

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Dave Cogdill
Alan Lowenthal



Monday, May 24, 2010
11:00 a.m.
Rose Ann Vuich Hearing Room (2040)

Consultant: Bryan Ehlers

MAY REVISE & OPEN ISSUES

"A" AGENDA

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Resources—Environmental Protection—Energy—Transportation

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Items Proposed for Vote-Only

Department of Parks and Recreation

1. May Revise (MR): Reduce One-Time Public Resources Account (PRA) Augmentation Due to Lower Than Anticipated Revenues. The Governor requests a \$395,000 reduction to the Public Resources Account, Cigarette and Tobacco Products Surtax Fund due to lower than anticipated revenues. The Governor's Budget originally proposed a one-time increase of \$2.8 million.

2. Various Reappropriations for Projects Delayed Due to the Bond Freeze.

- **City of Encinitas**

0005 --- Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(1) Item 3790-101-0005, Budget Act of 2001 (Ch. 106, Stats. 2001), (1) 80.25-Recreational Grants, (a) Local Agencies Operating Park Units, as reappropriated by Item 3790-494-0005(1)((1)(a), Budget Act of 2009 (Ch. 1, Stats. 2009).

Provisions:

1. This reappropriation is limited to the \$2,482,845 grant to the City of Encinitas.

- **Door of Hope Community Center**

0005 – Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(1) Item 3790-101-0005, Budget Act of 2001 (Ch. 106, Stats. 2001), 80.25-Recreational Grants (c) Murray-Hayden Urban Parks and Youth Services Program

Provisions:

1. This reappropriation is limited to a \$1,100,500 grant to the Door of Hope Community Center for the Youth Center.

- **Hayward Area RPD for Holland Park**

6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Bond Fund

(1) Item 3790-101-6029, Budget Act of 2002 (Ch. 379, Stats. 2002), (1) 80.28-Local Projects, (a) Urban Park Grants as reappropriated by Item 3790-490-6029(1), Budget Act of 2004 (Ch. 208, Stats. 2004)

Provisions:

1. This reappropriation is limited to a \$1,135,068 grant to the Hayward Area RPD for Holland Park.

- **YMCA of San Diego County**
6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Bond Fund
(1) Item 3790-101-6029, Budget Act of 2002 (Ch. 379, Stats. 2002)
(a) Urban Park Grants as reappropriated by Item 3790-490-6029(1), Budget Act of 2004 (Ch. 208, Stats. 2004)

Provisions:

1. This reappropriation is limited to the \$901,000 grant to the YMCA of San Diego County.

Office of Environmental Education—Environmental Education Initiative

Due to a deteriorating fund condition, the Governor's Budget proposed various reductions to the Integrated Waste Management Account (IWMA). As one of the programs supported by the IWMA, the Environmental Education Initiative (EEI) in the Office of Environmental Education (OEE) was proposed for reduction. The Committee noted concern with this proposal when the item was heard on March 18, and the Governor subsequently proposed in the May Revise to shift EEI support for the 6.5 positions (that would have to be moved to the Department of Resources Recycling and Recovery [DRRR]) to alternative fund sources and keep them at the OEE. The two aforementioned requests are detailed below:

3. DRRR – BCP-3: Shift Funding for Ten Positions from the IWMA to the Waste Tire Management Fund (Tire Fund). Shifts ten positions, including 6.5 previously associated with the Office of Environmental Education (OEE)—see prior discussion on page 20—from IWMA funding to the Tire Fund. The request would result in no net increase in Tire Fund expenditures, as the proposal includes a shift of \$821,000 from Tire Fund local assistance—Reduction of Waste Tire Enforcement Grants (TEA)—to state operations.

4. California Environmental Protection Agency (CalEPA) – MR-2: Transfer the OEE, Including the EEI Program, from the California Integrated Waste Management Board (CIWMB) to the CalEPA. The Governor requests 6.5 positions and \$1.25 million (various special funds) to be transferred from the CIWMB. This request would effectively reverse the Governor's January 10 proposal to transfer 6.5 positions from the OEE to the Waste Tire Program (as described in the item above), and would maintain OEE staffing at 13 total positions.

Proposed Loans to the General Fund (GF)

The Governor's May Revise contains the following proposed special fund loans (and loan extensions) to the GF:

Loans

- Electronic Waste Recovery and Recycling Account, Integrated Waste Management Fund – \$75 million
- Department of Food and Agriculture Fund – \$15 million

Loan Extensions (through July 1, 2011)

- Renewable Resource Trust Fund – \$35 million
- California Tire Recycling Management Fund – \$10 million
- California High-Cost Fund-B Administrative Committee Fund – \$75 million
- Universal Lifeline Telephone Service Trust Administrative Committee Fund – \$45 million
- Deaf and Disabled Telecommunications Program Administrative Committee Fund – \$30 million

Staff Comments. Staff has no concerns with the above proposed loans and loan extensions, which are necessary to help address the state's ongoing fiscal crisis.

State Water Resources Control Board (SWRCB) – Basin Planning and Water Quality Standards Program

The Governor's Budget contained a proposal to augment basin planning efforts by allowing third parties to reimburse the SWRCB for work performed. However, the May Revise contains a proposal to shift all GF support of basin planning to special fund—Waste Discharge Permit Fund. The two proposals (Items 5 and 6) are as follows:

5. BCP-7: Augment Basin Planning and Water Quality Standards Program. The Governor requests 8.9 positions and \$746,000 (reimbursement authority), in order to allow third parties to fund priority basin planning work.

6. MR-5: Basin Planning Fund Shift (TBL). The Governor requests all GF support for basin planning activities (\$6.1 million) be deleted and shifted instead to the Waste Discharge Permit Fund (WDPF). The Governor additionally requests TBL to clarify that basin planning is a permitted use of the WDPF.

Staff Comments. With respect to Item 5, on two previous occasions (March 18 and May 6), the Committee noted concern with the potential for this proposal to create either the perception or the reality of a "pay to play" basin planning program. Staff previously recommended funding the program from the Waste Discharge Permit Fund.

With respect to Item 6, the Administration notes that basin plans are required by the federal Clean Water Act and used by the SWRCB to develop discharge permits. Consequently, funding periodic updates from the WDPF is appropriate. Staff notes that this proposal is consistent with a prior LAO recommendation.

Staff recommends the Committee adopt the Governor's May Revise proposal (Item 6), including placeholder TBL, to convert basin planning to a fee-supported program, and further recommends this approach be applied to the Governor's proposed program augmentation (Item 5).

California Department of Food and Agriculture

7. MR: Mitigating the Spread of the European Grapevine Moth. The Governor requests \$3 million (federal funds) to support eradication/control activities of the European Grapevine Moth. Additionally, the Governor requests

Staff Recommendation (for Vote-Only Items 1-7): APPROVE Items 1-7 consistent with the Staff Comments.

VOTE:

Funding AB 32 Implementation

On April 29, the Committee heard discussion on the Governor's proposal to fund the California Global Warming Solutions Act of 2006 [AB 32, Nunez]. AB 32 requires the reduction of statewide greenhouse gas (GHG) emissions to 1990 levels by 2020—a 25 percent reduction over current levels, and designated the Air Resources Board (ARB) as the lead agency in addressing GHG emissions, including planning, regulatory, and enforcement efforts.

As was previously discussed, the Governor's Budget and April Finance Letters propose expenditures of \$39 million from a new AB 32 Cost of Implementation (COI) Fund to implement the bill's requirements. These include appropriations for eleven different departments (see Figure 1 on the next page), including \$32.9 million for the ARB, and new appropriations proposed for the Department of Housing and Community Development (HCD); Department of Resources Recycling and Recovery (DRRR), Department of Forestry and Fire Protection (DFFP), State Coastal Conservancy (Coastal Conservancy), Department of Water Resources (DWR), State Water Resources Control Board (SWRCB), Department of Public Health (DPH), and Department of Food and Agriculture (CDFA).

Overarching Staff Comments. As the lead agency, the bulk of AB 32 funding is, and should be, with the ARB. However, with the proposed establishment of the COI Fund, the budget exhibits a mass proliferation of departments suddenly involved in greenhouse gas reduction. This raises potential concern and cause to pause and consider whether, as AB 32 is poised to shift from primarily planning activities to implementation, the program risks losing focus even before its core components are well established. As discussed in greater detail below, after review of the various BCPs and Finance Letters, staff believes some of these concerns are well founded and finds reason to recommend denying various proposals (or, rather no compelling reason to approve them).

More broadly, at least one of the requests (seeking funding for the DPH to support health impact assessments), raises concern that the ARB is proceeding too quickly (perhaps even recklessly) with plans to adopt cap-and-trade regulations by the end of the current calendar year. Basic logic suggests that health impacts should be considered *before* development of cap-and-trade regulations in order to ensure that the regulations properly value ancillary benefits from emissions reductions. So, while the ARB indicates it is conducting a two-stage assessment (first, in-house, and then out-of-house), it is still concerning that it will have been at work for many months on (and, indeed, will be coming down the home-stretch toward adoption of) regulations, without a full assessment of health impacts on which to base its decisions. This should give the Legislature serious reason to consider whether the ARB should be asked to "pause" in its efforts until additional assessment data can be gathered.

