have serious concerns with this proposal. This issue has not been before this subcommittee before and does not seem to provide a long-term solution to the problem at hand. First, the proposal simply allocates money for "an ever-increasing volume of illegal and dangerous fireworks." Second, the proposal seems allows locals to either sell these seized fireworks back to licensed retailers within the state or export them. This seems highly contradictory to the role of OSFM, the Department of Forestry and Fire Protection and local fire agencies.

Both alternative statutory proposals have merit and should be vetted in policy committee. Staff recommends this proposal be brought before the Legislature in the policy committees, and that those who have been working on the proposal seek an alternative that does not include allocating General Fund to a program that was not intended to be a General Fund supported program.

Recommendation. Reject proposal.

Vote:

Motion #1: Approve funding proposal ($500,000 GF) on a one-time basis.
3-0

Motion #2: Reject Trailer Bill
2-1 (Nielsen)

3110 Special Resources Programs—Tahoe Regional Planning Agency

Regional Plan Update (TRPA). The TRPA recently finalized its 2012 Regional Plan Update, as required by both the interstate compact and state legislation in Nevada. The agency's efforts come amidst concern about whether or not the Tahoe Compact's environmental thresholds (such as water clarity) will be met by efforts in the basin. This plan update responds to budget bill language adopted by the Legislature requiring TRPA to adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds.

Interstate Negotiations. In a recently enacted law (SB 271, Lee), the state of Nevada has threatened to withdraw from the Tahoe Compact, unless the governing body of the TRPA adopts an updated Regional Plan and certain proposed amendments to the Compact including changes to the voting structure, considerations for the regional plan, and other items. The Nevada legislation demanded that the voting structure of TRPA be changed to accommodate more development in the Tahoe Basin and that an updated regional plan be adopted. An updated regional plan was adopted in December, 2012. The new regional plan was successfully developed through a formal bi-state consultation process. The changes in the voting structure would weaken conservation protections in the Tahoe Basin and, in any event, would require Congressional action to amend the Compact. Such measures are not possible through action of state legislatures.

Previous Subcommittee Actions. This subcommittee heard this item on March 7, where representatives of TRPA and the Tahoe Science Consortium provided an update on their progress implementing a monitoring program and with SB 271 in Nevada. The TRPA and representatives of the State of Nevada have largely come to agreement on the most difficult of issues.

Staff Comments. Many of the issues discussed at the March 7 hearing have been worked out with the Administration, TRPA, and the State of Nevada. However, there still remains a question about funding for continued independent monitoring of threshold attainment. Staff have reviewed the State's commitment to TRPA and finds California has the ability to direct funding to high priority uses, while maintaining TRPA's core functions. Discussions with both the Nevada and California representatives have shown the need for an independent science focus in the basin, one that might better be provided by a non-planning agency with a direct scientific mission. In addition, the budget should include a continued reference to the TRPA progress on the establishment targets as a condition of budget actions, and should include budget transparency necessary to both states in their deliberations of the agency.

Staff Recommendation: Approve trailer bill language to establish a Tahoe Science Trust as an independent, bi-state scientific agency to provide such functions as peer review, monitoring, and threshold evaluation. In order to establish this trust, (1) appropriate $550,000 (one-time) from Tahoe pier lease revenues and $170,000 annually (Environmental License Plate Fund) to the Tahoe Science Trust for continued scientific review of environmental threshold monitoring in the Basin. Reduce TRPA appropriation by $170,000.

Staff recommends approving placeholder trailer bill language to establish the trust and budget bill language as specified below.

Budget Bill Language—Special Resources Programs (Tahoe Regional Planning Agency)

1. On or before January 31, 2014, establish revised targets for all of the key Regional Plan and Regional Plan Update implementation measures (in addition to the 14 targets adopted in May 2013) , and describe their expected contribution to threshold attainment. These targets will provide a basis for evaluating the effectiveness of the 2012 Regional Plan Update, for developing a comprehensive monitoring program by July 2014, and for developing amendments as part of the 2016 Regional Plan Update to maintain progress toward threshold attainment.

3. Provide complete budget transparency on a line-item basis so that California and Nevada can learn where each state's appropriations are spent.

4. Develop metrics and enforceable mechanisms to improve best management practice compliance for all structures including those that may be included in local area plans.

Recommendation: Approve staff recommendation to establish the Tahoe Science Trust, provide one-time initial funding from Tahoe pier leases (existing funding) in the amount of $550,000, shift $170,000 Environmental License Plate fund from TRPA to the Tahoe Science Trust, and provide trailer bill and budget bill language as specified.

Vote: HOLD OPEN

3790 Department of Parks and Recreation

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

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

Items Proposed for Vote-Only

1. **Technical Correction to Parks Commission Trailer Bill Language.** Existing law provides for the appointment of members of the Legislature to various boards, commissions or similar multi-member bodies. This includes appointments of both Assembly and Senate appointees to the Parks Commission. A technical change is needed to allow for an appointed member of the Legislature to designate an alternative to serve on the commission.

2. **Technical Correction to Previous Action.** On May 9, the subcommittee took action to fund both the Railroad Technology Museum with Proposition 40 bond funds and the Museum of Tolerance with General Fund. As a technical correction, staff recommends funding the Museum of Tolerance ($2 million) with Proposition 40 bond funds, reducing the Railroad Technology Proposition 40 appropriation by a like amount and replacing this funding with eligible Proposition 84 bond funds.

Recommendation: **APPROVE** Items 1-2.

Vote: *ITEM #2 Withdrawn*

Item #1: 2-1 (Nielsen)

Items Proposed for Discussion

2. Reversions and Reappropriations—Capital Outlay

Proposal Summary. The department annually includes in the budget a request for reversions, reappropriations and appropriations anew for projects that are currently underway. This year's proposal includes various projects, including the California Indian Heritage Center, California Indian Museum, Leo Carrillo State Park, Eastshore State Park, Fort Ord Dunes State Park, and Silverwood Lake State Recreation Area. Each project is underway and will continue with reappropriations.

