

**Senator Lois Wolk, Chair**  
**Senator Jim Nielsen**  
**Senator Fran Pavley**



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

**Consultant: Catherine Freeman**

**Part B**

**Special Presentations**

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

**Items Proposed for Discussion**

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**Resources—Environmental Protection—Energy—Transportation**

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## Special Presentations

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

**Figure 5**

### Major Environmental Protection Budget Summary—Selected Funding Sources

(Dollars in Millions)

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

## 3960 Department of Toxic Substances Control

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

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

### EXPENDITURES BY PROGRAM

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

### POSITIONS BY PROGRAM

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

### Items Proposed for Vote-Only

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

**Recommendation:** Approve Item 1.

**Vote:**

*Items Proposed for Discussion***Permitting Coordination and Backlog Support**

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

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

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

- \$1.6 million (Hazardous Waste Control Account [HWCA] and Toxic Substances Control Account), and 14 two-year, limited-term positions, to reduce a backlog of reimbursements owed to the department for hazardous waste clean-up activities. The Administration, at the time, estimated that this cost recovery backlog includes around \$26 million in unbilled or uncollected costs that are recoverable.
- \$1.2 million (HWCA), and eight, two-year limited-term positions, to address the hazardous waste permit renewal backlog and to update cost estimates associated with closing hazardous waste facilities in the future.
- \$1.3 million (HWCA) in one-time funding to rebuild the Hazardous Waste Tracking System, an information technology system used by the department to track the generation, transportation, and disposal of hazardous waste.
- \$699,000 (HWCA), and five three-year, limited-term positions, to implement the DTSC Permit Enhancement Work Plan. The plan identifies ten reform goals that will serve as a comprehensive roadmap for implementing a more effective, protective, timely, and equitable permitting system.

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

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

The LAO also found that, while the Administration’s proposals might be reasonable, they would not fully address the identified problems for the long run. For example, while two of these proposals address current backlogs, they rely on limited-term positions that will not address the underlying problems that caused the backlogs to form in the first place. In fact, the Administration does not anticipate that the permitting proposal will eliminate the entire backlog of permit renewals. Consequently, it is unclear whether the backlogs will begin to grow in the future, after the limited-term positions expire. The LAO notes, however, that the department reports that it is taking additional actions—such as internal administrative and process changes—that are aimed at addressing some of these problems.

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

**Staff Recommendation:**

**Vote:**

**Exide 2014 Enforcement Order**

**Background.** Exide Technologies is located in the City of Vernon, about five miles southeast of downtown Los Angeles. The facility occupies 15 acres in a heavy industrial region, with surrounding residential areas about  $\frac{3}{4}$  miles to the north and south. Exide operations include recycling lead-bearing scrap materials obtained from pent lead-acid batteries to produce marketable lead ingots.

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

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

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

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

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

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

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

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

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

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

**Staff Recommendation:**

**Vote:**

**Hazardous Waste Reduction**

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

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

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

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

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

**Staff Recommendation:**

**Vote:**



**SB 1249 (Hill), Metal Shredder Regulation**

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

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

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

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

**Staff Recommendation:**

**Vote:**

## 3970 Department of Resources Recycling and Recovery

The Department of Resources Recycling and Recovery (CalRecycle) protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. CalRecycle also promotes the following waste diversion practices: (1) source reduction, (2) recycling and composting, and (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, market development to promote recycling industries, and technical assistance to local agencies.

**Governor's Budget.** The Governor's budget includes \$1.5 billion from various funds for support of CalRecycle in 2015–16. This is about the same level as current-year estimated expenditures.

### EXPENDITURES BY PROGRAM

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

### POSITIONS BY PROGRAM

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

### Items Proposed for Vote-Only

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

**Recommendation:** Approve Item 1.

**Vote:**

**Implementation of New Single-Use Carryout Bag Law**

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

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

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

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

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

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

**Funding the Beverage Container Recycling Program**

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

The Division of Recycling (DOR) within CalRecycle administers the BCRP (commonly referred to as the “bottle bill program”). This program was established more than 25 years ago with the enactment of Chapter 1290, Statutes of 1986 (AB 2020, Margolin). The purpose of the program is to be a self-funding program that encourages consumers to recycle beverage containers. The program accomplishes this goal by guaranteeing consumers a payment—referred to as the CRV—for each eligible container returned to a certified recycler. As shown in Figure 7, only certain beverage containers are part of the CRV program. Whether a particular container is part of the program depends on the material, content, and size of the container.