Figure 1

AB 32–Related Activities in the 2010–11 Governor’s Budget*(Dollars in Thousands)*

Budget Item	Department	2010–11 Base Funding		New Funding Proposed in 2010–11		Totals in 2010–11 Governor’s Budget	
		Amount	Positions	Amount	Positions	Amount	Positions
0555	Secretary for Environmental Protection	\$1,821	6.0	—	—	\$1,821	6.0
1760	Department of General Services	416	5.0	—	—	416	5.0
2240	Department of Housing and Community Development	—	—	\$54	0.5	54	0.5
3360	California Energy Commission	590	5.0	—	—	590	5.0
3500	Department of Resources Recycling and Recovery ^a	—	—	501	6.0	501	6.0
3540	Department of Forestry and Fire Protection	—	—	1,255	—	1,255	—
3760	State Coastal Conservancy	—	—	120	0.8	120	0.8
3860	Department of Water Resources	236	1.0	326	2.0	562	3.0
3900	Air Resources Board	32,932	155.0	—	—	32,932	155.0
3940	State Water Resources Control Board	—	—	535	2.0	535	2.0
4265	Department of Public Health	—	—	299	—	299	—
8570	Department of Food and Agriculture	—	—	309	1.0	309	1.0
Totals		\$35,995	172.0	\$3,399	12.3	\$39,394	184.3

^a Formerly the Integrated Waste Management Board. Note that 6 positions and \$501,000 shown for the 2010–11 fiscal year is the result of redirection that was originally approved for the 2009–10 fiscal year.

Additionally, the LAO has noted concern that the ARB’s AB 32-related economic analysis efforts are under-resourced. The LAO and other peer reviewers have raised concerns about the timeliness and the comprehensiveness of the ARB’s economic analysis work connected with AB 32. A committee established to advise ARB on its analysis of the economic impacts of the AB 32 Scoping Plan voiced concern that insufficient ARB staff members and resources were available to analyze the potential economic impacts of AB 32. These concerns and the LAO recommendation to more closely review current ARB staffing levels for economic analysis were discussed on April 29, at which time the ARB indicated it felt its staffing was adequate, but would conduct a more thorough review of its needs.

Finally, as the program's initial stage of planning, regulation development, and regulation adoption is nearing completion, the LAO recommends a reassessment of the AB 32 "base budget" and recommends requiring the Administration to zero-base the AB 32 program in the 2011-12 Governor's Budget.

The remainder of the AB 32 portion of the agenda is divided into: (1) items proposed for vote-only; (2) items proposed for discussion; and (3) a consolidated AB 32 recommendation.

ITEMS PROPOSED FOR VOTE-ONLY

Staff notes no significant concerns with the following AB 32 proposals (as listed in Figure 1 above) for the reasons noted:

1. **Housing and Community Development.** This request is the jurisdiction of Subcommittee 4; however, staff notes that it is a very modest request for one position to carry out AB 32 implementation strategies that are dependent on new and expanded activities of HCD's mandated administrative responsibilities pursuant to State Housing Element law.
2. **Department of Resources Recycling and Recovery.** The DRRR request is merely a fund shift of base AB 32 funding from the Integrated Waste Management Account to the COI Fund.
3. **Department of Water Resources.** The DWR request is critical to ensuring bond funds, specifically in the Integrated Regional Water Management grant program, are leveraged to support AB 32 goals related to water use and energy efficiency.
4. **State Water Resources Control Board.** Similar to the DWR item above, the SWRCB request addresses water recycling and reuse in order to reduce greenhouse gas emissions associated with water conveyance, treatment, and discharge.
5. **Department of Public Health.** Similar to Item 1 (above) this item falls outside the Committee's jurisdiction; however, for the reasons stated above, staff supports this proposal.

Staff Recommendation for Vote-Only Items 2-4: APPROVE Items 2-4 (Items 1 and 5 will be approved in other Subcommittees).

VOTE:

ITEMS PROPOSED FOR DISCUSSION

1. DFFP – FL-2: Climate Change. The Governor requests \$1.3 million COI Fund (including supplantation of \$642,000 Proposition 84 funds) to assist in implementing the Forest Sector greenhouse gas reduction measures.

Staff Comments. This request is intended to focus on actions the DFFP is directed to undertake by the Executive Order that established the Climate Action Team, as well as actions assigned to the department by the ARB Scoping Plan that implements AB 32.

Staff notes that the request generally adheres to the themes contained in the Scoping Plan and the Executive Order; however, except for PY costs, it is vague on specific expenditures, and it does not identify which of the proposed expenditures would create new programs, and which would be handled by existing staff (such as those at the Fire and Resource Assessment Program, the department's research arm). There also is no specific indication that any of these are expenditures are consistent with those recommended by the ARB pursuant to the ongoing inter-agency agreements between the ARB, the DFFP, the Board of Forestry, and other agencies. Finally, the BCP predominantly proposes activities involving voluntary actions, including carbon sequestration projects and best management practices in forestlands, and in the context of urban forests. While those activities may have merit, there is also a place for the department to fund those activities and other items such as the mitigation for climate change effects, wildfire reduction, avoiding forestland losses to conversion to other uses, and other objectives contained in the BCP as part of its core regulatory function in approving timber harvest plans and developing appropriate regulations. The request is silent on that important component of the department's workload.

Staff Recommendation: DENY the request.

2. Coastal Conservancy – BCP-2: Develop Wetland Carbon Offset Protocol. The Governor requests \$120,000 COI Fund to develop a wetland carbon offset protocol to reduce greenhouse gas emissions while providing co-benefits consistent with the California Ocean Protection Council's strategic plan.

Staff Comments. Under the AB 32 Scoping Plan, a certain percentage of emissions reductions may be achieved through use of carbon offsets, some of which may occur through off-site projects that act as carbon sinks (e.g., reforestation projects, or wetlands).

Staff finds no compelling reason to approve this request at this time. Consistent with comments made at the outset of this AB 32 discussion, the proposed activities appear far-removed from "core" greenhouse gas reductions strategies, and it is unclear why the state should invest in these activities at this time (when a significant portion of COI Fund revenues are going to pay back special funds loans taken out for AB 32-implementation over the last several years). Additionally, development of policy on offsets is something

that, at a minimum, should be undertaken with the Legislature. There are significant issues with offsets including concerns that they result in verifiable and permanent emissions reductions and are not just empty commitments.

Staff Recommendation: DENY the request.

3. CDFA – BCP-4: Nitrous Oxide Emissions Research. The Governor requests one position and \$309,000 COI Fund to conduct research and analysis on nitrous oxide levels emitted from California farm lands.

Staff Comments. As previously discussed on April 29, the state is already supporting research on nitrous oxide through the CDFA Fertilizing Materials Research and Education Program. Additionally, it is unclear why the CDFA needs a permanent position to, among other things, carry out a literature review (a limited-term activity). Consistent with earlier recommendations to focus AB 32 implementation funding on core activities first, staff cannot support this request at this time.

Staff Recommendation: DENY the request.

Consolidated AB 32 Recommendation: Based on the prior discussion and staff comments: (1) DENY discussion items 1-3; (2) APPROVE the LAO recommendation and ADOPT placeholder TBL directing the Administration to zero-base all AB 32-related (mitigation) expenditures in the 2011-12 Governor's Budget and provide a workload justification for all proposed resources; and (3) ADOPT placeholder TBL to "pause" ARB's adoption of cap-and-trade regulations by mandating that all necessary impact assessments (health or otherwise) must be completed before proceeding.

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 \$75.8 million (\$4.8 million GF) for support of the DOC, a decrease of approximately \$635 million, due almost entirely to the transfer of the Division of Recycling (including the Beverage Container Recycling Program) to the new Department of Resources Recycling and Recovery.

ITEM PROPOSED FOR DISCUSSION

MR-17: Augment Underground Injection Control (UIC) and Enhanced Oil Recovery (EOR) Program. Oil and gas production in California is a \$34 billion industry, and California is the fourth largest oil-producing state in the nation. There are approximately 90,000 active or idle production and injection wells in the state.

The DOC's Division of Oil, Gas, and Geothermal Resources (DOGGR) regulates oil, gas, and geothermal well operations throughout the state in order to prevent damage to life, health, property, and natural resources. The UIC Program within the DOGGR is responsible for preventing (as far as possible) damage to waters of the state and natural resources from injection operations, which consist primarily of EOR and water disposal.

With many aging oilfields, some more than 100 years old, much of the remaining oil in California is tar-like and requires EOR methods (injection) to extract—approximately 72 percent. For example, hot steam is pumped into the ground to turn the oil more viscous and force it to the surface.

Governor's Request. The Governor requests 17 positions and \$3.2 million (special fund) to enhance regulatory oversight for all UIC programs, including EOR projects, in order to better protect the public and the environment.

Staff Comments. This proposal raises several important issues for the Committee's consideration.

UIC Staffing Stagnant Since 1983.

With the release of this request (on May 14), it has come to staff's attention that the UIC Program has only 12 staff statewide for permitting and regulation of underground injection activities. The staff level has been stagnant since 1983. According to the DOC, this request is intended, in part, to address the disparity between the present level (lack) of resources and the workload that has increased over the past 27 years.

Serious Under-Regulation of Emerging Injection Technologies

In addition to addressing the general growth in UIC workload over the past 27 years, this request is intended to address the emergence of (or the DOC's growing awareness and attention to) new injection technologies. Noteworthy among these is shallow thermal injection diatomite. As described to staff, this process involves injection of hot steam (as described above) to turn oil more viscous and force it to the surface. However, the process does not guarantee that the oil is forced to the surface in one location (e.g., at a well head), rather it is not infrequent for shallow thermal injection diatomite to result in the oil being forced through various overlying geologic formations and rising to the surface (sometimes at significant distances from the wellhead), where it pools on the ground. Where this occurs, oils producers have resorted to creating French drains to collect the oil so that it can be contained before being vacuumed up by a truck and hauled away for processing.

