

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

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Wednesday, March 21, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

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Departments Proposed for Discussion

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Resources—Environmental Protection—Energy—Transportation

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*Departments Proposed for Vote-Only***3875 Sacramento-San Joaquin Delta Conservancy**

1. **Operational Needs: Facility Lease.** Request for \$75,000 (Environmental License Plate Fund) to support office space, utilities, and costs directly associated with facility operations.
2. **Public Outreach and Bay-Delta Awareness Programs.** Request for \$140,000 (Federal Reimbursement Authority). The request would provide funding for mandated activities related to implementation of ecosystem restoration in the Delta in coordination with local agencies and authorities.

3885 Delta Stewardship Council

3. **Reappropriation—Implementation of the Delta Plan.** Request for reappropriation of \$5.9 million (Proposition 50 bond funds) for support of the CALFED Science Program in order to fund the Delta Science Program, its successor program consistent with statute.

8570 Department of Food and Agriculture (CDFA)

4. **Used Beverage Container Importation Data Collection Program.** Request for reimbursement authority of \$1.4 million from the Department of Resources Recycling and Recovery (concurrent budget proposal). CDFA would be reimbursed for participation in a cooperative agreement to detect and identify shipments of used beverage containers imported into California and illegally recycled for the California Refund Value (CRV). This proposal responds to various investigations and audits conducted regarding the recycling program.

3460 Colorado River Board

5. **Trailer Bill Language to Eliminate Board.** This item was heard under the Secretary for Resources. The Trailer Bill language eliminating the board and moving its functions to the Secretary is still being considered.

3680 Department of Boating and Waterways

Item	Issue	Funding
6	Public Small Craft Harbor Loans. Includes loans to Santa Barbara, tsunami repairs at Crescent City and Santa Cruz Harbors, emergency loans, planning loans, and CEQA funding.	\$8 million (Harbors and Watercraft Revolving Fund [HWRF])
7	Public Boat Launching Facility Grants. Includes local assistance grants to Ventura Port District, County of Imperial, County of San Bernardino, County of Los Angeles, East Bay Regional Park District, City of Antioch, and various statewide programs.	\$9.876 (HWRF)
8	Federal Clean Vessel Act Grants Budget Authority. Provides federal funding for sewage pump-out facilities statewide.	\$857,000 (Federal Trust Fund)
9	Reappropriation for City of Avalon Boating Infrastructure Grant Project.	\$1.1 million (reappropriation of Federal Trust Fund)
10	Abandoned Watercraft Abatement Grants. Provides funding for removal of abandoned watercraft throughout the state that create public safety and environmental hazards.	\$700,000 (Abandoned Watercraft Abatement Fund)
11	Vessel Turn-In Program Grants. Provides public local agencies funding for the removal and disposal of surrendered recreational vessels.	\$225,000 (Abandoned Watercraft Abatement Fund)
12	Reappropriation of Approved Public Loan and Grant Funding. Projects requesting reappropriation are City of Long Beach, Alamitos Bay Rebuild Project, and Dana Point Harbor Revitalization Project.	\$2.5 million (HWRF)
13	Privately Owned Recreational Marina Loans. The Governor requests \$5 million for loans to privately owned recreational marinas.	\$5 million (HWRF)
14	Governor's Reorganization Proposal for Department of Boating and Waterways	None

Recommendation:

- (1) **Approve:** Items 1-4, 6-12
- (2) **Hold Open:** Item 5 (Colorado River Board) and Item 13 (Department of Boating and Waterways Privately Owned Recreational Marina Loans) for further discussion during May Revision.
- (3) **Hold Open:** Item 14 for review by the Governor's Reorganization Process.

