



Senate Budget and Fiscal Review

Subcommittee No. 2, 2011 Agendas

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California State Senate
SENATE BUDGET & FISCAL REVIEW
SUBCOMMITTEE No. 1

Agenda

March 8, 2004
Upon Adjournment of Session – Room 113

EDUCATION
JACK SCOTT, CHAIR
BOB MARGETT
JOHN VASCONCELLOS

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SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



January 27, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040)

Consultant: Catherine Freeman

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Department Proposed for Discussion—Energy**8660 California Public Utilities Commission**

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the CPUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-4: California Advanced Services Fund Extension/Expansion. The Governor requests an increase of three positions and \$24.8 million from the California Advanced Services Fund (CASF) to extend the existing CASF program of grant awards for broadband deployment projects (previously the CASF program was due to sunset at the end of 2012).

The proposal would (1) establish a new Regional Broadband Consortia Grant Account within CASF to fund efforts to encourage broad band deployment activities throughout the state; and (2) expand the CASF by establishing a new Broadband Infrastructure Revolving Loan Account Program to help program applicants fund capital costs of broad band facilities not funded by federal or state grants.

2. BCP-5: State Broadband and Data and Development Grant Program--American Reinvestment and Recovery Act (ARRA) Grant. The Governor requests an increase of four limited-term positions and \$1.6 million from the Federal Trust Fund pursuant to augmentations of CPUC's ARRA grant for the State Broadband and Development Grant Program. The total augmented grant award is \$5.6 million for a performance period set to end in September 2014.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE:

ITEMS FOR DISCUSSION

3. BCP-1: Diablo Canyon Seismic Study Peer Review Panel. The Governor requests an increase of \$500,000 in reimbursable consultant services, which will be reimbursed by PG&E. This will allow the CPUC to enter into a limited-term contract with a technical consultant to perform analysis of seismic studies at Diablo Canyon Power Plant per recommendations of Chapter 722 of 2006 (AB 1632, Blakeslee). In addition, the commission proposes to coordinate a peer review panel with other state agencies.

LAO Comments:

CPUC Has No Seismic Technical Expertise But Would Like to Review PG&E's Study. CPUC lacks the technical expertise to interpret the study which they have required of PG&E. Nonetheless, they would like to review the study. As such, the CPUC is seeking approval for funds to contract with a third-party consulting firm to review PG&E's study.

Department of Conservation's California Geological Survey (CGS) Is State's Expert In Earthquake Hazards Studies and Has Technical Expertise to Review PG&E Study. Geologists at CGS prepare the definitive maps of faults in California, including the 2010 Fault Activity Map of California and maps of Alquist-Priolo Earthquake Fault Zones, where building is regulated due to the potential for fault rupture of the ground surface. CGS prepares seismic hazard estimates based on CGS fault mapping as well as earthquake history and fault slip rates. The seismic hazard model prepared jointly by CGS, U.S. Geological Survey, and others represents a consensus of scientific opinion on the potential for earthquakes throughout California. CGS uses this seismic hazard model as a basis for comparison for numerous peer reviews of reports by geologists or geophysicists who recommend seismic design parameters for construction projects. In our view, CGS has qualified technical staff necessary to review PG&E's seismic study, based on its extensive technical knowledge and expertise in the area of seismic activity.

LAO Recommendation. We find that the Department of Conservation's CGS has qualified technical experts on staff who are capable of conducting a review of PG&E's study, and we have been advised by CGS that it may be able to conduct the review at a cost significantly less than requested in the budget request. Therefore, we recommend that the Legislature deny the budget proposal as requested, and direct that the administration return with a revised lower-cost proposal that uses the services of CGS.

Staff Comments. Staff concurs with the LAO recommendation regarding the seismic studies. In discussions with the department it is also unclear whether the CPUC intends to fulfill the peer review portion of the budget proposal. The commission states that other state agencies have declined continued participation in the peer review panel proposed by CPUC. This peer review panel seems to be a key element of the seismic analysis.

The committee may wish to ask the commission to:

- (1) Respond to the LAO analysis; and
- (2) Discuss why the peer review panel no longer includes other state agencies, as discussed in the budget proposal.

Staff Recommendation: DENY PROPOSAL. Request the CPUC return with (1) a revised lower-cost proposal that utilizes the services of the California Geological Survey; and (2) includes other state agencies in the peer review panel.

VOTE:

4. BCP-2: Modernization of the Electric Grid (Advance Energy Storage “AES”).

The Governor requests two positions and \$229,000 to develop and implement advanced energy storage (AES) to serve the state’s peak demand more cost-effectively as part of the need to comply with the Federal Government’s Energy Independence and Security Act of 2007 (EISA). Title XIII of EISA requires state’s consideration of new standards and protocols for smart grid technologies including AES technologies. Implementing a Smart Grid system with energy storage will move the electric grid and customer service from a “static” to “dynamic” state to improve the efficiency and reliability of the electric delivery systems. AES technologies will support the modernization of the grid and the integration of renewable energy resources such as wind and solar into a Smart Grid Infrastructure to achieve the 33 percent renewables goal by 2020.

LAO Comments:

AES Legislation Was Enacted in 2010. Subsequent to the Legislature’s evaluation of the CPUC’s 2010-11 budget request related to AES, Chapter 469, Statutes of 2010 (AB 2514, Skinner), was enacted to provide Legislature’s policy direction in the area of AES. Commonly referred to as AB 2514, the legislation authorized the CPUC to determine by October 2013 what (if any) are the appropriate energy storage capacity targets for Investor Owned Utilities (IOUs). IOUs are then required to meet those targets by 2015 and 2020.

Budget Request Fails to Account for Legislative Policy Direction. The budget proposal submitted for legislative review does not include a workload analysis associated with the implementation of AB 2514 and, in fact, is totally silent regarding AB 2514. Instead, the Governor’s budget proposal cites 2007 federal energy legislation as the driving force behind its request to increase staffing capacity for AES-related work, but does not explain how, if at all, this legislation creates additional staffing requirements at CPUC. In fact, CPUC staff have indicated that the state is currently in compliance with the 2007 federal mandate. Having failed to evaluate how recent policy direction has impacted their current workload, the CPUC will still need to provide adequate analysis and justification to merit approval of this request.

LAO Recommendation. Until such time as the administration provides adequate analysis of its AES workload in a manner that clearly lays out work done to date as well as justification of needs going forward, accounting for legislative policy direction in AB 2514, we recommend that the Legislature deny the CPUC’s budget request.

Staff Comments. Staff concurs with the LAO analysis. The subcommittee may wish to ask the commission whether it intends to submit an updated budget proposal reflecting the recent statutory changes.

Staff Recommendation: DENY WITHOUT PREJUDICE—Request the department return in the spring with an updated proposal that reflects recent legislation.

VOTE:

5. BCP-3: Natural Gas Distribution Safety Program. The Governor requests an increase of four positions and \$498,000 (\$249,000 Public Utilities Reimbursement Account and \$249,000 Federal Trust fund) to improve the safety of natural gas distribution systems in California. This request is in response to the September 9, 2010, pipeline failure in San Bruno as well as new regulations enacted by the Federal Department of Transportation, Pipeline, Hazardous Material Safety Administration.

Staff Comments. Staff notes that while the department has begun work on this program per previous budget action (Section 28 notification), questions remain about the appropriate level of funding for this program. The committee may wish to ask the commission what their estimation of the appropriate level of funding is for this program ongoing.

Staff Recommendation: APPROVE

VOTE:

Department Proposed for Discussion—Energy**3360 California Energy Commission (Energy Resources Conservation and Development Commission)**

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes \$386.2 million (no GF) for support of the CEC, a decrease of approximately \$196 million, due primarily to decreases in special funds that have a two-year encumbrance period.

ITEMS PROPOSED FOR VOTE-ONLY

Item 1. BCP-1: Extend Limited-Term SEP-ARRA Positions. The Governor requests an additional ten month extension of nine limited-term positions. Extending the term of these positions will enable the Energy Commission to continue to manage and close out activities implementing the State Energy Program (SEP), funded under the American Recovery and Reinvestment Act of 2009 (ARRA). The positions provide administrative and technical support to implement and administer the SEP portion of ARRA. In order to meet all federal requirements for funding oversight, staff will be needed to monitor activities and close out various programs to provide adequate information to federal oversight agencies.

Staff Recommendation: APPROVE the above request (Item 1).

VOTE:

Item for Discussion

Item 2. Budget Issue: Energy Resources Program Account Surcharge. Under current law, the CEC is authorized to impose and adjust the Energy Resources Program Account (ERPA) surcharge. At the November 8, 2010 business meeting, the commission approved an ERPA surcharge increase which became effective January 1, 2011. The rate was increased from \$0.00022 to \$0.00029, which is expected to generate \$8.4 million in the current year and \$16.9 million in 2011-12.

The ERPA fund supports many of the basic programs of the CEC, including its siting and energy forecasting functions. State law directs electric utilities (both privately and publicly owned) to collect a state energy surcharge from all electric customers. The Board of Equalization collects the surcharge from the utilities.

Staff Comments: During previous year budget hearings, the CEC did not indicate that it would require such a significant change in the ERPA surcharge to maintain its baseline programs. In part because of this, during the 2010-11 session, the Legislature passed SB 675 (vetoed) that would have directed the CEC to dedicate \$8 million annually from its ERPA to fund an estimated 90 new California Partnership Academies. These academies would fund career technical education to deliver skills and knowledge needed for successful employment in clean technology, renewable energy or energy efficiency.

In part, the veto message stated that raising ERPA to fund these programs would cut other core programs at CEC.

The Committee may wish to have the CEC comment upon:

- (1) Prior year estimates that would have alerted budget committees to such a significant need to increase the ERPA surcharge in fall 2010.
- (2) Impacts to ratepayers
- (3) Actions CEC took to reduce expenditures prior to raising the surcharge on ratepayers.

Recommendation: Reduce Budget Item 3360-001-0465 by \$8.4 million. Require the CEC to return in spring hearings with an explanation and discussion of the fund condition of ERPA, programs funded by the surcharge, and impacts of the surcharge increase on ratepayers.

Vote:

Department Proposed for Discussion—Cal-EPA

3900 Air Resources Board

The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate stationary sources of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of mobile sources of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

Governor's Budget. The Governor's Budget includes \$652.6 million (no GF) for support of the ARB in FY 2011-12. This is about a 10 percent increase over current year expenditures due primarily to an increase in Proposition 1B (Transportation Bond) expenditures.

ITEMS FOR DISCUSSION

1. BCP-1: Continuing Program Implementation for the California Ports Infrastructure Security, and Air Quality Improvement Account, Highway, Traffic Reduction, Air Quality and Port Security Fund of 2006 (Proposition 1B).

Background. Proposition 1B of 2006 includes \$1 billion, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions for activities related to the movement of freight along California's trade corridors.

In 2008, the Air Board adopted Program guidelines and awarded the first year grant funds (approximately \$250 million) to local agencies. Due to the bond freeze of 2009, among other factors, the board's allocation of funds slowed, resulting in the request for reversion and reappropriations.

Liquidation of expenditures for bond expenditures generally is set at up to three years. This allows the Legislature the opportunity to review and provide oversight for extensions of liquidation beyond this time in the budget process, and to adjust programs should departments not meet the Legislature's expectations for disbursement of funds.

2011-12 Governor's Budget . The Governor's budget requests (1) technical adjustments for reappropriations and reversions for Proposition 1B Goods Movement Emission Reduction Program, and (2) Trailer Bill Language to allow a timeframe to encumber Proposition 1B funds through June 30, 2013, and to allow liquidation of encumbrances until June 30, 2019 (up to 6 years).

Staff Comments. The board's request for reversion and reappropriation will allow the board to continue to administer the bond funds from the 2006 bond sale. However, the justification for an extended timeframe for liquidation of funds beyond established norms may reduce the Legislature's oversight of the bond funds and the program through which the funds are administered. The bond gives the Legislature the authority to set criteria and parameters for appropriation of these funds, including measures to allow for legislative oversight.

STAFF RECOMMENDATION: APPROVE (1) reappropriations and reversions, and (2) extended encumbrance period through June 30, 2013. **Deny proposal to extend the liquidation of funds beyond three-years of encumbrance.**

2. Administration's Renewable Portfolio Standard (RPS) Act ivity Continues to Circumvent Legislative Authority.

Background (LAO Recommendation). Current law requires the California Public Utilities Commission (CPUC) to enforce compliance by the private utilities (commonly referred to as investor-owned utilities, or IOUs) with 20 percent RPS. The CPUC is prohibited from ordering an IOU to procure more than 20 percent of its retail sales of electricity from eligible renewable energy resources.

Recent laws have attempted to increase the RPS to 33 percent, with corresponding increases for publicly-owned utilities (POUs). The legislation would have set a framework for regulation as well as legislative intent for implementation of these standards. This legislation was vetoed by the Governor.

Executive Orders. In November 2008, the Governor issued an executive order calling for all electricity providers to obtain 33 percent of their electricity from renewable sources by 2020. Legislative Counsel has advised the legislature that, in general, *the Governor may not issue an executive order that has the effect of enacting, enlarging, or limiting legislation.*

Administration Continues Work on 33 Percent RPS. The Air Board has stated that it continues to spend funds to develop a 33 percent RPS despite the lack of statutory guidance. This continues despite work by the Legislature (SB 23, Simitian), to define in statute the parameters for a 33 percent RPS.

Staff Comments: This subcommittee heard the same issue last year and acted to reduce various state agency budgets, and directed the administration to cease spending funds for the purpose of developing a renewable energy standard or similar requirement absent the enactment of legislation that authorizes such activities.

Staff Recommendation: Recommend REDUCE the ARB Budget Item 3900-001-0115 by \$2 million specifically for activities related to the 33-percent Renewable Portfolio Standard and/or Renewable Energy Standard rulemakings and proceedings. Require the department to return in spring with a plan to work with the Legislature to develop appropriate legislation guiding the development of a renewable energy standard.

Vote:

Department Proposed for Discussion—Cal-EPA**3930 Department of Pesticide Regulation**

The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department: (1) evaluates the public health and environmental impact of pesticides 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 \$82.1 million (no GF) for support of the DPR, an increase of approximately \$6.6 million, or 8 percent, over current year expenditures. This increase is almost entirely in special funds.

1. BCP-1: Enhancement of the California Department of Food and Agriculture Analytical Chemistry Services. The department requests \$2.6 million from the DPR Fund to enhance the California Department of Food and Agriculture's (CDFA) pesticide analysis capabilities. Of this amount, \$603,000 is one-time and \$1.9 million is ongoing.

The department utilizes the laboratory to conduct chemical analysis of pesticide residues on produce and in the environment (such as indoor or outdoor locations, in fields). The results of these analyses serve not only as the basis for registration and enforcement actions, but for the development of mitigation actions for pesticide use.

Staff Comments. The subcommittee may wish to ask the department whether it looked at alternative options for state laboratories or other state agencies rather than continued reliance on the CDFA laboratory.

Staff Recommendation: APPROVE the request.

VOTE:

Department Proposed for Discussion—Cal-EPA**3940 State Water Resources Control Board**

The State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (Regional Boards or Water Boards) preserve and enhance the quality of California's water resources and ensure proper allocation and effective use. These objectives are achieved through the Water Quality and Water Rights programs.

Governor's Budget. The Governor's Budget includes \$793.8 million (including \$29.6 million GF) for support of the State Water Board in FY 2011-12. This is a 16.3 percent decrease under current year expenditures due primarily to a proposed one-time augmentation in the current year of \$158 million from the Underground Storage Tank Cleanup Fund (see more detail below). The \$29.6 million in proposed GF reflects a decrease of approximately \$11.2 million in expenditures that are mainly the net result of the Governor's requests to shift various GF expenses to fee-supported special funds.

Items Proposed for Vote-Only (Part 1)

1. BCP-3: Department of Defense— Edwards Air Force Base. The Governor requests a one year extension of federal authority in the amount of \$327,000 (Federal Funds) and 2.1 limited-term positions (2.0 PYs) originally authorized in FY 2009-10 for regulatory oversight of the expedited cleanup at Edwards Air Force Base. The Air Force has committed sufficient funds for regulatory oversight as well as environmental restoration at the base which corresponds to workload (reimbursable) by the regional water board staff for review and site inspection.

2. BCP-4: Continuing Program Implementation for Propositions 13, 50 and 84.

The Governor requests various technical adjustments for local assistance appropriations and re-appropriations for Propositions 13, 50 and 84.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE:

ITEMS PROPOSED FOR VOTE-ONLY (Part 2)**Proposals to Shift GF Expenditures to Fee-Supported Special Funds (Items 3-5):**

According to the Administration, the following three items are proposals to help address the state's fiscal crisis by reducing GF expenditures for activities that based on the "polluter pays" principle, arguably should be supported by fees.

3. BCP-1: National Pollutant Discharge Elimination System (NPDES) Wastewater Program Fund Shift.

Background. In FY 2006-07 the State Water Board redirected \$4 million in NPDES federal funds to a different program and fee payers prevailed upon the Legislature and Governor to offset their fee burden by partially backfilling the \$4 million with \$1.4 million in GF. This proposal would remove the GF and increase fees to replace it.

The NPDES program is authorized by the Clean Water Act and administered by the Water Boards under an agreement with the United States Environmental Protection Agency that requires the Water Boards to help protect water quality by reviewing and renewing discharge permits, monitoring discharge reports, and issuing enforcement actions on permit violations.

2011-12 Governor's Budget. The Governor proposes to remove \$1.4 million GF from the NPDES program and replace it with an equal amount from the fee-supported Waste Discharge Permit Fund (WDPF) so that the program would be entirely funded by the WDPF.

4. BCP-2: Irrigated Land Regulatory Program (ILRP) Fund Shift.

Background. When the ILRP fee schedule adopted by the State Water Board in June 2005, failed to raise the anticipated level of revenue, the Legislature allocated \$1.8 million GF in FY 2006-07 to make up the difference. This proposal would remove the GF and increase fees to replace it.

The ILRP regulates discharges from irrigated agricultural lands in order to prevent impairment of the waters that receive the discharges. For example, discharges can affect water quality by transporting pollutants including pesticides, sediment, nutrients, salts (including selenium and boron), pathogens, and heavy metals from cultivated fields into surface waters. Regional Water Boards issue conditional waivers of waste discharge requirements to growers that contain conditions requiring water quality monitoring of receiving waters and corrective actions when impairments are found.

2011-12 Governor's Budget. The Governor proposes to remove \$1.8 million GF from the ILRP and replace it with an equal amount from the fee-supported Waste Discharge Permit Fund (WDPF) so that the program would be entirely funded by the WDPF.

5. BCP-4: Water Rights Program (WRP) Fund Shift.

Background. The Court of Appeal previously found against the state for funding certain WRP workload from a fee-supported special fund—the Water Right Fund (WRF). Those activities are currently supported by the GF. The Governor is proposing to shift the bulk of these expenditures back to the WRF.

From its inception in 1914 until FY 2003-04, the WRP was primarily supported by the GF (90 to 95 percent). However, due to an earlier fiscal crisis, program funding was cut and eventually shifted entirely onto a fee-supported special fund—the Water Rights Fund (WRF). Subsequently, fee payers challenged the statutes authorizing the WRF and the fees that are deposited into it. While a superior court upheld the fee statutes and associated regulations in their entirety, the Court of Appeal found that in some specific instances (about 30 percent of activities associated with pre-1914 and riparian rights), the benefits accruing to the fee payers were not sufficiently proportional to the size of the fee, and the related regulations were overturned. An appeal of this decision is currently pending with the Supreme Court, which has not yet scheduled oral arguments.

2011-12 Governor’s Budget. The Governor proposes to remove \$3.2 million GF from the WRF and replace it with an equal amount from the fee-supported WRF.

Staff Comments (Items 3-5). The Legislative Analyst’s Office has consistently recommended funding these core regulatory programs including water quality permitting activities (pollution discharge permitting program), the agricultural waiver program, and water rights activities with fees based on the polluter pays funding principle. Shifting the funding of the balance of these core regulatory activities from the General Fund to fees would save the General Fund \$6.4 million in the budget year.

Staff concurs with the LAO analysis of this issue.

Staff Recommendation: APPROVE Items 3-5.

VOTE:

ITEMS FOR DISCUSSION**6. BCP-2: One-Time Augmentation for Underground Storage Tank Cleanup Fund (USTCF).**

Background. Chapter 649, Statutes of 2009 (Ruskin, AB 1188) temporarily increased storage fees (until January 1, 2013) for each gallon of petroleum placed in an underground storage tank. The Governor requests a one-time augmentation from the fund to spend a portion of these new revenues.

The USTCF is in essence an insurance program supported by petroleum underground storage tank owners who pay a fee for coverage should they have a leak from their underground storage tank. The USTCF provides up to \$1.5 million in reimbursement per occurrence to petroleum underground storage tank owners and operators. AB 1188 was passed in order to address a cash shortfall in the fund.

2011-12 Governor's Budget. The Governor requests a one-time augmentation of \$90 million in state operations, \$13.2 million in local assistance authority from the School District Account and \$15.8 million from the Orphan Site Cleanup Fund.

Staff Comments. Consistent with the requirements of AB 1188, a performance audit of the USTCF was recently released (February 2010) that found, among other things, that the program was premised on reimbursing participants as quickly as possible and, in so doing, lacks sound financial management practices and does not utilize effective cost containment measures. For example, the audit found that the USTCF does not require all claimants expecting reimbursements to provide project plans or cost estimates up front for review and approval prior to cleanup work beginning. The audit linked these inadequacies to the USTCF's 2008 financial crisis as average project costs skyrocketed—rising, over the last four years, from \$131,000 to \$250,000 (for closed projects) and approaching \$400,000 for existing projects.

The department was directed in 2010 to prepare an action plan for the program addressing audit concerns. This issue is sufficiently complex that the subcommittee may wish to hear a full update along with reporting in a follow-up hearing so that it can determine adequate levels of funding for the program (and set an adequate multi-year plan for appropriation).

Staff Recommendation: DENY WITHOUT PREJUDICE. Direct the department to return in the spring with an update on the USTCF program and progress made after the recent audit.

Vote:

7. BCP-7: Augment Basin Planning and Water Quality Standards Program.

Background. The Basin Planning program sets the minimum water quality level that must be achieved in the waters of the state for the protection of beneficial uses. Federal regulations require a triennial review and update of each basin plan; however, according to the State Water Board, a lack of staffing has kept it from fully complying with this requirement. As a result, the State Water Board indicates it has experienced difficulty moving forward with regulatory decisions and is at an increased risk for litigation. The requested augmentation would address this deficiency.

The preparation, adoption, and regular updating of Regional Water Boards' basin plans provides the foundation for all the Water Boards' regulatory action and is required by state law as well as the federal Clean Water Act. Basin plans designate beneficial uses, establish water quality objectives, and specify a program of implementation needed for achieving these objectives for both surface and groundwater.

2011-12 Governor's Budget. The Governor requests to shift \$6.1 million and 37 positions supported by the General Fund (GF) with the same amount in the Waste Discharge Permit Fund (WDPF) resources. Additionally, \$746,000 and 8.5 personnel-years supported by Reimbursements will be replaced with WDPF. The proposal requires TBL to add Total Maximum Daily Load development, basin planning, and other water quality management activities to the list of activities for which fees can be assessed.

LAO Recommendation: In May 2010, LAO recommended adoption of the Governor's May Revision proposal to shift \$6.1 million of funding for basin planning from the General Fund to the Waste Discharge Permit Fund (a special fund), including a related statutory change to allow this. This proposal is consistent with the longstanding LAO recommendation to shift funding for regulatory-related activities at the water boards to fees where appropriate.

Staff Comments. Given the complexity of water board permits, sometimes at the request of the permittee for the greatest flexibility to discharge to state waters, the water board must have a clear understanding of the watershed in which the permit resides. This proposal will allow the state and regional boards to continue to meet federal Clean Water Act and state water quality objectives through a deliberative planning process. Staff notes that this proposal is consistent with Legislation actions in other Cal-EPA agencies such as the Air Resources Board's Stationary Source Program wherein activities that support the development of regulations and permit requirements are subject to regulatory fees to recoup the cost of the development of the standards.

Staff Recommendation: APPROVE

VOTE:

Department Proposed for Discussion—Cal-EPA**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 GF.

Governor's Budget. The Governor's Budget includes \$194.3 million (including \$21.9 million GF) for support of the DTSC, a decrease of \$14.5 million, or 7.5 percent, under current year expenditures. This decrease is primarily in special funds (and there is no increase proposed in GF).

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-2: State Certified Unified Program Agency (CUPA) Reimbursements. The Governor requests reimbursement authority in order to expend funds available to the CUPAs from other state agencies and through reimbursement agreements with business in Imperial and Trinity Counties. Reimbursement agreements would continue to be reviewed as part of the budget process.

Staff Comments. The proposal would streamline administrative processes while allowing for legislative and administrative oversight of the CUPAs. Staff has no concerns with the reimbursement request.

2. COBCP-1: Stringfellow New Pre-Treatment Plant. The Governor requests \$1.6 million GF to fund the working drawing activities for the construction of a new pre-treatment plant to treat contaminated groundwater from the Stringfellow site.

Staff Comments. The proposal is consistent with the long-term plan for remediation and treatment of contaminated groundwater at the Stringfellow site. Staff has no concerns with the reimbursement request.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE:

ITEMS PROPOSED FOR DISCUSSION

3. BCP-1: Land Transfer of Santa Susana Laboratory to the State. The Governor requests to convert three limited-term positions to permanent reimbursable positions to support investigation, feasibility study, and cleanup phases of the Santa Susana Field Laboratory project, scheduled for completion in 2017, after which the proposal states that the land is expected to be transferred to the state. The positions will be dedicated to oversight work.

Santa Susana is the site of widespread chemical and radioactive contamination that poses a serious public health hazard. The Boeing Company, the National Aeronautics and Space Administration, and the US Department of Energy are the responsible parties. The department's role is as an oversight agency.

Staff Comments. The proposal is consistent with DTSC's role as an oversight agency. The department has stated that the positions do not commit the state to accept the land transfer upon completion of the investigation, feasibility review, and cleanup phases. Staff has no concerns with the position request to support investigation, feasibility study, and cleanup phases at the site.

However, staff has concerns with language in the proposal that references a land transfer to the state. In past years, when land of this nature has been transferred to the state, the state has taken on long-term remediation activities that were unanticipated at the time of transfer. According to the department, remediation of groundwater at this site will take on the order of 50,000 years. The department has assured staff that the intent of the proposal is not to undertake a land transfer to the state.

The committee may wish to seek clarification from the department to ensure they do not intend to transfer land to the state under this proposal. To further guarantee that the land transfer is not part of the proposal, the subcommittee may wish to consider the following budget bill language:

Item 3960-001-0014. No positions approved under this item shall be used to investigate or work on a transfer of land between the responsible parties at Santa Susana Field Laboratory and the State of California.

Staff Recommendation. APPROVE with Budget Bill Language.

Department Proposed for Discussion—Cal-EPA**3980 Office of Environmental Health Hazard Assessment (OEHHA)**

The Office of Environmental Health Hazard Assessment (OEHHA) was created in 1991 as part of the California Environmental Protection Agency to evaluate the health risks of chemicals in the environment. The office (1) develops and recommends health-based standards for chemicals in the environment, (2) develops policies and guidelines for conducting risk assessments, and (3) provides technical support for environmental regulatory agencies.

The budget proposes total expenditures of \$19.9 million (\$3.4 million, General Fund), an increase of \$1.7 million (eight percent) above the current-year budget.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-1: Proposition 65 Fund Shift to Support Existing Proposition 65 Implementation and Oversight Activities**

Background. Proposition 65, the Safe Drinking Water and Enforcement Act, was enacted as a ballot initiative in November 1986 with the goal of protecting state residents and drinking water sources from chemicals known to cause cancer, birth defects, or other reproductive harm. Proposition 65 program requirements include (among others), listing of chemicals known to cause cancer, birth defects, or other reproductive harm. The list is updated annually by OEHHA.

From the time of approval by the voters in 1986 until 2009, the state's Proposition 65 program was funded primarily by the GF. However, the Budget Act of 2009 shifted \$2.3 million from the GF to the Safe Drinking Water and Toxic Enforcement Fund (SDWTEF) which derives its revenues from Proposition 65 penalties paid by businesses in enforcement cases. The special fund was never intended to provide long-term funding for the program since penalties are insufficient to fund the program and revenues to the fund are unpredictable.

2011-12 Governor's Budget. The Governor requests a fund shift of \$1.1 million from the Safe Drinking Water and Toxic Enforcement Fund (SDWTEF) to the General Fund in 2011-12 and \$2.3 million ongoing in future years.

Staff Comments. For the most part, following a required report to the Legislature in 2005 on long-term baseline funding requirements of the Office, along with recommendations on the appropriate mix of GF and special funds to support OEHHA activities—OEHHA has moved to diversify its funding mix.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



January 27, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040) Outcomes

Consultant: Catherine Freeman

Discussion Items

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Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Department Proposed for Discussion—Energy

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the CPUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-4: California Advanced Services Fund Extension/Expansion. The Governor requests an increase of three positions and \$24.8 million from the California Advanced Services Fund (CASF) to extend the existing CASF program of grant awards for broadband deployment projects (previously the CASF program was due to sunset at the end of 2012).

The proposal would (1) establish a new Regional Broadband Consortia Grant Account within CASF to fund efforts to encourage broad band deployment activities throughout the state; and (2) expand the CASF by establishing a new Broadband Infrastructure Revolving Loan Account Program to help program applicants fund capital costs of broad band facilities not funded by federal or state grants.

2. BCP-5: State Broadband and Data and Development Grant Program--American Reinvestment and Recovery Act (ARRA) Grant. The Governor requests an increase of four limited-term positions and \$1.6 million from the Federal Trust Fund pursuant to augmentations of CPUC's ARRA grant for the State Broadband and Development Grant Program. The total augmented grant award is \$5.6 million for a performance period set to end in September 2014.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE: 2-0 STAFF RECOMMENDATION

ITEMS FOR DISCUSSION

3. BCP-1: Diablo Canyon Seismic Study Peer Review Panel. The Governor requests an increase of \$500,000 in reimbursable consultant services, which will be reimbursed by PG&E. This will allow the CPUC to enter into a limited-term contract with a technical consultant to perform analysis of seismic studies at Diablo Canyon Power Plant per recommendations of Chapter 722 of 2006 (AB 1632, Blakeslee). In addition, the commission proposes to coordinate a peer review panel with other state agencies.

LAO Comments:

CPUC Has No Seismic Technical Expertise But Would Like to Review PG&E's Study. CPUC lacks the technical expertise to interpret the study which they have required of PG&E. Nonetheless, they would like to review the study. As such, the CPUC is seeking approval for funds to contract with a third-party consulting firm to review PG&E's study.

Department of Conservation's California Geological Survey (CGS) Is State's Expert In Earthquake Hazards Studies and Has Technical Expertise to Review PG&E Study. Geologists at CGS prepare the definitive maps of faults in California, including the 2010 Fault Activity Map of California and maps of Alquist-Priolo Earthquake Fault Zones, where building is regulated due to the potential for fault rupture of the ground surface. CGS prepares seismic hazard estimates based on CGS fault mapping as well as earthquake history and fault slip rates. The seismic hazard model prepared jointly by CGS, U.S. Geological Survey, and others represents a consensus of scientific opinion on the potential for earthquakes throughout California. CGS uses this seismic hazard model as a basis for comparison for numerous peer reviews of reports by geologists or geophysicists who recommend seismic design parameters for construction projects. In our view, CGS has qualified technical staff necessary to review PG&E's seismic study, based on its extensive technical knowledge and expertise in the area of seismic activity.

LAO Recommendation. We find that the Department of Conservation's CGS has qualified technical experts on staff who are capable of conducting a review of PG&E's study, and we have been advised by CGS that it may be able to conduct the review at a cost significantly less than requested in the budget request. Therefore, we recommend that the Legislature deny the budget proposal as requested, and direct that the administration return with a revised lower-cost proposal that uses the services of CGS.

Staff Comments. Staff concurs with the LAO recommendation regarding the seismic studies. In discussions with the department it is also unclear whether the CPUC intends to fulfill the peer review portion of the budget proposal. The commission states that other state agencies have declined continued participation in the peer review panel proposed by CPUC. This peer review panel seems to be a key element of the seismic analysis.

The committee may wish to ask the commission to:

- (1) Respond to the LAO analysis; and
- (2) Discuss why the peer review panel no longer includes other state agencies, as discussed in the budget proposal.

Staff Recommendation: DENY PROPOSAL. Request the CPUC return with (1) a revised lower-cost proposal that utilizes the services of the California Geological Survey; and (2) includes other state agencies in the peer review panel.

VOTE: 3-0 STAFF RECOMMENDATION

4. BCP-2: Modernization of the Electric Grid (Advance Energy Storage “AES”).

The Governor requests two positions and \$229,000 to develop and implement advanced energy storage (AES) to serve the state’s peak demand more cost-effectively as part of the need to comply with the Federal Government’s Energy Independence and Security Act of 2007 (EISA). Title XIII of EISA requires state’s consideration of new standards and protocols for smart grid technologies including AES technologies. Implementing a Smart Grid system with energy storage will move the electric grid and customer service from a “static” to “dynamic” state to improve the efficiency and reliability of the electric delivery systems. AES technologies will support the modernization of the grid and the integration of renewable energy resources such as wind and solar into a Smart Grid Infrastructure to achieve the 33 percent renewables goal by 2020.

LAO Comments:

AES Legislation Was Enacted in 2010. Subsequent to the Legislature’s evaluation of the CPUC’s 2010-11 budget request related to AES, Chapter 469, Statutes of 2010 (AB 2514, Skinner), was enacted to provide Legislature’s policy direction in the area of AES. Commonly referred to as AB 2514, the legislation authorized the CPUC to determine by October 2013 what (if any) are the appropriate energy storage capacity targets for Investor Owned Utilities (IOUs). IOUs are then required to meet those targets by 2015 and 2020.

Budget Request Fails to Account for Legislative Policy Direction. The budget proposal submitted for legislative review does not include a workload analysis associated with the implementation of AB 2514 and, in fact, is totally silent regarding AB 2514. Instead, the Governor’s budget proposal cites 2007 federal energy legislation as the driving force behind its request to increase staffing capacity for AES-related work, but does not explain how, if at all, this legislation creates additional staffing requirements at CPUC. In fact, CPUC staff have indicated that the state is currently in compliance with the 2007 federal mandate. Having failed to evaluate how recent policy direction has impacted their current workload, the CPUC will still need to provide adequate analysis and justification to merit approval of this request.

LAO Recommendation. Until such time as the administration provides adequate analysis of its AES workload in a manner that clearly lays out work done to date as well as justification of needs going forward, accounting for legislative policy direction in AB 2514, we recommend that the Legislature deny the CPUC’s budget request.

Staff Comments. Staff concurs with the LAO analysis. The subcommittee may wish to ask the commission whether it intends to submit an updated budget proposal reflecting the recent statutory changes.

Staff Recommendation: DENY WITHOUT PREJUDICE—Request the department return in the spring with an updated proposal that reflects recent legislation.

VOTE: 3-0 STAFF RECOMMENDATION

5. BCP-3: Natural Gas Distribution Safety Program. The Governor requests an increase of four positions and \$498,000 (\$249,000 Public Utilities Reimbursement Account and \$249,000 Federal Trust fund) to improve the safety of natural gas distribution systems in California. This request is in response to the September 9, 2010, pipeline failure in San Bruno as well as new regulations enacted by the Federal Department of Transportation, Pipeline, Hazardous Material Safety Administration.

Staff Comments. Staff notes that while the department has begun work on this program per previous budget action (Section 28 notification), questions remain about the appropriate level of funding for this program. The committee may wish to ask the commission what their estimation of the appropriate level of funding is for this program ongoing.

Staff Recommendation: APPROVE

VOTE: 3-0 STAFF RECOMMENDATION

Non-Agenda Item:

CPUC will return at a later hearing to discuss the establishment of a foundation to support the CPUC.

Department Proposed for Discussion—Energy**3360 California Energy Commission (Energy Resources Conservation and Development Commission)**

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes \$386.2 million (no GF) for support of the CEC, a decrease of approximately \$196 million, due primarily to decreases in special funds that have a two-year encumbrance period.

ITEMS PROPOSED FOR VOTE-ONLY

Item 1. BCP-1: Extend Limited-Term SEP-ARRA Positions. The Governor requests an additional ten month extension of nine limited-term positions. Extending the term of these positions will enable the Energy Commission to continue to manage and close out activities implementing the State Energy Program (SEP), funded under the American Recovery and Reinvestment Act of 2009 (ARRA). The positions provide administrative and technical support to implement and administer the SEP portion of ARRA. In order to meet all federal requirements for funding oversight, staff will be needed to monitor activities and close out various programs to provide adequate information to federal oversight agencies.

Staff Recommendation: APPROVE the above request (Item 1).

VOTE: 3-0 STAFF RECOMMENDATION

Item for Discussion

Item 2. Budget Issue: Energy Resources Program Account Surcharge. Under current law, the CEC is authorized to impose and adjust the Energy Resources Program Account (ERPA) surcharge. At the November 8, 2010 business meeting, the commission approved an ERPA surcharge increase which became effective January 1, 2011. The rate was increased from \$0.00022 to \$0.00029, which is expected to generate \$8.4 million in the current year and \$16.9 million in 2011-12.

The ERPA fund supports many of the basic programs of the CEC, including its siting and energy forecasting functions. State law directs electric utilities (both privately and publicly owned) to collect a state energy surcharge from all electric customers. The Board of Equalization collects the surcharge from the utilities.

Staff Comments: During previous year budget hearings, the CEC did not indicate that it would require such a significant change in the ERPA surcharge to maintain its baseline programs. In part because of this, during the 2010-11 session, the Legislature passed SB 675 (vetoed) that would have directed the CEC to dedicate \$8 million annually from its ERPA to fund an estimated 90 new California Partnership Academies. These academies would fund career technical education to deliver skills and knowledge needed for successful employment in clean technology, renewable energy or energy efficiency.

In part, the veto message stated that raising ERPA to fund these programs would cut other core programs at CEC.

The Committee may wish to have the CEC comment upon:

- (1) Prior year estimates that would have alerted budget committees to such a significant need to increase the ERPA surcharge in fall 2010.
- (2) Impacts to ratepayers
- (3) Actions CEC took to reduce expenditures prior to raising the surcharge on ratepayers.

Recommendation: Reduce Budget Item 3360-001-0465 by \$8.4 million. Require the CEC to return in spring hearings with an explanation and discussion of the fund condition of ERPA, programs funded by the surcharge, and impacts of the surcharge increase on ratepayers.

Vote: 3-0 STAFF RECOMMENDATION

Department Proposed for Discussion—Cal-EPA

3900 Air Resources Board

The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate stationary sources of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of mobile sources of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

Governor's Budget. The Governor's Budget includes \$652.6 million (no GF) for support of the ARB in FY 2011-12. This is about a 10 percent increase over current year expenditures due primarily to an increase in Proposition 1B (Transportation Bond) expenditures.

ITEMS FOR DISCUSSION

1. BCP-1: Continuing Program Implementation for the California Ports Infrastructure Security, and Air Quality Improvement Account, Highway, Traffic Reduction, Air Quality and Port Security Fund of 2006 (Proposition 1B).

Background. Proposition 1B of 2006 includes \$1 billion, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions for activities related to the movement of freight along California's trade corridors.

In 2008, the Air Board adopted Program guidelines and awarded the first year grant funds (approximately \$250 million) to local agencies. Due to the bond freeze of 2009, among other factors, the board's allocation of funds slowed, resulting in the request for reversion and reappropriations.

Liquidation of expenditures for bond expenditures generally is set at up to three years. This allows the Legislature the opportunity to review and provide oversight for extensions of liquidation beyond this time in the budget process, and to adjust programs should departments not meet the Legislature's expectations for disbursement of funds.

2011-12 Governor's Budget . The Governor's budget requests (1) technical adjustments for reappropriations and reversions for Proposition 1B Goods Movement Emission Reduction Program, and (2) Trailer Bill Language to allow a timeframe to encumber Proposition 1B funds through June 30, 2013, and to allow liquidation of encumbrances until June 30, 2019 (up to 6 years).

Staff Comments. The board's request for reversion and reappropriation will allow the board to continue to administer the bond funds from the 2006 bond sale. However, the justification for an extended timeframe for liquidation of funds beyond established norms may reduce the Legislature's oversight of the bond funds and the program through which the funds are administered. The bond gives the Legislature the authority to set criteria and parameters for appropriation of these funds, including measures to allow for legislative oversight.

STAFF RECOMMENDATION: APPROVE (1) reappropriations and reversions, and (2) extended encumbrance period through June 30, 2013. **Deny proposal to extend the liquidation of funds beyond three-years of encumbrance.**

Vote: 3-0 STAFF RECOMMENDATION

2. Administration's Renewable Portfolio Standard (RPS) Act ivity Continues to Circumvent Legislative Authority.

Background (LAO Recommendation). Current law requires the California Public Utilities Commission (CPUC) to enforce compliance by the private utilities (commonly referred to as investor-owned utilities, or IOUs) with 20 percent RPS. The CPUC is prohibited from ordering an IOU to procure more than 20 percent of its retail sales of electricity from eligible renewable energy resources.

Recent laws have attempted to increase the RPS to 33 percent, with corresponding increases for publicly-owned utilities (POUs). The legislation would have set a framework for regulation as well as legislative intent for implementation of these standards. This legislation was vetoed by the Governor.

Executive Orders. In November 2008, the Governor issued an executive order calling for all electricity providers to obtain 33 percent of their electricity from renewable sources by 2020. Legislative Counsel has advised the legislature that, in general, *the Governor may not issue an executive order that has the effect of enacting, enlarging, or limiting legislation.*

Administration Continues Work on 33 Percent RPS. The Air Board has stated that it continues to spend funds to develop a 33 percent RPS despite the lack of statutory guidance. This continues despite work by the Legislature (SB 23, Simitian), to define in statute the parameters for a 33 percent RPS.

Staff Comments: This subcommittee heard the same issue last year and acted to reduce various state agency budgets, and directed the administration to cease spending funds for the purpose of developing a renewable energy standard or similar requirement absent the enactment of legislation that authorizes such activities.

Staff Recommendation: Recommend REDUCE the ARB Budget Item 3900-001-0115 by \$2 million specifically for activities related to the 33-percent Renewable Portfolio Standard and/or Renewable Energy Standard rulemakings and proceedings. Require the department to return in spring with a plan to work with the Legislature to develop appropriate legislation guiding the development of a renewable energy standard.

Vote: (SPLIT STAFF RECOMMENDATION)

3-0 Recommend REDUCE the ARB Budget Item 3900-001-0115 by \$2 million specifically for activities related to the 33-percent Renewable Portfolio Standard and/or Renewable Energy Standard rulemakings and proceedings.

2-1 Require the department to return in spring with a plan to work with the Legislature to develop appropriate legislation guiding the development of a renewable energy standard.

Department Proposed for Discussion—Cal-EPA**3930 Department of Pesticide Regulation**

The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department: (1) evaluates the public health and environmental impact of pesticides 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 \$82.1 million (no GF) for support of the DPR, an increase of approximately \$6.6 million, or 8 percent, over current year expenditures. This increase is almost entirely in special funds.

1. BCP-1: Enhancement of the California Department of Food and Agriculture Analytical Chemistry Services. The department requests \$2.6 million from the DPR Fund to enhance the California Department of Food and Agriculture's (CDFA) pesticide analysis capabilities. Of this amount, \$603,000 is one-time and \$1.9 million is ongoing.

The department utilizes the laboratory to conduct chemical analysis of pesticide residues on produce and in the environment (such as indoor or outdoor locations, in fields). The results of these analyses serve not only as the basis for registration and enforcement actions, but for the development of mitigation actions for pesticide use.

Staff Comments. The subcommittee may wish to ask the department whether it looked at alternative options for state laboratories or other state agencies rather than continued reliance on the CDFA laboratory.

Staff Recommendation: APPROVE the request.

VOTE: 2-1 STAFF RECOMMENDATION

Department Proposed for Discussion—Cal-EPA**3940 State Water Resources Control Board**

The State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (Regional Boards or Water Boards) preserve and enhance the quality of California's water resources and ensure proper allocation and effective use. These objectives are achieved through the Water Quality and Water Rights programs.

Governor's Budget. The Governor's Budget includes \$793.8 million (including \$29.6 million GF) for support of the State Water Board in FY 2011-12. This is a 16.3 percent decrease under current year expenditures due primarily to a proposed one-time augmentation in the current year of \$158 million from the Underground Storage Tank Cleanup Fund (see more detail below). The \$29.6 million in proposed GF reflects a decrease of approximately \$11.2 million in expenditures that are mainly the net result of the Governor's requests to shift various GF expenses to fee-supported special funds.

Items Proposed for Vote-Only (Part 1)

1. BCP-3: Department of Defense— Edwards Air Force Base. The Governor requests a one year extension of federal authority in the amount of \$327,000 (Federal Funds) and 2.1 limited-term positions (2.0 PYs) originally authorized in FY 2009-10 for regulatory oversight of the expedited cleanup at Edwards Air Force Base. The Air Force has committed sufficient funds for regulatory oversight as well as environmental restoration at the base which corresponds to workload (reimbursable) by the regional water board staff for review and site inspection.

2. BCP-4: Continuing Program Implementation for Propositions 13, 50 and 84. The Governor requests various technical adjustments for local assistance appropriations and re-appropriations for Propositions 13, 50 and 84.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE: 3-0 STAFF RECOMMENDATION

ITEMS PROPOSED FOR VOTE-ONLY (Part 2)**Proposals to Shift GF Expenditures to Fee-Supported Special Funds (Items 3-5):**

According to the Administration, the following three items are proposals to help address the state's fiscal crisis by reducing GF expenditures for activities that based on the "polluter pays" principle, arguably should be supported by fees.

3. BCP-1: National Pollutant Discharge Elimination System (NPDES) Wastewater Program Fund Shift.

Background. In FY 2006-07 the State Water Board redirected \$4 million in NPDES federal funds to a different program and fee payers prevailed upon the Legislature and Governor to offset their fee burden by partially backfilling the \$4 million with \$1.4 million in GF. This proposal would remove the GF and increase fees to replace it.

The NPDES program is authorized by the Clean Water Act and administered by the Water Boards under an agreement with the United States Environmental Protection Agency that requires the Water Boards to help protect water quality by reviewing and renewing discharge permits, monitoring discharge reports, and issuing enforcement actions on permit violations.

2011-12 Governor's Budget. The Governor proposes to remove \$1.4 million GF from the NPDES program and replace it with an equal amount from the fee-supported Waste Discharge Permit Fund (WDPF) so that the program would be entirely funded by the WDPF.

4. BCP-2: Irrigated Land Regulatory Program (ILRP) Fund Shift.

Background. When the ILRP fee schedule adopted by the State Water Board in June 2005, failed to raise the anticipated level of revenue, the Legislature allocated \$1.8 million GF in FY 2006-07 to make up the difference. This proposal would remove the GF and increase fees to replace it.

The ILRP regulates discharges from irrigated agricultural lands in order to prevent impairment of the waters that receive the discharges. For example, discharges can affect water quality by transporting pollutants including pesticides, sediment, nutrients, salts (including selenium and boron), pathogens, and heavy metals from cultivated fields into surface waters. Regional Water Boards issue conditional waivers of waste discharge requirements to growers that contain conditions requiring water quality monitoring of receiving waters and corrective actions when impairments are found.

2011-12 Governor's Budget. The Governor proposes to remove \$1.8 million GF from the ILRP and replace it with an equal amount from the fee-supported Waste Discharge Permit Fund (WDPF) so that the program would be entirely funded by the WDPF.

5. BCP-4: Water Rights Program (WRP) Fund Shift.

Background. The Court of Appeal previously found against the state for funding certain WRP workload from a fee-supported special fund—the Water Right Fund (WRF). Those activities are currently supported by the GF. The Governor is proposing to shift the bulk of these expenditures back to the WRF.

From its inception in 1914 until FY 2003-04, the WRP was primarily supported by the GF (90 to 95 percent). However, due to an earlier fiscal crisis, program funding was cut and eventually shifted entirely onto a fee-supported special fund—the Water Rights Fund (WRF). Subsequently, fee payers challenged the statutes authorizing the WRF and the fees that are deposited into it. While a superior court upheld the fee statutes and associated regulations in their entirety, the Court of Appeal found that in some specific instances (about 30 percent of activities associated with pre-1914 and riparian rights), the benefits accruing to the fee payers were not sufficiently proportional to the size of the fee, and the related regulations were overturned. An appeal of this decision is currently pending with the Supreme Court, which has not yet scheduled oral arguments.

2011-12 Governor’s Budget. The Governor proposes to remove \$3.2 million GF from the WRF and replace it with an equal amount from the fee-supported WRF.

Staff Comments (Items 3-5). The Legislative Analyst’s Office has consistently recommended funding these core regulatory programs including water quality permitting activities (pollution discharge permitting program), the agricultural waiver program, and water rights activities with fees based on the polluter pays funding principle. Shifting the funding of the balance of these core regulatory activities from the General Fund to fees would save the General Fund \$6.4 million in the budget year.

Staff concurs with the LAO analysis of this issue.

Staff Recommendation: APPROVE Items 3-5.

VOTE: (SPLIT VOTE)

Items 3-4 Vote: 2-1 to APPROVE AS BUDGETED

Item 5: Vote 3-0 to DENY PROPOSAL

ITEMS FOR DISCUSSION**6. BCP-2: One-Time Augmentation for Underground Storage Tank Cleanup Fund (USTCF).**

Background. Chapter 649, Statutes of 2009 (Ruskin, AB 1188) temporarily increased storage fees (until January 1, 2013) for each gallon of petroleum placed in an underground storage tank. The Governor requests a one-time augmentation from the fund to spend a portion of these new revenues.

The USTCF is in essence an insurance program supported by petroleum underground storage tank owners who pay a fee for coverage should they have a leak from their underground storage tank. The USTCF provides up to \$1.5 million in reimbursement per occurrence to petroleum underground storage tank owners and operators. AB 1188 was passed in order to address a cash shortfall in the fund.

2011-12 Governor's Budget. The Governor requests a one-time augmentation of \$90 million in state operations, \$13.2 million in local assistance authority from the School District Account and \$15.8 million from the Orphan Site Cleanup Fund.

Staff Comments. Consistent with the requirements of AB 1188, a performance audit of the USTCF was recently released (February 2010) that found, among other things, that the program was premised on reimbursing participants as quickly as possible and, in so doing, lacks sound financial management practices and does not utilize effective cost containment measures. For example, the audit found that the USTCF does not require all claimants expecting reimbursements to provide project plans or cost estimates up front for review and approval prior to cleanup work beginning. The audit linked these inadequacies to the USTCF's 2008 financial crisis as average project costs skyrocketed—rising, over the last four years, from \$131,000 to \$250,000 (for closed projects) and approaching \$400,000 for existing projects.

The department was directed in 2010 to prepare an action plan for the program addressing audit concerns. This issue is sufficiently complex that the subcommittee may wish to hear a full update along with reporting in a follow-up hearing so that it can determine adequate levels of funding for the program (and set an adequate multi-year plan for appropriation).

Staff Recommendation: DENY WITHOUT PREJUDICE. Direct the department to return in the spring with an update on the USTCF program and progress made after the recent audit.

Vote: 3-0 STAFF RECOMMENDATION

7. BCP-7: Augment Basin Planning and Water Quality Standards Program.

Background. The Basin Planning program sets the minimum water quality level that must be achieved in the waters of the state for the protection of beneficial uses. Federal regulations require a triennial review and update of each basin plan; however, according to the State Water Board, a lack of staffing has kept it from fully complying with this requirement. As a result, the State Water Board indicates it has experienced difficulty moving forward with regulatory decisions and is at an increased risk for litigation. The requested augmentation would address this deficiency.

The preparation, adoption, and regular updating of Regional Water Boards' basin plans provides the foundation for all the Water Boards' regulatory action and is required by state law as well as the federal Clean Water Act. Basin plans designate beneficial uses, establish water quality objectives, and specify a program of implementation needed for achieving these objectives for both surface and groundwater.

2011-12 Governor's Budget. The Governor requests to shift \$6.1 million and 37 positions supported by the General Fund (GF) with the same amount in the Waste Discharge Permit Fund (WDPF) resources. Additionally, \$746,000 and 8.5 personnel-years supported by Reimbursements will be replaced with WDPF. The proposal requires TBL to add Total Maximum Daily Load development, basin planning, and other water quality management activities to the list of activities for which fees can be assessed.

LAO Recommendation: In May 2010, LAO recommended adoption of the Governor's May Revision proposal to shift \$6.1 million of funding for basin planning from the General Fund to the Waste Discharge Permit Fund (a special fund), including a related statutory change to allow this. This proposal is consistent with the longstanding LAO recommendation to shift funding for regulatory-related activities at the water boards to fees where appropriate.

Staff Comments. Given the complexity of water board permits, sometimes at the request of the permittee for the greatest flexibility to discharge to state waters, the water board must have a clear understanding of the watershed in which the permit resides. This proposal will allow the state and regional boards to continue to meet federal Clean Water Act and state water quality objectives through a deliberative planning process. Staff notes that this proposal is consistent with Legislation actions in other Cal-EPA agencies such as the Air Resources Board's Stationary Source Program wherein activities that support the development of regulations and permit requirements are subject to regulatory fees to recoup the cost of the development of the standards.

Staff Recommendation: APPROVE

VOTE: **2-1 APPROVE AS BUDGETED**
(Board confirmed that trailer bill language does not include TMDLs)

Department Proposed for Discussion—Cal-EPA**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 GF.

Governor's Budget. The Governor's Budget includes \$194.3 million (including \$21.9 million GF) for support of the DTSC, a decrease of \$14.5 million, or 7.5 percent, under current year expenditures. This decrease is primarily in special funds (and there is no increase proposed in GF).

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-2: State Certified Unified Program Agency (CUPA) Reimbursements. The Governor requests reimbursement authority in order to expend funds available to the CUPAs from other state agencies and through reimbursement agreements with business in Imperial and Trinity Counties. Reimbursement agreements would continue to be reviewed as part of the budget process.

Staff Comments. The proposal would streamline administrative processes while allowing for legislative and administrative oversight of the CUPAs. Staff has no concerns with the reimbursement request.

2. COBCP-1: Stringfellow New Pre-Treatment Plant. The Governor requests \$1.6 million GF to fund the working drawing activities for the construction of a new pre-treatment plant to treat contaminated groundwater from the Stringfellow site.

Staff Comments. The proposal is consistent with the long-term plan for remediation and treatment of contaminated groundwater at the Stringfellow site. Staff has no concerns with the reimbursement request.

Staff Recommendation: APPROVE the above requests (Items 1-2).

VOTE: 3-0 APPROVE AS BUDGETED

ITEMS PROPOSED FOR DISCUSSION

3. BCP-1: Land Transfer of Santa Susana Laboratory to the State. The Governor requests to convert three limited-term positions to permanent reimbursable positions to support investigation, feasibility study, and cleanup phases of the Santa Susana Field Laboratory project, scheduled for completion in 2017, after which the proposal states that the land is expected to be transferred to the state. The positions will be dedicated to oversight work.

Santa Susana is the site of widespread chemical and radioactive contamination that poses a serious public health hazard. The Boeing Company, the National Aeronautics and Space Administration, and the US Department of Energy are the responsible parties. The department's role is as an oversight agency.

Staff Comments. The proposal is consistent with DTSC's role as an oversight agency. The department has stated that the positions do not commit the state to accept the land transfer upon completion of the investigation, feasibility review, and cleanup phases. Staff has no concerns with the position request to support investigation, feasibility study, and cleanup phases at the site.

However, staff has concerns with language in the proposal that references a land transfer to the state. In past years, when land of this nature has been transferred to the state, the state has taken on long-term remediation activities that were unanticipated at the time of transfer. According to the department, remediation of groundwater at this site will take on the order of 50,000 years. The department has assured staff that the intent of the proposal is not to undertake a land transfer to the state.

The committee may wish to seek clarification from the department to ensure they do not intend to transfer land to the state under this proposal. To further guarantee that the land transfer is not part of the proposal, the subcommittee may wish to consider the following budget bill language:

Item 3960-001-0014. No positions approved under this item shall be used to investigate or work on a transfer of land between the responsible parties at Santa Susana Field Laboratory and the State of California.

Staff Recommendation. APPROVE with Budget Bill Language.

Split Vote:

3-0

APPROVE BBL

2-1 APPROVE PROPOSAL (AS BUDGETED)

Department Proposed for Discussion—Cal-EPA**3980 Office of Environmental Health Hazard Assessment (OEHHA)**

The Office of Environmental Health Hazard Assessment (OEHHA) was created in 1991 as part of the California Environmental Protection Agency to evaluate the health risks of chemicals in the environment. The office (1) develops and recommends health-based standards for chemicals in the environment, (2) develops policies and guidelines for conducting risk assessments, and (3) provides technical support for environmental regulatory agencies.

The budget proposes total expenditures of \$19.9 million (\$3.4 million, General Fund), an increase of \$1.7 million (eight percent) above the current-year budget.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-1: Proposition 65 Fund Shift to Support Existing Proposition 65 Implementation and Oversight Activities**

Background. Proposition 65, the Safe Drinking Water and Enforcement Act, was enacted as a ballot initiative in November 1986 with the goal of protecting state residents and drinking water sources from chemicals known to cause cancer, birth defects, or other reproductive harm. Proposition 65 program requirements include (among others), listing of chemicals known to cause cancer, birth defects, or other reproductive harm. The list is updated annually by OEHHA.

From the time of approval by the voters in 1986 until 2009, the state's Proposition 65 program was funded primarily by the GF. However, the Budget Act of 2009 shifted \$2.3 million from the GF to the Safe Drinking Water and Toxic Enforcement Fund (SDWTEF) which derives its revenues from Proposition 65 penalties paid by businesses in enforcement cases. The special fund was never intended to provide long-term funding for the program since penalties are insufficient to fund the program and revenues to the fund are unpredictable.

2011-12 Governor's Budget. The Governor requests a fund shift of \$1.1 million from the Safe Drinking Water and Toxic Enforcement Fund (SDWTEF) to the General Fund in 2011-12 and \$2.3 million ongoing in future years.

Staff Comments. For the most part, following a required report to the Legislature in 2005 on long-term baseline funding requirements of the Office, along with recommendations on the appropriate mix of GF and special funds to support OEHHA activities—OEHHA has moved to diversify its funding mix.

The proposal to restore the program to GF may have merit; however, given the state's fiscal situation, appropriate alternative funding would be preferable. Without taking action to reduce the funding from the SDWTEF account, the fund balance would be reduced to under a prudent reserve of \$2 million within two years.

The board has indicated that a possible alternative funding source is the Toxic Substances Control Account (TSCA), which is primarily funded from a broad-based environmental fee charged to businesses of at least 50 employees that handle hazardous materials. Many of these materials contain Proposition 65 chemicals. The fund is administered by the Department of Toxic Substances Control and currently has a structural deficit.

After receiving the budget proposal, the administration updated its projections for the SDWTEF and has concluded that there is sufficient funding to continue to fund this program using SDWTEF *for one year*. However, in order to do this, technical budget changes would be required to adjust expenditure authority appropriately.