Concerns about Mitigation for Off-Highway Vehicle Parks. Concerns have been raised regarding construction and acquisition related to Carnegie SVRA, including plans to expand the park and increase user experiences. The concept of construction and acquisition is well within the scope and mission of the Off-Highway division at State Parks. However, it is unclear whether the department is doing all it can to ensure that all impacts of the parks are mitigated fully prior to approval of a proposal. With funding available, this should not be an issue for these parks.

Staff Comments. Staff recognizes the need to enhance existing SVRAs and to provide funding for opportunity acquisitions in the Off-Highway Division, within the mission of the overall State Park system. However, there seems to be no reason that the Director of the State Parks should not be able to certify to the Legislature that these projects meet all mitigation requirements under law and ensure compliance with the California Environmental Quality Act, nor provide the Legislature and public the share the cost and progress of restoration efforts to meet fully mitigated criteria. Staff recommends the following Trailer Bill Language:

> Prior to final approval of any new Off-Highway Vehicle land acquisitions or State Vehicular Area acquisitions, the Director of Parks and Recreation shall make a written finding that the acquisition cost includes adequate funding to fully mitigate all impacts of the acquisition and the operations of the park.
>
> The Department of Parks and Recreation shall complete a full review pursuant to the California Environmental Quality Act (Division 13 ([commencing with Section 21000] of the Public Resources Code) of all Off-Highway Vehicle land or State Vehicular Area acquisitions.

Recommendation. Approve as proposed with trailer bill language.

Vote:

Motion #1: Approve Budget Proposal
3-0

Motion #2: Trailer Bill Language (to be modified reflect timing of CEQA process)
2-1 (Nielsen)

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. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As previously noted, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Items Proposed for Vote-Only

1. **American River Water Information System.** Request for $653,000 each year, for three years, from Proposition 40 to support a real-time ground-based measurement network of snowpack, soil moisture, and vegetation state across watersheds. This practical research is intended to provide interpretation and integration of remote sensing data and information management to help DWR estimate runoff in critical watersheds.

2. **Water Use Efficiency, Desalination and Recycling.** The budget proposes $12.8 million (bond funds) to fund new and existing water use efficiency grants and desalination of brackish and ocean water grants, water recycling projects and administrative costs for water conservation projects.

3. **Sacramento River Anadromous Fish Protection.** Request for $5 million (Proposition 40 bond funds) to provide for the state’s share of a state, local, and federal project on the Sacramento River. The project will include the installation of a fish screen for Anadromous fish protection and enhancement at the water intake project on the Sacramento River.

Recommendation: APPROVE Items 1-3.

Vote:
Items 1, 2: 2-1 (Nielsen)

Item 3: Increase funding to $10 million and approve.
3-0

Items Proposed for Discussion

1. San Joaquin River Restoration Program Implementation

San Joaquin River Lawsuit Settlement. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state's Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to "restore and maintain fish populations" in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over $700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

Staff Comments. This issue was heard in the subcommittee on March 21 of this year. At that time, federal funds were uncertain. The state's appropriation would bring the total allocated to this settlement agreement to $57.9 million, a little over half of the funds available in the bond chapter. While there is a state interest in restoring the San Joaquin River, and also in preserving the use of river water for agriculture, it is important to note that the state is not directly responsible for the condition of the San Joaquin River that led to the lawsuit. Staff are concerned that discussion at the federal level has stalled and that there is less interest in allocating the substantial funds necessary to pay for this federal obligation. The Federal Government has set aside revenues from farmers who benefit from water diverted from the San Joaquin River; however, a major appropriation for full restoration of the river has, to date, been elusive.

Recommendation:

Vote: Motion to Approve as Budgeted
3-0

2. Lake Perris Dam and Recreation Area

Background. Lake Perris is a reservoir at the southern end of the SWP, which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. In addition, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, DWR identified potential seismic safety risks in a section of the foundation of Perris Dam and subsequently lowered the water level at the lake to ensure public safety. However, DWR indicates that the lake cannot remain at this lower level indefinitely because it is needed as an emergency supply storage facility for the SWP and serves as an important recreation area.

Budget Proposal. The DWR proposes to remediate the dam and return the lake to its historical operating level. The estimated total cost of this project was $287 million in January, with the cost being split between the water agencies that contract with DWR to receive water from the SWP (contractors) and the state. The state's share of costs is based on Chapter 867, Statutes of 1961 (AB 261, Davis)—the Davis–Dolwig Act—which states that the contractors should not be charged for the costs incurred to enhance fish and wildlife or provide recreation on the SWP (Davis–Dolwig costs). A recent recalculation of Davis–Dolwig costs by DWR determined the state's share of Lake Perris repair costs would be about $92 million, about one–third of the total estimated cost..

Updated Proposal. The estimated total cost of this project in the January Budget was $287 million. In the intervening time period, and in consultation with the Division of Safety of Dams and representatives of the state water contractors, DWR has revised the costs of the retrofit down to $141 million. With the overall reduced project cost, the total state share identified by DWR is $46.9 million, with $37.7 million requested for FYs 2013-14 and 2014-15. Water users have also invested substantially in an upgraded water treatment plan to handle the type of water coming from this full body contact reservoir.

Recommendation: Staff recommends approving the project as modified.

Vote: 3-0

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

Items Proposed for Vote Only

1. **Clean Air Act—Ambient Air Quality.** The budget requests five permanent positions and a technical budget adjustment that realigns federal grant funds and respective state funding match. This realignment is needed to meet federal mandates tied to the grant funds. The mandates are focused on data quality. This is a net zero cost proposal to the state.

2. **Clean School Buses—Children's Health Initiative.** The budget requests authority to expend funds that have reverted from Proposition 40 ($419,000) and Proposition 1B ($700,000), and technical changes to allow for the disbursement of these funds. The requested funds will be used to replace pre-1987 model-year school buses with new lower-emitting models and retrofit existing buses with ARB-verified emission control equipment. The filters will reduce particulate matter emissions by 85 percent from each retrofitted bus.

