

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

Agenda

Jim Beall, Chair
Jim Nielsen
Hannah-Beth Jackson



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

Consultant: Catherine Freeman

Items Proposed for Vote-Only

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Items Proposed for Discussion

LAO Overview—Resources Departments

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Resources—Environmental Protection—Energy—Transportation

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DEPARTMENTS PROPOSED FOR VOTE ONLY**3340 California Conservation Corps**

- 1. Data Collection and Reporting System.** Request to convert 2.0 limited-term positions to permanent for the Automated Data Collection and Reporting System. These positions were identified as appropriate for permanent during the workforce cap true-up conducted by the Department of Finance in 2012. Funding would also be redirected from OE&E used to pay outside contractors to oversee the development of this legacy system.
- 2. Reappropriation of Proposition 84 Program Delivery Funding.** Request for reappropriation of \$746,242 for continuation of projects delayed by the bond freeze in 2008-09. The CCC anticipates expenditure of these funds in a normal encumbrance period and is not requesting extension of liquidation.

3760 State Coastal Conservancy

- 3. Public Access Program.** Request to appropriate \$500,000 from the Coastal Access Account and \$458,000 from the California Beach and Coastal Enhancement Fund for the annual implementation of the Conservancy's public access, education and related programs. These funds are dedicated annually to develop, operate and maintain public access-ways and to provide education related to coastal resources projects.
- 4. Realignment of Baseline Funding.** Request to align funding with programs with a net-zero budget impact as part of a planned redesign of baseline allocations for the Conservancy due to expiring funding sources. This is a part of a Legislative and Administration effort to develop a long-term funding plan for the Conservancy.
- 5. Capital Outlay—Coastal Conservancy Programs.** Request for \$16.2 million (Proposition 84 bond funds) for capital outlay and local assistance to fulfill a multi-year capital investment plan including the California Coastal Trail, public access development in the Bay Area, and provide key trail connections.
- 6. Capital Outlay—Reappropriations and Reimbursements (Propositions 84 and 40).** Request for reappropriation and reimbursement authority for Proposition 84 and 40 bond funds scheduled to expire on June 30, 2013. These were largely delayed due to the previous bond freeze. Future reappropriations are not expected to be needed.

3760 California Tahoe Conservancy

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

Recommendation: APPROVE Items 1-7

Vote:

Overview of Natural Resources Budgets

Anthony Simbol, Legislative Analyst's Office

Major Resources Budget Summary—Selected Funding Sources

(Dollars in Millions)

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

0540 Secretary for Natural Resources

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

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

ITEMS PROPOSED FOR VOTE ONLY

1. **River Parkways Program.** Request to extend Proposition 50 funding for three river Parkways Program positions through June 30, 2017. The Secretary provides statewide oversight and administration for Proposition 50 and other grant funded programs. These positions would maintain that oversight through the life of the program.
2. **Environmental Resources Evaluation System Consolidation.** Request to shift position authority and funding from the Secretary for Natural Resources to the Department of Water Resources Division of Technology Services. This is a revenue/expenditure neutral shift designed to improve information technology by co-locating for efficient operations.

Recommendation: APPROVE Items 1-2

Vote:

*Items Proposed for Discussion***1. Active Transportation Program—Information Item**

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

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

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

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

- Under the current programs, what percentage of the projects (and total funding) have been dedicated to mitigation or trails projects that have no active transportation component (such as trails for hiking, environmental restoration, or urban forestry)?
- What role will the Natural Resources Agency have in determining the appropriate mix of funding for grant proposals? Does the Administration believe the Transportation Agency has more experience determining the best resource conservation projects than the Natural Resources Agency?
- What projects would have been anticipated in the budget year had the funding remained at the Natural Resources Agency?
- Under the new proposal, how many non-transportation corridor trails will be eligible for funding, such as those located in State Parks and Recreation Areas?

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

Vote:

2. Reorganization of Ocean Programs

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

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

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

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

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

- This proposal seems to have more to it than simply funding efficiency. Why shouldn't the statutory changes proposed be moved through the policy committees where more input can be taken on impacts of this shift?
- Describe the overarching benefit this proposal will have to the public.
- Will this require staff to be moved or laid off in order to achieve the consolidation?
- What statutory changes will be necessary to shift the Council to the Agency Secretary and how will these change the nature of the Council?

Recommendation: Hold Open.

Vote:

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

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

LAO Analysis and Recommendations:**Background**

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

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

Governor's Budget Proposes to Increase Staffing for THP Regulation

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

Positions Proposed for Timber Harvest Plan Regulation

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

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

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

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

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

Vote:

3110 Special Resources Programs—Tahoe Regional Planning Agency

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

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

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

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

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

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

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

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

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

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

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

Questions for TRPA

- What is the status of the Nevada legislation? Under their two-year budget cycle, when would the California delegation be informed of adoption of their withdrawal from the compact?
- The report received does not establish measurable performance benchmarks as required by the budget and trailer bill language. Rather it sets out a plan for establishing and prioritizing these benchmarks. When can the Legislature expect to see a report that establishes the benchmarks?
- What will TRPA's role be in the annual reporting of the benchmarks? How will we be assured of the independent review by the Tahoe Science Consortium and UC Davis as required by California law?
- The report states that \$1 million from California currently is directed toward monitoring in the lake. How much of this is directly from the TRPA budget?

Recommendation: HOLD OPEN.

