Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Dave Cogdill
Alan Lowenthal

Hearing Outcomes
(see outcomes under each agenda issue)

Day: Thursday, March 11, 2010
Time: 9:30 am or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

Department Overview: The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

Budget Overview: The January Governor's Budget proposed expenditures of $2.2 million (no General Fund) and 4.2 positions – a year-over-year decrease of $876,000 and an increase of 0.2 positions. The Board is wholly funded through fees on shippers. The year-over-year budget change is primarily explained by the expiration of one-time funding related to legal defense of the November 2007 Cosco Busan allision with the San Francisco Oakland Bay Bridge, and expiration of one-time funding related to pilot training.

	2009-10		2010-11	
	Funding ($1,000s)	Positions	Funding ($1,000s)	Positions
Ongoing baseline funding	$1,830	2.5	$1,997	2.5
Limited-term funding related to the Cosco Busan incident	$680	0.5	$0	0
Limited-term funding for Pilot Training	$438	0	$0	0
2009-10 new permanent position	$160	1.0	$160	1.0
2010-11 Budget Request			$75	1.0
TOTAL	$3,108	4.0	$2,232	4.5

Issues proposed for Discussion / Vote:

1. **Efforts to Improve the Performance of the Board (Oversight Item):** The Cosco Busan incident brought new attention to the Board. Legislation passed in 2008 (SB 1627, Wiggins) established a new position at the Board of Assistant Director (increasing staffing from 2.5 positions to 3.5 positions), placed the formerly independent Board under the umbrella of the Business, Transportation and Housing Agency, and required a performance and financial audit of the Board by the Bureau of State Audits (BSA). The BSA released its audit in November 2009, and the full report is available at the following link: http://www.bsa.ca.gov/pdfs/reports/2009-043.pdf.

   Audit Findings: The BSA audit included the following findings:

   - The board did not consistently adhere to state law when licensing pilots. In one case, it licensed a pilot 28 days before he received a required physical examination; he piloted vessels 18 times during this period.
   - The board renewed some pilots' licenses even though the pilots had received physical examinations from physicians the board had not appointed and, in one case, renewed a license for a pilot who had not had a physical examination that year.
   - Of the 24 investigations we reviewed, 17 went beyond the 90-day statutory deadline for completion.
   - The board did not investigate reports of suspected safety standard violations of pilot boarding equipment, as required by law.
   - The board failed to ensure that all pilots completed required training within specified time frames.
   - The board paid for business-class airfare for pilots attending training in France, which may constitute a misuse of public funds.

   The Auditor also provides a long list of recommendations to establish new procedures and recordkeeping to address the audit findings.

   Board Response to Audit: The Board generally accepted the findings and recommendations of the audit. A February 2010 BSA report titled *Implementation of State Auditor's Recommendations* found the Board has implemented some recommendations, others were partially implemented, and others were pending. That report is available at http://www.bsa.ca.gov/pdfs/reports/2010-406.pdf.

   Staff Comment: The Board should briefly indicate if any of the adverse findings have reoccurred since the November audit and outline their progress in implementing the Auditor's recommendations.

   Staff Recommendation: No action recommended, this is an informational issue.

   Action: No action – informational issue.

2. **New Office Assistant Position (Budget Change Proposal #1):** The Administration requests $75,000 (Board of Pilot Commissioners' Special Fund) and 1.0 new permanent position to address filing and other clerical workload. As indicated above, the Board received a new position last year of Assistant Director, which augments the baseline staff of the Executive Director, Administrative Assistant (which was recently administratively upgraded to Staff Services Analyst), and a part-time retired annuitant.

   Staff Comment: The budget request does not include any quantitative workload justification for the new position. The BSA audit does not make any staffing recommendations, but there is brief mention of the issue in the agency response letter and BSA follow-up. Secretary Bonner's letter notes that the Board now has access to knowledgeable state executives not previously available to it (at BT&H Agency), and that the administrative support is now provided by the California Highway Patrol which has up-to-date software and systems and sophisticated personnel to provide that support. The BSA responds that: *We believe it is unclear whether additional staff would have addressed the board's ability to comply with legal and regulatory requirements, given that we found there were not adequate controls and processes already in place*. Given the BSA comment on staffing, and the permanent staffing augmentation in last year's budget, the justification for additional staff is weak.

   Staff Recommendation: Reject the request.

   Action: Rejected request on a 3-0 vote.

2600 California Transportation Commission

Department 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 State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of $3.9 million and 20.0 positions for the administration of the CTC (no General Fund) – an increase of $569,000 and no change in positions. Additionally, the budget includes $28.9 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. The Administration submitted one Budget Change Proposal, which is described below.

Issues proposed for Discussion / Vote:

1. **Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a one-time increase of $200,000 (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), which mandates that the CTC establish criteria and review projects for inclusion in these programs.

   Staff Comment: In 2008, the Legislature approved two-year funding of $100,000 per year for 2008-09 and 2009-10 for consultants to review High Occupancy Toll (HOT) projects associated with AB 1467 (Statutes of 2006, Nunez). Reviews in that program cost about $50,000 per project; however, the scope of review was less broad because it only included the feasibility of toll revenues being sufficient to fund the cost of the project – not the contract terms of a P3. This year's BCP would include both the sufficiency of toll revenues (as applicable) and the terms of a P3 contract. Due to greater breadth of review, the cost is estimated to be closer to $80,000 per project. So the budget funding would provide for two to three project reviews. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment.