According to a briefing from the DOC, these practices are currently largely unregulated, and thus this request seeks to address this issue.

Request for Resources Long Overdue and Level of Oversight Highly Concerning

As noted above, UIC staffing has not increased in 27 years, and the level of staffing—12 engineers/inspectors—is intended to cover thousands of wells. While it is somewhat shocking that a request has not come forward before now, it is all the more disconcerting that this request did not arrive until the May Revise (as opposed to in the Governor's Budget—ideally—or in an April Finance Letter). As a result legislative staff have had a single week to review this proposal.

Further, the revelations about lax (or non-existent) oversight of advanced injection techniques like shallow thermal injection diatomite were not identified in the BCP, and were not communicated to staff until May 20, four calendar days before the hearing date, and less than two working days prior. Considering the apparent serious threat to environmental and human health posed by these under-regulated practices, it is highly disconcerting that this information was not brought to the Legislature sooner, and that the Legislature is being asked to approve more than \$3 million dollars and 17 positions with virtually no time to conduct meaningful inquiry or oversight into these matters.

As such, staff is tempted to recommend outright rejection of this request solely on process grounds. However, this course of action would likely not well serve the interests of the state with regard to public health and safety and environmental protection. Therefore, staff proposes the Committee adopt a hybrid approach supported by the LAO. That approach is as follows: (1) appropriate, on a one-time basis, \$2 million from the Oil, Gas, and Geothermal Administrative Fund for the UIC program with no new position authority; (2) adopt placeholder BBL specifying that the \$2 million is to be used to develop policies and to design and implement program improvements to address the identified current deficiencies in the UIC program, and directing the Administration to submit, with the 2011-12 Governor's Budget, a request to implement the redesigned program, along with a detailed work plan justifying the requested level of resources.

Additionally, the Committee may wish to adopt placeholder TBL to require the DOC to report to the Legislature on its efforts to provide proper oversight of emerging underground injection technologies.

Staff Recommendation: APPROVE \$2 million, no positions, and BBL consistent with the staff comments above. Also, ADOPT placeholder TBL consistent with the staff comments.

VOTE:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP), under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes \$1.091 billion for support of the DFFP in 2010-11. This is a 2.5 percent decrease over current year expenditures. The significant decrease in GF is due to the proposed backfill of \$200 million GF with revenues from the Emergency Response Initiative property insurance surcharge.

ITEMS PROPOSED FOR VOTE-ONLY

1. MR-1: Emergency Response Initiative (ERI) and BBL. The Governor requests a Fiscal Year (FY 2010-11) fund shift of \$76 GF to the Emergency Response Fund (ERF) rather than a \$200 million fund shift as proposed in the January budget. The Governor additionally proposes Budget Bill Language (BBL) to authorize the DFFP, with Joint Legislative Budget Committee approval, to receive a mid-year, short-term GF loan should the anticipated ERI revenues fail to materialize on time.

Staff Comments. The Governor's Budget assumed March 1, 2010, implementation of a 4.8-percent surcharge on all residential and commercial property insurance policies statewide. Since the Governor's ERI proposal was not approved in the 2010 Eighth Extraordinary Session, the Governor is recognizing revenue erosion of \$134 million. This proposal effectively restores an equal amount of GF in order to keep the DFFP's fire protection budget "whole," and continues to assume the ERI will be implemented and \$76 million in revenue to the ERF will be collected in FY 2010-11 as a result.

Given the current level of erosion to the Governor's proposed revenues, and the fact that the ERI has consistently failed to garner the two-thirds support required for passage in the Legislature, staff recommends the Committee deny the ERI proposal for the DFFP outright and restore all GF to the department's budget.

2. Capital Outlay BCPs (COBCPs-1; 2; and 3): Fire Station Rehabilitations and Replacement. The Governor requests the following capital outlay projects:

- Replace Baker Fire Station – \$10.4 million (Lease Revenue Bond) – Baker Fire Station, located in Northwestern Tehama County, was built in 1948 and includes five buildings, all in various states of disrepair. The current site is on a 50-year

lease from a private landowner and was renewed in 1994. The landowner is unwilling to sell to the state, but has been willing to provide favorable lease renewals. According to the DFFP, the rural development in the area does not justify reclassification of the properties from State Responsibility Area to Local Responsibility Area.

- Relocate Pine Mountain Fire Station – \$10 million (Lease Revenue Bond) – The DFFP selected a new location (near California Hot Springs) for its southeastern Tulare County fire suppression efforts after the Tulare County Board of Supervisors terminated the Cooperative Fire Protection Agreement with the DFFP in mid-2007. The new site, located near the community of Pine Flat was acquired (using funds appropriated in FY 2007-08 and augmented in December 2009), and the Administration is now requesting construction funds. The state owns this site.
- Replace Rincon Fire Station – \$13.2 million (Lease Revenue Bond) – Rincon Fire Station, located near Valley Center in San Diego County, was built in 1962 of unreinforced block with cement slab floor and does not meet seismic standards, current code requirements, and is not ADA compliant. Additionally, according to the DFFP, the facility is not large enough to accommodate existing staff and equipment. The state owns this site.

Staff Comments. These items were originally held open due to concerns about increasing out-year GF obligations. However, due to the compelling health and safety issues noted above and the fact that the GF “hit” would not occur until the bonds are sold in five years from, staff now recommends approval.

3. FL—Capital Outlay Reappropriations and BBL. The Governor requests BBL to provide the DFFP the authority to manage and construct certain forest fire station projects and to facilitate the sale of lease revenue bonds.

Staff Recommendation (for Vote-Only Items 1-3): APPROVE Items 2 and 3, and DENY the ERI proposal outright (including Item 1).

VOTE:

ITEMS PROPOSED FOR DISCUSSION

1. Staff Issue: Funding and Fiscal Oversight of Fire Prevention and Fire Protection Expenditures. On April 29, the Committee heard discussion on the following issues associated with funding and fiscal oversight of fire prevention and fire protection: (1) the use and oversight of Emergency Fund (E-Fund) expenditures; (2) the balance between fire protection and fire prevention expenditures; (3) defensible space inspections; and (4) oversight of Schedule A agreements. In the hearing, the LAO provided a hand-out that contained a variety of recommendations and items for consideration.

Staff Comments: This item, including a staff recommendation addressing each of the areas identified above was discussed on May 19 and held open to allow staff to work with the DFFP to address technical concerns with the staff recommendation. At that time, the Chair made clear that the Committee's intent was not to provide the DFFP with an opportunity to "re-argue" issues that had already been thoroughly discussed in Committee.

In the interim, the DFFP met with budget committee, as well as policy committee, staff and LAO to go over outstanding concerns. In those discussions, legislative staff repeatedly stressed their willingness to make every reasonable accommodation for the department as long as the basic intent of the actions (primarily increased inspections and fiscal oversight) was unimpaired. For their part, DFFP staff were responsive and cooperative and committed to providing information requested and taking new, or clarified, understandings of the staff recommendation to higher-ups. However, staff notes that, due to the fact that the DFFP did not send department officials capable of making executive decisions (negotiations) to the aforementioned discussions, as of the time of this writing, staff has been provided no formal confirmation that the department is prepared to remove its concerns to the proposed action and to work with staff in good faith fully flesh out the final details in TBL.

The following reflects the ongoing staff recommendation with refinements (in bold) per discussions since the last hearing:

- **E-Fund** – As noted by the LAO, the E-Fund is currently used for various (mainly staffing) costs that have become regular, annual expenditures, such that they no longer meet any reasonable definition of "emergency." Further, the Legislature lacks adequate fiscal oversight of E-Fund expenditures. Therefore, staff recommends the Committee move day-to-day expenditures currently budgeted in the E-Fund into the base budget for FY 2010-11 on a one-time basis, and re-align E-Fund and base budget expenditures in the Budget Year associated with reimbursements approved in FY 2009-10. Direct the Administration to return with budget proposals for FY 2011-12 for the items moved into the base budget for review during the annual budget process. Additionally, adopt [placeholder] statutory language that (1) explicitly specifies what expenditures are allowed from the E-Fund and (2) requires that any other expenditures be supported from the department's base budget. **Legislative staff requested, but have not yet**

received, information regarding the distribution (variance) of E-Fund expenditures so that the final language can set a reasonable reporting threshold.