Vote:

*Departments Proposed for Discussion***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 \$74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures (\$86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

Items Proposed for Vote-Only

1. **Baseline Funding Adjustments and Reappropriations.** The budget includes three baseline funding adjustments to allow for continued program administration using different proportional amounts of funding. These include shifting \$937,000 from the Bosco-Keene Renewable Resources Investment Fund (RRIF) and an accompanying baseline reduction of \$937,000 to the Soil Conservation Fund (SCF); a one-year appropriation of \$134,000 from the California Farmland Conservancy Program Fund to support the program due to decreased revenues into the Soil Conservation Fund; and reappropriation of \$1.1 million in Proposition 50 bond funds to continue implementation of the department's Statewide Watershed Program.
2. **Orphan Well Elimination.** Requests a three-year limited-term appropriation of \$1 million per year from the Oil, Gas, and Geothermal Administrative Fund to plug orphan wells. No position authority is requested.
3. **Information Technology Maintenance.** Baseline request for \$132,000 from various special funds for maintenance of the DOC information technology infrastructure.
4. **CGS Federal Trust Fund Augmentation.** Requests \$500,000 (baseline Federal Trust Fund) in order to receive grants related to the Federal Emergency Management Agency (FEMA).

Recommendation. Approve Items 1-4.

Vote:

*Item Proposed for Discussion***DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation**

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of \$2.5 million (\$2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. In May 2011, the department requested 36 positions and \$4.7 million (Oil, Gas, and Geothermal Administrative Fund) for the same purpose. During discussions with the department it was clear that while the proposal had merit, the Legislature did not have enough time to review the entirety of the proposal before making its decision. Therefore, the Legislature chose to approve only half of the proposal and required the department to resubmit the second half during the 2012-13 budget session.

Staff Comments. The interim session has given staff and the administration time to meet with the Resources Agency to review the department's needs, division staffing, and permitting programs. The department has also had a change in leadership that may allow the department to move forward on this proposal in a more expedited manner.

The subcommittee may wish to have the department provide the following:

- (1) What is the status of hiring for this division, including for the recently approved budget proposal?
- (2) What can we expect from the department's proposed planning efforts, including its "Road Map," related to DOGGR, and how will the department communicate these changes to the Legislature?
- (3) What is the status of permitting and how will this proposal decrease the existing permitting backlog?

Recommendation. Approve.

Vote:

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor's Budget. The Governor's Budget includes \$2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the department. The department's proposed program budget is \$2.2 billion, which represents an overall decrease of \$2.6 billion and an increase of 144 positions from the 2011-12 budget. This decrease is mainly attributed to a decrease in bond funds (\$1.5 billion) and a decrease in the CERS division (\$832,887). The decrease in bond expenditures is mostly because the Governor's budget did not include any new bond expenditures in anticipation of the release of the Governor's five-year infrastructure report in the spring of 2012.

ITEMS PROPOSED FOR VOTE-ONLY

- 1. Proposition 1E Stormwater Flood Management Grant Program Delivery Funds.** The Governor requests \$3.1 million (\$621,000 through 2015-16 and \$620,000 in 2016-17) for grants that are designed to manage storm water runoff to reduce flood damage and, where feasible, provide other benefits including groundwater storage, water quality improvement, and ecosystem restoration.
- 2. Urban Streams Restoration Administration and Technical Assistance.** The Governor requests about \$2.6 million in reversions and reappropriations (bond funds) for administration, planning, and design assistance for the urban streams program.
- 3. Safe Drinking Water Administration.** The Governor requests \$125,000 from the California Safe Drinking Water Bond Law of 1988 to be used to administer the financial assistance program which enables eligible entities to meet minimum domestic water supply standards.

Staff Recommendation: Approve Items 1-3.

Vote:

*ITEMS PROPOSED FOR DISCUSSION***4. FloodSAFE California Program**

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. However, this changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

However, following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, the department proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

In January of this year, the department submitted its required Central Valley Flood Protection Plan (CVFPP) to the Central Valley Flood Protection Board. The board is scheduled to review and approve the plan by July 1, 2012. The department is concurrently drafting a Statewide Integrated Flood Management Plan to prepare recommendations for reducing flood risk for areas throughout the State that are not covered by the Central Valley plan.

Governor's Budget. The Governor requests continued FloodSAFE funding of \$14.5 million and an extension of 49 existing limited-term positions for two years to support FloodSAFE California.

- 1) **Flood Emergency Response** – \$500,000 (Proposition 1E) for flood forecasting and reservoir operation improvements, flood emergency response improvement.
- 2) **Flood System Operations and Maintenance** – \$2.5 million (Proposition 1E) for flood operations and maintenance policy development and implementation, flood system repair and rehabilitation.
- 3) **Floodplain Risk Management** – \$792,000 (Proposition 1E) for floodplain evaluation and delineation, alluvial fan technical support, building code updates, floodplain planning.
- 4) **Flood Risk Reduction Projects** – \$9.6 million (Proposition 1E and 13) for feasibility studies, small communities, rural and high risk urban projects, system-wide programs, federal projects and Delta projects.
- 5) **Flood Risk Assessment** – \$290,000 (Proposition 1E) for flood system modeling and flood system engineering.
- 6) **Flood Investment Planning and Conservation** – \$790,000 (Proposition 1E) for flood plan updates and conservation strategies.
- 7) **FloodSAFE Program Management** – \$496,000 (Proposition 1E) for fund accountability and management, state and federal policy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years. This year represents a unique opportunity to discuss the flood management program at the department. After multiple years, the department has completed the major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events.

The Subcommittee may wish to ask the department for updates on the following:

- (1) What is the current status of the Central Valley Flood Plan and what should the Legislature expect in the coming years from the department?
- (2) How much funding remains to be spent from the flood bonds and how will the department prioritize these expenditures?
- (3) Is it likely that this plan will be impacted by the Delta planning and conveyance and, if so, how will these changes be incorporated into the plan?
- (4) How will the department incorporate the plan into its budget proposals, and how should the Legislature judge its progress in meeting the plan's goals.

Recommendation. Approve as budgeted.

Vote:

5. Central Valley Flood Protection Board CEQA Compliance Reimbursable Authority

Background. Formerly the State Reclamation Board, the Central Valley Flood Protection Board in 2007 was designated as the lead public safety regulatory authority for flood protection in California's Central Valley. Legislation expanded the Board's responsibility to inform local governments of potential flood threat before development.

Governor's Budget. The Governor requests \$8 million (reimbursement authority) to receive fees paid in advance to prepare environmental impact documents in compliance with the California Environmental Quality Act (CEQA). These reimbursements would be collected in advance from project sponsors including economically disadvantaged communities and small business.

Staff Comments. The proposal in question has merit and is intended to assist disadvantaged communities. According to the board, the cost savings would be significant, as an environmental consultant's hourly wage ranges from \$150 to \$300 per hour. Under standard business practice the project proponent would be paying not only the consultant's hourly wage, but also would incur the cost for the billable hours of the supervising consultant's hourly wage. As a result, a billable hour could total up to \$450 per hour.

This proposal allows the Board to receive funds and complete environmental documents as a CEQA lead agency on behalf of a disadvantaged community project proponent. The disadvantaged community project proponent would avoid paying additional costs for an environmental consultant to locate, negotiate, develop, and contract with another public agency to act on their behalf as a CEQA lead agency.

Recommendation: Approve.

Vote:

6. OCAP (Operations Criteria and Plan) Biological Opinions Habitat Restoration Implementation

Background. The Governor’s budget requests 10 new full-time and permanent positions in the Division of Environmental Service to implement habitat restoration required by state and federal agencies biological opinions, also called the “BiOps.” These requirements identify habitat restoration, as well as other actions, to address impacts on salmon, steelhead, green sturgeon, delta smelt, and longfin smelt impacted by the operations of the State Water Project Delta Pumping Facilities.

Previous Subcommittee Actions. The Legislature approved 12 new full-time positions for implementation of the biological opinions in the previous year’s budget. These positions were intended for similar activities as those proposed in this year’s budget request. According to the department, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff Comments. Staff recommends holding this item open in order for the department to continue working with the Legislative Analyst’s Office and budget staff. It is unclear what the final workload associated with the BiOps will be or if the state needs to add permanent staff to the department rather than either extend limited-term positions or pursue outside contracting. A longer term project work plan that references other habitat and mitigation work in the Delta would assist staff in determining if these positions are justified on a permanent basis.

Recommendation: Hold Open.

Vote:

7. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The Governor's budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2012. The Governor's January budget proposal requests that those 15 positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2011-12 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Previous LAO Recommendation. Last year the LAO recommended against making positions permanent for the DHCCP (a request for 15 positions to be converted). This was because the Legislature did not have the Delta Plan, and could therefore not evaluate the merits of the proposal against the Plan.

Staff Comments. Staff concurs with the previous LAO recommendation. While it is clear that the department is moving forward with DHCCP, the Legislature does not have the final Delta Plan and therefore cannot evaluate the proposed permanent positions effectively. In addition, there may be merit to considering an outside contract for portions of the conveyance project similar to other water utility projects statewide.

According to the administration, the final Delta Plan will be completed in 2013. When this plan is available to the Legislature in its final form, the Legislature would be in a better position to evaluate adding significant new permanent positions to the department.

Recommendation: Extend limited-term positions by one year. Reject permanent positions.

Vote:

8. Sustainability of the California State Water Project.

Background. The Governor's January budget proposes a total of 35 new positions funded by State Water Project (SWP) funds for the support of the SWP. These positions are required for sustainability, compliance, and safety. Thirty-three of the positions will work directly on sustaining the State Water Project which includes basic operations and maintenance work. Two positions are requested to provide the resources needed to carry out studies, negotiations, and other activities associated with the preparation and filing of an application for a new license from the Federal Energy Regulatory Commission for hydropower generation along the east and west branches of the California Aqueduct in Southern California.

Last year, the Legislature approved 90 positions but rejected 33 positions proposed for future years in order to provide continuing legislative oversight of the department's activities.

Staff Comments. Staff generally concurs with the need for the new positions. The State Water Project is an aging facility requiring continued and ongoing maintenance to maintain the level of service that it was intended to provide. However, staff have concerns with the unintended consequences of adding positions for the FERC relicensing. In past years, when the department negotiated FERC relicensing at its facilities, it was unclear if the department took into consideration that it might be obligating other state funds, including the General Fund, to pay for projects related to the FERC relicensing. This discussion is taking place as it relates to Davis-Dolwig, a later agenda item.

Recommendation: Approve 33 positions. Hold open 2 FERC positions as Davis-Dolwig discussions continue (a later agenda item).

Vote:

9. Salton Sea Program Habitat Restoration: Species Conservation Habitat Implementation.

Proposal. The Governor requests \$9 million (reimbursement authority) over three years for a continuation of the previously approved Salton Sea Restoration Program. This project is being produced in coordination with the Department of Fish and Game.

Background. The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as “no-regrets” projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. However, according to the LAO in 2011, it is unclear what the need is for immediate action on these projects. The majority of benefits of any restoration plan are likely to be realized only after the completion of the restoration many years from now, and as such, a temporary delay is unlikely to have significant negative consequences on fish and bird species.

Previous Actions. Last year, the Subcommittee rejected the Governor’s proposal for Salton Sea Restoration funding under the Department of Fish and Game. According to the LAO, the Legislature has yet to formally adopt a restoration plan for the Salton Sea that clearly lays out the state’s obligations and funding plan for the Sea. Ultimately, however, the Legislature approved a request for \$4.2 million reimbursement authority for the Salton Sea Restoration Program.

Staff Comments. With limited funding for the Salton Sea restoration and questions remaining to be answered on the long-term plan for restoration of the sea, staff recommends holding this item open to continue dialogue with the administration on its long-term plan for the Salton Sea restoration efforts.

Recommendation: Hold Open.

Vote:

10. Davis-Dolwig Act (Funding Recreation at the State Water Project)

Background. In The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that SWP facilities be constructed “in a manner consistent with the full utilization of their potential for the enhancement fish and wildlife and to meet recreational needs.” The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the administration of the Act by the department, and the role of the Legislature in ensuring oversight and accountability of state general purpose funding. For a background on the act, see the LAO report “Funding Recreation at the State Water Project.”

Staff Comments. As part of the final budget action in 2011, the Legislature directed the administration to work with the LAO, the Legislature, and a third-party to develop solutions to ongoing funding and policy decisions related to the state’s recreation enhancements at the State Water Project. The administration, including the Office of the Resources Secretary, Department of Finance, and Department of Water Resources, along with the LAO, legislative staff, and the State Water Contractors have spent a considerable amount of time in the past six months negotiating a solution to the funding problems as well as considering long-term policy solutions to the state’s obligations to recreation along the project.

At this time, the working group convened by the Secretary’s office is close to a final package that addresses most of the concerns raised by both LAO and the administration. While this plan is not final at this time, it is anticipated that in the next months, trailer bill language will be prepared to bring this issue to a close for the next few years.

Recommendation: Information Item.

Vote: