

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

Agenda

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley



Thursday, May 21, 2015

10:00 a.m.

Hearing Room 112

Consultant: Catherine Freeman

Items Proposed for Vote-Only

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Resources—Environmental Protection—Energy—Transportation

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ITEMS PROPOSED FOR VOTE ONLY**Open Items and May Revision****3860 Department of Water Resources (DWR)**

1. **Groundwater.** The Governor's budget requests \$6 million (General Fund) in 2015-16, and \$8 million for four years from 2016-17 through 2019-20, for DWR to implement the legislation. The proposal includes support of five new, and 26 existing, positions and funding for external consulting and technical assistance. The subcommittee held open this item on May 19 in order to receive more information on the department's plans for funding. The department convened meetings to discuss the proposal with staff of both houses.
2. **FloodSAFE Technical Corrections and Adjustments.** The May Revision requests to remove funding to accurately reflect available bond balances and prevent over-allocation of bond funds. This item decreases Proposition 84 local assistance by \$1.1 million, Proposition 84 state operations by \$43 million, and Proposition 1E local assistance by \$50 million.
3. **Non-FloodSAFE Technical Adjustments.** The May Revision requests a technical change to appropriate the remaining balance of Proposition 1E bond funds (\$20.1 million) to continue support of: (1) statewide bond management costs; (2) Central Valley Flood Protection Board; and, (3) the Integrated Regional Water Management Stormwater Flood Management Grant Program.
4. **Reappropriations and Reversions.** The May Revision requests technical adjustments to reappropriate funds and align the encumbrance and liquidation periods with previously approved drought legislation. The technical letter requests reversion of funding with the same provisional language.

3940 State Water Resources Control Board

5. **Technical Budget Adjustment for Current-Year Drought Activities.** The May Revision includes several anticipated technical changes to adjust for appropriations made in the previous drought legislation passed in March 2015. These funds are currently included in the Governor's proposed 2015-16 budget, but were accelerated in the drought package and, therefore, unnecessary.
6. **Facilities Operations Fund Augmentation.** The May Revision proposal requests \$1 million (Waste Discharge Permit Fund and Underground Storage Tank Cleanup Fund) to identify additional office space in Sacramento to house the increase of employees due to a previously approved budget proposal, and to complete the process of relocating the Victorville office to a location that will accommodate all staff and be ADA compliant.

7. **Technical Adjustments for Administration and Distributed Administration.** The May Revision requests technical adjustments to administration and distributed administration line items resulting in a net zero change. These adjustments align with administrative costs.
8. **Drinking Water Technical Bond Adjustments.** The May Revision requests technical changes to allow for the reappropriation of the unencumbered balance of Proposition 84 bond funds, and the reversion of unencumbered balance of various Proposition 50 and 84 bond funds, in order to align these funds with project costs.

Staff Recommendation. Approve as proposed.

VOTE (Items 1-8):

Drought and Proposition 1

Background. In March 2015, the Legislature passed two bills to continue to address the multi-year drought facing the state. AB 91 (Committee on Budget), Chapter 1, Statutes of 2015, appropriated: \$267 million for water development, including water recycling, desalination, and drinking water quality projects; \$131 million for direct drought response including food assistance, emergency drinking water, protection of fish and wildlife species, invasive species protection, and funding for emergency water supply and education; and, \$660 million for urban and rural flood capital outlay projects, and for flood assistance. AB 92 (Committee on Budget), Chapter 2, Statutes of 2015, responded to the drought by: (1) providing assistance to disadvantaged communities by creating the Office of Sustainable Water Solutions within the State Water Resources Control Board to help communities access funds; (2) increased the Department of Fish and Wildlife's enforcement authority for illegal diversions, mainly from illegal marijuana cultivation; and, (3) expanded the use of existing program funding to provide emergency drinking water to communities in need.

On May 12 of this year, the Senate Natural Resources and Water Committee, in a joint hearing with this subcommittee, heard testimony from the Administration on the implementation of AB 91 and AB 92, as well as a discussion about additional needs to be addressed during May Revision.