The BCRF—administered by DOR—is the funding source of the CRV program. The program involves the flow of beverage containers and payments between several sets of parties, and generally operates as follows:

- **Distributors and Retailers.** For each beverage container subject to the CRV that distributors sell to retailers, they make redemption payments to the BCRF. The distributors typically recoup this cost in payments from retailers.
- **Retailers and Consumers.** Beverage retailers sell beverages directly to consumers, collecting the CRV from consumers for each applicable beverage container sold.
- **Consumers and Recyclers.** When consumers redeem empty recyclable beverage containers, they recoup the cost of the CRV from the recycler. In this way, from the consumer’s perspective, the CRV can be viewed as a “deposit.”
- **Recyclers/Processors and Manufacturers.** Recyclers sell the recyclable materials to processors in exchange for the CRV, as well as the scrap value of the recycled material. Processors are then reimbursed from the BCRF for CRV. Then the processors sort, clean, and consolidate the recyclable materials and sell them to container manufacturers or other end users who make new bottles, cans, and other products from these materials.

**Unredeemed Deposits Support Supplemental Programs.** The CRV redemption rate—the percent of all CRV that is actually collected by consumers from recyclers—is less than 100 percent. This means that distributors pay more CRV into the BCRF than is claimed by consumers. In 2012–13, for example, the BCRF received roughly \$1.2 billion in deposits, but only about \$1 billion was spent in redemption—an 88 percent redemption rate. State law requires that much of the unredeemed CRV be spent on specified recycling-related programs. In total, there are currently ten supplemental programs

funded from the BCRF (including program administration), such as programs to subsidize glass and plastic recycling, subsidize supermarket recycling collection sites, and provide grants for market development and other recycling-related activities. These particular programs cost \$254 million in 2012–13.

**High Redemption Rates and Supplemental Programs Create Shortfall in BCRF.** Over time, redemption rates have increased and are now higher than the target recycling rate defined in statute—80 percent. This leaves less money for the other BCRF expenditures discussed above. As a result of the combination of a higher redemption rate and the cost of supplemental programs, the BCRF has been operating under an annual structural deficit averaging about \$100 million since 2008–09. For example, as shown above in Figure 9, the BCRF had a structural deficit of \$105 million in 2012–13. Based on current expenditure levels, the “break even” recycling rate—the rate at which there is enough unclaimed CRV to support all other program spending—is around 75 percent. Therefore, anytime the recycling rate is above 75 percent, the fund is operating in a deficit. According to CalRecycle’s estimates, the fund is currently forecast to run a deficit of \$110 million in 2014–15 absent any changes made to reduce expenditures or increase revenues. While the BCRF has had operating deficits on several occasions in the past, it was able to absorb the deficits from its large fund balance built up when the CRV redemption rate was low, as well as payments received from loans made to other funds. This balance is now nearly depleted, and the loans are mostly repaid. Thus, the fund no longer has a healthy reserve to help offset the impact of operating shortfalls. CalRecycle projects the BCRF balance to fall below the healthy reserve in September of 2015.

Under current law, if there are insufficient funds available in the BCRF to make all of the required CRV and supplemental payments, the department is required to reduce most supplemental program payments in equal proportions (commonly referred to as “proportional reductions”), in order to keep the fund in balance. The only payments from the fund that are not subject to the proportional reductions are the return of CRV to consumers, as well as program administration. Proportional reductions are problematic because they do not allow for discretion in spending based on priorities or other factors. For example, under proportional reductions, the department cannot prioritize programs that are most effective or central to the BCRP’s overall mission. Additionally, proportional reductions are very disruptive to program participants. Since all payments are reduced equally and quickly, participants can experience a significant cut in funding without much warning to plan accordingly.

In 2009, CalRecycle had to implement proportional reductions to maintain the BCRF’s solvency. This included (1) reduced payments to recyclers of about 15 percent, (2) increased processing fees charged to beverage manufacturers totaling around \$50 million, and (3) elimination of most grant and market development program funding. Based on current revenue and expenditure projections, CalRecycle expects to implement proportional reductions in 2015–16.

**2014 Proposal—Phase 2 Reform.** In January 2014, The Governor’s budget proposed ten programmatic changes that are expected to result in a net increase to the BCRF annual fund balance of \$72.3 million in 2014–15, growing to \$127 million when fully implemented in 2016–17. The changes would have both raised revenue and decreased expenditures; and increased expenditures for fraud prevention, data collection, and expanded grant programs. The Administration projected that these changes would eliminate the program’s structural deficit once fully implemented, and avoid the need to implement proportional reductions.