- **Fire Protection v. Fire Prevention** – In recent years, fire protection costs have increased rapidly, while fire prevention expenditures have lagged. The state could increase its return on investment and obtain greater “bang” (reduce fire threat to life and property) for its GF “buck” by allocating additional resources to fire prevention. Therefore, tied to the above recommendation to shift certain E-Fund expenditures into the base budget, staff recommends the Committee shift \$2 million of the above identified monies from Fire Protection to Resource Management (fire prevention). Staff additionally recommends the Committee adopt placeholder, trailer bill language directing the DFFP to use these funds for the express purpose of funding Foresters to conduct defensible space inspections. The intent would be to supplement, rather than supplant, existing defensible space inspections conducted by seasonal firefighters, and, by using Foresters, to ensure that the number of inspections is not compromised by the need to respond to non-fire emergencies (as is currently the case for firefighters). Further, since the DFFP has not yet released its plan under the Governor’s proposed workforce cap, staff recommends the Committee direct the department to use any existing Forester vacancies (along with reclassification of other positions that would otherwise be held vacant to meet the cap requirements) in order to fulfill this directive. **The DFFP has indicated that it is working on identifying a classification that could meet the legislative intent to essentially staff inspections year-round (except when fire disasters require “all hands on deck”). Legislative staff and the DFFP have agreed that, should the DFFP fail to identify an appropriate classification, the proposed funding could be used to achieve the desired goals via private contracts or local assistance grants.**
- **Fire Prevention Reporting** – Good data is essential to the DFFP’s ability to fulfill its mission to protect California wildlands and the life and property of the citizenry in these areas, as well as to the Legislature’s ability to adequately oversee DFFP expenditures. Given the recommended increase to fire prevention expenditures noted above and the fact that the DFFP has, to date, failed to provide the Legislature with the 2009 fire prevention report it is statutorily required to submit each year on January 1, staff recommends adoption of placeholder TBL to:
 - Amend the existing reporting requirement so that the data reported is synchronized to the fiscal year (to ensure data can be more easily correlated with funding levels and can be readily provided in time for consideration in the annual budget process).
 - Include specific tracking and reporting on the increased defensible space inspections proposed above.
 - Require the DFFP to utilize a standardized metric (e.g., inspections per Personnel Year) in its reporting that allows defensible space inspections

- and other fire prevention statistics to be compared year-to-year adjusted for changing levels of available resources (e.g., staff).
- Include direction to the DFFP to submit in its annual report, as it sees fit, various qualitative data and/or qualifying statements that will better enable the Legislature to analyze and interpret the impact of DFFP fire prevention expenditures (particularly as they relate directly, or indirectly, to reduced fire threats, and, by extension, reduced need for fire protection expenditures).
 - **Schedule A Agreements** – Given concerns over the continued expansion of the DFFP's role in activities beyond wildland fire protection, and the authority given to the DFFP Director to enter into agreements to provide full-service emergency response outside of the State Responsibility Area, the Legislature should review all of these agreements prior to the expansion of the DFFP's operations. Additionally, fiscal prudence and the state's ongoing fiscal crisis dictate that the state should take all reasonable steps to ensure that it receives fair reimbursement for fire protection services provided to local governments through these Schedule A agreements. Therefore, staff recommends the Committee adopt placeholder TBL requiring the DFFP to submit to the Legislature, for review and approval, all new or renewed Schedule A agreements of a certain size (to be determined). The intent is to model this process after the Department of Parks and Recreation process for approval of park concessions (which are submitted in the annual budget process and approved via Supplemental Report Language). **Based on information provided by the DFFG regarding the number and dollar amounts of existing contracts, legislative staff have proposed a \$10 million threshold for submitting Schedule A agreements to the Legislature. Currently, this would include six existing agreements (should they come up for renewal). Additionally, legislative staff have indicated that a fairly simple summary of the agreements (based upon the "14-point criteria") would be all the more that was required of DFFP staff in preparing the submissions for the Legislature.**

Based on the above, the staff recommendation remains the same as on May 19.

Staff Recommendation: ADOPT the various LAO and staff recommendations detailed in the staff comments (above), most notably: (1) the shift of E-Fund to the base budget and the LAO-recommended placeholder TBL; (2) a \$2 million shift from Fire Protection to Resource Management of E-Fund expenditures identified by the LAO for inclusion in the FY 2010-11 base budget, for the express purpose of funding Foresters to carry out increased defensible space inspections; (3) various pieces of placeholder TBL (as specified above) aimed at enhancing fire prevention and the adequacy and value of related data provided to the Legislature; and (4) additional placeholder TBL intended to increase legislative oversight of Schedule A agreements in order to check any unnecessary expansion of the DFFP's activities beyond wildland fire protection and to better ensure the state receives fair reimbursement for fire protection services provided to local governments.

VOTE:

2. BCP-10: Watershed Fuels Management Program. The Governor requests \$40 million in Proposition 1E (Prop 1E) funds over seven years, including \$5.5 million in FY 2010-11, in order to continue a fuels management program currently funded by Proposition 40 (Prop 40). Notwithstanding the requested reappropriation of 2008-09 funding (see BCP-13 below) and any unencumbered balance from the current-year appropriation, Prop 40 funds for fuels management have been exhausted. Thus, the Governor is proposing to shift the program to an alternative fund source.

Staff Comments. Unfortunately, Prop 1E, the Disaster Preparedness and Flood Protection Bond Act of 2006, did not specifically allocate funding for fuels management. Rather, as was discussed on March 4 and again on May 13, when this item was previously heard and held open, the DFFP is seeking to utilize Prop 1E funds designated for stormwater flood management by arguing that fuels management helps to reduce fires that can leave watersheds denuded and prone to impaired water quality under flood conditions. While the proposed activities might very well have this beneficial effect, staff cannot recommend approval of the request for funds for a purpose that does not appear to be entirely consistent with the intent of the voters when they approved Prop 1E. That said, should the DFFP offer any alternative funding ideas for fuels management, staff would work closely with the Administration to try and address this critical need. Finally, staff notes that a \$5.5 million reappropriation of Prop 40 funds for fuels management is recommended for approval in this agenda.

At the May 13 hearing, the requested an opinion on the legality of the proposed use of Prop 1E funds from Legislative Counsel. Although there was insufficient time to obtain a formal opinion, in consultation, Legislative Counsel did indicate that is believed the proposed use of Prop 1E to be legally permissible. As previously noted by the Chair, notwithstanding this legal advice, staff still has concerns with the proposal on a policy basis.

Staff Recommendation: DENY all but \$1,000 of the request to send the item to Conference and allow the department more time to explore an alternative.

VOTE:

Funding and Implementing the 2009 Water Package

The Committee heard testimony on the pieces of 2009 Water Package over the course of several hearings during March and April. What follows is a very brief recap of the Water Package, and a summary table of the proposals and the staff recommendations, followed by a more comprehensive set of staff comments where the staff recommendations differ from the Governor's proposal.

Recap of the Water Package. In late 2009, the Legislature and the Governor agreed upon an historic package of water-related legislation that addressed a host of water issues challenging the state of California, in particular the preservation, restoration, and sustainable management of the Sacramento-San Joaquin Delta (Delta). The series of five bills passed in the Seventh Extraordinary Session of 2009, henceforth referred to collectively as "the Water Package," are summarized in the table below, developed by the LAO.

Figure 4

The Major Components of the 2009 Water Package

Bill	Topic	Key Provisions
SBX7 1 (Chapter 5, Simitian and Steinberg)	Delta Governance	<ul style="list-style-type: none"> Creates Delta Stewardship Council and Delta Conservancy, and reconfigures existing Delta Protection Commission. Requires the council to create a management plan for the Delta (incorporating work from existing planning efforts)—the Delta Plan. Requires development of water flow criteria for Delta ecosystem.
SBX7 2 (Chapter 3, Cogdill)	Water Bond	<ul style="list-style-type: none"> Places an \$11.1 billion legislative bond on the November 2010 ballot, providing for multiple water program goals. Reactivates California Water Commission (with continuous appropriation authority for new storage projects).
SBX7 6 (Chapter 1, Steinberg and Pavley)	Groundwater	<ul style="list-style-type: none"> Requires groundwater elevation monitoring by local agencies (with guidance from Department of Water Resources). Bars counties and certain local agencies that do not comply with reporting from receiving state water grants and loans.
SBX7 7 (Chapter 4, Steinberg)	Water Conservation	<ul style="list-style-type: none"> Requires a 20 percent reduction in urban per capita water use (and 5 percent overall base reduction—regardless of population) by 2020. Requires agricultural water efficiency, and changes certain water recycling and stormwater targets.
SBX7 8 (Chapter 2, Steinberg)	Water Diversion/Rights	<ul style="list-style-type: none"> Requires increased reporting of water use and water diversion; increases certain penalties for water rights violations.

Governor's Water Package Proposals. As discussed previously, the Governor's Budget contains a number of requests associated with implementation of the Water Package, with the bulk of the proposed spending aimed at assembling the new Delta Governance structure pursuant to Chapter 5 (SBx7 1, Simitian and Steinberg). The following summary table contains the various BCPs before the Committee and an

abbreviated staff recommendation (AAB = Approve as Budgeted; AWM = Approve with Modifications):

Governor's Water Package Proposals and Staff Recommendations

Item	State Agency/Major Activities	Proposed 2010-11 Expenditures (in thousands)	Abbreviated Staff Recommendations
1	Delta Stewardship Council	\$49,100	AWM
2	Delta Conservancy	1,300	AAB
3	Delta Protection Commission	2,000	AWM
	Department of Water Resources		
4	• Reactivate Water Commission	817	AWM
5	• Groundwater Monitoring	1,321	AWM
6	• Water Conservation	5,086	AAB
	State Water Resources Control Board		
7	• Water Conservation	155	AAB
8	• Delta Watermaster and Delta Flow Criteria	673	AAB
9	• Water Diversion and Use Reporting	253	AAB
	Department of Fish and Game		
10	Delta Flow Criteria	\$1,000	AAB

For a fuller description of these proposals please see the Committee agendas from March 4, March 18, and April 22 (available online at: http://www.senate.ca.gov/ftp/SEN/COMMITTEE/STANDING/BFR/_home/NEWAGENDA.HTML#two).