May Revision Proposals. In addition to funds previously approved in AB 91 and AB 92, the May Revision includes requests for the following items (items not under the this subcommittee's jurisdiction will be heard in their respective subcommittees):

State Water Resources Control Board (SWRCB)

Proposition 1: The May Revision requests \$1.6 billion (Proposition 1) to provide local assistance resources for the following Proposition 1 programs and \$71.25 million for state operations:

1. **Groundwater Contamination.** \$784 million for competitive grants and loans for projects that prevent or clean up contaminated groundwater that serves as a drinking water source.
2. **Water Recycling.** \$475 million for grants and loans for water recycling and advanced treatment technology projects for treatment, storage, conveyance, and distribution facilities.
3. **Safe Drinking Water.** \$180 million for public water system infrastructure improvements and related actions to meet safer drinking water standards and promote affordable drinking water.
4. **Wastewater Treatment Projects.** \$160 million for grants for wastewater treatment projects, with priority given to disadvantaged communities and projects addressing public health hazards.
5. **Stormwater Management Projects.** \$100 million for grants for stormwater management projects, including green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

6. **Provisional Language.** The request contains provisional budget bill language making these local assistance and state operation funds available for encumbrance until June 30, 2018 and liquidation through June 30, 2021.

Department of Water Resources (DWR)
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The May Revision requests \$162 million from Proposition 1 and the General Fund to support the following programs to address statewide drought impacts:

7. **Desalination Grant Funding Programs.** \$44 million (Proposition 1, local assistance). This program will fund the development of desalination programs in California communities with limited fresh water resources to provide regional and local water supply self-reliance and reliability, in accordance with goals set forth in both the California Water Plan and the California Water Action Plan.
8. **Groundwater Sustainability Planning Grants Program.** \$38 million (Proposition 1, local assistance). This program will provide grants for the development and improvement of both Groundwater Sustainability Plans (GSPs) for groundwater high or medium priority basins or Groundwater Management Plans (GWMPs) for low and very low priority basins. Funding will be also provided to support the construction and inclusion of groundwater monitoring wells into the California Statewide Groundwater Elevation Monitoring (CASGEM) well network and for projects that implement an applicable groundwater sustainability or management plan.
9. **Agricultural Water Use Efficiency (WUE) Conservation.** \$29.8 million (Proposition 1, \$6.3 million state operations and \$23.5 million local assistance). This program will administer grants and loans for agricultural water management planning and WUE. This program will conduct statewide and regional agricultural WUE programs to increase water supply reliability.
10. **Urban WUE Conservation.** \$44.9 million (Proposition 1, \$5.9 million state operations and \$39 million local assistance). This program will implement the urban water conservation programs specified by the legislation and plan and support many projects outlined in Proposition 1.
11. **Save Our Water,** \$4 million (General Fund, state operations). The Save Our Water program provides funding for intensive public education that makes an immediate water supply difference in a crisis and, in the long term, builds a daily water conservation ethics among residents.

Emergency Drought Response

(Dollars in Millions)

<i>Investment Category</i>	<i>Department</i>	<i>Program</i>	<i>May Revision</i>	<i>Fund Source</i>
Protecting and Expanding Local Water Supplies	Water Board	Groundwater Contamination	\$784.0	Proposition 1
	Water Board	Water Recycling	\$475.0	Proposition 1
	Water Board	Safe Drinking Water in Disadvantaged Communities	\$180.0	Proposition 1
	Water Board	Wastewater Treatment Projects	\$160.0	Proposition 1
	Water Board	Stormwater Management	\$100.0	Proposition 1
	Department of Water Resources*	Groundwater Sustainability	\$60.0	Proposition 1
	Department of Water Resources*	Desalination Projects	\$50.0	Proposition 1
Water Conservation	Department of Water Resources*/Energy Commission	Urban Water Conservation	\$104.0	Proposition 1/ Cap and Trade
	Department of Water Resources*/Department of Food and Agriculture	Agricultural Water Conservation	\$75.0	Proposition 1/ Cap and Trade
	Department of Water Resources/Energy Commission	Make Water Conservation a Way of Life	\$43.0	Proposition 1/ Cap and Trade
	Department of General Services	Water Conservation at State Facilities	\$23.4	General Fund/ Special Funds
Emergency Response	Department of Forestry and Fire Protection**	Enhanced Fire Protection	\$61.8	General Fund
	Office of Emergency Services	California Disaster Assistance Act	\$22.2	General Fund
	Department of Water Resources	Removal of Emergency Salinity Barriers in the Delta	\$22.0	General Fund
	Department of Community Services and Development	Farmworker Assistance	\$7.5	General Fund
	Department of Housing and Community Development	Rental Relocation Assistance	\$6.0	General Fund
	Water Board	Executive Order Implementation	\$1.4	General Fund
Total			\$2,175	

* Amounts include funding proposed in Governor's Budget and additional funding in May Revision.