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

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

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

**Audit Recommendations to the Legislature.** To better ensure that the beverage program is financially sustainable, the Legislature should consider enacting statutory changes that increase revenue, reduce costs, or a combination of both.

**Audit Recommendations to CalRecycle.** To ensure that it can demonstrate that its fraud prevention efforts are maximizing financial recoveries for the beverage program, CalRecycle should both modify and annually update its fraud management plan to include the following:

- Finalize a process to analyze the data Food and Agriculture provided on out-of-state containers and act on the results to identify and prosecute those committing fraud.
- Develop fraud estimates—by type of fraudulent activity—that quantify the potential financial losses to the beverage program and the methodology CalRecycle used to develop these estimates.
- Identify the amount of actual fraud in the prior year by type of fraudulent activity, such as the financial losses resulting from the redemption of out-of-state beverage containers or the falsification of reports used to substantiate program payments.
- Identify the amount actually recovered for the beverage program in the form of cash for restitution and penalties resulting from fraud.

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

- Contract with Equalization to determine the feasibility and cost of transferring its revenue collection duties and audit reviews to Equalization.
- Should CalRecycle find that it is feasible and cost-effective, it should pursue legislative changes that enable Equalization to collect revenues for the beverage program at the point of sale and remit the money to the beverage fund.

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

The department should be prepared to discuss:

- Actions and results of the Phase I Reform actions taken by the department (2013-14 budget and trailer bill actions).
- Response to audit findings by the State Auditor.
- Actions taken to work with stakeholders to refine the Phase II Reform proposal.
- What public process is being used to develop a new reform proposal?
- When should the Legislature expect a legislative proposal?

**Staff Recommendation:** Information item, no action necessary.

## 3930 Department of Pesticide Regulation

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

**Governor's Budget.** The Governor's budget includes \$90.1 million and 307 positions for the Department of Pesticide Regulation. This is an increase of about \$3 million, mainly due to a proposal for a new information technology system. Funding for the department is derived mainly from an assessment on the sale of pesticides of the state. Other funds include fees on registration of products, federal funds, and the California Environmental License Plate Fund.

### EXPENDITURES BY PROGRAM

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

### POSITIONS BY PROGRAM

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

### Items Proposed for Vote-Only

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

**Recommendation:** Approve Item 1.

**Vote:**



**Product Registration Data Management System**

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

- Paper-based, manual-intensive registration processes resulting in cumbersome processing, bottlenecks and inefficiencies. Disparate, stand-alone systems limit visibility of workload per station and staff, and no single data source exists to register products.
- Hard-copy product labels limit the ability to efficiently evaluate pesticide product labels and impact stakeholders in the field needing the information. Registrants submit incomplete registration and label amendment submissions.

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

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

- Does DPR have a backlog of registrations, and if so, how is this defined and how will this new system improve the defined backlog? Why are we using emergency regulations?
- What issues are on the horizon that are not captured by the current DPR system (wherein we register pesticides for known uses), such as marijuana cultivation or emerging products? How does DPR handle these?

**Staff Recommendation:** Approve.

**Vote:**

### 3900 California Air Resources Board (ARB)

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

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

#### EXPENDITURES BY PROGRAM

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

#### POSITIONS BY PROGRAM

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

**Item Proposed for Discussion****ARB Southern California Consolidation Project**

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

**Mobile Source Regulations.** Mobile sources, such as automobiles, are a large portion of the state's overall emissions. For example, 83 percent of statewide nitrogen oxide emissions—a major contributor to ground-level ozone—come from mobile sources. Under the federal Clean Air Act, California is authorized to adopt motor vehicle emissions standards that are more stringent than the federal standards. While California has made progress in reducing air pollution in recent years, it still faces significant air quality challenges. For example, the federal government has designated two of the state's air districts—the South Coast and the San Joaquin Valley—as the two areas with the highest ozone concentrations in the nation. These districts are required to achieve the most stringent federal ozone standards by 2031.

As part of ARB's mobile source regulatory activities, it administers emissions testing and research activities that are used for such things as developing regulations, researching new emission control technologies and vehicles, evaluating the effects of different fuels on engine emissions, and developing methods for measuring emissions.