   Staff Recommendation: Approve this request.

   Action: No action – held issue open.

2640 State Transit Assistance

Department Overview: The State Transit Assistance (STA) budget item provides funding to the State Controller for allocation to local transit agencies for mass transportation programs. Revenue traditionally comes from the sales tax on diesel fuel and a portion of the sales tax on gasoline (including a Proposition 42 component), and is available for either operations or capital investment. With the passage of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B), bond funds are also available for this program. However, bond funds may only be used for capital investment.

Budget Overview: The Governor's Budget proposes funding of $350 million for State Transit Assistance – all from Proposition 1B funds. No State funding was proposed for transit operations. In the 8th Extraordinary Session, the Legislature approved AB X8 9 that appropriated $400 million for transit operations to cover the remainder of 2009-10 and 2010-11. As this agenda was finalized, the Governor had not acted on AB X8 9.

Issues proposed for Discussion / Vote:

1. **Proposition 1B funding for Transit Capital (Governor's Budget):** The Administration requests an appropriation of $350 million for local transit capital. Prop 1B includes a total of $3.6 billion for this purpose and $1.3 billion has been appropriated to date. A complete summary of all Prop 1B programs is included in the Caltrans section of this agenda on page 11.

   Staff Comment: The Administration should update the Subcommittee on this bond program and indicate why an appropriation level of $350 million is suggested for 2010-11. Staff notes the proportion of funding appropriated for this Prop 1B program is less than for other Prop 1B programs.

   Staff Recommendation: Hold issue open for additional review.

Action: No action – held issue open.

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 January Governor's Budget proposed total expenditures of $13.9 billion ($83 million General Fund) and 21,513 positions, an increase of about $100 million and a decrease of 44 positions over the revised current-year budget. For comparison purposes, Administration is not distributed by program in 2010-11 as it is in the Governor's Budget.

Activity: (in millions):

Activity	**2009-10**	**2010-11**
Aeronautics	$4	$8
Highway: Capital Outlay Support	1,598	1,738
Highway: Capital Outlay Projects	6,820	6,180
Highway: Local Assistance	2,891	2,192
Highway: Program Development	82	75
Highway: Legal	113	126
Highway: Operations	187	201
Highway: Maintenance	1,233	1,303
Mass Transportation	223	587
Transportation Planning	151	164
Administration	457	1,293
Equipment Program (distributed costs)	(227)	(251)
TOTAL	**$13,759**	**$13,867**

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

Fund Source or Account	**2009-10**	**2010-11**
Federal Funds	$5,172	$4,797
State Highway Account (SHA)	3,085	3,597
Proposition 1B Bond Funds	2,560	2,937
Reimbursements	1,614	1,477
General Fund (Proposition 42 – Caltrans share)	531	0
Federal Revenue Bonds (GARVEEs)	498	496
Public Transportation Account	165	413
Other funds	134	150
TOTAL	**$13,759**	**$13,867**

Issues proposed for Vote Only:
(see actions on the summary table on page 9)

1. **Fuel Cost Increase (BCP #1):** The Administration requests a permanent increase of $5.7 million (State Highway Account) to the department's fuel budget, which assumes fuel prices will average $3.06 per gallon, instead of the baseline level of $2.64 per gallon. This would bring Caltrans' total fuel budget up to $41.7 million – the department consumes about 13.6 million gallons of fuel per year.

   Staff Recommendation: Approve this request, but direct staff to bring this issue back after the May Revision if the outlook for fuel prices changes significantly between now and then.

2. **Enterprise Resource Planning Financial (E-FIS) Staff Reduction (BCP #3):** The Administration requests a permanent decrease of $255,000 (State Highway Account) and a decrease of three positions. This reduction recognizes a workload decrease that will result from the new E-FIS information technology (IT) project. E-FIS is a new accounting system for Caltrans that will replace almost 70 legacy IT systems. E-FIS is expected to be in operation beginning in early 2010-11. Caltrans committed to eliminating the three positions when the project was initiated because the Feasibility Study Report suggested a work decrease with the system.

   Staff Recommendation: Approve this request.

3. **Technical Corrections (BCP #4):** The Administration requests technical corrections due to mistakes in implementing the Legislature's direction to stop the practice of "cross allocation" or moving funding across Caltrans programs outside the Section 26.00 process. Some of the shifts were miscalculated at the time and this BCP would adjust the funding by program to correct this. It is a net-zero shift overall.

   Staff Recommendation: Approve this request.

4. **Construction Management System (CMS) IT Project (BCP #10):** The Administration requests an amendment to the multi-year funding plan for the CMS project to recognize the department's participation with the Department of General Services in an accelerated procurement pilot project. This project was previously approved by the Legislature, but the Administration hopes the accelerated procurement will save $800,000 and 2.4 positions. The total project cost is revised to $17.2 million. The system will allow Caltrans to track and manage construction projects and provide more timely information on the status of projects.

   Staff Recommendation: Approve this request.

5. **Roadway Design Software (RDS) IT Project (BCP #11):** The Administration requests an amendment to the multi-year funding plan for the RDS, which will replace the department's out-dated design software. This project was previously approved by the Legislature, but procurement issues have delayed the project. The total cost is $10.1 million (State Highway Account).

   Staff Recommendation: Approve this request.