** Proposed in the Governor's Budget

Staff Comments. Staff has reviewed the proposals and concurs with the need to accelerate Proposition 1 funding, consistent with a letter drafted from the Senate Democratic Caucus to the Governor. There are a number of issues that the Legislature should consider as it appropriates these funds including:

- May state revolving loan funds (water quality and drinking water) be used to provide the local match for Proposition 1 competitive grant programs? This may allow more projects to be competitive where local funds are scarce. Should this be restricted to disadvantaged communities?
- Do the Governor's Proposition 1 priorities focus on the most immediate needs with regards to fish screens, high-priority flyways, and bundled projects?

The subcommittee also approved, in a previous action, a proposal from the Department of Fish and Wildlife (DFW), for \$36.5 million and 41.5 positions funded from Proposition 1. The subcommittee approved the funding and positions for this proposal and held open an action to address fish screens on the Sacramento River in order to have more precise language.

Staff Recommendation: Approve as proposed with the following trailer bill language:

1. Approve trailer bill language (TBL) to allow SWRCB revolving loan funds to be match for Proposition 1 in disadvantaged communities.
2. Approve TBL prioritizing Proposition 1 funding for Department of Fish and Wildlife proposals, for fish screens projects on the Sacramento River.
3. Approve TBL allowing \$10 million from Section 79736 of the bond, under the Natural Resources Agency, to fund high priority projects providing refuge water, related to the Pacific Flyway.

Vote:

Central Valley Flood Protection Board

Background. The Central Valley Flood Protection Board (CVFPB) serves as liaison between the State of California, its residents, property owners, Central Valley agencies, and the federal government. Since 2011, it has worked to provide flood protection within California's Central Valley, while also considering environmental and habitat concerns. Under California law, the board must approve any modification to the federal/state flood control system, encroachment, or project on, or near, the Sacramento and San Joaquin Rivers or their tributaries. The CVFPB is governed by a board consisting of seven Governor-appointed and Senate-confirmed members, plus two non-voting ex-officio members from the California Legislature. The monthly public board meetings provide an open forum where all interests may express their views regarding flood management, and where permits, board-sponsored projects, and other actions are reviewed and approved.

January Budget Proposal. The Governor's budget includes two proposals for the CVFPB, as follows:

- (1) \$800,000 (General Fund) to support five new permanent positions located within the board to fulfill assurances that the state has made to the federal government through formal "Assurance Agreements." Specifically, staff are requested to maintain 116 "Local Maintaining Agencies" in resolving levee deficiencies that caused the federal government to remove more than half of these levees from federal financial assistance to rehabilitate levees after catastrophic failures (so-called "PL84-99" levees). Continued review by federal agents adds to this list as further illegal encroachments and deficiencies in the levees are encountered.
- (2) \$600,000 (Proposition 1E) to update enforcement and permitting requirements while adopting and overseeing the implementation of the Central Valley Flood Protection Plan. The Administration also requests the ability to transfer these funds between capital outlay, local assistance and state operations.

Previous Subcommittee Action. The subcommittee held this item open on March 19 in order to require the board to return in May with a proposal that is not solely reliant on General Fund or bond funds. The board did return with options for alternative funding that could be used to formulate a long-term funding plan.

Staff Recommendation: Approve as proposed with supplemental reporting language to require the board to report on, or before, January 10, 2016, with a long-term funding plan for the board that does not include one-time or bond funding, and that includes stakeholder process for development of the funding plan.

Vote:

FloodSAFE

January Budget Proposal. The Governor's proposed budget for DWR includes \$1.1 billion (nearly all from Proposition 1E) to support various flood control activities. This amount is primarily for capital outlay projects (\$738 million), but also includes some funding for local assistance (\$222 million) and state operations (\$163 million). The proposal would appropriate all remaining Proposition 1E funding and would support 530 existing positions.

2015–16 Proposed Proposition 1E Appropriations

(Dollars in Millions)

Purpose	Amount	Percent of Total
Capital Outlay Projects:	\$738	66%
In Urban Areas	(320) ^a	(28)
System-wide	(300)	(27)
In Rural Areas	(118)	(11)
Local Assistance	222	20
State Operations	163	15
Totals	\$1,123	100%
^a Includes \$13.8 million from other bond funds and \$52 million in reimbursement authority.		