Recommendation: **APPROVE** Items 1-2.

Vote:

Item #1: 2-1 (Nielsen)
Item #2: 3-0

Items Proposed for Discussion

1. Cap and Trade Program—Loan to the General Fund

Proposal Summary. The Governor's May Revision proposes to loan $500 million from the Greenhouse Gas (GHG) Reduction Fund (Cap and Trade auction revenues) to the General Fund. While the Air Resources Board (ARB) submitted its three-year "Cap and Trade" Auction Proceeds Investment Plan (Investment Plan) with the May Revision, as required by Chapter 807, Statutes of 2012 (AB 1532, Pérez), the Governor's May Revision did not include the highly anticipated expenditure plan that was to accompany it.

Background. The goal of the State's climate plan is to reduce Green House Gas (GHG) emissions to 1990 levels by the end of this decade. The Cap and Trade program, a key element in this Administration's plan to achieve these goals, sets a statewide limit on the sources of greenhouse gases and establishes a financial incentive for long-term investments in cleaner fuels and more efficient energy use. As part of its program, the Air Resources Board (ARB) will give free allowances to the State's large industrial emitters, as well as the State's electric utilities, in order to reduce the economic impact of the Cap and Trade program.

The ARB has conducted two auctions of GHG emission allowances as part of a market-based compliance mechanism. These auctions resulted in an approximated $139 million in proceeds to the state. One more auction for the fiscal year was scheduled on May 16, 2013. This is significantly less than the $1 billion in cap and trade revenues anticipated in the Governor's proposed 2012-13 budget.

Recommendation:

Vote: HOLD OPEN for Full Budget Committee Action

2. Cap and Trade Auction—Oversight and Budgetary Actions

Governor's Proposal. The May Revision includes an increase of $1.3 million and two positions from the Cost of Implementation Account to enhance oversight of Cap and Trade auction activities and budgetary administration. This proposal includes $1 million for contracts to audit the Air Resources Board's internal processes, procedures, and security protocols, as well as the the external contractors conducting the Cap and Trade auctions and collecting funds.

Staff Recommendation. Staff have concerns about increasing the Cost of Implementation Fee when the state has not begun the public work of the Cap and Trade program through expenditure of Cap and Trade auction funds for their intended benefit. In addition, concerns have been raised about the independence of an oversight or audit contractor hired by the department.

Recommendation. Approve with funding from the Greenhouse Gas Reduction Fund. Approve up to $1 million to the Bureau of State Audits for the audit function proposed for contract.

Vote: 2-1 (Nielsen)

3. Western Climate Initiative, Inc.

Governor's Proposal. The Governor's May Revision proposes to provide a new Budget Act item to separately identify resources for the Western Climate Initiative (WCI), Inc., to provide greater transparency regarding expenditures for access to WCI services. This is a $0 action item.

Staff Recommendation. This proposal has merit and is consistent with discussions between the Administration and Legislature.

Recommendation. Approve.

Vote: 3-0

4. Control Section 15.11 Elimination

Governor's Proposal. The May Revision proposes to eliminate Control Section 15.11 to conform with the Cap and Trade auction General Fund loan from the Greenhouse Gas Reduction loan.

Staff Recommendation. Staff concurs with the need to eliminate the current Control Section 15.11, however it may be necessary to return to this issue in the future should the Legislature reject the Governor's proposed General Fund loan.

Recommendation.

Vote: Motion to approve Staff Recommendation
2-0 (Nielsen not voting)

5. Office of Environmental Health Hazard Assessment – SB 535 Implementation Fund Shift (Item 3980)

Governor's Proposal. The Governor's January budget included $577,000 for the Office of Environmental Health Hazard Assessment from the Greenhouse Gas Reduction Fund to identify disadvantaged communities in California, as required by Chapter 830, Statutes of 2012 (SB 535, De León). The Governor's May Revision proposes to shift funding for SB 535 implementation from the Greenhouse Gas Reduction Fund to the Cost of Implementation Account in Air Pollution Control Fund. This action is necessary to conform with the proposal above, for a Cap and Trade Program one-time General Fund loan from the GHG Reduction Fund.

Staff Recommendation. Staff finds the proposal to be appropriate in its original form, with funding from the GHG Reduction Fund. At this time, an increase in the Cost of Implementation Fee for new programs does not seem warranted.

Recommendation. Approve $577,000 from the Greenhouse Gas Reduction Fund.

Vote: 2-1 (Nielsen)

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

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

Day: Wednesday, May 22, 2013
10:00 a.m.
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

Proposed Vote-Only Calendar

Proposed Discussion / Vote Calendar:

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.

Issues Proposed for <u>Vote-Only:</u>

2660 Department of Transportation

Issue Proposed for <u>Vote-Only:</u>

1. **Proposition 1B Capital Needs (Governor's Budget and May Revision Finance Letter).** This item was discussed at the subcommittee's hearing on March 14 and held open pending receipt of spring revisions. The Governor's January proposal requested a total of $238.4 million in capital funding for projects in five categories within the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B). The May Revision increases the requested amount by $19.8 million for a total request of $258.2 million. This proposal represents a Zero Based Budget (ZBB) and is based on the projects in each program for which the project proponent anticipates requesting an allocation of funding during 2013-14. This request is being made to ensure that adequate resources are appropriated to meet the anticipated need during the upcoming year.

   Background. Proposition 1B was approved by the voters in 2006 and dedicates $19.9 billion over a ten-year period to fund a variety of projects, including the State Transportation Improvement Program (STIP), the State Highway Operations Protection Program (SHOPP), congestion relief efforts, public transportation, reduction of air pollution and improved port security. It also provides funding to local agencies for road maintenance and improvements, safety, congestion relief, and seismic safety. Of the total funds authorized under Proposition 1B, $12.0 billion is reserved for 10 programs funded through Caltrans. Appropriations are made annually to those programs based on anticipated project funding needs for that year. Through June 30, 2012, approximately $8.6 billion in appropriations had been allocated by the California Transportation Commission (CTC) for projects through these ten programs. Request detail is presented in the table below:

   2013-14 Proposition 1B Capital Needs Requests

Fund	Revised 2013-14 Request (in thousands)
Trade Corridors Improvement Fund	$80,661
Public Transportation Modernization, Improvement and Service Enhancement Account—Intercity Rail	$43,801
Local Bridge Seismic Retrofit Account	$14,408
Highway Railway Crossing Safety Account	550
State Highway Operations and Protection Program	$77,965
State Route 99	$40,789
Total	**$258,174**

   Staff Comment. This proposal represents anticipated funding requests as of the date of proposal development as revised in the May Revision. Project schedules change and estimates sometimes need to be revised. Given the need to clarify these issues, the subcommittee held this item open until the spring in order for Caltrans to clarify the picture as to the level of previously appropriated funding that may be available to be applied to 2013-14 project needs.

Staff Recommendation. Approve the Prop 1B funding request as revised.

Vote:

Issues Proposed for Discussion / Vote:

2720 Department of California Highway Patrol

Issue Proposed for Discussion / Vote:

1. **Air Fleet Replacement (May Revision Finance Letter #1).** The Department of California Highway Patrol (CHP) has requested $17.0 million (Motor Vehicle Account) in order to replace three helicopters and one airplane to replace aging equipment in its current fleet. The request would replace one-time funding to replace four aircraft with the greatest amount of flying time. The request notes that as part of the department's proposal, it will conduct an analysis of its air operations program over the next year and outline a schedule to modernize and replace its fleet.

   Background and Detail. The CHP's Air Operations Program (AOP) provides support for enforcement, pursuit management, hazardous material response, and inter-operable communications with allied agencies, traffic congestion relief, stolen vehicle recoveries, conducting searches, and transporting emergency medical supplies. CHP's air fleet currently consists of 15 airplanes and 15 helicopters. The CHP indicates that each of the three helicopters, when department specifications are met, will cost $4.5 million and the airplane will cost $3.5 million. The department indicates that each unit begins to experience additional maintenance issues once flight time exceeds 10,000 hours, which occurs in about ten years. The department indicates the oldest airplane and helicopters in its fleet have logged over 15,000 hours and 18,000 hours, respectively. The department indicates its desire to reduce the amount of equipment 'downtime,' resulting from increased maintenance hours and difficulties in obtaining necessary replacement parts. It also expresses the desire to standardize its fleet.

   LAO Comment. LAO reports that it is standard procedure for CHP to replace an aircraft after it has flown 10,000 flight hours, a benchmark which all four aircrafts that CHP is proposing to replace have clearly exceeded. It also indicates that CHP has not provided (1) a time line for replacement (meaning which aircraft will be replaced in which year), (2) justification for and why each aircraft needs to be replaced, and (3) how the estimated replacement costs would impact the MVA. In addition, the CHP has not completed an analysis justifying the size of the air fleet that it will need in the future, based on workload projections. Despite this lack of basic information, the LAO indicates it does not have major concerns with the Governor's proposal.

   Staff Comment. There is no question that the CHP's air fleet is aging and should be gradually replaced over a period of time. However, there has not been an assessment conducted regarding the optimal number and types of aircraft that could best support the activities of the department. Given technology changes that have occurred, the department may be better served with fewer aircraft or a different distribution of types of aircraft. In addition, the department has not provided a plan for the overall fleet replacement. Instead, the current proposal indicates that the CHP will conduct an analysis of its air operations over the next year and outline a schedule to modernize its aging fleet. Staff would note that the study should be conducted in advance of additional purchases and that these purchases should be informed by the study. The subcommittee may want to require the completion of the study prior to appropriating significant funds for air fleet purchases, as long as safety is not an issue. Granted, the additional costs associated with increased maintenance would continue for an additional year, but as long as safety is not jeopardized, this alternative would be a fiscally prudent approach.

Staff Recommendation. Reject the request for an appropriation for air fleet replacement until an overall needs assessment and replacement plan has been conducted by the department.

Vote:

2660 Department of Transportation

Issues Proposed for Discussion / Vote:

1. **Increased Operating Expenses for AMTRAK (May Revision Finance Letter #2).** The Department of Transportation (Caltrans) requests additional funding of $18.6 million (Public Transportation Account) for operating expenses to support three state supported passenger rail services: Pacific Surfliner, San Joaquin and Capitol Corridor. The need for the funding is generated by federal requirements pursuant to the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), which calls for additional state support for rail service. The proposal will result in a continuation of the current level of service provided by these trains. The current support level is $90.3 million.

   Background and Detail. The state currently assists in the financing of the three routes. The Pacific Surfliner, Capitol Corridor and San Joaquin have a combined ridership of 5.6 million in federal fiscal year 2010-11 and had the second, third and fifth largest ridership of all Amtrak routes. The PRIIA requires Amtrak, in consultation with states, to develop and implement a standardized methodology for the allocation of operating costs on state-supported routes by October 2013. Under the adopted costing methodology, operating costs on routes that are currently paying 100 percent would be consistent with the current levels. The Capital Corridor and the San Joaquin pay 100 percent of costs while the Surfliner is at 70 percent (with Amtrak paying the remaining 30 percent). The budget increase will be divided among the three routes according to the following schedule: Pacific Surfliner ($10.3 million), San Joaquin ($7.7 million), and Capitol Corridor ($602,000).

   Staff Comment. Staff has no concerns with this proposal. The methodology was subscribed to by almost all states participating in the program. The proposal would assure service levels at the current level and adhere to the state transportation plan and the blended approach for the high-speed rail project. The proposal would represent three-fourths of the annual funding requirement once it begins in October 2013.

   Staff Recommendation. Approve the May Revision appropriation request for rail operating costs.

   Vote:

2. **Equipment Program—Zero Based Budget (May Revision Finance Letter #4).** Caltrans is proposing adjustments to its equipment program based on a Zero Based Budget (ZBB) conducted by the department and Department of Finance (DOF). The proposal represents a request to reduce the base funding for the program by $12.8 million and 41 positions, representing $2.9 million in personal services and

$9.9 million in operating expenses. In addition, as a result of the ZBB process, Caltrans requests a one-time increase for 2013-14 of $10.3 million in operating expense funding to address an equipment replacement backlog and to complete special studies. The request incorporates the correction of a technical error in the Finance Letter which results of the following adjustments: a reduction in the Equipment Program of $100,000; an increase in the Traffic Operations Program of $18,000; an increase in the Maintenance Program of $12,000; and an increase the Capital Outlay Support Program of $70,000.

Background. The Caltrans Equipment Program has provided the equipment needs for the department since 1920. In its district locations, the program designs, purchases, assembles and provides mobile equipment for all Caltrans programs. Currently, the fleet consists of 12,137 pieces of mobile equipment, including: sedans, pick-up trucks, light- medium- and heavy-duty trucks, snowplows, excavators, loaders, graders, forklifts, trailers and message signs. The department faces equipment challenges based on old and aging equipment and maintenance backlogs. Part of this has occurred as a result of the state fiscal situation. Approximately 22 percent of the fleet is non-operational due to the backlog in equipment maintenance and repair work. An addition 26 percent of the fleet is in need of maintenance, but still operational. The estimated replacement costs for the backlog is $172 million.

Detail. The proposal incorporates several components, consisting of the following:

- **Elimination of $350,000 in Reimbursement Authority.** Additional local reimbursement authority was provided in 2009-10, but has not been used and is unnecessary at this time.
- **Vehicle Reduction Savings of $12.4 million.** A vehicle allocation methodology (VAN) was used to identify non-essential and cost-ineffective equipment in the process of establishing an equipment baseline for the program. This resulted in a vehicle reduction list of 1,324 pieces of equipment, along with associated workload reduction for maintenance and repair on this equipment. Since this equipment will not need to be replaced, there is also savings from the reduced amortized capital value.
- **Reduce Equipment Fleet and Redirect $196,000.** Given the seasonal and intermittent use of some equipment (largely sedans, vans and SUVs), it is more effective to lease or rent this equipment than for the state to own it. This component of the proposal would allow this to occur and also allow redirection of the savings to the repair and replacement backlog.
- **One-Time Increase of $10.0 Million for Equipment Replacement.** The Caltrans current equipment replacement budget is approximately $30.8 million, and the current backlog of equipment that meets or exceeds replacement criteria is $172.3 million. This one-time infusion of $10.0 million will allow for a small reduction in the replacement backlog.
- **One-Time Increase of $250,000 for Special Studies.** Caltrans will conduct three special cost analysis studies related to: purchased versus state-assembled

equipment, fleet replacement selection, and human resources staffing ratios and classifications.

Staff Comment. The Equipment Program ZBB project was developed to incorporate program evaluation methods into the budget process as required by the Governor's Executive Order (EO) B-13-11. The ZBB process is an extensive and exhaustive 'bottom-up' construction of a program budget, based on workload analysis of all components required for the program. The Equipment Program ZBB is one of several undertaken by the department. Staff agrees with the general outcomes of the ZBB and the recommendations that were derived from this process. The one-time $10.0 million infusion will help address the large replacement backlog that has developed over the years.

Staff Recommendation: Approve the May Revision Finance Letter with technical changes.

Vote:

3. **Implementation of Revised Statewide National Pollution Discharge Elimination System Stormwater Permit (May Revision Finance Letter #3).** The department has requested budget adjustments in order to comply with the revised National Pollution Discharge Elimination System (NPDES) permit adopted by the State Water Resources Control Board last September. The new permit directs Caltrans to begin implementation in July 2013. The request addresses workload requirements in capital outlay support and maintenance programs due to implementing the new permit. The request incorporates the correction of a technical error in the Finance Letter which results of the following adjustments: reduction in Capital Outlay Support Program of $1,569,000 and an increase in the Maintenance Program of $1,569,000.

The request contains the following elements:

- Redirection of 25 positions and $3.0 million from capital outlay support State Highway Account (SHA) line item to the capital outlay support Stormwater Management Program line item.
- Increase of 25 additional positions—four in capital outlay and 21 in maintenance—for a total of $2.1 million. These will be funded through the redirection of existing capital outlay support operating expense funds identified in the ZBB.
- Reduction of $18,000 from the administration of the program.

The ZBB review was conducted to evaluate the existing resources and to provide a baseline workload and staffing levels. The workload requirements of the new permit were evaluated using the baseline. The proposal results in an increase of 25 positions, but a net decrease of $18,000 in the Caltrans budget item.

Background. Caltrans discharges stormwater and non-stormwater from controlled rights-of-way and facilities. The discharges are regulated under the Federal Clean Water Act (CWA) which prohibits the discharge of any pollutant unless authorized under a NPDES permit. The State Water Resources Control Board, with delegated authority from the US Environmental Protection Agency, administers and enforces the CWA. Caltrans has been operating under a permit issued in 1999. Since that time, there has developed a more comprehensive approach to compliance and self-enforcement and more challenging regulatory requirements. The new permit with more strenuous requirements will go into effect in July 2013. Compliance with the new requirement is mandatory.

Staff Comment. The request follows a ZBB review of Caltrans' existing stormwater program conducted in collaboration with the Department of Finance (DOF), as required by the Governors EO B-13-11.

Staff Recommendation. Approve the May Revision Finance Letter with technical changes.

Vote:

3. **Capital Outlay Support—Project Delivery Workload (May Revision Finance Letter #5).** Caltrans is requesting that the capital outlay support (COS) program be reduced by $36.3 million (special funds), and 256 positions (including 184 state positions), to reflect the reduced workload associated with the diminishing amount of state transportation funding (including Proposition 1B bonds) and the American Recovery and Reinvestment Act (ARRA) funding from the federal government. The proposed level of staffing will continue to reflect a ratio of 90:10 of state staff to consultant positions. The request includes proposed budget bill language to allow Caltrans to seek an increase in additional reimbursement authority of up to $1.8 million for additional workload associated with the high–speed rail project, to the extent work proceeds earlier than anticipated.

   Background. Over the last several years, questions have been raised about the staffing levels of the COS program and the information provided to support annual COS budget requests. In response to these concerns, the Legislature required Caltrans to provide specific information about the COS program's workload in order to better substantiate the annual budget requests.

   LAO Comment. In the past, the LAO has noted that the department's annual COS budget request has not been justified and that the program is overstaffed. Regarding the 2013-14 budget request, the LAO indicates the proposal is a step in the right direction by reducing the size of the program to better align with workload, but notes that some problems remain. Specifically, the LAO indicates that the information:

- Needed to justify the budget is lacking, making it impossible to determine if the amount of resources requested is reasonable.
- Fails to fully account for costs, is not transparent and precludes determination of the number of projects completed and the total costs of those projects.
- May not reveal complete support budget information for its projects, which more complete project budget data may be known to Caltrans.

Staff Comment. The subcommittee may want to consider approving the May Revision request of the department, coupled with reporting language that would require the department to analyze the capital outlay support program based on the zero based budget (ZBB) approach. The department has several program ZBB under its belt at this point and has experienced and learned from these endeavors. The ZBB exercise could evolve from a working group approach and include, potentially, Caltrans, Department of Finance (DOF) and the LAO. The subcommittee could consider directing staff to work with the LAO to draft suitable supplemental reporting language that would outline the process for the ZBB.

Staff Recommendation. Approve the May Revision Finance Letter consisting of the proposed budget reduction and budget bill language, and approve supplemental reporting language directing DOF and LAO to review the COS program based on ZBB in collaboration with Caltrans and in time for consideration in the 2014-15 budget cycle.

<u>Vote:</u>

5. **Active Transportation Program (Proposed Trailer Bill):** This issue was discussed at the subcommittee hearing on March 14 and held open, with directions given to staff to pursue an alternative with a reform context. The Governor's budget proposes creation of the Active Transportation Program (ATP) through the consolidation of five existing programs into a single $134.2 million program. The five programs to be consolidated include the federal Transportation Alternatives Program (from MAP-21), which includes the Recreational Trails program, the state and federal Safe Routes to School Programs (SR2S), the state Environmental Enhancement and Mitigation (EEM) Program, and the state Bicycle Transportation Account (BTA). This proposal is related to the resource reduction in the issue discussed above.

   Background and Detail: By consolidating several small grant programs into a new larger program, this proposal is intended to enhance the profile of active transportation projects, defined as any method of travel that is human-powered. It also seeks to increase program efficiency by eliminating the need to administer these programs individually and to focus funding on high-priority projects to reduce greenhouse gas emissions, consistent with the objectives of Chapter 728, Statutes of 2008 (SB 375). The Administration indicates that, compared to the current arrangement, the ATP will have a greater capacity and more flexibility to fund larger projects by streamlining program workload and reducing duplication of support activities (such as individual program guideline development and maintenance, training, reporting, and information systems maintenance). Consistent with this approach, the Governor's budget proposes to eliminate, over two years, five staff positions within Caltrans currently associated with administration of these programs.

The proposal seeks to achieve efficiency through creation of a single set of program guidelines and a single application and project selection process through which designated 'best projects,' among all eligible categories, would be identified and funded. Specifically, the proposed trailer bill language would require the California Transportation Commission (CTC) to develop guidelines and selection criteria for the new ATP, through a consultation process with specified entities including Caltrans, the Strategic Growth Council, the Department of Housing and Community Development, the Natural Resources Agency, the Air Resources Board, the Department of Public Health and the Office of Traffic Safety, as well as with metropolitan planning organizations and regional transportation planning agencies. The proposed language specifies a non-exhaustive list of eligible project types, including many types that are eligible under one or more existing programs. The language also specifies a non-exhaustive list of proposed selection criteria, most of which also are drawn from the criteria for the existing programs. The language does not specify how the various criteria should be applied in comparing the relative benefits of different project types.

Staff Comment. The Administration's proposal has some merit and there are likely to be some synergies involved in a unified program; however, there are also concerns. Collapsing multiple active transportation grant programs into one program, with a single set of guidelines and selection criteria, could have unintended adverse impacts for the types of projects funded by the current programs. The existing component programs have common elements, but each has different goals and objectives which are reflected in each program's individual guidelines and selection criteria. For example, the twin goals of the SR2S program are to both increase the number of K-12 students walking or biking to school and also improve safety for those students who do so. In contrast, BTA's primary objective is improving safety and accessibility for existing bicycle commuters. EEM funds a variety of project types, including landscaping and urban forestry designed to offset vehicle emissions, mitigation property acquisition, and roadside recreational enhancements. While such projects may have an active transportation component, this is not a primary objective of the program.

The proposal suggests that the ATP guidelines and project selection criteria will provide a framework through which these disparate types of projects will be compared and prioritized, as a single program. However, it is unclear how projects intended to achieve very different goals will be compared and the proposal includes no specifics. Nor is it apparent how the proposal's intent to prioritize projects that facilitate compliance with the Sustainable Communities and Climate Protection Act of 2008 (SB 375) may influence project selection. Without more specificity, it is impossible to determine how projects that meet the targeted goals and objectives of the individual component programs would fare.

Due to concerns that the proposal did not adequately ensure the integrity and purpose of the various programs proposed for consolidation, at its March 14, 2013 hearing, the subcommittee deferred action on the proposed trailer bill language pending additional information. Based on subcommittee direction, Senate staff engaged with the administration and stakeholders in numerous discussions in order to establish a framework that would represent an appropriate means to advance the ATP. Although some—not insignificant—progress has been made in this regard, there are still additional discussions, information gathering, and analysis that must occur prior to an agreement. Nevertheless, the outlines of a possible pathway include the following aspects:

- Consolidate the Safe Routes to School Program, Bicycle and Pedestrian funding and Recreational Trails, under the umbrella of the ATP, thus raising these programs' profile and allowing for such efficiencies as a common application process and schedule.
- Preserve the integrity and distinct purposes of the component programs as separate project categories within the ATP and allow for variation in project eligibility and selection criteria among the categories.
- Protect existing programs by ensuring a minimum base funding level.
- Promote consistency among ATP projects selected through statewide and regional competitions through adoption of common guidelines, selection criteria, and performance measures.
- Ensure local/regional buy-in through involvement of state, regional, local and non-profit stakeholder groups and organizations.
- Create opportunities for increased ATP funding through use of incentives to leverage additional resources.
- Ensure that the combined program is resourced adequately to ensure effective project delivery and development of robust performance measures.

The efforts to date can provide a good foundation upon which to continue discussions with the Administration and stakeholders, and advance the process of redesigning and strengthening the ATP.

Staff Recommendation: Reject the Governor's proposed trailer bill. Adjust budget appropriations for the existing programs that were proposed for consolidation—Safe Routes to Schools, Bicycle Transportation Account, Environmental Enhancement and Mitigation Program, Transportation Alternatives Program and Recreational Trails Program—to reflect funding levels equivalent to those in the current year. Direct the Transportation Agency, through the adoption of trailer bill language, to institute a process to develop alternative legislation and budget changes to achieve appropriative active transportation objectives for the state later this year.

Vote:

SUBCOMMITTEE NO. 2 Agenda

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

Day: Wednesday, May 22, 2013
10:00 a.m.
Room: 2040

Consultant: Mark Ibele

Agenda

ACTIONS
Transportation

Proposed Vote-Only Calendar

Issue 1: Approved Proposition 1B Capital Needs as Revised: 3-0

Proposed Discussion / Vote Calendar:

Issue 1: Approved May Revision Request for Helicopters and Airplane and Supplemental Reporting Language Regarding Needs and Plans: 3-0

Issue 1: Approved Increased Operating Expenses for AMTRAK: 2-1 (Nielsen no)
Issue 2: Approved Equipment Program Zero Based Budget: 2-1 (Nielsen no)
Issue 3: Approved Statewide Stormwater Permit Proposal: 2-1 (Nielsen no)
Issue 4: Approve Capital Outlay Support Workload with Supplemental Reporting Language for a Comprehensive Budget Review of Program: 3-0
Issue 5: Rejected Proposed Trailer Bill and Reinstate Funding at Current Year Levels for Programs Proposed for Consolidation. Adopted Trailer Bill Language to Direct Department to Develop Alternative Approach Later in the Year and to Not Opt Out of the Recreational Trails Program: 2-1 (Nielsen no)

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.

Senate Budget and Fiscal Review
SUBCOMMITTEE NO. 2 **Agenda**

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

Monday, December 16, 2013
10:30 a.m.
Bascom Community Center, Multi-Purpose Room
1000 S. Bascom Avenue, San Jose
Consultant: Farra Bracht

More Than A Pothole: California's Growing Road Repair Deficit

Informational Hearing on the Condition of California's Roads and Transportation Funding

I. Overview

Brian P. Kelly, Secretary, California State Transportation Agency

II. Transportation Needs Assessments and Funding

Andre Boutros, Executive Director, California Transportation Commission
Scott McGolpin, President of the County Engineers Association of California and Public Works Director of Santa Barbara County
Will Kempton, Executive Director, Transportation California
Jessica Peters, Senior Fiscal and Policy Analyst, Legislative Analyst's Office

III. On the Ground Perspectives

Hans F. Larsen, Director of Transportation, City of San Jose
Joe Pirzynski, Chairperson, Santa Clara Valley Transportation Authority Board of Directors
Steve Takigawa, Maintenance and Operations Deputy Director, California Department of Transportation
Steve Heminger, Executive Director, Metropolitan Transportation Commission

IV. Public Comment

Resources—Environmental Protection—Energy—Transportation

Senate Budget & Fiscal Review Subcommittee No. 2 on
Resources, Environmental Protection, Energy, and Transportation
Background Paper for December 16, 2013 Hearing

More Than A Pothole: California's Growing Road Repair Deficit

Informational Hearing on the Condition of California's Roads and Transportation Funding

PURPOSE

The purpose of this hearing is to examine the state of California's roads and the funding available to maintain these assets. The hearing also will raise public awareness about related challenges the state faces. In this hearing, the Secretary of the California State Transportation Agency will discuss the work of the California Transportation Infrastructure Priorities Workgroup, which was created to help set priorities for transportation spending and explore long-term funding options to deliver California's infrastructure needs. In addition, a panel including the California Transportation Commission, Transportation California, and the Legislative Analyst's Office will present their assessments of the state's transportation needs, the status of funding, and alternative ways to address these needs. Finally, the California Department of Transportation (Caltrans), the City of San Jose, the Metropolitan Transportation Commission, and the Santa Clara Valley Transportation Authority will present their "on the ground" perspectives of unfunded transportation needs.

BACKGROUND

The California state highway system includes nearly 50,000 lane-miles of pavement, 12,599 bridges, 205,000 culverts and drainage facilities, 87 roadside rest areas, and 29,183 acres of roadside landscaping. In addition, California's 58 counties and 480 cities own and maintain 141,235 miles of local streets and roads, as well as numerous local bridges. Approximately, 200 public agencies provide some kind of public transit service that results in about 1.3 billion passenger trips each year. The modes of transit include intercity bus and passenger rail.

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

In recent years, various organizations have prepared assessments of the state's transportation system and its needs. In general, these studies have found that the needs are great and the funding to address those needs is inadequate. For example, in 2011, the *California Transportation Commission Statewide Transportation System Needs Assessment* found that the total cost of all system preservation, system management, and system expansion projects during the ten-year study period was nearly $538.1 billion, as shown in the figure below. Of this total, about 63 percent of the costs are for rehabilitation projects and maintenance costs based on the goal of meeting accepted standards that would bring transportation facilities into a "state of good repair" within the ten-year study period. The remaining costs were for system management and expansion projects. This assessment found that the amount of funding anticipated over the next 10 years from all sources (federal, state, and local) represents less than one-half the amount needed to maintain and invest in the state's transportation system.

Ten-Year Cost Revenue Summary of State and Local Needs
(Dollars in Millions)

Costs	**Preservation Costs**	**System Management and Expansion Costs**	**Total**
Highways	$ 79.7	$ 86.3	$165.9
Local Roads	102.9	26.5	129.4
Public Transit	142.4	32.2	174.5
Inter-city Rail	0.2	6.2	6.4
Freight Rail	0.1	22.3	22.4
Seaports	4.6	7.5	12.1
Airports	10.4	5.5	15.9
Land Ports	0.9	0.0	1.0
Intermodal Facilities	0.0	5.9	5.9
Bike/Ped	0.0	4.5	4.5
Total Costs	**$ 341.1**	**$ 197.0**	**$ 538.1**
Revenues			
Federal			$ 30.9
State			53.1
Regional/Local			158.4
Total Revenues			**$ 242.4**
Net Revenues			**$ 295.7**
Percent Funded			45.05%

Source: CTC Statewide Transportation System Needs Assessment

Similarly, the 2012 *California Statewide Local Streets and Roads Needs Assessment* evaluates the present condition and future requirements of California's pavement, bridges, sidewalks and other essential transportation components of the local streets and roads network. It determines the cost to bring the transportation system up to a best management practices condition, which is the most cost-effective and efficient condition to maintain pavement. It indicates a funding shortfall of $82.2 billion over the next ten years.

During the last few years, the overall level of revenue available to fund transportation has remained relatively stable. This revenue comes from three main sources: (1) the excise tax on gasoline, (2) vehicle weight fees, and (3) sales and excise taxes on diesel fuel. The *2013-14 Budget Act* includes $12.8 billion in funding for Caltrans from various sources. In addition, approximately $13 billion in revenues from locally-imposed revenues such as add-on sales tax, property tax, and developer fees are available for transportation projects. However, as described earlier, this level of funding has left some of the state's roads in disrepair. Moreover, going forward, structural changes at both the the federal and state levels may impact the way the state prioritizes, funds, and delivers transportation projects.

ISSUES TO CONSIDER

State is Unlikely to Ever Have Enough Funding to Address All Transportation Needs. The amount of funding necessary, as identified in the various needs assessments, to maintain and improve the state's transportation system is significant. Increasing revenues and deciding where to spend those additional resources is a challenging process and it is unlikely that the amount of resources desired would ever materialize and be exclusively spent on transportation projects. It is important to note that many areas of the state's budget such as education and health care also have demands for additional resources. Therefore, it will be important to prioritize the use of existing resources and explore alternative ways to address the shortcomings of the current funding system.

Prioritization of Maintenance. As pavement conditions deteriorate, the cost of repair increases exponentially. Going forward, it will be important for the state to ensure that it strikes an appropriate balance between maintaining existing assets and expanding the system. Caltrans has recently implemented PaveM, which is an IT system that can help the state prioritize which road maintenance projects it selects. The system uses data to create a list of projects based on maintaining roads given a set of conditions, such as ensuring that 95 percent of the roads are in good condition, within specific budget constraints. Such a tool could help Caltrans prioritize the use of existing resources to help ensure that limited funds are spent on the best projects for pavement preservation and rehabilitation.

Technology to Address Shortcomings in the Current System. The performance of transportation systems can be maximized by implementing technology to monitor and manage traffic flow. Such an approach can help reduce congestion and some of the negative environmental impacts of idling vehicles. These types of systems have been implemented in parts of California and include ramp metering and providing real-time data about traffic conditions. However, existing technologies could be expanded to potentially achieve greater benefits. In addition, research is underway that explores the implementation of vehicle-to-vehicle communication and automated vehicles to increase safety and reduce the risks of accidents. It will be important to ensure that at the state level, Caltrans and others are open to the idea that technology may be able to address some of the system's shortcomings. Such an approach requires a fundamental shift in the way transportation needs are currently being met.

New Funding Sources. Some of the revenues used to support the transportation system have been eroded over time by increasing fuel economy and alternative fuel usage. New funding sources could include a greater use of tolls, mileage fees tied to the amount of vehicle travel, and congestion pricing which makes the price of traveling the highest during the times of day when the demand for (and benefit) from using roads is the greatest. These types of funding sources offer an advantage over gas taxes in that these revenues are not eroded by increases in fuel economy or alternative fuel usage. However, these funding sources can also face implementation challenges. For example, mileage-based fees present both privacy and technical obstacles.

Another potential source of funding for transportation projects is revenues from the cap-and-trade program, created to help achieve the goal of reducing greenhouse gas (GHG) emissions statewide to 1990 levels by 2020, as established in the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006 [AB 32, Núñez/ Pavley]), commonly referred to as AB 32. This program places a "cap" on aggregate GHG emissions from entities responsible for roughly 80 percent of the state's GHG emissions. Carbon allowances are issued that these entities will, in turn, be able to "trade" (buy and sell) on the open market. However, it is important to note there is great demand for this funding, such as for the construction of high-speed rail and other projects that could potentially reduce GHGs.

BUDGET HEARINGS PROVIDE AN OPPORTUNITY TO EXPLORE SOLUTIONS

This informational hearing provides the opportunity to learn more about state and local unfunded and under-funded transportation needs from a variety of perspectives and to raise public awareness about these issues. While it is important to explore new funding sources that do not erode over time, one must bear in mind that it is highly unlikely that there will ever be enough funding to meet all transportation needs. Therefore, it will be important to ensure that limited resources are maximized and spent on the highest priority needs. The upcoming 2014 budget hearings will provide an opportunity to hear from the Secretary of Transportation about the funding strategies identified by his workgroup. In addition, the committee can explore future funding options, discuss the opportunities and limitations of these sources, and identify potential strategies for going forward.