6. **Diesel Retrofit and other Mitigation (BCP #6):** The Administration requests $57.3 million (State Highway Account) to replace or retrofit 435 vehicles and pieces of equipment. This includes both on-road and off-road vehicles. Caltrans indicates this budget augmentation is necessary to comply with State Air Resources Board (ARB) and South Coast Air Quality Management District (SCAQMD) regulations. This request represents the second year of a five year air quality retrofit that will cost a total of about $260 million. This issue was discussed extensively in this Subcommittee last year when a total of $48 million was approved for 2009-10.

   Staff Recommendation: Approve this request.

7. **New Positions for Revised Federal Environmental Requirements (BCP #12):** The Administration requests $720,000 in shifted federal funds and 6.0 new positions for the Local Assistance Program to implement new or revised federal environmental requirements resulting from changes in the Safe, Accountable, Flexible, Efficient Transportation Equity Act – a Legacy for Users (SAFETEA-LU). The LAO notes that this program has been expanded by about 25 percent to meet SAFETEA-LU requirements since 2005-06 and that a new federal transportation act should be adopted in the next year or two. The LAO recommends approval of the budget request and suggests adoption of Supplemental Report Language (SRL) to require Caltrans to rebench staffing once a new federal act is passed. Furloughs are also ending June 30, 2010, which will help address work that may have lagged in this fiscal year. Given that staffing has already been increased 25 percent for SAFETEA-LU, and a new act is expected soon, staff recommends rejection of the new funding and positions.

   Staff Recommendation: Reject this request, adopt LAO report language.

8. **Reimbursement Model for Project Initiation Documents (BCP #17):** The Administration requests to shift 96.5 positions and $12.5 million from State funding (State Highway Account) to local reimbursement for department workload associated with Project Initiation Documents (PIDs), or initial planning documents, for locally-funded projects. The LAO withholds recommendation pending submission of an April Finance Letter addressing the staffing needs for the entire Planning Program. Staff notes that budget bill language in the 2009 Budget Act requires Caltrans to provide a report to the Legislature by March 1, 2010, with options to share costs, lower costs, streamline procedures, and reduce delays

associated with PIDs. That report was due March 1, so the subcommittee would have the benefit of that information as it held its March and April Subcommittee hearings; however, the report had not been provided as this agenda was finalized. Given the report has not been provided, and a revised staffing request is expected in April, the Subcommittee may want to reject this request and reopen consideration, as warranted, once the report has been received and an updated budget request has been submitted.

Staff Recommendation: Reject this request.

9. **Passenger Rail Equipment Rebuild and Overhaul (Planning Estimate Adjustment #1):** The Administration requests a onetime increase of $6.9 million (Public Transportation Account) to baseline funding of $5.8 million (for a total of $12.7 million) for the 2010-11 maintenance of railcars that are part of the Intercity Rail Program. Funding for this program is essentially zero-based every year to match that year's maintenance schedule. Funding of $12.7 million is similar to average annual funding for the past five years.

   Staff Recommendation: Approve this request.

Summary of Vote Only Issues: (2-1 votes reflect, Senator Cogdill voting no)

Issue #	Issue Description	Actions	Vote
1	Fuel Cost Increase	Approve – revisit in May as warranted by fuel prices.	3-0
2	Enterprise Resource Planning Financial (E-FIS) Staff Reduction	Approve	3-0
3	Technical Corrections	Approve	3-0
4	Construction Management System (CMS) IT Project	Approve	3-0
5	Roadway Design Software (RDS) IT Project	Approve	3-0
6	Diesel Retrofit and other Mitigation	Approve	2-1
7	New Positions for Revised Federal Environmental Requirements	Approved half the requested funding and positions, adopt LAO Supplemental Report Language	2-1
8	Reimbursement Model for Project Initiation Documents	Reject, revisit in April or May if Administration provides report and revised request	3-0
9	Passenger Rail Equipment Rebuild an Overhaul	Approve	3-0

Issues proposed for Discussion and Vote:

1. **Update on Federal Stimulus Funds (oversight issue).** On January 20, 2010, the Transportation and Housing Committee held a hearing to discuss federal stimulus funds for transportation. The following has occurred since that hearing:

   - The federal government awarded California $130 million in "TIGER" discretionary ARRA grants. This was about 9 percent of total TIGER grants. The funding was for four projects: (1) $46 million for Doyle Drive Replacement in San Francisco; (2) $20 million for Otay Mesa 805/905 Interchange; (3) $34 million for Alameda Corridor East – Colton Crossing; and (4) $30 million for the California Green Trade Corridor Marine Highway
   - Caltrans and local project sponsors were successful in fully obligating all ARRA funds by the March 1, 2010 deadline, so no ARRA funds will be redistributed to other states.
   - Congressional action on a second round of federal stimulus for transportation, or "Stim 2," is still pending, as it was on January 20. Instead the federal government is still working on legislation to extend the Safe, Accountable, Flexible, Efficient Transportation Equity Act – a Legacy for Users (SAFETEA-LU) for another year.

   Staff Comment: The Administration should brief the Subcommittee on federal funding issues, including the latest information on contract awards for ARRA funds and what the Administration is doing for a possible STIM 2. The Administration should indicate what projects are ready to go if STIM 2 funds become available. The Administration should provide the Subcommittee a timeline for awards of ARRA funds so as to maximize spring and summer construction jobs.

   Staff Recommendation: No vote – information issue.

   Action: No action – informational issue.

2. **Proposition 1B Summary:** The Governor requests to revert $1.9 billion from prior Prop 1B appropriations and appropriate a total of $4.0 billion for 2010-11. So the net new appropriation would be $2.1 billion. Prior budget actions have appropriated a total of $13.5 billion, or 68 percent, of total Proposition 1B funds – the requested budget would bring the total to $15.5 billion, or 78 percent. The table below, based on Caltran's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 09-10	Reversion Requested	2010-11 Requested Amount	Budget Entity
Transportation Categories appropriated within the Caltrans Budget:					
Corridor Mobility Improvement Account (CMIA)	$4,500	$3,642	$387	$1,148	Caltrans
State Transportation Improvement Program (STIP)	$2,000	$1,953	$479	$525	Caltrans
State Highway Operations and Preservation Program (SHOPP)	$500	$440	$237	$178	Caltrans
State Route 99 Improvements	$1,000	$550	$61	$311	Caltrans
Local Bridge Seismic Retrofit	$125	$66	$0	$23	Caltrans
Intercity Rail	$400	$383	$156	$72	Caltrans
Grade Separations	$250	$247	$214	$76	Caltrans
Traffic-Light Synchronization	$250	$245	**	$80	Caltrans
Trade Infrastructure	$2,000	$904	$231	$674	Caltrans
State/Local Partnership	$1,000	$400	$40	$201	Caltrans
Transportation Categories appropriated in other Departments:					
Local Streets & Roads	$2,000	$1,987	none	$0	Shared Revenues
Transit	$3,600	$1,300	$114	$350	State Transit Assistance
Air Quality and Transportation Security Categories appropriated in other Departments:					
School Bus Retrofit	$200	$196	none	$0	Air Res. Board
Trade Infrastructure Air Quality	$1,000	$750	Reapprop-riation	$230	Air Res. Board
Port Security*	$100	$99	Reapprop-riation	$0	Emerg Mgt Agency
Transit Security*	$1,000	$303	none	$103	Emerg Mgt Agency
TOTAL	**$19,925**	**$13,464**	**$1,920**	**$3,970**	

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

** Combined with the SHOPP item.

Prop 1B Budget Request. As indicated on the prior page, the Administration requests a $1.9 billion reversion, or deletion, of previous Prop 1B appropriations. These funds represent those that have not been allocated to a project and some of these funds are only available for allocation through June 30, 2010. The Administration indicates that about $600 million in projects are ready for allocation, but are delayed due to the limited ability of the State to sell bonds. Therefore the remainder of $1.3 billion would be delayed from the Administration's prior expenditure plans for other reasons. The Administration also requests to extend 75 limited-term positions approved for Prop 1B workload in prior budgets. These positions are fully funded with Prop 1B funds.

LAO Recommendation: The Analysis indicates the requested appropriation may exceed the number of projects ready-to-go in 2010-11, and recommends Caltrans reconcile the funding request to project lists.

Staff Comment: The Administration should outline their reasoning behind the $1.9 billion reversion, and indicate how much of the reversion is due to delays in bond sales and how much is due to other factors. The Administration does not suggest a reversion or reappropriation for local street and road funding; however, staff understand some locals have been similarly challenged to meet obligation deadlines due to payment deferrals and other factors.

Staff Recommendation: Keep open for additional analysis of the 2010-11 Prop 1B expenditures and staff needs.

Action: No action – held issue open.

3. **Innovative Finance Part I - GARVEE Bonds (BCP #2)**. The Administration proposes an appropriation of $680 million to fund the full multi-year debt repayment (generally over about 12 years) for Grant Anticipation Revenue Vehicles (GARVEE) bonds that Caltrans would like to issue in 2010-11. GARVEE bonds are revenue bonds backed by future federal transportation funding. The use of GARVEE bonds accelerates projects that would otherwise be delayed because of insufficient transportation funds – saving construction-inflation costs, and delivering the projects faster to travelers. The January Governor's Budget proposed to use GARVEE financing to advance three State Highway Operations and Protection Program (SHOPP) projects: (1) a portion of the Doyle Drive replacement project in San Francisco; (2) the Los Angeles Route 10/605 Interchange; and (3) the Los Angeles Route 710 Roadway Rehabilitation. However, Caltrans indicates the projects are subject to substitution due to changing financial conditions. The Administration expects a 4.15 percent interest rate for GARVEE debt and a 5 percent construction inflation rate.

Background on past use of GARVEEs: Existing statute allows the California Transportation Commission to authorize GARVEE projects up to a level where GARVEE debt service reaches 15 percent of annual federal funding. The budget assumes GARVEE debt service of $138 million in 2010, which is less than five percent of baseline federal funding. GARVEEs have been appropriated in three prior state budgets as indicated in the summary table below (in millions).

GARVEE Year	Amount Appropriated	Project amount	Interest amount	Unused GARVEE (Project amount)
2004-05	$783	$660	$123	$0
2008-09	$181	$141	$40	$43
2009-10	$675	$497	$178	$497
2010-11 proposed	$680	$495	$185	$496
Total, new and existing	$2,319	$1,750	$525	$1,036

As the table indicates, there is unused GARVEE project money of $540 million from the 2008-09 and 2009-10 budgets. Of the amount for 2009-10, $221 million was for one component of the Doyle Drive project, which the Administration is now funding with federal stimulus funds.

Staff Comment: This issue is related to the following public private partnership (or availability payment) issue, and the funding mechanisms are substitutes for each other, so they should be considered together. Additionally, it is unclear why the Administration needs new GARVEE authority when $540 million in past authority is unused.

Staff Recommendation: Keep open for further review.

Action: No action – held issue open.

4. **Innovative Finance Part II – Public Private Partnership / Availability Payments (BCP #13)**. The Administration proposes an appropriation of $3.45 billion to fund multi-year "availability payments" (over about 30 years) for one designated highway project (a portion of Doyle Drive – about $1.4 billion of the total) and other non-designated highway projects (about $2.1 billion). "Availability payments" are a type of public private partnership (P3) where the private partner initially funds the project and then the state compensates the private partner with payments over many years – here, future federal funds are proposed with about $115 million directed annually to this purpose over 30 years (for Doyle Drive, there would be a $150 million payment upon completion of construction plus about $38 million annually after that). The draft Doyle Drive lease agreement (available at: http://www.catc.ca.gov/programs/DB-P3/P3/doyledrive.htm) would provide the developer the right to impose tolls and user fees. If the developer exercises this right, it would have to be consistent with a November 26, 2008, MOU, which allows only "cordon tolling," that would be a system of tolling on all vehicles entering San Francisco, but it is unclear if the MOU could be further revised.

Background on P3s: California has used P3s for past highway investments with mixed results – Route 91 linking Orange and Riverside counties and Route 125 in San Diego County are examples. Senate Bill X2 4 (Chapter 2, Statutes of 2009, Cogdill), revised the P3 process, by removing the statutory limit on the number of P3s and removing the Legislature from the approval process. The structure of this proposed P3 differs from prior P3s by using "availability payments."

LAO Comments: Overall, the LAO finds the Governor's proposal is "problematic" and recommends rejecting the proposal. However, the LAO also notes the Administration is reassessing its proposal and may submit an amended request in the spring. The full LAO March 2 report is available at: http://www.lao.ca.gov. The LAO makes the following findings and recommendations:

- SB X2 4 specifically requires that P3 project agreements include financing from toll or user fee revenues – the proposed agreement does not appear to be allowed under current law.
- The Doyle Drive proposal would fund the developers for project operations and maintenance out of federal funds – these costs are not eligible for federal funding.
- $2.1 billion of the request is undesignated and budget bill language allows the Department of Finance open-ended authority to augment the $3.45 billion. This provides little or no opportunity for legislative review and oversight.
- This proposal, as specified for Doyle Drive, may not reduce State costs. The Administration assumes the developer could reduce construction costs relative to the standard process, but the basis for this assumption is not identified.

Staff Comments:

- As indicated in the prior issue, the Administration also has GARVEE bonds available for the Doyle Drive. Since Doyle Drive has existing financing and it is a

high-priority project, it is unclear why the project should incur the risk of delays while a P3 contract is negotiated and possibly litigated.

- Since either financing approach is available, the costs and risks to the State of GARVEEs versus this P3 approach should be compared side-by-side. However, the consultants' report does not include the option of GARVEE financing.
- The consultants assume an 8.5 discount rate to calculate net present value (NPV) – for example, the NPV of a $100 payment due in 10 years is only $40. Since this P3 makes payments over 30 years, the NPV is easily lower for this approach than for traditional pay-go financing. Any borrowing with an interest rate below 8.5 percent would seem prudent with this approach. The rate at which the future is discounted should be a determination made by the contracting party (here the State and private partner). The consultants can advise but should not determine the rate the State uses.
- The consultants assume retained risk reserves of $125 million in NPV for the traditional financing version versus $47 million in NPV for this P3. This suggests that the State would achieve a $78 million saving from shifting risk to the Contractor in the P3. The risk premium is also subjective for the parties to determine.
- A 30-year general obligation bond for $500 million would typically cost about $1.0 billion to pay off over thirty years. The 30-year cost of this P3 is estimated at $1.4 billion.
- The uncertainty with respect to future tolling is troubling – if the State feels Doyle Drive is a good candidate for tolling, they should propose this, instead of leaving it to the discretion of the developer.
- Finally, as indicated in the earlier issue, the federal government recently awarded the project $46 million in a discretionary "TIGER" grant. This funding occurred after the Governor's budget was released.

Suggested questions / discussion:

(a) The Administration and LAO should speak to the relative merits of: (1) pay-go financing; (2) GARVEE financing; and (3) P3 financing as proposed by the Governor.

(b) Caltrans and the Department of Finance should respond to each of the LAO findings on the prior page.

(c) The Administration should indicate whether Doyle Drive is a good candidate for tolling, and if so, why they are not proposing a traditional P3 financing at the outset with tolls to finance the project.

(d) If the developer were to exercise discretion and impose tolls, what share would the state expect to receive and would there be any limits on the amount of tolls?

(e) The Administration should explain why they are requesting $2.1 billion in advance of any planned projects and why budget bill language is requested to remove any expenditure cap on P3.

(f) The Administration should indicate if they will be submitting a revised request in the spring.

Staff Recommendation: Hold open for further review.

Action: No action – held issue open.

5. **Zero-Based Workload Part I: Capitol Outlay Support (LAO Issue)**. The Analyst reviewed the Capitol Outlay Support (COS) program at Caltrans and indicates the cumulative evidence suggests that the program is overstaffed and lacks strong management. COS is a $2 billion program within Caltrans with about 12,000 personnel year equivalents of staffing and contract resources (about 90 percent state staff and 10 percent contract staff). The COS program provides the support needed to deliver highway capital projects, including completing environmental reviews, designing and engineering projects, acquiring rights of way, and managing and overseeing construction.

   LAO Findings: The LAO report (which is available at www.lao.ca.gov) makes the following findings:
   - The workload that is assumed in the department's annual COS budget request has not been justified.
   - Although comparisons are difficult, Caltrans appears to be incurring significantly higher costs for COS activities than similar agencies.
   - Comparisons of one Caltrans region to another suggest that COS staffing in at least some regions is excessive. There appears to be little relationship between the number of positions in a region and the size of its capital program.
   - The imposition of furloughs on Caltrans COS staff appears to have had no identifiable impact on its productivity, further suggesting that the department is over staffed for these activities.
   - A review of a sample of Caltrans projects showed that COS costs regularly exceeded the norm, often by a considerable margin.
   - Caltrans lacks systems and processes to manage and control COS costs.

   LAO Recommendations: The LAO report makes the following recommendations:
   - Adopt statutory language to require Caltrans to provide additional COS workload information beginning with the 2011-12 budget.
   - Caltrans should adopt cost controls for COS and report at the hearing the steps the department is taking to control costs.
   - The Bureau of State Audits (BSA) should audit Caltrans staff charging of work hours to projects to determine if these records are accurately kept.
   - Reduce COS by 1,500 position equivalents (state positions and contract resources). This LAO recommendation is subject to change if the Administration is able to provide workload justification for additional staff resources.

   Staff Comments: The LAO review raises serious concerns about the Department's ability to estimate staffing needs and manage resources. Caltrans was not able to reconcile their 2009-10 staffing request to workload data, nor could they provide the LAO with a full explanation of how workload is modeled to produce the staffing estimates. In the absence of any department methodology, the LAO used several proxy measures to estimate total workload and found baseline staff resources should be reduced from about 12,000 to about 10,500, which would reduce costs by approximately $200 million.

Staff Recommendation:

- Hold issue open.
- For the 2010-11 budget, request that the Administration works cooperatively and openly with the LAO and Legislative Staff as it develops its May Revision COS budget for 2010-11. An ongoing challenge with the May Revision workload adjustment is that it does not allow sufficient time for Legislative review as each house only has a week or two to act after the May Revision. The Administration should share their COS estimates in early April to allow a full review.
- For the 2011-12 budget, direct staff to work with the LAO and Administration this spring to develop statutory language that would specify necessary project detail to accompany the 2011-12 COS budget request so the request can be transparent and justified. Future COS requests should be based on solid data and defensible estimates – not unexplainable Caltrans estimates or LAO proxy estimates.

Action: No action – held issue open. Limited public testimony was heard, but the issue was not otherwise discussed. The issue will be heard at future hearing.

6. **Zero-Based Workload Part II: Civil Rights, Legal, and Information Technology (2009 Budget Act report)**. The 2009 Budget Act included language requiring Caltrans to *provide the Legislature information explaining and justifying the workload for the department's legal, information technology, administrative, and civil rights activities for all the department's program*. The report was provided for all the areas except administrative. The Department is proposing to change the administrative budget to "distributive administration" which will result in additional detail as centralized administration will be distributed to the individual program areas in proportion to work performed for each.

Detail from Report: Caltrans outlines staffing and workload for the three programs in the report. The approach the department took was to allocate existing staff to specific task or activity, based on the activities that people currently perform. So current staffing exactly matches current workload. However, this is not truly a "zero-based" staffing analysis that would define workload first and then rebuild the staffing need from zero. The report includes the baseline budget staffing and funding for each program as follows (in millions):

Area	Personnel Years	Personnel Service Budget	Operating Expense Budget	Total Funding
Civil Rights	58.5	$4.3	$1.9	$6.3
Information Technology	630	$47.2	$2.3 (employee related) $33.3 (IT infrastructure)	$82.7
Legal	293.6	$31.3	$5.9 (employee related) $83.0 (tort and consultant)	$88.9

Staff Comment: This exercise indicates the challenge of zero-based budgeting. Ideally, departments should periodically review workload as it will change in individual area due to, in these cases, such things as number of lawsuits, number of servers and newness software for users, and number of contracts to review annually for Disadvantaged Business Enterprise (DBE) program compliance. Such periodic workload analysis might suggest the need for either a staffing augmentation or a staffing reduction.

Staff Recommendation:

- Hold open
- Ask Caltrans to report back at a future hearing with updated information that would tie all the workload in each area to a relevant workload driver such as number of staff per lawsuit, number of civil rights staff per contract, etc.
- Direct LAO and Staff to continue to review the reports and bring back recommendation for staffing adjustments if warranted.

Action: Issue not heard, no action – will be heard at future hearing.

7. **Budget Savings from Executive Orders Part I: Operating Expenses and Equipment**. The Governor has issued Executive Orders (EOs) to direct departments to generate budget savings from reduced operating expenses and equipment (OE&E) expenditures. However, those savings for 2009-10 and 2010-11 are generally not built into department budgets. Caltrans OE&E for the adopted 2009-10 budget was about $2.1 billion.

   Executive Order S-09-09 issued June 8, 2009, required departments to submit a plan to reduce new contracts, extended contracts, or purchases from statewide master contracts in 2009-10 by at least 15 percent. Caltran's adopted plan applied the 15 percent amount to the non-exempted amount of $47 million to generate savings of $7.1 million.

   Executive Order S-14-09 issued July 17, 2009, prohibited departments from purchasing vehicles for non-emergency use, required a 15 percent reduction to fleets, and reduces vehicle home storage permits by 20 percent. Caltran's adopted plan reduces the light duty fleet by 426 vehicles and reduces home-storage permits by 330. Caltrans does not anticipate any ongoing savings from this EO. The revenue from selling California's fleet vehicles will be discussed with the Department of General Services as part of the March 11, 2010, Subcommittee #4 hearing.

   Other Caltrans Savings: Despite the relatively modest savings associated with these EOs, Caltrans indicates it has been aggressive in reducing travel, training, information technology purchases, and other such costs that have reduced OE&E costs by a full 10 percent. About $220 million was saved in this manner in 2008-09 and is reflected in the January Governor's budget as savings in the past year. Many of these savings measures are still in place and Caltrans anticipates significant savings in both 2009-10 and 2010-11. However, no savings is currently reflected in the Caltrans budget for 2009-10 and 2010-11.

   Staff Comment: Staff has been working with the department to determine the nature of the 2009-10 savings to understand how much of this can be continued, but the department has been unable to provide many specifics. If some reasonable level of savings can be estimated and scored, the budget would be more accurate and transparent and addition funding would then be available for new maintenance or State Highway Operations and Protection Program (SHOPP) expenditures.

   Staff Recommendation: Adopt a placeholder action that would score savings of $100 million in 2009-10 and $100 million in 2010-11. Direct staff to continue to work with Caltrans to determine a reasonable amount of savings – derived from existing Caltrans action – that can be scored. Direct staff to work with the Administration on a highway maintenance and/or SHOPP augmentation with the savings, which would improve California's infrastructure and create new construction jobs.

   Action: Issue not heard, no action – will be heard at future hearing.

8. **Budget Savings from Executive Orders Part II: Workforce Cap**. The Governor issued Executive Order S-01-10 on January 8, 2010, requiring all State agencies and departments to submit a plan to achieve an additional five percent in salary savings. The Legislature recognized these savings in the 8th Extraordinary Session actions and scored the General Fund salary savings of $450 million in AB X8 2. Since related OE&E savings will accompany personnel service savings, AB X8 2 included additional saving of $130 million General Fund. The EO requires departments to submit their workforce cap plans to the Department of Finance and the Department of Personnel Administration by February 1, 2010. The EO requires departments to begin implementing their plans by March 1, 2010.

   Staff Comment: Staff has requested the Caltrans workforce cap plan, but as this agenda was finalized, no plan has been provided. While the General Fund savings has been scored from the EO already, the implementation of the plan is still an oversight concern of the Legislature. It is also difficult to justify Caltran's budget requests for new or extended positions without knowing if the workforce cap plan will affect staffing in those areas. The Administration should outline their workforce cap plan and indicate when a written version will be made available for review.

   Staff Recommendation: Hold open for further review.

Action: Issue not heard, no action – will be heard at future hearing.

9. **Load Rating of State Bridges (BCP #16). The Administration requests to absorb** new workload for load rating of State bridges by: (1) redirecting 9 positions that provide engineering support for toll bridge traffic operations in the San Francisco Bay Area; and (2) shifting $1.3 million from the litter pickup budget. The load rating determines the weight or load of vehicles that a bridge can safely carry. The 9 new bridge positions would complete a new load rating assessment of 6,800 State bridges over a ten-year period to comply with new federal requirements. The BCP indicates that engineering support for toll bridges and litter removal activities are both very important to the Department, but that the bridge load rating activities are a higher priority.

   Detail on Request: New load ratings are not required for all State bridges – for example, excluded are those designed to current standards (designed since 1976), and bridges that do not carry vehicular traffic. For the 6,800 bridges in question, the existing load ratings were developed with older computer modeling that did not include all bridge design data and the base load rating cannot be verified or updated with the existing system. The requested positions would review bridge records, perform a new load rating with new software, and write a summary report for each bridge.

   Past Legislative Hearings: On January 12, 2009, the Subcommittee held a joint hearing with the Senate Transportation and Housing Committee, and Senate Select Committee on Bay Area Transportation, and the Assembly Transportation Committee, on the topic of *2009 San Francisco-Oakland Bay Bridge Closures and Related Bridge Safety Issues*. Today's hearing is a good opportunity to hear an update from Caltrans.

   LAO Recommendation: The Analyst recommends the Administration look at alternatives that would allow the work to be completed more expeditiously (instead of over 10 years). For instance, Caltrans could contract out some of the work, or assign more State staff to the task in order to complete the work sooner.

   Staff Comment: Caltrans should explain why the 9 positions performing engineering support for toll bridges are no longer needed, and why this funding request is from redirected litter clean-up instead of a net funding augmentation. Caltrans should explain why 10 years is an acceptable length of time to perform these safety load ratings – instead of a quicker implementation as suggested by the LAO.

   Staff Recommendation: Keep issue open for further analysis of alternatives that would result in a more rapid completion of new safety assessments of state bridges.

   Action: Issue not heard, no action – will be heard at future hearing.

10. Americans with Disabilities Act (ADA) Lawsuit (BCP #16). The Administration requests one-time funding of $8.5 million (State Highway Account) to pay attorneys' fees in the ADA lawsuit that was settled in December 2009. The request indicates that the exact amount of the payment is still undetermined, but the settlement agreement sets it between $3.5 million and $8.5 million. Final court approval of the settlement agreement is expected in April or May of this year.

Detail on ADA expenditures: While the budget request only deals with the one-time attorneys' fees, it should be noted the settlement includes agreement from the Administration to spend $1.1 billion over 30 years to make sidewalks and other pedestrian facilities ADA-compliant. The settlement defines minimum expenditures per year as follows:

- Baseline funding is about $10 million per year.
- Funding would increase to $25 million per year beginning in 2010-11.
- Funding would increase to $35 million per year beginning in 2015-16.
- Funding would increase to $40 million per year beginning in 2025-26.
- Funding would increase to $45 million per year beginning in 2035-36.

This funding would be accomplished within the State Highway Operations and Protection Program (SHOPP) funding and Maintenance funding as applicable.

Staff Comment: Since the funding for increased ADA investments is part of the SHOPP item, no action is necessary. The BCP request to the Legislature only relates to attorneys' fees. It should be noted that the 2009-10 budget includes new funding of $20 million to fund tort obligations – this was requested by the Governor in an April Finance Letter and approved by the Legislature. Caltrans should attempt first to absorb the cost of attorney fees within its current-year legal funding level. If the Subcommittee keeps this item open, the Department should report in May on its ability to absorb this one-time cost within the legal allocation.

LAO Recommendation: The Analyst recommends holding the legal-fees item open until May, by which time the court is expected to decide the specific amount of attorney's fees that Caltrans will owe.

Staff Recommendation: Hold open the legal fees issue so the Subcommittee can consider the request with more complete information in May.

Action: Issue not heard, no action – will be heard at future hearing.

11. Cap on Tort Payments (BCP #18). The Administration requests trailer bill language to place a $250,000 per individual, and a $500,000 per occurrence, cap on the amount of the non-economic damages that can be awarded against the State in a tort action. Additionally, the Administration requests language to limit the State's liability for economic damages to "several only and not joint." This means that if there are several parties at fault, including Caltrans, the department would only be responsible for its proportional or comparative fault and not have to compensate beyond that level (in the situation where other guilty parties had insufficient economic resources to fund their share of the payment). The Governor's proposed budget does not assume any savings from this proposal; however, Caltrans estimates they might see annual savings of approximately $28 million based on past litigation.

Detail on Caltrans' Total Liabilities: The historic tort budget funding and actual expenditures (in millions) are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	$41.4	$65.1	$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06	41.4	66.7	25.3
2006-07	53.6	51.5	-2.1
2007-08	53.6	72.9	19.3
2008-09	53.6	68.8	15.2
2009-10*	73.6	73.6	0
2010-11*	73.6	73.6	0

* Estimate

Staff Comment: The language suggested by the Administration does not appear specific to Caltrans, therefore these provisions would seem to apply statewide. The affect on other State departments, their policy objectives, and their budgets is unclear. While there are Caltrans budget benefits from this request, there are policy implications that are not fully detailed in the Administration's request. This issue may benefit, and time should allow, for this issue to be heard and discussed in policy committees, such as the Judicial Committee, where the full range of issues to consider would be brought to light.

LAO Recommendation: The Analyst recommends that the Legislature evaluate the proposal on a policy basis rather than as apart of the budget process.

Staff Recommendation: Reject this request and suggest proponents pursue the policy process so the implications of this proposal can be more fully understood.

Action: Issue not heard, no action – will be heard at future hearing.

12. Advertising on Changeable Message Signs (January Governor's Budget). The Administration requests budget trailer bill language to allow advertising on highway Changeable Message Signs (CMSs). No Budget Change Proposal was provided to explain or justify this request. No revenue is scored in the Governor's budget for this proposal, and no revenue estimate has been provided by the Administration.

Information from the Administration trailer bill language: According to the Administration trailer bill language, "the department would obtain private sponsors and advertisers who would provide additional transportation funding in return for the right to place advertisements on the updated emergency message signs in a manner that does not detract from the signs' public-service announcement function." The language indicates the proposal would require either a waiver from the Federal Highway Administration or a change in federal law. The language indicates the private sponsor and Caltrans would share advertising revenue, but the language does not specify what the state share would be. The language specifies Caltrans would not be required to adopt regulations, but would rather post guidelines on its website.

Staff Comment: The Administration should update the Subcommittee on this proposal and indicate if it has a revenue estimate, or if there has been any response from the federal government with regards to a waiver. There are traveler information and safety concerns with this proposal. Some CMSs are used to display travel times from one destination to another (which is not necessarily a safety issue, but is valuable information to travelers) – would this content be replaced with advertising? The signs would also poise concerns related to distracted driving and highway beautification. This issue may benefit, and time should allow, for this issue to be heard and discussed in policy committees, such as the Transportation and Housing Committee, where the full range of issues to consider would be brought to light.

Staff Recommendation: Reject this request and suggest proponents pursue the policy process so the implications of this proposal can be more fully understood.

Action: Issue not heard, no action – will be heard at future hearing.