Previous Subcommittee and Legislative Actions. As discussed under the drought agenda item, the Legislature approved \$660 million for urban and rural capital outlay and local assistance as part of a package of actions designed to expedite funding for these programs. The Legislature did not take action on the state operations funding and system-wide capital outlay proposals. The subcommittee, on March 19, requested the department provide it with a list of projects and a clear expenditure plan for both the state operations and system-wide allocation pot, including specific projects and priorities.

May Revision Proposal. The May Revision requests technical reversion of funds in order to align funding the 2015-16 budget with appropriations made in AB 91 (Committee on Budget), Chapter 1, Statutes of 2015 (drought legislation). This reversion is consistent with the previous legislation.

Staff Comments. The department provided the list of projects for both state operations and system-wide projects. These projects focused on the flood and restoration projects in the Yolo-basin and bypass systems, San Joaquin River, and north-state projects. The Legislature has received comments on the Administration's proposal and recommends the subcommittee approve the proposals with provisional language prioritizing multi-benefit projects.

Staff Recommendation: (1) Approve January budget items as proposed, with provisional language prioritizing multi-benefit projects. (2) Approve May Revision proposal.

Vote:

Bay Delta Conservation Plan (BDCP) and Bay Delta Water Quality

Background. The BDCP is the Administration's proposal, led by the California Natural Resources Agency and DWR, to address some of the Delta's water supply reliability and environmental problems. The main features of BDCP are (1) construction of two tunnels that would allow water to be diverted from a different part of the Delta and (2) restoration of about 150,000 acres of habitat in the Delta. At the time this report was prepared, state and federal fish and wildlife agencies were responding to public comments submitted on BDCP and are expected to make a final decision in 2015.

In addition, the BDCP proposes numerous conservation measures intended to address some of the causes of ecosystem decline in the Delta. Such measures include protecting or restoring roughly 150,000 acres in the Delta and surrounding areas by acquiring land and making it more suitable as habitat for native and protected species. Some of this restoration activity is required by existing rules that allow the SWP and CVP to operate. The BDCP also contains measures to directly manage invasive and native species, improve water quality, and provide ongoing scientific monitoring of the environment.

The BDCP is a natural community conservation plan (NCCP), which is an alternative way of complying with the ESAs. The state Natural Community Conservation Planning Act (NCCPA) of 2003 allows entities in California to comply with the state ESA by developing a NCCP to conserve habitat for all of the protected species in an area. (The federal ESA allows for similar plans.) If a plan meets certain requirements in the NCCPA, DFW approves it and issues the permits to take species covered by the plan. The requirements in the NCCPA include describing (1) the conservation measures that will be undertaken to help the covered species recover and (2) how such measures will be funded. In addition, NCCPs must be accompanied by an agreement among the permittees and state and federal wildlife agencies that establishes conditions under which the above permits can be revoked. If approved, BDCP would allow wildlife agencies to issue new take permits for the proposed tunnels—allowing SWP and CVP to operate for the next 50 years. It would also replace the current rules affecting SWP and CVP operations.

As of August 2014, DWR had spent \$202 million on BDCP since 2006–07. All of these funds have been spent for planning activities, such as developing legally required environmental documents, preliminary engineering and design, and planning the operations of the tunnels. These costs have been paid for by SWP and CVP water contractors south of the Delta pursuant to a series of agreements with DWR and the U.S. Bureau of Reclamation (USBR). Under these agreements, the costs are split evenly between the state and federal water contractors.

California Water Fix and Eco Restore. On April 30 of this year, the Governor announced that the state would no longer pursue the BDCP, as envisioned in the Delta Reform Act of 2009. That act established the framework to achieve the “coequal” goals of providing a more reliable water supply to California and restoring and enhancing the Delta ecosystem. These goals were to be achieved in a manner that protects the unique cultural, recreational, natural resource, and agricultural values of the Delta.

The Governor's actions on April 30 did two major things: (1) separated the water supply project (tunnels), but instead of 50-year permits, the state would seek short-term permits that would be re-evaluated based on fisheries conditions; (2) reduced the habitat restoration project from \$8 billion to restore 100,000 acres over five decades (the length of the permit), to 30,000 acres over four or five years at a cost of \$300 million, to be funded primarily by the state. The amount of restoration is consistent with the current biological opinions governing the Delta operations, making it unknown how much restoration will be required as a result of the tunnel project itself.