Below is a proposed vote-only calendar for items that are recommended for approval as budgeted. This is followed by slightly more comprehensive descriptions of the items where staff recommends modifications to the Governor's Budget. Finally, comes a series of proposed refinements to the appropriations contained in Chapter 2 (SBx7 7, Steinberg).

ITEMS PROPOSED FOR VOTE-ONLY

The following items from the table above are proposed for approval as budgeted on vote-only:

Item 2 – Delta Conservancy

Item 6 – Department of Water Resources (DWR) – Water Conservation

Item 7 – State Water Resources Control Board – Water Conservation

Item 8 – State Water Resources Control Board – Delta Watermaster & Delta Flow Criteria

Item 9 – State Water Resources Control Board – Water Diversion & Use Reporting

Item 10 – Department of Fish and Game – Delta Flow Criteria

Staff Recommendation: APPROVE Items 2, and 6-10 as budgeted.

VOTE:

ITEMS PROPOSED FOR DISCUSSION

1. BCP: Staff Delta Stewardship Council (Council). The Governor requests 58 positions and \$49 million (including \$5.9 GF; \$2.9 million federal funds; and the remainder from bond funds and bond-funded reimbursements) to support first-year operations of the new Council.

Staff Comments/Recommendation. As was noted when this item was originally heard on April 22, the bulk of the requested resources are to be transferred from the CALFED program, and the LAO recommends approving this proposal for one year only, and directing the Administration to zero-base all Water Package expenditures in the 2011-12 Governor's Budget that are proposed to be supported from "old" CALFED monies. The intent is to have each entity (council, conservancy, etc.) conduct its own re-justification of the resources it is receiving in the 2010-11 fiscal year. **Staff supports this approach and recommends the Committee adopt placeholder TBL to require the Council and other entities (see more below) to submit zero-based budgets next year.**

Additionally, as noted previously, there is no long-term financing plan for many Water Package activities, in particular Delta Governance. Therefore, as was discussed in Committee on April 22, in the absence of new policy legislation in the interim, **staff recommends the Committee adopt placeholder TBL instructing the Administration to propose, as part of the 2010-11 Governor's Budget, a financing plan.** In concept, the TBL would require the Administration to identify a non-GF source of support for the various Delta Governance entities, and any other on-going administrative activities (e.g., groundwater monitoring at the Department of Water Resources) for which there is not currently identified a permanent funding source. (For the purposes of this recommendation, bond funds are not a "permanent funding source.") The TBL would specify that the financing plan is to take into account the new zero-based budgets of the affected entities (see above), use/re-purpose non-GF "CALFED" resources where appropriate, and develop any proposed fee in a manner consistent with the "Beneficiary Pays" principle.

Given the Committee's concurrence with concerns raised by the LAO in regard to the independence (or lack thereof) of Council contractors, **staff recommends the Committee adopt placeholder TBL specifying that any contract for developing the Delta Plan must include provisions ensuring that the contractor's work on the Delta Plan be conducted independently from any work that a contractor may do associated with developing the Bay Delta Conservation Plan.** Additionally, **staff recommends the Committee require the Council to designate a single staff person to oversee all Bay Delta Protection Plan contracts.**

Finally, as discussed in more detail below (see Item 3), the Delta Protection Commission requires additional resources. Since the resources requested for the Council are not consistent with a workload justification, but rather a wholesale shift of CALFED resources (less a small complement for the Delta Conservancy), **staff**

recommends reducing Council funding by \$2 million and shifting these monies to the Delta Protection Commission.

Consolidated Staff Recommendation for Item 1: APPROVE \$47 million for the Delta Stewardship Council and ADOPT placeholder TBL consistent with the staff comments above.

VOTE:

3. BCP: Augment Delta Protection Commission. The Governor requests six positions (three permanent and three one-year, limited-term) and \$2 million (Environmental License Plate Fund--ELPF) to:

- Prepare, adopt, and update periodically the Delta economic sustainability plan (noted above);
- Complete the process for establishment of a Delta National Heritage Area by Congress;
- Review and analyze land use proposals in the Primary Zone and the completion of a management plan in order to make recommendations to the Council;
- Support the council as a voting member; and
- Support the Delta Conservancy as a member of the Advisory Committee.

Staff Comments. As previously discussed on April 22, representatives of the Commission and several Delta counties have raised concern that the Commission's ongoing budget may not be adequate to support its role in supporting the Delta Conservancy and serving as a major forum for Delta counties to participate in major Delta policy decisions in the coming years. Specifically, the Commission would like an augmentation for contract funding to ensure that it can timely respond to the workload identified above, specifically, preparation of the Delta Economic Sustainability Plan by July 1, 2011; and preparation of the report on recommendations for potential expansion of the primary zone of the Delta, required to be submitted to the Legislature by July 1 of this year.

Staff Recommendation: APPROVE a \$2 million shift from the Council to the Commission.

VOTE:

4. BCP: Staff California Water Commission (DWR). The Governor requests six positions and \$817,000 (various funds, but primarily State Water Project—SWP) for support of the nine-member Water Commission (which currently has no staff or appointed members) and its implementation of activities specified in SBx7 2 (Water Bond Act of 2010; or Water Bond). The DWR notes that this request would result in a net budget increase of only \$71,000 because the balance of the requested funding would be shifted from other existing sources, including \$111,000 GF and \$550,000 from the SWP which is continuously appropriated (off-budget).

Staff Comments. As discussed previously on April 22, the Water Commission has been inactive (and without staff) for many years. The DWR indicates that when the Water Commission went inactive, most staff were redirected elsewhere in the department. Presumably, some of these redirections offset the need for position requests through the budget process.

While the bulk of the Water Commission's responsibilities would only occur with the passage of the Water Bond Act of 2010, the DWR argues that the requested resources are still needed to develop regulations required by SBx7 7. Staff notes that these concerns could be addressed by waiving the requirement that the regulations go before the Water Commission (much as was done with the model landscape ordinance).

Furthermore, given that most of the requested funding is from off-budget resources in the State Water Project, the Committee could deny the requested positions, and the DWR would still be able to address any potential workload by administratively establishing positions if and when the Water Bond passed. In that instance, the DWR could return next year with a request to make the positions permanent.

Staff Recommendation: DENY the request.

VOTE:

5. BCP: Groundwater Monitoring Program (DWR). The Governor requests five positions and \$5.3 million (\$1.3 annually for four years from Proposition 50) for the DWR to carry out the following activities required pursuant to SBx7 6:

- Determine the responsible groundwater monitoring entities in all basins and sub-basins;
- Develop standards for reporting of groundwater elevation data;
- Establish a priority schedule for the monitoring of groundwater basins and the review of groundwater elevation reports;
- Make recommendations to local entities to improve the monitoring program and assist them in complying with the program's requirements; and
- Conduct an investigation of the state's groundwater basins and report findings to the Governor and the Legislature.

In order to support this request, the Governor additionally requests a reversion of Prop 50 funds originally appropriated to the CALFED Bay-Delta Program in the Budget Act of 2003 for the Red Bluff Diversion Dam Project.

Staff Comments. Consistent with prior staff comments, staff notes that the proposed Prop 50 funding is not an ideal match with the required activities. Therefore, the request should be approved for one year only, with the expectation that the Administration will develop an alternative fund source as part of the long-term financing plan required in TBL (see recommendation for Item 1 above).

Staff Recommendation: APPROVE funding for one-year only.

VOTE:

Necessary Changes to SBx7 7 Appropriations

The following refinements to SBx7 7 of the 2009 Water Package are intended to maximize the impact of the bill.

- a. Broaden Prop 1E flood control project eligibility.** Public benefits resulting from this \$170 million appropriation should be maximized, beyond just protection of water conveyance. Bond language allows for construction/improvement of levees, weirs, bypasses, etc., as well as studies necessary to make future investments in flood control systems.
- In order to address the multiple objectives of new Delta governance structures and Delta policies, eligibility criteria should be expanded beyond protections for water conveyance to take full advantage of Prop 1E funding potential.
 - DWR has asked for the second section, below, to clarify expenditure authority for levee improvements beyond those required to protect water conveyance. [SBx7_8 specified that water conveyance protection was the sole project criteria]

Of the funds made available by Section 5096.821 of the Public Resources Code, the sum of one hundred seventy million dollars (\$170,000,000) for flood protection projects that improve the sustainability of the Sacramento-San Joaquin Delta, including, but not limited to, projects that reduce the risk of levee failure that would jeopardize water conveyance.

These funds may also be expended by the Department of Water Resources for both of the following purposes:

(1) Local assistance under the delta levee maintenance program pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as that part may be amended.

(2) Special flood control projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

- b. Link stormwater-flood funding to Senator Pavley's SB 790 (2009).** Senator Pavley's stormwater planning bill passed with broad support last year. Stormwater-flood project funds should be linked to this policy.

- SB 790 established criteria for comprehensive stormwater planning, emphasizing components that address the use of stormwater for local supply.
- State funding for stormwater management should be consistent with these new planning standards.

Of the funds made available by Section 5096.827 of the Public Resources Code, the sum of seventy million dollars (\$70,000,000) to the Department of Water Resources for grants for stormwater flood management projects consistent with a stormwater resource plan developed pursuant to Part 2.3 (commencing with Section 10560) of Division 6 of the Water Code, as that part may be amended. The department may fund one or more pilot projects for the development of model stormwater resource plans designed to improve the integration of flood control, watershed management, and stormwater management, including the integration of all appropriate principles of multi-benefit project design, urban greening, low impact development, and mimicry of natural hydrologic systems.

c. Make IRWM appropriation language consistent with existing grant guidelines. Without this change, there is a significant risk that the DWR would have to draft and adopt new grant guidelines for this \$250 million appropriation. Current draft guidelines are good enough and should be allowed to govern this appropriation. Further IRWM funding delay unacceptable to water agencies, NGOs, others involved.

- According to DWR, current SBx7_8 language referencing Delta benefits would require a re-drafting of its long-overdue IRWM grant guidelines.
- Process is underway to finalize the guidelines for the entire Prop 84 \$1 billion; needs to be supported, not hindered.
- Many local IRWM projects that otherwise would achieve state watershed goals would be invalidated unnecessarily.

Of the funds made available by Section 75026 of the Public Resources Code, the sum of two hundred fifty million dollars (\$250,000,000) to the Department of Water Resources for integrated regional water management grants and expenditures. Grants shall be available only for projects included in an integrated regional water management plan that meets one of the following conditions:

(i) The plan complies with Part 2.2 (commencing with Section 10530) of Division 6 of the Water Code.

(ii) If the integrated regional water management plan was adopted before March 1, 2009, the regional water management group that prepared the plan entered into a binding agreement with the Department of Water Resources,

within one year of the agreement to, update the plan to comply with Part 2.2 (commencing with Section 10530) of Division 6 of the Water Code and undertake all reasonable and feasible efforts to take into account the water-related needs of disadvantaged communities in the area within the boundaries of the plan.

At least 10 percent of the funds made available pursuant to subparagraph (A) for implementation and planning grants shall be available to facilitate and support the participation of disadvantaged communities in integrated regional water management

planning and for projects that address critical water supply or water quality needs for disadvantaged communities.

d. Broaden Prop 84 flood control project eligibility. See 'a.', above.

- Eligibility criteria should be expanded to take full advantage of Prop 1E funding potential and to better support objectives of new Delta governance entities.
- DWR has asked for the second section, below, to clarify expenditure authority beyond those required to protect water conveyance. [SBx7_8 specified that water conveyance protection was the sole project criteria]

Of the funds made available by Section 75033 of the Public Resources Code the sum of thirty-two million dollars (\$32,000,000) to the Department of Water Resources for flood control projects in the Sacramento-San Joaquin Delta designed to reduce the potential for levee failures, including, but not limited to, projects that reduce the risk of levee failure that would jeopardize water conveyance.

These funds may also be expended by the Department of Water Resources for both of the following purposes:

(1) Local assistance under the delta levee maintenance program pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as that part may be amended.

(2) Special flood control projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

e. Match Delta NCCP local assistance to local needs. Preserves statewide NCCP funding; and helps solve Delta Counties' issues with BDCP.

- SBx7_8 appropriated \$24 million for local Delta NCCPs, leaving essentially no funds for other NCCPs across the state.
- A reduced and focused appropriation would both address local Delta needs while preserving remaining funds for other critical NCCP efforts.

Of the funds made available by subdivision (c) of Section 75055 of the Public Resources Code, the sum of ten million dollars (\$10,000,000) to the Wildlife Conservation Board for grants to local agencies to implement, or assist in the establishment of, natural community conservation plans pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code, for areas in or around the Sacramento-San Joaquin Delta. Of this amount, one million dollars (\$1,000,000) shall be available for grants to local governments to coordinate conservation planning and to reduce conflicts between local conservation plans and the Bay Delta Conservation Plan.

f. Revert Prop 84 and Prop 1E appropriations made in SBx7_8 (Steinberg).

- Necessary to re-appropriate the funds with amended control language.

The funds appropriated from Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code by Chapter 2 of the Seventh Extraordinary Session of 2009 are hereby reverted.

The funds appropriated from Division 43 (commencing with Section 75001) of the Public Resource Code by Chapter 2 of the Seventh Extraordinary Session of 2009 are hereby reverted.

Staff Recommendation: APPROVE the TBL outlined above.

VOTE

Water Bond of 2010

The Governor's May Revision proposes \$1.1 billion in appropriations from the 2010 Water Bond that will go before the voters at the November 2010 General Election. The amounts and funded activities are as follows:

Chapter	Chapter Title	Department	Proposal	2010-11	2011-12
5	Drought Relief			213.7	132.5
		DWR	Drought Relief Grants	145.0	112.9
		DPH	Safe Drinking Water Revolving Loan Fund		12.3
		DPH	City of Maywood		7.3
		SWRCB	Small Community Wastewater Program	68.7	
6	Water Supply Reliability			32.4	28.7
		DWR	Integrated Regional Water Management	12.0	28.0
		DWR	Conveyance Projects	20.4	0.7
7	Delta Sustainability			72.4	122.0
		DFG	Ecosystem Restoration Projects	72.4	122.0
8	Statewide Water System Operational Improvement				
		California Water Commission	Continuous Appropriation	300.0	
9	Conservation and Watershed Protection			57.9	-
		NRA	Red Bluff Diversion Dam	57.9	
		DWR	Red Bluff Diversion Dam (Reimbursement)	(57.9)	
10	Groundwater Protection and Water Quality			103.5	194.0
		DPH	Goundwater projects and emergency grants	103.5	194.0
11	Water Recycling			645.2	220.0
		DWR	Recycling and conservation	295.0	45.0
		SWRCB	Water Recycling	350.2	175.0
Totals				1,125.1	697.2

DWR = Department of Water Resources; DPH = Department of Public Health; SWRCB = State Water Resources Control Board; DFG = Department of Fish and Game; and NRA = Natural Resources Agency

LAO Recommendation. The following is the partially redacted LAO analysis and recommendation for the Governor's 2010 Water Bond proposals in the May Revise.

Governor's Proposal. The Governor's budget proposes \$1.1 billion... With one noted exception, proposed funding is allocated at the broad program level, mainly to existing programs for which funding from existing bond measures is either low or has run out. The notable exception is the allocation of \$57.9 million for a specific project, the Red Bluff Diversion Dam fish passage project. This amount represents the state's share of a multi-agency cost-sharing program with the federal government to match 25 percent of the cost of the project (the state's cost-share). The project is currently under construction, with the majority of funding provided through an American Recovery and Reinvestment Act (ARRA) federal commitment.

Proposal is Mostly Premature, Pending Development of Multiyear Expenditure Plan and Program Expenditure Criteria. We find that most of the administration's May Revise proposal is premature, for two main reasons. First, the administration has not prepared a comprehensive, multiyear expenditure plan for the future bond. This is problematic because, unless expenditures from multiple bond provisions that serve similar objectives are well coordinated over the lifetime of the bond, the Legislature cannot be assured that the bond funds are being spent as effectively and efficiently as possible. (As an example of such multiple bond provisions, the Department of Water Resources budget proposal includes \$4 million (over two fiscal years) for a groundwater assistance program using the future bond's Integrated Regional Water Management allocation. The May Revision proposal also proposes nearly \$300 million for expenditure over the next two years for other groundwater-related state operations and local assistance programs, using various other allocations in the bond that total over \$1 billion.) Second, criteria have yet to be developed to guide the expenditures of many of the programs funded from the future bond. While criteria may have been established for previously funded programs, it is clear from the budget proposals that these criteria are likely to change for the new water bond. Lacking these criteria to evaluate, the Legislature cannot be assured that the administration's spending plan is consistent with its expenditure priorities.

Recommendations. We recommend the Legislature deny most of the funding for the implementation for the 2010 water bond, instead approving funding at a level mostly for planning purposes, with a direction to the administration to submit (1) a comprehensive, multiyear bond expenditure plan and (2) details of program expenditure criteria, to the Legislature in conjunction with the Governor's 2011-12 budget. With this additional information, the Legislature will have a better basis from which to evaluate the administration's bond expenditure proposals during the 2011-12 budget process. Second, we recommend approval of the proposed state share of funding for the "shovel- ready" Red Bluff Diversion Dam

project, as this specific project clearly fits within a provision of the bond allocating funds expressly for projects that improve salmonid fish passage in the Sacramento River watershed.

Staff Comments. Staff generally agrees with the LAO's assessment of the Governor's proposal, and concurs that funding should not be approved for programs that lack a comprehensive, multiyear bond expenditure plan and detailed expenditure criteria. However, staff concerns are further exacerbated by the limited precedence for appropriating as-yet-to-be-approved bond funds. Furthermore, there are significant amounts of bond funds already allocated in the Governor's Budget—that have been approved by this Committee—for the departments in question.

With specific respect to the Red Bluff Diversion Dam, staff notes that the dam is a federal facility, constructed as part of the federal Central Valley Project, and the fact that the dam may create an inappropriate barrier to fish passage is a federal responsibility. Staff notes that when the DWR entered into a 25-percent cost-share agreement with the federal government in 1994, it was thought that the project would require a relatively inexpensive re-operation (to better emulate the natural, seasonal flow of the Sacramento River). However, the project has grown tremendously in cost (to approximately \$230 million), and now includes construction of a pumping plant. So, in addition to the fact that the Governor is requesting bond funds the voters have not yet approved, staff notes concern that this proposal would further commit the state to funding a federal responsibility (\$5.5 million in Proposition 13 funds have already been provided to the project).

For the reasons stated above, staff recommends the Committee deny all of the Governor's proposed 2010 Water Bond appropriations for the DWR, DFG, SWRCB, and NRA. However, should the Committee wish to appropriate some funds, staff recommends the Committee follow the general criteria outlined by the LAO and seek to approve funds only where program funding criteria are in place and where a clear demand for funding is evident.

Staff Recommendation: DENY the requests consistent with the staff comments (above).

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 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.) However, the IOUs manage receipt and delivery of the energy procured by the contracts. (More on the CERS division of DWR is included in the Energy and Utilities section of this report.)

Governor's Budget. The Governor's Budget includes \$1.5 billion (\$188 million GF) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$3.7 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

[See following page for discussion items.]

ITEMS PROPOSED FOR DISCUSSION

1. BCP: Create Flood Emergency Fund (BBL). The Governor requests a shift of \$1 million in baseline GF to a new Emergency Fund (“E-Fund”) for exclusive use in responding to imminent flood threats with duration of no more than seven days. The Administration would be provided authority to redirect the existing GF support for flood management (currently totaling \$40 million GF). The Director of DWR could access this new fund, at his or her discretion, to support emergency response activities. Proposed budget bill language (BBL) would further allow the DOF to immediately transfer additional funds (GF) to the E-Fund without legislative notification whenever the \$1 million appropriation was exhausted.

Staff Comments. This item was heard previously on April 22 and May 19. It was most recently held open to allow the Administration to work with staff on language specifying that the Governor’s approval would be needed to expend E-Fund after the initial (3-4 days, approximately) of a pre-emergency action. Based on subsequent discussions with the DWR, staff believes there is agreement on the staff recommended action.

Staff Recommendation: APPROVE the request as proposed with the following modifications to BBL: (1) require 30-day notification of any E-Fund expenditure to the Joint Legislative Budget Committee (JLBC); (2) specify E-Fund monies are only to be expended for flood events that are consistent with the criteria identified in the department’s internal “Water Resources Engineering Memorandum Process;” (3) require the Governor’s approval for any E-Fund expenditures after the initial four days of a “pre-emergency” action; and (4) JLBC approval of the final “Water Resources Engineering Memorandum Process” criteria.

VOTE:

2. Staff Issue: Use of Agricultural Easements in Flood Corridors. The state has the opportunity to use unappropriated bond funds to achieve two important goals simultaneously—reduce flood threats to public health and safety, and conserve farmlands that are subject to the development pressures of population growth.

Staff Comments. As previously discussed on April 22, Proposition 1E provided (pursuant to Public Resources Code Section 5096.825) \$290 million in bond funding for the protection, creation, and enhancement of flood protection corridors and bypasses through various means, including:

- Acquiring easements and other interests in real property to protect or enhance flood protection corridors and bypasses while preserving or enhancing the agricultural use of real property; and
- Acquiring interests in, or providing incentives for maintaining agricultural uses of, real property that is located in a flood plain that cannot reasonably be made safe from future flooding.

Given the lack of Williamson Act funding, these Proposition 1E monies offer a unique opportunity to fill a need to support maintaining land in agricultural use while meeting state flood goals. To this end, staff recommends appropriation of \$10 million in Proposition 1E funds to the DWR with BBL directing the DWR to work with the Department of Conservation to identify high quality agricultural easements with flood management values consistent with the requirements of the bond act. Of the \$10 million, \$5 million is to come from the \$29 million proposed by the Governor as part of the FloodSAFE BCP and intended for use in the Central Valley Nonstructural Grant Program (previously approved by the Committee), and \$5 million is to come from previously unallocated funds (in Public Resources Code Section 5096.825).

Staff Recommendation: APPROPRIATE \$10 million Proposition 1E funds (consistent with staff comments) for flood corridor projects using agricultural easements and/or incentives, and ADOPT BBL directing the DWR to work with the Department of Conservation in achieving the dual goals of flood protection/management, and conservation of agricultural lands.

VOTE:

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$385 million for support of the DFG, a reduction of \$25 million, or 6 percent, over current year expenditures. This reduction is primarily due to a reduction in GF support.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-11: Delta Environmental Review. The Governor requests six positions and \$807,000 (Prop 84, with Prop 84 and Prop 1E as reimbursements from the Department of Water Resources—DWR) to support the increase in both Delta Levee Program workload (three positions) and the number of Permitting and Restoration Program projects in the Sacramento-San Joaquin River Delta (three positions).

Staff Comments. This item was previously held open due to its nexus with both Committee bond concerns and Water Package issues. However, with those issues resolved, staff recommends approval of this item.

2. BCP-5: Law Enforcement Safety Gear (Tasers). The Governor requests \$378,000 (FGPF-ND), to provide 350 tasers to game wardens. The DFG purchased 25 tasers in FY 2008-09 in order to develop a pilot program. Currently 12 officers are trained to carry the tasers while 13 more were scheduled to receive training in March 2010.

Staff Comments. This item was heard on two previous occasions and held open due to concerns about the adequacy of the DFG's taser training and use policy. On May 6, the Chair stated his intent to make approval of the requested tasers contingent upon legislative review of a final (adopted) departmental policy on taser training and use.

Following additional conversations with the DFG, staff now recommends approval of the request, contingent (per BBL) upon legislative review of a final adopted departmental policy regarding the use of tasers and the training of wardens. The departmental policy shall take into account three core factors: (1) severity of the crime; (2) immediate threat to the safety of the officers or other members of the public; (3) and whether the suspect is actively resisting arrest or attempting to evade arrest. Additionally, the DFG is to report to the Legislature on the use of the tasers by department personnel describing all incidents of use, the result of the use, whether or not it resulted in injury, the type and severity of the injury, any lawsuits, settlements and liabilities to the state as a result of

the use of tasers. Finally, there will be no additional appropriations for the purchase and use of tasers until the report is received by the Legislature.

Staff Recommendation for Vote-Only Items 1-2: APPROVE Item 1 as budgeted, and Item 2 with the changes detailed in the staff comments.

VOTE:

ITEM PROPOSED FOR DISCUSSION

- 1. MR-1: GF Reduction Backfill for Hunting & Fishing Programs.
MR-3: GF Reduction for Habitat Conservation Programs.**

The Governor's May Revision includes the following GF proposals:

1) Backfill \$2.4 million (\$1.9 million federal funds; \$200,000 Fish and Game Preservation Fund-Ocean Resources Enhancement and Hatchery Program Account; and \$325,000 reimbursements) to partially backfill a GF reduction proposed in the 2010-11 budget (and adopted in the Eighth Extraordinary Session).

2) Cut \$5 million GF from the DFG's Habitat Conservation and Restoration Programs. Specifically, these cuts will be allocated as follows:

Description	Reduction
Marine Life Protection Act (MLPA). Cut would result in fewer resources for statewide monitoring and implementation of statewide marine protected areas. Department would prioritize remaining resources (\$2.9 million) on highest priority Marine Protections Areas.	\$1.5 M
Timber Harvest Plan (THP) Review. Would cut funding for review of THP plans, reducing the program from \$2.8 million to \$1.3 million.	\$1.5 M
Fisheries Restoration Grant Program. This cut is proposed to be backfilled with Proposition 84 funds.	\$1.5 M
CALFED Ecosystem Restoration Program. This cut is proposed to be backfilled with Proposition 84 funds.	\$500,000

Staff Comments. The state faces a budget gap of nearly \$20 billion GF and many painful reductions will be necessary to solve the problem—including those noted above.

In the first instance above, the Governor proposes to use various special and federal funds to backfill GF reductions in the Hunting and Fishing Programs that were approved by the Legislature in February. Staff recommends the Committee approve this proposal to reduce the programmatic impacts of the loss of GF.

In the second instance, the cuts to the MLPA and THP Review would have particularly significant impacts because they are not proposed to be backfilled by bond funds (as with the other two parts of the proposal). In both instances the Committee should ask the DFG to provide additional detail about how the cuts would be distributed statewide.

In terms of mitigating the MLPA cuts, the Legislature previously approved a one-year transfer of Ocean Protection Council Proposition 84 funds to support MLPA activities at

the DFG, and the Committee may want to explore this again as an option. As for the THP Reviews, the Committee may want to backfill the cuts with increased timber harvest fees.

In either case, staff recommends adopting the additional \$5 million GF reduction in order to help solve the state's yawning deficit. However, if the desire is to buy time to explore additional opportunities to mitigate these cuts, the Committee could reduce the reduction by \$1,000 to send the item to Conference.

Staff Recommendation: APPROVE both of the Governor's May Revise proposals.

VOTE:

3690 Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; federal funds; and GF.

Governor's Budget. The Governor's Budget includes \$197.7 million (including \$22 million GF) for support of the DTSC, an increase of \$11.3 million, or 6 percent, over current year expenditures. This increase is primarily in special funds (and there is no increase proposed in GF).

ITEM PROPOSED FOR DISCUSSION

MR-1: Green Chemistry Initiative –Toxics Clearinghouse. The Governor requests \$403,000 (special funds) to design, develop, test, and implement the Toxics Clearinghouse, consistent with Chapter 560, Statutes of 2008 (SB 509, Simitian).

Staff Comments. The DTSC indicates the funding would be used to establish an interagency agreement with the Office of the State Chief Information Officer who would perform the work specified in the approved project Feasibility Study Report (FSR). Staff notes that the LAO has raised no concerns with the FSR, and staff notes no concerns with this proposal.

However, the Committee may recollect that at the Green Chemistry joint oversight hearing (with Senate Environmental Quality) on March 18, the DTSC committed to providing at the May Revise a budget (spending) plan for both SB 509 and Chapter 559, Statutes of 2008 (AB 1879, Feuer), even if no formal augmentation was requested. Staff notes that, while the Administration submitted this request (with regard to SB 509) neither the DTSC, nor the Department of Finance, provided an AB 1879 spending plan. As such, given that this is the last subcommittee hearing of the year and no additional time remains to hold this item open to await further information from the department, the Committee may wish to send the item to Conference where it will await final disposition upon a suitable response to the Chair of the subcommittee.

Staff Recommendation: APPROVE the request, less \$1,000 to send the item to Conference. DIRECT the DTSC to provide an updated AB 1879 spending plan per the commitment made by the department on March 18.

VOTE:

3360 California Energy Commission

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

Governor's Budget. The Governor's Budget includes \$420 million (no GF) for support of the CEC, a decrease of approximately \$366 million, due primarily to reduced federal fund expenditures (after a one-time influx of ARRA dollars in FY 2009-10).

ITEM PROPOSED FOR VOTE-ONLY

MR-2: Establish the Clean and Renewable Energy Business Financing Revolving Loan Fund (TBL). The Governor requests the establishment of the Clean and Renewable Energy Business Financing Revolving Loan Fund, which would authorize the CEC to conduct and administer the Clean and Renewable Energy Business Financing Program.

Staff Comments. The CEC proposes to utilize \$30 million in federal funds from the American Recovery and Reinvestment Act of 2009 in order to operate the revolving loan program. The budget proposes TBL to establish this fund with continuous appropriation authority.

LAO Recommendation. The LAO recommends that the Legislature adopt budget bill language tied to the CEC's federal funds appropriation to provide that the expenditure of up to \$30 million for the Clean and Renewable Energy Business Financing Program is conditioned on enactment of legislation establishing the revolving loan fund to be administered by the program. This will ensure that any policy parameters that the Legislature wishes to place on the operation of the loan fund are in place before expenditures for this new program are made.

Staff Recommendation: ADOPT the proposed TBL as placeholder to allow further review by staff, and additionally APPROVE the LAO recommendation to ADOPT budget bill language tying the \$30 million for the Clean and Renewable Energy Business Financing Program to enactment of the proposed TBL.

VOTE:

ITEMS PROPOSED FOR DISCUSSION**AB 118 – Alternative and Renewable Fuel and Vehicle Technology Program**

As covered in more detail in the April 29 agenda, Chapter 750, Statutes of 2007 [AB 118, Nunez] which created the Alternative and Renewable Fuel and Vehicle Technology Program (Program, or AB 118), which provides financial support for projects that, among other things: (1) develop and improve alternative and renewable low-carbon fuels; (2) expand fuel infrastructure, fueling stations, and equipments; and (3) improve vehicle technologies. The Committee has before it two requests related to AB 118— one was previously discussed and one was introduced in the May Revise. These items are described individually and followed by a consolidated staff recommendation.

1. BCP-1: Augment Alternative and Renewable Fuel and Vehicle Technology Program. The Governor requests a baseline increase of \$2 million from the (Fund) for contracts and technical assistance, including seeking to establish formal relationships with several national laboratories (approximately \$1.2 million); and a one-time augmentation of \$5 million for various projects.

2. MR-1: Reappropriation for California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA). The Governor requests reappropriation of \$40 million (originally appropriated in 2008) to provide loans, loan guarantees, credit enhancements, bond funding, and sales tax rebates in the following solicitation areas:

- Advanced Biofuel Production Plants – \$15 million
- Vehicle Component Manufacturing – \$19 million
- California Ethanol Production Incentive Program – \$6 million

Consolidated Staff Comments (Items 1 and 2). As previously discussed on April 29, the Committee has concerns about several aspects of the AB 118 Draft Investment Plan. Staff acknowledges that the CEC has made a good faith effort to respond to these concerns; however, questions persist that will require additional time to solve. Therefore, with the addition of the Governor's May Revision proposal to distribute AB 118 funds via the CAEATFA, staff recommends the Committee take an action to send these items to Conference Committee.

Staff Recommendation: APPROVE Item 1 less \$1,000; and APPROVE Item 2 with a superficial "change" to the proposed language in order to send the item to Conference.

VOTE:

3. Staff Issue: Biosolids Renewable Energy Project. A coalition of 16 sanitation districts have proposed to develop a facility that would process biosolids waste into a state that can be easily converted into energy through combustion. This project, called the San Francisco Bay Area Biosolids to Energy (BAB2E) Project seeks \$1 million Public Interest Energy Research (PIER) Program funding.

Staff Comments. This item was previously heard on May 19, when the Committee stated its preference for the BAB2E project to go through the CEC's normal PIER application process. To that end, the Committee asked the BAB2E to provide the CEC with sufficient detail about their project and its intentions in order for the CEC to tell the Committee whether the project had any hope of competing for PIER funding.

The Committee will expect the BAB2E and the CEC to report back on the content of their discussions. Based on the information provided, the Committee hopes to have a better sense as to whether the BAB2E should be asked to re-submit its application for PIER funding to the CEC, or whether other options are worth considering.

Staff notes that the Assembly approved the project's request for \$1 million in PIER funding. Therefore, if the Committee takes no action, this item will go to Conference.

Staff Recommendation: None at this time.

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) 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 includes \$1.4 billion (no GF) for support of the PUC, an increase of roughly \$200 million over current year expenditures, due primarily to an increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-7: Division of Ratepayer Advocate (DRA) – Energy Efficiency Programs and Activities. The Governor requests one position and \$96,000 (PUC Ratepayer Advocate Account) to ensure investor-owned utility energy efficiency programs are cost-effective for ratepayers. The DRA indicates that the approved 2010-12 energy efficiency program budget for the four largest energy utilities is \$3.1 billion, a 61 percent increase in ratepayer investments over the previous cycle. The requested position would augment the two DRA positions currently assigned to energy efficiency program monitoring.

2. BCP-8: DRA – Energy Low Income Assistance Programs & Activities. The Governor requests one position and \$95,000 (PUC Ratepayer Advocate Account) to address expanding workload on energy low income assistance programs and activities, including the California Alternative Rates for Energy (CARE) program, the Low Income Energy Efficiency (LIEE) program, and a new rulemaking on the adoption of regulation related to arrearage management and shut-off prevention for residential customers of electricity and natural gas utilities. With nearly five million California energy customers projected to be low income by 2012, and utility investments in the above programs growing (e.g., CARE expenditures by the four largest utilities increased from \$126 million to \$818 million from 2001 to 2008), the DRA indicates the one position currently assigned to monitor these activities is insufficient to adequately serve ratepayers.

Staff Recommendation (for Vote-Only Items 1 and 2): APPROVE Items 1 and 2, less \$1,000 each (with the intent of sending them to Conference).

VOTE:

ITEMS PROPOSED FOR DISCUSSION

1. BCP-3: Provide Staffing to Evaluate Advanced Energy Storage (AES). The Governor requests three positions and \$310,000 (Public Utilities Commission Utilities Reimbursement Account) to evaluate the cost effective use of AES in support of various California policy goals, but primarily the Renewable Portfolio Standard (RPS) and AB 32.

Staff Comments. This item was previously heard on April 29 and again on May 19 in order to provide the PUC with additional opportunity to respond to LAO and staff concerns that the request is premature.

LAO Recommendation. Subsequent to the May 19 hearing, and following receipt of additional information from the PUC, the LAO published a recommendation on this item, which reads in-part:

Legislature Is Currently Evaluating Its Policy on AES. The Legislature is currently considering a bill (AB 2514, Skinner) which, in its current form, would require the CPUC to open a rulemaking proceeding to establish procurement targets for each investor-owned utility and require each publicly-owned utility to adopt energy storage system procurement targets.

LAO Recommendation. While many agree that AES may provide a means for integrating intermittent renewable energy sources onto the electricity grid, we find it is first necessary to determine the technological feasibility to which such technology can play a role in California's energy mix. This analysis is currently underway in various forms at both the CAISO and CEC. Until such work is complete, we find the CPUC budget proposal both premature and potentially inefficient. The budget proposal is also premature pending enactment of legislation that provides the Legislature's policy direction in this area. As noted above, the Legislature has expressed its policy interest in this subject and is currently developing its policy. We therefore recommend the Legislature deny CPUC's budget request for advanced energy storage activity in the budget year.

Staff Recommendation. Consistent with past staff recommendations and with the latest LAO recommendation, DENY the request.

VOTE:

2. Staff Issue: Teleconnect Fund Reappropriation. Members of the nonprofit community request reappropriation of the balance (approximately \$1.5 million) of an original \$2 million appropriation from the California Teleconnect Fund to support broadband installation for community nonprofits.

Staff Comments. The Legislature has shown repeated support for improving broadband availability, including this program that provides discounts so that community-based organizations can overcome potentially high-costs to connect to the internet. Although the funds identified in this issue have been somewhat slow to reach the intended recipients, they now appear ready to be used in far greater rates due to increased participation from broadband service providers.

Staff's primary reason for placing this item on discussion is the GF implications for the requested reappropriation. Due to large outstanding loans to the GF, the Teleconnect Fund is periodically faced with the potential need to raise rates. In fact, the Legislature received notification this spring that just such a rate increase would be required if the GF did not make a partial loan repayment. Thus, to the extent that this reappropriation would make approximately \$1.5 million available in the fund available for other uses, this could place additional pressure on the GF. However, notwithstanding this issue, the Committee may still wish to approve the reappropriation for the same policy reasons that the program was created in the first place—to increase broadband access and provide all of the associated benefits (economic and otherwise) to a greater number of Californians.

Staff Recommendation: None at this time.