Vote:

3480 Department of Conservation

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

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

ITEMS PROPOSED FOR VOTE ONLY

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

Recommendation: APPROVE Item 1

Vote:

*Items Proposed for Discussion***1. Increased Funding for Abandoned Mine Remediation**

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

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

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

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

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

Vote:

3790 Department of Parks and Recreation

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

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

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

ITEM PROPOSED FOR VOTE-ONLY

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

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

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

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

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

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

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

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

Recommendation: APPROVE Items 1-8

Vote:

An Update on the State of State Parks

BACKGROUND:

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

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

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

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

Statutory Changes in AB 1478

Goal	Summary
Moratorium on Park Closures for Two Years	<ul style="list-style-type: none"> Prohibits the department from closing or proposing the closure of a state park in the 2012-13 and 2013-14 fiscal years.
Matching Funds for Park Donors and Local Agreements	<ul style="list-style-type: none"> Provides a one-time appropriation of \$10 million from revenues generated by the department to be allocated to match contributions from donors and local partner agreements for 2012-13 and 2013-14.
Funding to Prevent Park Closures	<ul style="list-style-type: none"> Provides a one-time appropriation of \$10 million to parks that remain at-risk of closure in order to maintain a two-year moratorium on park closures.
Funding for Audits and Investigations	<ul style="list-style-type: none"> Provides a one-time appropriation of \$500,000 to ensure that all ongoing internal and external investigations into the department are fully funded.
Funding for Capital Projects	<ul style="list-style-type: none"> Provides a \$10 million one-time appropriation of bond funds for capital improvements projects to prevent full or partial park closures.
State Park and Recreation Commission	<ul style="list-style-type: none"> Establishes criteria for membership positions on the commission including requirements for cultural and park management experience. Requires the appointment of two ex officio legislative members by the Assembly and Senate Rules committees, respectively. Allows the commission a more direct oversight role of the department, particularly over the department's deferred maintenance backlog.
Funding for the Park Enterprise Fund	<ul style="list-style-type: none"> Clarifies funds appropriated to the California State Park Enterprise Fund, established to enable the department to set revenue targets and goals, are transferred appropriately from the State Parks and Recreation Fund. Provides for annual accounting and reporting.

SUMMARIZING AUDIT AND INVESTIGATION RESULTS:

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

Summary of Investigations and Findings

Investigator	Results
Department of Justice (Attorney General)	<ul style="list-style-type: none"> • Confirms deliberate hiding of \$21 million State Parks and Recreation Fund from Legislature and Administration • Confirms no Off-Highway-Vehicle funds hidden • Recommends oversight measures
State Controller's Office	<ul style="list-style-type: none"> • Management processes circumvented for out-of-class payroll • Personal leave program violations • Retired annuitants and non-permanent employees exceeded hours allowed
Office of State Audits and Evaluation (OSAE)	<ul style="list-style-type: none"> • Key budgeting functions need improvement • Risks over State Park Contingent Funds • Key internal controls over procurement violated
Bureau of State Audits	<ul style="list-style-type: none"> • Department unable to determine the amount needed to operate parks at 2010 level • Department purposefully withheld information about funding • The determination to close parks was premature
Local District Attorney	<ul style="list-style-type: none"> • Declined to take up criminal charges
Fair Political Practices Commission	<ul style="list-style-type: none"> • Charged former deputy administrative director with multiple violations related to the vacation buyout and fined individual \$7,000.

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

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

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

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

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

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

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

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

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

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

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

ISSUES TO CONSIDER:

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

State Parks and Recreation Funding 2008-09 to 2013-14

(dollars in thousands)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. **Capital Outlay—Angel Island Immigration Station Hospital Rehabilitation.** Requests \$4.7 million (bond funds) and an ongoing baseline increase of \$153,043 (SPRF) for increased maintenance and upkeep. The proposal states that there is no anticipated increased revenue generation from this proposal. The proposal is to rehabilitate a building on Angel Island for viewing and interpretation by the public.
5. **Capital Outlay—Los Angeles State Historic Park.** Request for \$20.8 million (bond funds) and an ongoing baseline increase of \$1 million, 8 permanent staff and five seasonal staff. Current revenue generation (without any capital outlay) is anticipated to be approximately \$756,000 per year. After completion of the project and additional staff are added, this increases to \$1.1 million, an increase of \$344,000 per year. The project would include site work, utility infrastructure, landscaping and drainage.

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

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

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

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

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

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

- How can the department determine that a capital project has more merit than any other if it does not know the individual park unit budget and deferred maintenance costs?
- How can the department propose a new \$1.1 million ongoing budget for Border Fields State Park when the Park's flexible budget has been reduced, nearly leading to the closure of state parks? How does this proposal fit in with the recent requirement to be more entrepreneurial at the individual park level?
- Similarly, the department is proposing capital projects that will necessitate new staffing that is not covered by anticipated new revenue. This seems to go against all of the efforts of previous years to approve projects that are revenue-generating first. Why is the department not more focused on revenue generating projects?
- What specific actions is the department taking to determine the correct size of the state park system, and to provide a true budget picture of the current and future needs of the system?
- Last year, the department brought a single capital project to the Legislature's attention after the budget had passed. Does the department anticipate an emergency appropriation need again this year? If so, for what?
- How will the department prove to this Legislature that the budget requests it is making are clear necessities, and are driven by focused demonstrated budgeting and need for the positions and work?

Recommendations:

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

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