January Governor's Budget Proposal. The Governor's January budget did not include a major funding proposal for the tunnel project. This is mainly because the project, including environmental review, is funded through the State Water Project, which is off-budget and paid for by contractors for state water provided through the system. As stated, over \$200 million has been paid by the contractors for environmental work on the BDCP.

- **Department of Fish and Wildlife (DFW) January Proposal.** The Governor's January proposal also included a proposal from the DFW for \$4.8 million in reimbursement authority (funding from the Department of Water Resources, related to BDCP), \$300,000 in federal authority, and 32 limited-term positions, to address regulatory review and permitting, and the BDCP interagency ecological program.

May Revision Proposal. The Governor's January budget did not include a major funding proposal for the tunnel project. This is mainly because the project, including environmental review, is funded through the State Water Project, which is off-budget and paid for by contractors for state water provided through the system. As stated, over \$200 million has been paid by the contractors for environmental work on the BDCP. The May Revision requests:

- **State Water Resources Control Board (SWRCB) May Revision Proposal.** The May Revision proposal requests \$7.8 million (\$5 million in contracts)—\$3.7 million from the General Fund and \$4.1 million from the Water Rights Fund, to accelerate and complete the comprehensive update of the Bay-Delta Water Quality Control Plan, and to implement the plan within an adaptive management framework to support delta water supply and ecosystem resources. According to the Administration, this proposal will not require legislation.
- **Greenhouse Gas Emissions Reduction Fund for Eco Restore May Revision Proposal.** The May Revision requests \$40 million (Greenhouse Gas Emission Reduction Fund [GGRF]) to accelerate the DFW high priority Delta wetlands and watershed restoration projects. The proposal suggests these projects will increase carbon sequestration and provide ecosystem.
- **Removal of Emergency Salinity Barrier in the Delta.** The May Revision requests \$22 million (General Fund) to remove a temporary rock barrier installed across West False River in the Delta. The barrier was installed to slow the tidal push of saltwater from the San Francisco Bay into the central Delta and to prevent contamination of water quality for municipal, industrial, agricultural and environmental needs. The barrier is intended to prevent salt water contamination of water supplies of the State Water Project and Central Valley Project.

Staff Comments. Staff is concerned that the Administration is funding restoration and mitigation projects for the delta tunnels project with funds identified for other purposes. The primary purpose of the GGRF is to reduce greenhouse gas emissions, not to restore Delta wetlands impacted by water supply intakes. The current program of restoration of wetlands in the Delta is, for the main part, necessitated by the biological opinions on State Water Project and Central Valley Project.

Questions for the Administration:

- (1) The proposal for Bay-Delta Water Quality charges the General Fund and the Water Rights Fund for activities related to water supply and ecosystem resources—formerly the purview of the Bay-Delta Conservation Plan. Why should the General Fund be used for activities that benefit water supply permit holders drawing water from the Delta? How are pre-1914 water rights holders contributing to this effort?
- (2) The Department of Fish and Wildlife proposal references the need for continued funding for scientific research, ecosystem restoration, and permit-related activities—all to be reimbursed by the Department of Water Resources. Who ultimately pays for this work? Should the water supply permit holders be directly funding this work? Given the shift in focus from the Administration, how does this budget proposal fit in?
- (3) The removal of the rock barriers in the Delta can be directly tied to the water supply needs of the State Water Project (SWP) and the Central Valley Project. Without these, the barriers would not be necessary to ensure high quality water is delivered to the pumps. Why did the Administration not fund this with SWP funds, as it has proposed in the past with project such as the inflatable barrier?

Staff Recommendation: Staff recommends the following actions:

1. Deny Department of Fish and Wildlife January proposal. Request the Administration submit a report, on January 10, 2016, with its January budget proposal, including a revised plan for the BDCP interagency ecological program.
2. Approve the State Water Resources Control Board May Revision proposal.
3. Deny the General Fund request for Emergency Salinity Barrier removal. The State Water Project has authority and funding to remove this barrier within its current operating budget.
4. Advise the Full Budget Committee that the Eco Restore proposal is not appropriately funded by GGRF and recommend rejection of this proposal until a long-term plan for Delta Restoration can be made. Further, include trailer bill language prohibiting allocation of public funds for compliance of Delta biological opinions.

Vote: