

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

Agenda

**Senator Jim Beall, Chair
Senator Jim Nielsen
Senator Hannah-Beth Jackson**



**Thursday, March 21, 2013
9:30 a.m. or Upon Adjournment of Session
Hearing Room 2040**

Consultant: Catherine Freeman

OUTCOMES

Items Proposed for Vote-Only

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Resources—Environmental Protection—Energy—Transportation

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DEPARTMENTS PROPOSED FOR VOTE ONLY**3560 State Lands Commission**

- 1. Oil and Gas Review and Oversight.** Request for three permanent positions to review and monitor state oil and gas lease activities to ensure compliance with lease terms. Funding will be dedicated from existing reimbursement agreements. This proposal is consistent with legislative direction to increase oversight of oil and gas leases.
- 2. Selby Slag Site Remediation.** Request for \$396,000 (one-time, General Fund) to pay the proportional share of hazardous waste remediation costs at Selby, California. This funding is pursuant to a 1989 Consent Judgment requiring the State Lands Commission to pay 38 percent of costs for the site remediation.

7300 Agriculture Labor Relations Board

- 3. Funding for the Administration of the Board.** Request to appropriate \$502,000 (Labor and Workforce Development Fund) and four new positions to meet administrative requirements. This proposal will allow the board to fund location-specific personnel and travel as required by diverse California agriculture labor needs.

8570 Department of Food and Agriculture

- 4. California Special Interest License Plate – “CalAgPlate.”** Request for \$477,000 (Specialized License Plate Fund) to award grants to agricultural education organizations with funds already received from the sales and renewals of the legislatively and Department of Motor Vehicles authorized specialized agriculture license plate.

Recommendation: APPROVE Items 1-4

Vote:

Items 2, 4 Approve (2-0)

Items 1,3 Hold Open

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's Budget includes \$366.3 million and 2,527 positions for DFW. Decreases in federal and other special funds are the results of a concerted effort to realign reimbursements and annual funding with historical expenditures and current revenues. Reductions in bond expenditures are the result of the near-depletion of available bond funds.

Items Proposed for Vote-Only

- 1. Proposition 99 Cleanup Language.** Per recommendation by the Bureau of State Audits, revise PRC 712.5 to eliminate outdated statute that was revised by subsequent statute in 2005. This allows funding from the Environmental License Plate Fund to be used for Fish and Wildlife activities as required by Proposition 99.
- 2. Interoperable Narrowband Radio and Infrastructure Modernization Project—Year Three.** In continuance of a proposal (\$1.5 million, Environmental License Plate Fund) approved in this subcommittee, this is the third year of a multi-year proposal to fund the timely implementation of a modernization of radio operations to improve the ability of wardens to communication within DFW and to its sister law enforcement agencies at the local, state and federal level.
- 3. Technical Funding Shift Adjustment to the Fisheries Restoration Grant Program.** Request to shift ongoing Federal reimbursement authority (\$20 million) from state operations to local assistance for grant funds awarded to nonprofit organizations, government agencies, and Indian tribes under the Fisheries Restoration Grant Program. This is a technical shift to properly characterize grant expenditures.
- 4. Dreissenid Mussel Prevention.** Request for \$126,000 and one position (Harbors and Watercraft Revolving Fund) to implement Chapter 485, Statutes of 2012 (AB 2443, Williams) that requires DFW to increase Quagga and Zebra (Dreissenid) mussel prevention efforts and control activities. The LAO recommends this be reduced to \$75,000 given that the statute allows for a half-year program in the budget year.

Recommendation: APPROVE Items 1-3. Item 4, APPROVE \$75,000 per LAO.

Vote: Items 1-3 Approve (2-0)

Item 4 Hold Open

*Items Proposed for Discussion***1. Improper Use of Lease Proceeds**

Recommendation: Reduce Funding for Agriculture and Lease Program by \$1,000,000 until the Administration to return with specific proposals for how to rectify this situation. Direct committee staff to work with DFW to provide a proposed statutory amendment to allow lease revenues to be used directly for management of leased lands.