**Existing Southern California Testing and Research Facilities.** Most of the ARB's mobile emission testing and research occurs at facilities in Southern California. The state-owned Haagen-Smit Laboratory (HSL), located in El Monte and built in 1971, is ARB's primary testing and research facility. The state also leases five buildings adjacent to the HSL for additional testing and office space. In addition, ARB currently conducts heavy-duty testing—such as testing of large diesel truck emissions—at the Metropolitan Transit Authority (MTA) facility about ten miles away in Los Angeles. The various testing facilities use specialized equipment, such as dynamometers (equipment used to simulate road conditions) and chambers specifically designed to measure emissions from vehicles and other engines (known as Sealed Housing for Evaporative Determinations, or SHEDs). Staff at these various facilities conduct vehicle testing, laboratory analysis, regulatory development, and enforcement activities.

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

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

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

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

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

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

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

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

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

**LAO Assessment.** The LAO provides the following assessment:

Given the state's regulatory authority over mobile sources of emissions and continuing significant air quality challenges in certain parts of the state, a significant amount of mobile emission testing and research activities will likely continue into the future. In addition, given the current condition and size of ARB's existing facilities and equipment, at least a portion of the existing Southern California facilities will likely need to be renovated, upgraded, or replaced in the coming years. While the Administration's proposal could potentially be the preferred approach to addressing ARB's future air quality regulatory needs, the Administration's proposal lacks several critical components. Specifically, the proposal lacks (1) a clear justification for the size and scope of the project, (2) a complete analysis of alternatives, and (3) a clear strategy for long term funding. At a minimum, the administration should address these issues before the Legislature considers approving such a project—particularly one of this size, scope, and cost. In addition, the administration has not provided an adequate justification for the \$5.9 million cost estimate for site evaluation and developing performance criteria. We discuss each of these issues in more detail below.

**No Clear Justification for the Size and Scope of the Project.** While the Administration identifies a wide variety of future testing and research activities that will be conducted as vehicles and fuels evolve, it has not provided a clear analysis of future workload that justifies the size and scope of the proposed project. For example, the Administration's proposal includes three chassis dynamometers to conduct over 860 heavy-duty tests per year beginning in 2020. However, it is unclear how the Administration arrived at an estimate of 860 tests. Furthermore, the proposed project is scheduled to be completed in 2020, but the Administration does not provide estimates of the future workload and needs beyond 2020. As a result, it is difficult to evaluate whether the size and scope of the proposed project is appropriate.

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

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

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

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

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

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

**Vote:**

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

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

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

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

- Provide for the maximum technologically feasible and cost-effective avoidance, reduction, and repair of leaks in gas pipelines.
- Establish procedures for the development of metrics to quantify and track the volume of emissions from leaking gas pipelines, which will then be incorporated into state emissions tracking systems, such as the ARB's GHG emission inventory.
- Require gas pipeline owners to report to CPUC and ARB an estimate of leaks from their pipelines—including data and methods used to estimate leakage—and periodically update this estimate.

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

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

**LAO Assessment.** The LAO provides the following assessment:

**Inadequate Justification for ARB Resources.** The Administration has not adequately justified the need for additional ARB resources at this time. Our findings are based on the following factors:

- **SB 1371 Does Not Require ARB to Collect Additional Data.** SB 1371 requires CPUC, in consultation with ARB, to develop rules and procedures for utilities to measure and track pipeline emissions data, which will be provided to ARB to incorporate into its emissions



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

- **Premature to Request Resources to Analyze and Collect Additional Data.** The request for resources to collect and analyze emissions data is premature. The data that will be submitted by utilities should inform ARB's emissions inventory. If the ARB ultimately determines that the data—after it is submitted by the utilities—is insufficient for its purposes, it could then request additional resources for data collection. Additionally, it is unclear what the ongoing workload associated with analyzing utility data and incorporating it into the inventory is actually going to be until the new rules and procedures are finalized. Therefore, it is unclear what additional staff, if any, would be necessary for these purposes given that ARB currently has staff responsible for monitoring statewide GHG emissions.
- **Need for Additional Position to Consult on Proceeding Is Unclear.** While assisting with CPUC will result in additional workload for the ARB, it is not clear that this additional workload will require one full-time position. Much of ARB's current activities involve coordination with other state agencies (including CPUC) on issues related to GHG emissions. The LAO finds that it would be reasonable for ARB to absorb this additional one-time workload with existing resources.

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

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

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

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

**Staff Recommendation.** Reject proposal.

**Vote.**