Vote:**HOLD OPEN**

Staff directed to work on trailer bill language as laid out in the Recommendation. The department was requested to return in spring hearings to update the subcommittee on progress with its specific proposals per the staff recommendation.

2. Bay Delta Conservation—Interagency Ecological Program (IEP)

Budget Proposal. The budget proposes \$1.1 million reimbursement authority from the Department of Water Resources (DWR) and 11 positions for monitoring and reporting related to the State and Federal Water Projects Operations Permits as part of the Fish Restoration Program Agreement. Seven of the positions are proposed to be funded with the reimbursement authority as mitigation for the operations of the state and federal water projects. Four positions are to continue the implementation of the Interagency Ecological Program (IEP), using existing resources, as part of the Bay Delta Conservation Plan (BDCP).

Recommendation:

APPROVE \$1.1 million and seven positions.

HOLD OPEN four Interagency Ecological Program positions.

Vote:

(2-0)

APPROVE \$1.1 million and seven positions.

HOLD OPEN four Interagency Ecological Program positions.

3. Salton Sea Restoration

Budget Proposal. The budget requests \$12.1 million from Proposition 84 bond funds for the restoration of 800-1200 acres of habitat at the Salton Sea, which will include monitoring and pilot studies related to the habitat restoration. The DFW also requests reappropriation of funds in order to provide additional funding for the restoration project, which is estimated to cost approximately \$28 million to complete.

Staff Comments. In the 2012, the Legislature rejected a proposal to fund ongoing work at the Salton Sea but approved \$2 million from bond funds to produce a report detailing a cost-implementation plan for Salton Sea restoration efforts. This came after significant discussion of the cost of restoration options, and the state's required obligations per the decade-old Quantification Settlement Agreement. This proposal was vetoed by the Governor.

Questions for the Department. The department should address the following questions in its opening statement:

- What has changed in terms of local support for the state restoration efforts proposed here?
- How will the Resources Agency contain costs in a program that has been estimated to cost anywhere from \$100 million to several billions of dollars?
- What direct mitigation impacts will locals see with this funding and how does this match up with other projects locally funded?

Recommendation: APPROVE

Vote: HOLD OPEN

3680 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. The IOUs manage receipt and delivery of the energy procured by the contracts.

Governor's Budget. The Governor's Budget includes \$3.5 billion (including infrastructure expenditures) and 3,495 positions for support of DWR. The proposed budget represents an overall decrease of \$481 million and an increase of 18 positions from the 2012-13 budget. This decrease is mainly attributed to a decrease in bond funds (\$493 million) and a decrease in the CERS division (\$33 million). Increases are attributed to reimbursement authority, federal and other funds.

Items Proposed for Vote-Only

Item	Issue	Funding
1	Central Valley Flood Protection Board – Legal Counsel. The budget requests to shift legal counsel from Department of Justice to the DWR resulting in a savings of \$25,000 annually.	-\$25,000 (General Fund)
2	Central Valley Flood Protection Board –Technical Implementation Support. Request for \$650,000 ongoing to implement the recently adopted Flood Protection Plan.	\$650,000 (Proposition 1E bond funds)
3	Low Intensity Chemical Dosing. Request for \$550,000 over two years to complete a project designed to improve water quality related to agricultural drainage.	\$550,000 (Proposition 13 bond funds)
4	Multi-Benefit Planning and Feasibility Studies. Request for \$9.6 million over three years to support 13.3 existing positions from Chapter 4 of Proposition 84.	\$9.6 million (Proposition 84 bond funds)
5	Salton Sea Restoration Program—Species Conservation Habitat Program. Proposal for \$2 million in reimbursement authority over two years for baseline staff support activities associated with the Species Conservation Habitat Proposal.	\$2 million (reimbursement authority)
6	Information Technology Consolidation—CERES. Conforming action to previous issue under Secretary for Natural Resources (Agency). This proposal would consolidate IT functions throughout the Agency by transferring the California Environmental Resources Evaluation System from Agency to the department.	No cost
7	Capital Outlay—American River Watershed, Folsom Dam Raise Project. Request to continue the re-evaluation, design and construction phases of the project and provides the state matching funds for this joint state and federal project.	\$3.3 million (Proposition 1E bond funds)
8	Capital Outlay—Feather River Urban Flood Risk Reduction Project. Request for the three-year construction phase of the Sutter Butte Flood Control Agency’s Feather River West Levee Project. The project is designed for 200-year flood protection.	\$77 million (Proposition 1E bond funds)
9	Capital Outlay—Folsom Dam Modifications Project. Request for \$40.9 million to continue construction to increase the level of protection from flooding to Sacramento. This secures \$75 million in federal funds and \$12 million in local funding matches.	\$28.8 million (Proposition 1E bond funds); \$12.2 million (reimbursement authority)
10	Capital Outlay—Lower Cache Creek, Yolo County, Woodland Area Project. Request for the non-federal share of participation with local and federal agencies to evaluate feasible flood protection alternatives for 200-year flood protection.	\$374,000 (Proposition 1E bond funds); \$103,000 (reimbursement authority)

Item	Issue	Funding
11	Capital Outlay—Lower San Joaquin River. Proposal to evaluate feasible flood protection alternatives to provide at least 200-year flood protection including the areas of Stockton, Lathrop and Manteca.	\$572,000 (Proposition 1E bond funds)
12	Capital Outlay—Marysville Ring Levee Reconstruction Project. Request to fund the non-federal share with the US Army Corps of Engineers in the Yuba River Basin. This includes design and construction phases of the project.	\$8.7 million (Proposition 1E bond funds); \$3.7 million (reimbursement authority)
13	Capital Outlay—Sacramento River Flood Control System Evaluation. Request state support costs of the non-federal share of the project. Other local cost-share will be in the form of in-kind work. This proposal will assess protection by non-urban levees and prioritize deficiencies.	\$333,000 (Proposition 1E bond funds)
14	Capital Outlay—Sutter Basin Feasibility Study. Request to evaluate the feasible flood protection in the urban area within the Yuba City Basin in the State Plan of Flood Control.	\$790,000 (Proposition 1E bond funds); \$494,000 (reimbursement authority)
15	Capital Outlay—West Sacramento Project. Request for re-evaluation of alternatives to provide consistent flood protection to the City of West Sacramento. This will secure \$1 million in federal funds and \$500,000 local funds.	\$1.2 million (Proposition 1E bond funds); \$500,000 (reimbursement authority)
16	Capital Outlay—West Stanislaus County, Orestimba Creek Project. Request to fund completion of the feasibility phase of the project to protect the town of Newman, state transportation facilities, local infrastructure and nearby flood land.	\$204,000 (Proposition 84 bond funds)
17	Capital Outlay—Yuba River Basin Project. Request for non-federal share of funding to evaluate flood protection for Marysville, Linda, Olivehurst, and Arboga and the surrounding vicinity.	\$323,000 (Proposition 1E bond funds); \$322,000 (reimbursement authority)
18	Capital Outlay—Salton Sea Species Conservation Habitat Project. Request for construction phase of funding to shallow water, saline habitat per terms of the Quantification Settlement Agreement terms and state mitigation obligations. Conforms to a previous Department of Fish and Wildlife proposal.	\$22.6 million (Proposition 84 bonds funds); \$5.7 million (Proposition 50 bond funds)

Recommendation: APPROVE Items 1-18.

Vote: Items 4, 6-17 Approve (2-0)

Items 1-3, 4, 18 Hold Open

Items Proposed for Discussion**1. FloodSAFE California Program**

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. 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.

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, DWR 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.

Governor's Budget. The Governor requests continued FloodSAFE funding of \$98.1 million as part of the multi-year approach to improving flood control.

Staff Comments. This request represents a continuation of activities funded in prior years. After multiple years, DWR has completed and the Central Valley Flood Protection Board adopted, the Central Valley Flood Protection Plan, a 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 department is prepared to update this Subcommittee on its progress with the FloodSAFE program and how this proposal fits into the long-term flood protection plan statewide.

Questions for the Agency. The department should address these questions in their opening statement:

- What is the status of the implementation of the Central Valley Flood Protection Plan? How does this proposal fit in with the plan? What tangible objectives will be accomplished with this appropriation?
- Please update the Subcommittee on efforts to address flood risk, not only in the Central Valley, but the Statewide Plan of Flood Control (including areas outside the Central Valley)?

Recommendation: APPROVE

Vote: HOLD OPEN

2. San Joaquin River Restoration Program Implementation

San Joaquin River Lawsuit Settlement. Friant Dam is located on the San Joaquin River in Fresno County and is used to store water—primarily for agriculture. In 1988, the Natural Resources Defense Council sued the federal Bureau of Reclamation (the operator of Friant Dam) and the Friant Water Users Association (FUWA), alleging that the operation of Friant Dam violates the state’s Fish and Game Code with respect to historic fish populations in the river. In August 2006, the parties reached a settlement agreement, the goal of which is to “restore and maintain fish populations” in the San Joaquin River below Friant Dam. The settlement specifies actions that will be taken to restore the San Joaquin River over the next 20 years. Under the agreement, the federal government will provide funds to restore the river, while FUWA agreed to actions that will increase flows in the river. While the total cost of the restoration is unknown, early estimates indicate that the total cost could be over \$700 million over the next 20 years. The settlement agreement recognizes that Congressional action is necessary to authorize the federal funding contribution.

Budget Proposal. The budget proposes about \$10 million of Proposition 84 bond funds to the Secretary for Natural Resources for purposes of implementing the lawsuit settlement. (These funds would be used by DWR [\$12.7 million] for carrying out the actual restoration activities.)

Recommendation: HOLD OPEN

Vote: HOLD OPEN

3. Proposition 84 Integrated Regional Water Management (IRWM)

Budget Proposal. The Governor's budget for 2013–14 requests the following for the IRWM program:

- \$472.5 million in Proposition 84 funds for the third round of grant funding, exclusively for implementation grants.
- \$6 million in Proposition 84 funds over four years to fund existing positions to develop specific guidelines, solicit proposals, review technical details of IRWM plans and proposals, and manage award contracts.
- \$1.5 million in Proposition 50 funds over three years to fund existing positions to evaluate project performance and continue oversight of the outstanding awards.

LAO Recommendation. LAO Recommends that the Legislature deny the Governor's proposal to provide \$472.5 million in Proposition 84 funds for additional implementation grants. The requested funding is unnecessary in 2013–14 because DWR does not plan to award any of these implementation grants until 2014–15. However, the LAO recognizes the need to develop guidelines and review applications in the budget year. Therefore, the LAO recommends approving the \$7.5 million requested to support the positions that will manage the program.

Recommendation: APPROVE the LAO Recommendation (Deny \$472.5 million but approve \$7.5 million for support positions to manage the program.)

Vote: APPROVE the LAO Recommendation
(Deny \$472.5 million but approve \$7.5 million for support positions to manage the program.)
(2-0)

4. Lake Perris Dam and Recreation Area

Background. Lake Perris is a reservoir at the southern end of the SWP, which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. In addition, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, DWR identified potential seismic safety risks in a section of the foundation of Perris Dam and subsequently lowered the water level at the lake to ensure public safety. However, DWR indicates that the lake cannot remain at this lower level indefinitely because it is needed as an emergency supply storage facility for the SWP and serves as an important recreation area.

Budget Proposal. The DWR proposes to remediate the dam and return the lake to its historical operating level. The estimated total cost of this project is \$287 million, with the cost being split between the water agencies that contract with DWR to receive water from the SWP (contractors) and the state. The state's share of costs is based on Chapter 867, Statutes of 1961 (AB 261, Davis)—the Davis–Dolwig Act—which states that the contractors should not be charged for the costs incurred to enhance fish and wildlife or provide recreation on the SWP (Davis–Dolwig costs). A recent recalculation of Davis–Dolwig costs by DWR determined the state's share of Lake Perris repair costs would be about one-third of the total estimated cost, which amounts to \$92 million.

The Governor's budget for 2013–14 includes funding to begin the remediation of the Perris Dam as proposed by DWR. Specifically, the budget proposes \$11.3 million from Proposition 84 for DWR to fund 11 existing positions and various costs, such as for final design, real property acquisitions, and environmental fees. The remaining state cost of \$80 million would be partially supported by \$27 million from Proposition 84 upon appropriation by the Legislature.

Recommendation: Staff recommends the Subcommittee approve one of two outcomes:

1. **DENY BUDGET PROPOSAL**, thus agreeing that \$92 million is too much money to spend on essentially the redevelopment of a recreation project in Southern California, and direct the DWR to come up with a proposal that does not include recreation at Lake Perris Dam. This would, in-effect, require the de-watering of the remaining lake levels at Perris and would change the State Park at the site into a non-water based park. DWR would be required to return with a proposal for a non-lake terminus such as water towers requiring less treatment downstream.
2. **APPROVE BUDGET PROPOSAL**, thus agreeing that Lake Perris Dam should be rebuilt as the terminus for the State Water Project, and that 32 percent of its function should be recreation. This continues the status quo operation of the facility including recreation and downstream water treatment costs.

Vote: HOLD OPEN

5. State Water Project (SWP) Hydropower Relicensing and Regulatory Management Consolidation

Budget Proposal. The budget proposes a baseline increase of \$602,000 (SWP funds) and three new permanent positions to establish a core team to secure a new operating license for the South SWP Hydropower Facilities. These positions would join the Hydropower Licensing Planning and Compliance Office and the SWP Power and Risk office. Both of these offices collectively represent the state in negotiation over hydropower relicensing with federal and state agencies.

Staff Comments. In previous year discussions, this Subcommittee has raised concerns about the ability of state agencies to obligate the General Fund to future costs. The Davis-Dolwig Act generally allows for this practice, with the department building and negotiating recreation facilities at SWP locations, then billing the state for the portion it deems appropriate for recreation to the general taxpayer (either through tax dollars or bond funds). Management of a State Park or state-paid boating facility is not considered sufficient for cost-sharing under the Administration's interpretation. Last year a \$10 million per year appropriation was approved from the Harbors and Watercraft Revolving Fund to pay for state obligations for recreation at these water-based facilities. This funding pays the state-share of SWP operations costs throughout the system, not direct recreation benefits, per the Administration's interpretation of the statute.

The question of future obligations of the state for new and future recreation facilities at federally authorized hydropower sites is unanswered. The department is authorized to negotiate on behalf of the state, and to enter into binding agreements with the federal government obligating the state to recreation-related costs that its SWP partners do not need to pay. Rather, the state general taxpayer must pick up these costs. It would seem that the Legislature, whose role is to appropriate funding, should have some say in any obligations the department may wish to put on the General Fund, bond funds, or other taxes of the state.

Recommendation: APPROVE proposal with trailer bill language requiring the department to submit any relicensing proposal to the Legislature for 30-day review prior to final approval in cases where future general taxpayer dollars may be required for appropriation.

Vote: APPROVE RECOMMENDATION (2-0)

6. Fish Passage Improvement Program

Budget Proposal. The budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes \$349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program.

Staff Comments. The Administration's proposal has merit. The FPIP and ERP programs have provided needed fish barrier assessments, design and construction over the past five years. Funding for these projects and positions has been shared between the Department of Fish and Wildlife and the DWR.

Several new projects have been identified that would meet the criteria of the FPIP and ERP programs including those with multiple-benefits (including flood control) in the Central Valley. It would seem a good time to discuss how final dollars from both Propositions 50 and 84 are proposed to be allocated, what reversions are likely to be seen by this subcommittee, and what project applicants should prepare as they seek state funding.

Questions for the Agency. The department should address these questions in their opening statement:

- What are the remaining fund balances for the FPIP and ERP chapters in all bond funds, and what reversions might we expect to see over the next years?
- What should project proponents be prepared for as they seek funding from the state for projects that fit the FPIP and ERP program criteria?

Recommendation: APPROVE

Vote: HOLD OPEN