This is one of many voter-approved initiatives that provide no ongoing funding source for the mandated programs. The committee may wish to:

- (1) Request the department respond to the likely outcomes to state program activity levels should the Legislature wish to reduce the level of program activities by OEHHA without an increase in GF.
- (2) Describe any potential liability the state may have by reducing funding for the program.
- (3) Describe discussions with the Secretary for Cal-EPA and the Department of Toxic Substances Control regarding the use of the Toxic Substances Control Account and the overall priorities for funding within Cal-EPA.

Staff Recommendation: DENY PROPOSAL. Additionally: (1) Increase one-time expenditure authority from the Safe Drinking Water and Toxic Enforcement Fund by \$1.1 million; (2) Approve Supplemental Report Language requiring OEHHA to determine the appropriateness of the Toxic Substances Control Account or other special fund sources that could be used to fund this program.

VOTE: 3-0 APPROVE STAFF RECOMMENDATION

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- (2) Describe any potential liability the state may have by reducing funding for the program.
- (3) Describe discussions with the Secretary for Cal-EPA and the Department of Toxic Substances Control regarding the use of the Toxic Substances Control Account and the overall priorities for funding within Cal-EPA.

Staff Recommendation: DENY PROPOSAL. Additionally: (1) Increase one-time expenditure authority from the Safe Drinking Water and Toxic Enforcement Fund by \$1.1 million; (2) Approve Supplemental Report Language requiring OEHHA to determine the appropriateness of the Toxic Substances Control Account or other special fund sources that could be used to fund this program.

VOTE:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda

Day: Tuesday, February 1, 2011

Time: 1:30 p.m.

Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

Proposed Vote-only Calendar:

2670	Board of Pilot Commissioners	1
2700	Office of Traffic Safety	1

Proposed Discussion / Vote Calendar:

	Motor Vehicle Account – Crosscutting Issue	2
2720	Department of the California Highway Patrol	3
2740	Department of Motor Vehicles	7
2665	High-Speed Rail Authority	12

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Issues Suggested for Vote Only**2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun**

Department Overview : The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

Budget Overview: The January Governor's Budget proposed expenditures of \$2.2 million (no General Fund) and 4.0 funded positions – a year-over-year decrease of \$412,000 and no change in positions. The Board is wholly funded through fees on shippers. The year-over-year budget change is primarily explained by the expiration of one-time funding for legal defense and pilot training.

2700 Office of Traffic Safety

Department Overview: The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to promote traffic safety. Grant recipients include State entities, such as the California Highway Patrol and the Department of Transportation, as well as local entities, such as police departments. Among other programs, the grants fund Driving Under the Influence (DUI) checkpoints, motorcycle and bicycle safety programs, and traffic-law education and enforcement.

Budget Summary: The Governor proposes total expenditures of \$96.9 million (no General Fund) and 33.0 funded positions. After accounting for technical adjustments, the funding level is very similar to last year's budget and the number of positions is unchanged. The Administration did not submit any Budget Change Proposals (BCPs) for OTS.

Staff Comment: The Administration does not propose any budget changes for the two entities listed above. If the Subcommittee approves these budgets now, it does not prevent further review or action on these budgets at a later time during this year's budget process.

Staff Recommendation: Approve the budgets of the two departments listed above.

Vote:

Issues Suggested for Discussion and Vote

Crosscutting Issue – Motor Vehicle Account transfer to the General Fund

Budget Issue: Should the Legislature approve the transfer item of \$71.6 million from the Motor Vehicle Account (MVA) to the General Fund, and approve a loan repayment of \$40 million from the General Fund to the MVA?

Issue Background: The 2009 and 2010 budget acts both included a \$70 million transfer from the MVA to the General Fund. These were transfers instead of loans and were allowable because the revenue transferred was not attributable to fee revenue nor was it restricted in expenditure by Article XIX of the Constitution – it was instead revenues from “sales of documents” and “miscellaneous services to the public.” MVA revenue primarily comes from vehicle registration fees, and driver license fees, and supports the operations of the Department of Motor Vehicles (DMV), the California Highway Patrol (CHP), and the Air Resources Board (ARB). In addition to the transfer of non-Article XIX revenues, the 2010 Budget Act included a loan from the MVA to the General Fund of \$180 million.

MVA Fund Condition: A primary consideration in determining the prudence of the MVA transfer to the General Fund and loan repayment is the short-term and long-term fund condition of the MVA. The January budget estimates the MVA will end 2011-12 with a reserve balance of \$111 million. Total annual revenues for the fund are about \$2.5 billion, so a balance of about \$100 million might be considered a minimum reserve to allow for contingencies.

Staff Comment: Although the DMV and CHP are special-fund departments, through MVA transfers and loans, their budgets affect the General Fund. Staff asked the DMV and CHP to report on what expenditures savings could be generated to reduce or eliminate the early loan repayment. At this time, the Administration indicates they expect current-year savings of about \$7 million from the CHP radio project, and savings of about \$5.5 million from negotiated labor contracts – these savings are not included in the Governor’s Budget. The Administration indicates that generally they oppose budget actions to increase General Fund solutions from special-fund loans and transfers beyond the \$1.9 billion already proposed. However, if early MVA loan repayment is not required, the Legislature could alternatively explore early repayment of other loans that might promote economic activity or other goals.

Staff Recommendation: (1) Approve the MVA transfer to the GF of \$71.6 million; (2) make technical changes to score the \$12.5 million budget savings indicated by the Administration; and (3) reduce the loan repayment in conformance with this savings and in conformance with any other relevant budget action.

Vote:

2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Activity: (funding in millions):

Activity 2010-11		2011-12
Traffic Management	\$1,731	\$1,660
Regulation and Inspection	206	193
Vehicle Safety	46	43
Administration (distributed)	(305)	(231)
TOTAL \$1,984		\$1,897

Major Funding Sources (funding in millions):

Fund Source or Account	2010-11	2011-12
Motor Vehicle Account (MVA)	\$1,779	\$1,699
State Highway Account (SHA)	60	60
Reimbursements	120	113
Federal funds	18	18
Other special funds (no General Funds)	7	7
TOTAL \$1,984		\$1,897

CHP Issues Proposed for Vote Only

- 1. Computer Aided Dispatch (CAD) Replacement - Extension of Funding (BCP #3).** The Administration requests a time extension for funding to complete the CAD project. The CHP reports the overall project costs remain the same, but delays in signing the vendor contract will push some project expenditures into 2011-12.

Background: As part of the 2009-10 budget, the Administration requested, and the Legislature approved, two-year funding of \$27.8 million (no General Fund) for the information technology (IT) project to replace the 20-year old CAD system. The CAD is a system containing servers and workstations used to dispatch emergency services (police, fire, ambulance) to calls from the public needing assistance. The new CAD would also allow persons in a dispatch center to easily view and understand the status of all units in the field.

- 2. CHP Enhanced Radio System (CHPERS) (two Capital Outlay Budget Change Proposals [COBCPs]).** The Administration requests \$12.8 million in capital outlay funding for the sixth year of the public safety radio project, which is mostly complete. The capital outlay request involves the replacement of radio towers where the existing towers were not strong enough to accommodate new equipment.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$353 million for a savings to the state of \$138 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

Staff Comment: This year's budget request is consistent with what the Administration stated last year during budget hearings. A report on this project is due to the Legislature on March 1, 2011. Should the report indicate any significant changes in the project, the Subcommittee can hear the issue again.

Staff Recommendation: Approve the two budget requests listed above.

Vote:

3. Capital Outlay Finance Letters: The Administration submitted two requests related to capital outlay projects. The Legislature has previously approved funding for early phases of these projects, such as design and land acquisition.

- **Santa Fe Springs Area Office – (Construction Phase):** \$19.6 million (Motor Vehicle Account) is requested for the construction phase of the Santa Fe Springs Area Office replacement project. The Legislature previously approved about \$7.6 million for earlier phases of this project.
- **Oceanside Area Office – (Construction Phase):** \$18.3 million is requested for the construction phase of the Oceanside Area Office replacement project. The Legislature previously approved about \$4.6 million for earlier phases of this project.

Staff Comment: The CHP owns the land for the Oceanside facility and expects to purchase land soon for the Santa Fe Springs facility. A significant amount of funds have been approved by the Legislature and spent on the early phases of these projects. Due to the slow economy, competition for construction work is strong and the state may achieve bid savings. However, the state budget is very constrained and this project reduces MVA fund reserves. Another option to consider is lease-to-purchase financing, where the construction would be builder financed with the state paying rent over a period of years and ultimately have the option to purchase the facility at a specified price.

Staff Recommendation: Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

Vote:

- 4. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than 72 hours, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.

(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.

Staff Comment: The Subcommittee may want to again consider adopting trailer bill language for LPRs.

Vote:

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Activity: (in millions):

Activity 2010-11		2011-12
Vehicle/vessel identification and compliance	\$503	\$509
Driver licensing and personal identification	246	244
Driver Safety	115	117
Occupational Lic. And Investigative Services	47	50
New Motor Vehicle Board	2	2
Administration (distributed)	(102)	(103)
TOTAL \$912		\$922

Major Funding Sources (in millions):

Fund Source or Account	2010-11	2011-12
Motor Vehicle Account (MVA)	\$526	\$525
Motor Vehicle License Fee Account (MVLFA)*	308	325
Reimbursements	14	14
State Highway Account (SHA)	53	47
Federal funds	8	4
Other special funds (no General Funds)	3	7
TOTAL \$912		\$922

Informational Note on Driver License Cards: The DMV implemented a new driver license / identification (DL/ID) card on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected some cards. Both DMV and a representative of the vendor indicate the production issues have been largely resolve, but another month will be required before the backlog is fully cleared.

Issues Proposed for Vote-Only

- 1. Ignition Interlock Device (IID) Program – Continue Positions (BCP #7):** The Administration requests a continuation of funding (\$511,000 Motor Vehicle Account) and the conversion of 9 limited-term positions to permanent. The positions are associated with the IID workload, which is a program that DMV took over from the courts in 2009-10 pursuant to SB 1388 (Chapter 404, Statutes of 2008, Torlakson). The program provides for the installation of IIDs in specified circumstances when the car owner has a conviction for Driving Under the Influence (DUI). The 2009-10 budget provided a total of 26 new positions, with 9 of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 9 limited-term positions should be converted to permanent. The cost of the positions and program is fully support by fees on program participants.

- 2. Temporary Operating Permit (TOP) Program – Continue Positions (BCP #8):** The Administration requests a continuation of funding (\$369,000 Motor Vehicle Account) and the conversion of 7 expiring limited-term positions to 2 permanent positions and 5 limited-term positions. The positions are associated with the TOP Program, which was established in 2009-10 pursuant to AB 2241 (Chapter 451, Statutes of 2008, Saldana). The program provides for a temporary operating permit when a certificate of smog compliance is required. The 2009-10 budget provided a total of 7 new positions, with all of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 7 limited term positions should be retained as specified. The cost of the positions and program is fully supported by fees on program participants.

- 3. Traffic Violator School (TVS) Program - New Statutory Requirements (BCP #11):** The Administration requests \$2.3 million (Motor Vehicle Account) to fund third-party contractors to monitor the TVS industry. The DMV is assuming this role for home-study TVSS from the courts pursuant to AB 2499 (Chapter 599, Statutes of 2010, Portantino). Statute requires elimination of the court-approved program of traffic safety instruction and gives DMV exclusive oversight and monitoring responsibility. The Administration anticipates the third party contractors will be used to conduct an annual review of business practices of 600 businesses and bi-annual monitoring of TVS training conducted at 2,500 classrooms and through approximately 200 home study/Internet courses. The cost of the program is fully supported by fees on program participants.

Staff Recommendation: Approve the three budget requests listed above.

Vote:

Issues Proposed for Discussion and Vote

- 4. Federal Grant for Privacy and Security Enhancement – (B CP #9).** The Administration requests \$918,000 (one-time federal funds) for consulting services related to information technology (IT) security and privacy protection.

Detail: The DMV indicates the consulting service will be the first step in improving employee Role-Based Access Control (RBAC) to various stove-pipe IT systems and establishing an enterprise-wide privacy-protection and security system. This would improve the ability of DMV to limit employee's access to various IT systems to just match what a particular employee needs to perform their job.

Staff Comment: The DMV should explain the deficiencies in privacy and security they are trying to address with this proposal. Additionally, the department should discuss training and other measures taken to ensure DMV employees maintain the highest standards of customer privacy.

Staff Recommendation: Approve the request.

Vote:

5. Facility-Related Finance Letters: The Administration submitted two requests related to office facilities. DMV operates a mix of State-owned and leased facilities.

- **Grass Valley Field Office Replacement Project – State-owned Facility (Preliminary Plan Phase):** The Administration requests \$648,000 (various special funds) for the preliminary-plan phase of the Grass Valley Field Office replacement project. The budget request indicates that future costs will include working drawings at a cost of \$531,000, and construction at a cost of \$6.7 million. Total project cost is estimated at \$7.8 million. The new facility would be approximately four times the size of the existing facility.
- **Southern Los Angeles Commercial Driver License Test Center – Leased Facility (BCP #5):** The Administration requests a one-time augmentation of \$20,000 (Motor Vehicle Account) to begin the process of establishing a consolidated Commercial Driver License (CDL) Test Center at a leased facility in the southern Los Angeles area. The DMV believes separate CDL locations promote efficiency and public safety by not bringing larger commercial vehicles to the standard field office locations. If this request is approved, the southern Los Angeles CDL Test Center would be the fifth consolidated location, following San Bernardino, West Sacramento, Escondido, and a soon-to-open center in Fresno. The \$20,000 requested would cover Department of General Services planning fees. The estimated costs in 2012-13 would be \$85,000, and move-in would occur in 2013-14 with half-year operations costs of \$1.1 million.

Staff Recommendation: Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

Vote:

6. Veterans Optional Check-off – Trailer Bill Language: Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran's check-off box on driver license applications that would allow a veteran's name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the veterans language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the DMV and CDVA. The language in AB 1614 is copied below (amending Vehicle Code Section 12811):

(d) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits.

(2) The department shall collect the information obtained pursuant to paragraph (1).

(3) Periodically, as mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about Veteran benefits.

(A) His or her true full name.

(B) His or her residence or mailing address.

(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

Staff Comment: The Subcommittee may want to consider adoption of this trailer bill language intended to aid veterans.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Summary Table of the Governor's HSRA budget: The enacted budget for 2010-11 is compared to the proposed budget for 2011-12 in the table below (dollars in millions).

Agenda Issue Number	Activity BCPs		2010-11 Budget	2011-12 Budget Proposal
State Operations				
	Baseline funding for state staff and operations		\$5.3	\$5.6
3	Contracts with other governmental units – CalTrain & Caltrans		\$7.7	\$0
3	Contracts for Ridership/Revenue and Visual Simulation		\$1.4	\$0
4	Contract for Program Management* and **	COBCPs 1-7	\$37.0	\$41.5
5	Contract for Program Management Oversight	BCP 1	\$2.0	\$3.0
6	Contract for Public Information and Communications Services	BCP 3	\$1.8	\$1.8
7	Contracts for Financial Plan and Public Private Participation Program	BCP 4	\$1.0	\$0.8
8	Interagency Contracts with DOJ and DGS	BCP 7	\$0.4	\$1.5
Capital Outlay				
9	Contracts for design and engineering*	COBCPs 1-7	(\$154.3)	(\$137.9)
9	San Francisco to San Jose*	COBCP 4	\$25.2	\$9.9
9	San Jose to Merced*	COBCP 5	\$25.1	\$24.7
9	Merced to Fresno*	COBCP 2	\$15.1	\$10.7
9	Fresno to Bakersfield*	COBCP 1	\$37.5	\$11.1
9	Bakersfield to Palmdale*	COBCP 7	\$0.8	\$39.5
9	Palmdale to Los Angeles*	COBCP 6	\$34.2	\$35.5
9	Los Angeles to Anaheim*	COBCP 3	\$10.1	\$6.4
9	Los Angeles to San Diego		\$2.7	\$0.0
9	Merced to Sacramento		\$1.8	\$0.0
9	Altamont Pass		\$1.8	\$0.0
9	Contracts with Enviro Agencies**		\$1.8	(\$3.1)
9	Pre-Acquisition and Acquisition*		\$10.0	\$0
	TOTAL Budget		\$221	\$192

* Funding is half Prop 1A of 2008 Bonds, and half federal funds. No “*” indicates all Prop 1A funding.

** Was budgeted in State Operations in 2010-11, proposed as Capital Outlay for 2011-12.

The remainder of this agenda is generally organized consistent with the grouping and sequence of issues in this table.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
 - (a) a complete legal analysis of the revenue guarantee and alternative options;
 - (b) a report on community outreach;
 - (c) an updated financing plan with alternative funding scenarios;
 - (d) a copy of the strategic plan required by the State Administrative Manual;
 - (e) a report on the performance of the Program Manager Contractor; and
 - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language withheld \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC). A copy of the language and veto message is Attachment I at the end of this agenda.

Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst's Office, the Bureau of State Audits, and more recently, the peer review group. It was because the Subcommittee believed resolution of these issues was so critical to the success of this project, that it took the step of making budget funding contingent on the reporting. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011. Since the Governor's veto of the reporting language, staff understands the HSRA has indicated it will still submit the report, but the delivery will be delayed until May 2011.

Staff Comment: Given the importance of the issues involved, the Subcommittee may want to consider restoration of the reporting language. However, timing is key as the Subcommittee anticipated the report would be available for review and public discussion during spring 2011 budget hearings. Staff understands that the procurement of a new financial consultant is still in process, so a complete financing plan is unlikely to be completed this spring. The Subcommittee may want to receive testimony from the HSRA on what individual reporting elements will be available and when.

Staff Recommendation: Hold open.

- 2. Budget Language sustained by Governor Schwarzenegger, but omitted from the 2011-12 Budget:** Last year, the Subcommittee adopted budget bill language that would prohibit the signing of a binding construction-related memorandum of understanding (MOU) prior to peer review reporting on the applicable segment and completion of a project-level environmental impact report (EIR).

Background: The language resulted from a draft MOU proposed by the Orange County Transportation Authority related to an intermodal transit hub in Anaheim. The intent of the budget language is to prohibit the state from entering construction-related contractual obligations prior to completion of the EIR and peer review recommendations, which may result in project changes. The language was included in the final 2010 Budget Act, but is not included in the proposed budget for 2011-12. The language reads as follows:

A memorandum of understanding (MOU) that identifies state capital outlay construction expenditures in excess of \$2,500,000 shall be subject to appropriation for the elements covered by the MOU and contingent on (1) review and reporting by a peer review group of the segment financing plan for the applicable segment and (2) completion of a project-level environmental impact report for the applicable segment.

Staff Comment: Unless the Subcommittee has changed its view on this issue, it may want to consider continuing this language by adding it to the 2011 Budget Act. The Department of Finance indicates this language is unnecessary because current law would already prohibit a construction MOU prior to completion of environmental review. However, the HSRA had put such an MOU on a Board agenda and their attorneys had not raised legal concerns.

Staff Recommendation: Hold open.

- 3. Activities Funded in 2010-11, with no Funding Requested for 2011-12:** The Administration received funding for contracts with other governmental units and private entities in 2010-11 for which no funding is requested for 2011-12. The HSRA should update the Subcommittee on these activities and indicate if they are complete, ongoing with carry-over funds, or ceased due to a change in strategy.

Detail – activities to be completed in 2010-11: Last year, funding was approved for the following one-time activity:

- 2010 BCP #4 – Ridership/Revenue Forecasts: The 2010-11 budget included \$1 million to continue to refine the ridership/revenue model and testing various operational and fee scenarios to develop the range of options available. According to HSRA, the ridership and revenue data the HSRA currently has was geared more towards the worst case scenario (largest number of riders, based on lower ticket costs, resulting in greater impacts to the physical environment). The HSRA indicates new forecasts are needed to provide investment grade information to private investment interests.
- 2010 BCP #3 – Visual Simulation Plan Development: The 2010-11 budget included \$375,000 to continue funding for the development of visual simulation programs. The HSRA indicated these simulations would be used to educate the public on the potential impacts high-speed trains may have on their communities. The Administration indicates now that a library of visual simulations is available, and they will use these images going forward to explain the project and will not develop further site-specific simulations.

Detail – Activities with ongoing need, but not funded: The approved 2010-11 budget included funding for the following ongoing activities, but funding for these activities is not proposed in the 2011-12 budget:

- 2010 April FL #2 in – Peninsula Corridor Joint Powers Board (Caltrain) Coordination: The 2010-11 budget included \$1.6 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrain, whereby the HSRA will fund the Caltrain cost of cooperative planning activities on the HSRA/Caltrans corridor.
- 2010 April FL #3 and May FL #7– California Department of Transportation (Caltrans) Coordination: The 2010-11 budget included \$4.3 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrans, whereby Caltrans will perform new workload related to project coordination and oversight where the high-speed rail project interfaces with state highway.

Staff Comment: The HSRA should comment on the status for the one-time workload and comment on why the ongoing workload is not funded.

Staff Recommendation: Hold open.

- 4. Program Management Contract (BCP #1):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.

Background / Detail: The HSRA signed a multi-year contract with Parsons Brinkerhoff to manage the program through the completion of the environmental review and preliminary design work. The contract expires in June 2013. Parsons Brinkerhoff has seven subcontractors that are also funded within the requested \$41.5 million. The contract provides for payment of up to \$199 million, but the HSRA anticipates only spending \$129 million over the life of the contract.

Staff Recommendation: Hold open.

- 5. Program Management Oversight Contract (BCP #3):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.

Background / Detail: The HSRA signed a three-and-one-half year, \$8 million, contract with TY Lin to provide this service. The Authority indicates the costs are up year-over-year because of the accelerated timeline on the Merced to Bakersfield segment to meet federal deadlines and due to “increasing interests of various stakeholders (such as the Legislature, cities, counties, councils of governments, railroads, etc.) and legal actions.” The contract expires in June 2013 and the Authority expects to fully expend the \$8 million contract amount.

Staff Recommendation: Hold open.

- 6. Public Information and Communication Services Contract.** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.

Background / Detail: The HSRA signed a five-year, \$9 million, contract with Ogilvy Public Relations Worldwide (Ogilvy) to provide this service. The contract requires Ogilvy to coordinate the various regional outreach activities related to the environmental review process and supplements those efforts with statewide communications including but not limited to stakeholder outreach, Web site and social media activities, legislative tracking, event planning, and the production of written materials such as fact sheets.

Staff Recommendation: Hold open.

- 7. Financial Plan and Public Private Participation Contracts (BCP #4)** . The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan.

Background: A total of \$1.0 million was provided in the 2010-11 budget for this same purpose. The HSRA reports that PricewaterhouseCoopers was selected in the request-for-proposal (RFP) process, and should be under contract soon.

Staff Recommendation: Hold open.

8. Interagency Contracts for DOJ and DGS (BCP #7). The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).

Background: The HSRA indicates that workload performed by DOJ is increasing substantially due to the preparation of the draft and final project-level documents on multiple corridors. DGS provides records service, automobile rental, purchasing and real estate services, and human resource services.

Staff Recommendation: Hold open.

- 9. Engineering contracts for preliminary design and environmental impact reports:** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds. No new funding is requested for pre-acquisition or acquisition activity, but the Administration notes that the \$10 million provided in the 2010 Budget Act has three-year budget availability.

Background: The funding requested this year is similar to last year after various accounting changes and adjustments for onetime funding. The total multi-year cost for the Phase I preliminary design work and EIR is estimated to be \$260 million and the work is expected to be completed in 2012-13. Note, these dollars and timeline are from 2010 data – at the time this agenda was finalized, updated information was still pending from the HSRA.

Detail – Change to project timeline: The HSRA indicates that due to the federal direction to initiate construction in the San Joaquin Valley, the Authority is accelerating work on the Merced to Fresno, and Fresno to Bakersfield, segments. Conversely, timelines are being extended for work on the other Phase I corridors. Another policy change is to cease work on the Phase II corridors (Sacramento to Merced, Los Angeles to San Diego, and Altamont Pass). Work on those segments would resume in the future when Phase I funding is fully secured and separate funding is identified to resume Phase II work.

Detail – Changes in budgetary accounting: As indicated above, the Program Management Contract was previously budgeted as state operations, but is now proposed as a capital outlay expense. Similarly, funding to pay resource agencies for expedited environmental review was previously in state operations, but is not included in capital outlay. These resource agencies include the U.S. Army Corps of Engineers; the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; the California Department of Fish and Game; the California Department of Parks and Recreation; and the State Historic Preservation Office. The environmental review funding was \$1.8 million in the 2010-11 budget and is requested at \$3.1 million for 2011-12.

Staff Comment: The HSRA should explain the changes in the timeline and cost for project segments, and explain their proposed budgetary-accounting changes.

Staff Recommendation: Hold Open.

10. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – TBL included in SB 854 and AB 1614 (2 009-10 Legislative Session):

The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- Peer Review Group: Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- Exempt Positions: Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- Biannual Reporting: Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in budget trailer bill.

Staff Recommendation: Hold open.

Attachment I

2010 Budget Bill Language Vetoed by the Governor and Veto Message

2. Of the amounts appropriated in this item, and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043, a total of \$55,320,000 shall be available for expenditure only after the submittal of a report to the Joint Legislative Budget Committee and a 60-day review period, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine. The High-Speed Rail Authority shall have discretion concerning how the \$55,320,000 in restricted expenditures is allocated among the five items of appropriation listed above. The authority shall submit the report no later than February 1, 2011. The report shall include, but not necessarily be limited to, all of the following:

- (a) A complete legal analysis of the revenue guarantee and/or mechanisms to reduce the operator's risk, which the authority indicates it would provide to its operator. To mitigate risk, the authority shall provide an analysis of the revenue contribution to the project from the private operator with and without a revenue guarantee and/or mechanisms to reduce the operator's risk. The authority shall discuss alternative financing approaches to make up for any lost revenue in the case of no revenue guarantee and/or mechanisms to reduce the operator's risk.
- (b) A report on contract expenditures for community outreach, including detail by type of expenditure and activity. Detail on meetings by segment and community and a summary of correspondence, e-mail, media, Internet Web site, and other outreach efforts shall be included in the report.
- (c) A financial plan update with alternative funding scenarios. To mitigate risk, the authority shall report on alternative funding options if no significant federal funds are received beyond the American Recovery and Reinvestment Act and no revenue

- guarantee and/or mechanisms to reduce the operator's risk are allowable. The plan shall also include construction alternatives for a constrained funding environment—what investments would be made and construction completed if the nonbond resources only equal bond funding.
- (d) A copy of the strategic plan that the authority is developing pursuant to the requirements of the State Administrative Manual.
 - (e) A report on the performance of the Program Manager Contractor. The authority shall indicate all the measures it has taken to address the findings and recommendations of the Bureau of State Audits April 2010 report, how the authority evaluates the performance of the contractor, and what those evaluations suggest in terms of resolution to the deficiencies noted by the auditor.
 - (f) A report on how the authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision.

Governor's Veto Message

Item 2665-004-6043—For support of High-Speed Rail Authority, payable in accordance with and from the proceeds of the Safe, Reliable High-Speed Train Bond Act for the 21st Century, payable from the High-Speed Passenger Train Bond Fund. I delete Provision 2. Provision 2 provides that \$55,320,000 appropriated in this item and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043 is available only upon submittal of a report to the Joint Legislative Budget Committee and a 60-day review period. The report is to include a legal analysis of any revenue guarantee, a summary of contract expenditures for community outreach, a financial plan with alternative funding scenarios, a copy of the strategic plan, a report on the performance of the Program Management Contractor, and a report on how the Authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision. While the Administration supports these reporting requirements, making the appropriation contingent upon receipt and approval of this report by the Legislature could result in project delays, jeopardize the Authority's ability to meet already tight federal deadlines and result in increased state costs.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Hearing Outcomes

Day: Tuesday, February 1, 2011
Time: 1:30 p.m.
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

Proposed Vote-only Calendar:

2670	Board of Pilot Commissioners	1
2700	Office of Traffic Safety	1

Proposed Discussion / Vote Calendar:

	Motor Vehicle Account – Crosscutting Issue	2
2720	Department of the California Highway Patrol	3
2740	Department of Motor Vehicles	7
2665	High-Speed Rail Authority	12

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Issues Suggested for Vote Only**2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun**

Department Overview : The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

Budget Overview: The January Governor's Budget proposed expenditures of \$2.2 million (no General Fund) and 4.0 funded positions – a year-over-year decrease of \$412,000 and no change in positions. The Board is wholly funded through fees on shippers. The year-over-year budget change is primarily explained by the expiration of one-time funding for legal defense and pilot training.

2700 Office of Traffic Safety

Department Overview: The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to promote traffic safety. Grant recipients include State entities, such as the California Highway Patrol and the Department of Transportation, as well as local entities, such as police departments. Among other programs, the grants fund Driving Under the Influence (DUI) checkpoints, motorcycle and bicycle safety programs, and traffic-law education and enforcement.

Budget Summary: The Governor proposes total expenditures of \$96.9 million (no General Fund) and 33.0 funded positions. After accounting for technical adjustments, the funding level is very similar to last year's budget and the number of positions is unchanged. The Administration did not submit any Budget Change Proposals (BCPs) for OTS.

Staff Comment: The Administration does not propose any budget changes for the two entities listed above. If the Subcommittee approves these budgets now, it does not prevent further review or action on these budgets at a later time during this year's budget process.

Staff Recommendation: Approve the budgets of the two departments listed above.

Action: <i>Approved both budgets on a 3 – 0 vote.</i>
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Issues Suggested for Discussion and Vote

Crosscutting Issue – Motor Vehicle Account transfer to the General Fund

Budget Issue: Should the Legislature approve the transfer item of \$71.6 million from the Motor Vehicle Account (MVA) to the General Fund, and approve a loan repayment of \$40 million from the General Fund to the MVA?

Issue Background: The 2009 and 2010 budget acts both included a \$70 million transfer from the MVA to the General Fund. These were transfers instead of loans and were allowable because the revenue transferred was not attributable to fee revenue nor was it restricted in expenditure by Article XIX of the Constitution – it was instead revenues from “sales of documents” and “miscellaneous services to the public.” MVA revenue primarily comes from vehicle registration fees, and driver license fees, and supports the operations of the Department of Motor Vehicles (DMV), the California Highway Patrol (CHP), and the Air Resources Board (ARB). In addition to the transfer of non-Article XIX revenues, the 2010 Budget Act included a loan from the MVA to the General Fund of \$180 million.

MVA Fund Condition: A primary consideration in determining the prudence of the MVA transfer to the General Fund and loan repayment is the short-term and long-term fund condition of the MVA. The January budget estimates the MVA will end 2011-12 with a reserve balance of \$111 million. Total annual revenues for the fund are about \$2.5 billion, so a balance of about \$100 million might be considered a minimum reserve to allow for contingencies.

Staff Comment: Although the DMV and CHP are special-fund departments, through MVA transfers and loans, their budgets affect the General Fund. Staff asked the DMV and CHP to report on what expenditures savings could be generated to reduce or eliminate the early loan repayment. At this time, the Administration indicates they expect current-year savings of about \$7 million from the CHP radio project, and savings of about \$5.5 million from negotiated labor contracts – these savings are not included in the Governor’s Budget. The Administration indicates that generally they oppose budget actions to increase General Fund solutions from special-fund loans and transfers beyond the \$1.9 billion already proposed. However, if early MVA loan repayment is not required, the Legislature could alternatively explore early repayment of other loans that might promote economic activity or other goals.

Staff Recommendation: (1) Approve the MVA transfer to the GF of \$71.6 million; (2) make technical changes to score the \$12.5 million budget savings indicated by the Administration; and (3) reduce the loan repayment in conformance with this savings and in conformance with any other relevant budget action.

Action: Approved Staff Recommendation on a 2 – 1 vote with Senator Fuller voting “no.”

2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Activity: (funding in millions):

Activity 2010-11		2011-12
Traffic Management	\$1,731	\$1,660
Regulation and Inspection	206	193
Vehicle Safety	46	43
Administration (distributed)	(305)	(231)
TOTAL \$1,984		\$1,897

Major Funding Sources (funding in millions):

Fund Source or Account	2010-11	2011-12
Motor Vehicle Account (MVA)	\$1,779	\$1,699
State Highway Account (SHA)	60	60
Reimbursements	120	113
Federal funds	18	18
Other special funds (no General Funds)	7	7
TOTAL \$1,984		\$1,897

CHP Issues Proposed for Vote Only

1. **Computer Aided Dispatch (CAD) Replacement - Extension of Funding (BCP #3).** The Administration requests a time extension for funding to complete the CAD project. The CHP reports the overall project costs remain the same, but delays in signing the vendor contract will push some project expenditures into 2011-12.

Background: As part of the 2009-10 budget, the Administration requested, and the Legislature approved, two-year funding of \$27.8 million (no General Fund) for the information technology (IT) project to replace the 20-year old CAD system. The CAD is a system containing servers and workstations used to dispatch emergency services (police, fire, ambulance) to calls from the public needing assistance. The new CAD would also allow persons in a dispatch center to easily view and understand the status of all units in the field.

2. **CHP Enhanced Radio System (CHPERS) (two Capital Outlay Budget Change Proposals [COBCPs]).** The Administration requests \$12.8 million in capital outlay funding for the sixth year of the public safety radio project, which is mostly complete. The capital outlay request involves the replacement of radio towers where the existing towers were not strong enough to accommodate new equipment.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$353 million for a savings to the state of \$138 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

Staff Comment: This year's budget request is consistent with what the Administration stated last year during budget hearings. A report on this project is due to the Legislature on March 1, 2011. Should the report indicate any significant changes in the project, the Subcommittee can hear the issue again.

Staff Recommendation: Approve the two budget requests listed above.

Action: *Approved the two vote-only items on a 3 – 0 vote.*

3. Capital Outlay Finance Letters: The Administration submitted two requests related to capital outlay projects. The Legislature has previously approved funding for early phases of these projects, such as design and land acquisition.

- **Santa Fe Springs Area Office – (Construction Phase):** \$19.6 million (Motor Vehicle Account) is requested for the construction phase of the Santa Fe Springs Area Office replacement project. The Legislature previously approved about \$7.6 million for earlier phases of this project.
- **Oceanside Area Office – (Construction Phase):** \$18.3 million is requested for the construction phase of the Oceanside Area Office replacement project. The Legislature previously approved about \$4.6 million for earlier phases of this project.

Staff Comment: The CHP owns the land for the Oceanside facility and expects to purchase land soon for the Santa Fe Springs facility. A significant amount of funds have been approved by the Legislature and spent on the early phases of these projects. Due to the slow economy, competition for construction work is strong and the state may achieve bid savings. However, the state budget is very constrained and this project reduces MVA fund reserves. Another option to consider is lease-to-purchase financing, where the construction would be builder financed with the state paying rent over a period of years and ultimately have the option to purchase the facility at a specified price.

Staff Recommendation: Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

Action: *Approved the budget requests on a 3 – 0 vote.*

- 4. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than 72 hours, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.

(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.

Staff Comment: The Subcommittee may want to again consider adopting trailer bill language for LPRs.

Action: Deferred discussion, cited intent to hear issue at February 8, 2011, hearing.

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Activity: (in millions):

Activity 2010-11		2011-12
Vehicle/vessel identification and compliance	\$503	\$509
Driver licensing and personal identification	246	244
Driver Safety	115	117
Occupational Lic. And Investigative Services	47	50
New Motor Vehicle Board	2	2
Administration (distributed)	(102)	(103)
TOTAL \$912		\$922

Major Funding Sources (in millions):

Fund Source or Account	2010-11	2011-12
Motor Vehicle Account (MVA)	\$526	\$525
Motor Vehicle License Fee Account (MVLFA)*	308	325
Reimbursements	14	14
State Highway Account (SHA)	53	47
Federal funds	8	4
Other special funds (no General Funds)	3	7
TOTAL \$912		\$922

Informational Note on Driver License Cards: The DMV implemented a new driver license / identification (DL/ID) card on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected some cards. Both DMV and a representative of the vendor indicate the production issues have been largely resolve, but another month will be required before the backlog is fully cleared.

Action: *Discussed delays in issuing DL/ID cards. DMV agreed to provide a written response within two weeks describing damages they are seeking from the vendor. Subcommittee indicated they also wanted DMV to return during spring hearings to provide an update on this issue.*

Issues Proposed for Vote-Only

- 1. Ignition Interlock Device (IID) Program – Continue Positions (BCP #7):** The Administration requests a continuation of funding (\$511,000 Motor Vehicle Account) and the conversion of 9 limited-term positions to permanent. The positions are associated with the IID workload, which is a program that DMV took over from the courts in 2009-10 pursuant to SB 1388 (Chapter 404, Statutes of 2008, Torlakson). The program provides for the installation of IIDs in specified circumstances when the car owner has a conviction for Driving Under the Influence (DUI). The 2009-10 budget provided a total of 26 new positions, with 9 of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 9 limited-term positions should be converted to permanent. The cost of the positions and program is fully support by fees on program participants.
- 2. Temporary Operating Permit (TOP) Program – Continue Positions (BCP #8):** The Administration requests a continuation of funding (\$369,000 Motor Vehicle Account) and the conversion of 7 expiring limited-term positions to 2 permanent positions and 5 limited-term positions. The positions are associated with the TOP Program, which was established in 2009-10 pursuant to AB 2241 (Chapter 451, Statutes of 2008, Saldana). The program provides for a temporary operating permit when a certificate of smog compliance is required. The 2009-10 budget provided a total of 7 new positions, with all of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 7 limited term positions should be retained as specified. The cost of the positions and program is fully supported by fees on program participants.
- 3. Traffic Violator School (TVS) Program - New Statutory Requirements (BCP #11):** The Administration requests \$2.3 million (Motor Vehicle Account) to fund third-party contractors to monitor the TVS industry. The DMV is assuming this role for home-study TVSS from the courts pursuant to AB 2499 (Chapter 599, Statutes of 2010, Portantino). Statute requires elimination of the court-approved program of traffic safety instruction and gives DMV exclusive oversight and monitoring responsibility. The Administration anticipates the third party contractors will be used to conduct an annual review of business practices of 600 businesses and bi-annual monitoring of TVS training conducted at 2,500 classrooms and through approximately 200 home study/Internet courses. The cost of the program is fully supported by fees on program participants.

Staff Recommendation: Approve the three budget requests listed above.

Action on Issues 1 & 3: Approved on a 3 – 0 vote.

Action on Issue 2: Approved on a 2 – 1 vote with Senator Fuller voting “no.”

Issues Proposed for Discussion and Vote

- 4. Federal Grant for Privacy and Security Enhancement – (B CP #9).** The Administration requests \$918,000 (one-time federal funds) for consulting services related to information technology (IT) security and privacy protection.

Detail: The DMV indicates the consulting service will be the first step in improving employee Role-Based Access Control (RBAC) to various stove-pipe IT systems and establishing an enterprise-wide privacy-protection and security system. This would improve the ability of DMV to limit employee’s access to various IT systems to just match what a particular employee needs to perform their job.

Staff Comment: The DMV should explain the deficiencies in privacy and security they are trying to address with this proposal. Additionally, the department should discuss training and other measures taken to ensure DMV employees maintain the highest standards of customer privacy.

Staff Recommendation: Approve the request.

Action: <i>Approved on a 3 – 0 vote.</i>

5. Facility-Related Finance Letters: The Administration submitted two requests related to office facilities. DMV operates a mix of State-owned and leased facilities.

- **Grass Valley Field Office Replacement Project – State-owned Facility (Preliminary Plan Phase):** The Administration requests \$648,000 (various special funds) for the preliminary-plan phase of the Grass Valley Field Office replacement project. The budget request indicates that future costs will include working drawings at a cost of \$531,000, and construction at a cost of \$6.7 million. Total project cost is estimated at \$7.8 million. The new facility would be approximately four times the size of the existing facility.
- **Southern Los Angeles Commercial Driver License Test Center – Leased Facility (BCP #5):** The Administration requests a one-time augmentation of \$20,000 (Motor Vehicle Account) to begin the process of establishing a consolidated Commercial Driver License (CDL) Test Center at a leased facility in the southern Los Angeles area. The DMV believes separate CDL locations promote efficiency and public safety by not bringing larger commercial vehicles to the standard field office locations. If this request is approved, the southern Los Angeles CDL Test Center would be the fifth consolidated location, following San Bernardino, West Sacramento, Escondido, and a soon-to-open center in Fresno. The \$20,000 requested would cover Department of General Services planning fees. The estimated costs in 2012-13 would be \$85,000, and move-in would occur in 2013-14 with half-year operations costs of \$1.1 million.

Staff Recommendation: Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

Action: Approved budget requests on a 3 – 0 vote.

6. Veterans Optional Check-off – Trailer Bill Language: Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran's check-off box on driver license applications that would allow a veteran's name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the veterans language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the DMV and CDVA. The language in AB 1614 is copied below (amending Vehicle Code Section 12811):

(d) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits.

(2) The department shall collect the information obtained pursuant to paragraph (1).

(3) Periodically, as mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about Veteran benefits.

(A) His or her true full name.

(B) His or her residence or mailing address.

(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

Staff Comment: The Subcommittee may want to consider adoption of this trailer bill language intended to aid veterans.

Action: Held open to consider Administration-proposed amendments to trailer bill language. Cited intent to hear issue at February 8, 2011, hearing.

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Summary Table of the Governor's HSRA budget: The enacted budget for 2010-11 is compared to the proposed budget for 2011-12 in the table below (dollars in millions).

Agenda Issue Number	Activity BCPs		2010-11 Budget	2011-12 Budget Proposal
State Operations				
	Baseline funding for state staff and operations		\$5.3	\$5.6
3	Contracts with other governmental units – CalTrain & Caltrans		\$7.7	\$0
3	Contracts for Ridership/Revenue and Visual Simulation		\$1.4	\$0
4	Contract for Program Management* and **	COBCPs 1-7	\$37.0	\$41.5
5	Contract for Program Management Oversight	BCP 1	\$2.0	\$3.0
6	Contract for Public Information and Communications Services	BCP 3	\$1.8	\$1.8
7	Contracts for Financial Plan and Public Private Participation Program	BCP 4	\$1.0	\$0.8
8	Interagency Contracts with DOJ and DGS	BCP 7	\$0.4	\$1.5
Capital Outlay				
9	Contracts for design and engineering*	COBCPs 1-7	(\$154.3)	(\$137.9)
9	San Francisco to San Jose*	COBCP 4	\$25.2	\$9.9
9	San Jose to Merced*	COBCP 5	\$25.1	\$24.7
9	Merced to Fresno*	COBCP 2	\$15.1	\$10.7
9	Fresno to Bakersfield*	COBCP 1	\$37.5	\$11.1
9	Bakersfield to Palmdale*	COBCP 7	\$0.8	\$39.5
9	Palmdale to Los Angeles*	COBCP 6	\$34.2	\$35.5
9	Los Angeles to Anaheim*	COBCP 3	\$10.1	\$6.4
9	Los Angeles to San Diego		\$2.7	\$0.0
9	Merced to Sacramento		\$1.8	\$0.0
9	Altamont Pass		\$1.8	\$0.0
9	Contracts with Enviro Agencies**		\$1.8	(\$3.1)
9	Pre-Acquisition and Acquisition*		\$10.0	\$0
	TOTAL Budget		\$221	\$192

* Funding is half Prop 1A of 2008 Bonds, and half federal funds. No “*” indicates all Prop 1A funding.

** Was budgeted in State Operations in 2010-11, proposed as Capital Outlay for 2011-12.

The remainder of this agenda is generally organized consistent with the grouping and sequence of issues in this table.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
 - (a) a complete legal analysis of the revenue guarantee and alternative options;
 - (b) a report on community outreach;
 - (c) an updated financing plan with alternative funding scenarios;
 - (d) a copy of the strategic plan required by the State Administrative Manual;
 - (e) a report on the performance of the Program Manager Contractor; and
 - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language withheld \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC). A copy of the language and veto message is Attachment I at the end of this agenda.

Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst's Office, the Bureau of State Audits, and more recently, the peer review group. It was because the Subcommittee believed resolution of these issues was so critical to the success of this project, that it took the step of making budget funding contingent on the reporting. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011. Since the Governor's veto of the reporting language, staff understands the HSRA has indicated it will still submit the report, but the delivery will be delayed until May 2011.

Staff Comment: Given the importance of the issues involved, the Subcommittee may want to consider restoration of the reporting language. However, timing is key as the Subcommittee anticipated the report would be available for review and public discussion during spring 2011 budget hearings. Staff understands that the procurement of a new financial consultant is still in process, so a complete financing plan is unlikely to be completed this spring. The Subcommittee may want to receive testimony from the HSRA on what individual reporting elements will be available and when.

Staff Recommendation: Hold open.

Action: Held open.

- 2. Budget Language sustained by Governor Schwarzenegger, but omitted from the 2011-12 Budget:** Last year, the Subcommittee adopted budget bill language that would prohibit the signing of a binding construction-related memorandum of understanding (MOU) prior to peer review reporting on the applicable segment and completion of a project-level environmental impact report (EIR).

Background: The language resulted from a draft MOU proposed by the Orange County Transportation Authority related to an intermodal transit hub in Anaheim. The intent of the budget language is to prohibit the state from entering construction-related contractual obligations prior to completion of the EIR and peer review recommendations, which may result in project changes. The language was included in the final 2010 Budget Act, but is not included in the proposed budget for 2011-12. The language reads as follows:

A memorandum of understanding (MOU) that identifies state capital outlay construction expenditures in excess of \$2,500,000 shall be subject to appropriation for the elements covered by the MOU and contingent on (1) review and reporting by a peer review group of the segment financing plan for the applicable segment and (2) completion of a project-level environmental impact report for the applicable segment.

Staff Comment: Unless the Subcommittee has changed its view on this issue, it may want to consider continuing this language by adding it to the 2011 Budget Act. The Department of Finance indicates this language is unnecessary because current law would already prohibit a construction MOU prior to completion of environmental review. However, the HSRA had put such an MOU on a Board agenda and their attorneys had not raised legal concerns.

Staff Recommendation: Hold open.

Action: Added budget bill language on a 3 – 0 vote.

- 3. Activities Funded in 2010-11, with no Funding Requested for 2011-12:** The Administration received funding for contracts with other governmental units and private entities in 2010-11 for which no funding is requested for 2011-12. The HSRA should update the Subcommittee on these activities and indicate if they are complete, ongoing with carry-over funds, or ceased due to a change in strategy.

Detail – activities to be completed in 2010-11: Last year, funding was approved for the following one-time activity:

- 2010 BCP #4 – Ridership/Revenue Forecasts: The 2010-11 budget included \$1 million to continue to refine the ridership/revenue model and testing various operational and fee scenarios to develop the range of options available. According to HSRA, the ridership and revenue data the HSRA currently has was geared more towards the worst case scenario (largest number of riders, based on lower ticket costs, resulting in greater impacts to the physical environment). The HSRA indicates new forecasts are needed to provide investment grade information to private investment interests.
- 2010 BCP #3 – Visual Simulation Plan Development: The 2010-11 budget included \$375,000 to continue funding for the development of visual simulation programs. The HSRA indicated these simulations would be used to educate the public on the potential impacts high-speed trains may have on their communities. The Administration indicates now that a library of visual simulations is available, and they will use these images going forward to explain the project and will not develop further site-specific simulations.

Detail – Activities with ongoing need, but not funded: The approved 2010-11 budget included funding for the following ongoing activities, but funding for these activities is not proposed in the 2011-12 budget:

- 2010 April FL #2 in – Peninsula Corridor Joint Powers Board (Caltrain) Coordination: The 2010-11 budget included \$1.6 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrain, whereby the HSRA will fund the Caltrain cost of cooperative planning activities on the HSRA/Caltrans corridor.
- 2010 April FL #3 and May FL #7– California Department of Transportation (Caltrans) Coordination: The 2010-11 budget included \$4.3 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrans, whereby Caltrans will perform new workload related to project coordination and oversight where the high-speed rail project interfaces with state highway.

Staff Comment: The HSRA should comment on the status for the one-time workload and comment on why the ongoing workload is not funded.

Staff Recommendation: Hold open.

Action: Held open.

- 4. Program Management Contract (BCP #1):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.

Background / Detail: The HSRA signed a multi-year contract with Parsons Brinkerhoff to manage the program through the completion of the environmental review and preliminary design work. The contract expires in June 2013. Parsons Brinkerhoff has seven subcontractors that are also funded within the requested \$41.5 million. The contract provides for payment of up to \$199 million, but the HSRA anticipates only spending \$129 million over the life of the contract.

Staff Recommendation: Hold open.

<i>Action: Held open.</i>

- 5. Program Management Oversight Contract (BCP #3):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.

Background / Detail: The HSRA signed a three-and-one-half year, \$8 million, contract with TY Lin to provide this service. The Authority indicates the costs are up year-over-year because of the accelerated timeline on the Merced to Bakersfield segment to meet federal deadlines and due to “increasing interests of various stakeholders (such as the Legislature, cities, counties, councils of governments, railroads, etc.) and legal actions.” The contract expires in June 2013 and the Authority expects to fully expend the \$8 million contract amount.

Staff Recommendation: Hold open.

<i>Action: Held open.</i>

- 6. Public Information and Communication Services Contract.** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.

Background / Detail: The HSRA signed a five-year, \$9 million, contract with Ogilvy Public Relations Worldwide (Ogilvy) to provide this service. The contract requires Ogilvy to coordinate the various regional outreach activities related to the environmental review process and supplements those efforts with statewide communications including but not limited to stakeholder outreach, Web site and social media activities, legislative tracking, event planning, and the production of written materials such as fact sheets.

Staff Recommendation: Hold open.

<i>Action: Held open.</i>

- 7. Financial Plan and Public Private Participation Contracts (BCP #4)** . The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan.

Background: A total of \$1.0 million was provided in the 2010-11 budget for this same purpose. The HSRA reports that PricewaterhouseCoopers was selected in the request-for-proposal (RFP) process, and should be under contract soon.

Staff Recommendation: Hold open.

<i>Action: Held open.</i>

8. Interagency Contracts for DOJ and DGS (BCP #7). The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).

Background: The HSRA indicates that workload performed by DOJ is increasing substantially due to the preparation of the draft and final project-level documents on multiple corridors. DGS provides records service, automobile rental, purchasing and real estate services, and human resource services.

Staff Recommendation: Hold open.

<i>Action: Held open.</i>

- 9. Engineering contracts for preliminary design and environmental impact reports:** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds. No new funding is requested for pre-acquisition or acquisition activity, but the Administration notes that the \$10 million provided in the 2010 Budget Act has three-year budget availability.

Background: The funding requested this year is similar to last year after various accounting changes and adjustments for onetime funding. The total multi-year cost for the Phase I preliminary design work and EIR is estimated to be \$260 million and the work is expected to be completed in 2012-13. Note, these dollars and timeline are from 2010 data – at the time this agenda was finalized, updated information was still pending from the HSRA.

Detail – Change to project timeline: The HSRA indicates that due to the federal direction to initiate construction in the San Joaquin Valley, the Authority is accelerating work on the Merced to Fresno, and Fresno to Bakersfield, segments. Conversely, timelines are being extended for work on the other Phase I corridors. Another policy change is to cease work on the Phase II corridors (Sacramento to Merced, Los Angeles to San Diego, and Altamont Pass). Work on those segments would resume in the future when Phase I funding is fully secured and separate funding is identified to resume Phase II work.

Detail – Changes in budgetary accounting: As indicated above, the Program Management Contract was previously budgeted as state operations, but is now proposed as a capital outlay expense. Similarly, funding to pay resource agencies for expedited environmental review was previously in state operations, but is not included in capital outlay. These resource agencies include the U.S. Army Corps of Engineers; the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; the California Department of Fish and Game; the California Department of Parks and Recreation; and the State Historic Preservation Office. The environmental review funding was \$1.8 million in the 2010-11 budget and is requested at \$3.1 million for 2011-12.

Staff Comment: The HSRA should explain the changes in the timeline and cost for project segments, and explain their proposed budgetary-accounting changes.

Staff Recommendation: Hold Open.

Action: Held open.

10. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – TBL included in SB 854 and AB 1614 (2009-10 Legislative Session):

The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- **Peer Review Group:** Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- **Exempt Positions:** Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- **Biannual Reporting:** Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in budget trailer bill.

Staff Recommendation: Hold open.

Action: Held open.

Attachment I

2010 Budget Bill Language Vetoed by the Governor and Veto Message

2. Of the amounts appropriated in this item, and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043, a total of \$55,320,000 shall be available for expenditure only after the submittal of a report to the Joint Legislative Budget Committee and a 60-day review period, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine. The High-Speed Rail Authority shall have discretion concerning how the \$55,320,000 in restricted expenditures is allocated among the five items of appropriation listed above. The authority shall submit the report no later than February 1, 2011. The report shall include, but not necessarily be limited to, all of the following:

- (a) A complete legal analysis of the revenue guarantee and/or mechanisms to reduce the operator's risk, which the authority indicates it would provide to its operator. To mitigate risk, the authority shall provide an analysis of the revenue contribution to the project from the private operator with and without a revenue guarantee and/or mechanisms to reduce the operator's risk. The authority shall discuss alternative financing approaches to make up for any lost revenue in the case of no revenue guarantee and/or mechanisms to reduce the operator's risk.
- (b) A report on contract expenditures for community outreach, including detail by type of expenditure and activity. Detail on meetings by segment and community and a summary of correspondence, e-mail, media, Internet Web site, and other outreach efforts shall be included in the report.
- (c) A financial plan update with alternative funding scenarios. To mitigate risk, the authority shall report on alternative funding options if no significant federal funds are received beyond the American Recovery and Reinvestment Act and no revenue

- guarantee and/or mechanisms to reduce the operator's risk are allowable. The plan shall also include construction alternatives for a constrained funding environment—what investments would be made and construction completed if the nonbond resources only equal bond funding.
- (d) A copy of the strategic plan that the authority is developing pursuant to the requirements of the State Administrative Manual.
 - (e) A report on the performance of the Program Manager Contractor. The authority shall indicate all the measures it has taken to address the findings and recommendations of the Bureau of State Audits April 2010 report, how the authority evaluates the performance of the contractor, and what those evaluations suggest in terms of resolution to the deficiencies noted by the auditor.
 - (f) A report on how the authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision.

Governor's Veto Message

Item 2665-004-6043—For support of High-Speed Rail Authority, payable in accordance with and from the proceeds of the Safe, Reliable High-Speed Train Bond Act for the 21st Century, payable from the High-Speed Passenger Train Bond Fund. I delete Provision 2. Provision 2 provides that \$55,320,000 appropriated in this item and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043 is available only upon submittal of a report to the Joint Legislative Budget Committee and a 60-day review period. The report is to include a legal analysis of any revenue guarantee, a summary of contract expenditures for community outreach, a financial plan with alternative funding scenarios, a copy of the strategic plan, a report on the performance of the Program Management Contractor, and a report on how the Authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision. While the Administration supports these reporting requirements, making the appropriation contingent upon receipt and approval of this report by the Legislature could result in project delays, jeopardize the Authority's ability to meet already tight federal deadlines and result in increased state costs.

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

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Thursday, February 3, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich 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

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

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

1. BCP-1: EnergySmart Jobs Program—ARRA Funded. The Governor requests a one-time \$541,000 augmentation to the Collins Dugan Reimbursement Account appropriation as well as limited term position authority to fulfill a contract employing Corpsmembers who will serve as energy efficiency auditors. Funding is from the American Reinvestment and Recovery Act (ARRA), federal funds.

3560 State Lands Commission

2. BCP-1: Selby Slag Remediation. The Governor requests \$1 million in General Fund to fulfill the state's legal obligation to pay a proportional share of certain further hazardous waste remediation costs at Selby, California.

3720 California Coastal Commission

3. BCP-2: Coastal and Marine Education Whale Tail License Plate Program. The Governor requests a one-time augmentation of \$82,000 to increase Whale Tail revenues from the Coastal Beach and Coastal Enhancement Account to the Coastal Commission's budget for grants to nonprofits and government agencies.

Staff Recommendation: APPROVE ITEMS 1-3

VOTE:

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency.

Governor's Budget. The Governor's Budget includes \$62.8 million to support the Secretary for Natural Resources. This is a 85 percent decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Items Proposed for Vote-Only

1. BCP-1: San Joaquin River Restoration. Proposition 84 allocates \$100 million to the Natural Resources Agency to implement a court settlement between water users and the federal government concerning the San Joaquin River Restoration. The Agency, through consultation with its constituent departments proposes to direct \$60 million to the Department of Water Resources and \$40 million to the Department of Fish and Game (minus bond issuance set-asides). This request would provide year 5 of a five-year rollout of these funds.

Staff Recommendation: HOLD OPEN—This item will conform to items in the Department of Water Resources and Department of Fish and Game budgets.

Vote:

Items Proposed for Discussion

2. Informational Item—Introduction by Secretary for Natural Resources

The subcommittee may wish to have Secretary John Laird give an overview of his approach to managing the Natural Resources Agency over the coming years, given the state's fiscal situation as well as proposals to realign portions of the agency to locals.

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 \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-1: Information Technology (IT) Maintenance. The Governor requests a one-time appropriation of \$132,000 from various special funds for maintenance of the DOC's IT infrastructure.

2. BCP-5: California Farmland Conservancy Program Local Assistance Funds. The Governor requests a one-time appropriation of \$2.5 million from Proposition 40 bond funds to provide local assistance grants to permanently protect strategically important farmland.

3. BCP-8: State wide Watershed Coordinator Grant Program. The Governor requests a one-time appropriation of \$3.6 million in local assistance from Proposition 84 to continue the implementation of the statewide Watershed Coordinator Grant Program.

Staff Recommendation: APPROVE Items 1-3.

Vote:

ITEMS PROPOSED FOR DISCUSSION**4. BCP-6: Watershed Implementation Reappropriation.**

Background. The Governor requests re-appropriation of \$1.2 million in unencumbered Proposition 50 bond funds to continue implementation of the former watershed element of the CALFED Bay-Delta Program through DOC's Statewide Watershed Program.

Staff Comments. In the 2010-11 Budget, the Legislature transferred most CALFED Bay-Delta Program activities, including certain oversight objectives, to the Delta Stewardship Council. At the same time, the Council was required to submit a zero-based budget in FY 2011-12 for all entities receiving former CALFED resources. This was, in part, to help the Legislature prioritize funding for Bay-Delta activities pending the adoption of a Delta Plan by the Council. This issue will be heard at the February 10 hearing.

The Council has requested to postpone the submission of the zero-based budget to coordinate with the completion of the Delta Plan. It would be appropriate to hold non-essential bond-funded activities off until a clear plan for the Delta is in place, and priorities for funding are made clear to the Legislature.

Recommendation: DENY PROPOSAL

Vote:

5. BCP-9: Implementation of AB 2453.

Background. The Governor requests a baseline appropriation of \$145,000 (special funds) for the Division of Oil, Gas, and Geothermal Resources (DOGGR). Funding is requested to increase legal workload as a result of Chapter 264, Statutes of 2010 (AB 2453, Tran) described below. The department plans to redirect a vacant position to support DOGGR's legal need.

AB 2453 substantially strengthens procedural safeguards following an Appellate Court ruling regarding deficiencies in the existing appeals provisions in statute. AB 2453 provisions revise DOGGR enforcement actions and provides for use of formal administrative hearings for certain appeals. Changes to the appeal process will increase workload for Department attorneys.

Staff Comments. The division (DOGGR) is currently undergoing restructuring following direction of the legislature during budget hearings last year. In the 2010-11 budget, the Legislature approved \$3.2 million and 17 permanent positions to augment the Underground Injection Control and Enhanced Oil Recovery Program.

The department should be prepared to discuss:

- Whether or not the department has successfully filled the 17 positions;
- The impact these positions have had on permitting levels and compliance with state and federal law.

Recommendation: DENY WITHOUT PREJUDICE. Request the department return in spring with an update on enforcement and permitting actions, as well as a report on its efforts to fill the existing 17 Division of Oil, Gas, and Geothermal Resources positions.

Vote:

3500 Department of Resources Recycling and Recovery

As previously noted, the DRRR was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, the DRRR 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. The DRRR 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, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes \$1.4 billion (no GF) for the DRRR, including \$1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and \$200 million for the Waste Reduction and Management Program (the old Waste Board).

ITEMS FOR VOTE-ONLY

1. BCP-3: Distributed Funding of Health and Safety Program. The Governor requests to reallocate expenditures for health and safety activities serving all DRRR employees from the Integrated Waste Management Account (IWMA) to five special funds and shift the associated activities from a specified program to Program 30—Distributed Administration.

2. BCP-4: Fund Shift from the Integrated Waste Management Account to the Tire Recycling Management Fund. The Governor requests to shift 5.5 positions and \$627,000 between the two accounts to align the funding source with workload activities. The department is proposing to absorb these costs within existing Tire Fund expenditure authority.

Recommendation: APPROVE Items 1-2

Vote:

ITEMS FOR DISCUSSION**3. BCP-5: Improve Audit Coverage and Internal Controls.**

Background. The Governor's budget requests to redirect \$1.1 million Beverage Container Recycling Fund from the Consulting and Professional line item to fund 11.0 permanent positions to address the findings and recommendations in the State Auditor's report from June 2010.

In June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

LAO Reorganization Analysis. The LAO has raised issues with the level of savings from the overall creation of DRRR as well as the best proposed reorganization model. The LAO recommends holding hearings to discuss the reorganization plan particularly as it impacts department programs (including the Beverage Container Recycling Fund). The LAO also recommends reporting language to require the department to report on the savings from the reorganization.

LAO Analysis of the Beverage Container Recycling Fund. The LAO has prepared a short handout and presentation on the status of the Beverage Container Recycling Fund. The committee may wish to hear a brief presentation by the LAO to put into context the budget proposals before the committee.

Staff Comments. Staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. The department continues to implement a reorganization plan, however it is unclear what the entirety of the final outcome will be. This issue is sufficiently complex that a joint policy and budget hearing on the department is needed before the department should move ahead with any further budget changes regarding the BCRF.

The LAO analyses of both the reorganization and the BCRF have merit. Staff further believes the department should be ready to report on savings from the department reorganization as well as a solid analysis of the BCRF this spring.

Staff Recommendation: DENY WITHOUT PREJUDICE. Require the department to return in spring for an oversight hearing on the department's reorganization and status of the Beverage Container Recycling Fund.

Vote:

4. BCP-6: Fraud Prevention Program, Strategic Priority Initiative—Beverage Container Recycling Program.

Background. The Governor's budget requests 7 permanent positions funded by redirecting \$681,000 Beverage Container Recycling Fund from Consulting and Professional Services to Personal Services. These positions are requested to prevent and investigate fraud in the Beverage Container Recycling Program.

As with the previous item, in June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

Staff Comments. As with the previous item, staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. The department continues to implement a reorganization plan, however it is unclear what the entirety of the final outcome will be. This issue is sufficiently complex that a joint policy and budget hearing on the department is needed before the department should move ahead with any further budget changes regarding the Beverage Container Recycling Fund.

Staff Recommendation: DENY WITHOUT PREJUDICE. Require the department to return in spring for an oversight hearing on the department's reorganization and status of the Beverage Container Recycling Fund.

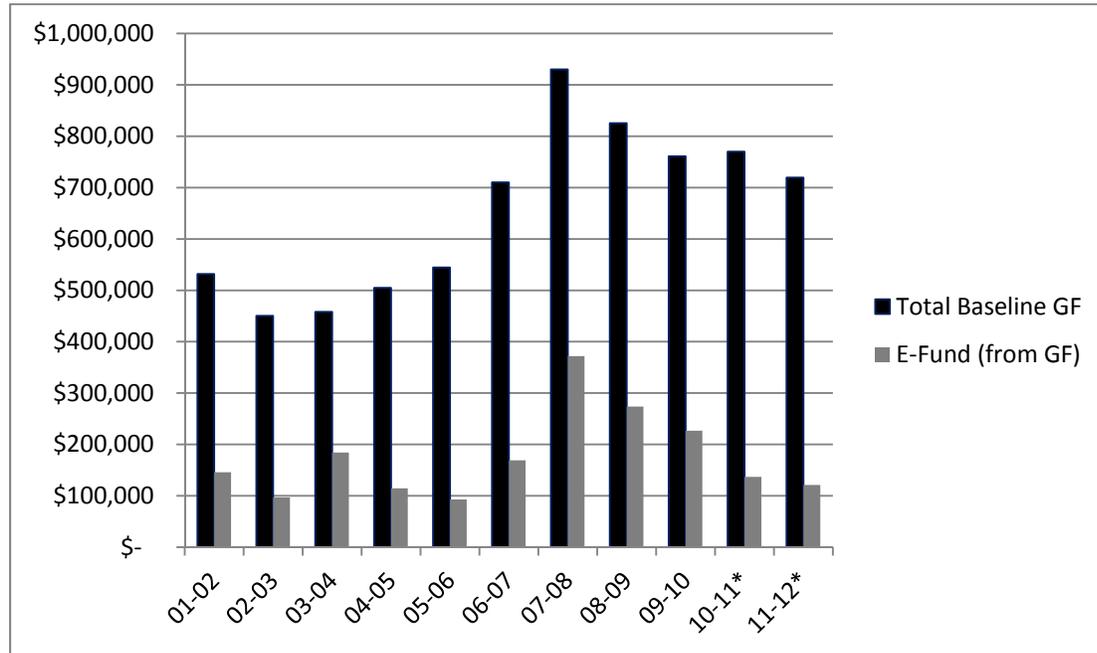
Vote:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or “CalFIRE,” under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor’s Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor’s Budget includes \$1.05 billion for support of the DFFP in 2011-12. This is a \$39 million (3.7 percent) decrease under current year expenditures. This is mainly due to the proposal to reduce engine firefighter staffing.

General Fund Growth Reference Chart**



* Estimated

** Capital outlay excluded (as well as certain related local assistance). Year-to-year carryover makes this figure meaningless for comparison.

ITEM PROPOSED FOR VOTE-ONLY

1. BCP-7: Additional Battalion Chief Staffing. The Governor requests General Fund and permanent position authority to maintain the minimum level of staffing coverage for the Battalion Chief (BC) classification which existed prior to the workweek change implemented with the recent Bargaining Unit 8 contract. This is the close of a multi-year adjustment that started in 2006.

2. BCP-8: Underground Storage Tank Cleanup. The Governor requests three-year funding to perform mandated site investigations, monitoring, clean-up and/or closing underground storage tanks to comply with the Clean Water Act. Funding is requested at \$1.7 million in 2011-12, \$1.1 million in 2012-13, and \$499,000 in 2013-14.

3. BCP-16: Unemployment Insurance Funding. The Governor requests \$10.6 million General Fund in the current year, \$10.6 million in the budget year, and \$5.3 million ongoing for increased costs due to federal changes in eligibility requirements for unemployment insurance.

4. COBCP: CalFIRE Reappropriations. The Governor requests reappropriation of various phases of Major Capital Outlay projects. These projects were funded between 2005 and 2010 and are on hold mainly due to the freeze on Pooled Money Investment Account Funds.

Staff Comment (Item 4): Previous year's discussions regarding these capital outlay projects projected the cost of capital improvements versus maintenance with capital costs amounting to a less-costly option for the various buildings and camps.

Staff Recommendation: APPROVE Items 1-4

Vote:

ITEMS PROPOSED FOR DISCUSSION**5. Realignment Proposal.**

Governor's Proposal. The Governor proposes to realign fire protection services in the most highly populated state responsibility areas to local governments. The Department of Forestry and Fire Protection (CalFIRE) provides wildland fire protection services in over 31 million acres of State Responsibility Areas (SRAs). Although the number of acres in SRAs has been relatively constant since the 1950's the composition of SRAs has changed greatly. Currently, SRAs lands encompass roughly one-third of the state's acreage. These SRAs are primarily *privately owned* timberlands, rangelands, and watersheds that, in recent decades, have become increasingly populated and developed.

Under the proposed realignment plan, responsibility for fire protection and medical emergency response in the relatively more populated wildland areas would be assumed by local governments. Under the Governor's plan, there would be a statutory change in the criteria for designating lands as a SRA, and the Board of Forestry (BOF) would redraw SRA boundaries based on the new criteria for SRAs.

The Governor estimates that the proposal will result in the realignment of up to \$250 million of CalFIRE's protection program to local government. The department would continue to provide fire protection services in the SRAs until the Board of Forestry's reclassification is completed. Under the proposal, the ultimate composition of the SRA would be determined by the Board of Forestry's final determination of the SRA classification based on revised criteria. The state would continue to pay *both* the state and local costs.

Staff Comments: The basis for the Governor's recommendation has merit. The continued approval by local governments of housing developments in SRA has significantly contributed both to the cost of fire protection in these areas as well as the number of and amount of personnel and staff resources required to maintain fire protection in these areas. The department's current practice is to participate in the "mutual aid" program where the closest emergency responder will respond to any emergency incident. This results in numerous structural protection, vehicle accident, and even water rescue operations by the department.

The proposal to re-examine the role of the department and the responsibility of local governments is a good one. However, staff have significant concerns with the lack of details both in the substance of the proposal and in the financial shift proposed by the administration.

Staff Recommendation: HOLD OPEN. Recommend Department of Finance be required to engage key legislative staff to work on a revised realignment proposal that addresses Legislative and staff concerns.

Vote:

ITEMS PROPOSED FOR DEFERRAL (Pending Realignment Proposal)

6. BCP-1: Fire Protection Permanent Funding. The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit at a zero-based budget. The request includes authority related to the Aviation Management Unit, Very Large Air Tanker and Victorville Air Attack Base, San Diego Helitack, Aviation Asset Coordinator, Lake Tahoe Basin Fire Engine Station and Staffing, and Defensible Space, and CAL Card Support.

7. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option. The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

Staff Comments: Each of these items may be impacted by the Legislature and the Governor's negotiations on the realignment process. Therefore it may be premature to approve or deny these proposals. It is fully anticipated that these issues will be brought before the committee again in a spring hearing to determine which CalFIRE proposals should move forward.

Staff Recommendation: (1) HOLD OPEN Item 6; (2) Deny without Prejudice Item 7.

Vote:

8. Civil Cost-Recovery Program.

Background. The Governor requests \$1.7 million and 10 two-year limited term positions to augment its current Statewide Fire Suppression Civil Cost-Recovery Program. The California Health and Safety Code authorizes fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws.

In 2008, the Legislature approved a 14-person, two-year pilot program to determine the cost-effectiveness of full time cost-recovery staff. The program cost \$2.4 million and recovered \$13.7 million the first year and \$14.6 million the second year. This proposal was made permanent in the 2010-11 budget including the conversion of 14 limited-term positions to permanent status and carryover of the operating budget.

Staff Comments. Staff agrees that the pilot program to increase civil cost recovery was successful in its first few years. Staff recommends continuation of the program. However staff have serious concerns with adding funding for (1) \$112,000 of leased office space and (2) \$96,000 for new emergency response vehicles.

First, in an era of austerity measures, the department should evaluate whether or not there is space in any of the current headquarters, or any of the 500 facilities statewide including 228 forest fire stations, 112 telecommunication sites, 39 conservation camps, 21 ranger unit headquarters or 16 administrative headquarters.

Second, it would not seem prudent to purchase permanent vehicles for temporary staff. The two-year limited term nature of the positions would leave the department at the end of the two years with \$96,000 of emergency vehicles that no longer have a purpose. The department should justify the long-term use of these vehicles before the Legislature agrees to the purchase.

Recommendation: (1) APPROVE \$1.5 million for 10 two-year limited term positions. (2) REJECT \$208,000 for lease space and vehicles.

Vote:

9. Eliminate Funding for CalFIRE's Fourth Firefighter.

Background. The Governor's budget proposes to eliminate funding for CalFIRE's 4th firefighter. The budget includes a reduction of \$3.6 million GF in 2010-11 and \$30.7 million GF in 2011-12 as a result of restoring CalFIRE's staffing levels to three firefighters per engine. Beginning in 2003, CalFIRE increased staffing levels from three to four firefighters per engine during peak fire season in the summer and early fall per Executive Order.

However, according to the administration, these additional staffing levels have not improved CalFIRE's initial attack effectiveness at containing wildfires to less than ten acres. Therefore, four person staffing levels are not cost-effective. This proposal will restore CalFIRE firefighter staffing back to its pre-2003 historic levels.

Staff Comments. Staff concurs with the administration's analysis of firefighter staffing.

Recommendation: APPROVE the proposal.

Vote:

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-4: Critical Radio Infrastructure and Equipment. The Governor requests \$4.1 million (Fish and Game Preservation Fund) and conversion of one position to overhaul the department's radio communications to comply with federal regulations.

2. BCP-5: San Joaquin River Restoration. The Governor requests \$3.8 million in reimbursements from the Resources Agency (Proposition 84 bond funds) to continue work on the San Joaquin River Settlement Agreement.

3. BCP-13: Hot Creek Hatchery. The Governor requests \$158,000 from the Hatcheries and Inland Fisheries Fund (HIFF) to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species.

Various Minor Capital Outlay Projects

4. COBCP-6: Black Rock Hatchery—Feed Bins and Catwalk. The Governor requests \$386,000 from HIFF to replace metal feed bins with higher capacity feed bins, a common staircase, and walkway.

5. COBCP-8: Grizzly Island Wildlife Area—Pond 11 Reservoir. The Governor requests \$32,000 from the Proposition 99 funds (Tobacco Tax and Health Initiative) to make certain levee and pumping improvements.

6. COBCP-9: North Grasslands—Salt Slough Wildlife Area—Field 50 Wetland Enhancement. The Governor requests \$15,000 from Proposition 99 funds to replace certain water control and pipeline features.

7. COBCP-11: Mendota Wildlife Area— Water Conveyance Enhancement Pump #2. The Governor requests \$76,000 from Proposition 99 funds to replace certain water control and pipeline features.

8. COBCP-12: Shasta Valley Wildlife Area—Ten Field Water Conveyance Systems. The Governor requests \$179,000 from Proposition 99 funds to construct certain pipeline and seasonal wetland features.

9. COBCP-13: Los Banos Wildlife Area—Field 70/71 Pipe Line/Water Conversion. The Governor requests \$118,000 from Proposition 99 funds to install certain water control features on a seasonal wetland.

Staff Recommendation: APPROVE Items 1-9.

Vote:

ITEMS PROPOSED FOR DISCUSSION**10.BCP-11: Hatchery and Inland Fisheries Fund.**

Background. The Governor requests \$6.8 million (\$1.8 million on-going and \$5 million one-time per year in 2011-12 and 2012-13) from the Hatcheries and Inland Fisheries Fund (HIFF) ongoing to maximize fish production at the department's trout hatcheries pursuant to Chapter 689, Statutes of 2005 (AB 7, Cogdill). The one-time funding will be used to increase fish production, or to repair and replace equipment required for the production of hatchery fish. The ongoing funds will be used to produce and distribute fish for recreational angling.

The department has also requested funding under the normal capital outlay process for several specific projects referencing AB 7 as the statutory basis for the request.

Staff Comments. A number of issues have come up related to hatchery fish in the past year including the impact of hatchery fish on native fish, impacts of endangered species on fish stocking areas, and the impacts of hatcheries on water quality. While the committee may wish to continue to approve individual capital projects (such as those listed in vote-only), this proposal gives greater authority to the department to conduct multiple minor capital projects to increase hatchery production.

Staff recommends the subcommittee deny the proposal without prejudice in order for policy and budget staff to discuss the ongoing impacts of increased hatchery fish production. In addition, staff would prefer to review individual capital projects for the one-time funding that specify the locations and types of fish hatcheries that will be modified prior to a recommendation to approve the funding. Staff will also work to determine appropriate long-term uses of HIFF.

Staff Recommendation: DENY WITHOUT PREJUDICE. Request the department return in spring for an oversight hearing on AB 7 fish hatchery implementation and the Hatcheries and Inland Fisheries Fund.

Vote:

Conforming Action—AB 7 Capital Projects

In order to conform to the above recommendation on fish hatcheries, staff recommends a conforming action to deny these projects without prejudice pending a spring oversight hearing.

11. COBCP-1: Darrah Springs Hatchery Low Head Oxygen System. The Governor requests \$525,000 from Hatchery and Inland Fisheries Fund (HIFF) to increase hatchery water quality by increasing the level of dissolved oxygen in the fish-rearing areas in order to comply with Chapter 689, Statutes of 2009 (AB 7, Cogdill “AB 7”).

12. COBCP-2: American River Hatchery—New Hatchery Building. The Governor requests \$739,000 from HIFF to replace an incubation hatchery building in order to comply with trout production goals of AB 7.

Staff Recommendation: DENY WITHOUT PREJUDICE (Items 11-12). Request the department return in spring for an oversight hearing on AB 7 fish hatchery implementation.

Vote:

13. COBCP-10: Ash Creek Wildlife Area—Elkins Well.

Background. The Governor’s budget requests \$300,000 in Proposition 99 funding for the construction of the Elkins Well on the Ash Creek Wildlife Area. According to the department, the only source of water for these wetlands is surface water diverted from Ash Creek between April 1 and October 20, in accordance with adjudicated water rights. Diversion of surface water can be labor intensive and subject to water rights limitations. This project would install one deep well at the start of the water system. This would provide water supply for approximately 140 acres of managed wetlands, enhance an additional 100 acres of natural wetland and provide water for wetland management after October 20.

Staff Comments. According to the description of the Ash Creek Wildlife Area from the department’s website: “The 3,000 acres of natural wetlands are created by the seasonal flow of six streams. Ash Creek is one of the most remote, least improved, and most pristine of all of DFG's wildlife areas.”

Following a series of hearings as well as report by the Legislative Analyst’s Office, the Legislature passed legislation to require local monitoring of groundwater basins. This was in part to recognize the direct relationship between surface water and groundwater.

The department has not been able to determine if this groundwater basin is being managed consistent with current law, or if a plan is in place for groundwater management plans that are required starting January 2012.

The department also has determined that the pumping costs are equivalent to the cost of staff time currently required to manage the wetlands under current conditions. While the proposal is designed to better manage riparian and wetland habitat, it is silent on the impacts reducing groundwater resources will have on the connected surface water supplies. The subcommittee may wish to ask the department:

- (1) Whether it has considered the impacts on surface water from a groundwater well?
- (2) What local plans are to comply with groundwater monitoring legislation?
- (3) Why the department wishes to artificially increase wetlands in this remote area if this is considered a “pristine and least improved” wildlife area.

Staff Recommendation: DENY the proposal

Vote:

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

ITEM PROPOSED FOR VOTE-ONLY

- 1. BCP-3: Cultural Stewardship Program: Proposition 12.** The Governor requests \$617,000 (Proposition 12) for projects to restore and protect cultural resources in State Parks including archaeology, planning surveys, and restoration. This represents the balance of funding allocated to this program from Proposition 12.
- 2. BCP-4: Natural Stewardship Program: Proposition 12.** The Governor requests \$21,000 (Proposition 12) for forest planting, exotic plant removal, and restoration within the State Park System. This represents the balance of funding allocated to this program from Proposition 12.
- 3. BCP-5: Reappropriation of Prop 84 Bond Funding for Deferred Maintenance.** The Governor requests reappropriation of two items from Proposition 84 for continued deferred maintenance projects. Items 3790-002-6051 (2007) and 3790-002-6051 (2008).
- 4. BCP-6: Off-Highway Motor Vehicle Recreation (OHMRV) Storm Water Compliance.** The Governor requests \$2.0 million (\$1.8 million one-time and \$200,000 ongoing) from the OHV Trust Fund to fund compliance efforts for storm water pollution management, planning, and compliance.
- 5. BCP-7: OHMVR—General Plans.** The Governor requests \$7.4 million (OHV Trust Fund) in 2011-12 and \$1.75 in 2012-13 for consulting contracts to initiate and/or update general plans and Environmental Impact Reports for State Vehicular Recreation Areas and OHV park areas.
- 6. BCP-8: OHMVR—Land Surveys and Acquisition Feasibility Studies.** The Governor requests \$1.2 million (OHV Trust Fund) to initiate and complete land surveys for State Vehicular Recreation Areas.

Capital Outlay

7. **COBCP S-101: Statewide Budget Development.** The Governor requests \$150,000 (Proposition 84) to fund initial capital outlay project development phases.
8. **COBCP D-112: Donner Memorial State Park—Enhance Museum Exhibits.** The Governor requests \$169,000 (Proposition 84) to build an enhanced interpretive exhibit at Donner Memorial State Park.
9. **COBCP OHV-3: Statewide Opportunity to Purchase Pre-Budget Schematics.** The Governor requests \$250,000 (OHV Trust Fund) for purchase of property, appraisals, and capital outlay project development costs near current State Vehicular Areas.
10. **COBCP OHV-2: Heber Dunes SVRA Initial Development.** The Governor requests \$5.3 million (OHV Trust Fund) for initial phase for administration, maintenance and recreational facilities.
11. **COBCP OHV-7: Carnegie State Vehicular Recreation Area Road Construction.** The Governor requests \$6.6 million (OHV Trust Fund) to reconstruct and rehabilitate unpaved roads to meet current law requirements.
12. **COBCP OHV-8: Hollister Hills Vehicular Recreation Area Infrastructure and Rehabilitation.** The Governor requests \$416,000 (OHV Trust Fund) to rehabilitate campgrounds including installation of water and electrical system upgrades.
13. **MSP-1: State Park System Minor Capital Outlay Program.** The Governor requests \$508,000 (Proposition 12) for minor rehabilitation of parks including rehabilitation of the Emerald Bay State Park Eagle Point campground.
14. **MRT-1: Statewide Recreation Trails (Minor).** The Governor requests \$380,000 (Proposition 84) to improve trails within various units of the State Park System.
15. **VEP-1: Volunteer Enhancement Program—Minor Projects.** The Governor requests \$638,000 (Proposition 84) for rehabilitation and construction of various volunteer facilities including for volunteer host sites within the State Park System.
16. **MOH-1: OHV Minor Capital Outlay Program.** The Governor requests \$9 million (OHV Trust Fund) to fund sixteen minor capital outlay projects at various State Vehicular Recreation Areas for enhancements and improvements and include park operations, public access, energy efficiency, and restoration (among others).

Staff Recommendation: APPROVE Items 1-16

Vote:

DISCUSSION ITEMS**1. BCP-1: Empire Mine State Historic Park Erosion and Stormwater Measures.**

Governor's 2011-12 Budget. The Governor requests \$11.6 million (\$7.351 million State Park Recreation Fund; \$2.7 million Proposition 84; and \$1.5 million General Fund) to fund ongoing evaluation, analysis, and implementation of remedial alternatives at Empire Mine SHP.

Background. Empire Mine SHP is the site of one of the oldest, largest, deepest, longest, and richest gold mines in California. Closed in 1956, the mining operations left the land contaminated with various dangerous chemicals, including arsenic, cyanide, mercury, thallium, manganese, and iron. In order to create a park, the state purchased the mine property from Newmont Mining Corporation in 1974 and assumed all rights and responsibility to the title and interest and responsibility for the free flowing of water from the Magenta Drain tunnel running beneath. The park consists of 856 acres containing many of the mine's buildings and the entrance to 367 miles of abandoned and flooded mine shafts.

As the owner of the Empire Mine lands, Parks was sued for alleged violations of the Federal Clean Water Act. The lawsuit was settled on January 13, 2006, through a consent decree in federal court. The consent decree requires Parks to immediately implement corrective measures to mitigate the impacts from toxic soils and contaminated surface water discharges to the local watershed. The project is also under order by the Department of Toxic Substances Control (DTSC) and the Central Valley Regional Water Quality Board.

Beginning in FY 2005-06, the state began providing funding to determine the presence of contaminants at the mine, and each year since has funded corrective measures.

Staff Comments. The proposed request for funding, the sixth year in a multi-year plan, would respond to various regulatory orders issued both in court proceedings and by state regulatory agencies. The funding will also aid the department in its efforts to determine an appropriate mediated settlement amount with the original owner. Staff concurs that the work needs to continue to reach a settlement with the original owner, and that the state must comply with the cleanup and remediation orders.

The committee may wish to ask the department for an update on the remediation, the need to continue to use General Fund for this ongoing project, and an update on negotiations with the Responsible Parties for repayment of expenses.

Recommendation: APPROVE

VOTE:

2. BCP-2: Vehicle Fleet Emissions Retrofit.

Governor's 2011-12 Budget. The Governor requests a one-time \$1.8 million augmentation (State Park Recreation Fund) to continue addressing the air quality standards on older vehicles per Air Resources Board regulation.

Background. The Governor requests a one-time increase of \$1.8 million in funding from the State Park and Recreation Fund (SPRF) to continue addressing the air quality standards on older diesel vehicles as set forth by California Code of Regulations (CCR) Section 2022. These standards, developed by the California Air Resources Board, require the department to retrofit all of its on-road, heavy-duty, diesel-fueled vehicles that have engines which were manufactured between 1960 and 2006 by December 31, 2011.

Staff Comments. This request is consistent with previous actions in resources budgets of the same nature (Fish and Game, California Conservation Corps). The state is in the process of complying with regulations similar to the private sector. The State Park and Recreation Fund has a sufficient fund balance to support the funding on a one-time basis.

The committee may wish to ask the department if further funds will be needed over the coming years and if so, at what level.

Recommendation: APPROVE

Vote:

3. BCP-10: Budget Reduction Plan Fiscal year 2011-12 Through 2012-13.

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Background. According to the department, a plan is being developed that would use a series of criteria to identify parks that would be subject to (1) partial closure, (2) full closure, or (3) operational changes. Certain parks may be proposed for caretaker status or shuttering completely.

In 2010-11, the department's General Fund budget was reduced by \$7 million (or 5 percent) on a one-time basis. The basis for this reduction was deferred maintenance rather than permanent layoffs and closures. This funding was restored in the Governor's proposed 2011-12 budget. Therefore, the *net decrease* in the budget year is \$4 million, or less than 3 percent in the budget year.

The department plans to develop a *single plan* that would reduce the General Fund by \$22 million ongoing. The reason the budget only shows a reduction of \$11 million in 2011-12 is acknowledgement that implementation of the plan will take more than one year, and that the savings of \$22 million is not achievable in a single year (due to layoff processes, shuttering activities and shifts in staffing and personnel).

While the proposed budget reduction targets \$22 million, the nature of the reductions (park closures) is such that revenues to the park system will likely also be reduced. This is because partial and full closures may reduce attendance at affected parks. However, there may also be offsetting revenues at other parks that gain in attendance.

Staff Comments. The Parks department has been the subject of numerous plans for reductions, funding shifts and other plans over recent years designed to match funding levels to the size of a parks system that is manageable by the state. In most cases, one-time cuts and deferred maintenance were approved rather than long-term reductions to the department's core operations (a down-sizing of the parks system).

The proposed reduction would constitute a total of just under a 20 percent decrease to General Fund expenditure authority for the system from Current Year expenditures. In perspective, the reduction to Program 10 (Support of the Department of Parks and Recreation), less any bond expenditures, is approximately 2 percent in the budget year. This takes into account all federal funding, reimbursements, and fees.

At the time this agenda was drafted, the department had not completed its final reduction plan; therefore, the subcommittee may not be able to take action on the specifics of the plan. The subcommittee may wish to ask the department how it plans to create the budget reduction plan, any offsetting activities that would increase other funding sources, and any specific proposals that the department can release.

The plan to permanently reduce the State Parks system, while difficult, is a reasonable alternative to annual one-time reductions. Due to the current budget crisis, staff recommends approving the General Fund reduction and requiring the department to submit its plan for reduction to the Legislature by February 15.

Recommendation. (1) APPROVE FUNDING PROPOSAL. (2) Require Department of Parks and Recreation to submit a closure plan to the legislature for approval by February 15. Defer discussion of details of the closure plan to spring.

Vote:

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Thursday, February 3, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040) Outcomes

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

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

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

1. BCP-1: EnergySmart Jobs Program—ARRA Funded. The Governor requests a one-time \$541,000 augmentation to the Collins Dugan Reimbursement Account appropriation as well as limited term position authority to fulfill a contract employing Corpsmembers who will serve as energy efficiency auditors. Funding is from the American Reinvestment and Recovery Act (ARRA), federal funds.

3560 State Lands Commission

2. BCP-1: Selby Slag Remediation. The Governor requests \$1 million in General Fund to fulfill the state's legal obligation to pay a proportional share of certain further hazardous waste remediation costs at Selby, California.

3720 California Coastal Commission

3. BCP-2: Coastal and Marine Education Whale Tail License Plate Program. The Governor requests a one-time augmentation of \$82,000 to increase Whale Tail revenues from the Coastal Beach and Coastal Enhancement Account to the Coastal Commission's budget for grants to nonprofits and government agencies.

Staff Recommendation: APPROVE ITEMS 1-3

VOTE: 3-0 (Approve as Budgeted)

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency.

Governor's Budget. The Governor's Budget includes \$62.8 million to support the Secretary for Natural Resources. This is a 85 percent decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Items Proposed for Vote-Only

1. BCP-1: San Joaquin River Restoration. Proposition 84 allocates \$100 million to the Natural Resources Agency to implement a court settlement between water users and the federal government concerning the San Joaquin River Restoration. The Agency, through consultation with its constituent departments proposes to direct \$60 million to the Department of Water Resources and \$40 million to the Department of Fish and Game (minus bond issuance set-asides). This request would provide year 5 of a five-year rollout of these funds.

Staff Recommendation: HOLD OPEN—This item will conform to items in the Department of Water Resources and Department of Fish and Game budgets.

Vote: 3-0 (Hold Open)

Items Proposed for Discussion

2. Informational Item—Introduction by Secretary for Natural Resources

The subcommittee may wish to have Secretary John Laird give an overview of his approach to managing the Natural Resources Agency over the coming years, given the state's fiscal situation as well as proposals to realign portions of the agency to locals.

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 \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-1: Information Technology (IT) Maintenance. The Governor requests a one-time appropriation of \$132,000 from various special funds for maintenance of the DOC's IT infrastructure.

2. BCP-5: California Farmland Conservation Program Local Assistance Funds. The Governor requests a one-time appropriation of \$2.5 million from Proposition 40 bond funds to provide local assistance grants to permanently protect strategically important farmland.

3. BCP-8: State wide Watershed Coordinator Grant Program. The Governor requests a one-time appropriation of \$3.6 million in local assistance from Proposition 84 to continue the implementation of the statewide Watershed Coordinator Grant Program.

Staff Recommendation: APPROVE Items 1-3.

Vote: 3-0 (Approve as Budgeted)

ITEMS PROPOSED FOR DISCUSSION**4. BCP-6: Watershed Implementation Reappropriation.**

Background. The Governor requests re-appropriation of \$1.2 million in unencumbered Proposition 50 bond funds to continue implementation of the former watershed element of the CALFED Bay-Delta Program through DOC's Statewide Watershed Program.

Staff Comments. In the 2010-11 Budget, the Legislature transferred most CALFED Bay-Delta Program activities, including certain oversight objectives, to the Delta Stewardship Council. At the same time, the Council was required to submit a zero-based budget in FY 2011-12 for all entities receiving former CALFED resources. This was, in part, to help the Legislature prioritize funding for Bay-Delta activities pending the adoption of a Delta Plan by the Council. This issue will be heard at the February 10 hearing.

The Council has requested to postpone the submission of the zero-based budget to coordinate with the completion of the Delta Plan. It would be appropriate to hold non-essential bond-funded activities off until a clear plan for the Delta is in place, and priorities for funding are made clear to the Legislature.

Recommendation: DENY PROPOSAL

Vote: 3-0 (DENY PROPOSAL)

5. BCP-9: Implementation of AB 2453.

Background. The Governor requests a baseline appropriation of \$145,000 (special funds) for the Division of Oil, Gas, and Geothermal Resources (DOGGR). Funding is requested to increase legal workload as a result of Chapter 264, Statutes of 2010 (AB 2453, Tran) described below. The department plans to redirect a vacant position to support DOGGR's legal need.

AB 2453 substantially strengthens procedural safeguards following an Appellate Court ruling regarding deficiencies in the existing appeals provisions in statute. AB 2453 provisions revise DOGGR enforcement actions and provides for use of formal administrative hearings for certain appeals. Changes to the appeal process will increase workload for Department attorneys.

Staff Comments. The division (DOGGR) is currently undergoing restructuring following direction of the legislature during budget hearings last year. In the 2010-11 budget, the Legislature approved \$3.2 million and 17 permanent positions to augment the Underground Injection Control and Enhanced Oil Recovery Program.

The department should be prepared to discuss:

- Whether or not the department has successfully filled the 17 positions;
- The impact these positions have had on permitting levels and compliance with state and federal law.

Recommendation: DENY WITHOUT PREJUDICE. Request the department return in spring with an update on enforcement and permitting actions, as well as a report on its efforts to fill the existing 17 Division of Oil, Gas, and Geothermal Resources positions.

Vote: 2-1 (STAFF RECOMMENDATION)

- Committee requests for information on permitting and the duration and number of delays related to the 17 positions

3500 Department of Resources Recycling and Recovery

As previously noted, the DRRR was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, the DRRR 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. The DRRR 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, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes \$1.4 billion (no GF) for the DRRR, including \$1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and \$200 million for the Waste Reduction and Management Program (the old Waste Board).

ITEMS FOR VOTE-ONLY

1. BCP-3: Distributed Funding of Health and Safety Program. The Governor requests to reallocate expenditures for health and safety activities serving all DRRR employees from the Integrated Waste Management Account (IWMA) to five special funds and shift the associated activities from a specified program to Program 30—Distributed Administration.

2. BCP-4: Fund Shift from the Integrated Waste Management Account to the Tire Recycling Management Fund. The Governor requests to shift 5.5 positions and \$627,000 between the two accounts to align the funding source with workload activities. The department is proposing to absorb these costs within existing Tire Fund expenditure authority.

Recommendation: APPROVE Items 1-2

Vote: 3-0 (Approve as Budgeted)

ITEMS FOR DISCUSSION**3. BCP-5: Improve Audit Coverage and Internal Controls.**

Background. The Governor's budget requests to redirect \$1.1 million Beverage Container Recycling Fund from the Consulting and Professional line item to fund 11.0 permanent positions to address the findings and recommendations in the State Auditor's report from June 2010.

In June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

LAO Reorganization Analysis. The LAO has raised issues with the level of savings from the overall creation of DRRR as well as the best proposed reorganization model. The LAO recommends holding hearings to discuss the reorganization plan particularly as it impacts department programs (including the Beverage Container Recycling Fund). The LAO also recommends reporting language to require the department to report on the savings from the reorganization.

LAO Analysis of the Beverage Container Recycling Fund. The LAO has prepared a short handout and presentation on the status of the Beverage Container Recycling Fund. The committee may wish to hear a brief presentation by the LAO to put into context the budget proposals before the committee.

Staff Comments. Staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. The department continues to implement a reorganization plan, however it is unclear what the entirety of the final outcome will be. This issue is sufficiently complex that a joint policy and budget hearing on the department is needed before the department should move ahead with any further budget changes regarding the BCRF.

The LAO analyses of both the reorganization and the BCRF have merit. Staff further believes the department should be ready to report on savings from the department reorganization as well as a solid analysis of the BCRF this spring.

Staff Recommendation: DENY WITHOUT PREJUDICE. Require the department to return in spring for an oversight hearing on the department's reorganization and status of the Beverage Contain Recycling Fund.

Vote: 3-0 (Staff Recommendation)

4. BCP-6: Fraud Prevention Program, Strategic Priority Initiative—Beverage Container Recycling Program.

Background. The Governor's budget requests 7 permanent positions funded by redirecting \$681,000 Beverage Container Recycling Fund from Consulting and Professional Services to Personal Services. These positions are requested to prevent and investigate fraud in the Beverage Container Recycling Program.

As with the previous item, in June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

Staff Comments. As with the previous item, staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. The department continues to implement a reorganization plan, however it is unclear what the entirety of the final outcome will be. This issue is sufficiently complex that a joint policy and budget hearing on the department is needed before the department should move ahead with any further budget changes regarding the Beverage Container Recycling Fund.

Staff Recommendation: DENY WITHOUT PREJUDICE. Require the department to return in spring for an oversight hearing on the department's reorganization and status of the Beverage Container Recycling Fund.

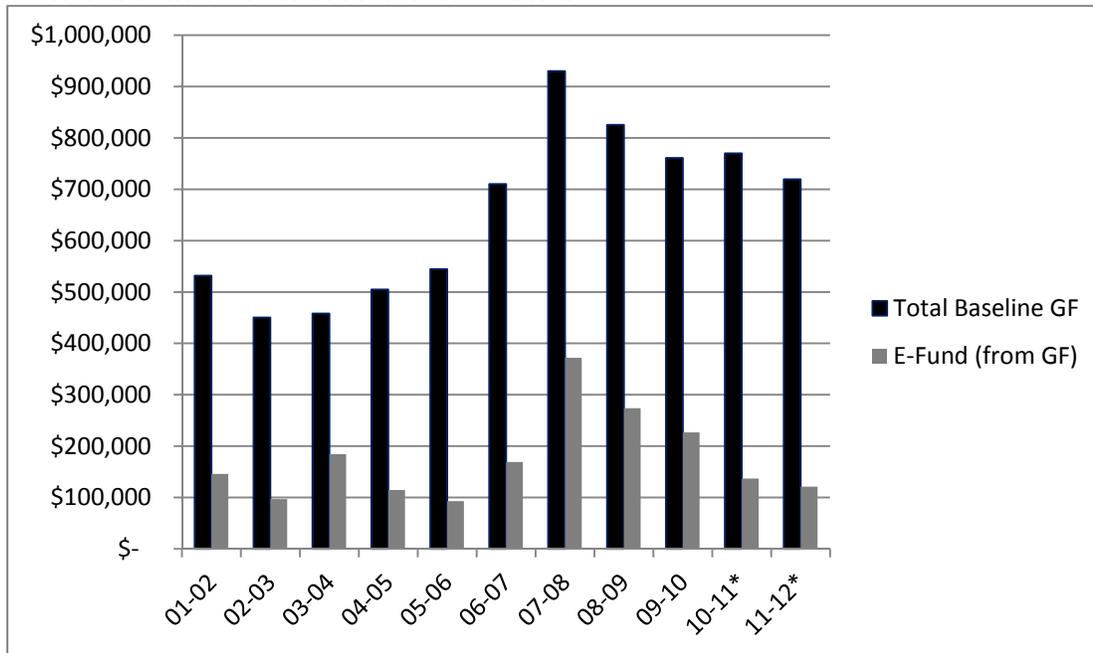
Vote: 3-0 (Staff Recommendation)

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or “CalFIRE,” under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor’s Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor’s Budget includes \$1.05 billion for support of the DFFP in 2011-12. This is a \$39 million (3.7 percent) decrease under current year expenditures. This is mainly due to the proposal to reduce engine firefighter staffing.

General Fund Growth Reference Chart**



* Estimated

** Capital outlay excluded (as well as certain related local assistance). Year-to-year carryover makes this figure meaningless for comparison.

ITEM PROPOSED FOR VOTE-ONLY

1. BCP-7: Additional Battalion Chief Staffing. The Governor requests General Fund and permanent position authority to maintain the minimum level of staffing coverage for the Battalion Chief (BC) classification which existed prior to the workweek change implemented with the recent Bargaining Unit 8 contract. This is the close of a multi-year adjustment that started in 2006.

2. BCP-8: Underground Storage Tank Cleanup. The Governor requests three-year funding to perform mandated site investigations, monitoring, clean-up and/or closing underground storage tanks to comply with the Clean Water Act. Funding is requested at \$1.7 million in 2011-12, \$1.1 million in 2012-13, and \$499,000 in 2013-14.

3. BCP-16: Unemployment Insurance Funding. The Governor requests \$10.6 million General Fund in the current year, \$10.6 million in the budget year, and \$5.3 million ongoing for increased costs due to federal changes in eligibility requirements for unemployment insurance.

4. COBCP: CalFIRE Reappropriations. The Governor requests reappropriation of various phases of Major Capital Outlay projects. These projects were funded between 2005 and 2010 and are on hold mainly due to the freeze on Pooled Money Investment Account Funds.

Staff Comment (Item 4): Previous year's discussions regarding these capital outlay projects projected the cost of capital improvements versus maintenance with capital costs amounting to a less-costly option for the various buildings and camps.

Staff Recommendation: APPROVE Items 1-4

Vote:

Items 1-2. Vote: 2-0 (Approve as Budgeted)

Items 3-4. Vote: 3-0 (Approve as Budgeted)

ITEMS PROPOSED FOR DISCUSSION**5. Realignment Proposal.**

Governor's Proposal. The Governor proposes to realign fire protection services in the most highly populated state responsibility areas to local governments. The Department of Forestry and Fire Protection (CalFIRE) provides wildland fire protection services in over 31 million acres of State Responsibility Areas (SRAs). Although the number of acres in SRAs has been relatively constant since the 1950's the composition of SRAs has changed greatly. Currently, SRAs lands encompass roughly one-third of the state's acreage. These SRAs are primarily *privately owned* timberlands, rangelands, and watersheds that, in recent decades, have become increasingly populated and developed.

Under the proposed realignment plan, responsibility for fire protection and medical emergency response in the relatively more populated wildland areas would be assumed by local governments. Under the Governor's plan, there would be a statutory change in the criteria for designating lands as a SRA, and the Board of Forestry (BOF) would redraw SRA boundaries based on the new criteria for SRAs.

The Governor estimates that the proposal will result in the realignment of up to \$250 million of CalFIRE's protection program to local government. The department would continue to provide fire protection services in the SRAs until the Board of Forestry's reclassification is completed. Under the proposal, the ultimate composition of the SRA would be determined by the Board of Forestry's final determination of the SRA classification based on revised criteria. The state would continue to pay *both* the state and local costs.

Staff Comments: The basis for the Governor's recommendation has merit. The continued approval by local governments of housing developments in SRA has significantly contributed both to the cost of fire protection in these areas as well as the number of and amount of personnel and staff resources required to maintain fire protection in these areas. The department's current practice is to participate in the "mutual aid" program where the closest emergency responder will respond to any emergency incident. This results in numerous structural protection, vehicle accident, and even water rescue operations by the department.

The proposal to re-examine the role of the department and the responsibility of local governments is a good one. However, staff have significant concerns with the lack of details both in the substance of the proposal and in the financial shift proposed by the administration.

Staff Recommendation: HOLD OPEN. Recommend Department of Finance be required to engage key legislative staff to work on a revised realignment proposal that addresses Legislative and staff concerns.

Vote: 3-0 (Staff Recommendation) PLUS direct CalFIRE to provide technical assistance to legislative staff and DOF.

- **Subcommittee request for historic data on development/fire incidence.**

ITEMS PROPOSED FOR DEFERRAL (Pending Realignment Proposal)

6. BCP-1: Fire Protection Permanent Funding. The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit at a zero-based budget. The request includes authority related to the Aviation Management Unit, Very Large Air Tanker and Victorville Air Attack Base, San Diego Helitack, Aviation Asset Coordinator, Lake Tahoe Basin Fire Engine Station and Staffing, and Defensible Space, and CAL Card Support.

7. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option. The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

Staff Comments: Each of these items may be impacted by the Legislature and the Governor's negotiations on the realignment process. Therefore it may be premature to approve or deny these proposals. It is fully anticipated that these issues will be brought before the committee again in a spring hearing to determine which CalFIRE proposals should move forward.

Staff Recommendation: (1) HOLD OPEN Item 6; (2) Deny without Prejudice Item 7.

Vote: 2-1 (Staff Recommendation)

8. Civil Cost-Recovery Program.

Background. The Governor requests \$1.7 million and 10 two-year limited term positions to augment its current Statewide Fire Suppression Civil Cost-Recovery Program. The California Health and Safety Code authorizes fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws.

In 2008, the Legislature approved a 14-person, two-year pilot program to determine the cost-effectiveness of full time cost-recovery staff. The program cost \$2.4 million and recovered \$13.7 million the first year and \$14.6 million the second year. This proposal was made permanent in the 2010-11 budget including the conversion of 14 limited-term positions to permanent status and carryover of the operating budget.

Staff Comments. Staff agrees that the pilot program to increase civil cost recovery was successful in its first few years. Staff recommends continuation of the program. However staff have serious concerns with adding funding for (1) \$112,000 of leased office space and (2) \$96,000 for new emergency response vehicles.

First, in an era of austerity measures, the department should evaluate whether or not there is space in any of the current headquarters, or any of the 500 facilities statewide including 228 forest fire stations, 112 telecommunication sites, 39 conservation camps, 21 ranger unit headquarters or 16 administrative headquarters.

Second, it would not seem prudent to purchase permanent vehicles for temporary staff. The two-year limited term nature of the positions would leave the department at the end of the two years with \$96,000 of emergency vehicles that no longer have a purpose. The department should justify the long-term use of these vehicles before the Legislature agrees to the purchase.

Recommendation: (1) APPROVE \$1.5 million for 10 two-year limited term positions. (2) REJECT \$208,000 for lease space and vehicles.

Vote: 2-1 (Staff Recommendation)

- Subcommittee request for more information on due process

9. Eliminate Funding for CalFIRE's Fourth Firefighter.

Background. The Governor's budget proposes to eliminate funding for CalFIRE's 4th firefighter. The budget includes a reduction of \$3.6 million GF in 2010-11 and \$30.7 million GF in 2011-12 as a result of restoring CalFIRE's staffing levels to three firefighters per engine. Beginning in 2003, CalFIRE increased staffing levels from three to four firefighters per engine during peak fire season in the summer and early fall per Executive Order.

However, according to the administration, these additional staffing levels have not improved CalFIRE's initial attack effectiveness at containing wildfires to less than ten acres. Therefore, four person staffing levels are not cost-effective. This proposal will restore CalFIRE firefighter staffing back to its pre-2003 historic levels.

Staff Comments. Staff concurs with the administration's analysis of firefighter staffing.

Recommendation: APPROVE the proposal.

Vote: **HOLD OPEN (intent to move to full budget committee)**

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

ITEMS PROPOSED FOR VOTE-ONLY

- 1. BCP-4: Critical Radio Infrastructure and Equipment.** The Governor requests \$4.1 million (Fish and Game Preservation Fund) and conversion of one position to overhaul the department's radio communications to comply with federal regulations.
- 2. BCP-5: San Joaquin River Restoration.** The Governor requests \$3.8 million in reimbursements from the Resources Agency (Proposition 84 bond funds) to continue work on the San Joaquin River Settlement Agreement.
- 3. BCP-13: Hot Creek Hatchery.** The Governor requests \$158,000 from the Hatcheries and Inland Fisheries Fund (HIFF) to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species.

Various Minor Capital Outlay Projects

- 4. COBCP-6: Black Rock Hatchery—Feed Bins and Catwalk.** The Governor requests \$386,000 from HIFF to replace metal feed bins with higher capacity feed bins, a common staircase, and walkway.
- 5. COBCP-8: Grizzly Island Wildlife Area—Pond 11 Reservoir.** The Governor requests \$32,000 from the Proposition 99 funds (Tobacco Tax and Health Initiative) to make certain levee and pumping improvements.
- 6. COBCP-9: North Grasslands—Salt Slough Wildlife Area—Field 50 Wetland Enhancement.** The Governor requests \$15,000 from Proposition 99 funds to replace certain water control and pipeline features.
- 7. COBCP-11: Mendota Wildlife Area—Water Conveyance Enhancement Pump #2.** The Governor requests \$76,000 from Proposition 99 funds to replace certain water control and pipeline features.

8. COBCP-12: Shasta Valley Wildlife Area—Ten Field Water Conveyance Systems. The Governor requests \$179,000 from Proposition 99 funds to construct certain pipeline and seasonal wetland features.

9. COBCP-13: Los Banos Wildlife Area— Field 70/71 Pipe Line/Water Conversion. The Governor requests \$118,000 from Proposition 99 funds to install certain water control features on a seasonal wetland.

Staff Recommendation: APPROVE Items 1-9.

Vote:

Item 4 Removed from Vote-Only

Items 1-3, 5-9.

Vote: 2-0 (Approve as Budgeted)

ITEMS PROPOSED FOR DISCUSSION**10.BCP-11: Hatchery and Inland Fisheries Fund.**

Background. The Governor requests \$6.8 million (\$1.8 million on-going and \$5 million one-time per year in 2011-12 and 2012-13) from the Hatcheries and Inland Fisheries Fund (HIFF) ongoing to maximize fish production at the department's trout hatcheries pursuant to Chapter 689, Statutes of 2005 (AB 7, Cogdill). The one-time funding will be used to increase fish production, or to repair and replace equipment required for the production of hatchery fish. The ongoing funds will be used to produce and distribute fish for recreational angling.

The department has also requested funding under the normal capital outlay process for several specific projects referencing AB 7 as the statutory basis for the request.

Staff Comments. A number of issues have come up related to hatchery fish in the past year including the impact of hatchery fish on native fish, impacts of endangered species on fish stocking areas, and the impacts of hatcheries on water quality. While the committee may wish to continue to approve individual capital projects (such as those listed in vote-only), this proposal gives greater authority to the department to conduct multiple minor capital projects to increase hatchery production.

Staff recommends the subcommittee deny the proposal without prejudice in order for policy and budget staff to discuss the ongoing impacts of increased hatchery fish production. In addition, staff would prefer to review individual capital projects for the one-time funding that specify the locations and types of fish hatcheries that will be modified prior to a recommendation to approve the funding. Staff will also work to determine appropriate long-term uses of HIFF.

Staff Recommendation: DENY WITHOUT PREJUDICE. Request the department return in spring for an oversight hearing on AB 7 fish hatchery implementation and the Hatcheries and Inland Fisheries Fund.

Vote: 2-1 (Staff Recommendation)

Conforming Action—AB 7 Capital Projects

In order to conform to the above recommendation on fish hatcheries, staff recommends a conforming action to deny these projects without prejudice pending a spring oversight hearing.

11. COBCP-1: Darrah Springs Hatchery Low Head Oxygen System. The Governor requests \$525,000 from Hatchery and Inland Fisheries Fund (HIFF) to increase hatchery water quality by increasing the level of dissolved oxygen in the fish-rearing areas in order to comply with Chapter 689, Statutes of 2009 (AB 7, Cogdill “AB 7”).

12. COBCP-2: American River Hatchery—New Hatchery Building. The Governor requests \$739,000 from HIFF to replace an incubation hatchery building in order to comply with trout production goals of AB 7.

Staff Recommendation: DENY WITHOUT PREJUDICE (Items 11-12). Request the department return in spring for an oversight hearing on AB 7 fish hatchery implementation.

Vote:

Item 4 from page 16 added.

Items 4, 11-12.

Vote: 2-1 (Staff Recommendation)

13.COBCP-10: Ash Creek Wildlife Area—Elkins Well.

Background. The Governor’s budget requests \$300,000 in Proposition 99 funding for the construction of the Elkins Well on the Ash Creek Wildlife Area. According to the department, the only source of water for these wetlands is surface water diverted from Ash Creek between April 1 and October 20, in accordance with adjudicated water rights. Diversion of surface water can be labor intensive and subject to water rights limitations. This project would install one deep well at the start of the water system. This would provide water supply for approximately 140 acres of managed wetlands, enhance an additional 100 acres of natural wetland and provide water for wetland management after October 20.

Staff Comments. According to the description of the Ash Creek Wildlife Area from the department’s website: “The 3,000 acres of natural wetlands are created by the seasonal flow of six streams. Ash Creek is one of the most remote, least improved, and most pristine of all of DFG’s wildlife areas.”

Following a series of hearings as well as report by the Legislative Analyst’s Office, the Legislature passed legislation to require local monitoring of groundwater basins. This was in part to recognize the direct relationship between surface water and groundwater.

The department has not been able to determine if this groundwater basin is being managed consistent with current law, or if a plan is in place for groundwater management plans that are required starting January 2012.

The department also has determined that the pumping costs are equivalent to the cost of staff time currently required to manage the wetlands under current conditions. While the proposal is designed to better manage riparian and wetland habitat, it is silent on the impacts reducing groundwater resources will have on the connected surface water supplies. The subcommittee may wish to ask the department:

- (1) Whether it has considered the impacts on surface water from a groundwater well?
- (2) What local plans are to comply with groundwater monitoring legislation?
- (3) Why the department wishes to artificially increase wetlands in this remote area if this is considered a “pristine and least improved” wildlife area.

Staff Recommendation: DENY the proposal

Vote: DENY WITHOUT PREJUDICE 3-0

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

ITEM PROPOSED FOR VOTE-ONLY

1. **BCP-3: Cultural Stewardship Program: Proposition 12.** The Governor requests \$617,000 (Proposition 12) for projects to restore and protect cultural resources in State Parks including archaeology, planning surveys, and restoration. This represents the balance of funding allocated to this program from Proposition 12.
2. **BCP-4: Natural Stewardship Program: Proposition 12.** The Governor requests \$21,000 (Proposition 12) for forest planting, exotic plant removal, and restoration within the State Park System. This represents the balance of funding allocated to this program from Proposition 12.
3. **BCP-5: Reappropriation of Prop 84 Bond Funding for Deferred Maintenance.** The Governor requests reappropriation of two items from Proposition 84 for continued deferred maintenance projects. Items 3790-002-6051 (2007) and 3790-002-6051 (2008).
4. **BCP-6: Off-Highway Motor Vehicle Recreation (OHMRV) Storm Water Compliance.** The Governor requests \$2.0 million (\$1.8 million one-time and \$200,000 ongoing) from the OHV Trust Fund to fund compliance efforts for storm water pollution management, planning, and compliance.
5. **BCP-7: OHMVR—General Plans.** The Governor requests \$7.4 million (OHV Trust Fund) in 2011-12 and \$1.75 in 2012-13 for consulting contracts to initiate and/or update general plans and Environmental Impact Reports for State Vehicular Recreation Areas and OHV park areas.
6. **BCP-8: OHMVR—Land Surveys and Acquisition Feasibility Studies.** The Governor requests \$1.2 million (OHV Trust Fund) to initiate and complete land surveys for State Vehicular Recreation Areas.

Capital Outlay

7. **COBCP S-101: State wide Budget Development.** The Governor requests \$150,000 (Proposition 84) to fund initial capital outlay project development phases.

8. **COBCP D-112: Donner Memorial State Park— Enhance Museum Exhibits.** The Governor requests \$169,000 (Proposition 84) to build an enhanced interpretive exhibit at Donner Memorial State Park.
9. **COBCP OHV-3: Statewide Opportunity to Purchase Pre-Budget Schematics.** The Governor requests \$250,000 (OHV Trust Fund) for purchase of property, appraisals, and capital outlay project development costs near current State Vehicular Areas.
10. **COBCP OHV-2: Heber Dun es SVRA Initial Development.** The Governor requests \$5.3 million (OHV Trust Fund) for initial phase for administration, maintenance and recreational facilities.
11. **COBCP OHV-7: Carnegie State Vehicular Recreation Area Road Construction.** The Governor requests \$6.6 million (OHV Trust Fund) to reconstruct and rehabilitate unpaved roads to meet current law requirements.
12. **COBCP OHV-8: Hollister Hills Vehicular Recreation Area Infrastructure and Rehabilitation.** The Governor requests \$416,000 (OHV Trust Fund) to rehabilitate campgrounds including installation of water and electrical system upgrades.
13. **MSP-1: State Park System Minor Capital Outlay Program.** The Governor requests \$508,000 (Proposition 12) for minor rehabilitation of parks including rehabilitation of the Emerald Bay State Park Eagle Point campground.
14. **MRT-1: Statewide Recreation Trails (Minor).** The Governor requests \$380,000 (Proposition 84) to improve trails within various units of the State Park System.
15. **VEP-1: Volunteer Enhancement Program—Minor Projects.** The Governor requests \$638,000 (Proposition 84) for rehabilitation and construction of various volunteer facilities including for volunteer host sites within the State Park System.
16. **MOH-1: OHV Minor Capital Outlay Program.** The Governor requests \$9 million (OHV Trust Fund) to fund sixteen minor capital outlay projects at various State Vehicular Recreation Areas for enhancements and improvements and include park operations, public access, energy efficiency, and restoration (among others).

Staff Recommendation: APPROVE Items 1-16

Vote: 3-0 (Approve as Budgeted)

DISCUSSION ITEMS**1. BCP-1: Empire Mine State Historic Park Erosion and Stormwater Measures.**

Governor's 2011-12 Budget. The Governor requests \$11.6 million (\$7.351 million State Park Recreation Fund; \$2.7 million Proposition 84; and \$1.5 million General Fund) to fund ongoing evaluation, analysis, and implementation of remedial alternatives at Empire Mine SHP.

Background. Empire Mine SHP is the site of one of the oldest, largest, deepest, longest, and richest gold mines in California. Closed in 1956, the mining operations left the land contaminated with various dangerous chemicals, including arsenic, cyanide, mercury, thallium, manganese, and iron. In order to create a park, the state purchased the mine property from Newmont Mining Corporation in 1974 and assumed all rights and responsibility to the title and interest and responsibility for the free flowing of water from the Magenta Drain tunnel running beneath. The park consists of 856 acres containing many of the mine's buildings and the entrance to 367 miles of abandoned and flooded mine shafts.

As the owner of the Empire Mine lands, Parks was sued for alleged violations of the Federal Clean Water Act. The lawsuit was settled on January 13, 2006, through a consent decree in federal court. The consent decree requires Parks to immediately implement corrective measures to mitigate the impacts from toxic soils and contaminated surface water discharges to the local watershed. The project is also under order by the Department of Toxic Substances Control (DTSC) and the Central Valley Regional Water Quality Board.

Beginning in FY 2005-06, the state began providing funding to determine the presence of contaminants at the mine, and each year since has funded corrective measures.

Staff Comments. The proposed request for funding, the sixth year in a multi-year plan, would respond to various regulatory orders issued both in court proceedings and by state regulatory agencies. The funding will also aid the department in its efforts to determine an appropriate mediated settlement amount with the original owner. Staff concurs that the work needs to continue to reach a settlement with the original owner, and that the state must comply with the cleanup and remediation orders.

The committee may wish to ask the department for an update on the remediation, the need to continue to use General Fund for this ongoing project, and an update on negotiations with the Responsible Parties for repayment of expenses.

Recommendation: APPROVE

VOTE: 3-0 (Approve as Budgeted)

2. BCP-2: Vehicle Fleet Emissions Retrofit.

Governor's 2011-12 Budget. The Governor requests a one-time \$1.8 million augmentation (State Park Recreation Fund) to continue addressing the air quality standards on older vehicles per Air Resources Board regulation.

Background. The Governor requests a one-time increase of \$1.8 million in funding from the State Park and Recreation Fund (SPRF) to continue addressing the air quality standards on older diesel vehicles as set forth by California Code of Regulations (CCR) Section 2022. These standards, developed by the California Air Resources Board, require the department to retrofit all of its on-road, heavy-duty, diesel-fueled vehicles that have engines which were manufactured between 1960 and 2006 by December 31, 2011.

Staff Comments. This request is consistent with previous actions in resources budgets of the same nature (Fish and Game, California Conservation Corps). The state is in the process of complying with regulations similar to the private sector. The State Park and Recreation Fund has a sufficient fund balance to support the funding on a one-time basis.

The committee may wish to ask the department if further funds will be needed over the coming years and if so, at what level.

Recommendation: APPROVE

Vote: 2-1 (Approve as Budgeted)

3. BCP-10: Budget Reduction Plan Fiscal year 2011-12 Through 2012-13.

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Background. According to the department, a plan is being developed that would use a series of criteria to identify parks that would be subject to (1) partial closure, (2) full closure, or (3) operational changes. Certain parks may be proposed for caretaker status or shuttering completely.

In 2010-11, the department's General Fund budget was reduced by \$7 million (or 5 percent) on a one-time basis. The basis for this reduction was deferred maintenance rather than permanent layoffs and closures. This funding was restored in the Governor's proposed 2011-12 budget. Therefore, the *net decrease* in the budget year is \$4 million, or less than 3 percent in the budget year.

The department plans to develop a *single plan* that would reduce the General Fund by \$22 million ongoing. The reason the budget only shows a reduction of \$11 million in 2011-12 is acknowledgement that implementation of the plan will take more than one year, and that the savings of \$22 million is not achievable in a single year (due to layoff processes, shuttering activities and shifts in staffing and personnel).

While the proposed budget reduction targets \$22 million, the nature of the reductions (park closures) is such that revenues to the park system will likely also be reduced. This is because partial and full closures may reduce attendance at affected parks. However, there may also be offsetting revenues at other parks that gain in attendance.

Staff Comments. The Parks department has been the subject of numerous plans for reductions, funding shifts and other plans over recent years designed to match funding levels to the size of a parks system that is manageable by the state. In most cases, one-time cuts and deferred maintenance were approved rather than long-term reductions to the department's core operations (a down-sizing of the parks system).

The proposed reduction would constitute a total of just under a 20 percent decrease to General Fund expenditure authority for the system from Current Year expenditures. In perspective, the reduction to Program 10 (Support of the Department of Parks and Recreation), less any bond expenditures, is approximately 2 percent in the budget year. This takes into account all federal funding, reimbursements, and fees.

At the time this agenda was drafted, the department had not completed its final reduction plan; therefore, the subcommittee may not be able to take action on the specifics of the plan. The subcommittee may wish to ask the department how it plans to create the budget reduction plan, any offsetting activities that would increase other funding sources, and any specific proposals that the department can release.

The plan to permanently reduce the State Parks system, while difficult, is a reasonable alternative to annual one-time reductions. Due to the current budget crisis, staff recommends approving the General Fund reduction and requiring the department to submit its plan for reduction to the Legislature by February 15.

Recommendation. (1) APPROVE FUNDING PROPOSAL. (2) Require Department of Parks and Recreation to submit a closure plan to the legislature for approval by February 15. Defer discussion of details of the closure plan to spring.

Vote: 2-0 (Staff Recommendation)

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Thursday, February 10, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040)

PART A—Resources and Environmental Protection
Consultant: Catherine Freeman

Departments/Items Proposed for Vote-Only

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3125	California Tahoe Conservancy	2
3720	State Coastal Conservancy	2
3810	Santa Monica Mountains Conservancy	2
3810	Rivers and Mountains Conservancy	2
3810	San Joaquin River Conservancy	3
3810	Baldwin Hills Conservancy	3
3810	Coachella Valley Mountains Conservancy	3
3810	Sierra Nevada Conservancy	3
	Various Reappropriations, Extensions of Liquidation	4
	Informational Item: LAO Bond Overview	5

Departments Proposed for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
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Open Issues

8660	California Public Utilities Commission	28
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Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

3110 Special Resources Programs

1. Base Budget—Tahoe Regional Planning Agency . The Governor requests \$4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (a program within the Special Resources Programs budget).

3125 California Tahoe Conservancy

2. BCP-1: Implementation of the Environmental Improvement Program for the Lake Tahoe Basin. The Governor requests \$15.8 million (multiple funding sources, no General Fund) to continue capital outlay and local assistance funding for the implementation of the Environmental Improvement Program for the Lake Tahoe Basin.

3. BCP-2: Reappropriations. The Governor requests various reappropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze.

3720 State Coastal Conservancy

4. COBCP-1: Ocean Protection Council: Capital Projects and Science Applications. The Governor requests reappropriation of unencumbered balances (bond funds) for ocean-related capital and science projects. This request is mainly due to the bond freeze.

3810 Santa Monica Mountains Conservancy

5. COBCPs (multiple): Capital Outlay : Acquisition and Local Assistance Grants. The Governor requests various reappropriations from bond funds for projects in (1) the Upper Los Angeles River watershed and Santa Monica Bay and Ventura County Coastal watersheds; and, (2) Santa Monica Mountains Zone and Rim of the Valley Trail Corridor.

3825 Rivers and Mountains Conservancy

6. COBCP-1: Proposition 84, Capital Outlay and Grants. The Governor requests \$6.7 million (Proposition 84) to fund the fifth year of capital outlay projects in the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.

3830 San Joaquin River Conservancy

7. COBCP-1: Environmental Restoration, Public Access and Recreation. The Governor requests \$1.0 million (reimbursement authority) to allow the Conservancy to receive funds from the Wildlife Conservation Board so the Conservancy may direct and administer projects along the San Joaquin River Parkway.

3835 Baldwin Hills Conservancy

8. COBCP-1: Acquisition and Improvement Program. The Governor requests reversion and reappropriation of the remaining balance of Proposition 40 funds to continue work on the park master plan as required by Chapter 752, Statutes of 1999.

3850 Coachella Valley Mountains Conservancy

9. COBCP-1: Land Acquisition (New Appropriation and Reappropriation). The Governor requests \$8.8 million (mainly Proposition 84) to allow the conservancy to acquire and protect mountainous zones and provide funding to implement the natural community conservation plan (NCCP) lands within the conservancy boundaries.

3855 Sierra Nevada Conservancy

10. COBCP-1: Proposition 84 Grant Program Re-Appropriation. The Governor requests reappropriation for the unencumbered balance in Proposition 84 local assistance grant funding to award grants and cooperative agreements in the Sierra Nevada Region.

Local Reappropriations and Extensions of Liquidation

11. Additional Reappropriations

Staff has been made aware by local governments that the following extensions of liquidation, reappropriations, or appropriations anew are also needed:

- El Monte, Gibson neighborhood park -- \$600,000
- County of Inyo, Tecopa Hot Springs Park -- \$1,040,245
- City of Encinitas, Leucadia State Beach -- \$2,482,845
- City of Encinitas, Recreational Grants -- \$426,471
- Boys and Girls Club of Hollywood -- \$2,153,000
- County of Sacramento, Recreational Grants -- \$671,396
- Rio Linda/Elverta RPD, Recreational Grants -- \$168,858
- Lassen County, Recreational Grants -- \$692,099
- Sierra County, Recreational Grants -- \$817,419
- Amador County, Recreation Grants -- \$628,866
- Sutter County, Recreational Grants -- \$58,837
- City of Long Beach, Boating and Ports -- \$8.1 million
- City and County of San Francisco (various) -- \$6.6 million
- County of Modoc (various)--\$831,957
- County of Fresno -- \$1.8 million
- Los Angeles County
 - Benny Potter Playground Restroom
 - Hansen Dam Skate Park
 - Ken Malloy Playground Restroom
 - Riverside Park Outdoor Development

Staff Comments: Staff has no concerns with the proposed reappropriations, extensions of liquidation, or appropriations anew. Due to the Bond Freeze, many projects experienced delays due to financing and/or construction times. By allowing these extensions, projects that are currently in process will be allowed to continue.

Staff Recommendation:

- (1) APPROVE Items 4-11
- (2) DENY WITHOUT PREJUDICE Items 1-3

Item 1 Actions:

- Reduce Item 3110-101-0140 by \$3,999,000
- Reduce Item 3110-101-0516 by \$124,000

VOTE:

Informational Item: LAO Bond and Cash Management Presentation

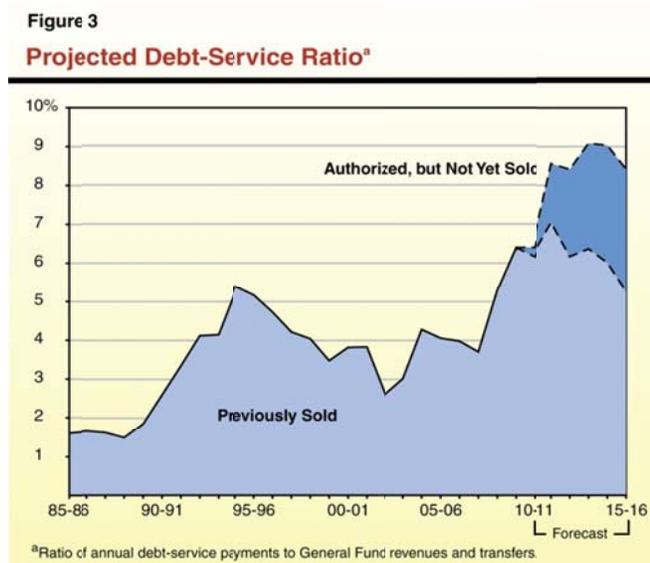
The Legislative Analyst's Office has written extensively about the relationship between debt and cash flow in the state budget. In the 2010 LAO Fiscal Forecast, the LAO discussed recommendations that would help the state manage its cash pressures, primary among them reducing operating shortfalls. The LAO will be providing a short presentation on bond expenditures within the Resources and Environmental Protection programs including a discussion of cash management and debt service on infrastructure bonds.

The Governor has stated that as one budget and cash management strategy, the administration will not hold a spring bond sale. The administration also has reduced the number and amount of bond requests in the budget year and has stated that the lack of a spring bond sale will not impact proposed Resources and Environmental Protection projects.

2010 LAO Fiscal Forecast—Debt Service on Infrastructure Bonds

Debt-Service Ratio (DSR) Expected to Rise. The DSR for general obligation and lease-revenue bonds—that is, the ratio of annual General Fund debt-service costs to annual General Fund revenues and transfers—is often used as one indicator of the state's debt burden. There is no one “right” level for the DSR. The higher it is and more rapidly it rises, however, the more closely bond raters, financial analysts, and investors tend to look at the state's debt practices, and the more debt-service expenses limit the use of revenues for other programs. Figure 3 shows what California's DSR has been in the recent past and our DSR projections for the forecast period.

The DSR we (LAO) are projecting—slightly above 9 percent at its peak—is considerably higher than it has been in the past. This reflects the sharp, recent fall-off in General Fund revenues, the planned sale of the large bonds approved since 2006, and the voters' recent approval of Propositions 22 and 26. To the extent additional bonds are authorized and sold in future years beyond those already approved, the state's debt-service costs and DSR would be higher than projected in Figure 3.



3640 Wildlife Conservation Board**Items Proposed for Vote-Only**

1. **BCP-1: Funding for Development Programs.** The Governor requests \$1 million from the Wildlife Restoration fund for public access programs.
2. **BCP-2: Habitat Conservation Fund (2007 Reapropriation).** The Governor requests re-appropriation of a \$7 million unencumbered balance from 2007 due to the bond freeze. This annual transfer of funds and expenditure is required by the voter-approved Wildlife Protection Act of 1990 which requires an annual transfer of \$30 million from the General Fund to the Habitat Conservation Fund through the year 2020.
3. **COBCP-1: Habitat Conservation Fund.** The Governor requests \$21 million, less the amount necessary to fund the administrative support, for the Wildlife Conservation Board to carry out mandates of the California Wildlife Protection Act of 1990 as required by the voter-approved initiative.

Staff Recommendation: APPROVE Items 1-3

Vote:

Items Proposed for Discussion**4. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.

LAO Recommendation.

Withhold approval of three reappropriations totaling \$39 million (\$11 million from Proposition 84 and \$3 million from Proposition 40 for restoration of the San Joaquin River Parkway; \$25 million from Proposition 84 for Natural Communities Conservation Planning) pending demonstration by the board why reappropriation of this funding would result in physical projects. (To date, the board has only spent 8 percent of the \$46.5 million in initial appropriations, some dating as far back as 2003.)

Staff Comments. This is the second year this issue has come before the committee. Staff shares the concerns of the LAO, particularly for the first two proposals totaling more than \$30 million in appropriations that the board has not acted upon. The subcommittee may wish to ask the board why they continue to have problems getting funding out the door for these legislative priorities.

Staff recommends the board return by April 1, 2011, with an action plan to administer these funds. It may no longer be acceptable to re-appropriate these funds annually with little to no progress being made by the board and conservancy. The Legislature may wish to have the board and LAO provide an analysis of alternative options for the funding, including distribution to other state agencies for capital expenditure.

Recommendation: DENY WITHOUT PREJUDICE. Require the board to return with an action plan for expenditure of funds by April 1, 2011.

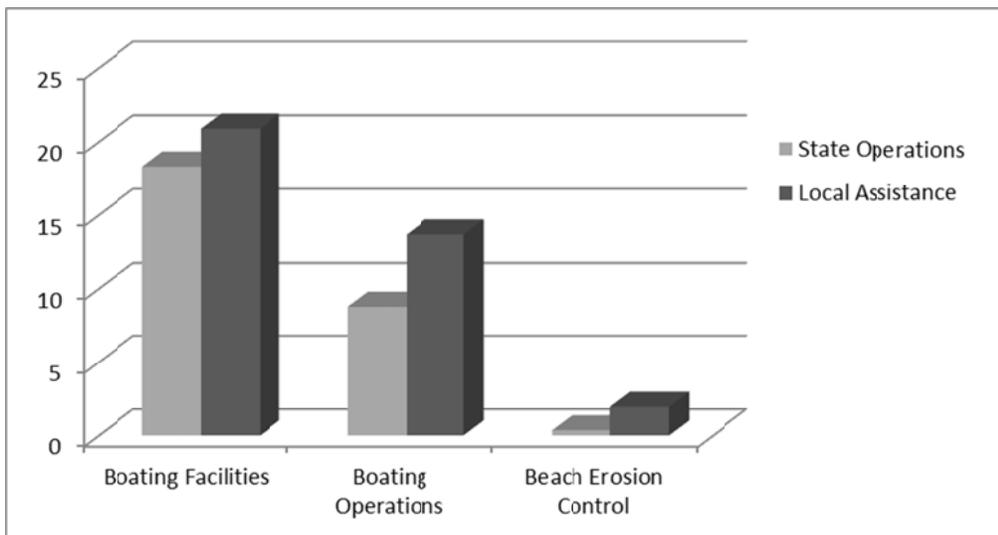
Vote:

3680 Department of Boating and Waterways

The Department of Boating and Waterways (DBW) funds, plans, and develops boating facilities on waterways throughout California and ensures safe boating for the public by providing financial aid and training to local law enforcement agencies. In addition, the department has responsibility for boating safety and education, licensing of yacht and ship brokers, aquatic weed control in the Sacramento-San Joaquin Delta, and beach erosion control and sand nourishment along California’s coast. The department operates an oceanography program at the Scripps Institute of Oceanography at La Jolla.

Governor’s Budget. The Governor’s Budget includes \$63.9 million (no General Fund) for support of the DBW, no change from current year estimates.

Department of Boating and Waterways Programs (in millions)



ITEMS PROPOSED FOR VOTE-ONLY**1. BCP-3: Coastal Data Information Program (CDIP) Federal Support Increase.**

The Governor requests an increase of \$1.8 million (ongoing), in federal budget authority in order to expend additional available federal funds on an ongoing basis from the US Army Corps of Engineers to support wave and water level studies in order to increase maritime safety and prevent coastal environmental damage.

2. BCP-4: Coastal Shore Protection Grants. The Governor requests \$2 million in FY 2011-12 and \$1.2 million in FY 2012-13 for multiple local assistance grants to protect public coastal infrastructure within the Beach Erosion program.

3. BCP-5: Statewide Emergency Repairs and Replacements. The Governor requests authorization to create a repair and replacement fund (\$300,000 within the Harbors and Watercraft Fund) in the baseline budget rather than as annual Capital Outlay request in order to immediately respond to unforeseen events and circumstances that impact the safe use of recreational boating facilities.

4. COCPs: Minor Capital Outlay Projects. The department requests a total of \$4.2 million (HWRF) for the following minor capital outlay projects:

- a. Statewide Low-Water Improvements – \$300,000
- b. Folsom Lake SRA Granite Bay Stage 4 Ramp Improvements – \$740,000
- c. Lake Davis Honker Cover Ramp Improvements – \$455,000
- d. Bidwell-Sacramento River State Park Pine Creek Ramp Improvements – \$500,000
- e. Castaic East Ramp Boarding Float Improvements – \$360,000
- f. Millerton Lake State Recreation Area Ramp 3 Restroom Replacement – \$340,000
- g. Antelope Lake Boat Launching Facility Improvements – \$680,000
- h. Frenchmen Lake Lunker Point Ramp Improvements – \$450,000
- i. Frenchman Lake Main Ramp Parking Improvements – \$36,000

Recommendation: APPROVE (Items 1-4)

Vote:

ITEMS PROPOSED FOR DISCUSSION**5. BCP-2: Department of Finance Recommendations—Boating and Facility Loans and Grants.**

Background. The Governor requests \$100,000 (Harbors and Watercraft Revolving Loan Fund) in ongoing state support to contract for the financial services required to ensure the safeguarding of state assets as recommended by the Department of Finance.

The Department of Finance (DOF) has recently completed a review of the Department of Boating and Waterways (the department) loan portfolio. In its review, the DOF made several findings and recommendations related to the department's loan portfolio.

According to DOF, the department has over \$2.9 million in delinquent loans. The department failed to consistently (1) conduct background checks; (2) develop a risk-based approach to prioritize and perform site visits; and (3) review loan recipients' annual financial reports to evaluate continuing ability to repay the loan.

Staff Comments. Staff have concerns with the recent report that the department does not institute financial safeguards as part of its normal course of business. The subcommittee may wish to ask the department and DOF:

- How much does the department currently spend on financial assurance and how many positions does this include?
- Why can't the department conduct these basic financial assurance measures with its existing staff?
- With whom would the department contract?

Staff concurs that there is a need to improve the department's financial management in order to protect the state's investments and assets. However, it is unclear why the department needs to contract for these services rather than incorporate them into its normal course of business.

Staff recommends denying the proposal, and any further loans, until the department is able to return with a plan to internally adopt the DOF recommendations for financial assurance.

Recommendation: DENY WITHOUT PREJUDICE

Vote:

6. BCP-1: Public Small Craft Harbor Loans and Boat Launching Grants (Reassessment and New Applications)

Background. The Governor requests \$17.9 million [Harbors and Watercraft Revolving Fund (HWRF)] in local assistance Public Small Craft loans and Boat Launching Facility grants. This includes \$7.1 million for loans with estimated repayments of \$441,000 per year for 30 years. The proposal also includes \$10.8 million for grants for public boat launching facilities that are open to the public.

This proposal includes the following grants:

- Channel Islands Boat Launching Facility (BLF), Ventura County Harbor District — \$4.5 million
- “Other Grants in Process of Reassessment” which are still being analyzed and for which decisions must still be made — \$1 million
- Various projects totaling no more than \$1 million per project

This proposal includes the following Local Assistance “Reassessed Loan Funding”:

- Santa Cruz Harbor Loan, Santa Cruz Port District — \$2.5 million
- Santa Barbara Harbor Loan, City of Santa Barbara — \$1.7 million
- “Other Loans in Process of Reassessment” which are still being analyzed and for which decisions must be made — \$2 million

The proposal includes the following New Loan Funding:

- Statewide Emergency Loans — \$300,000
- Statewide Planning Loans — \$300,000
- Statewide CEQA funding — \$300,000

Staff Comments. In general, specific projects within this larger budget proposal may have merit. However, staff have concerns with the lack of specificity regarding projects, the implications of the lack of financial controls within the department, and local concerns regarding various projects.

In order to remain consistent, staff recommends rejecting the entire budget proposal without prejudice so that the subcommittee and staff may have time to review these projects and work with the department on their financial assurance controls.

Recommendation: DENY WITHOUT PREJUDICE

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 \$1.5 billion (\$115 million General Fund) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$2.1 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

ITEMS PROPOSED FOR VOTE-ONLY

1. WM-1: Groundwater Monitoring Program. The Governor requests \$1.3 million (Proposition 50) for three years to implement the provisions of the groundwater monitoring program pursuant to SBx7 6 (Steinberg and Pavley) in November 2009.

2. WM-2: Infrastructure Rehabilitation Program. The Governor requests \$966,000 (Proposition 13) in Local Assistance for the Groundwater Recharge Project Loan and Infrastructure Rehabilitation Grant Program. This appropriation will provide the balance of loan and grant funding for DWR's construction contracts with the Pajaro Valley Water Management Agency and City of Sanger.

3. WM-3: CA/NV Water Allocation of the Truckee River. The Governor requests \$1.4 million (Federal Trust Fund) annually for five years (\$250,000 per year for the first four years and \$450,000 in the final year). This reimbursement authority would allow the department to receive anticipated Truckee River Operating Agreement grant funds to supplement funds from two prior federal appropriations and to support implementation of the program in order to fulfill California's responsibilities under the Truckee River water agreement.

4. OP-1: Drinking Water Quality Pilot Projects. The Governor requests \$5 million (Proposition 50) for local assistance funding for pilot and demonstration projects which are part of an effort to develop effective, efficient, and economical ways of removing drinking water contaminants.

Capital Outlay Items (Items 5-21) totaling \$121.9 million (mainly bond funds):

Item	BCP	Description	Amount
5	CO-1	Feather River Early Implementation Project	\$11,150,000
6	CO-2	American River Flood Control Project: Common Elements	\$9,657,000
7	CO-3	West Sacramento Project	\$2,942,000
8	CO-4	West Sacramento Project (GRR)	\$1,995,000
9	CO-5	Mid-Valley Levee Reconstruction	\$3,950,000
10	CO-6	Yuba River Basin Project	\$728,000
11	CO-7	Marysville Ring Levee Reconstruction Project	\$2,032,000
12	CO-8	South Sacramento County Streams	\$5,380,000
13	CO-9	Sutter Basin Feasibility Study	\$1,280,000
14	CO-10	Rock Creek/Keefer Slough Feasibility Study	\$290,000
15	CO-11	West Stanislaus County, Orestimba Creek Project	\$1,892,000
16	CO-12	Folsom Dam Modifications Project	\$39,063,000
17	CO-13	Frazier Creek/Strathmore Creek Feasibility Study	\$290,000
18	CO-14	White River/Deer Creek Feasibility Study	\$302,000
19	CO-15	Merced County Streams, Bear Creek Unit	\$676,000
20	CO-16	Lower San Joaquin River	\$2,280,000
21	CO-17	Systemwide Levee Evaluations and Repairs	\$38,000,000

Staff Recommendation: APPROVE Items 1-21

Vote:

ITEMS PROPOSED FOR DISCUSSION**22. FloodSAFE California Program**

1. 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.

Governor's Budget. The Governor requests continued FloodSAFE funding of \$64.9 million (Proposition 1E and Proposition 13), three new positions, and extension of three limited-term positions. The Governor's budget includes the following proposals:

- 1) **Floodplain Risk Management** – \$6 million (Proposition 1E) for Central Valley floodplain evaluation and delineation
- 2) **Flood Projects and Grants** – \$53.3 million (Propositions 1E and 13) for flood system modifications, floodway corridors, Yuba-Feather flood protection, and North Delta Flood control and ecological restoration.
- 3) **Evaluation and Engineering** – \$2 million for Delta Risk Management Strategy and the Delta Knowledge Improvement Program
- 4) **Flood Management Planning** – \$3.5 million for Central Valley Protection Plan and FloodSAFE Conservation strategy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years, and staff has no significant concerns with most of these ongoing expenditures. However, staff are concerned with two items in the budget proposal.

(1) **Delta Knowledge Improvement Strategy.** Staff have concerns about the Evaluation and Engineering request for \$2 million (Proposition 1E) for the Delta Risk Management Strategy (DRMS) and Delta Knowledge Improvement Program (DKIP). This proposal is a request for contract support to complete follow-up efforts to the DRMS Phase Two report. The DKIP is a multi-year project designed to fill in data gaps left by the DRMS Phase One and Phase Two, and to provide more comprehensive information than was provided in the initial two phases. The Phase Two report has not been released and therefore it is unclear how or what the DKIP will provide to inform the Legislature's decisions on Delta issues.

In 2010, the Legislature approved \$2 million to start the DKIP process. Because the DRMS Phase Two project ran longer than expected, the DKIP project has not begun and a contract solicitation has not been announced.

It would seem appropriate to allow the public and the Legislature to review the DRMS Phase Two report prior to funding any further efforts related to DRMS or DKIP. In addition, the release of the Delta Plan in 2012 will further direct scarce funding to fill in specific data gaps that are needed to implement the state's efforts in the Delta.

The subcommittee may wish to have the department report on:

- When Phase Two of the DRMS study will be released (this request does not include funding for Phase Two).
- What confidence the department has in the accuracy of the DRMS reports.
- Why the DKIP was not started, even when an appropriation was made in 2010.
- This effort will not have results for five years. What benefit could be seen to delaying for one year until the Delta Plan is complete and the state has a coordinated plan for spending limited bond funding?

(2) **Conservation Strategy.** Staff also have concerns with the three permanent positions requested for the Conservation Strategy. The budget proposal requests to develop an integrated approach to flood management that addresses the risk and the need to evaluate opportunities from a system perspective (including environmental stewardship actions and sustainability goals). The positions are requested to continue and expand on existing environmental components of the Central Valley Flood Protection Plan.

It is unclear what the outcomes of this effort will be and how this relates to the current Delta planning programs that are being undertaken by multiple state agencies, including the Delta Stewardship Council. It would seem prudent to hold off on approving permanent staffing and support until the department can provide a clear report on how this environmental effort will coordinate with current Delta restoration efforts.

Recommendation.

- (1) REJECT \$2 million proposed for Engineering and Evaluation.
- (2) REVERT \$2 million approved for the Delta Knowledge Improvement Program.
- (3) DENY \$575,000 (support) for Conservation Strategy for FloodSAFE (including three positions)
- (4) APPROVE remainder of proposal as budgeted.

Vote:

23. Implementation of the Biological Opinions

Background. The Governor's budget requests 18 full-time positions at an estimated cost of \$2.6 million (State Water Project off-budget funds) to implement various actions proposed under the federal fish agency Biological Opinion for the State Water Project (SWP) and Central Valley Project operations. These requirements are designed to improve the survival of fishery resources in the Delta and Suisun-Marsh, and at SWP facilities. The fishery agencies have concerns about fish losses related to export of water from the Delta from the two projects.

The positions are also proposed to support forthcoming activities related to the Bay Delta Conservation Plan and the Delta Stewardship Council that are focusing on habitat conservation and alternative conveyance systems.

LAO Comments. The LAO analyzed all position requests related to the SWP (contained in this and following budget proposals). Relevant to this proposal, the LAO states:

State Water Project Staffing for Implementation of Biological Opinions

Sacramento-San Joaquin Facilities: 13 Positions Requested, Three Justified. A total of 13 staff are proposed for the Bay-Delta Office to implement new requirements under the National Marine Fisheries and U.S. Fish and Wildlife Service biological opinion for the SWP. This total includes three engineers, four environmental scientists, two fish and wildlife technicians, and four office technicians. As discussed below, we find that only the three engineer positions have been justified, and therefore recommend rejection of the remaining ten positions, for a savings of \$1.3 million annually.

The Department of Water Resources (DWR) has indicated that no current staff possess the specialized knowledge required to perform the activities of the proposed engineers, and therefore we find that those three positions are justified. The remaining ten positions have not been justified for the following reasons. Six of the proposed positions would collect and maintain data on fish, water quality, and other ecological indicators related to Capture, Handling, Transport, and Release (CHTR) studies. However, existing staff have been sufficient to complete the initial CHTR studies and begin implementation of the studies' recommendations. Because those studies are now complete, those staff are available to devote all of their efforts to implementation. New staff are therefore not justified at this time. The proposal also requests four new office technician positions to deal with increased workload. We find these positions to be unjustified because this workload can be addressed adequately at current administrative staffing levels.

Suisun Marsh Facilities: Two Positions Requested, None Justified. The Governor's budget requests two new environmental scientist positions. We find that neither position has been justified, and therefore recommend that this component of the request be rejected, for a savings of \$287,000. The first position is requested for permitting and monitoring activities associated with the anticipated release by the State Water Resources Control Board (SWRCB) of a basin plan for the Delta and the Suisun Marsh. However, existing staff have been sufficient to acquire permits up to this point. A second environmental staff position was also requested to conduct on-site evaluations of fish

presence and behavior to support the work of the Environmental Planning and Information (EPI) branch to meet the needs of the SWP biological opinion. With the addition of a new staff environmental scientist in the EPI branch (see below) for compliance with the SWP biological opinion, we find that this position is unjustified.

Regulatory Compliance for Division of Environmental Services: Three Positions Requested, One Justified. The Governor's budget proposes the addition of three positions for coordinating regulatory compliance. We find that only one position has been justified, and therefore recommend the rejection of two positions, for a savings of \$311,000. The budget proposes two staff environmental scientists to perform modeling and participate in inter-agency regulatory processes, and an additional environmental scientist to run models and analyze data. Two of the division's more experienced personnel were performing some of these duties, but have since departed. Although these vacancies will be filled, we find that it is warranted to add one additional staff environmental scientist to make up for the lost capacity and knowledge. However, existing staff currently with the department have represented DWR in the inter-agency processes, and other offices within DWR possess the capacity to perform the modeling duties of these positions, so we find that the need for two additional positions (on top of the one we recommend be approved) has not been justified.

Staff Comments. Staff concurs with the LAO analysis of the position request and therefore recommends the subcommittee reject 14 of 18 positions proposed in the Governor's January budget for improving State Water Project (SWP) compliance with wildlife-related regulations, for a savings of \$1.9 million (SWP funds). The SWP has generally been able to comply with these regulations at existing staffing levels up to now, and a limited number of additional staff are needed to address workload requirements associated with the regulations going forward.

Recommendation: Adopt LAO Recommendation to reject 14 of 18 positions proposed.

Vote:

24. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The Governor's budget requests to convert 15 limited-term positions to be made permanent to continue work on the Delta Habitat Conservation and Conveyance Program (DHCCP).

LAO Comments.

What is the DHCCP? 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 DHCCP's planning stage is currently being carried out by 15 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2011. 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).

Recommendation. While the requested positions are integral to the completion of the planning stage of DHCCP, we think it is premature to approve these positions on a permanent basis, since staffing requirements for the implementation phase beginning in 2012-23 are not yet known. Delaying the decision to make these positions permanent allows the Legislature and DWR to more accurately evaluate the staffing required for the implementation stage. As such, we recommend that the existing 15 positions be reauthorized on a one-year limited-term basis to allow for completion of the planning stage. The administration could then submit a budget request with the Governor's 2012-13 budget to address the staffing requirements for the implementation phase which will have by that time been more thoroughly evaluated and able to be justified.

Staff Comments. Staff concurs with the LAO recommendation to reject the request in the Governor's January budget proposal to make permanent the existing 15 limited-term positions for the planning and implementation stages of DHCCP. Instead, staff recommends the subcommittee approve extending these positions by one year (through FY 2011-12) to allow the conclusion of the planning stage of DHCCP.

Recommendation: Adopt LAO Recommendation to reject the request to make permanent the existing 15 limited-term positions. Extend limited-term positions by one year.

Vote:

25. SWP-1: Critical Support for the California State Water Project.

Background. The Governor's January budget proposes a total of 123 new positions funded by State Water Project (SWP) funds for the support of the SWP. Of these positions, 90 are requested for the budget year, and an additional 33 are requested for either 2012-13 or 2013-14.

LAO Comments.

Thirty-Three Future-Year Positions Should be Rejected. We recommend rejection of the 33 positions requested for future years because the department has not given a reason for why those future positions need to be approved in this budget year.

Regulatory Compliance and Safety Positions: 46 Requested, Six Justified. The budget requests a total of 46 positions for regulatory compliance and safety improvements. Thirty positions are requested for compliance with a wide range of existing and future regulations pertaining to electricity generation and environmental safeguarding. We find only six of these 30 compliance positions have been justified. It is reasonable to request additional staff to comply with new regulatory burdens. However, the administration's proposal is unclear about which staff are being added to comply with existing regulations and which are being added for new regulations. In the case of existing regulations currently in force, no explanation has been given for why existing staff are able to meet the regulatory burdens now but will not continue to be able to do so in the future. In the case of new regulations not yet in force, the department has generally not indicated how the proposed activities for each of the positions would satisfy specific provisions of new regulations. One exception is the six positions (five utility craftworkers and one utility craftworker supervisor) requested to perform new activities required by the recent Federal Energy Regulatory Commission (FERC) relicensing of the SWP's Oroville facilities. In this case, a list of specific actions required by the regulation was submitted, so we recommend approval of these six positions. An additional 16 positions have also been requested relating to safety. As with the regulatory compliance staff discussed above, the department asserts that existing staff are insufficient to maintain safe workplace conditions but has not justified this assertion through data such as overtime hours logged or Occupational Safety and Health Act compliance failures. In summary, we recommend denial without prejudice of 40 of the 46 requested positions in this component of the staffing request until the department has identified what new activities are required that existing staff cannot perform.

Maintenance: 44 Positions Requested, None Justified. The third component of the staffing request for the budget year is 44 positions to support SWP's Division of Operations and Maintenance (O&M). In support of its request, the department cites a decline in a key metric of pumping capacity, referred to as "Operational Availability," which is the percentage of time in a given year that a

pumping unit is available for service. The department cites that Operational Availability has declined from 92.6 percent to 79 percent over the past seven years, and requests these positions to reverse that decline. We agree that this decline represents a significant problem. However, our review finds that during the time that the Division of O&M has added a large number of positions (103 positions added since 2006-07), the decline in Operational Availability has actually increased, not decreased. While there may be many reasons for this decline, the department has not provided data to demonstrate that the addition of even more positions will reverse the decline. (The department has suggested that the decline may be due to the loss of experienced staff due to compensation disparities between SWP and the private sector and the age of SWP facilities.) As such, we recommend denial without prejudice of these 44 positions until the department returns with data that demonstrate the utility of the proposed positions in addressing the identified problems.

The Legislature's Oversight Role Is Complicated by SWP's Off-Budget Status. As we have noted in a previous analysis, the Legislature's oversight role in respect of SWP is complicated by SWP's "off-budget" status, meaning that the Legislature is not required to approve SWP expenditures in the annual budget process. In the context of this request, the Legislature's limited oversight role (the Legislature is only required to approve SWP position authority) means that the Legislature is not able, for example, to review whether SWP is striking the appropriate balance between adding personnel and replacing equipment. We have recommended that the SWP be brought on budget to improve the Legislature's oversight of SWP (see our *2007-2008 Analysis of the Budget Bill*).

Staff Comments. Staff concurs with the LAO analysis and recommends the subcommittee adopt the LAO recommendation.

Recommendation: Adopt LAO Recommendation to:

- (1) REJECT 33 positions requested for future years,
- (2) DENY WITHOUT PREJUDICE 84 of 90 positions requested for budget year because there has been limited explanation of how those positions would achieve regulatory compliance goals and serve to improve State Water Project (SWP) performance,
- (3) APPROVE six positions requested to perform new activities required by the recent relicensing of the SWP's Oroville facilities.

Vote:

26. Mercury and Methylmercury Monitoring and Control Studies.

Governor's Proposal. The Governor's budget requests four full-time positions at an estimated cost of \$900,000 (State Water Project off-budget funds) for collaborative studies and laboratory and statistical analysis for implementation of the newly adopted regulations from the Central Valley Regional Water Quality Control Board (CVWQCB "regional board"). These positions will allow for dedicated staff to plan and implement the required studies, to participate in a required adaptive management approach, and will provide funds to enable internal department coordination as well as collaboration with other mercury researchers and land and water managers.

Background. In April 2010, the regional board adopted a Total Maximum Daily Load (TMDL) and Basin Plan Amendment for mercury and methylmercury in the Sacramento-San Joaquin Delta Estuary (including the Yolo bypass and Cache Creek Settling Basin). These regulations will become effective after US EPA approval in 2011. The regulations address both point (specific location) and nonpoint (unspecified location) sources. The regional water board held the State Water Project solely liable and responsible for implementation of this aspect of the regulation.

Staff Comments. Mercury and methylmercury are legacy pollutants from gold mining and other land extractions from the early 19th century and the Gold Rush. These pollutants settle into wetlands and water bodies and are released during the act of restoring wetland in the Delta. The state has planned numerous wetland restoration efforts, mainly by agencies participating in the Delta planning and restoration efforts (including DWR).

While the department may be a responsible party for some activities within this area, it is unclear why the regional water board took action to hold the DWR and SWP solely responsible for the TMDL actions. Other state, federal, and local agencies own and manage lands within these two basins. In particular, the State Lands Commission also is responsible for lands within this area. The subcommittee may wish to ask the administration to comment on the proposal to allow SWP ratepayers to foot 100 percent of this regulatory requirement.

Recommendation: DENY WITHOUT PREJUDICE. Request the administration return with a plan that appropriately spreads funding for this project among state and other local responsible agencies including the appropriate use of bond funds for this project.

Vote:

3885 Delta Stewardship Council

The mission of the Delta Stewardship Council, through a seven-member board, is to achieve the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta (Delta) ecosystem. The Council will develop and implement a strategy to appropriately engage participation by federal and state agencies with responsibilities in the Delta and develop a scientific program to manage the Delta through the Delta Science Program and the Delta Independent Science Board. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program

Governor's Budget. The Governor's Budget includes \$43.9 million (\$5.7 million General Fund) for support of the Delta Stewardship Council. This is an increase of \$19 million or 44 percent above current year estimates. This is mainly due to increases in bond expenditures and reimbursements from other agencies.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-2: Trailer Bill Language—CALFED Zero-Based Budget**

Background. As part of an in-depth discussion of the implementation of the 2009 legislative water package, the Legislature enacted Chapter 718, Statutes of 2010 (SB 855) requiring the administration to submit a zero-based budget for 2011-12 CALFED program expenditures by *April 1, 2011*.

This proposal will change the date for submitting the CALFED zero-based budget to *April 1, 2012*, and require the Delta Stewardship Council to conduct a programmatic review of the CALFED Bay-Delta Program expenditures for consistency with the Delta Plan. The Delta Plan will not be completed until January 1, 2012.

Staff Comments. Staff have discussed the issue with the Council and have no concerns with shifting the date of the zero-based budget to April 1, 2012, and increasing the effectiveness of the submission by determining consistency with the Delta Plan.

The subcommittee may wish to ask the Council for an update on its work with on the Delta Plan.

Recommendation: APPROVE

Vote:

2. LAO Recommendation—Reimbursement Authority

Background. As part of the development of the newly-formed Delta Stewardship Council (DSC), the legislature anticipated the authorization of multiple funding sources including General Fund, federal trust funds, bond funds and reimbursements from other agencies. These funds are used mainly to fulfill the primary mission of DSC, the creation of the Delta Plan.

The Governor's budget proposes \$27.5 million in reimbursements, an increase of \$14.7 million or 53 percent.

LAO Recommendation.

Reject \$5.8 million in reimbursement authority requested in the Governor's January budget that is stated to come from unknown sources and be for "unallocated" purposes. (The amount of such unallocated reimbursement authority was updated on January 21, based on a technical correction and clarification from the Department of Finance.)

These "unallocated" reimbursement funds make up 21 percent of the total requested reimbursement authority for the Delta Stewardship Council (DSC) and are proposed to make up 15 percent of the council's total 2011-12 expenditure authority. Requesting reimbursement expenditure authority without identifying the sources or uses of the reimbursements limits the Legislature's ability to decide which expenditures warrant funding and how those expenditures are funded. This practice of "contingency budgeting" is problematic as it reduces the Legislature's oversight of expenditures.

Staff Comments. According to Council staff, this reimbursement authority is a carryover of federal funding reimbursement authority from the CALFED Bay-Delta Program. Year after year, federal funds were anticipated to be received by the State in the budget only to have no reimbursement received from the federal government. This caused difficulties in budgeting and an inflated perceived level of funding for the overall program.

Staff agrees with the LAO recommendation and recommends reducing the reimbursement authority to the Council by \$5.8 million. Should the Council receive unanticipated funding from the federal government, it would go through the normal Legislative notification process. This would allow the Legislature more oversight over federal funding and the overall budgeting at the Council.

Recommendation: REDUCE \$5.8 million Reimbursement Authority

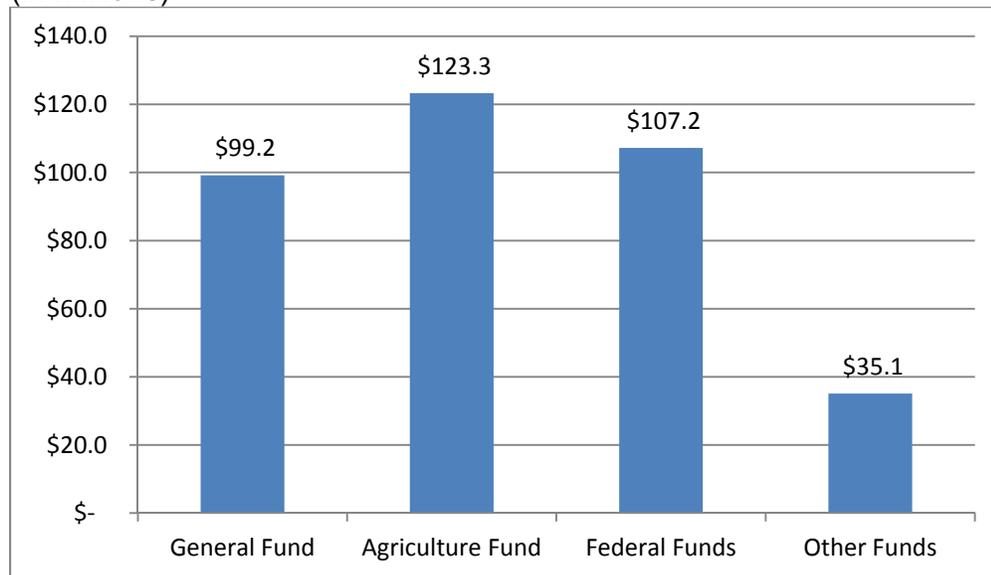
Vote:

8570 Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California’s agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California’s agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor’s Budget. The Governor’s Budget includes \$377 million (\$130 million GF) for support of the CDFA, an increase of approximately \$38 million, due primarily to increased efforts to control and eradicate various agricultural pests (supported by increased industry assessments as well as federal funds).

Department of Food and Agriculture 2011-12 Proposed Budget* (in millions)



* Does not reflect Governor’s proposal to reduce \$15 million in 2011-12.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-1: Asian Citrus Psyllid and Huanglongbing Mitigation Program. The Governor requests 38 three-year limited-term positions, 61 temporary help positions, and \$15 million (federal funds) to continue the Asian Citrus Psyllid and Huanglongbing Mitigation Project. This request will provide funding for detection, control, quarantine, and laboratory services to prevent the spread of these species throughout the state.

2. BCP-2: European Grapevine Moth Mitigation Campaign. The Governor requests 10 three-year limited-term positions and \$12 million (federal funds) to provide funding for detection, control, quarantine enforcement and laboratory services to prevent the European Grapevine Moth from spreading throughout the state.

3. BCP-4: Light Brown Apple Moth Program. The Governor requests an augmentation of \$7.5 million (federal funds) to provide an additional two-year funding for performing survey, delimitation, control, and regulatory activities necessary to ensure that the continuous threat of infestation of Light Brown Apple Moth is contained.

4. BCP-5: Country-of-Origin Labeling Surveillance and Enforcement. The Governor requests \$637,000 (federal funds) to support increased activities under the Country-of-Origin Labeling program. This program provides California with funding to conduct retail surveillance review of commodities sold in the state to ensure the accuracy of the originating country is properly labeled.

Staff Comments. Staff have received confirmation from the department that no aerial spraying will occur for any of the proposed vote-only items.

Recommendation: APPROVE the requests (1-4) listed above.

Vote:

ITEMS PROPOSED FOR DISCUSSION**1. General Fund Support for the Network of California Fairs.**

Background. Within the California Department of Food and Agriculture (CDFA) exists the network of California Fairs. The network of 78 California fairs is comprised of 52 district agricultural associations, 23 county fairs, two citrus fruit fairs, and the California Exposition and State Fair. The state provides coordination and local assistance services to the fairs.

Not all fairs receive funding from the state to support their operations. Many local fairs are self-supporting. However, recent legislation has increased local assistance funding. Beginning in 2009-10, for a variety of reasons, legislation removed funding from horse racing revenue that had previously helped to support the fairs and required \$32 million General Fund annually for support of the fairs.

Governor's Proposal. The Governor's budget proposes to permanently eliminate state support for the network of California Fairs. This would result in a \$32 million savings to the General Fund. It is not clear how much of this funding would impact the CDFA administrative functions and how much would impact local assistance to the fairs.

The subcommittee may wish to ask the department:

- 1) How much funding is specifically directed to local fairs (not used at CDFA or any other state agency).
- 2) How many fairs receive funding from the state?
- 3) What methods do fairs that do not receive state funding use to manage their budgets?
- 4) What criteria does the department use to provide local assistance to fairs?

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal.

Recommendation: APPROVE FUNDING PROPOSAL.

2. General Fund Reduction

Background. The Department of Food and Agriculture hosts multiple programs funded by the General Fund (baseline) including the following:

Department of Food and Agriculture Baseline General Funded Programs
(in millions)

Program Area	General Fund
Plant Health and Pest Prevention	\$60.4
Animal Health and Food Safety	\$25.8
Administrative Services (General)	\$6.7
Pierce's Disease (pest program)	\$4.2
Division of Measurements and Standards	\$2.1
Total	\$99.2

Governor's Proposal. The Governor's budget proposes to reduce the CDFA budget by \$15 million in 2011-12 and \$30 million ongoing. The budget proposal requires the Secretary of Food and Agriculture to convene key agricultural and industry individuals to look at the long-term viability of state programs and to determine solutions to limit the need for General Fund resources.

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal and requiring the department to return with a plan for reduction by February 15.

The subcommittee may wish to ask the department to discuss:

- (1) The criteria for reducing funding for programs (including how the working group handled statutory requirements).
- (2) What options the stakeholders have come up with for alternative revenues.
- (3) Impacts to federal funding.
- (4) When a trailer bill would be available to implement the reductions.

Recommendation. APPROVE FUNDING PROPOSAL. Require department to return on February 15 with a draft reduction plan.

OPEN ISSUES**8660 California Public Utilities Commission (CPUC)**

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Open Issue: California Public Utilities Commission Foundation

Background. On January 27, the subcommittee was made aware of a newly created foundation called the "California Public Utilities Commission Foundation." Several questions were raised about the past, current, and future interactions between commission staff, commissioners, and the foundation. The commission was asked to return at this hearing to discuss its interaction with the foundation.

Recommendation. The committee may wish to require the Commission to report on specific activities, and to remit certain documents related to its relationship with the CPUC Foundation, among other actions.

Vote:

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Thursday, February 10, 2011
9:30 am or upon adjournment of session
Rose Ann Vuich Hearing Room (2040) Outcomes

PART A—Resources and Environmental Protection
Consultant: Catherine Freeman

Departments/Items Proposed for Vote-Only

3110	Special Resources Programs	2
3125	California Tahoe Conservancy	2
3720	State Coastal Conservancy	2
3810	Santa Monica Mountains Conservancy	2
3825	Rivers and Mountains Conservancy	2
3830	San Joaquin River Conservancy	3
3835	Baldwin Hills Conservancy	3
3850	Coachella Valley Mountains Conservancy	3
3855	Sierra Nevada Conservancy	3
	Various Reappropriations, Extensions of Liquidation	4
	Informational Item: LAO Bond Overview	5

Departments Proposed for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
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3680	Department of Boating and Waterways	8
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Open Issues

8660	California Public Utilities Commission	28
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Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Vote Only Calendar

3110 Special Resources Programs

1. Base Budget—Tahoe Regional Planning Agency . The Governor requests \$4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (a program within the Special Resources Programs budget).

3125 California Tahoe Conservancy

2. BCP-1: Implementation of the Environmental Improvement Program for the Lake Tahoe Basin. The Governor requests \$15.8 million (multiple funding sources, no General Fund) to continue capital outlay and local assistance funding for the implementation of the Environmental Improvement Program for the Lake Tahoe Basin.

3. BCP-2: Reappropriations. The Governor requests various reappropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze.

3720 State Coastal Conservancy

4. COBCP-1: Ocean Protection Council: Capital Projects and Science Applications. The Governor requests reappropriation of unencumbered balances (bond funds) for ocean-related capital and science projects. This request is mainly due to the bond freeze.

3810 Santa Monica Mountains Conservancy

5. COBCPs (multiple): Capital Outlay : Acquisition and Local Assistance Grants. The Governor requests various reappropriations from bond funds for projects in (1) the Upper Los Angeles River watershed and Santa Monica Bay and Ventura County Coastal watersheds; and, (2) Santa Monica Mountains Zone and Rim of the Valley Trail Corridor.

3825 Rivers and Mountains Conservancy

6. COBCP-1: Proposition 84, Capital Outlay and Grants. The Governor requests \$6.7 million (Proposition 84) to fund the fifth year of capital outlay projects in the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.

3830 San Joaquin River Conservancy

7. COBCP-1: Environmental Restoration, Public Access and Recreation. The Governor requests \$1.0 million (reimbursement authority) to allow the Conservancy to receive funds from the Wildlife Conservation Board so the Conservancy may direct and administer projects along the San Joaquin River Parkway.

3835 Baldwin Hills Conservancy

8. COBCP-1: Acquisition and Improvement Program. The Governor requests reversion and reappropriation of the remaining balance of Proposition 40 funds to continue work on the park master plan as required by Chapter 752, Statutes of 1999.

3850 Coachella Valley Mountains Conservancy

9. COBCP-1: Land Acquisition (New Appropriation and Reappropriation). The Governor requests \$8.8 million (mainly Proposition 84) to allow the conservancy to acquire and protect mountainous zones and provide funding to implement the natural community conservation plan (NCCP) lands within the conservancy boundaries.

3855 Sierra Nevada Conservancy

10. COBCP-1: Proposition 84 Grant Program Re-Appropriation. The Governor requests reappropriation for the unencumbered balance in Proposition 84 local assistance grant funding to award grants and cooperative agreements in the Sierra Nevada Region.

Local Reappropriations and Extensions of Liquidation

11. Additional Reappropriations

Staff has been made aware by local governments that the following extensions of liquidation, reappropriations, or appropriations anew are also needed:

- El Monte, Gibson neighborhood park -- \$600,000
- County of Inyo, Tecopa Hot Springs Park -- \$1,040,245
- City of Encinitas, Leucadia State Beach -- \$2,482,845
- City of Encinitas, Recreational Grants -- \$426,471
- Boys and Girls Club of Hollywood -- \$2,153,000
- County of Sacramento, Recreational Grants -- \$671,396
- Rio Linda/Elverta RPD, Recreational Grants -- \$168,858
- Lassen County, Recreational Grants -- \$692,099
- Sierra County, Recreational Grants -- \$817,419
- Amador County, Recreation Grants -- \$628,866
- Sutter County, Recreational Grants -- \$58,837
- City of Long Beach, Boating and Ports -- \$8.1 million
- City and County of San Francisco (various) -- \$6.6 million
- County of Modoc (various)--\$831,957
- County of Fresno -- \$1.8 million
- Los Angeles County
 - Benny Potter Playground Restroom
 - Hansen Dam Skate Park
 - Ken Malloy Playground Restroom
 - Riverside Park Outdoor Development

Staff Comments: Staff has no concerns with the proposed reappropriations, extensions of liquidation, or appropriations anew. Due to the Bond Freeze, many projects experienced delays due to financing and/or construction times. By allowing these extensions, projects that are currently in process will be allowed to continue.

Staff Recommendation:

- (1) APPROVE Items 4-11
- (2) DENY WITHOUT PREJUDICE Items 1-3

Item 1 Actions:

- Reduce Item 3110-101-0140 by \$3,999,000
- Reduce Item 3110-101-0516 by \$124,000

VOTE: (next page)

VOTE:

**Amend Item #11: Include--City of San Jose, Del Rio Woods, City of Los Angeles—
Tierra de la Culubra.**

DENY WITHOUT PREJUDICE

Items 1-3 (Vote: 3-0)

APPROVE

Items 4-9 (Vote: 2-1)

Items 10-11 (as amended Vote 3-0)

Informational Item: LAO Bond and Cash Management Presentation

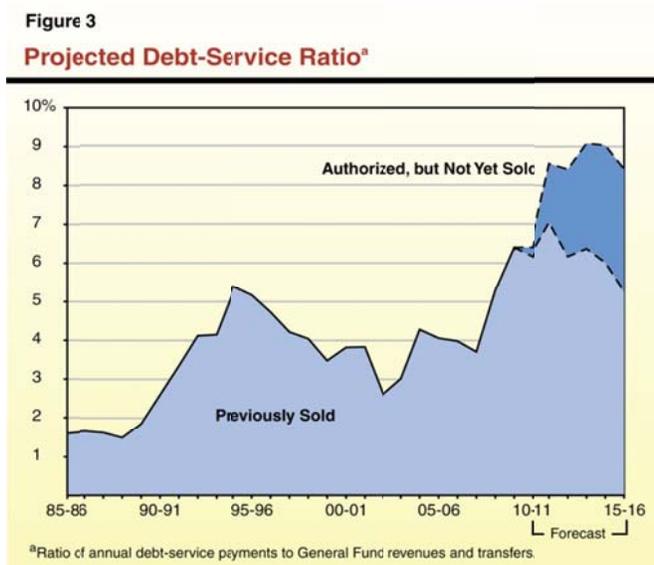
The Legislative Analyst's Office has written extensively about the relationship between debt and cash flow in the state budget. In the 2010 LAO Fiscal Forecast, the LAO discussed recommendations that would help the state manage its cash pressures, primary among them reducing operating shortfalls. The LAO will be providing a short presentation on bond expenditures within the Resources and Environmental Protection programs including a discussion of cash management and debt service on infrastructure bonds.

The Governor has stated that as one budget and cash management strategy, the administration will not hold a spring bond sale. The administration also has reduced the number and amount of bond requests in the budget year and has stated that the lack of a spring bond sale will not impact proposed Resources and Environmental Protection projects.

2010 LAO Fiscal Forecast—Debt Service on Infrastructure Bonds

Debt-Service Ratio (DSR) Expected to Rise. The DSR for general obligation and lease-revenue bonds—that is, the ratio of annual General Fund debt-service costs to annual General Fund revenues and transfers—is often used as one indicator of the state's debt burden. There is no one “right” level for the DSR. The higher it is and more rapidly it rises, however, the more closely bond raters, financial analysts, and investors tend to look at the state's debt practices, and the more debt-service expenses limit the use of revenues for other programs. Figure 3 shows what California's DSR has been in the recent past and our DSR projections for the forecast period.

The DSR we (LAO) are projecting—slightly above 9 percent at its peak—is considerably higher than it has been in the past. This reflects the sharp, recent fall-off in General Fund revenues, the planned sale of the large bonds approved since 2006, and the voters' recent approval of Propositions 22 and 26. To the extent additional bonds are authorized and sold in future years beyond those already approved, the state's debt-service costs and DSR would be higher than projected in Figure 3.



3640 Wildlife Conservation Board

Items Proposed for Vote-Only

1. **BCP-1: Funding for Development Programs.** The Governor requests \$1 million from the Wildlife Restoration fund for public access programs.
2. **BCP-2: Habitat Conservation Fund (2007 Reapropriation).** The Governor requests re-appropriation of a \$7 million unencumbered balance from 2007 due to the bond freeze. This annual transfer of funds and expenditure is required by the voter-approved Wildlife Protection Act of 1990 which requires an annual transfer of \$30 million from the General Fund to the Habitat Conservation Fund through the year 2020.
3. **COBCP-1: Habitat Conservation Fund.** The Governor requests \$21 million, less the amount necessary to fund the administrative support, for the Wildlife Conservation Board to carry out mandates of the California Wildlife Protection Act of 1990 as required by the voter-approved initiative.

Staff Recommendation: APPROVE Items 1-3

Vote: 2-1

APPROVE ITEMS 1-3

Items Proposed for Discussion**4. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.

LAO Recommendation.

Withhold approval of three reappropriations totaling \$39 million (\$11 million from Proposition 84 and \$3 million from Proposition 40 for restoration of the San Joaquin River Parkway; \$25 million from Proposition 84 for Natural Communities Conservation Planning) pending demonstration by the board why reappropriation of this funding would result in physical projects. (To date, the board has only spent 8 percent of the \$46.5 million in initial appropriations, some dating as far back as 2003.)

Staff Comments. This is the second year this issue has come before the committee. Staff shares the concerns of the LAO, particularly for the first two proposals totaling more than \$30 million in appropriations that the board has not acted upon. The subcommittee may wish to ask the board why they continue to have problems getting funding out the door for these legislative priorities.

Staff recommends the board return by April 1, 2011, with an action plan to administer these funds. It may no longer be acceptable to re-appropriate these funds annually with little to no progress being made by the board and conservancy. The Legislature may wish to have the board and LAO provide an analysis of alternative options for the funding, including distribution to other state agencies for capital expenditure.

Recommendation: DENY WITHOUT PREJUDICE. Require the board to return with an action plan for expenditure of funds by April 1, 2011.

Vote: 3-0

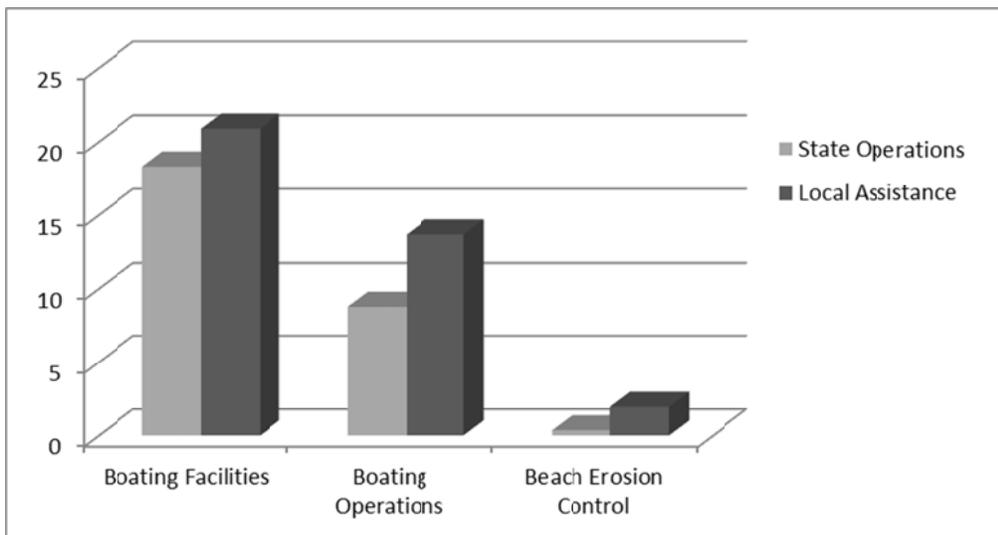
DENY WITHOUT PREJUDICE.

3680 Department of Boating and Waterways

The Department of Boating and Waterways (DBW) funds, plans, and develops boating facilities on waterways throughout California and ensures safe boating for the public by providing financial aid and training to local law enforcement agencies. In addition, the department has responsibility for boating safety and education, licensing of yacht and ship brokers, aquatic weed control in the Sacramento-San Joaquin Delta, and beach erosion control and sand nourishment along California’s coast. The department operates an oceanography program at the Scripps Institute of Oceanography at La Jolla.

Governor’s Budget. The Governor’s Budget includes \$63.9 million (no General Fund) for support of the DBW, no change from current year estimates.

Department of Boating and Waterways Programs (in millions)



ITEMS PROPOSED FOR VOTE-ONLY**1. BCP-3: Coastal Data Information Program (CDIP) Federal Support Increase.**

The Governor requests an increase of \$1.8 million (ongoing), in federal budget authority in order to expend additional available federal funds on an ongoing basis from the US Army Corps of Engineers to support wave and water level studies in order to increase maritime safety and prevent coastal environmental damage.

2. BCP-4: Coastal Shore Protection Grants. The Governor requests \$2 million in FY 2011-12 and \$1.2 million in FY 2012-13 for multiple local assistance grants to protect public coastal infrastructure within the Beach Erosion program.

3. BCP-5: Statewide Emergency Repairs and Replacements. The Governor requests authorization to create a repair and replacement fund (\$300,000 within the Harbors and Watercraft Fund) in the baseline budget rather than as annual Capital Outlay request in order to immediately respond to unforeseen events and circumstances that impact the safe use of recreational boating facilities.

4. COCPs: Minor Capital Outlay Projects. The department requests a total of \$4.2 million (HWRP) for the following minor capital outlay projects:

- a. Statewide Low-Water Improvements – \$300,000
- b. Folsom Lake SRA Granite Bay Stage 4 Ramp Improvements – \$740,000
- c. Lake Davis Honker Cover Ramp Improvements – \$455,000
- d. Bidwell-Sacramento River State Park Pine Creek Ramp Improvements – \$500,000
- e. Castaic East Ramp Boarding Float Improvements – \$360,000
- f. Millerton Lake State Recreation Area Ramp 3 Restroom Replacement – \$340,000
- g. Antelope Lake Boat Launching Facility Improvements – \$680,000
- h. Frenchmen Lake Lunker Point Ramp Improvements – \$450,000
- i. Frenchman Lake Main Ramp Parking Improvements – \$360,000

Recommendation: APPROVE (Items 1-4)

Vote: APPROVE

Item 2—(Vote: 2-1)

Items 1, 3, 4—(Vote 3-0)

ITEMS PROPOSED FOR DISCUSSION**5. BCP-2: Department of Finance Recommendations—Boating and Facility Loans and Grants.**

Background. The Governor requests \$100,000 (Harbors and Watercraft Revolving Loan Fund) in ongoing state support to contract for the financial services required to ensure the safeguarding of state assets as recommended by the Department of Finance.

The Department of Finance (DOF) has recently completed a review of the Department of Boating and Waterways (the department) loan portfolio. In its review, the DOF made several findings and recommendations related to the department's loan portfolio.

According to DOF, the department has over \$2.9 million in delinquent loans. The department failed to consistently (1) conduct background checks; (2) develop a risk-based approach to prioritize and perform site visits; and (3) review loan recipients' annual financial reports to evaluate continuing ability to repay the loan.

Staff Comments. Staff have concerns with the recent report that the department does not institute financial safeguards as part of its normal course of business. The subcommittee may wish to ask the department and DOF:

- How much does the department currently spend on financial assurance and how many positions does this include?
- Why can't the department conduct these basic financial assurance measures with its existing staff?
- With whom would the department contract?

Staff concurs that there is a need to improve the department's financial management in order to protect the state's investments and assets. However, it is unclear why the department needs to contract for these services rather than incorporate them into its normal course of business.

Staff recommends denying the proposal, and any further loans, until the department is able to return with a plan to internally adopt the DOF recommendations for financial assurance.

Recommendation: DENY WITHOUT PREJUDICE

VOTE: 2-1
DENY WITHOUT PREJUDICE

6. BCP-1: Public Small Craft Harbor Loans and Boat Launching Grants (Reassessment and New Applications)

Background. The Governor requests \$17.9 million [Harbors and Watercraft Revolving Fund (HWRF)] in local assistance Public Small Craft loans and Boat Launching Facility grants. This includes \$7.1 million for loans with estimated repayments of \$441,000 per year for 30 years. The proposal also includes \$10.8 million for grants for public boat launching facilities that are open to the public.

This proposal includes the following grants:

- Channel Islands Boat Launching Facility (BLF), Ventura County Harbor District — \$4.5 million
- “Other Grants in Process of Reassessment” which are still being analyzed and for which decisions must still be made — \$1 million
- Various projects totaling no more than \$1 million per project

This proposal includes the following Local Assistance “Reassessed Loan Funding”:

- Santa Cruz Harbor Loan, Santa Cruz Port District — \$2.5 million
- Santa Barbara Harbor Loan, City of Santa Barbara — \$1.7 million
- “Other Loans in Process of Reassessment” which are still being analyzed and for which decisions must be made — \$2 million

The proposal includes the following New Loan Funding:

- Statewide Emergency Loans — \$300,000
- Statewide Planning Loans — \$300,000
- Statewide CEQA funding — \$300,000

Staff Comments. In general, specific projects within this larger budget proposal may have merit. However, staff have concerns with the lack of specificity regarding projects, the implications of the lack of financial controls within the department, and local concerns regarding various projects.

In order to remain consistent, staff recommends rejecting the entire budget proposal without prejudice so that the subcommittee and staff may have time to review these projects and work with the department on their financial assurance controls.

Recommendation: DENY WITHOUT PREJUDICE

Vote: 2-1

DENY WITHOUT PREJUDICE

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 \$1.5 billion (\$115 million General Fund) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$2.1 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

ITEMS PROPOSED FOR VOTE-ONLY

1. WM-1: Groundwater Monitoring Program. The Governor requests \$1.3 million (Proposition 50) for three years to implement the provisions of the groundwater monitoring program pursuant to SBx7 6 (Steinberg and Pavley) in November 2009.

2. WM-2: Infrastructure Rehabilitation Program. The Governor requests \$966,000 (Proposition 13) in Local Assistance for the Groundwater Recharge Project Loan and Infrastructure Rehabilitation Grant Program. This appropriation will provide the balance of loan and grant funding for DWR's construction contracts with the Pajaro Valley Water Management Agency and City of Sanger.

3. WM-3: CA/NV Water Allocation of the Truckee River. The Governor requests \$1.4 million (Federal Trust Fund) annually for five years (\$250,000 per year for the first four years and \$450,000 in the final year). This reimbursement authority would allow the department to receive anticipated Truckee River Operating Agreement grant funds to supplement funds from two prior federal appropriations and to support implementation of the program in order to fulfill California's responsibilities under the Truckee River water agreement.

4. OP-1: Drinking Water Quality Pilot Projects. The Governor requests \$5 million (Proposition 50) for local assistance funding for pilot and demonstration projects which are part of an effort to develop effective, efficient, and economical ways of removing drinking water contaminants.

Capital Outlay Items (Items 5-21) totaling \$121.9 million (mainly bond funds):

Item	BCP	Description	Amount
5	CO-1	Feather River Early Implementation Project	\$11,150,000
6	CO-2	American River Flood Control Project: Common Elements	\$9,657,000
7	CO-3	West Sacramento Project	\$2,942,000
8	CO-4	West Sacramento Project (GRR)	\$1,995,000
9	CO-5	Mid-Valley Levee Reconstruction	\$3,950,000
10	CO-6	Yuba River Basin Project	\$728,000
11	CO-7	Marysville Ring Levee Reconstruction Project	\$2,032,000
12	CO-8	South Sacramento County Streams	\$5,380,000
13	CO-9	Sutter Basin Feasibility Study	\$1,280,000
14	CO-10	Rock Creek/Keefer Slough Feasibility Study	\$290,000
15	CO-11	West Stanislaus County, Orestimba Creek Project	\$1,892,000
16	CO-12	Folsom Dam Modifications Project	\$39,063,000
17	CO-13	Frazier Creek/Strathmore Creek Feasibility Study	\$290,000
18	CO-14	White River/Deer Creek Feasibility Study	\$302,000
19	CO-15	Merced County Streams, Bear Creek Unit	\$676,000
20	CO-16	Lower San Joaquin River	\$2,280,000
21	CO-17	Systemwide Levee Evaluations and Repairs	\$38,000,000

Staff Recommendation: APPROVE Items 1-21

Vote: (APPROVE) ITEM 1 (Vote: 2-1); ITEMS 2-21 (Vote: 3-0)

ITEMS PROPOSED FOR DISCUSSION**22. FloodSAFE California Program**

1. 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.

Governor's Budget. The Governor requests continued FloodSAFE funding of \$64.9 million (Proposition 1E and Proposition 13), three new positions, and extension of three limited-term positions. The Governor's budget includes the following proposals:

- 1) **Floodplain Risk Management** – \$6 million (Proposition 1E) for Central Valley floodplain evaluation and delineation
- 2) **Flood Projects and Grants** – \$53.3 million (Propositions 1E and 13) for flood system modifications, floodway corridors, Yuba-Feather flood protection, and North Delta Flood control and ecological restoration.
- 3) **Evaluation and Engineering** – \$2 million for Delta Risk Management Strategy and the Delta Knowledge Improvement Program
- 4) **Flood Management Planning** – \$3.5 million for Central Valley Protection Plan and FloodSAFE Conservation strategy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years, and staff has no significant concerns with most of these ongoing expenditures. However, staff are concerned with two items in the budget proposal.

(1) **Delta Knowledge Improvement Strategy.** Staff have concerns about the Evaluation and Engineering request for \$2 million (Proposition 1E) for the Delta Risk Management Strategy (DRMS) and Delta Knowledge Improvement Program (DKIP). This proposal is a request for contract support to complete follow-up efforts to the DRMS Phase Two report. The DKIP is a multi-year project designed to fill in data gaps left by the DRMS Phase One and Phase Two, and to provide more comprehensive information than was provided in the initial two phases. The Phase Two report has not been released and therefore it is unclear how or what the DKIP will provide to inform the Legislature's decisions on Delta issues.

In 2010, the Legislature approved \$2 million to start the DKIP process. Because the DRMS Phase Two project ran longer than expected, the DKIP project has not begun and a contract solicitation has not been announced.

It would seem appropriate to allow the public and the Legislature to review the DRMS Phase Two report prior to funding any further efforts related to DRMS or DKIP. In addition, the release of the Delta Plan in 2012 will further direct scarce funding to fill in specific data gaps that are needed to implement the state's efforts in the Delta.

The subcommittee may wish to have the department report on:

- When Phase Two of the DRMS study will be released (this request does not include funding for Phase Two).
- What confidence the department has in the accuracy of the DRMS reports.
- Why the DKIP was not started, even when an appropriation was made in 2010.
- This effort will not have results for five years. What benefit could be seen to delaying for one year until the Delta Plan is complete and the state has a coordinated plan for spending limited bond funding?

(2) **Conservation Strategy.** Staff also have concerns with the three permanent positions requested for the Conservation Strategy. The budget proposal requests to develop an integrated approach to flood management that addresses the risk and the need to evaluate opportunities from a system perspective (including environmental stewardship actions and sustainability goals). The positions are requested to continue and expand on existing environmental components of the Central Valley Flood Protection Plan.

It is unclear what the outcomes of this effort will be and how this relates to the current Delta planning programs that are being undertaken by multiple state agencies, including the Delta Stewardship Council. It would seem prudent to hold off on approving permanent staffing and support until the department can provide a clear report on how this environmental effort will coordinate with current Delta restoration efforts.

Recommendation.

- (1) **REJECT \$2 million proposed for Engineering and Evaluation.**
- (2) **REVERT \$2 million approved for the Delta Knowledge Improvement Program.**
- (3) **DENY \$575,000 (support) for Conservation Strategy for FloodSAFE (including three positions)**
- (4) **APPROVE remainder of proposal as budgeted.**

Vote: 3-0

Staff Recommendation

23. Implementation of the Biological Opinions

Background. The Governor's budget requests 18 full-time positions at an estimated cost of \$2.6 million (State Water Project off-budget funds) to implement various actions proposed under the federal fish agency Biological Opinion for the State Water Project (SWP) and Central Valley Project operations. These requirements are designed to improve the survival of fishery resources in the Delta and Suisun-Marsh, and at SWP facilities. The fishery agencies have concerns about fish losses related to export of water from the Delta from the two projects.

The positions are also proposed to support forthcoming activities related to the Bay Delta Conservation Plan and the Delta Stewardship Council that are focusing on habitat conservation and alternative conveyance systems.

LAO Comments. The LAO analyzed all position requests related to the SWP (contained in this and following budget proposals). Relevant to this proposal, the LAO states:

State Water Project Staffing for Implementation of Biological Opinions

Sacramento-San Joaquin Facilities: 13 Positions Requested, Three Justified. A total of 13 staff are proposed for the Bay-Delta Office to implement new requirements under the National Marine Fisheries and U.S. Fish and Wildlife Service biological opinion for the SWP. This total includes three engineers, four environmental scientists, two fish and wildlife technicians, and four office technicians. As discussed below, we find that only the three engineer positions have been justified, and therefore recommend rejection of the remaining ten positions, for a savings of \$1.3 million annually.

The Department of Water Resources (DWR) has indicated that no current staff possess the specialized knowledge required to perform the activities of the proposed engineers, and therefore we find that those three positions are justified. The remaining ten positions have not been justified for the following reasons. Six of the proposed positions would collect and maintain data on fish, water quality, and other ecological indicators related to Capture, Handling, Transport, and Release (CHTR) studies. However, existing staff have been sufficient to complete the initial CHTR studies and begin implementation of the studies' recommendations. Because those studies are now complete, those staff are available to devote all of their efforts to implementation. New staff are therefore not justified at this time. The proposal also requests four new office technician positions to deal with increased workload. We find these positions to be unjustified because this workload can be addressed adequately at current administrative staffing levels.

Suisun Marsh Facilities: Two Positions Requested, None Justified. The Governor's budget requests two new environmental scientist positions. We find that neither position has been justified, and therefore recommend that this component of the request be rejected, for a savings of \$287,000. The first position is requested for permitting and monitoring activities associated with the anticipated release by the State Water Resources Control Board (SWRCB) of a basin plan for the Delta and the Suisun Marsh. However, existing staff have been sufficient to acquire permits up to this point. A second

environmental staff position was also requested to conduct on-site evaluations of fish presence and behavior to support the work of the Environmental Planning and Information (EPI) branch to meet the needs of the SWP biological opinion. With the addition of a new staff environmental scientist in the EPI branch (see below) for compliance with the SWP biological opinion, we find that this position is unjustified.

Regulatory Compliance for Division of Environmental Services: Three Positions Requested, One Justified. The Governor's budget proposes the addition of three positions for coordinating regulatory compliance. We find that only one position has been justified, and therefore recommend the rejection of two positions, for a savings of \$311,000. The budget proposes two staff environmental scientists to perform modeling and participate in inter-agency regulatory processes, and an additional environmental scientist to run models and analyze data. Two of the division's more experienced personnel were performing some of these duties, but have since departed. Although these vacancies will be filled, we find that it is warranted to add one additional staff environmental scientist to make up for the lost capacity and knowledge. However, existing staff currently with the department have represented DWR in the inter-agency processes, and other offices within DWR possess the capacity to perform the modeling duties of these positions, so we find that the need for two additional positions (on top of the one we recommend be approved) has not been justified.

Staff Comments. Staff concurs with the LAO analysis of the position request and therefore recommends the subcommittee reject 14 of 18 positions proposed in the Governor's January budget for improving State Water Project (SWP) compliance with wildlife-related regulations, for a savings of \$1.9 million (SWP funds). The SWP has generally been able to comply with these regulations at existing staffing levels up to now, and a limited number of additional staff are needed to address workload requirements associated with the regulations going forward.

Recommendation: Adopt LAO Recommendation to reject 14 of 18 positions proposed.

Vote: 3-0

DENY WITHOUT PREJUDICE

24. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The Governor's budget requests to convert 15 limited-term positions to be made permanent to continue work on the Delta Habitat Conservation and Conveyance Program (DHCCP).

LAO Comments.

What is the DHCCP? 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 DHCCP's planning stage is currently being carried out by 15 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2011. 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).

Recommendation. While the requested positions are integral to the completion of the planning stage of DHCCP, we think it is premature to approve these positions on a permanent basis, since staffing requirements for the implementation phase beginning in 2012-23 are not yet known. Delaying the decision to make these positions permanent allows the Legislature and DWR to more accurately evaluate the staffing required for the implementation stage. As such, we recommend that the existing 15 positions be reauthorized on a one-year limited-term basis to allow for completion of the planning stage. The administration could then submit a budget request with the Governor's 2012-13 budget to address the staffing requirements for the implementation phase which will have by that time been more thoroughly evaluated and able to be justified.

Staff Comments. Staff concurs with the LAO recommendation to reject the request in the Governor's January budget proposal to make permanent the existing 15 limited-term positions for the planning and implementation stages of DHCCP. Instead, staff recommends the subcommittee approve extending these positions by one year (through FY 2011-12) to allow the conclusion of the planning stage of DHCCP.

Recommendation: Adopt LAO Recommendation to reject the request to make permanent the existing 15 limited-term positions. Extend limited-term positions by one year.

Vote: 3-0

**(REJECT REQUEST TO MAKE 15-LIMITED TERM POSITIONS PERMANENT.
APPROVE TO EXTEND LIMITED-TERM POSITIONS BY ONE YEAR.)**

25. SWP-1: Critical Support for the California State Water Project.

Background. The Governor's January budget proposes a total of 123 new positions funded by State Water Project (SWP) funds for the support of the SWP. Of these positions, 90 are requested for the budget year, and an additional 33 are requested for either 2012-13 or 2013-14.

LAO Comments.

Thirty-Three Future-Year Positions Should be Rejected. We recommend rejection of the 33 positions requested for future years because the department has not given a reason for why those future positions need to be approved in this budget year.

Regulatory Compliance and Safety Positions: 46 Requested, Six Justified. The budget requests a total of 46 positions for regulatory compliance and safety improvements. Thirty positions are requested for compliance with a wide range of existing and future regulations pertaining to electricity generation and environmental safeguarding. We find only six of these 30 compliance positions have been justified. It is reasonable to request additional staff to comply with new regulatory burdens. However, the administration's proposal is unclear about which staff are being added to comply with existing regulations and which are being added for new regulations. In the case of existing regulations currently in force, no explanation has been given for why existing staff are able to meet the regulatory burdens now but will not continue to be able to do so in the future. In the case of new regulations not yet in force, the department has generally not indicated how the proposed activities for each of the positions would satisfy specific provisions of new regulations. One exception is the six positions (five utility craftworkers and one utility craftworker supervisor) requested to perform new activities required by the recent Federal Energy Regulatory Commission (FERC) relicensing of the SWP's Oroville facilities. In this case, a list of specific actions required by the regulation was submitted, so we recommend approval of these six positions. An additional 16 positions have also been requested relating to safety. As with the regulatory compliance staff discussed above, the department asserts that existing staff are insufficient to maintain safe workplace conditions but has not justified this assertion through data such as overtime hours logged or Occupational Safety and Health Act compliance failures. In summary, we recommend denial without prejudice of 40 of the 46 requested positions in this component of the staffing request until the department has identified what new activities are required that existing staff cannot perform.

Maintenance: 44 Positions Requested, None Justified. The third component of the staffing request for the budget year is 44 positions to support SWP's Division of Operations and Maintenance (O&M). In support of its request, the department cites a decline in a key metric of pumping capacity, referred to as "Operational Availability," which is the percentage of time in a given year that a

pumping unit is available for service. The department cites that Operational Availability has declined from 92.6 percent to 79 percent over the past seven years, and requests these positions to reverse that decline. We agree that this decline represents a significant problem. However, our review finds that during the time that the Division of O&M has added a large number of positions (103 positions added since 2006-07), the decline in Operational Availability has actually increased, not decreased. While there may be many reasons for this decline, the department has not provided data to demonstrate that the addition of even more positions will reverse the decline. (The department has suggested that the decline may be due to the loss of experienced staff due to compensation disparities between SWP and the private sector and the age of SWP facilities.) As such, we recommend denial without prejudice of these 44 positions until the department returns with data that demonstrate the utility of the proposed positions in addressing the identified problems.

The Legislature's Oversight Role Is Complicated by SWP's Off-Budget Status. As we have noted in a previous analysis, the Legislature's oversight role in respect of SWP is complicated by SWP's "off-budget" status, meaning that the Legislature is not required to approve SWP expenditures in the annual budget process. In the context of this request, the Legislature's limited oversight role (the Legislature is only required to approve SWP position authority) means that the Legislature is not able, for example, to review whether SWP is striking the appropriate balance between adding personnel and replacing equipment. We have recommended that the SWP be brought on budget to improve the Legislature's oversight of SWP (see our *2007-2008 Analysis of the Budget Bill*).

Staff Comments. Staff concurs with the LAO analysis and recommends the subcommittee adopt the LAO recommendation.

Recommendation: Adopt LAO Recommendation to:

- (1) REJECT 33 positions requested for future years,
- (2) DENY WITHOUT PREJUDICE 84 of 90 positions requested for budget year because there has been limited explanation of how those positions would achieve regulatory compliance goals and serve to improve State Water Project (SWP) performance,
- (3) APPROVE six positions requested to perform new activities required by the recent relicensing of the SWP's Oroville facilities.

Vote: 3-0

DENY WITHOUT PREJUDICE

26. Mercury and Methylmercury Monitoring and Control Studies.

Governor's Proposal. The Governor's budget requests four full-time positions at an estimated cost of \$900,000 (State Water Project off-budget funds) for collaborative studies and laboratory and statistical analysis for implementation of the newly adopted regulations from the Central Valley Regional Water Quality Control Board (CVWQCB "regional board"). These positions will allow for dedicated staff to plan and implement the required studies, to participate in a required adaptive management approach, and will provide funds to enable internal department coordination as well as collaboration with other mercury researchers and land and water managers.

Background. In April 2010, the regional board adopted a Total Maximum Daily Load (TMDL) and Basin Plan Amendment for mercury and methylmercury in the Sacramento-San Joaquin Delta Estuary (including the Yolo bypass and Cache Creek Settling Basin). These regulations will become effective after US EPA approval in 2011. The regulations address both point (specific location) and nonpoint (unspecified location) sources. The regional water board held the State Water Project solely liable and responsible for implementation of this aspect of the regulation.

Staff Comments. Mercury and methylmercury are legacy pollutants from gold mining and other land extractions from the early 19th century and the Gold Rush. These pollutants settle into wetlands and water bodies and are released during the act of restoring wetland in the Delta. The state has planned numerous wetland restoration efforts, mainly by agencies participating in the Delta planning and restoration efforts (including DWR).

While the department may be a responsible party for some activities within this area, it is unclear why the regional water board took action to hold the DWR and SWP solely responsible for the TMDL actions. Other state, federal, and local agencies own and manage lands within these two basins. In particular, the State Lands Commission also is responsible for lands within this area. The subcommittee may wish to ask the administration to comment on the proposal to allow SWP ratepayers to foot 100 percent of this regulatory requirement.

Recommendation: DENY WITHOUT PREJUDICE. Request the administration return with a plan that appropriately spreads funding for this project among state and other local responsible agencies including the appropriate use of bond funds for this project.

Vote: 3-0

DENY WITHOUT PREJUDICE

3885 Delta Stewardship Council

The mission of the Delta Stewardship Council, through a seven-member board, is to achieve the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta (Delta) ecosystem. The Council will develop and implement a strategy to appropriately engage participation by federal and state agencies with responsibilities in the Delta and develop a scientific program to manage the Delta through the Delta Science Program and the Delta Independent Science Board. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program

Governor's Budget. The Governor's Budget includes \$43.9 million (\$5.7 million General Fund) for support of the Delta Stewardship Council. This is an increase of \$19 million or 44 percent above current year estimates. This is mainly due to increases in bond expenditures and reimbursements from other agencies.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-2: Trailer Bill Language—CALFED Zero-Based Budget**

Background. As part of an in-depth discussion of the implementation of the 2009 legislative water package, the Legislature enacted Chapter 718, Statutes of 2010 (SB 855) requiring the administration to submit a zero-based budget for 2011-12 CALFED program expenditures by *April 1, 2011*.

This proposal will change the date for submitting the CALFED zero-based budget to *April 1, 2012*, and require the Delta Stewardship Council to conduct a programmatic review of the CALFED Bay-Delta Program expenditures for consistency with the Delta Plan. The Delta Plan will not be completed until January 1, 2012.

Staff Comments. Staff have discussed the issue with the Council and have no concerns with shifting the date of the zero-based budget to April 1, 2012, and increasing the effectiveness of the submission by determining consistency with the Delta Plan.

The subcommittee may wish to ask the Council for an update on its work with on the Delta Plan.

Recommendation: APPROVE

Vote: 3-0
APPROVE

2. LAO Recommendation—Reimbursement Authority

Background. As part of the development of the newly-formed Delta Stewardship Council (DSC), the legislature anticipated the authorization of multiple funding sources including General Fund, federal trust funds, bond funds and reimbursements from other agencies. These funds are used mainly to fulfill the primary mission of DSC, the creation of the Delta Plan.

The Governor's budget proposes \$27.5 million in reimbursements, an increase of \$14.7 million or 53 percent.

LAO Recommendation.

Reject \$5.8 million in reimbursement authority requested in the Governor's January budget that is stated to come from unknown sources and be for "unallocated" purposes. (The amount of such unallocated reimbursement authority was updated on January 21, based on a technical correction and clarification from the Department of Finance.)

These "unallocated" reimbursement funds make up 21 percent of the total requested reimbursement authority for the Delta Stewardship Council (DSC) and are proposed to make up 15 percent of the council's total 2011-12 expenditure authority. Requesting reimbursement expenditure authority without identifying the sources or uses of the reimbursements limits the Legislature's ability to decide which expenditures warrant funding and how those expenditures are funded. This practice of "contingency budgeting" is problematic as it reduces the Legislature's oversight of expenditures.

Staff Comments. According to Council staff, this reimbursement authority is a carryover of federal funding reimbursement authority from the CALFED Bay-Delta Program. Year after year, federal funds were anticipated to be received by the State in the budget only to have no reimbursement received from the federal government. This caused difficulties in budgeting and an inflated perceived level of funding for the overall program.

Staff agrees with the LAO recommendation and recommends reducing the reimbursement authority to the Council by \$5.8 million. Should the Council receive unanticipated funding from the federal government, it would go through the normal Legislative notification process. This would allow the Legislature more oversight over federal funding and the overall budgeting at the Council.

Recommendation: REDUCE \$5.8 million Reimbursement Authority

Vote: 3-0

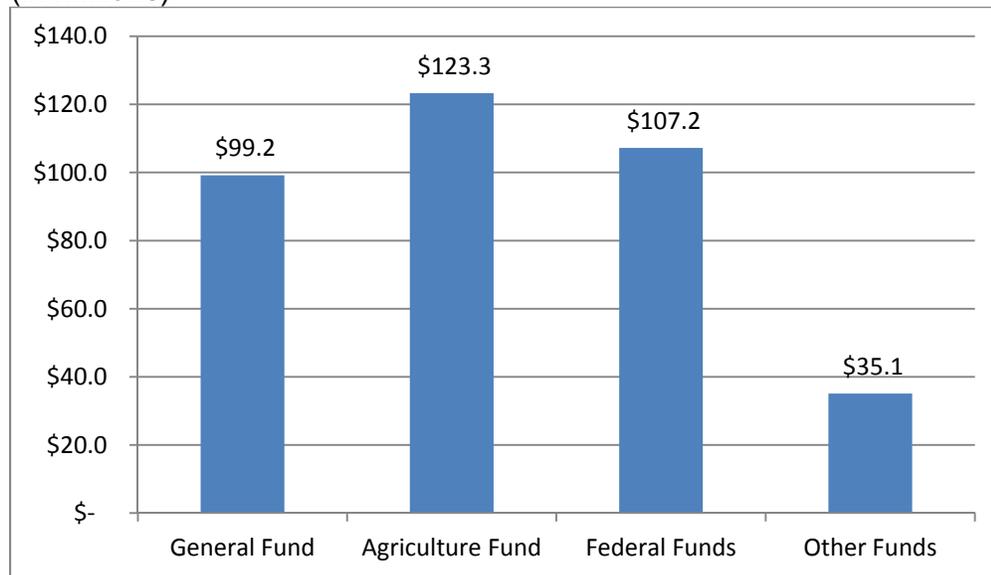
REDUCE \$5.8 MILLION REIMBURSEMENT AUTHORITY

8570 Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California’s agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California’s agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor’s Budget. The Governor’s Budget includes \$377 million (\$130 million GF) for support of the CDFA, an increase of approximately \$38 million, due primarily to increased efforts to control and eradicate various agricultural pests (supported by increased industry assessments as well as federal funds).

Department of Food and Agriculture 2011-12 Proposed Budget* (in millions)



* Does not reflect Governor’s proposal to reduce \$15 million in 2011-12.

ITEMS PROPOSED FOR VOTE-ONLY

1. BCP-1: Asian Citrus Psyllid and Huanglongbing Mitigation Program. The Governor requests 38 three-year limited-term positions, 61 temporary help positions, and \$15 million (federal funds) to continue the Asian Citrus Psyllid and Huanglongbing Mitigation Project. This request will provide funding for detection, control, quarantine, and laboratory services to prevent the spread of these species throughout the state.

2. BCP-2: European Grapevine Moth Mitigation Campaign. The Governor requests 10 three-year limited-term positions and \$12 million (federal funds) to provide funding for detection, control, quarantine enforcement and laboratory services to prevent the European Grapevine Moth from spreading throughout the state.

3. BCP-4: Light Brown Apple Moth Program. The Governor requests an augmentation of \$7.5 million (federal funds) to provide an additional two-year funding for performing survey, delimitation, control, and regulatory activities necessary to ensure that the continuous threat of infestation of Light Brown Apple Moth is contained.

4. BCP-5: Country-of-Origin Labeling Surveillance and Enforcement. The Governor requests \$637,000 (federal funds) to support increased activities under the Country-of-Origin Labeling program. This program provides California with funding to conduct retail surveillance review of commodities sold in the state to ensure the accuracy of the originating country is properly labeled.

Staff Comments. Staff have received confirmation from the department that no aerial spraying will occur for any of the proposed vote-only items.

Recommendation: APPROVE the requests (1-4) listed above.

Vote:

Items 1, 2, 4: Approve

Vote: 3-0

Item 3: Approve with BBL to provide assurances and requirements for public participation related to this program.

Vote: 2-0

ITEMS PROPOSED FOR DISCUSSION**1. General Fund Support for the Network of California Fairs.**

Background. Within the California Department of Food and Agriculture (CDFA) exists the network of California Fairs. The network of 78 California fairs is comprised of 52 district agricultural associations, 23 county fairs, two citrus fruit fairs, and the California Exposition and State Fair. The state provides coordination and local assistance services to the fairs.

Not all fairs receive funding from the state to support their operations. Many local fairs are self-supporting. However, recent legislation has increased local assistance funding. Beginning in 2009-10, for a variety of reasons, legislation removed funding from horse racing revenue that had previously helped to support the fairs and required \$32 million General Fund annually for support of the fairs.

Governor's Proposal. The Governor's budget proposes to permanently eliminate state support for the network of California Fairs. This would result in a \$32 million savings to the General Fund. It is not clear how much of this funding would impact the CDFA administrative functions and how much would impact local assistance to the fairs.

The subcommittee may wish to ask the department:

- 1) How much funding is specifically directed to local fairs (not used at CDFA or any other state agency).
- 2) How many fairs receive funding from the state?
- 3) What methods do fairs that do not receive state funding use to manage their budgets?
- 4) What criteria does the department use to provide local assistance to fairs?

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal.

Recommendation: APPROVE FUNDING PROPOSAL.

Vote: 3-0
HOLD OPEN

2. General Fund Reduction

Background. The Department of Food and Agriculture hosts multiple programs funded by the General Fund (baseline) including the following:

Department of Food and Agriculture Baseline General Funded Programs
(in millions)

Program Area	General Fund
Plant Health and Pest Prevention	\$60.4
Animal Health and Food Safety	\$25.8
Administrative Services (General)	\$6.7
Pierce's Disease (pest program)	\$4.2
Division of Measurements and Standards	\$2.1
Total	\$99.2

Governor's Proposal. The Governor's budget proposes to reduce the CDFA budget by \$15 million in 2011-12 and \$30 million ongoing. The budget proposal requires the Secretary of Food and Agriculture to convene key agricultural and industry individuals to look at the long-term viability of state programs and to determine solutions to limit the need for General Fund resources.

Staff Comments. Consistent with previous actions regarding the State Parks system, and given the state's fiscal challenges, staff recommends approving the proposal and requiring the department to return with a plan for reduction by February 15.

The subcommittee may wish to ask the department to discuss:

- (1) The criteria for reducing funding for programs (including how the working group handled statutory requirements).
- (2) What options the stakeholders have come up with for alternative revenues.
- (3) Impacts to federal funding.
- (4) When a trailer bill would be available to implement the reductions.

Recommendation. APPROVE FUNDING PROPOSAL. Require department to return on February 15 with a draft reduction plan.

VOTE: 2-1

APPROVE FUNDING PROPOSAL. REQUIRE DEPARTMENT TO RETURN WITH DRAFT REDUCTION PLAN BY FEB 15.

OPEN ISSUES**8660 California Public Utilities Commission (CPUC)**

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Open Issue: California Public Utilities Commission Foundation

Background. On January 27, the subcommittee was made aware of a newly created foundation called the "California Public Utilities Commission Foundation." Several questions were raised about the past, current, and future interactions between commission staff, commissioners, and the foundation. The commission was asked to return at this hearing to discuss its interaction with the foundation.

Recommendation. The committee may wish to require the Commission to report on specific activities, and to remit certain documents related to its relationship with the CPUC Foundation, among other actions.

Vote: 3-0

Trailer Bill Language requiring the commission to report on specific interactions with the foundation including: (1) staff interactions with the foundation; (2) contracts entered into with the foundation; (3) endorsements of the foundation. Staff will work with CPUC and Department of Finance on language including any necessary statutory references not limited to PRC, PUC, GC and FPPC codes.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda – Part B

Day: Thursday, February 10, 2011
Time: 9:30 a.m. or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

(see issue on next page)

- 1. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.

(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.

The highlighted section above represents a possible modification to last year's language. It would provide that the data could be retained up to 90 days, instead of 72 hours.

Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modification – for LPRs.

Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

(see issue on next page)

- 1. Veterans Optional Check-off – Trailer Bill Language:** Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran's check-off box on driver license applications that would allow a veteran's name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the veterans language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the DMV and CDVA. The relevant language in AB 1614 is copied below (amending Vehicle Code Section 12811). The language highlighted notes recent DMV amendments to last year's language. First, "All applications" replaces "The front of an application". Second, statement for the application would be specified in statute.

(c) (1) ~~The Front of an application~~ All applications for a driver license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits. The application shall contain the following statement:

"By marking the veteran box on this application, I certify that I am a veteran of the United States Armed Forces and that I want to receive veteran benefits information from the California Department of Veterans Affairs and that I was notified and consent to DMV transmitting my name and mailing address to the California Department of Veteran Affairs for this purpose only."

(2) The department shall collect the information obtained pursuant to paragraph (1).

(3) ~~Periodically, as~~ As mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about veteran benefits:

(A) His or her true full name.

(B) His or her mailing address.

(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

Staff Comment: The Subcommittee may want to consider adoption of the revised placeholder trailer bill language intended to aid veterans.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
 - (a) a complete legal analysis of the revenue guarantee and alternative options;
 - (b) a report on community outreach;
 - (c) an updated financing plan with alternative funding scenarios;
 - (d) a copy of the strategic plan required by the State Administrative Manual;
 - (e) a report on the performance of the Program Manager Contractor; and
 - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language included “expenditure-contingent” language to withhold \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC).

Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst’s Office, the Bureau of State Audits, and more recently, the peer review group. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011.

Staff Comment: At the February 1, 2011, Subcommittee hearing, the HSRA presented a letter dated January 29, 2011, which outlined its timeline for responding to issues (a) – (f) above. The HSRA letter indicates it will provide reporting on four of the six elements (b), (d), (e), and (f), within two weeks (by February 14). The letter indicates the remaining two elements, (a) and (c) are tied to an updated funding plan to be completed by October 14, 2011, and an updated business plan to be completed January 1, 2012. At the hearing, the HSRA Chief Executive Officer, Mr. Roelof van Ark, indicated that the *draft* business plan would be available in the October period and could be reviewed in concert with the financial plan.

Staff Recommendation: (1) Adopt trailer bill language to restore the vetoed 2010 budget reporting language, and expenditure-contingent language for the 2010-11 fiscal year, for the four reporting elements HSRA indicates will be provided this month (b, d, e, and f above).

(2) Adopt budget bill language for the 2011 Budget Act to restore the vetoed 2010 budget reporting language, and expenditure-contingent language, for the two reporting elements HSRA indicates will be available in either draft or final form in October, 2011 (a and c above).

Vote:

2. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail should be available later this spring on the workload and deliverables for these BCPs.

Staff Recommendation: Reject all BCPs without prejudice and review again during spring Subcommittee hearings.

Vote:

3. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted. The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- Peer Review Group: Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- Exempt Positions: Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- Biannual Reporting: Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in a budget trailer bill.

Staff Recommendation: Adopt the 2010 "Exempt Positions" trailer bill language as placeholder language for the 2011 budget.

Vote:

2600 California Transportation Commission

Department Overview: The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of \$3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of \$183,000 and no change in positions. Additionally, the budget includes \$25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described below.

Issues proposed for Discussion / Vote:

- 1. Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of \$400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of \$200,000 for this same activity.

Staff Comment: The CTC indicates it spent \$160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of \$200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment. The Legislature has been interested in following the P3 program and the Subcommittee may want to consider some type of notification requirement through budget bill language.

LAO Recommendation: The Analyst recommends the request be rejected without prejudice for review later this spring, because additional information may be available at that time on the specific projects for review and the number of actual projects ready for review.

Staff Recommendation: Reject this request without prejudice to be reconsidered during spring hearings.

Vote:

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Activity: (in millions):

Activity	2010-11	2011-12
Aeronautics	\$7	\$7
Highway: Capital Outlay Support	1,781	1,826
Highway: Capital Outlay Projects	6,231	5,689
Highway: Local Assistance	2,356	2,117
Highway: Program Development	75	82
Highway: Legal	121	122
Highway: Operations	219	245
Highway: Maintenance	1,374	1,513
Mass Transportation	805	1,024
Transportation Planning	169	183
Administration (distributed costs)	(447)	(484)
Equipment Program (distributed costs)	(228)	(255)
TOTAL	\$13,141	\$12,808

Major Funding Sources (in millions):

Fund Source or Account	2010-11	2011-12
Federal Funds	\$4,684	\$4,284
State Highway Account (SHA)	3,343	3,573
Proposition 1B & Prop 1A Bond Funds	3,276	3,476
Reimbursements	1,323	1,125
General Fund (Proposition 42 – Loan Repayment)	(83)	(83)
Federal Revenue Bonds (GARVEEs)	1	1
Public Transportation Account	374	210
Other funds	139	141
TOTAL	\$13,141	\$12,808

Issues proposed for Vote Only:

(see also the summary table on page 14)

- 1. Fuel Cost Increase (BCP #2):** The Administration requests a permanent increase of \$1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average \$3.17 per gallon in 2011-12, instead of the baseline level of \$3.06 per gallon. This would bring Caltrans' total fuel budget up to \$43.3 million – the department consumes about 13.6 million gallons of fuel per year.

Staff Recommendation: Approve this request, but direct staff to bring this issue back after the May Revision *if* the outlook for fuel prices changes significantly between now and then.

- 2. Enterprise Resource Planning Financial (E-FIS) IT Project – Staff Reduction (BCP #11):** The Administration requests a permanent decrease of \$3.0 million (special funds) and a decrease of 35 positions. This reduction recognizes a workload decrease that will result from the new E-FIS information technology (IT) project. E-FIS is a new accounting system for Caltrans that replaces almost 70 legacy IT systems. E-FIS was recently placed in operation. Caltrans committed to eliminating the positions when the project was initiated because the Feasibility Study Report suggested a workload decrease upon implementation of the system.

Staff Recommendation: Approve this request.

- 3. Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (BCP #14):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original \$8.3 million appropriation would be available for cash expenditure through 2011-12. PRSM will enable the Department to effectively manage State employee project time in the \$1.8 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project provides a commercial-off-the-shelf software system to provide project managers, and first line supervisors, vital information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

Staff Recommendation: Approve as budgeted, but revisit in the spring, as warranted, if savings are found.

- 4. Load Rating of Local Bridges (BCP #3):** Caltrans is requesting an increase of 9 positions and \$1.3 million in funding for a 6-year limited term to complete the load rating on 3,564 locally-owned bridges in order to comply with federally-mandated load rating evaluation requirements. This proposal will be funded essentially through Federal Funds that would otherwise be allocated to local governments for local transportation funding. California has 11,850 city and county-owned bridges in the National Bridge Inventory. The Department inspects and provides load ratings for all of these bridges except those owned by the counties of Los Angeles and Santa Clara who inspect and load rate their own bridges. Load rating of bridges is performed to determine the loads (vehicles) that structures can safely carry. Last year, the Subcommittee augmented staffing to accelerate load ratings on State-owned bridges from a ten year period to a six-year period. This proposal requests roughly the same staff-to-workload ratio as was approved last year.

Staff Recommendation: Approve this request.

- 5. Fund Shift for One Position in Mass Transportation (BCP #7):** Caltrans is proposing a fund shift for one position over a two-year period. The position would provide oversight of commuter rail line and urban rail system capital improvement projects funded by the Proposition 1A, the High Speed Rail Bond. Note, these activities would not be reimbursed by the High-Speed Rail Authority, but are rather appropriated directly to Caltrans for the rail connectivity portion of Prop 1A bonds. This position will be responsible for oversight of contract development, agency and project certifications, programming actions, project monitoring and reporting requirements. This proposal results in an identical savings in the Public Transportation Account (PTA) where the position was formerly funded. The amount in question is \$94,000.

Staff Recommendation: Approve as budgeted.

- 6. Fund Shift for Prop 1B Audits (BCP #13):** Caltrans is requesting a net-zero shift in funding among various Proposition 1B special funds to meet the projected workload for auditing services in 2011-12 by specific bond programs. The audits are performed by the State Controller's Office on behalf of the Department under an interagency agreement. The amount shifted among funds is \$2.4 million, but all the shifts are within the various special funds that are associated with Proposition 1B.

Staff Recommendation: Approve as budgeted.

- 7. Eureka Office Building – Repairs (COBCP #1):** Caltrans is requesting an appropriation of \$8.7 million from the State Highway Account to fund the construction phase for the Eureka district office building fire, life safety, and infrastructure repairs project. The total project cost is \$10.1 million which also includes \$695,000 for preliminary planning, and \$687,000 for working drawings. The Department of General Services has determined that the Department must correct various Fire, Life, Safety, and additional Americans with Disability Act (ADA) code compliance violations as well as other building life cycle improvements such as: Fire sprinkler expansion; fire suppression system replacement; north stairway repairs for ADA compliance; heating and ventilation replacement; electrical upgrades; and, replacement of caulking on exterior windows.

Staff Recommendation: Approve as budgeted.

- 8. Job Access Reverse Commute (JARC) / New Freedom – Continuation of Federal Funds and 3 positions (BCP #8):** Caltrans is requesting an extension of 3 previously approved temporary positions and \$274,000 in federal funds to support on-going administration of the federal JARC and New Freedom transit grant programs. Both programs are mandated by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – Legacy for Users (SAFETEA-LU). The staff currently being used to support these programs was approved on a limited-term basis set to expire on June 30, 2011, while the grant funds will continue until a new federal legislation is passed. Public and private transportation agencies, social service agencies, community-based non-profit agencies, tribal governments, faith-based organizations, and private for profit agencies are eligible to apply for funding. The New Freedom program is designed to provide transportation services that are beyond requirements of the American with Disabilities Act.

Staff Recommendation: Approve as budgeted.

Summary of Vote Only Issues:

Issue #	Issue Description	Staff Recommendation	Vote
1	Fuel Cost Increase	Approve – revisit in the spring as warranted by fuel prices.	
2	Enterprise Resource Planning Financial (E-FIS) Staff Reduction	Approve	
3	Project Resource Schedule Management (PRSM) IT Project Fund Extension	Approve – revisit in the spring as warranted if savings are found.	
4	Load Rating of Local Bridges	Approve	
5	Fund Shift for 1 Position	Approve	
6	Fund Shift for Prop 1B Audit Work	Approve	
7	Eureka Office Building Repairs	Approve	
8	Job Access Reverse Committee transit programs.	Approve	

Issues proposed for Discussion and Vote:

- 9. Weight Fee / Fuel Swap Proposal (Governor's Budget):** The Governor's budget includes the following package of proposals to maintain funding levels for highways and transit and to provide a total of \$1.7 billion in General Fund solutions over the current year and budget year. This package conforms transportation funding and prior General Fund solutions with the requirements of Proposition 22 and Proposition 26 – both of 2010. The General Fund budget solutions include both the use of transportation funds to pay bond debt and the use of transportation funds for loans to the General Fund. This table below (\$ in millions) summarizes the proposals by category and fiscal year:

General Fund Relief	2010-11	2011-12	Two-Year Total
Debt service from weight fee revenue	\$262	\$700	\$962
Loans from weight fee revenue	\$494	\$166	\$660
Debt service from non-Article XIX funds	\$0	\$78	\$78
Total by year	\$756	\$944	\$1,700

Detail: The proposal would be implemented with budget trailer bill language and includes the following components.

- Truck Weight Fees – for GO Debt: Use vehicle weight fees, rather than gasoline excise tax revenues, to fund general obligation (GO) bond debt service. This shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for general obligation bond debt service. This would provide \$962 million of the two-year General Fund solution.
- Truck Weight Fees – for General Fund Loans: Loan vehicle weight fees, rather than gasoline excise tax revenues, to the General Fund. Similar to the above bullet, this shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for loans to the General Fund. This would provide \$660 million of the two-year General Fund solution.
- Non-Article XIX Funds – for GO Debt: Use \$77.5 million in transportation revenues that are not restricted by the California Constitution (non-article XIX), such as revenue from rental property, for general obligation bond debt service payments for Proposition 116 bonds. This provides \$78 million of the General Fund solution.
- Re-enact the Fuel Tax Swap: Re-enact the fuel tax swap with a two-thirds vote in order to protect transportation revenues. Proposition 26 requires that any tax measure passed after October of 2009 that would require a two-thirds vote under Proposition 26, must be re-enacted with a two-thirds vote, or will be considered void. If the fuel tax swap is not re-enacted with a two-thirds vote, it is unclear what would happen, but one interpretation suggests that annual transportation

revenue could drop by billions (if the excise tax increase becomes void, but the sales tax does not automatically increase to its former level).

- **Maintain Funds for Transit Operations:** Make changes to keep local transit assistance funding near the target of \$350 million that was approved in the fuel tax swap. The swap increased the diesel sales tax by 1.75 percent (as an offset, the excise tax on diesel was reduced) and changed the allocation formula of the total sales tax so that 75 percent of revenues would be provided to Local Transit Assistance and 25 percent would be allocated to Caltrans' inner city rail and transit STIP programs. Prop 22 changed the base sales tax back to 50 percent transit. The proposed language would provide 100 percent of the new diesel revenue to transit operators to approximate the allocation in the fuel swap package. As part of the non-Article XIX shift above, and to still maintain the transit funding, the diesel sales tax is temporarily (for three years) increased above 1.75 percent increment to as high as 2.17 percent. Again, the excise tax on diesel is lowered to maintain revenue neutrality.
- **Transportation Special Funds – Cashflow Loans:** Removes the statutory sunset to continue the authority to make cashflow loans among transportation special funds. This proposal does not provide General Fund relief, but allows Caltrans to better manage cash across the many transportation special funds. Deletes a few funds from this pool to conform to the requirements of Proposition 22.

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related GO bonds, which results in General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which has been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of \$350 million.

Proposition 22 and Proposition 26: These two propositions approved by voters at the November 2010 election both have implications for the Fuel Tax Swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 might result in the Fuel Tax Swap becoming void in November 2011, or it could result in the Fuel Swap remaining in place, but with a risk of repeal if there is litigation.

LAO Options: The LAO indicates that additional General Fund relief would be constitutionally allowable if the Legislature desired to increase or maximize General Fund relief from transportation funds. It should be noted that Proposition 22 does place new limits on fuel excise taxes, so the options post-Prop 22 are more constrained than before. The table below indicates the three LAO options (\$ in millions):

LAO General Fund Relief – Additional Options	2010-11	2011-12	Two-Year Total
1) Maximize loans from weight fee revenue	\$150	\$44	\$194
2) Reduce transit operations funding – transfer balance to General Fund*	\$0	\$110	\$110
3) Eliminate transit operations funding, eliminate sales tax on diesel, increase truck weight fees (new revenue-neutral tax swap) – direct revenue to General Fund*	\$0	\$300	\$300

* Option 2) and 3) above include the same portion of the diesel sales tax, so either, but not both, could be implemented.

The LAO has produced a policy brief on this issue and can present its findings to the Subcommittee.

Staff Comments: When this issue was heard in the Assembly Subcommittee, there was a broad group of transportation interests that testified in support of the Governor's proposal. Since the LAO options reduce transportation revenue, without providing any additional benefit specifically for transportation, many of the transportation stakeholders testified in opposition to the LAO options. Because this proposal is a major component of the Governor's General Fund budget solution, the Subcommittee may want to hold this issue open so it can be considered in the full Budget Committee in the context of the other non-transportation budget proposals.

Staff Recommendation: Hold open for action in the full budget committee.

10. Outstanding Loans and New Loans (Governor’ Trailer Bill Language): The Administration has proposed trailer bill language related to the repayment of outstanding loans and the implementation of new loans. The chart below summarizes the loan activity for funds related to Caltrans. The loans highlighted indicate inclusion in proposed trailer bill language. The loans related to weight fees, were discussion in the prior agenda issue.

Year of Loan and Description		Loan Repayment by Fiscal Year					Total
		2011-12	2012-13	2013-14	2014-15	2015-16	
Newer Loans							
2008-09	Various Transportation Special Funds	\$231					\$231
2009-10	State Highway Acct	\$0	\$135				\$135
2010-11	State Highway Acct			\$80			\$80
2010-11	Highway User Tax Acct (pre-Prop 22)		\$329				\$329
2010-11	Public Transportation Acct (pre-Prop 22)			\$29			\$29
2010-11	Weight Fees (post-Prop 22)			\$205	\$144	\$144	\$494
2011-12	Weight Fees (post-Prop 22)				\$166		\$166
Older Loans							
2001-02 & 2002-03	Traffic Congestion Relief Fund (repaid with tribal gaming revenues)	\$0	\$0	\$0	\$0	\$0	\$0
2003-04 & 2004-05	Prop 42 - Repayment schedule in Constitution	\$83	\$83	\$83	\$83	\$83	\$415
Total		\$314	\$547	\$397	\$393	\$227	\$1,879

Note: By the end of 2015-16, most loans would be repaid, the exception would be those loans repaid with tribal-gaming funds – about \$880 million would remain outstanding.

Detail and Comment:

- 2011-12 Loan Repayment: A total of \$314 million (plus \$22.5 million in interest) is proposed for repayment in 2011-12. Of this amount, \$83 million is required by the Constitution and the remaining \$231 million is statutorily due.
- 2011-12 Loan Repayment Deferrals: The Governor proposes to defer from 2011-12 to 2012-13 the repayment of a \$135 million State Highway Account loan. Additionally, the Governor proposes to direct specified tribal-gaming revenue from transportation loan repayment to the General Fund. The table above indicates “\$0” for the tribal gaming revenues, but under current law an annual amount of \$101 million would repay the Traffic Congestion Relief Fund loan. The proposed action would mirror action taken in the last three budgets.

Staff Comment: While there has been a lot of recent loan activity, the combination of Proposition 22 and the Weight Fee / Fuel Swap proposal will greatly reduce the ability to borrow from transportation funds in the future. In the out-years, the weight fee revenue would be fully used for GO debt service, and none would remain for loans. Prop 22 prohibits any future loans from the fuel excise tax revenues and the Public Transportation Account.

Staff Recommendation: Approve as “placeholder” the Administration’s loan plan and loan language.

Vote:

11. Proposition 1B Budget Request: The Governor requests \$2.3 billion in Prop 1B bond funds for programs administered by Caltrans. Prior budget actions have appropriated a total of \$12.7 billion (after reversions), or 64 percent, of total Proposition 1B funds – the requested budget would bring the total to \$15.5 billion, or 78 percent. The table below, based on Caltrans's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount	Budget Entity
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$2,789	\$631	Caltrans
State Transportation Improvement Program (STIP)	\$2,000	\$1,993	\$0	Caltrans
State Highway Operations and Preservation Program (SHOPP)	\$500	\$308	\$0	Caltrans
State Route 99 Improvements	\$1,000	\$284	\$392	Caltrans
Local Bridge Seismic Retrofit	\$125	\$38	\$22	Caltrans
Intercity Rail	\$400	\$100	\$117	Caltrans
Grade Separations	\$250	\$250	\$0	Caltrans
Traffic-Light Synchronization	\$250	\$250	\$0	Caltrans
Trade Infrastructure	\$2,000	\$581	\$972	Caltrans
State/Local Partnership	\$1,000	\$339	\$200	Caltrans
Local Streets & Roads	\$2,000	\$1,950	\$37	Shared Revenues
Transit	\$3,600	\$2,450	\$0	State Transit Assistance
School Bus Retrofit	\$200	\$196	\$0	Air Res. Board
Trade Infrastructure Air Quality	\$1,000	\$697	\$282	Air Res. Board
Port Security*	\$100	\$99	\$0	Emerg Mgt Agency
Transit Security*	\$1,000	\$407	\$103	Emerg Mgt Agency
TOTAL	\$19,925	\$12,731	\$2,756	

* These Prop 1B Appropriations are heard in Subcommittee #4.

LAO Recommendation: The LAO indicates that there may be some appropriation authority provided for 2010-11 that may go unused and would carry-over into 2011-12. Carry-over appropriation authority may reduce the new appropriation level for 2011-12.

Staff Recommendation: Approve the proposed funding level as placeholder amounts, but review again in the spring, when updated information should be available.

Vote:

12. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor’s Budget): The Administration requests \$27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A “provides \$950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock.”

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC’s plan. The amount appropriated totaled \$234.4 million, but Governor Schwarzenegger vetoed the amount down to \$100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls. The veto message did not provide any specific criticism of the CTC plan, but indicated that a statewide strategy should be developed by the High-Speed Rail Authority, the Department of Transportation, and local jurisdictions. Staff is not aware of any efforts in this regard since the prior Governor’s veto message.

Staff Comment: Governor’s Brown’s proposed budget is consistent with Governor Schwarzenegger’s policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC’s program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The Department of Finance should indicate how the new Administration views these Prop 1A bond funds and when these bonds funds should be made available for projects other than positive train control. There is some uncertainty with the amount of both Prop 1B and Prop 1A bond funds required for project expenditures in 2011-12. The Subcommittee may want to consider putting in a placeholder amount for Prop 1A and return in the spring to re-evaluate the appropriate funding level.

Staff Recommendation: Augment the requested funding for positive train controls by \$133.4 million for other projects in the CTC’s plan. This is the amount that Governor Schwarzenegger vetoed last year, but it would serve as a placeholder amount until the overall bond program is reviewed later this spring.

Vote:

13. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1): The Governor requests an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Department developed this request based on the joint compliance agreement between the California Air Resources Board (ARB) and the Department. This funding is intended to address the required replacement and repower of the Department's affected equipment to ensure compliance with the mandates adopted by the ARB and the United States Environmental Protection Agency (US EPA). The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate	Compliance Strategy	# of Equip.	Cost (in 000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The 2010-11 budget appropriated \$57.3 million to bring 435 vehicles into compliance. Following the passage of the budget, it was determined that the Department's overall compliance plan did not actually bring the Department into compliance with the ARB. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan.

Staff Comments: When the Department and the ARB revised their diesel regulation compliance plan, the Legislature was made aware that the Department would only need roughly \$10 million in the current year of the total \$57 million that was appropriated in the budget. To date, it is unclear to staff how the Administration is planning on addressing last year's excess appropriation authority for regulatory compliance in the current budget. Additionally, it is unclear whether the agreed upon plan for Caltrans is being fully followed in the current year and whether the overall plan actually brings the Department into compliance. At the hearing, the Administration may want to clarify these issues but in light of these ongoing uncertainties, staff recommends that the Subcommittee act to hold these issues open without prejudice until the spring.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Vote:

14. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4): The Administration is proposing to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The overall funding for PIDs would increase \$2.4 million – from \$30.6 million to \$33.0 million (with \$24.3 million SHA-funded and \$8.6 million reimbursement-funded). A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PID’s work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto to the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements. Staff understands that, so far, locals have not initiated reimbursements to Caltrans for PIDs – at least not in significant numbers.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and \$7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown’s budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PID's program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

Poor Execution from the Administration: As indicated, the Schwarzenegger Administration rejected the Legislature's approach and through administrative means is pursuing local reimbursements for PIDs. Putting aside the policy considerations of this approach, the Administration has poorly executed its policy. Last May, the Administration estimated there was 67-positions-worth of workload for local PIDs. Caltrans is unable to say whether any of this workload is moving forward by reimbursement or otherwise. Finally, the Administration has not resolved issues with locals on the scope and size of PIDs.

April 1, 2011, Report: Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. It is unclear if this poses risk for project delays, or if locals are instead contracting out to private firms for these services. Since a report is pending, the Legislature may want to consider rejecting this proposal without prejudice to defer a full review to this spring. This would allow the new Administration more time to review and/or better-implement the reimbursement policy, and allow the Legislature to review the report due April 1, 2011.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Vote:

15. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL for the below issues. This omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – Language included in SB 854 and AB 1614 (2009-10 Legislative Session):

- Prop 1B Bonds – Trade Corridors Improvement Fund Programs: Requires the California Transportation Commission (CTC) to report to the Legislature semiannually on the expenditure of Transportation Corridor Improvement Funds (TCIF) for railroad projects. Additionally, requires the CTC to report and provide a copy of any memorandum of understanding executed between a railroad company and any state or local transportation agency where TCIF funds are a funding source for the project.
- Prop 1B Bonds – Transit Security for Water Transit: For recipients of Prop 1B bond funds for regional public waterborne transit, extends the expenditure period from three years to four years for any allocation made prior to June 30, 2011. Proposition 1B provides \$250 million to Regional public waterborne transit agencies. The funds are available to build ferry terminals, among other uses.
- Prop 1B Bonds – Local Streets and Roads Program: Provides cities and counties a one-year extension to expend Proposition 1B Local Streets and Roads funds for any year in which Highway Users Tax Account (HUTA) funds for local transportation projects are borrowed, deferred, or shifted. Note, HUTA borrowing, deferrals, and shifts are now prohibited under Proposition 22.
- Caltrans Capital Outlay Support Budget Data: Requires the Department of Transportation (Caltrans) to report annually to the Legislature with supplemental information on the Capital Outlay Support budget request, including anticipated and realized project costs and schedules for the Capital Outlay Support Program.
- Fuel Swap – Local Transportation Subventions: Provides additional clarification that local governments are not subject to the same maintenance-of-effort and other requirements under Proposition 42 when they are apportioned fuel excise tax revenues.

Staff Comment: Staff is not aware of any controversy with the above trailer bill language, and understands the failure of the 2010 transportation budget trailer bill was unrelated to these issues.

Staff Recommendation: Approve 2010 language as placeholder language in the 2011 budget.

Vote:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda – Part B

Hearing Outcomes

Day: Thursday, February 10, 2011
Time: 9:30 a.m. or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

2720	Department of the California Highway Patrol	1
2740	Department of Motor Vehicles	3
2665	High-Speed Rail Authority	5
2600	California Transportation Commission	9
2660	Department of Transportation	10

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2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

(see issue on next page)

- 1. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.

(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.

The highlighted section above represents a possible modification to last year's language. It would provide that the data could be retained up to 90 days, instead of 72 hours.

Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modification – for LPRs.

Action: No action – Subcommittee may consider issue during spring hearings.

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

(see issue on next page)

1. Veterans Optional Check-off – Trailer Bill Language: Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran’s check-off box on driver license applications that would allow a veteran’s name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff’s understanding is that the veterans language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the DMV and CDVA. The relevant language in AB 1614 is copied below (amending Vehicle Code Section 12811). The language highlighted notes recent DMV amendments to last year’s language. First, “All applications” replaces “The front of an application”. Second, statement for the application would be specified in statute.

(c) (1) ~~The front of an application~~ All applications for a driver license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits. The application shall contain the following statement:

“By marking the veteran box on this application, I certify that I am a veteran of the United States Armed Forces and that I want to receive veteran benefits information from the California Department of Veterans Affairs and that I was notified and consent to DMV transmitting my name and mailing address to the California Department of Veteran Affairs for this purpose only.”

(2) The department shall collect the information obtained pursuant to paragraph (1).

(3) ~~Periodically, as~~ As mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about veteran benefits:

(A) His or her true full name.

(B) His or her mailing address.

(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

Staff Comment: The Subcommittee may want to consider adoption of the revised placeholder trailer bill language intended to aid veterans.

Action: Approved revised language on a 2 – 1 vote with Senator Fuller voting no.

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
 - (a) a complete legal analysis of the revenue guarantee and alternative options;
 - (b) a report on community outreach;
 - (c) an updated financing plan with alternative funding scenarios;
 - (d) a copy of the strategic plan required by the State Administrative Manual;
 - (e) a report on the performance of the Program Manager Contractor; and
 - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language included “expenditure-contingent” language to withhold \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC).

Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst’s Office, the Bureau of State Audits, and more recently, the peer review group. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011.

Staff Comment: At the February 1, 2011, Subcommittee hearing, the HSRA presented a letter dated January 29, 2011, which outlined its timeline for responding to issues (a) – (f) above. The HSRA letter indicates it will provide reporting on four of the six elements (b), (d), (e), and (f), within two weeks (by February 14). The letter indicates the remaining two elements, (a) and (c) are tied to an updated funding plan to be completed by October 14, 2011, and an updated business plan to be completed January 1, 2012. At the hearing, the HSRA Chief Executive Officer, Mr. Roelof van Ark, indicated that the *draft* business plan would be available in the October period and could be reviewed in concert with the financial plan.

Staff Recommendation: (1) Adopt trailer bill language to restore the vetoed 2010 budget reporting language, and expenditure-contingent language for the 2010-11 fiscal year, for the four reporting elements HSRA indicates will be provided this month (b, d, e, and f above).

(2) Adopt budget bill language for the 2011 Budget Act to restore the vetoed 2010 budget reporting language, and expenditure-contingent language, for the two reporting elements HSRA indicates will be available in either draft or final form in October, 2011 (a and c above).

Action: Approved staff recommendation on a 3 – 0 vote.

2. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail should be available later this spring on the workload and deliverables for these BCPs.

Staff Recommendation: Reject all BCPs without prejudice and review again during spring Subcommittee hearings.

<p>Action: Rejected all BCPs “without prejudice” on a 3 – 0 vote.</p>
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3. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted. The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- Peer Review Group: Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- Exempt Positions: Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- Biannual Reporting: Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in a budget trailer bill.

Staff Recommendation: Adopt the 2010 "Exempt Positions" trailer bill language as placeholder language for the 2011 budget.

Action: Approved "Exempt Position" language on a 2 – 0 vote, with Senator Fuller not voting.

2600 California Transportation Commission

Department Overview : The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of \$3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of \$183,000 and no change in positions. Additionally, the budget includes \$25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described below.

Issues proposed for Discussion / Vote:

- 1. Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of \$400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of \$200,000 for this same activity.

Staff Comment: The CTC indicates it spent \$160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of \$200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment. The Legislature has been interested in following the P3 program and the Subcommittee may want to consider some type of notification requirement through budget bill language.

LAO Recommendation: The Analyst recommends the request be rejected without prejudice for review later this spring, because additional information may be available at that time on the specific projects for review and the number of actual projects ready for review.

Staff Recommendation: Reject this request without prejudice to be reconsidered during spring hearings.

Action: Rejected the request "without prejudice" on a 3 – 0 vote.

2660 Department of Transportation

Department Overview : The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Activity: (in millions):

Activity 2010-11		2011-12
Aeronautics	\$7	\$7
Highway: Capital Outlay Support	1,781	1,826
Highway: Capital Outlay Projects	6,231	5,689
Highway: Local Assistance	2,356	2,117
Highway: Program Development	75	82
Highway: Legal	121	122
Highway: Operations	219	245
Highway: Maintenance	1,374	1,513
Mass Transportation	805	1,024
Transportation Planning	169	183
Administration (distributed costs)	(447)	(484)
Equipment Program (distributed costs)	(228)	(255)
TOTAL \$13,141		\$12,808

Major Funding Sources (in millions):

Fund Source or Account	2010-11	2011-12
Federal Funds	\$4,684	\$4,284
State Highway Account (SHA)	3,343	3,573
Proposition 1B & Prop 1A Bond Funds	3,276	3,476
Reimbursements	1,323	1,125
General Fund (Proposition 42 – Loan Repayment)	(83)	(83)
Federal Revenue Bonds (GARVEEs)	1	1
Public Transportation Account	374	210
Other funds	139	141
TOTAL \$13,141		\$12,808

Issues proposed for Vote Only:

(see also the summary table with actions taken on page 14)

- 1. Fuel Cost Increase (BCP #2):** The Administration requests a permanent increase of \$1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average \$3.17 per gallon in 2011-12, instead of the baseline level of \$3.06 per gallon. This would bring Caltrans' total fuel budget up to \$43.3 million – the department consumes about 13.6 million gallons of fuel per year.

Staff Recommendation: Approve this request, but direct staff to bring this issue back after the May Revision *if* the outlook for fuel prices changes significantly between now and then.

- 2. Enterprise Resource Planning Financial (E-FIS) IT Project – Staff Reduction (BCP #11):** The Administration requests a permanent decrease of \$3.0 million (special funds) and a decrease of 35 positions. This reduction recognizes a workload decrease that will result from the new E-FIS information technology (IT) project. E-FIS is a new accounting system for Caltrans that replaces almost 70 legacy IT systems. E-FIS was recently placed in operation. Caltrans committed to eliminating the positions when the project was initiated because the Feasibility Study Report suggested a workload decrease upon implementation of the system.

Staff Recommendation: Approve this request.

- 3. Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (BCP #14):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original \$8.3 million appropriation would be available for cash expenditure through 2011-12. PRSM will enable the Department to effectively manage State employee project time in the \$1.8 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project provides a commercial-off-the-shelf software system to provide project managers, and first line supervisors, vital information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

Staff Recommendation : Approve as budgeted, but revisit in the spring, as warranted, if savings are found.

- 4. Load Rating of Local Bridges (BCP #3):** Caltrans is requesting an increase of 9 positions and \$1.3 million in funding for a 6-year limited term to complete the load rating on 3,564 locally-owned bridges in order to comply with federally-mandated load rating evaluation requirements. This proposal will be funded essentially through Federal Funds that would otherwise be allocated to local governments for local transportation funding. California has 11,850 city and county-owned bridges in the National Bridge Inventory. The Department inspects and provides load ratings for all of these bridges except those owned by the counties of Los Angeles and Santa Clara who inspect and load rate their own bridges. Load rating of bridges is performed to determine the loads (vehicles) that structures can safely carry. Last year, the Subcommittee augmented staffing to accelerate load ratings on State-owned bridges from a ten year period to a six-year period. This proposal requests roughly the same staff-to-workload ratio as was approved last year.

Staff Recommendation: Approve this request.

- 5. Fund Shift for One Position in Mass Transportation (BCP #7):** Caltrans is proposing a fund shift for one position over a two-year period. The position would provide oversight of commuter rail line and urban rail system capital improvement projects funded by the Proposition 1A, the High Speed Rail Bond. Note, these activities would not be reimbursed by the High-Speed Rail Authority, but are rather appropriated directly to Caltrans for the rail connectivity portion of Prop 1A bonds. This position will be responsible for oversight of contract development, agency and project certifications, programming actions, project monitoring and reporting requirements. This proposal results in an identical savings in the Public Transportation Account (PTA) where the position was formerly funded. The amount in question is \$94,000.

Staff Recommendation: Approve as budgeted.

- 6. Fund Shift for Prop 1B Audits (BCP #13):** Caltrans is requesting a net-zero shift in funding among various Proposition 1B special funds to meet the projected workload for auditing services in 2011-12 by specific bond programs. The audits are performed by the State Controller's Office on behalf of the Department under an interagency agreement. The amount shifted among funds is \$2.4 million, but all the shifts are within the various special funds that are associated with Proposition 1B.

Staff Recommendation: Approve as budgeted.

- 7. Eureka Office Building – Repairs (COBCP #1):** Caltrans is requesting an appropriation of \$8.7 million from the State Highway Account to fund the construction phase for the Eureka district office building fire, life safety, and infrastructure repairs project. The total project cost is \$10.1 million which also includes \$695,000 for preliminary planning, and \$687,000 for working drawings. The Department of General Services has determined that the Department must correct various Fire, Life, Safety, and additional Americans with Disability Act (ADA) code compliance violations as well as other building life cycle improvements such as: Fire sprinkler expansion; fire suppression system replacement; north stairway repairs for ADA compliance; heating and ventilation replacement; electrical upgrades; and, replacement of caulking on exterior windows.

Staff Recommendation: Approve as budgeted.

- 8. Job Access Reverse Commute (JARC) / New Freedom – Continuation of Federal Funds and 3 positions (BCP #8):** Caltrans is requesting an extension of 3 previously approved temporary positions and \$274,000 in federal funds to support on-going administration of the federal JARC and New Freedom transit grant programs. Both programs are mandated by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – Legacy for Users (SAFETEA-LU). The staff currently being used to support these programs was approved on a limited-term basis set to expire on June 30, 2011, while the grant funds will continue until a new federal legislation is passed. Public and private transportation agencies, social service agencies, community-based non-profit agencies, tribal governments, faith-based organizations, and private for profit agencies are eligible to apply for funding. The New Freedom program is designed to provide transportation services that are beyond requirements of the American with Disabilities Act.

Staff Recommendation: Approve as budgeted.

Summary of Vote Only Issues:

Issue #	Issue Description	Action Taken	Vote
1	Fuel Cost Increase	Reject without prejudice, revisit when an update fuel price forecast is available in May.	3-0
2	Enterprise Resource Planning Financial (E-FIS) Staff Reduction	Approve	3-0
3	Project Resource Schedule Management (PRSM) IT Project Fund Extension	Approve – revisit in the spring as warranted if savings are found.	3-0
4	Load Rating of Local Bridges	Approve	3-0
5	Fund Shift for 1 Position	Approve	3-0
6	Fund Shift for Prop 1B Audit Work	Approve	3-0
7	Eureka Office Building Repairs	Approve	3-0
8	Job Access Reverse Committee transit programs.	Approve	3-0

Issues proposed for Discussion and Vote:

- 9. Weight Fee / Fuel Swap Proposal (Governor's Budget):** The Governor's budget includes the following package of proposals to maintain funding levels for highways and transit and to provide a total of \$1.7 billion in General Fund solutions over the current year and budget year. This package conforms transportation funding and prior General Fund solutions with the requirements of Proposition 22 and Proposition 26 – both of 2010. The General Fund budget solutions include both the use of transportation funds to pay bond debt and the use of transportation funds for loans to the General Fund. This table below (\$ in millions) summarizes the proposals by category and fiscal year:

General Fund Relief	2010-11	2011-12	Two-Year Total
Debt service from weight fee revenue	\$262	\$700	\$962
Loans from weight fee revenue	\$494	\$166	\$660
Debt service from non-Article XIX funds	\$0	\$78	\$78
Total by year	\$756	\$944	\$1,700

Detail: The proposal would be implemented with budget trailer bill language and includes the following components.

- Truck Weight Fees – for GO Debt: Use vehicle weight fees, rather than gasoline excise tax revenues, to fund general obligation (GO) bond debt service. This shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for general obligation bond debt service. This would provide \$962 million of the two-year General Fund solution.
- Truck Weight Fees – for General Fund Loans: Loan vehicle weight fees, rather than gasoline excise tax revenues, to the General Fund. Similar to the above bullet, this shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for loans to the General Fund. This would provide \$660 million of the two-year General Fund solution.
- Non-Article XIX Funds – for GO Debt: Use \$77.5 million in transportation revenues that are not restricted by the California Constitution (non-article XIX), such as revenue from rental property, for general obligation bond debt service payments for Proposition 116 bonds. This provides \$78 million of the General Fund solution.
- Re-enact the Fuel Tax Swap: Re-enact the fuel tax swap with a two-thirds vote in order to protect transportation revenues. Proposition 26 requires that any tax measure passed after October of 2009 that would require a two-thirds vote under Proposition 26, must be re-enacted with a two-thirds vote, or will be considered void. If the fuel tax swap is not re-enacted with a two-thirds vote, it is unclear what would happen, but one interpretation suggests that annual transportation

revenue could drop by billions (if the excise tax increase becomes void, but the sales tax does not automatically increase to its former level).

- **Maintain Funds for Transit Operations:** Make changes to keep local transit assistance funding near the target of \$350 million that was approved in the fuel tax swap. The swap increased the diesel sales tax by 1.75 percent (as an offset, the excise tax on diesel was reduced) and changed the allocation formula of the total sales tax so that 75 percent of revenues would be provided to Local Transit Assistance and 25 percent would be allocated to Caltrans' inner city rail and transit STIP programs. Prop 22 changed the base sales tax back to 50 percent transit. The proposed language would provide 100 percent of the new diesel revenue to transit operators to approximate the allocation in the fuel swap package. As part of the non-Article XIX shift above, and to still maintain the transit funding, the diesel sales tax is temporarily (for three years) increased above 1.75 percent increment to as high as 2.17 percent. Again, the excise tax on diesel is lowered to maintain revenue neutrality.
- **Transportation Special Funds – Cashflow Loans:** Removes the statutory sunset to continue the authority to make cashflow loans among transportation special funds. This proposal does not provide General Fund relief, but allows Caltrans to better manage cash across the many transportation special funds. Deletes a few funds from this pool to conform to the requirements of Proposition 22.

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related GO bonds, which results in General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which has been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of \$350 million.

Proposition 22 and Proposition 26: These two propositions approved by voters at the November 2010 election both have implications for the Fuel Tax Swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 might result in the Fuel Tax Swap becoming void in November 2011, or it could result in the Fuel Swap remaining in place, but with a risk of repeal if there is litigation.

LAO Options: The LAO indicates that additional General Fund relief would be constitutionally allowable if the Legislature desired to increase or maximize General Fund relief from transportation funds. It should be noted that Proposition 22 does place new limits on fuel excise taxes, so the options post-Prop 22 are more constrained than before. The table below indicates the three LAO options (\$ in millions):

LAO General Fund Relief – Additional Options	2010-11	2011-12 Tw	o-Year Total
1) Maximize loans from weight fee revenue	\$150	\$44	\$194
2) Reduce transit operations funding – transfer balance to General Fund*	\$0	\$110	\$110
3) Eliminate transit operations funding, eliminate sales tax on diesel, increase truck weight fees (new revenue-neutral tax swap) – direct revenue to General Fund*	\$0	\$300	\$300

* Option 2) and 3) above include the same portion of the diesel sales tax, so either, but not both, could be implemented.

The LAO has produced a policy brief on this issue and can present its findings to the Subcommittee.

Staff Comments: When this issue was heard in the Assembly Subcommittee, there was a broad group of transportation interests that testified in support of the Governor's proposal. Since the LAO options reduce transportation revenue, without providing any additional benefit specifically for transportation, many of the transportation stakeholders testified in opposition to the LAO options. Because this proposal is a major component of the Governor's General Fund budget solution, the Subcommittee may want to hold this issue open so it can be considered in the full Budget Committee in the context of the other non-transportation budget proposals.

Staff Recommendation: Hold open for action in the full budget committee.

<i>Action: Held open for action in full Budget Committee. (Direction to hold open approved on a 3 – 0 vote)</i>
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10. Outstanding Loans and New Loans (Governor’ Trailer Bill Language) : The Administration has proposed trailer bill language related to the repayment of outstanding loans and the implementation of new loans. The chart below summarizes the loan activity for funds related to Caltrans. The loans highlighted indicate inclusion in proposed trailer bill language. The loans related to weight fees, were discussion in the prior agenda issue.

Year of Loan and Description		Loan Repayment by Fiscal Year					Total
		2011-12	2012-13	2013-14	2014-15	2015-16	
Newer Loans							
2008-09	Various Transportation Special Funds	\$231					\$231
2009-10	State Highway Acct	\$0	\$135				\$135
2010-11	State Highway Acct			\$80			\$80
2010-11	Highway User Tax Acct (pre-Prop 22)		\$329				\$329
2010-11	Public Transportation Acct (pre-Prop 22)			\$29			\$29
2010-11	Weight Fees (post-Prop 22)			\$205	\$144	\$144	\$494
2011-12	Weight Fees (post-Prop 22)				\$166		\$166
Older Loans							
2001-02 & 2002-03	Traffic Congestion Relief Fund (repaid with tribal gaming revenues)	\$0	\$0	\$0	\$0	\$0	\$0
2003-04 & 2004-05	Prop 42 - Repayment schedule in Constitution	\$83	\$83	\$83	\$83	\$83	\$415
Total		\$314	\$547	\$397	\$393	\$227	\$1,879

Note: By the end of 2015-16, most loans would be repaid, the exception would be those loans repaid with tribal-gaming funds – about \$880 million would remain outstanding.

Detail and Comment:

- **2011-12 Loan Repayment:** A total of \$314 million (plus \$22.5 million in interest) is proposed for repayment in 2011-12. Of this amount, \$83 million is required by the Constitution and the remaining \$231 million is statutorily due.
- **2011-12 Loan Repayment Deferrals:** The Governor proposes to defer from 2011-12 to 2012-13 the repayment of a \$135 million State Highway Account loan. Additionally, the Governor proposes to direct specified tribal-gaming revenue from transportation loan repayment to the General Fund. The table above indicates “\$0” for the tribal gaming revenues, but under current law an annual amount of \$101 million would repay the Traffic Congestion Relief Fund loan. The proposed action would mirror action taken in the last three budgets.

Staff Comment: While there has been a lot of recent loan activity, the combination of Proposition 22 and the Weight Fee / Fuel Swap proposal will greatly reduce the ability to borrow from transportation funds in the future. In the out-years, the weight fee revenue would be fully used for GO debt service, and none would remain for loans. Prop 22 prohibits any future loans from the fuel excise tax revenues and the Public Transportation Account.

Staff Recommendation: Approve as “placeholder” the Administration’s loan plan and loan language.

Action: Approved placeholder language on a 3 – 0 vote.

11. Proposition 1B Budget Request: The Governor requests \$2.3 billion in Prop 1B bond funds for programs administered by Caltrans. Prior budget actions have appropriated a total of \$12.7 billion (after reversions), or 64 percent, of total Proposition 1B funds – the requested budget would bring the total to \$15.5 billion, or 78 percent. The table below, based on Caltrans's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount Budget	Entity
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$2,789	\$631	Caltrans
State Transportation Improvement Program (STIP)	\$2,000	\$1,993	\$0	Caltrans
State Highway Operations and Preservation Program (SHOPP)	\$500	\$308	\$0	Caltrans
State Route 99 Improvements	\$1,000	\$284	\$392	Caltrans
Local Bridge Seismic Retrofit	\$125	\$38	\$22	Caltrans
Intercity Rail	\$400	\$100	\$117	Caltrans
Grade Separations	\$250	\$250	\$0	Caltrans
Traffic-Light Synchronization	\$250	\$250	\$0	Caltrans
Trade Infrastructure	\$2,000	\$581	\$972	Caltrans
State/Local Partnership	\$1,000	\$339	\$200	Caltrans
Local Streets & Roads	\$2,000	\$1,950	\$37	Shared Revenues
Transit	\$3,600	\$2,450	\$0	State Transit Assistance
School Bus Retrofit	\$200	\$196	\$0	Air Res. Board
Trade Infrastructure Air Quality	\$1,000	\$697	\$282	Air Res. Board
Port Security*	\$100	\$99	\$0	Emerg Mgt Agency
Transit Security*	\$1,000	\$407	\$103	Emerg Mgt Agency
TOTAL	\$19,925	\$12,731	\$2,756	

* These Prop 1B Appropriations are heard in Subcommittee #4.

LAO Recommendation: The LAO indicates that there may be some appropriation authority provided for 2010-11 that may go unused and would carry-over into 2011-12. Carry-over appropriation authority may reduce the new appropriation level for 2011-12.

Staff Recommendation: Approve the proposed funding level as placeholder amounts, but review again in the spring, when updated information should be available.

Action: *Approved the requested funding on a 3 – 0 vote. Subcommittee will review again this spring as warranted.*

12. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor’s Budget):

The Administration requests \$27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A “provides \$950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock.”

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC’s plan. The amount appropriated totaled \$234.4 million, but Governor Schwarzenegger vetoed the amount down to \$100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls. The veto message did not provide any specific criticism of the CTC plan, but indicated that a statewide strategy should be developed by the High-Speed Rail Authority, the Department of Transportation, and local jurisdictions. Staff is not aware of any efforts in this regard since the prior Governor’s veto message.

Staff Comment: Governor’s Brown’s proposed budget is consistent with Governor Schwarzenegger’s policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC’s program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The Department of Finance should indicate how the new Administration views these Prop 1A bond funds and when these bonds funds should be made available for projects other than positive train control. There is some uncertainty with the amount of both Prop 1B and Prop 1A bond funds required for project expenditures in 2011-12. The Subcommittee may want to consider putting in a placeholder amount for Prop 1A and return in the spring to re-evaluate the appropriate funding level.

Staff Recommendation: Augment the requested funding for positive train controls by \$133.4 million for other projects in the CTC’s plan. This is the amount that Governor Schwarzenegger vetoed last year, but it would serve as a placeholder amount until the overall bond program is reviewed later this spring.

Action: *Augmented funding by \$133.4 million on a 2 – 1 vote, with Senator Fuller voting no.*

13. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1): The Governor requests an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Department developed this request based on the joint compliance agreement between the California Air Resources Board (ARB) and the Department. This funding is intended to address the required replacement and repower of the Department's affected equipment to ensure compliance with the mandates adopted by the ARB and the United States Environmental Protection Agency (US EPA). The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate Compliance	Strategy	# of Equip.	Cost (in 000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The 2010-11 budget appropriated \$57.3 million to bring 435 vehicles into compliance. Following the passage of the budget, it was determined that the Department's overall compliance plan did not actually bring the Department into compliance with the ARB. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan.

Staff Comments: When the Department and the ARB revised their diesel regulation compliance plan, the Legislature was made aware that the Department would only need roughly \$10 million in the current year of the total \$57 million that was appropriated in the budget. To date, it is unclear to staff how the Administration is planning on addressing last year's excess appropriation authority for regulatory compliance in the current budget. Additionally, it is unclear whether the agreed upon plan for Caltrans is being fully followed in the current year and whether the overall plan actually brings the Department into compliance. At the hearing, the Administration may want to clarify these issues but in light of these ongoing uncertainties, staff recommends that the Subcommittee act to hold these issues open without prejudice until the spring.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Action: Rejected request "without prejudice" on a 3 – 0 vote.
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14. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4) : The Administration is proposing to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The overall funding for PIDs would increase \$2.4 million – from \$30.6 million to \$33.0 million (with \$24.3 million SHA-funded and \$8.6 million reimbursement-funded). A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PID’s work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto to the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements. Staff understands that, so far, locals have not initiated reimbursements to Caltrans for PIDs – at least not in significant numbers.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and \$7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown’s budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PID's program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

Poor Execution from the Administration: As indicated, the Schwarzenegger Administration rejected the Legislature's approach and through administrative means is pursuing local reimbursements for PIDs. Putting aside the policy considerations of this approach, the Administration has poorly executed its policy. Last May, the Administration estimated there was 67-positions-worth of workload for local PIDs. Caltrans is unable to say whether any of this workload is moving forward by reimbursement or otherwise. Finally, the Administration has not resolved issues with locals on the scope and size of PIDs.

April 1, 2011, Report : Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. It is unclear if this poses risk for project delays, or if locals are instead contracting out to private firms for these services. Since a report is pending, the Legislature may want to consider rejecting this proposal without prejudice to defer a full review to this spring. This would allow the new Administration more time to review and/or better-implement the reimbursement policy, and allow the Legislature to review the report due April 1, 2011.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

<p>Action: <i>Held open for action in full Budget Committee. (Direction to hold open approved on a 3 – 0 vote)</i></p>

15. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL for the below issues. This omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – Language included in SB 8 54 and AB 1614 (2009-10 Legislative Session):

- Prop 1B Bonds – Trade Corridors Improvement Fund Programs: Requires the California Transportation Commission (CTC) to report to the Legislature semiannually on the expenditure of Transportation Corridor Improvement Funds (TCIF) for railroad projects. Additionally, requires the CTC to report and provide a copy of any memorandum of understanding executed between a railroad company and any state or local transportation agency where TCIF funds are a funding source for the project.
- Prop 1B Bonds – Transit Security for Water Transit: For recipients of Prop 1B bond funds for regional public waterborne transit, extends the expenditure period from three years to four years for any allocation made prior to June 30, 2011. Proposition 1B provides \$250 million to Regional public waterborne transit agencies. The funds are available to build ferry terminals, among other uses.
- Prop 1B Bonds – Local Streets and Roads Program: Provides cities and counties a one-year extension to expend Proposition 1B Local Streets and Roads funds for any year in which Highway Users Tax Account (HUTA) funds for local transportation projects are borrowed, deferred, or shifted. Note, HUTA borrowing, deferrals, and shifts are now prohibited under Proposition 22.
- Caltrans Capital Outlay Support Budget Data: Requires the Department of Transportation (Caltrans) to report annually to the Legislature with supplemental information on the Capital Outlay Support budget request, including anticipated and realized project costs and schedules for the Capital Outlay Support Program.
- Fuel Swap – Local Transportation Subventions: Provides additional clarification that local governments are not subject to the same maintenance-of-effort and other requirements under Proposition 42 when they are apportioned fuel excise tax revenues.

Staff Comment: Staff is not aware of any controversy with the above trailer bill language, and understands the failure of the 2010 transportation budget trailer bill was unrelated to these issues.

Staff Recommendation: Approve 2010 language as placeholder language in the 2011 budget.

Action: Approved language on a 3 – 0 vote.

2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

(see issue on next page)

- 1. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.

(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.

The highlighted section above represents a possible modification to last year's language. It would provide that the data could be retained up to 90 days, instead of 72 hours.

Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modification – for LPRs.

Vote:

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

(see issue on next page)

1. Veterans Optional Check-off – Trailer Bill Language: Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran’s check-off box on driver license applications that would allow a veteran’s name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff’s understanding is that the veterans language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the DMV and CDVA. The relevant language in AB 1614 is copied below (amending Vehicle Code Section 12811). The language highlighted notes recent DMV amendments to last year’s language. First, “All applications” replaces “The front of an application”. Second, statement for the application would be specified in statute.

(c) (1) ~~The front of an application~~ All applications for a driver license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits. The application shall contain the following statement:

“By marking the veteran box on this application, I certify that I am a veteran of the United States Armed Forces and that I want to receive veteran benefits information from the California Department of Veterans Affairs and that I was notified and consent to DMV transmitting my name and mailing address to the California Department of Veteran Affairs for this purpose only.”

(2) The department shall collect the information obtained pursuant to paragraph (1).

(3) ~~Periodically, as~~ As mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about veteran benefits:

(A) His or her true full name.

(B) His or her mailing address.

(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

Staff Comment: The Subcommittee may want to consider adoption of the revised placeholder trailer bill language intended to aid veterans.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
 - (a) a complete legal analysis of the revenue guarantee and alternative options;
 - (b) a report on community outreach;
 - (c) an updated financing plan with alternative funding scenarios;
 - (d) a copy of the strategic plan required by the State Administrative Manual;
 - (e) a report on the performance of the Program Manager Contractor; and
 - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language included “expenditure-contingent” language to withhold \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC).

Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst’s Office, the Bureau of State Audits, and more recently, the peer review group. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011.

Staff Comment: At the February 1, 2011, Subcommittee hearing, the HSRA presented a letter dated January 29, 2011, which outlined its timeline for responding to issues (a) – (f) above. The HSRA letter indicates it will provide reporting on four of the six elements (b), (d), (e), and (f), within two weeks (by February 14). The letter indicates the remaining two elements, (a) and (c) are tied to an updated funding plan to be completed by October 14, 2011, and an updated business plan to be completed January 1, 2012. At the hearing, the HSRA Chief Executive Officer, Mr. Roelof van Ark, indicated that the *draft* business plan would be available in the October period and could be reviewed in concert with the financial plan.

Staff Recommendation: (1) Adopt trailer bill language to restore the vetoed 2010 budget reporting language, and expenditure-contingent language for the 2010-11 fiscal year, for the four reporting elements HSRA indicates will be provided this month (b, d, e, and f above).

(2) Adopt budget bill language for the 2011 Budget Act to restore the vetoed 2010 budget reporting language, and expenditure-contingent language, for the two reporting elements HSRA indicates will be available in either draft or final form in October, 2011 (a and c above).

Vote:

2. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail should be available later this spring on the workload and deliverables for these BCPs.

Staff Recommendation: Reject all BCPs without prejudice and review again during spring Subcommittee hearings.

Vote:

3. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted. The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- Peer Review Group: Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- Exempt Positions: Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- Biannual Reporting: Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in a budget trailer bill.

Staff Recommendation: Adopt the 2010 "Exempt Positions" trailer bill language as placeholder language for the 2011 budget.

Vote:

2600 California Transportation Commission

Department Overview : The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of \$3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of \$183,000 and no change in positions. Additionally, the budget includes \$25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described below.

Issues proposed for Discussion / Vote:

- 1. Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of \$400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of \$200,000 for this same activity.

Staff Comment: The CTC indicates it spent \$160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of \$200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment. The Legislature has been interested in following the P3 program and the Subcommittee may want to consider some type of notification requirement through budget bill language.

LAO Recommendation: The Analyst recommends the request be rejected without prejudice for review later this spring, because additional information may be available at that time on the specific projects for review and the number of actual projects ready for review.

Staff Recommendation: Reject this request without prejudice to be reconsidered during spring hearings.

Vote:

2660 Department of Transportation

Department Overview : The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Activity: (in millions):

Activity 2010-11		2011-12
Aeronautics	\$7	\$7
Highway: Capital Outlay Support	1,781	1,826
Highway: Capital Outlay Projects	6,231	5,689
Highway: Local Assistance	2,356	2,117
Highway: Program Development	75	82
Highway: Legal	121	122
Highway: Operations	219	245
Highway: Maintenance	1,374	1,513
Mass Transportation	805	1,024
Transportation Planning	169	183
Administration (distributed costs)	(447)	(484)
Equipment Program (distributed costs)	(228)	(255)
TOTAL \$13,141		\$12,808

Major Funding Sources (in millions):

Fund Source or Account	2010-11	2011-12
Federal Funds	\$4,684	\$4,284
State Highway Account (SHA)	3,343	3,573
Proposition 1B & Prop 1A Bond Funds	3,276	3,476
Reimbursements	1,323	1,125
General Fund (Proposition 42 – Loan Repayment)	(83)	(83)
Federal Revenue Bonds (GARVEEs)	1	1
Public Transportation Account	374	210
Other funds	139	141
TOTAL \$13,141		\$12,808

Issues proposed for Vote Only:

(see also the summary table on page 14)

- 1. Fuel Cost Increase (BCP #2):** The Administration requests a permanent increase of \$1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average \$3.17 per gallon in 2011-12, instead of the baseline level of \$3.06 per gallon. This would bring Caltrans' total fuel budget up to \$43.3 million – the department consumes about 13.6 million gallons of fuel per year.

Staff Recommendation: Approve this request, but direct staff to bring this issue back after the May Revision *if* the outlook for fuel prices changes significantly between now and then.

- 2. Enterprise Resource Planning Financial (E-FIS) IT Project – Staff Reduction (BCP #11):** The Administration requests a permanent decrease of \$3.0 million (special funds) and a decrease of 35 positions. This reduction recognizes a workload decrease that will result from the new E-FIS information technology (IT) project. E-FIS is a new accounting system for Caltrans that replaces almost 70 legacy IT systems. E-FIS was recently placed in operation. Caltrans committed to eliminating the positions when the project was initiated because the Feasibility Study Report suggested a workload decrease upon implementation of the system.

Staff Recommendation: Approve this request.

- 3. Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (BCP #14):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original \$8.3 million appropriation would be available for cash expenditure through 2011-12. PRSM will enable the Department to effectively manage State employee project time in the \$1.8 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project provides a commercial-off-the-shelf software system to provide project managers, and first line supervisors, vital information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

Staff Recommendation : Approve as budgeted, but revisit in the spring, as warranted, if savings are found.

- 4. Load Rating of Local Bridges (BCP #3):** Caltrans is requesting an increase of 9 positions and \$1.3 million in funding for a 6-year limited term to complete the load rating on 3,564 locally-owned bridges in order to comply with federally-mandated load rating evaluation requirements. This proposal will be funded essentially through Federal Funds that would otherwise be allocated to local governments for local transportation funding. California has 11,850 city and county-owned bridges in the National Bridge Inventory. The Department inspects and provides load ratings for all of these bridges except those owned by the counties of Los Angeles and Santa Clara who inspect and load rate their own bridges. Load rating of bridges is performed to determine the loads (vehicles) that structures can safely carry. Last year, the Subcommittee augmented staffing to accelerate load ratings on State-owned bridges from a ten year period to a six-year period. This proposal requests roughly the same staff-to-workload ratio as was approved last year.

Staff Recommendation: Approve this request.

- 5. Fund Shift for One Position in Mass Transportation (BCP #7):** Caltrans is proposing a fund shift for one position over a two-year period. The position would provide oversight of commuter rail line and urban rail system capital improvement projects funded by the Proposition 1A, the High Speed Rail Bond. Note, these activities would not be reimbursed by the High-Speed Rail Authority, but are rather appropriated directly to Caltrans for the rail connectivity portion of Prop 1A bonds. This position will be responsible for oversight of contract development, agency and project certifications, programming actions, project monitoring and reporting requirements. This proposal results in an identical savings in the Public Transportation Account (PTA) where the position was formerly funded. The amount in question is \$94,000.

Staff Recommendation: Approve as budgeted.

- 6. Fund Shift for Prop 1B Audits (BCP #13):** Caltrans is requesting a net-zero shift in funding among various Proposition 1B special funds to meet the projected workload for auditing services in 2011-12 by specific bond programs. The audits are performed by the State Controller's Office on behalf of the Department under an interagency agreement. The amount shifted among funds is \$2.4 million, but all the shifts are within the various special funds that are associated with Proposition 1B.

Staff Recommendation: Approve as budgeted.

- 7. Eureka Office Building – Repairs (COBCP #1):** Caltrans is requesting an appropriation of \$8.7 million from the State Highway Account to fund the construction phase for the Eureka district office building fire, life safety, and infrastructure repairs project. The total project cost is \$10.1 million which also includes \$695,000 for preliminary planning, and \$687,000 for working drawings. The Department of General Services has determined that the Department must correct various Fire, Life, Safety, and additional Americans with Disability Act (ADA) code compliance violations as well as other building life cycle improvements such as: Fire sprinkler expansion; fire suppression system replacement; north stairway repairs for ADA compliance; heating and ventilation replacement; electrical upgrades; and, replacement of caulking on exterior windows.

Staff Recommendation: Approve as budgeted.

- 8. Job Access Reverse Commute (JARC) / New Freedom – Continuation of Federal Funds and 3 positions (BCP #8):** Caltrans is requesting an extension of 3 previously approved temporary positions and \$274,000 in federal funds to support on-going administration of the federal JARC and New Freedom transit grant programs. Both programs are mandated by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – Legacy for Users (SAFETEA-LU). The staff currently being used to support these programs was approved on a limited-term basis set to expire on June 30, 2011, while the grant funds will continue until a new federal legislation is passed. Public and private transportation agencies, social service agencies, community-based non-profit agencies, tribal governments, faith-based organizations, and private for profit agencies are eligible to apply for funding. The New Freedom program is designed to provide transportation services that are beyond requirements of the American with Disabilities Act.

Staff Recommendation: Approve as budgeted.

Summary of Vote Only Issues:

Issue #	Issue Description	Staff Recommendation	Vote
1	Fuel Cost Increase	Approve – revisit in the spring as warranted by fuel prices.	
2	Enterprise Resource Planning Financial (E-FIS) Staff Reduction	Approve	
3	Project Resource Schedule Management (PRSM) IT Project Fund Extension	Approve – revisit in the spring as warranted if savings are found.	
4	Load Rating of Local Bridges	Approve	
5	Fund Shift for 1 Position	Approve	
6	Fund Shift for Prop 1B Audit Work	Approve	
7	Eureka Office Building Repairs	Approve	
8	Job Access Reverse Committee transit programs.	Approve	

Issues proposed for Discussion and Vote:

- 9. Weight Fee / Fuel Swap Proposal (Governor's Budget):** The Governor's budget includes the following package of proposals to maintain funding levels for highways and transit and to provide a total of \$1.7 billion in General Fund solutions over the current year and budget year. This package conforms transportation funding and prior General Fund solutions with the requirements of Proposition 22 and Proposition 26 – both of 2010. The General Fund budget solutions include both the use of transportation funds to pay bond debt and the use of transportation funds for loans to the General Fund. This table below (\$ in millions) summarizes the proposals by category and fiscal year:

General Fund Relief	2010-11	2011-12	Two-Year Total
Debt service from weight fee revenue	\$262	\$700	\$962
Loans from weight fee revenue	\$494	\$166	\$660
Debt service from non-Article XIX funds	\$0	\$78	\$78
Total by year	\$756	\$944	\$1,700

Detail: The proposal would be implemented with budget trailer bill language and includes the following components.

- Truck Weight Fees – for GO Debt: Use vehicle weight fees, rather than gasoline excise tax revenues, to fund general obligation (GO) bond debt service. This shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for general obligation bond debt service. This would provide \$962 million of the two-year General Fund solution.
- Truck Weight Fees – for General Fund Loans: Loan vehicle weight fees, rather than gasoline excise tax revenues, to the General Fund. Similar to the above bullet, this shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for loans to the General Fund. This would provide \$660 million of the two-year General Fund solution.
- Non-Article XIX Funds – for GO Debt: Use \$77.5 million in transportation revenues that are not restricted by the California Constitution (non-article XIX), such as revenue from rental property, for general obligation bond debt service payments for Proposition 116 bonds. This provides \$78 million of the General Fund solution.
- Re-enact the Fuel Tax Swap: Re-enact the fuel tax swap with a two-thirds vote in order to protect transportation revenues. Proposition 26 requires that any tax measure passed after October of 2009 that would require a two-thirds vote under Proposition 26, must be re-enacted with a two-thirds vote, or will be considered void. If the fuel tax swap is not re-enacted with a two-thirds vote, it is unclear what would happen, but one interpretation suggests that annual transportation

revenue could drop by billions (if the excise tax increase becomes void, but the sales tax does not automatically increase to its former level).

- **Maintain Funds for Transit Operations:** Make changes to keep local transit assistance funding near the target of \$350 million that was approved in the fuel tax swap. The swap increased the diesel sales tax by 1.75 percent (as an offset, the excise tax on diesel was reduced) and changed the allocation formula of the total sales tax so that 75 percent of revenues would be provided to Local Transit Assistance and 25 percent would be allocated to Caltrans' inner city rail and transit STIP programs. Prop 22 changed the base sales tax back to 50 percent transit. The proposed language would provide 100 percent of the new diesel revenue to transit operators to approximate the allocation in the fuel swap package. As part of the non-Article XIX shift above, and to still maintain the transit funding, the diesel sales tax is temporarily (for three years) increased above 1.75 percent increment to as high as 2.17 percent. Again, the excise tax on diesel is lowered to maintain revenue neutrality.
- **Transportation Special Funds – Cashflow Loans:** Removes the statutory sunset to continue the authority to make cashflow loans among transportation special funds. This proposal does not provide General Fund relief, but allows Caltrans to better manage cash across the many transportation special funds. Deletes a few funds from this pool to conform to the requirements of Proposition 22.

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related GO bonds, which results in General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which has been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of \$350 million.

Proposition 22 and Proposition 26: These two propositions approved by voters at the November 2010 election both have implications for the Fuel Tax Swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 might result in the Fuel Tax Swap becoming void in November 2011, or it could result in the Fuel Swap remaining in place, but with a risk of repeal if there is litigation.

LAO Options: The LAO indicates that additional General Fund relief would be constitutionally allowable if the Legislature desired to increase or maximize General Fund relief from transportation funds. It should be noted that Proposition 22 does place new limits on fuel excise taxes, so the options post-Prop 22 are more constrained than before. The table below indicates the three LAO options (\$ in millions):

LAO General Fund Relief – Additional Options	2010-11	2011-12 Tw	o-Year Total
1) Maximize loans from weight fee revenue	\$150	\$44	\$194
2) Reduce transit operations funding – transfer balance to General Fund*	\$0	\$110	\$110
3) Eliminate transit operations funding, eliminate sales tax on diesel, increase truck weight fees (new revenue-neutral tax swap) – direct revenue to General Fund*	\$0	\$300	\$300

* Option 2) and 3) above include the same portion of the diesel sales tax, so either, but not both, could be implemented.

The LAO has produced a policy brief on this issue and can present its findings to the Subcommittee.

Staff Comments: When this issue was heard in the Assembly Subcommittee, there was a broad group of transportation interests that testified in support of the Governor’s proposal. Since the LAO options reduce transportation revenue, without providing any additional benefit specifically for transportation, many of the transportation stakeholders testified in opposition to the LAO options. Because this proposal is a major component of the Governor’s General Fund budget solution, the Subcommittee may want to hold this issue open so it can be considered in the full Budget Committee in the context of the other non-transportation budget proposals.

Staff Recommendation: Hold open for action in the full budget committee.

10. Outstanding Loans and New Loans (Governor’ Trailer Bill Language) : The Administration has proposed trailer bill language related to the repayment of outstanding loans and the implementation of new loans. The chart below summarizes the loan activity for funds related to Caltrans. The loans highlighted indicate inclusion in proposed trailer bill language. The loans related to weight fees, were discussion in the prior agenda issue.

Year of Loan and Description		Loan Repayment by Fiscal Year					Total
		2011-12	2012-13	2013-14	2014-15	2015-16	
Newer Loans							
2008-09	Various Transportation Special Funds	\$231					\$231
2009-10	State Highway Acct	\$0	\$135				\$135
2010-11	State Highway Acct			\$80			\$80
2010-11	Highway User Tax Acct (pre-Prop 22)		\$329				\$329
2010-11	Public Transportation Acct (pre-Prop 22)			\$29			\$29
2010-11	Weight Fees (post-Prop 22)			\$205	\$144	\$144	\$494
2011-12	Weight Fees (post-Prop 22)				\$166		\$166
Older Loans							
2001-02 & 2002-03	Traffic Congestion Relief Fund (repaid with tribal gaming revenues)	\$0	\$0	\$0	\$0	\$0	\$0
2003-04 & 2004-05	Prop 42 - Repayment schedule in Constitution	\$83	\$83	\$83	\$83	\$83	\$415
Total		\$314	\$547	\$397	\$393	\$227	\$1,879

Note: By the end of 2015-16, most loans would be repaid, the exception would be those loans repaid with tribal-gaming funds – about \$880 million would remain outstanding.

Detail and Comment:

- 2011-12 Loan Repayment: A total of \$314 million (plus \$22.5 million in interest) is proposed for repayment in 2011-12. Of this amount, \$83 million is required by the Constitution and the remaining \$231 million is statutorily due.
- 2011-12 Loan Repayment Deferrals: The Governor proposes to defer from 2011-12 to 2012-13 the repayment of a \$135 million State Highway Account loan. Additionally, the Governor proposes to direct specified tribal-gaming revenue from transportation loan repayment to the General Fund. The table above indicates “\$0” for the tribal gaming revenues, but under current law an annual amount of \$101 million would repay the Traffic Congestion Relief Fund loan. The proposed action would mirror action taken in the last three budgets.

Staff Comment: While there has been a lot of recent loan activity, the combination of Proposition 22 and the Weight Fee / Fuel Swap proposal will greatly reduce the ability to borrow from transportation funds in the future. In the out-years, the weight fee revenue would be fully used for GO debt service, and none would remain for loans. Prop 22 prohibits any future loans from the fuel excise tax revenues and the Public Transportation Account.

Staff Recommendation: Approve as “placeholder” the Administration’s loan plan and loan language.

Vote:

11. Proposition 1B Budget Request: The Governor requests \$2.3 billion in Prop 1B bond funds for programs administered by Caltrans. Prior budget actions have appropriated a total of \$12.7 billion (after reversions), or 64 percent, of total Proposition 1B funds – the requested budget would bring the total to \$15.5 billion, or 78 percent. The table below, based on Caltrans's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount Budget	Entity
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$2,789	\$631	Caltrans
State Transportation Improvement Program (STIP)	\$2,000	\$1,993	\$0	Caltrans
State Highway Operations and Preservation Program (SHOPP)	\$500	\$308	\$0	Caltrans
State Route 99 Improvements	\$1,000	\$284	\$392	Caltrans
Local Bridge Seismic Retrofit	\$125	\$38	\$22	Caltrans
Intercity Rail	\$400	\$100	\$117	Caltrans
Grade Separations	\$250	\$250	\$0	Caltrans
Traffic-Light Synchronization	\$250	\$250	\$0	Caltrans
Trade Infrastructure	\$2,000	\$581	\$972	Caltrans
State/Local Partnership	\$1,000	\$339	\$200	Caltrans
Local Streets & Roads	\$2,000	\$1,950	\$37	Shared Revenues
Transit	\$3,600	\$2,450	\$0	State Transit Assistance
School Bus Retrofit	\$200	\$196	\$0	Air Res. Board
Trade Infrastructure Air Quality	\$1,000	\$697	\$282	Air Res. Board
Port Security*	\$100	\$99	\$0	Emerg Mgt Agency
Transit Security*	\$1,000	\$407	\$103	Emerg Mgt Agency
TOTAL	\$19,925	\$12,731	\$2,756	

* These Prop 1B Appropriations are heard in Subcommittee #4.

LAO Recommendation: The LAO indicates that there may be some appropriation authority provided for 2010-11 that may go unused and would carry-over into 2011-12. Carry-over appropriation authority may reduce the new appropriation level for 2011-12.

Staff Recommendation: Approve the proposed funding level as placeholder amounts, but review again in the spring, when updated information should be available.

Vote:

12. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor’s Budget): The Administration requests \$27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A “provides \$950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock.”

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC’s plan. The amount appropriated totaled \$234.4 million, but Governor Schwarzenegger vetoed the amount down to \$100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls. The veto message did not provide any specific criticism of the CTC plan, but indicated that a statewide strategy should be developed by the High-Speed Rail Authority, the Department of Transportation, and local jurisdictions. Staff is not aware of any efforts in this regard since the prior Governor’s veto message.

Staff Comment: Governor’s Brown’s proposed budget is consistent with Governor Schwarzenegger’s policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC’s program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The Department of Finance should indicate how the new Administration views these Prop 1A bond funds and when these bonds funds should be made available for projects other than positive train control. There is some uncertainty with the amount of both Prop 1B and Prop 1A bond funds required for project expenditures in 2011-12. The Subcommittee may want to consider putting in a placeholder amount for Prop 1A and return in the spring to re-evaluate the appropriate funding level.

Staff Recommendation: Augment the requested funding for positive train controls by \$133.4 million for other projects in the CTC’s plan. This is the amount that Governor Schwarzenegger vetoed last year, but it would serve as a placeholder amount until the overall bond program is reviewed later this spring.

Vote:

13. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1): The Governor requests an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Department developed this request based on the joint compliance agreement between the California Air Resources Board (ARB) and the Department. This funding is intended to address the required replacement and repower of the Department's affected equipment to ensure compliance with the mandates adopted by the ARB and the United States Environmental Protection Agency (US EPA). The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate Compliance	Strategy	# of Equip.	Cost (in 000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The 2010-11 budget appropriated \$57.3 million to bring 435 vehicles into compliance. Following the passage of the budget, it was determined that the Department's overall compliance plan did not actually bring the Department into compliance with the ARB. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan.

Staff Comments: When the Department and the ARB revised their diesel regulation compliance plan, the Legislature was made aware that the Department would only need roughly \$10 million in the current year of the total \$57 million that was appropriated in the budget. To date, it is unclear to staff how the Administration is planning on addressing last year's excess appropriation authority for regulatory compliance in the current budget. Additionally, it is unclear whether the agreed upon plan for Caltrans is being fully followed in the current year and whether the overall plan actually brings the Department into compliance. At the hearing, the Administration may want to clarify these issues but in light of these ongoing uncertainties, staff recommends that the Subcommittee act to hold these issues open without prejudice until the spring.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Vote:

14. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4) : The Administration is proposing to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The overall funding for PIDs would increase \$2.4 million – from \$30.6 million to \$33.0 million (with \$24.3 million SHA-funded and \$8.6 million reimbursement-funded). A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PID’s work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto to the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements. Staff understands that, so far, locals have not initiated reimbursements to Caltrans for PIDs – at least not in significant numbers.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and \$7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown’s budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PID's program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

Poor Execution from the Administration: As indicated, the Schwarzenegger Administration rejected the Legislature's approach and through administrative means is pursuing local reimbursements for PIDs. Putting aside the policy considerations of this approach, the Administration has poorly executed its policy. Last May, the Administration estimated there was 67-positions-worth of workload for local PIDs. Caltrans is unable to say whether any of this workload is moving forward by reimbursement or otherwise. Finally, the Administration has not resolved issues with locals on the scope and size of PIDs.

April 1, 2011, Report : Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. It is unclear if this poses risk for project delays, or if locals are instead contracting out to private firms for these services. Since a report is pending, the Legislature may want to consider rejecting this proposal without prejudice to defer a full review to this spring. This would allow the new Administration more time to review and/or better-implement the reimbursement policy, and allow the Legislature to review the report due April 1, 2011.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Vote:

15. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL for the below issues. This omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – Language included in SB 8 54 and AB 1614 (2009-10 Legislative Session):

- Prop 1B Bonds – Trade Corridors Improvement Fund Programs: Requires the California Transportation Commission (CTC) to report to the Legislature semiannually on the expenditure of Transportation Corridor Improvement Funds (TCIF) for railroad projects. Additionally, requires the CTC to report and provide a copy of any memorandum of understanding executed between a railroad company and any state or local transportation agency where TCIF funds are a funding source for the project.
- Prop 1B Bonds – Transit Security for Water Transit: For recipients of Prop 1B bond funds for regional public waterborne transit, extends the expenditure period from three years to four years for any allocation made prior to June 30, 2011. Proposition 1B provides \$250 million to Regional public waterborne transit agencies. The funds are available to build ferry terminals, among other uses.
- Prop 1B Bonds – Local Streets and Roads Program: Provides cities and counties a one-year extension to expend Proposition 1B Local Streets and Roads funds for any year in which Highway Users Tax Account (HUTA) funds for local transportation projects are borrowed, deferred, or shifted. Note, HUTA borrowing, deferrals, and shifts are now prohibited under Proposition 22.
- Caltrans Capital Outlay Support Budget Data: Requires the Department of Transportation (Caltrans) to report annually to the Legislature with supplemental information on the Capital Outlay Support budget request, including anticipated and realized project costs and schedules for the Capital Outlay Support Program.
- Fuel Swap – Local Transportation Subventions: Provides additional clarification that local governments are not subject to the same maintenance-of-effort and other requirements under Proposition 42 when they are apportioned fuel excise tax revenues.

Staff Comment: Staff is not aware of any controversy with the above trailer bill language, and understands the failure of the 2010 transportation budget trailer bill was unrelated to these issues.

Staff Recommendation: Approve 2010 language as placeholder language in the 2011 budget.

Vote:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Day: Thursday, April 28, 2011
Time: 9:30 a.m. or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

January 10 Budget Summary : The Governor proposed total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Current Budget Status: The Legislature acted on all of the CHP's January budget proposals (all were approved). The Governor proposed one technical change in an April Finance Letter which is described below.

Issues Suggested for Vote Only:

- 1. CHP Enhanced Radio System (CHP ERS) (April Finance Letter # 1).** The Administration requests a reappropriation of \$24.1 million for the sixth year of the public safety radio project, which is mostly complete. Due to snow and other challenges, equipment installation on some radio towers is being delayed beyond 2010-11.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$343 million for a savings to the state of \$148 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

Staff Comment: The March 2011 report has been received and indicates the project will be completed in 2011-12 and with a revised cost level of \$351 million (due to timing issues, this report does not reflect an additional \$8 million in savings which has recently been identified).

Staff Recommendation: Approve the April 1 Finance Letter.

Vote:

Issue Suggested for Discussion and Vote:

2. Policy for License Plate Reader – Budget Trailer Bill: Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and privacy advocates. The language in AB 1614 is copied below with new amendments indicated with underlines or strikeouts (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall only make the LPR data available upon formal written request from a law enforcement agency for lawful law enforcement purposes. The request shall only be processed by the appropriate departmental personnel trained in the LPR system and shall include a case number or incidence number. The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a certified law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating stolen vehicles or felony vehicles, vehicles with lost or stolen license plates, vehicles wanted in the connection to the commission of a public offense, missing persons and Amber Alerts and Blue Alerts ~~persons when either are reasonably suspected of being involved in the commission of a public offense.~~

(d) Department personnel shall verify all matches of wanted vehicles or persons through the California Law Enforcement Telecommunications System prior to making an arrest.

(e) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

~~(f)~~ (f) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, any breaches of the security system, and any changes in policy that affect privacy concerns.

Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modifications – for LPRs.

Vote:

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

January 10 Budget Summary: The Governor proposed total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Current Budget Status: The Legislature acted on all of the DMV's January budget proposals (all were approved). The Governor proposed one technical change in an April Finance Letter which is described in Issue #2.

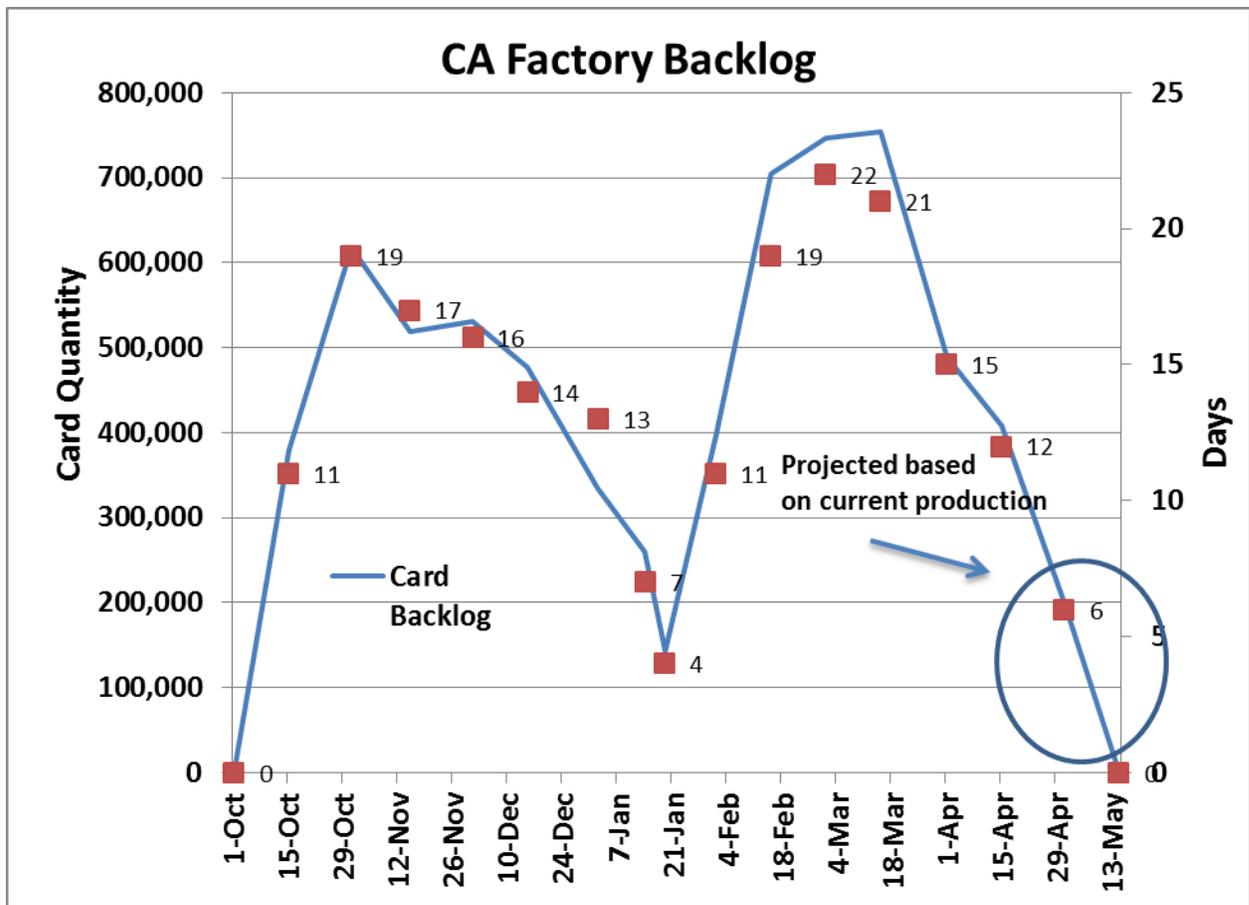
Issue Suggested for Discussion and Vote:

1. Informational Issue on Driver License Cards: The DMV implemented a new driver license / identification (DL/ID) card design on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected some cards.

February 1 Hearing and February 15 Letter: At the Subcommittee #2 hearing on February 1, 2011, the DMV indicated the Department was starting to see improvements with the vendor. In a letter dated February 15, 2011, DMV informed the Committee that it was optimistic the backlog would be eliminated by the end of March 2011. Additionally, DMV extended the duration of the temporary driver license from 60 days to 90 days and served a Notice of Breach letter to L-1.

Current Status: DMV and the vendor missed the March 31 target for clearing the backlog and the chart on the following page was provided by DMV on April 21 to show the historic and projected backlog. The Administration is defining "backlog" as card orders that have been unreturned by L1 within the 48 hours required by the contract. DMV indicates the growth in backlog after January 21 was due to defective UV toner cartridges that caused the cards to print off color. A more comprehensive explanation of the various reasons for delay is outlined in a letter from L-1 Identity Solutions dated April 28, 2011. The Administration's data suggests the April 15 backlog was about 400,000 DL/ID cards and the average delay for those cards was 12 days.

As of April 26, DMV indicates the backlog is 217,000 cards and 7 days. Within this 217,000 backlog, approximately 20,000 are re-orders of defective cards. So most Californians are currently receiving their cards within about three weeks of the application, but about 20,000 Californians are facing wait times of four to six weeks, or more, to receive their cards. Last week's error rate for cards from L1 was about 3 percent, down from the peak error rate of about 20 percent.



Staff Comment: DMV indicates they have not paid L1 for any of the DL/ID cards pending liquidation of the backlog. DMV and the L1 representative should update the Subcommittee on the status of the cards, indicating why the March 31 target was missed, and when all quality issues will be resolved and the backlog cleared.

At the February 1, 2011, hearing, Subcommittee members expressed their high level of concern with the DL/ID card backlog and the necessity to quickly resolve the problem. Since the problem remains unresolved almost 3 months later, the Subcommittee may want to consider the following actions: (1) reduce the DMV’s Driver Licensing and Personal Identification Unit budget by 10 percent, or \$24 million, to keep the issue open in the budget and place the issue in the Budget Conference Committee if necessary; and (2) ask DMV to report progress weekly at scheduled Subcommittee #2 hearings on May 5 and May 12.

Staff Recommendation: Reduce DMV’s budget by \$24 million to keep the budget open by sending it to the Conference Committee, and direct staff to include DMV on the hearing agendas for May 5 and May 12 to receive weekly updates on the DL/ID program.

Vote:

- 2. April Capital Outlay Finance Letters:** The Administration submitted three requests to reappropriate funds for state-owned DMV field office facilities. DMV operates a mix of State-owned and leased facilities. Expenditure of these funds was approved last year, and this reappropriation would allow the expenditures to move from 2010-11 to 2011-12.
- **Redding Field Office Reconfiguration Project (Construction Phase):** The Administration requests reappropriation of \$2.9 million (various special funds) for the construction phase of the Redding project. Prior costs of \$495,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$3.4 million. The reconfigured facility will provide additional workload capacity and address physical infrastructure deficiencies.
 - **Fresno Field Office Replacement Project (Construction Phase):** The Administration requests reappropriation of \$18.7 million (various special funds) for the construction phase of the Fresno project. Prior costs of \$2.1 million have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$20.8 million. The new facility would replace the 50-year old customer service field office on the same site with a larger facility.
 - **Oakland Field Office Reconfiguration Project (Construction Phase):** The Administration requests reappropriation of \$2.1 million (various special funds) for the construction phase of the Oakland project. Prior costs of \$300,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$2.4 million. The reconfigured facility would serve as a DMV Business Service Center and the Regional Administrator's Office.

Staff Recommendation: Hold open.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA at \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.2 billion is currently "in hand" – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.2 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.8 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of the State positions were authorized last year, and due to the hiring freeze and other factors, only about 19 positions are currently filled.

January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals without prejudice to allow for further review. The High Speed Rail typically receives detailed workload proposals from its contractors in the spring, and that detail is still pending. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions.

Issues Suggested for Discussion

- 1. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo. The complete statement is "Attachment A" at the end of this agenda.

Summary of Statement: The three signers state the following: "We call on the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for a blended system that integrates high-speed rail with a 21st Century CalTrain.

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or "viaduct"; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,
- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible."

Staff Comment: The HSRA should be prepared to fully address the issues raised in the joint statement.

- 2. Update on Federal Funds (Informational Issue):** The HSRA indicates that \$3.2 billion in federal funds have been awarded to California for high-speed rail. This funding comes from three grants: (1) \$1.85 billion of American Recovery and Reinvestment Act (ARRA) funds; (2) \$715 million in federal fiscal-year 2010 funds; and (3) \$616 million in redistributed ARRA funds. When state bond matching funds are added, a total of \$5.5 billion is available for initial construction.

Federal Budget for 2011 and 2012. The recently-enacted federal budget for 2011, zeroed out new funding for high speed rail. This federal action does not affect prior high-speed rail awards to California. President Obama's proposed budget for 2012 includes a national total of \$8.0 billion for high-speed rail.

Florida's HSR Funds: On April 4, 2011, California submitted its grant application to the federal government to receive a portion of \$2.0 billion in high-speed rail funds rejected by the State of Florida. Note – the funds rejected by Florida were actually \$2.4 billion, but the grant level was reduced by \$400 million as part of the federal fiscal-year 2011 budget. California is requesting \$1.4 billion in its application, and would match this with about \$300 million in state bond funds.

Use of Federal Funds: With the \$3.2 billion in federal funds received to date, and with \$2.3 billion in state bond funds, the HSRA proposes to begin construction of the high-speed rail line between Borden (which is 20 miles north of Fresno) and Shafter. If an additional \$1.4 billion in federal funds are awarded, the HSRA would extend the initial construction further north to Merced and further south to Bakersfield.

Staff Comment: The HSRA should update the Subcommittee on the status of federal funds.

Staff Recommendation: This is an informational issue.

- 3. Update on HSRA Staffing (Informational Issue):** The HSRA indicates that about 19 of 37 authorized state staff positions are currently filled. AB 105, Statutes of 2011, authorizes the HSRA to hire up to six exempt positions after completion of a salary survey. Governor Brown signed Executive Order B-3-11 on February 15, 2011, which implements a hiring freeze, with specified exemptions.

Staff Comment: The HSRA should update the Subcommittee on the status of filling state positions, including: (1) positions currently filled; (2) status of the salary survey and filling of exempt positions; and (3) status of exemptions from the hiring freeze and target to fully staff the Authority. Finally, the Conference Report, SB 69, includes budget bill language that requires a May 1, 2011, report on opportunities to use state staff, including Caltrans staff, on HSRA work instead of contract staff. While this report may not be submitted prior to the April 28, 2011, hearing, the HSRA should be able to comment on the report's contents.

Staff Recommendation: This is an informational issue.

4. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail on the vendors' 2011-12 workplans is still pending. Upon completion of the workplans, HSRA indicates there will probably be adjustments to the budgeted expenditures by segment via a May Revision Finance Letter. The financial consultant is not yet under contract, but HSRA hopes to sign this contract over the next few weeks and indicates the October 14, 2011, fiscal reporting deadline will be met.

Staff Recommendation: Hold open all BCPs pending additional detail.

2600 California Transportation Commission

Department Overview : The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposed expenditures of \$3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of \$183,000 and no change in positions. Additionally, the budget includes \$25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described on the next page.

Current Budget Status: The Legislature approved the CTC's baseline budget, but rejected the Budget Change Proposal without prejudice to allow for further review. That BCP is issue #1 on the following page.

Issues proposed for Discussion / Vote:

- 1. Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of \$400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of \$200,000 for this same activity. As indicated on the prior page, this budget request was rejected without prejudice during budget hearings in February, with the intent to review again during spring budget hearings.

Background: The CTC indicates it spent \$160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of \$200,000 each. The CTC indicates that projects utilizing toll financing will involve additional analysis beyond that used for Doyle Drive, and that will likely increase the cost of the analysis.

Caltrans Funding for P3 Analysis: A factor in the CTC's P3 workload is the number of P3 proposals developed by Caltrans. However, this is not the sole determinant, as local governments may also develop and submit P3 proposals. In a letter dated March 10, 2011, Caltrans requested that the Joint Legislative Budget Committee (JLBC) approve a 2010-11 shift of \$4.5 million for the Caltrans development of three P3 proposals. The Legislative Analyst reviewed this request and determined Caltrans would spend little or none of this amount in 2010-11. The JLBC advised the Administration that since most or all of the P3 expenditures would be in 2011-12, a May Revision Finance Letter and budget committee review would be the appropriate mechanism to consider budget funding. It is not known at this time if the Administration will submit a May Finance Letter for Caltrans P3 expenditures.

Staff Comment: It is unclear if Caltrans or any local governments will submit a P3 proposal to the CTC for review in 2011-12. However, to the extent proposals are submitted, it is consistent with statutory direction, and good policy, for the CTC to thoroughly analyze the proposals. Given this uncertainty on the P3 workload in 2011-12, the Subcommittee may want to consider flexible budget bill language for funding instead of a fixed appropriation.

Staff Recommendation: Reject the \$400,000 in funding and instead adopt Budget Bill Language authorizing DOF to augment the CTC budget up to \$400,000, with JLBC notification, if needed to evaluate projects.

Vote:

2660 Department of Transportation

Department Overview : The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Current Budget Status: The Legislature approved the Caltrans baseline budget and a number of January Budget Change Proposals (BCPs) but rejected three proposals without prejudice to allow for further review. Those BCPs that were rejected without prejudice and new April 1 Finance Letters are included in this agenda.

Issues proposed for Vote Only:

- 1. California Household Travel Survey (April FL #7):** The Administration requests authority to receive \$2.8 million (over two years) in reimbursements from local planning entities and the California Energy Commission to complete the California Household Travel Survey (Survey). Caltrans is lead partner for the Survey that will update the 10-year travel model. The Survey supports transportation planning at the state and regional level and supports sustainable development and the objectives of SB 375. Caltrans is absorbing the baseline survey cost of \$7.2 million within its existing budget, but has coordinated with the other entities to add data to the survey to meet their needs and avoid the need for duplicative studies. With the reimbursement funding, 60,000 households will be surveyed instead of 43,000.

Staff Recommendation: Approve this request.

Vote:

Issues proposed for Discussion and Vote:

- 2. Continue limited-term positions for federal requirements (April Finance Letters):** The Governor requests an extension of position authority for a net of 21 positions and a total of \$3.8 million in redirected federal funds to continue work in various audit, accounting, and reporting areas related to Caltrans oversight of local governments' expenditure of federal dollars. The three requests are as follows:
- a. Environmental Reviews (April FL #3):** Caltrans requests \$591,000 to make permanent 6 expiring positions. These staff review the environmental documents for local projects funded with federal funds to comply with federal requirements. Caltrans indicates the federal workload is ongoing, and all of these positions approved in prior budgets are needed permanently.
 - b. Audits (April FL #4):** Caltrans requests \$2.9 million to extend by another 2 years, 12 expiring positions. Included in this funding, is \$1.8 million to continue contracting with the State Controller for audits. This funding supports two types of audits of local governments – indirect cost allocation plan audits (which ensure local governments appropriately bill for indirect project costs) and incurred cost audits (which are audits of state and federal reimbursement to locals for transportation projects). Caltrans indicates there have been local compliance problems in the past that could eventually result in federal sanctions if not addressed.
 - c. Accounting (April FL #5):** Caltrans requests various changes netting to \$285,000 to extend by 1 year, or 2 years, as specified, 7 limited-term positions involved in accounting for the federal American Recovery and Reinvestment Act (ARRA). These positions support local governments in their expenditure of ARRA funds by certifying and encumbering the funds, reviewing and processing invoices, and verifying the correct classification of expenditures in accounting records. Of the 7 existing positions in the Administration Division, 5 will be extended by 2 years and 2 positions will be extended by 1 year. Also in this request is the early elimination of 4 positions in the Local Assistance Division that are no longer considered necessary.

Staff Comment: Staff has no concerns with this proposal as it is extending federal funds to support federally required activities.

Staff Recommendation: Approve these Finance Letters.

Vote:

- 3. Proposition 1B Budget Request:** The Governor requests \$2.4 billion in Prop 1B bond funds for programs administered by Caltrans - the Legislature approved this funding level as a placeholder amount. The table below, based on Caltrans's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount	New reversions in June 2011
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$2,789	\$631	\$945
State Transportation Improvement Program (STIP)	\$2,000	\$1,993	\$0	\$1
State Highway Operations and Preservation Program (SHOPP)	\$500	\$308	\$0	\$44
State Route 99 Improvements	\$1,000	\$284	\$392	\$282
Local Bridge Seismic Retrofit	\$125	\$38	\$22	\$37
Intercity Rail	\$400	\$100	\$117	\$125
Grade Separations	\$250	\$250	\$0	\$3
Traffic-Light Synchronization	\$250	\$250	\$0	\$0
Trade Infrastructure	\$2,000	\$581	\$972	\$389
State/Local Partnership	\$1,000	\$339	\$200	\$210
Local Streets & Roads	\$2,000	\$1,950	\$37	\$70
Transit	\$3,600	\$2,450	\$0	\$0
TOTAL for these programs	\$15,625	\$11,332	\$2,371	\$2,107

* Number pending from the Administration.

June 2011 Reversions: The column at the far right indicates Prop 1B bond funds appropriated in prior budgets that have not been allocated and will revert June 30, 2011. The numbers are based on CTC allocations through March 2011, and represent new information since the January budget. For these dollars to be utilized against expenditures, the funds must be appropriated again. Based upon initial analysis, it appears that about \$1 billion in reverted funds will need a new appropriation in order to provided sufficient budget authority for anticipated project allocations in 2011-12.

Staff Comment: Caltrans should explain the reasons why \$2.1 billion dollars from prior budgets has not been allocated and the reasons for project delays. The Administration will likely have a May Revision Finance Letter to adjust Prop 1B appropriations. While the exact numbers may not be known at this time, the Administration should be prepared to discuss their analysis, and assumptions of bond sales and project delivery. Due to no bond sales this spring, a timely budget and timely fall bond sales is even more important for projects this year.

Staff Recommendation: Take no action – a May Revision Finance Letter is anticipated to adjust Prop 1B appropriation levels.

- 4. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor’s Budget):** In the January Budget, the Administration requested \$27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. The Legislature augmented that funding level by \$133.4 million to restore funds for programmed projects that were vetoed last year by Governor Schwarzenegger. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A “provides \$950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock.”

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC’s plan. The amount appropriated totaled \$234.4 million, but Governor Schwarzenegger vetoed the amount down to \$100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls.

Staff Comment: Governor Brown’s proposed budget is consistent with Governor Schwarzenegger’s policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC’s program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The CTC indicates it has adjusted its program of Prop 1A projects in both September 2010 and March 2011. The adjusted program of projects would require an additional amount of about \$101 million to cover allocations through June 2012. This would be in addition to the \$133 million augmentation the Legislature approved in February. Finally, past Prop 1B appropriations have included budget language allowing the appropriation to be increased by 25 percent administratively if projects are delivered for construction early – this approach could also be considered for Prop 1A intercity and urban rail projects.

Staff Recommendation: Approved a revised funding level for intercity and urban rail Prop 1A funds to conform to the adjusted CTC program of projects and add the 25-percent contingency language if projects are ready for construction early.

Vote:

- 5. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1):** In the January budget, the Governor requested an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Legislature rejected this request without prejudice to allow additional time for review. The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate Compliance	Strategy	# of Equip.	Cost (in 1000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The 2010-11 budget appropriated \$57.3 million to bring 435 vehicles into compliance. It was later determined that the Department's overall compliance plan did not actually bring the Department into compliance with the Air Resources Board (ARB) requirements. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan. The new compliance plan focused on retrofits instead of replacements in 2010-11 and results in expenditure savings of about \$47 million in this fiscal year. The Department developed the 2011-12 request based on this new joint compliance agreement between the California Air Resources Board (ARB) and the Department.

Staff Comments: Neither Caltrans nor the ARB expect any changes to the compliance plan or ARB regulations. The Governor issued Executive Order B-2-11 on January 28, 2011, which requires state agencies to conduct an analysis of their fleets and equipment and submit the analysis to the Department of General Services (DGS). The executive order also requires the Department of Finance to adjust departmental budgets to reflect any savings. If Caltrans reduces its fleet pursuant to the order, there could be some resulting savings from reduced vehicle replacement. It is unclear if the DGS evaluation and calculation of savings by department will be completed and submitted to the Legislature with the May Revision. The Administration could alternatively score the savings within Budget Control Section 3.91 that allows savings across departments.

Staff Recommendation: Approve the January budget request. Direct staff to bring the issue back at a future hearing if the Administration identifies a fleet reduction and Caltrans savings as a result of the executive order.

Vote:

6. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4): In the January budget, the Administration proposed to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The Legislature rejected this request without prejudice to allow additional time for review. The overall funding for PIDs would increase \$2.4 million – from \$30.6 million to \$33.0 million (with \$24.3 million SHA-funded and \$8.6 million reimbursement-funded). A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issues in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PIDs work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto of the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and \$7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown’s budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PIDs program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

April 1, 2011, Report : Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects. The report indicates reimbursement agreements on 3 projects have been completed and another 15 are being negotiated. However, these represent only a small fraction of the anticipated reimbursable workload.

April 19, 2011, Caltrans Letter to Locals: In a letter dated April 19, 2011, Caltrans informed locals of interim guidance for the development of PIDs. The letter indicates that effective immediately all PIDs developed for the State Transportation Improvement Program (STIP) and special funded projects will use the Project Study

Report-Project Development Support (PSR-PDS) process. The letter says that the PSR-PDS is a streamlined PID document that does not require the same level of engineering detail as the traditional Project Study Report (PSR). The amended PID guidance on PSR-PDS development is expected to be completed by July 1, 2011.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. Additionally, the contract required with locals for a PIDs reimbursement appears to currently be a lengthy process that can result in a six-month delay. The staff at Caltrans has been reduced to zero-base the workload and Caltrans has – as of April 19, 2011 – implemented a streamlined PID. It is unclear if the streamlined PID will result in a reduced staffing need.

Progress is underway for zero-basing and streaming PIDs workload – so the major reforms seem to be underway. Using local reimbursement as a mechanism to drive the reform may not be necessary and may produce new inefficiencies such as the need for reimbursement agreements.

Staff Recommendation: Approve the Governor's proposed staffing level of 260 positions for PIDs, but reject local reimbursements for PID, and fund from the State Highway Account. Direct staff to bring this issue back at a later hearing if the streamlined PIDs result in workload adjustments.

Vote:

- 7. Advertising on Changeable Message Signs (Informational Issue).** Last year, the Schwarzenegger Administration requested budget trailer bill language to allow advertising on highway Changeable Message Signs (CMSs). Caltrans applied to the federal government for a waiver to implement the program.

Action by the Subcommittee : The Subcommittee rejected the proposal and adopted budget bill language to specify that advertising on CMSs would be prohibited without future legislation that authorized the practice.

Provision _. Any advertising on freeway changeable message signs in 2010-11 and thereafter, shall be permitted only upon enactment of subsequent legislation that authorizes such activity.

Final 2010-11 Budget: Governor Schwarzenegger continued to advocate for the CMS language, and the budget package negotiated by the Governor and the legislative leaders included the deletion of the budget bill language and the addition of Governor Schwarzenegger's trailer bill language authorizing advertising on CMSs. However, the transportation budget trailer bill failed to achieve the required two-thirds majority vote on the Senate Floor and the CMS language was not enacted.

Current Status: Governor Brown has not proposed any budget action in this area. Caltrans indicates the waiver request to the federal government has been withdrawn.

Staff Comment: Caltrans should update the Subcommittee on this this issues, indicating the Brown Administration position, and the status of the waiver request.

Attachment A

Statement on California High-Speed Rail by:

Congresswoman Anna G. Eshoo

Senator S. Joseph Simitian

Assemblyman Richard S. Gordon

April 18, 2011

Since the passage of Proposition 1A in 2008, each of us has expressed our support for “high-speed rail done right,” by which we mean a genuinely statewide system that makes prudent use of limited public funds and which is responsive to legitimate concerns about the impact of high-speed rail on our cities, towns, neighborhoods and homes.

To date, however, the California High Speed Rail Authority has failed to develop and describe such a system for the Peninsula and South Bay. For

that reason, we have taken it upon ourselves today to set forth some basic parameters for what “high-speed rail done right” looks like in our region.

We start with the premise that for the Authority to succeed in its statewide mission it must be sensitive and responsive to local concerns about local impacts. Moreover, it is undeniable that funding will be severely limited at both the state and national levels for the foreseeable future.

Much of the projected cost for the San Jose to San Francisco leg of the project is driven by the fact that the Authority has, to date, proposed what is essentially a second rail system for the Peninsula and South Bay, unnecessarily duplicating existing usable infrastructure. Even if such a duplicative system could be constructed without adverse impact along the CalTrain corridor, and we do not believe it can, the cost of such duplication simply cannot be justified.

If we can barely find the funds to do high speed rail right, we most certainly cannot find the funds to do high speed rail wrong.

Accordingly, we call upon the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for *a blended system that integrates high-speed rail with a 21st Century CalTrain.*

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or “viaduct”; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,

- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.

Within the existing right-of-way, at or below grade, a single blended system could allow high-speed rail arriving in San Jose to continue north in a seamless fashion as part of a 21st Century CalTrain (using some combination of electrification, positive train control, new rolling stock and/or other appropriate upgrades) while maintaining the currently projected speeds and travel time for high-speed rail.

The net result of such a system would be a substantially upgraded commuter service for Peninsula and South Bay residents capable of accommodating high-speed rail from San Jose to San Francisco.

All of this is possible, but only if the High-Speed Rail Authority takes this opportunity to rethink its direction.

Over the course of the past 18 months the Authority has come under considerable criticism from the California Legislative Analyst's Office, the Bureau of State Audits, the California Office of the Inspector General, the Authority's own Peer Review Group and the Institute of Transportation Studies at the University of California at Berkeley. The Authority would do well to take these critiques to heart, and to make them the basis for a renewed and improved effort.

Frankly, a great many of our constituents are convinced that the High-Speed Rail Authority has already wandered so far afield that it is too late

for a successful course correction. We hope the Authority can prove otherwise.

An essential first step is a rethinking of the Authority's plans for the Peninsula and South Bay. A commitment to a project which eschews an aerial viaduct, stays within the existing right-of-way, sets aside any notion of a phased project expansion at a later date, and incorporates the necessary upgrades for CalTrain - which would produce a truly blended system along the CalTrain corridor - is the essential next step.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Hearing Outcomes
(see actions under each budget issue)

Day: Thursday, April 28, 2011
Time: 9:30 a.m. or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

2720 California Highway Patrol

Department Overview : The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

January 10 Budget Summary : The Governor proposed total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Current Budget Status: The Legislature acted on all of the CHP's January budget proposals (all were approved). The Governor proposed one technical change in an April Finance Letter which is described below.

Issues Suggested for Vote Only:

- 1. CHP Enhanced Radio System (CHP ERS) (April Finance Letter # 1).** The Administration requests a reappropriation of \$24.1 million for the sixth year of the public safety radio project, which is mostly complete. Due to snow and other challenges, equipment installation on some radio towers is being delayed beyond 2010-11.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$343 million for a savings to the state of \$148 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

Staff Comment: The March 2011 report has been received and indicates the project will be completed in 2011-12 and with a revised cost level of \$351 million (due to timing issues, this report does not reflect an additional \$8 million in savings which has recently been identified).

Staff Recommendation: Approve the April 1 Finance Letter.

Action: Approved Finance Letter on a 3 – 0 vote.

Issue Suggested for Discussion and Vote:

2. Policy for License Plate Reader – Budget Trailer Bill: Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

Detail: The language was developed in consultation with the CHP and privacy advocates. The language in AB 1614 is copied below with new amendments indicated with underlines or strikeouts (amending Vehicle Code Section 2413):

(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.

(c) The Department of the California Highway Patrol shall only make the LPR data available upon formal written request from a law enforcement agency for lawful law enforcement purposes. The request shall only be processed by the appropriate departmental personnel trained in the LPR system and shall include a case number or incidence number. The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a certified law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating stolen vehicles or felony vehicles, vehicles with lost or stolen license plates, vehicles wanted in the connection to the commission of a public offense, missing persons and Amber Alerts and Blue Alerts ~~persons when either are reasonably suspected of being involved in the commission of a public offense.~~

(d) Department personnel shall verify all matches of wanted vehicles or persons through the California Law Enforcement Telecommunications System prior to making an arrest.

(e) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.

~~(f)~~ (f) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, any breaches of the security system, and any changes in policy that affect privacy concerns.

Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modifications – for LPRs.

Action: *Approved the placeholder trailer bill language on a 2 – 1 vote, with Senator Fuller voting no.*

2740 Department of Motor Vehicles

Department Overview : The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

January 10 Budget Summary: The Governor proposed total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Current Budget Status: The Legislature acted on all of the DMV's January budget proposals (all were approved). The Governor proposed one technical change in an April Finance Letter which is described in Issue #2.

Issue Suggested for Discussion and Vote:

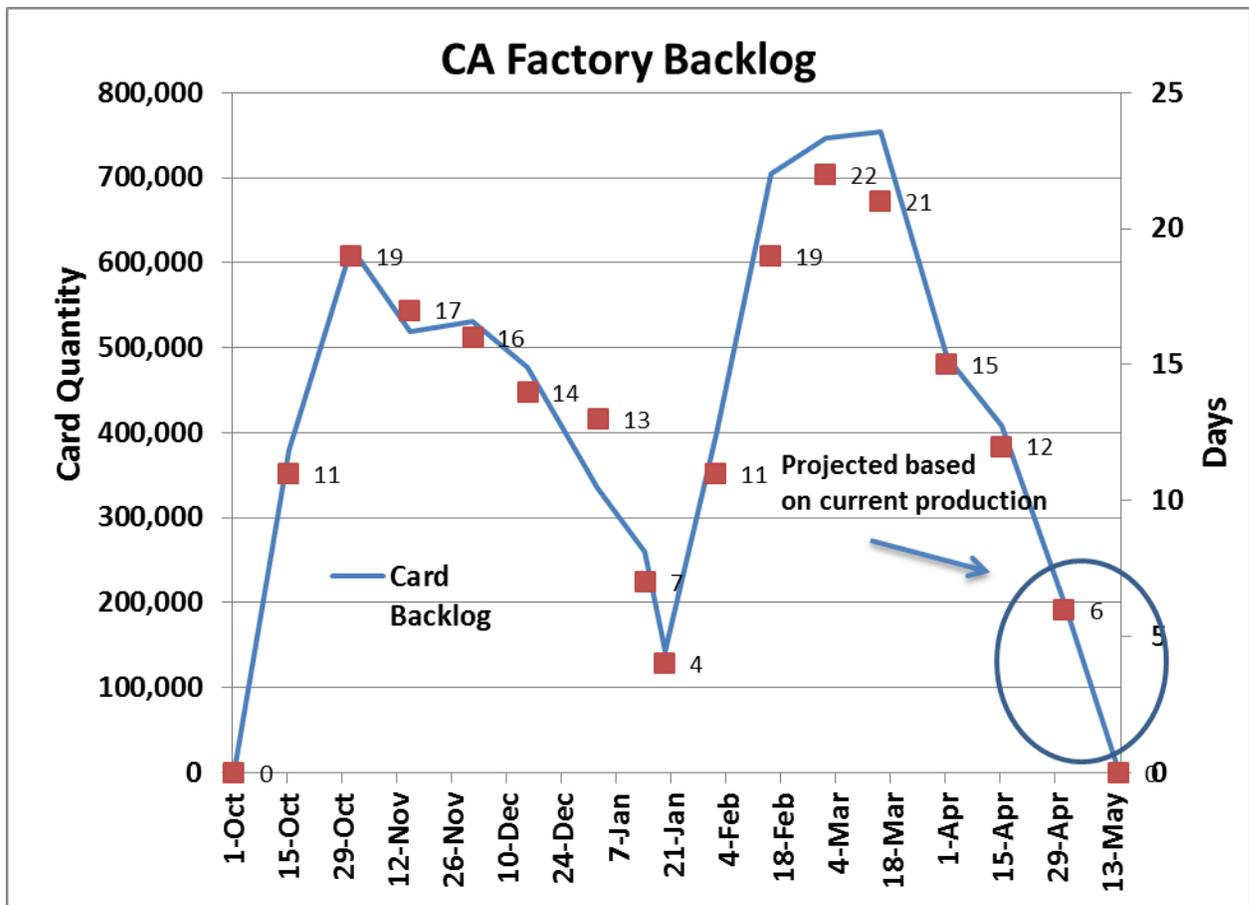
1. Informational Issue on Driver License Cards: The DMV implemented a new driver license / identification (DL/ID) card design on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected some cards.

February 1 Hearing and February 15 Letter: At the Subcommittee #2 hearing on February 1, 2011, the DMV indicated the Department was starting to see improvements with the vendor. In a letter dated February 15, 2011, DMV informed the Committee that it was optimistic the backlog would be eliminated by the end of March 2011. Additionally, DMV extended the duration of the temporary driver license from 60 days to 90 days and served a Notice of Breach letter to L-1.

Current Status: DMV and the vendor missed the March 31 target for clearing the backlog and the chart on the following page was provided by DMV on April 21 to show the historic and projected backlog. The Administration is defining "backlog" as card orders that have been unreturned by L1 within the 48 hours required by the contract. DMV indicates the growth in backlog after January 21 was due to defective UV toner cartridges that caused the cards to print off color. A more comprehensive explanation of the various reasons for delay is outlined in a letter from L-1 Identity Solutions dated April 28, 2011. The Administration's data suggests the April 15 backlog was about 400,000 DL/ID cards and the average delay for those cards was 12 days.

As of April 26, DMV indicates the backlog is 217,000 cards and 7 days. Within this 217,000 backlog, approximately 20,000 are re-orders of defective cards. So most Californians are currently receiving their cards within about three weeks of the application, but about 20,000 Californians are facing wait times of four to six weeks, or more, to receive their cards. Last week's error rate for cards from L1 was about 3 percent, down from the peak error rate of about 20 percent.

Staff Comment: DMV indicates they have not paid L1 for any of the DL/ID cards pending liquidation of the backlog. DMV and the L1 representative should update the Subcommittee on the status of the cards, indicating why the March 31 target was missed, and when all quality issues will be resolved and the backlog cleared.



At the February 1, 2011, hearing, Subcommittee members expressed their high level of concern with the DL/ID card backlog and the necessity to quickly resolve the problem. Since the problem remains unresolved almost 3 months later, the Subcommittee may want to consider the following actions: (1) reduce the DMV’s Driver Licensing and Personal Identification Unit budget by 10 percent, or \$24 million, to keep the issue open in the budget and place the issue in the Budget Conference Committee if necessary; and (2) ask DMV to report progress weekly at scheduled Subcommittee #2 hearings on May 5 and May 12.

Staff Recommendation: Reduce DMV’s budget by \$24 million to keep the budget open by sending it to the Conference Committee, and direct staff to include DMV on the hearing agendas for May 5 and May 12 to receive weekly updates on the DL/ID program.

Action: Held open. The Chair directed staff to add DMV to the May 5 and May 12 hearing agendas, calculate a 20-percent reduction to DMV’s administrative funding, and asked that L1 Identity Solutions attend the May 5 hearing.

- 2. April Capital Outlay Finance Letters:** The Administration submitted three requests to reappropriate funds for state-owned DMV field office facilities. DMV operates a mix of State-owned and leased facilities. Expenditure of these funds was approved last year, and this reappropriation would allow the expenditures to move from 2010-11 to 2011-12.
- **Redding Field Office Reconfiguration Project (Construction Phase):** The Administration requests reappropriation of \$2.9 million (various special funds) for the construction phase of the Redding project. Prior costs of \$495,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$3.4 million. The reconfigured facility will provide additional workload capacity and address physical infrastructure deficiencies.
 - **Fresno Field Office Replacement Project (Construction Phase):** The Administration requests reappropriation of \$18.7 million (various special funds) for the construction phase of the Fresno project. Prior costs of \$2.1 million have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$20.8 million. The new facility would replace the 50-year old customer service field office on the same site with a larger facility.
 - **Oakland Field Office Reconfiguration Project (Construction Phase):** The Administration requests reappropriation of \$2.1 million (various special funds) for the construction phase of the Oakland project. Prior costs of \$300,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$2.4 million. The reconfigured facility would serve as a DMV Business Service Center and the Regional Administrator's Office.

Staff Recommendation: Hold open.

Action: Issue held open.

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA at \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.2 billion is currently "in hand" – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.2 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.8 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of the State positions were authorized last year, and due to the hiring freeze and other factors, only about 19 positions are currently filled.

January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals without prejudice to allow for further review. The High Speed Rail typically receives detailed workload proposals from its contractors in the spring, and that detail is still pending. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions.

Issues Suggested for Discussion

- 1. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo. The complete statement is "Attachment A" at the end of this agenda.

Summary of Statement: The three signers state the following: "We call on the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for a blended system that integrates high-speed rail with a 21st Century CalTrain.

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or "viaduct"; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,
- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible."

Staff Comment: The HSRA should be prepared to fully address the issues raised in the joint statement.

Action: *Held issue open and the Chair ask HSRA Chief Executive Officer Mr. van Ark to return to the Subcommittee on May 5 for further testimony.*

- 2. Update on Federal Funds (Informational Issue):** The HSRA indicates that \$3.2 billion in federal funds have been awarded to California for high-speed rail. This funding comes from three grants: (1) \$1.85 billion of American Recovery and Reinvestment Act (ARRA) funds; (2) \$715 million in federal fiscal-year 2010 funds; and (3) \$616 million in redistributed ARRA funds. When state bond matching funds are added, a total of \$5.5 billion is available for initial construction.

Federal Budget for 2011 and 2012. The recently-enacted federal budget for 2011, zeroed out new funding for high speed rail. This federal action does not affect prior high-speed rail awards to California. President Obama's proposed budget for 2012 includes a national total of \$8.0 billion for high-speed rail.

Florida's HSR Funds: On April 4, 2011, California submitted its grant application to the federal government to receive a portion of \$2.0 billion in high-speed rail funds rejected by the State of Florida. Note – the funds rejected by Florida were actually \$2.4 billion, but the grant level was reduced by \$400 million as part of the federal fiscal-year 2011 budget. California is requesting \$1.4 billion in its application, and would match this with about \$300 million in state bond funds.

Use of Federal Funds: With the \$3.2 billion in federal funds received to date, and with \$2.3 billion in state bond funds, the HSRA proposes to begin construction of the high-speed rail line between Borden (which is 20 miles north of Fresno) and Shafter. If an additional \$1.4 billion in federal funds are awarded, the HSRA would extend the initial construction further north to Merced and further south to Bakersfield.

Staff Comment: The HSRA should update the Subcommittee on the status of federal funds.

Staff Recommendation: This is an informational issue.

Action: *This was an informational issue, no action.*

- 3. Update on HSRA Staffing (Informational Issue):** The HSRA indicates that about 19 of 37 authorized state staff positions are currently filled. AB 105, Statutes of 2011, authorizes the HSRA to hire up to six exempt positions after completion of a salary survey. Governor Brown signed Executive Order B-3-11 on February 15, 2011, which implements a hiring freeze, with specified exemptions.

Staff Comment: The HSRA should update the Subcommittee on the status of filling state positions, including: (1) positions currently filled; (2) status of the salary survey and filling of exempt positions; and (3) status of exemptions from the hiring freeze and target to fully staff the Authority. Finally, the Conference Report, SB 69, includes budget bill language that requires a May 1, 2011, report on opportunities to use state staff, including Caltrans staff, on HSRA work instead of contract staff. While this report may not be submitted prior to the April 28, 2011, hearing, the HSRA should be able to comment on the report's contents.

Staff Recommendation: This is an informational issue.

<i>Action: This was an informational issue, no action.</i>

4. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail on the vendors' 2011-12 workplans is still pending. Upon completion of the workplans, HSRA indicates there will probably be adjustments to the budgeted expenditures by segment via a May Revision Finance Letter. The financial consultant is not yet under contract, but HSRA hopes to sign this contract over the next few weeks and indicates the October 14, 2011, fiscal reporting deadline will be met.

Staff Recommendation: Hold open all BCPs pending additional detail.

Action: Held open all BCPs.

2600 California Transportation Commission

Department Overview : The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposed expenditures of \$3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of \$183,000 and no change in positions. Additionally, the budget includes \$25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described on the next page.

Current Budget Status: The Legislature approved the CTC's baseline budget, but rejected the Budget Change Proposal without prejudice to allow for further review. That BCP is issue #1 on the following page.

Issues proposed for Discussion / Vote:

- 1. Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of \$400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of \$200,000 for this same activity. As indicated on the prior page, this budget request was rejected without prejudice during budget hearings in February, with the intent to review again during spring budget hearings.

Background: The CTC indicates it spent \$160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of \$200,000 each. The CTC indicates that projects utilizing toll financing will involve additional analysis beyond that used for Doyle Drive, and that will likely increase the cost of the analysis.

Caltrans Funding for P3 Analysis: A factor in the CTC's P3 workload is the number of P3 proposals developed by Caltrans. However, this is not the sole determinant, as local governments may also develop and submit P3 proposals. In a letter dated March 10, 2011, Caltrans requested that the Joint Legislative Budget Committee (JLBC) approve a 2010-11 shift of \$4.5 million for the Caltrans development of three P3 proposals. The Legislative Analyst reviewed this request and determined Caltrans would spend little or none of this amount in 2010-11. The JLBC advised the Administration that since most or all of the P3 expenditures would be in 2011-12, a May Revision Finance Letter and budget committee review would be the appropriate mechanism to consider budget funding. It is not known at this time if the Administration will submit a May Finance Letter for Caltrans P3 expenditures.

Staff Comment: It is unclear if Caltrans or any local governments will submit a P3 proposal to the CTC for review in 2011-12. However, to the extent proposals are submitted, it is consistent with statutory direction, and good policy, for the CTC to thoroughly analyze the proposals. Given this uncertainty on the P3 workload in 2011-12, the Subcommittee may want to consider flexible budget bill language for funding instead of a fixed appropriation.

Staff Recommendation: Reject the \$400,000 in funding and instead adopt Budget Bill Language authorizing DOF to augment the CTC budget up to \$400,000, with JLBC notification, if needed to evaluate projects.

Action: Approved staff recommendation on a 2 – 1 vote, with Senator Fuller voting no.

2660 Department of Transportation

Department Overview : The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Current Budget Status: The Legislature approved the Caltrans baseline budget and a number of January Budget Change Proposals (BCPs) but rejected three proposals without prejudice to allow for further review. Those BCPs that were rejected without prejudice and new April 1 Finance Letters are included in this agenda.

Issues proposed for Vote Only:

- 1. California Household Travel Survey (April FL #7):** The Administration requests authority to receive \$2.8 million (over two years) in reimbursements from local planning entities and the California Energy Commission to complete the California Household Travel Survey (Survey). Caltrans is lead partner for the Survey that will update the 10-year travel model. The Survey supports transportation planning at the state and regional level and supports sustainable development and the objectives of SB 375. Caltrans is absorbing the baseline survey cost of \$7.2 million within its existing budget, but has coordinated with the other entities to add data to the survey to meet their needs and avoid the need for duplicative studies. With the reimbursement funding, 60,000 households will be surveyed instead of 43,000.

Staff Recommendation: Approve this request.

Action: *Approved request on a 2 – 1 vote with Senator Fuller voting no.*

Issues proposed for Discussion and Vote:

- 2. Continue limited-term positions for federal requirements (April Finance Letters):** The Governor requests an extension of position authority for a net of 21 positions and a total of \$3.8 million in redirected federal funds to continue work in various audit, accounting, and reporting areas related to Caltrans oversight of local governments' expenditure of federal dollars. The three requests are as follows:
- a. Environmental Reviews (April FL #3):** Caltrans requests \$591,000 to make permanent 6 expiring positions. These staff review the environmental documents for local projects funded with federal funds to comply with federal requirements. Caltrans indicates the federal workload is ongoing, and all of these positions approved in prior budgets are needed permanently.
 - b. Audits (April FL #4):** Caltrans requests \$2.9 million to extend by another 2 years, 12 expiring positions. Included in this funding, is \$1.8 million to continue contracting with the State Controller for audits. This funding supports two types of audits of local governments – indirect cost allocation plan audits (which ensure local governments appropriately bill for indirect project costs) and incurred cost audits (which are audits of state and federal reimbursement to locals for transportation projects). Caltrans indicates there have been local compliance problems in the past that could eventually result in federal sanctions if not addressed.
 - c. Accounting (April FL #5):** Caltrans requests various changes netting to \$285,000 to extend by 1 year, or 2 years, as specified, 7 limited-term positions involved in accounting for the federal American Recovery and Reinvestment Act (ARRA). These positions support local governments in their expenditure of ARRA funds by certifying and encumbering the funds, reviewing and processing invoices, and verifying the correct classification of expenditures in accounting records. Of the 7 existing positions in the Administration Division, 5 will be extended by 2 years and 2 positions will be extended by 1 year. Also in this request is the early elimination of 4 positions in the Local Assistance Division that are no longer considered necessary.

Staff Comment: Staff has no concerns with this proposal as it is extending federal funds to support federally required activities.

Staff Recommendation: Approve these Finance Letters.

Action: Approved request on a 2 – 1 vote with Senator Fuller voting no.
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- 3. Proposition 1B Budget Request:** The Governor requests \$2.4 billion in Prop 1B bond funds for programs administered by Caltrans - the Legislature approved this funding level as a placeholder amount. The table below, based on Caltrans's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount	New reversions in June 2011
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$2,789	\$631	\$945
State Transportation Improvement Program (STIP)	\$2,000	\$1,993	\$0	\$1
State Highway Operations and Preservation Program (SHOPP)	\$500	\$308	\$0	\$44
State Route 99 Improvements	\$1,000	\$284	\$392	\$282
Local Bridge Seismic Retrofit	\$125	\$38	\$22	\$37
Intercity Rail	\$400	\$100	\$117	\$125
Grade Separations	\$250	\$250	\$0	\$3
Traffic-Light Synchronization	\$250	\$250	\$0	\$0
Trade Infrastructure	\$2,000	\$581	\$972	\$389
State/Local Partnership	\$1,000	\$339	\$200	\$210
Local Streets & Roads	\$2,000	\$1,950	\$37	\$70
Transit	\$3,600	\$2,450	\$0	\$0
TOTAL for these programs	\$15,625	\$11,332	\$2,371	\$2,107

* Number pending from the Administration.

June 2011 Reversions: The column at the far right indicates Prop 1B bond funds appropriated in prior budgets that have not been allocated and will revert June 30, 2011. The numbers are based on CTC allocations through March 2011, and represent new information since the January budget. For these dollars to be utilized against expenditures, the funds must be appropriated again. Based upon initial analysis, it appears that about \$1 billion in reverted funds will need a new appropriation in order to provided sufficient budget authority for anticipated project allocations in 2011-12.

Staff Comment: Caltrans should explain the reasons why \$2.1 billion dollars from prior budgets has not been allocated and the reasons for project delays. The Administration will likely have a May Revision Finance Letter to adjust Prop 1B appropriations. While the exact numbers may not be known at this time, the Administration should be prepared to discuss their analysis, and assumptions of bond sales and project delivery. Due to no bond sales this spring, a timely budget and timely fall bond sales is even more important for projects this year.

Staff Recommendation: Take no action – a May Revision Finance Letter is anticipated to adjust Prop 1B appropriation levels.

Action: Held open for May Revision.
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- 4. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor’s Budget):** In the January Budget, the Administration requested \$27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. The Legislature augmented that funding level by \$133.4 million to restore funds for programmed projects that were vetoed last year by Governor Schwarzenegger. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A “provides \$950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock.”

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC’s plan. The amount appropriated totaled \$234.4 million, but Governor Schwarzenegger vetoed the amount down to \$100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls.

Staff Comment: Governor Brown’s proposed budget is consistent with Governor Schwarzenegger’s policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC’s program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The CTC indicates it has adjusted its program of Prop 1A projects in both September 2010 and March 2011. The adjusted program of projects would require an additional amount of about \$101 million to cover allocations through June 2012. This would be in addition to the \$133 million augmentation the Legislature approved in February. Finally, past Prop 1B appropriations have included budget language allowing the appropriation to be increased by 25 percent administratively if projects are delivered for construction early – this approach could also be considered for Prop 1A intercity and urban rail projects.

Staff Recommendation: Approved a revised funding level for intercity and urban rail Prop 1A funds to conform to the adjusted CTC program of projects and add the 25-percent contingency language if projects are ready for construction early.

Action: *Approved staff recommendation on a 2 – 1 vote, with Senator Fuller voting no.*

- 5. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1):** In the January budget, the Governor requested an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Legislature rejected this request without prejudice to allow additional time for review. The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate Compliance	Strategy	# of Equip.	Cost (in 1000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The 2010-11 budget appropriated \$57.3 million to bring 435 vehicles into compliance. It was later determined that the Department's overall compliance plan did not actually bring the Department into compliance with the Air Resources Board (ARB) requirements. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan. The new compliance plan focused on retrofits instead of replacements in 2010-11 and results in expenditure savings of about \$47 million in this fiscal year. The Department developed the 2011-12 request based on this new joint compliance agreement between the California Air Resources Board (ARB) and the Department.

Staff Comments: Neither Caltrans nor the ARB expect any changes to the compliance plan or ARB regulations. The Governor issued Executive Order B-2-11 on January 28, 2011, which requires state agencies to conduct an analysis of their fleets and equipment and submit the analysis to the Department of General Services (DGS). The executive order also requires the Department of Finance to adjust departmental budgets to reflect any savings. If Caltrans reduces its fleet pursuant to the order, there could be some resulting savings from reduced vehicle replacement. It is unclear if the DGS evaluation and calculation of savings by department will be completed and submitted to the Legislature with the May Revision. The Administration could alternatively score the savings within Budget Control Section 3.91 that allows savings across departments.

Staff Recommendation: Approve the January budget request. Direct staff to bring the issue back at a future hearing if the Administration identifies a fleet reduction and Caltrans savings as a result of the executive order.

Action: Held open for May Revision.
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6. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4): In the January budget, the Administration proposed to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The Legislature rejected this request without prejudice to allow additional time for review. The overall funding for PIDs would increase \$2.4 million – from \$30.6 million to \$33.0 million (with \$24.3 million SHA-funded and \$8.6 million reimbursement-funded). A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issues in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PIDs work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto of the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and \$7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown’s budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PIDs program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

April 1, 2011, Report : Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects. The report indicates reimbursement agreements on 3 projects have been completed and another 15 are being negotiated. However, these represent only a small fraction of the anticipated reimbursable workload.

April 19, 2011, Caltrans Letter to Locals: In a letter dated April 19, 2011, Caltrans informed locals of interim guidance for the development of PIDs. The letter indicates that effective immediately all PIDs developed for the State Transportation Improvement Program (STIP) and special funded projects will use the Project Study

Report-Project Development Support (PSR-PDS) process. The letter says that the PSR-PDS is a streamlined PID document that does not require the same level of engineering detail as the traditional Project Study Report (PSR). The amended PID guidance on PSR-PDS development is expected to be completed by July 1, 2011.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. Additionally, the contract required with locals for a PIDs reimbursement appears to currently be a lengthy process that can result in a six-month delay. The staff at Caltrans has been reduced to zero-base the workload and Caltrans has – as of April 19, 2011 – implemented a streamlined PID. It is unclear if the streamlined PID will result in a reduced staffing need.

Progress is underway for zero-basing and streaming PIDs workload – so the major reforms seem to be underway. Using local reimbursement as a mechanism to drive the reform may not be necessary and may produce new inefficiencies such as the need for reimbursement agreements.

Staff Recommendation: Approve the Governor's proposed staffing level of 260 positions for PIDs, but reject local reimbursements for PID, and fund from the State Highway Account. Direct staff to bring this issue back at a later hearing if the streamlined PIDs result in workload adjustments.

Action: Approved Staff Recommendation on a 2 – 0 vote with Senator Simitian and Senator Lowenthal voting aye.

- 7. Advertising on Changeable Message Signs (Informational Issue).** Last year, the Schwarzenegger Administration requested budget trailer bill language to allow advertising on highway Changeable Message Signs (CMSs). Caltrans applied to the federal government for a waiver to implement the program.

Action by the Subcommittee : The Subcommittee rejected the proposal and adopted budget bill language to specify that advertising on CMSs would be prohibited without future legislation that authorized the practice.

Provision _. Any advertising on freeway changeable message signs in 2010-11 and thereafter, shall be permitted only upon enactment of subsequent legislation that authorizes such activity.

Final 2010-11 Budget: Governor Schwarzenegger continued to advocate for the CMS language, and the budget package negotiated by the Governor and the legislative leaders included the deletion of the budget bill language and the addition of Governor Schwarzenegger's trailer bill language authorizing advertising on CMSs. However, the transportation budget trailer bill failed to achieve the required two-thirds majority vote on the Senate Floor and the CMS language was not enacted.

Current Status: Governor Brown has not proposed any budget action in this area. Caltrans indicates the waiver request to the federal government has been withdrawn.

Staff Comment: Caltrans should update the Subcommittee on this this issues, indicating the Brown Administration position, and the status of the waiver request.

Action: Held open. The Chair directed staff to prepare a letter to the Federal Highway Administration stating opposition to advertising on changeable message signs and to draft budget language for consideration at a future hearing.

Attachment A

Statement on California High-Speed Rail by:

Congresswoman Anna G. Eshoo

Senator S. Joseph Simitian

Assemblyman Richard S. Gordon

April 18, 2011

Since the passage of Proposition 1A in 2008, each of us has expressed our support for “high-speed rail done right,” by which we mean a genuinely statewide system that makes prudent use of limited public funds and which is responsive to legitimate concerns about the impact of high-speed rail on our cities, towns, neighborhoods and homes.

To date, however, the California High Speed Rail Authority has failed to develop and describe such a system for the Peninsula and South Bay. For

that reason, we have taken it upon ourselves today to set forth some basic parameters for what “high-speed rail done right” looks like in our region.

We start with the premise that for the Authority to succeed in its statewide mission it must be sensitive and responsive to local concerns about local impacts. Moreover, it is undeniable that funding will be severely limited at both the state and national levels for the foreseeable future.

Much of the projected cost for the San Jose to San Francisco leg of the project is driven by the fact that the Authority has, to date, proposed what is essentially a second rail system for the Peninsula and South Bay, unnecessarily duplicating existing usable infrastructure. Even if such a duplicative system could be constructed without adverse impact along the CalTrain corridor, and we do not believe it can, the cost of such duplication simply cannot be justified.

If we can barely find the funds to do high speed rail right, we most certainly cannot find the funds to do high speed rail wrong.

Accordingly, we call upon the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for *a blended system that integrates high-speed rail with a 21st Century CalTrain.*

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or “viaduct”; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,

- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.

Within the existing right-of-way, at or below grade, a single blended system could allow high-speed rail arriving in San Jose to continue north in a seamless fashion as part of a 21st Century CalTrain (using some combination of electrification, positive train control, new rolling stock and/or other appropriate upgrades) while maintaining the currently projected speeds and travel time for high-speed rail.

The net result of such a system would be a substantially upgraded commuter service for Peninsula and South Bay residents capable of accommodating high-speed rail from San Jose to San Francisco.

All of this is possible, but only if the High-Speed Rail Authority takes this opportunity to rethink its direction.

Over the course of the past 18 months the Authority has come under considerable criticism from the California Legislative Analyst's Office, the Bureau of State Audits, the California Office of the Inspector General, the Authority's own Peer Review Group and the Institute of Transportation Studies at the University of California at Berkeley. The Authority would do well to take these critiques to heart, and to make them the basis for a renewed and improved effort.

Frankly, a great many of our constituents are convinced that the High-Speed Rail Authority has already wandered so far afield that it is too late

for a successful course correction. We hope the Authority can prove otherwise.

An essential first step is a rethinking of the Authority's plans for the Peninsula and South Bay. A commitment to a project which eschews an aerial viaduct, stays within the existing right-of-way, sets aside any notion of a phased project expansion at a later date, and incorporates the necessary upgrades for CalTrain - which would produce a truly blended system along the CalTrain corridor - is the essential next step.

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

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda--PART A
Thursday, May 5, 2011
9:30 am or upon adjournment of session
Hearing Room 4203

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

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR VOTE-ONLY**3720 California Coastal Commission**

1. FL-1: Coastal Data Management System Upgrade. The Governor requests a one-time augmentation of \$1.1 million (special funds and federal funds) to be available over two years for purchase, installation, and implementation of a commercial (off the shelf) integrated database system and related upgraded database software, licensing, and hardware to meet the goals of the Coastal Commission's data base modernization project.

3810 Santa Monica Mountains Conservancy

2. FL-1: Technical Change—Proposition 50. The governor requests to revert \$105,297 Proposition 50 funds. Proposition 50 allocated \$18 million to the conservancy for projects related to the Los Angeles River watershed. The Governor's budget proposed to re-appropriate the balance of Proposition 50 funds from a 2006 appropriation. However, previous budget acts inadvertently over-appropriated the Proposition 50 bond allocation to the conservancy so the reversion is necessary to provide a corrected appropriation.

3825 San Gabriel and Lower LA Rivers and Mountains Conservancy

3. FL-1: Proposition 50 Capital Outlay and Grants. The Governor requests \$705,000 for new acquisition and improvement projects consistent with the adopted work plan and open space plans. These include mainly grant funding for Coyote Creek Regional Trail Improvements, Encanto Park Bioswale, and Legg Lake Fishing Pier.

4. FL-2: Re-appropriation of Proposition 50, Capital Outlay and Grants. Reappropriation of \$605,000 for currently authorized and approved improvement projects including Puente Creek Nature Education Center (City of La Puente) and San Gabriel River Enhancement Development Project (City of Seal Beach).

3835 Baldwin Hills Conservancy

5. FL-1: Re-Appropriation of Propositions 40 and 84. The Governor requests budget bill language to re-appropriate Proposition 40 and Proposition 84 bond funds due to delays in state bond sales. The proposed re-appropriation will allow approximately \$6.3 million of bond funds to be used to acquire priority acquisition consistent with the Baldwin Hills Park Master Plan.

3850 Coachella Valley Mountains Conservancy

6. FL-1: Proposition 84 Reversal. The Governor requests a correction to revert approximately \$40,000 from previous budget acts. This request is a necessary technical adjustment to ensure that the bond funds are not over-subscribed.

3875 Sacramento-San Joaquin Delta Conservancy

7. FL-1: Delta Operational Support. The Governor requests \$165,000 from the Environmental License Plate fund for technical consultation to complete the required Delta Conservancy strategic plan and to enable the conservancy to relocate within the legal Delta.

Staff Recommendation: APPROVE ITEMS 1-7.

VOTE:

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency.

Governor's Budget. The Governor's January Budget includes \$62.8 million to support the Secretary for Natural Resources. This is an 85 percent decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Items Proposed for Vote-Only

1. FL-1: State wide Bond Oversight, Re-Appropriations, Extensions and Reversions. The Governor requests minor increases for statewide oversight of bond expenditures at the Secretary level; an extension of liquidation for the River Parkway project due mainly to the 2008 bond freeze; and a reversion of \$7.4 million (unused funds) from Proposition 84 from the San Joaquin River Restoration program.

2. FL-2: Coastal Impact Assistance Program. The Governor requests federal funding authority for \$3.5 million to enable the Agency to receive federal funds for the Coastal Impact Assistance Program (CIAP). The federally approved state CIAP plan includes 25 projects totaling \$26 million. The balance of California's CIAP allocation, \$9 million, will be allocated through the remainder of 2010-11 and 2011-12.

Staff Recommendation: Approve Items 1-2.

Vote:

*Items Proposed for Discussion***3. Budget Bill Language—Capital Outlay for State Conservancies**

Background. Included within the budget bill for state conservancies and the Wildlife Conservation Board under the Secretary for Natural Resources is provisional language to change the manner in which state conservancies report to control agencies (Department of Finance and others) their expenditures for Capital Outlay and state operations. Generally the language is thus:

Provisions:

The ___ Conservancy may encumber funds for either capital outlay or local assistance grants until June 30, 2014. The term capital outlay as used in conjunction with this appropriation means the acquisition, design, or construction of improvements on land owned, or leased, by the state.

According to the administration, the purpose of this clarification is “truth in budgeting” and to provide guidelines for the conservancies to separate local assistance expenditure from capital outlay funding consistent with the state administrative manual (SAM Manual). The language is intended in part to separate local assistance (mainly grants) from direct expenditures by the state.

A pilot project with the Wildlife Conservation Board was implemented and the board has been able to comply with the new language though this agency’s mission is more narrow than most conservancies. All conservancies were contacted in September 2010 to alert them to the new language. According to the Department of Finance, there have been no issues raised by state conservancies about the language.

Staff Comments. A number of issues have been raised about the intent and practical application of the language. The language would seem to over-ride provisions of Proposition 84, a voter-approved initiative. While due diligence and truth in budgeting are necessary, the administration should be able to accomplish these tasks without restricting unnecessarily the use of bond funds (as the budget bill language does).

The committee may wish to ask:

1. What is the intent of the language?
2. How will conservancies handle educational, interpretive, and support activities that are allowed by voter-approved bonds but restricted by this language?
3. Have any state conservancies raised issues with the language?

Recommendation. REMOVE BBL PROVISIONS from appropriations at all affected agencies and conservancies.

VOTE:

3110 Tahoe Regional Planning Agency 3125 California Tahoe Conservancy

Joint Issue—Lake Tahoe Environmental Improvement Program and Land Use Planning in the Tahoe Basin

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

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

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

Staff Comments. Both the Conservancy and TRPA have met with staff to discuss their accomplishments regarding their efforts to meet environmental thresholds defined in the regional plan. They also discussed current efforts to increase water quality and anticipated work required to meet the forthcoming Total Maximum Daily Load. Staff had questions about their efforts to coordinate with other state agencies, adopt a regional plan update that meets environmental thresholds, and their efforts to approve developments that meet threshold criteria.

The committee may wish to ask both state agencies to:

- Update the subcommittee on bi-state issues including Nevada state legislation regarding TRPA and the recently approved total maximum daily load requirements.
- Summarize what the conservancy and TRPA are doing to meet environmental thresholds and water quality objectives in the basin.
- Provide an anticipated timeline for adoption of the next version of the regional plan.

Recommendation. (Individual budget proposals follow in a separate item.)

Adopt Supplemental Reporting Language and Budget Bill Language as follows to ensure the highest level of cooperation among state agencies in the Tahoe Basin, to ensure adequate reporting on planning efforts to meet environmental thresholds, and to report on progress made with the Environmental Improvement Program.

Adopt Supplemental Reporting Language and Budget Bill Language

Adopt Budget Bill Language—3110 Tahoe Regional Planning Agency

- a. TRPA shall, by September 1, 2011, adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds. The strategy shall be submitted to the California Joint Legislative Budget Committee.

Adopt Supplemental Reporting Language—3110 Tahoe Regional Planning Agency

- b. TRPA shall, by December 31, 2011, in coordination with the California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources, report on its progress in developing and adopting a five-year evaluation report, including peer review coordinated by the Tahoe Science Consortium, on the status of TRPA's environmental threshold carrying capacities. To broaden scientific involvement, the peer review, shall include a majority of scientists from institutions or agencies who are not participating as signatories to the memorandum of agreement that established the consortium.

Adopt Supplemental Reporting Language—3125 California Tahoe Conservancy

- c. To maximize the effectiveness of state resources and to better implement the Environmental Improvement Program (EIP), by December 1, 2011, the Conservancy, in coordination with the Department of Parks and Recreation, the Lahontan Regional Water Quality Control Board, the Department of Transportation, the State Lands Commission, CalFire, the Department of Fish and Game, and other appropriate state, local, and federal agencies, shall develop a report on its progress in coordinating, integrating, and recommending efficiencies in state agency planning and project implementation in the Tahoe basin, including but not limited to: joint use of staff, crews, equipment, office space, and facilities; land exchanges that would increase management efficiencies; and coordinated funding and implementation of EIP projects and programs, Caltrans' complete streets implementation action plan, climate change mitigation and adaptation strategies, and an interagency watershed-based approach to the Lake Tahoe TMDL. This report shall also identify programmatic or policy-based improvements that public agencies could make to improve the effort described in this subdivision.
- d. The Conservancy, in coordination with TRPA and other state and local agencies, shall:
 - i. Provide a summary of state agency expenditures, accomplishments, priority projects and programs, and other activities and resources needed to help achieve TRPA's environmental thresholds and to fulfill California's responsibilities under the Lake Tahoe Environmental Improvement Program (EIP).
 - ii. Provide a summary of the agencies' progress in developing a Sustainable Communities Strategy for the Lake Tahoe basin, as required under SB 375 and AB 32, and any changes in state agency policies or practices needed to further develop and accomplish the goals of the plan.

Vote:

*Items Proposed for Vote Only***3110 Special Resources Programs**

- 1. Base Budget—Tahoe Regional Planning Agency .** The Governor requests \$4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (a program within the Special Resources Programs budget).

3125 California Tahoe Conservancy

- 2. BCP-1: Implementation of the Environmental Improvement Program for the Lake Tahoe Basin.** The Governor requests \$15.8 million (multiple funding sources, no General Fund) to continue capital outlay and local assistance funding for the implementation of the Environmental Improvement Program for the Lake Tahoe Basin.
- 3. BCP-2: Reappropriations.** The Governor requests various re-appropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze.

Technical Finance Letters:

Fund/Program Technical	Adjustment	Amount
4. Tahoe Conservancy	Habitat Conservation Fund extension of liquidation for Truckee River.	\$72,000

Staff Recommendation: APPROVE Items 1-4

Vote:

3480 Department of Conservation

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

Governor's Budget. The Governor's Budget includes \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment
1. Plan of Financial Adjustment	Request for trailer bill language to enable DOC to use the Oil, Gas, and Geothermal Administrative Fund as its main appropriation, or clearing account. This adjustment is necessary due to a shift of the Beverage Container Recycling Fund (previous clearing house fund) to the newly formed Department of Recycling Recovery and Renewal.
2. Bond Funding Technical Corrections	Request to align Proposition 50 and Proposition 84 appropriations with expected expenditures, and to re-appropriate Proposition 84 funds for the conservation of agricultural and open space land resources programs.

Recommendation: APPROVE Technical Finance Letters 1-2

ITEMS PROPOSED FOR DISCUSSION**1. BCP-6: Watershed Implementation Re-appropriation.**

Background. The Governor requests re-appropriation of \$1.2 million in unencumbered Proposition 50 bond funds to continue implementation of the former watershed element of the CALFED Bay-Delta Program through DOC's Statewide Watershed Program.

Staff Comments. In the 2010-11 Budget, the Legislature transferred most CALFED Bay-Delta Program activities, including certain oversight objectives, to the Delta Stewardship Council. At the same time, the Council was required to submit a zero-based budget in FY 2011-12 for all entities receiving former CALFED resources. This was, in part, to help the Legislature prioritize funding for Bay-Delta activities pending the adoption of a Delta Plan by the Council.

The Council has requested to postpone the submission of the zero-based budget to coordinate with the completion of the Delta Plan. It would be appropriate to hold non-essential bond-funded activities off until a clear plan for the Delta is in place, and priorities for funding are made clear to the Legislature.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied the proposal. The budget bill (SB 69) denied the proposal without prejudice.

Recommendation: HOLD OPEN

Vote:

2. BCP-9: Implementation of AB 2453.

Background. The Governor requests a baseline appropriation of \$145,000 (special funds) for the Division of Oil, Gas, and Geothermal Resources (DOGGR). Funding is requested to increase legal workload as a result of Chapter 264, Statutes of 2010 (AB 2453, Tran) described below. The department plans to redirect a vacant position to support DOGGR's legal needs.

AB 2453 substantially strengthens procedural safeguards following an Appellate Court ruling regarding deficiencies in the existing appeals provisions in statute. AB 2453 provisions revise DOGGR enforcement actions and provides for use of formal administrative hearings for certain appeals. Changes to the appeal process will increase workload for Department attorneys.

The division (DOGGR) is currently undergoing restructuring following direction of the legislature during budget hearings last year. In the 2010-11 budget, the Legislature approved \$3.2 million and 17 permanent positions to augment the Underground Injection Control and Enhanced Oil Recovery Program.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied the proposal without prejudice. The committee requested the department return in the spring with an update on enforcement and permitting actions, as well as a report on its efforts to fill the existing 17 Division of Oil, Gas, and Geothermal Resources positions.

Staff Comments. The administration has indicated that the department has been successful in its efforts to waive the hiring freeze for these positions.

The department should be prepared to discuss:

- Where the department is in the process of filling the 17 positions;
- The impact these positions have had on permitting levels and compliance with state and federal law.
- Status of the program overall.

Recommendation. APPROVE PROPOSAL

Vote:

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment	Amount
1. Office of Oil Spill Prevention and Response	Technical request to correct the exclusion of a prior year cash flow loan. The result will resort in \$2.6 million in Oil Spill Prevention and Administration Fund expenditure authority that was reduced as a result of the incorrect fund balance.	\$2.6 million (correction of special fund)
2. Big Game Management Account	Request to increase the Big Game Management Account per Chapter 408, Statutes of 2010 (SB 1058) in an effort to consolidate three existing subaccounts: Deer, Bighorn Sheep, and Wild Pig.	\$1.5 million (consolidation of special funds)

Recommendation: APPROVE Technical Finance Letters 1-2

ITEM PROPOSED FOR DISCUSSION**1. COBCP-10: Ash Creek Wildlife Area—Elkins Well.**

Background. The Governor's budget requests \$300,000 in Proposition 99 funding for the construction of the Elkins Well on the Ash Creek Wildlife Area. According to the department, the only source of water for these wetlands is surface water diverted from Ash Creek between April 1 and October 20, in accordance with adjudicated water rights. Diversion of surface water can be labor intensive and subject to water rights limitations. This project would install one deep well at the start of the water system. This would provide water supply for approximately 140 acres of managed wetlands, enhance an additional 100 acres of natural wetland, and provide water for wetland management after October 20.

Staff Comments. According to the description of the Ash Creek Wildlife Area from the department's website: "The 3,000 acres of natural wetlands are created by the seasonal flow of six streams. Ash Creek is one of the most remote, least improved, and most pristine of all of DFG's wildlife areas."

Following a series of hearings as well as a report by the Legislative Analyst's Office, the Legislature passed legislation to require local monitoring of groundwater basins. This was in part to recognize the direct relationship between surface water and groundwater.

The department has not been able to determine if this groundwater basin is being managed consistent with current law, or if a plan is in place for groundwater management plans that are required starting January 2012.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied this proposal without prejudice in order to give the department more time to address the impacts of surface water on the local groundwater. The department should provide an update on its efforts to determine what the impact of the proposal will be on local groundwater and surface water.

Staff Recommendation: HOLD OPEN

Vote:

2. Finance Letter—Proposition 84 Technical Adjustments (Salton Sea Restoration)

Background. The Governor requests a reduction of \$17 million Proposition 84 expenditure authority to avoid an over-allocation of available funds for coastal fishery restoration projects, and a reappropriation of the unencumbered balances of prior-year appropriations for the Salton Sea Restoration Program (SSRP).

LAO Analysis:

Proposal. In an April 12, 2011 letter, the Department of Finance requests reappropriation to DFG of \$13 million from the SSRF (including Proposition 84 bond funds) for expenditure on Species Conservation Habitat work to enhance fish and bird habitat in the Salton Sea. An April 13, 2011 letter from DOF also requests \$4.2 million in reimbursements from DFG to the Department of Water Resources for the same purpose (these funds have already been appropriated to DFG and are separate from the reappropriation DFG is requesting).

No Legislatively Approved Plan Exists. We have previously recommended that the Legislature formally adopt a restoration plan (see our 2008 report “Restoring the Salton Sea”). To that end, the Legislature passed SB 51, Ducheny (Chapter 303, Statutes of 2010), which requires the creation of a Salton Sea Restoration Council as a state agency within the Natural Resources Agency to recommend a restoration alternative by June 30, 2013 and then oversee implementation of that alternative. The Council has not been created yet, and the Natural Resources Agency has indicated that the Council’s establishment will be addressed in the 2012-13 Governor’s Budget. We therefore recommend that the Legislature deny funding for Salton Sea Restoration projects until the Council has been formed and has developed a restoration plan for the Salton Sea as required by statute. This will ensure that restoration projects will be consistent with the adopted plan.

QSA Future Is Uncertain. Additionally, the future of the QSA that created the state’s funding obligation to restore the Salton Sea is currently in doubt. In December 2009, a Sacramento County Superior Court judge invalidated the QSA because it was predicated on the Legislature’s statutory promise to fund all but \$133 million of the restoration efforts—a promise that the court said could not be made constitutionally by the Legislature. Although enforcement of the ruling has been stayed, the outcome is uncertain at this time. If the invalidation of the QSA is upheld through the appeals process, it is unclear what the state’s role in restoration will be.

Uncertain Level of Urgency of Restoration Efforts. The DWR 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 the no-action alternative. However, 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.

Limited Funding Currently Available for Restoration Efforts. Currently, the sole source of funding for Salton Sea restoration efforts is the SSRF, which consists of a \$30 million payment by several participants in the QSA and \$47 million from Proposition 84

bond funds. Of that, \$9 million remains un-appropriated. Because the SRF is the sole source of funds at this time, prioritization of restoration efforts is of paramount importance. Denial of these requests will ensure the immediate availability of funds for the activities required by SB 51 and implementation of the plan ultimately recommended by the Council.

Recommendation. Given the lack of a recommendation for a restoration alternative from the as-yet-to-be-established Council, the uncertainty around the QSA, the lack of urgency of the actions requested to be funded, and the limited funding currently available for Salton Sea restoration efforts, we recommend denial of the reappropriation and reimbursement funding requests.

Staff Comments. Staff concurs with the LAO Analysis.

Staff Recommendation. (1) APPROVE \$17 million reduction for coastal fishery restoration projects. (2) Deny re-appropriations related to the Salton Sea Authority.

Vote:

3. BCP-11: Hatchery and Inland Fisheries Fund

Background. The Governor requests \$6.8 million (\$1.8 million on-going and \$5 million one-time per year in 2011-12 and 2012-13) from the Hatcheries and Inland Fisheries Fund (HIFF) ongoing to maximize fish production at the department's trout hatcheries pursuant to Chapter 689, Statutes of 2005 (AB 7, Cogdill). The one-time funding will be used to increase fish production, or to repair and replace equipment required for the production of hatchery fish. The ongoing funds will be used to produce and distribute fish for recreational angling.

The department has also requested funding under the normal capital outlay process for several specific projects referencing AB 7 as the statutory basis for the request.

Staff Comments. A number of issues have come up related to hatchery fish in the past year including the impact of hatchery fish on native fish, impacts of endangered species on fish stocking areas, and the impacts of hatcheries on water quality. While the committee may wish to continue to approve individual capital projects (such as those listed in vote-only), this proposal gives greater authority to the department to conduct multiple minor capital projects to increase hatchery production.

In addition, previous administrations have reduced budgets for activities that support healthy fisheries, including Timber Harvest Plan review and state forest nurseries. These state activities provide both large and small scale forestry activities with appropriate environmental review staff as well as seedlings available to the general public and conservation groups for reforestation, erosion control, watershed protection.

There is current legislation (SB 505, LaMalfa) moving through the policy process that would set long-term goals for the use of HIFF funding starting in 2012-13 and beyond.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied this proposal as well as several conforming capital outlay projects without prejudice. The committee requested the department return in the spring for an oversight hearing on AB 7 fish hatchery implementation and the Hatcheries and Inland Fisheries Fund.

Staff Recommendation: Approve the following (related to this budget proposal):

- \$1.8 million on-going to maximize fish production at the department's trout fisheries with budget bill language prioritizing natural and heritage fish production as first priority.
- \$1.5 million for Timber Harvest Planning activities that impact fisheries for 2011-12 and 2012-13 including the following budget bill language:

"Notwithstanding Section 13007 of the Fish and Game Code (AB 7), one million five hundred thousand dollars (\$1,500,000) shall be allocated by the department for Timber Harvest Plan (THP) review required under the California Environmental Quality Act (CEQA) functional equivalent certification to evaluate and mitigate the potential adverse impacts of timber operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

- \$500,000 for State forestry nurseries that support healthy forests and reduce runoff into state fisheries for 2011-12 and 2012-13 including the following budget bill language:

"Notwithstanding Section 13007 of the Fish and Game Code (AB 7), five hundred thousand dollars (\$500,000) shall be allocated by the department for state forest nurseries, including but not limited to the operation of the Magalia Reforestation Center, to ensure ongoing mitigation of the potential adverse impacts of small-scale forest operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

- \$3.0 million one-time per year in 2011-12 and 2012-13 to maximize fish production at the department's trout hatcheries pursuant to AB 7. Adopt budget bill language (in concept) prioritizing natural and heritage fish production for this item.

Vote:

Conforming Action—AB 7 Capital Projects

In order to conform to the above recommendation on fish hatcheries, staff recommends a conforming action to approve the following specific AB 7 projects.

4. COBCP-1: Darrah Springs Hatchery Low Head Oxygen System. The Governor requests \$525,000 from the Hatchery and Inland Fisheries Fund (HIFF) to increase hatchery water quality by increasing the level of dissolved oxygen in the fish-rearing areas in order to comply with Chapter 689, Statutes of 2009 (AB 7, Cogdill “AB 7”).

5. COBCP-2: American River Hatchery—New Hatchery Building. The Governor requests \$739,000 from HIFF to replace an incubation hatchery building in order to comply with trout production goals of AB 7.

6. BCP-13: Hot Creek Hatchery. The Governor requests \$158,000 from the Hatcheries and Inland Fisheries Fund (HIFF) to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species.

7. COBCP-6: Black Rock Hatchery—Feed Bins and Catwalk. The Governor requests \$386,000 from HIFF to replace metal feed bins with higher capacity feed bins, a common staircase, and walkway.

Staff Recommendation: Approve Items 4-7.

Vote:

8. Subcommittee Issue—Silver King Creek

Background. Silver King Creek in Alpine County is host to a federally threatened species, the Paiute Cutthroat Trout. Years of non-native fish stocking (by both state and federal agencies beginning in 1917) contributed to the decline of the species and an increase in non-native fish within the creek. These fish are crowding out the native species. Multiple restoration projects have been attempted for this species; however, the underlying threat to the species still exists. Non-native species continue to be stocked in this river, though not in close proximity to the reach where Paiute Cutthroat Trout are native.

The Governor's budget includes a state allocation within the baseline funding fund appropriation for pre-treatment and Rotenone chemical treatment of the creek. The total project budget is about \$400,000, mainly federal funds with a 25 percent state match

Staff Comments. Concerns have been raised about the proposed plan to use the chemical Rotenone to remove all fish and aquatic species from a reach of the creek. In addition, because this project is on Forest Service land, permits are required for the state to conduct the pre-treatment and treatment plans. The status of these permits is uncertain due to lawsuits regarding the federal Environmental Impact Statement.

The subcommittee may wish to ask the department for an update on the project, including:

- Status of the lawsuits and implications for delays in permitting.
- Alternatives to the use of Rotenone to remove non-native species.
- Realistic timeframe required for the use of the state funds.
- Impacts should the state choose not to support the project with state funding.

Staff Recommendation. NO ACTION—INFORMATION ITEM

3640 Wildlife Conservation Board

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB's support funding comes from a number of fund sources, including the General Fund, the Wildlife Restoration Fund, the Habitat Conservation Fund (HCF), the Environmental License Plate Fund, and bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program	Technical Adjustment	Amount
1. Extension of Liquidation Period – Proposition 12	Request to extend the liquidation period for two projects due to the 2008 bond freeze for the San Joaquin River Conservancy. The original appropriation was \$14.6 million. \$145,000 of this has not been liquidated.	\$145,000
2. Habitat Conservation Fund	Request to extend the liquidation periods of the Habitat Conservation Fund and associated Proposition 50 transfer to implement the Wildlife Conservation Act. These extensions are necessary because of delays caused by permitting requirements that only allow restoration work to be completed in the summer.	various

Recommendation: APPROVE Technical Finance Letters 1-2

Items Proposed for Discussion**1. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.

LAO Recommendation (Updated)

In the Governor's January budget proposal, the Wildlife Conservation Board (WCB) requested reappropriation of \$39 million in unexpended bond funds for San Joaquin River Restoration (SJRR) activities and Natural Communities Conservation Planning (NCCP). We had initially recommended that the Legislature withhold its approval of these reappropriations pending demonstration by the board that the re-appropriated funding would result in physical projects. The Legislature subsequently took action to deny the request without prejudice.

The WCB has since informally withdrawn its request for the SJRR reappropriation (\$11 million from Proposition 84 and \$3 million from Proposition 40), and we accordingly recommend that the Legislature deny the reappropriation of those funds.

In response to the Legislature's denial without prejudice of the remaining \$25 million reappropriation request for NCCP activities, WCB has completed an action plan that indicates WCB's intention to spend \$27.5 million on NCCP in 2011-12, including the number of acres to be acquired in specific counties, and the number of NCCPs that these expenditures will support. In light of this action plan and WCB's success at expending reappropriations requested in 2010-11, we now recommend approval of the request to re-appropriate \$25 million from Proposition 84 for NCCP.

Finally, we note that postponing the expenditure of some portion or all of the re-appropriation request that we recommend be approved could serve as a one-time budget solution. The postponement serves this purpose by restraining the growth of the associated debt service costs (which are funded from the General Fund). As with all budget requests for bond expenditures, the Legislature may wish to evaluate whether these bond expenditures, while justified, are of sufficiently high priority to warrant incurring the associated debt service costs at this time.

Previous Budget Actions. The subcommittee previously heard this item and denied the reappropriations without prejudice. The board was required to return with an action plan for expenditure of funds by April 1, 2011.

Staff Update. The board has fully complied with the subcommittee's direction to return with an action plan for expenditures of the funds. The plan outlines the department's progress in two areas: the San Joaquin River and the NCCP program. In both cases, the department's slow progress was in part due to the 2008 bond freeze among other issues.

The board's plan for the San Joaquin River Conservancy funding includes using an authorized position to catch up on previous backlogged projects. The Conservancy has approximately \$31 million (including the proposed \$14 million in the budget year) in prior year expenditure authority, and a separate proposed extension of liquidation, to fund project development, acquisition, and restoration efforts and approximately a \$6.2 million backlog. In light of previous year difficulties implementing the projects and current sufficient funding to address the backlog, the board now supports the LAO recommendation to not re-appropriate the proposed San Joaquin River funds.

The board described an action plan to allocate funding for the NCCP program that includes estimated project costs for various California regions including the Delta, Inland Empire, and Southern California. These projects are anticipated to match both federal and state funding. Withholding funding now would jeopardize the ability to leverage these non-state funds.

Recommendation.

- (1) APPROVE Natural Communities Conservation Planning program funding.
- (2) DENY San Joaquin River Conservancy and San Joaquin River parkway funding.

Vote:

3720 State Coastal Conservancy

The State Coastal Conservancy develops and implements programs to protect, restore, and enhance natural, recreational and economic resources along California's coast, coastal watersheds, the ocean, and within the San Francisco Bay Area. The Coastal Conservancy also serves as staff and fiscal agent for the California Ocean Protection Council.

ITEM PROPOSED FOR VOTE-ONLY

1. FL-1: Public Access Program . The Governor requests \$300,000 (Violations Remediation Account) for the Conservancy's public access program according to existing adopted criteria. The request will provide additional assistance to local partners to manage several public access ways along the coast. Such access ways include paths and stairways that provide access to the beach and other coastal locations, as well as portions of the California Coastal Trail.

Staff Recommendation: APPROVE Item 1

Vote:

ITEMS PROPOSED FOR DISCUSSION**2. FL-2: Shift Support Funding to Bond Funds.**

Background. The Governor requests to decrease funding from the State Coastal Conservancy Fund of 1976 (Fund 0565) by \$2.4 million and provide an equivalent increase from Proposition 84 bond funds (split between two accounts) for support funding. According to the administration, Fund 0565 has existed since 1976, however with fewer deposits in recent years, declining balances require less annual appropriations out of the account. The Governor proposes this shift as to the ongoing, base budget at the Conservancy for support and state operations activities.

Staff Comments. The department has been judicious with the use of the proportion of bond funds available for administrative functions. As such, this proposal should not violate the bond rules set forth for administrative and support functions. However, the use of bond funds to supplant support costs raises concerns about the long-term viability of the State Coastal Conservancy when bond funds inevitably run out. Without a long-term funding source, the Coastal Conservancy may not be able to support its current staffing levels and activities, including those related to the Ocean Protection Council.

Recommendation. (1) APPROVE PROPOSAL with the following SRL:

On or before January 10, 2013, the State Coastal Conservancy shall submit a long-term plan for the State Coastal Conservancy spanning a 10-year period starting in 2013-14. The plans shall include funding needs should no new bond funds be made available, staffing reduction plans, and options for continued support for core functions (including the Ocean Protection Council).

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

FINANCE LETTERS AND JANUARY PROPOSALS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment	Amount
1. Office of Historic Preservation Database	Extension of liquidation for database re-host project. Due to delays caused by the contractor, it is necessary to extend the liquidation period to complete the upgrade.	\$163,000 (General Fund)
2. Local Assistance Funding (Proposition 40)	Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Due to the 2008 bond freeze, the grantees have not completed their projects. This adjustment reflects an adjusted timeline.	\$108 million (bond funds)
3. California State Railroad Museum Re-appropriation	Re-appropriation of \$11.6 million (\$6.6 million Proposition 40 bond funds and \$5 million reimbursements) to acquire former industrial buildings to comply with Chapter 689, Statutes of 2008 (AB 2945). This extension request will ensure the funds are available to complete the acquisition.	(reduction of expenditure authority for bond funds; re-appropriations)

Recommendation: APPROVE ITEMS 1-3

ITEMS PROPOSED FOR DISCUSSION**1. BCP-10: Budget Reduction Plan Fiscal Year 2011-12 Through 2012-13.**

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Previous Budget Action. The budget reduced the overall Parks budget by \$11 million GF and \$22 million ongoing starting in 2012-13. The budget approved trailer bill language specifying criteria for reducing the state park system including selecting parks for closure, partial closure, or reduced service and language limiting liability for closed or partially closed parks.

- The department should update the subcommittee on its plan for park closures, and what the public should expect to see on July 1, 2011.

Staff Comments. The reductions in state parks have led to a number of questions about how the department budgets for park units, tracks revenues and visitor data, and uses employee assets. There are a number of legislative efforts underway to consider changes to the way the department manages the parks system, including proposals to allow more public-private partnerships.

In order for the Legislature to fully consider these proposals, the department should report on several issues, many of which the department will have considered as it created the current parks reduction plan.

Recommendation. Approve supplemental reporting language (below, in concept). No action is required on the state parks reduction plan.

- (1) The department shall, on January 10, 2012, report its budget to the Legislature on a park-unit basis. This includes an estimate of distributed shared costs on a pro-rata basis (personnel, materials, services) shared by sectors or across districts.
- (2) The department shall, on March 1, 2012, prepare a report on revenues by park unit and visitor data (by park unit, aggregated on a district basis) and compare to National Parks, other State Parks systems.
- (3) The department shall report, on March 1, 2012, statistics on peace officer's use of weapons in state parks to deter crime, or to respond to crimes in process; report on enforcement of non-Parks related crimes and for mutual aid as well as the number of park rangers not assigned to any park unit.

Vote:

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda--PART A
Thursday, May 5, 2011
9:30 am or upon adjournment of session Outcomes
Hearing Room 4203

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

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR VOTE-ONLY**3720 California Coastal Commission**

1. FL-1: Coastal Data Management System Upgrade. The Governor requests a one-time augmentation of \$1.1 million (special funds and federal funds) to be available over two years for purchase, installation, and implementation of a commercial (off the shelf) integrated database system and related upgraded database software, licensing, and hardware to meet the goals of the Coastal Commission's data base modernization project.

3810 Santa Monica Mountains Conservancy

2. FL-1: Technical Change—Proposition 50. The governor requests to revert \$105,297 Proposition 50 funds. Proposition 50 allocated \$18 million to the conservancy for projects related to the Los Angeles River watershed. The Governor's budget proposed to re-appropriate the balance of Proposition 50 funds from a 2006 appropriation. However, previous budget acts inadvertently over-appropriated the Proposition 50 bond allocation to the conservancy so the reversion is necessary to provide a corrected appropriation.

3825 San Gabriel and Lower LA Rivers and Mountains Conservancy

3. FL-1: Proposition 50 Capital Outlay and Grants. The Governor requests \$705,000 for new acquisition and improvement projects consistent with the adopted work plan and open space plans. These include mainly grant funding for Coyote Creek Regional Trail Improvements, Encanto Park Bioswale, and Legg Lake Fishing Pier.

4. FL-2: Re-appropriation of Proposition 50, Capital Outlay and Grants. Reappropriation of \$605,000 for currently authorized and approved improvement projects including Puente Creek Nature Education Center (City of La Puente) and San Gabriel River Enhancement Development Project (City of Seal Beach).

3835 Baldwin Hills Conservancy

5. FL-1: Re-Appropriation of Propositions 40 and 84. The Governor requests budget bill language to re-appropriate Proposition 40 and Proposition 84 bond funds due to delays in state bond sales. The proposed re-appropriation will allow approximately \$6.3 million of bond funds to be used to acquire priority acquisition consistent with the Baldwin Hills Park Master Plan.

3850 Coachella Valley Mountains Conservancy

6. FL-1: Proposition 84 Reversal. The Governor requests a correction to revert approximately \$40,000 from previous budget acts. This request is a necessary technical adjustment to ensure that the bond funds are not over-subscribed.

3875 Sacramento-San Joaquin Delta Conservancy

7. FL-1: Delta Operational Support. The Governor requests \$165,000 from the Environmental License Plate fund for technical consultation to complete the required Delta Conservancy strategic plan and to enable the conservancy to relocate within the legal Delta.

Staff Recommendation: APPROVE ITEMS 1-7.

VOTE:

ITEMS 1, 3, 4, 5, 7—APPROVE AS BUDGETED (2-1, Fuller)

ITEMS 2, 6—APPROVE AS BUDGETED (3-0)

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency.

Governor's Budget. The Governor's January Budget includes \$62.8 million to support the Secretary for Natural Resources. This is an 85 percent decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Items Proposed for Vote-Only

1. FL-1: State wide Bond Oversight, Re-Appropriations, Extensions and Reversions. The Governor requests minor increases for statewide oversight of bond expenditures at the Secretary level; an extension of liquidation for the River Parkway project due mainly to the 2008 bond freeze; and a reversion of \$7.4 million (unused funds) from Proposition 84 from the San Joaquin River Restoration program.

2. FL-2: Coastal Impact Assistance Program. The Governor requests federal funding authority for \$3.5 million to enable the Agency to receive federal funds for the Coastal Impact Assistance Program (CIAP). The federally approved state CIAP plan includes 25 projects totaling \$26 million. The balance of California's CIAP allocation, \$9 million, will be allocated through the remainder of 2010-11 and 2011-12.

Staff Recommendation: Approve Items 1-2.

Vote: APPROVE AS BUDGETED (2-1, Fuller)

Items Proposed for Discussion**3. Budget Bill Language—Capital Outlay for State Conservancies**

Background. Included within the budget bill for state conservancies and the Wildlife Conservation Board under the Secretary for Natural Resources is provisional language to change the manner in which state conservancies report to control agencies (Department of Finance and others) their expenditures for Capital Outlay and state operations. Generally the language is thus:

Provisions:

The ___ Conservancy may encumber funds for either capital outlay or local assistance grants until June 30, 2014. The term capital outlay as used in conjunction with this appropriation means the acquisition, design, or construction of improvements on land owned, or leased, by the state.

According to the administration, the purpose of this clarification is “truth in budgeting” and to provide guidelines for the conservancies to separate local assistance expenditure from capital outlay funding consistent with the state administrative manual (SAM Manual). The language is intended in part to separate local assistance (mainly grants) from direct expenditures by the state.

A pilot project with the Wildlife Conservation Board was implemented and the board has been able to comply with the new language though this agency’s mission is more narrow than most conservancies. All conservancies were contacted in September 2010 to alert them to the new language. According to the Department of Finance, there have been no issues raised by state conservancies about the language.

Staff Comments. A number of issues have been raised about the intent and practical application of the language. The language would seem to over-ride provisions of Proposition 84, a voter-approved initiative. While due diligence and truth in budgeting are necessary, the administration should be able to accomplish these tasks without restricting unnecessarily the use of bond funds (as the budget bill language does).

The committee may wish to ask:

1. What is the intent of the language?
2. How will conservancies handle educational, interpretive, and support activities that are allowed by voter-approved bonds but restricted by this language?
3. Have any state conservancies raised issues with the language?

Recommendation. REMOVE BBL PROVISIONS from appropriations at all affected agencies and conservancies.

VOTE: APPROVE STAFF RECOMMENDATION (2-1, Fuller)

3110 Tahoe Regional Planning Agency 3125 California Tahoe Conservancy

Joint Issue—Lake Tahoe Environmental Improvement Program and Land Use Planning in the Tahoe Basin

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

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

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

Staff Comments. Both the Conservancy and TRPA have met with staff to discuss their accomplishments regarding their efforts to meet environmental thresholds defined in the regional plan. They also discussed current efforts to increase water quality and anticipated work required to meet the forthcoming Total Maximum Daily Load. Staff had questions about their efforts to coordinate with other state agencies, adopt a regional plan update that meets environmental thresholds, and their efforts to approve developments that meet threshold criteria.

The committee may wish to ask both state agencies to:

- Update the subcommittee on bi-state issues including Nevada state legislation regarding TRPA and the recently approved total maximum daily load requirements.
- Summarize what the conservancy and TRPA are doing to meet environmental thresholds and water quality objectives in the basin.
- Provide an anticipated timeline for adoption of the next version of the regional plan.

Recommendation. (Individual budget proposals follow in a separate item.)

Adopt Supplemental Reporting Language and Budget Bill Language as follows to ensure the highest level of cooperation among state agencies in the Tahoe Basin, to ensure adequate reporting on planning efforts to meet environmental thresholds, and to report on progress made with the Environmental Improvement Program.

Adopt Supplemental Reporting Language and Budget Bill LanguageAdopt Budget Bill Language—3110 Tahoe Regional Planning Agency

- a. TRPA shall, by September 1, 2011, adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds. The strategy shall be submitted to the California Joint Legislative Budget Committee.

Adopt Supplemental Reporting Language—3110 Tahoe Regional Planning Agency

- b. TRPA shall, by December 31, 2011, in coordination with the California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources, report on its progress in developing and adopting a five-year evaluation report, including peer review coordinated by the Tahoe Science Consortium, on the status of TRPA's environmental threshold carrying capacities. To broaden scientific involvement, the peer review, shall include a majority of scientists from institutions or agencies who are not participating as signatories to the memorandum of agreement that established the consortium.

Adopt Supplemental Reporting Language—3125 California Tahoe Conservancy

- c. To maximize the effectiveness of state resources and to better implement the Environmental Improvement Program (EIP), by December 1, 2011, the Conservancy, in coordination with the Department of Parks and Recreation, the Lahontan Regional Water Quality Control Board, the Department of Transportation, the State Lands Commission, CalFire, the Department of Fish and Game, and other appropriate state, local, and federal agencies, shall develop a report on its progress in coordinating, integrating, and recommending efficiencies in state agency planning and project implementation in the Tahoe basin, including but not limited to: joint use of staff, crews, equipment, office space, and facilities; land exchanges that would increase management efficiencies; and coordinated funding and implementation of EIP projects and programs, Caltrans' complete streets implementation action plan, climate change mitigation and adaptation strategies, and an interagency watershed-based approach to the Lake Tahoe TMDL. This report shall also identify programmatic or policy-based improvements that public agencies could make to improve the effort described in this subdivision.
- d. The Conservancy, in coordination with TRPA and other state and local agencies, shall:
 - i. Provide a summary of state agency expenditures, accomplishments, priority projects and programs, and other activities and resources needed to help achieve TRPA's environmental thresholds and to fulfill California's responsibilities under the Lake Tahoe Environmental Improvement Program (EIP).
 - ii. Provide a summary of the agencies' progress in developing a Sustainable Communities Strategy for the Lake Tahoe basin, as required under SB 375 and AB 32, and any changes in state agency policies or practices needed to further develop and accomplish the goals of the plan.

Vote: APPROVE STAFF RECOMMENDATION (SRL and BBL) (2-1, Fuller)

*Items Proposed for Vote Only***3110 Special Resources Programs**

- 1. Base Budget—Tahoe Regional Planning Agency .** The Governor requests \$4.1 million for baseline ongoing activities at the Tahoe Regional Planning Agency (a program within the Special Resources Programs budget).

3125 California Tahoe Conservancy

- 2. BCP-1: Implementation of the Environmental Improvement Program for the Lake Tahoe Basin.** The Governor requests \$15.8 million (multiple funding sources, no General Fund) to continue capital outlay and local assistance funding for the implementation of the Environmental Improvement Program for the Lake Tahoe Basin.
- 3. BCP-2: Reappropriations.** The Governor requests various re-appropriations, reversions and an extension of liquidation for local assistance projects previously approved for the Lake Tahoe Basin. This request is mainly due to the bond freeze.

Technical Finance Letters:

Fund/Program	Technical Adjustment	Amount
4. Tahoe Conservancy	Habitat Conservation Fund extension of liquidation for Truckee River.	\$72,000

Staff Recommendation: APPROVE Items 1-4

Vote: Items 1-4 APPROVE AS BUDGETED (2-1, Fuller)

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 \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment
1. Plan of Financial Adjustment	Request for trailer bill language to enable DOC to use the Oil, Gas, and Geothermal Administrative Fund as its main appropriation, or clearing account. This adjustment is necessary due to a shift of the Beverage Container Recycling Fund (previous clearing house fund) to the newly formed Department of Recycling Recovery and Renewal.
2. Bond Funding Technical Corrections	Request to align Proposition 50 and Proposition 84 appropriations with expected expenditures, and to re-appropriate Proposition 84 funds for the conservation of agricultural and open space land resources programs.

Recommendation: APPROVE Technical Finance Letters 1-2

Vote:

Item 1—APPROVE AS BUDGETED (2-1, Fuller)

Item 2—APPROVE AS BUDGETED (3-0)

ITEMS PROPOSED FOR DISCUSSION**1. BCP-6: Watershed Implementation Re-appropriation.**

Background. The Governor requests re-appropriation of \$1.2 million in unencumbered Proposition 50 bond funds to continue implementation of the former watershed element of the CALFED Bay-Delta Program through DOC's Statewide Watershed Program.

Staff Comments. In the 2010-11 Budget, the Legislature transferred most CALFED Bay-Delta Program activities, including certain oversight objectives, to the Delta Stewardship Council. At the same time, the Council was required to submit a zero-based budget in FY 2011-12 for all entities receiving former CALFED resources. This was, in part, to help the Legislature prioritize funding for Bay-Delta activities pending the adoption of a Delta Plan by the Council.

The Council has requested to postpone the submission of the zero-based budget to coordinate with the completion of the Delta Plan. It would be appropriate to hold non-essential bond-funded activities off until a clear plan for the Delta is in place, and priorities for funding are made clear to the Legislature.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied the proposal. The budget bill (SB 69) denied the proposal without prejudice.

Recommendation: HOLD OPEN

Vote: HOLD OPEN

2. BCP-9: Implementation of AB 2453.

Background. The Governor requests a baseline appropriation of \$145,000 (special funds) for the Division of Oil, Gas, and Geothermal Resources (DOGGR). Funding is requested to increase legal workload as a result of Chapter 264, Statutes of 2010 (AB 2453, Tran) described below. The department plans to redirect a vacant position to support DOGGR's legal needs.

AB 2453 substantially strengthens procedural safeguards following an Appellate Court ruling regarding deficiencies in the existing appeals provisions in statute. AB 2453 provisions revise DOGGR enforcement actions and provides for use of formal administrative hearings for certain appeals. Changes to the appeal process will increase workload for Department attorneys.

The division (DOGGR) is currently undergoing restructuring following direction of the legislature during budget hearings last year. In the 2010-11 budget, the Legislature approved \$3.2 million and 17 permanent positions to augment the Underground Injection Control and Enhanced Oil Recovery Program.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied the proposal without prejudice. The committee requested the department return in the spring with an update on enforcement and permitting actions, as well as a report on its efforts to fill the existing 17 Division of Oil, Gas, and Geothermal Resources positions.

Staff Comments. The administration has indicated that the department has been successful in its efforts to waive the hiring freeze for these positions.

The department should be prepared to discuss:

- Where the department is in the process of filling the 17 positions;
- The impact these positions have had on permitting levels and compliance with state and federal law.
- Status of the program overall.

Recommendation. APPROVE PROPOSAL

Vote: APPROVE AS BUDGETED (3-0)

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment	Amount
1. Office of Oil Spill Prevention and Response	Technical request to correct the exclusion of a prior year cash flow loan. The result will resort in \$2.6 million in Oil Spill Prevention and Administration Fund expenditure authority that was reduced as a result of the incorrect fund balance.	\$2.6 million (correction of special fund)
2. Big Game Management Account	Request to increase the Big Game Management Account per Chapter 408, Statutes of 2010 (SB 1058) in an effort to consolidate three existing subaccounts: Deer, Bighorn Sheep, and Wild Pig.	\$1.5 million (consolidation of special funds)

Recommendation: APPROVE Technical Finance Letters 1-2

Vote: APPROVE AS BUDGETED (3-0)

ITEM PROPOSED FOR DISCUSSION**1. COBCP-10: Ash Creek Wildlife Area—Elkins Well.**

Background. The Governor's budget requests \$300,000 in Proposition 99 funding for the construction of the Elkins Well on the Ash Creek Wildlife Area. According to the department, the only source of water for these wetlands is surface water diverted from Ash Creek between April 1 and October 20, in accordance with adjudicated water rights. Diversion of surface water can be labor intensive and subject to water rights limitations. This project would install one deep well at the start of the water system. This would provide water supply for approximately 140 acres of managed wetlands, enhance an additional 100 acres of natural wetland, and provide water for wetland management after October 20.

Staff Comments. According to the description of the Ash Creek Wildlife Area from the department's website: "The 3,000 acres of natural wetlands are created by the seasonal flow of six streams. Ash Creek is one of the most remote, least improved, and most pristine of all of DFG's wildlife areas."

Following a series of hearings as well as a report by the Legislative Analyst's Office, the Legislature passed legislation to require local monitoring of groundwater basins. This was in part to recognize the direct relationship between surface water and groundwater.

The department has not been able to determine if this groundwater basin is being managed consistent with current law, or if a plan is in place for groundwater management plans that are required starting January 2012.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied this proposal without prejudice in order to give the department more time to address the impacts of surface water on the local groundwater. The department should provide an update on its efforts to determine what the impact of the proposal will be on local groundwater and surface water.

Staff Recommendation: HOLD OPEN

Vote: APPROVE AS BUDGETED (3-0)

2. Finance Letter—Proposition 84 Technical Adjustments (Salton Sea Restoration)

Background. The Governor requests a reduction of \$17 million Proposition 84 expenditure authority to avoid an over-allocation of available funds for coastal fishery restoration projects, and a reappropriation of the unencumbered balances of prior-year appropriations for the Salton Sea Restoration Program (SSRP).

LAO Analysis:

Proposal. In an April 12, 2011 letter, the Department of Finance requests reappropriation to DFG of \$13 million from the SSRF (including Proposition 84 bond funds) for expenditure on Species Conservation Habitat work to enhance fish and bird habitat in the Salton Sea. An April 13, 2011 letter from DOF also requests \$4.2 million in reimbursements from DFG to the Department of Water Resources for the same purpose (these funds have already been appropriated to DFG and are separate from the reappropriation DFG is requesting).

No Legislatively Approved Plan Exists. We have previously recommended that the Legislature formally adopt a restoration plan (see our 2008 report “Restoring the Salton Sea”). To that end, the Legislature passed SB 51, Ducheny (Chapter 303, Statutes of 2010), which requires the creation of a Salton Sea Restoration Council as a state agency within the Natural Resources Agency to recommend a restoration alternative by June 30, 2013 and then oversee implementation of that alternative. The Council has not been created yet, and the Natural Resources Agency has indicated that the Council’s establishment will be addressed in the 2012-13 Governor’s Budget. We therefore recommend that the Legislature deny funding for Salton Sea Restoration projects until the Council has been formed and has developed a restoration plan for the Salton Sea as required by statute. This will ensure that restoration projects will be consistent with the adopted plan.

QSA Future Is Uncertain. Additionally, the future of the QSA that created the state’s funding obligation to restore the Salton Sea is currently in doubt. In December 2009, a Sacramento County Superior Court judge invalidated the QSA because it was predicated on the Legislature’s statutory promise to fund all but \$133 million of the restoration efforts--a promise that the court said could not be made constitutionally by the Legislature. Although enforcement of the ruling has been stayed, the outcome is uncertain at this time. If the invalidation of the QSA is upheld through the appeals process, it is unclear what the state’s role in restoration will be.

Uncertain Level of Urgency of Restoration Efforts. The DWR 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 the no-action alternative. However, 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.

Limited Funding Currently Available for Restoration Efforts. Currently, the sole source of funding for Salton Sea restoration efforts is the SSRF, which consists of a \$30 million payment by several participants in the QSA and \$47 million from Proposition 84

bond funds. Of that, \$9 million remains un-appropriated. Because the SSRF is the sole source of funds at this time, prioritization of restoration efforts is of paramount importance. Denial of these requests will ensure the immediate availability of funds for the activities required by SB 51 and implementation of the plan ultimately recommended by the Council.

Recommendation. Given the lack of a recommendation for a restoration alternative from the as-yet-to-be-established Council, the uncertainty around the QSA, the lack of urgency of the actions requested to be funded, and the limited funding currently available for Salton Sea restoration efforts, we recommend denial of the reappropriation and reimbursement funding requests.

Staff Comments. Staff concurs with the LAO Analysis.

Staff Recommendation. (1) APPROVE \$17 million reduction for coastal fishery restoration projects. (2) Deny re-appropriations related to the Salton Sea Authority.

Vote:

Item 1—APPROVE AS BUDGETED (3-0)

Item 2—APPROVE AS BUDGETED (2-1, Lowenthal)

3. BCP-11: Hatchery and Inland Fisheries Fund

Background. The Governor requests \$6.8 million (\$1.8 million on-going and \$5 million one-time per year in 2011-12 and 2012-13) from the Hatcheries and Inland Fisheries Fund (HIFF) ongoing to maximize fish production at the department's trout hatcheries pursuant to Chapter 689, Statutes of 2005 (AB 7, Cogdill). The one-time funding will be used to increase fish production, or to repair and replace equipment required for the production of hatchery fish. The ongoing funds will be used to produce and distribute fish for recreational angling.

The department has also requested funding under the normal capital outlay process for several specific projects referencing AB 7 as the statutory basis for the request.

Staff Comments. A number of issues have come up related to hatchery fish in the past year including the impact of hatchery fish on native fish, impacts of endangered species on fish stocking areas, and the impacts of hatcheries on water quality. While the committee may wish to continue to approve individual capital projects (such as those listed in vote-only), this proposal gives greater authority to the department to conduct multiple minor capital projects to increase hatchery production.

In addition, previous administrations have reduced budgets for activities that support healthy fisheries, including Timber Harvest Plan review and state forest nurseries. These state activities provide both large and small scale forestry activities with appropriate environmental review staff as well as seedlings available to the general public and conservation groups for reforestation, erosion control, watershed protection.

There is current legislation (SB 505, LaMalfa) moving through the policy process that would set long-term goals for the use of HIFF funding starting in 2012-13 and beyond.

Previous Budget Actions. The subcommittee previously heard this issue on February 3 and denied this proposal as well as several conforming capital outlay projects without prejudice. The committee requested the department return in the spring for an oversight hearing on AB 7 fish hatchery implementation and the Hatcheries and Inland Fisheries Fund.

Staff Recommendation: Approve the following (related to this budget proposal):

- \$1.8 million on-going to maximize fish production at the department's trout fisheries with budget bill language prioritizing natural and heritage fish production as first priority.
- \$1.5 million for Timber Harvest Planning activities that impact fisheries for 2011-12 and 2012-13 including the following budget bill language:

"Notwithstanding Section 13007 of the Fish and Game Code (AB 7), one million five hundred thousand dollars (\$1,500,000) shall be allocated by the department for Timber Harvest Plan (THP) review required under the California Environmental Quality Act (CEQA) functional equivalent certification to evaluate and mitigate the potential adverse impacts of timber operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

- \$500,000 for State forestry nurseries that support healthy forests and reduce runoff into state fisheries for 2011-12 and 2012-13 including the following budget bill language:

"Notwithstanding Section 13007 of the Fish and Game Code (AB 7), five hundred thousand dollars (\$500,000) shall be allocated by the department for state forest nurseries, including but not limited to the operation of the Magalia Reforestation Center, to ensure ongoing mitigation of the potential adverse impacts of small-scale forest operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

- \$3.0 million one-time per year in 2011-12 and 2012-13 to maximize fish production at the department's trout hatcheries pursuant to AB 7. Adopt budget bill language (in concept) prioritizing natural and heritage fish production for this item.

Vote: APPROVE STAFF RECOMMENDATION (2-1, Fuller)

Conforming Action—AB 7 Capital Projects

In order to conform to the above recommendation on fish hatcheries, staff recommends a conforming action to approve the following specific AB 7 projects.

4. COBCP-1: Darrah Springs Hatchery Low Head Oxygen System. The Governor requests \$525,000 from the Hatchery and Inland Fisheries Fund (HIFF) to increase hatchery water quality by increasing the level of dissolved oxygen in the fish-rearing areas in order to comply with Chapter 689, Statutes of 2009 (AB 7, Cogdill “AB 7”).

5. COBCP-2: American River Hatchery—New Hatchery Building. The Governor requests \$739,000 from HIFF to replace an incubation hatchery building in order to comply with trout production goals of AB 7.

6. BCP-13: Hot Creek Hatchery. The Governor requests \$158,000 from the Hatcheries and Inland Fisheries Fund (HIFF) to replace a supply pond cover at Hot Creek Hatchery in order to protect against invasive species.

7. COBCP-6: Black Rock Hatchery—Feed Bins and Catwalk. The Governor requests \$386,000 from HIFF to replace metal feed bins with higher capacity feed bins, a common staircase, and walkway.

Staff Recommendation: Approve Items 4-7.

Vote: APPROVE AS BUDGETED (3-0)

8. Subcommittee Issue—Silver King Creek

Background. Silver King Creek in Alpine County is host to a federally threatened species, the Paiute Cutthroat Trout. Years of non-native fish stocking (by both state and federal agencies beginning in 1917) contributed to the decline of the species and an increase in non-native fish within the creek. These fish are crowding out the native species. Multiple restoration projects have been attempted for this species; however, the underlying threat to the species still exists. Non-native species continue to be stocked in this river, though not in close proximity to the reach where Paiute Cutthroat Trout are native.

The Governor's budget includes a state allocation within the baseline funding fund appropriation for pre-treatment and Rotenone chemical treatment of the creek. The total project budget is about \$400,000, mainly federal funds with a 25 percent state match

Staff Comments. Concerns have been raised about the proposed plan to use the chemical Rotenone to remove all fish and aquatic species from a reach of the creek. In addition, because this project is on Forest Service land, permits are required for the state to conduct the pre-treatment and treatment plans. The status of these permits is uncertain due to lawsuits regarding the federal Environmental Impact Statement.

The subcommittee may wish to ask the department for an update on the project, including:

- Status of the lawsuits and implications for delays in permitting.
- Alternatives to the use of Rotenone to remove non-native species.
- Realistic timeframe required for the use of the state funds.
- Impacts should the state choose not to support the project with state funding.

Staff Recommendation. NO ACTION—INFORMATION ITEM

ACTION: HOLD OPEN—DID NOT HEAR

3640 Wildlife Conservation Board

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB's support funding comes from a number of fund sources, including the General Fund, the Wildlife Restoration Fund, the Habitat Conservation Fund (HCF), the Environmental License Plate Fund, and bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment	Amount
1. Extension of Liquidation Period – Proposition 12	Request to extend the liquidation period for two projects due to the 2008 bond freeze for the San Joaquin River Conservancy. The original appropriation was \$14.6 million. \$145,000 of this has not been liquidated.	\$145,000
2. Habitat Conservation Fund	Request to extend the liquidation periods of the Habitat Conservation Fund and associated Proposition 50 transfer to implement the Wildlife Conservation Act. These extensions are necessary because of delays caused by permitting requirements that only allow restoration work to be completed in the summer.	various

Recommendation: APPROVE Technical Finance Letters 1-2

ACTION: HOLD OPEN—DID NOT HEAR

Subcommittee plans to take this issue up on the May 12 agenda.

Items Proposed for Discussion**1. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.

LAO Recommendation (Updated)

In the Governor's January budget proposal, the Wildlife Conservation Board (WCB) requested reappropriation of \$39 million in unexpended bond funds for San Joaquin River Restoration (SJRR) activities and Natural Communities Conservation Planning (NCCP). We had initially recommended that the Legislature withhold its approval of these reappropriations pending demonstration by the board that the re-appropriated funding would result in physical projects. The Legislature subsequently took action to deny the request without prejudice.

The WCB has since informally withdrawn its request for the SJRR reappropriation (\$11 million from Proposition 84 and \$3 million from Proposition 40), and we accordingly recommend that the Legislature deny the reappropriation of those funds.

In response to the Legislature's denial without prejudice of the remaining \$25 million reappropriation request for NCCP activities, WCB has completed an action plan that indicates WCB's intention to spend \$27.5 million on NCCP in 2011-12, including the number of acres to be acquired in specific counties, and the number of NCCPs that these expenditures will support. In light of this action plan and WCB's success at expending reappropriations requested in 2010-11, we now recommend approval of the request to re-appropriate \$25 million from Proposition 84 for NCCP.

Finally, we note that postponing the expenditure of some portion or all of the re-appropriation request that we recommend be approved could serve as a one-time budget solution. The postponement serves this purpose by restraining the growth of the associated debt service costs (which are funded from the General Fund). As with all budget requests for bond expenditures, the Legislature may wish to evaluate whether these bond expenditures, while justified, are of sufficiently high priority to warrant incurring the associated debt service costs at this time.

Previous Budget Actions. The subcommittee previously heard this item and denied the reappropriations without prejudice. The board was required to return with an action plan for expenditure of funds by April 1, 2011.

Staff Update. The board has fully complied with the subcommittee's direction to return with an action plan for expenditures of the funds. The plan outlines the department's progress in two areas: the San Joaquin River and the NCCP program. In both cases, the department's slow progress was in part due to the 2008 bond freeze among other issues.

The board's plan for the San Joaquin River Conservancy funding includes using an authorized position to catch up on previous backlogged projects. The Conservancy has approximately \$31 million (including the proposed \$14 million in the budget year) in prior year expenditure authority, and a separate proposed extension of liquidation, to fund project development, acquisition, and restoration efforts and approximately a \$6.2 million backlog. In light of previous year difficulties implementing the projects and current sufficient funding to address the backlog, the board now supports the LAO recommendation to not re-appropriate the proposed San Joaquin River funds.

The board described an action plan to allocate funding for the NCCP program that includes estimated project costs for various California regions including the Delta, Inland Empire, and Southern California. These projects are anticipated to match both federal and state funding. Withholding funding now would jeopardize the ability to leverage these non-state funds.

Recommendation.

- (1) APPROVE Natural Communities Conservation Planning program funding.
- (2) DENY San Joaquin River Conservancy and San Joaquin River parkway funding.

Vote: ACTION: HOLD OPEN—DID NOT HEAR
Subcommittee plans to take this issue up on the May 12 agenda.

3720 State Coastal Conservancy

The State Coastal Conservancy develops and implements programs to protect, restore, and enhance natural, recreational and economic resources along California's coast, coastal watersheds, the ocean, and within the San Francisco Bay Area. The Coastal Conservancy also serves as staff and fiscal agent for the California Ocean Protection Council.

ITEM PROPOSED FOR VOTE-ONLY

1. **FL-1: Public Access Program** . The Governor requests \$300,000 (Violations Remediation Account) for the Conservancy's public access program according to existing adopted criteria. The request will provide additional assistance to local partners to manage several public access ways along the coast. Such access ways include paths and stairways that provide access to the beach and other coastal locations, as well as portions of the California Coastal Trail.

Staff Recommendation: APPROVE Item 1

Vote:

ACTION: HOLD OPEN—DID NOT HEAR

Subcommittee plans to take this issue up on the May 12 agenda.

ITEMS PROPOSED FOR DISCUSSION**2. FL-2: Shift Support Funding to Bond Funds.**

Background. The Governor requests to decrease funding from the State Coastal Conservancy Fund of 1976 (Fund 0565) by \$2.4 million and provide an equivalent increase from Proposition 84 bond funds (split between two accounts) for support funding. According to the administration, Fund 0565 has existed since 1976, however with fewer deposits in recent years, declining balances require less annual appropriations out of the account. The Governor proposes this shift as to the ongoing, base budget at the Conservancy for support and state operations activities.

Staff Comments. The department has been judicious with the use of the proportion of bond funds available for administrative functions. As such, this proposal should not violate the bond rules set forth for administrative and support functions. However, the use of bond funds to supplant support costs raises concerns about the long-term viability of the State Coastal Conservancy when bond funds inevitably run out. Without a long-term funding source, the Coastal Conservancy may not be able to support its current staffing levels and activities, including those related to the Ocean Protection Council.

Recommendation. (1) APPROVE PROPOSAL with the following SRL:

On or before January 10, 2013, the State Coastal Conservancy shall submit a long-term plan for the State Coastal Conservancy spanning a 10-year period starting in 2013-14. The plans shall include funding needs should no new bond funds be made available, staffing reduction plans, and options for continued support for core functions (including the Ocean Protection Council).

Vote:**ACTION: HOLD OPEN—DID NOT HEAR****Subcommittee plans to take this issue up on the May 12 agenda.**

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

FINANCE LETTERS AND JANUARY PROPOSALS PROPOSED FOR VOTE-ONLY

Fund/Program Technical	Adjustment	Amount
1. Office of Historic Preservation Database	Extension of liquidation for database re-host project. Due to delays caused by the contractor, it is necessary to extend the liquidation period to complete the upgrade.	\$163,000 (General Fund)
2. Local Assistance Funding (Proposition 40)	Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Due to the 2008 bond freeze, the grantees have not completed their projects. This adjustment reflects an adjusted timeline.	\$108 million (bond funds)
3. California State Railroad Museum Re-appropriation	Re-appropriation of \$11.6 million (\$6.6 million Proposition 40 bond funds and \$5 million reimbursements) to acquire former industrial buildings to comply with Chapter 689, Statutes of 2008 (AB 2945). This extension request will ensure the funds are available to complete the acquisition.	(reduction of expenditure authority for bond funds; re-appropriations)

Recommendation: APPROVE ITEMS 1-3

ACTION: HOLD OPEN—DID NOT HEAR
Subcommittee plans to take this issue up on the May 12 agenda.

ITEMS PROPOSED FOR DISCUSSION**1. BCP-10: Budget Reduction Plan Fiscal Year 2011-12 Through 2012-13.**

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Previous Budget Action. The budget reduced the overall Parks budget by \$11 million GF and \$22 million ongoing starting in 2012-13. The budget approved trailer bill language specifying criteria for reducing the state park system including selecting parks for closure, partial closure, or reduced service and language limiting liability for closed or partially closed parks.

- The department should update the subcommittee on its plan for park closures, and what the public should expect to see on July 1, 2011.

Staff Comments. The reductions in state parks have led to a number of questions about how the department budgets for park units, tracks revenues and visitor data, and uses employee assets. There are a number of legislative efforts underway to consider changes to the way the department manages the parks system, including proposals to allow more public-private partnerships.

In order for the Legislature to fully consider these proposals, the department should report on several issues, many of which the department will have considered as it created the current parks reduction plan.

Recommendation. Approve supplemental reporting language (below, in concept). No action is required on the state parks reduction plan.

- (1) The department shall, on January 10, 2012, report its budget to the Legislature on a park-unit basis. This includes an estimate of distributed shared costs on a pro-rata basis (personnel, materials, services) shared by sectors or across districts.
- (2) The department shall, on March 1, 2012, prepare a report on revenues by park unit and visitor data (by park unit, aggregated on a district basis) and compare to National Parks, other State Parks systems.
- (3) The department shall report, on March 1, 2012, statistics on peace officer's use of weapons in state parks to deter crime, or to respond to crimes in process; report on enforcement of non-Parks related crimes and for mutual aid as well as the number of park rangers not assigned to any park unit.

Vote:**ACTION: HOLD OPEN—DID NOT HEAR****Subcommittee plans to take this issue up on the May 12 agenda.**

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda – Part B

Day: Thursday, May 5, 2011
Time: 9:30 a.m. or upon adjournment of session
John L. Burton Hearing Room (4203)

Consultant: Brian Annis

Transportation

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2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

January 10 Budget Summary: The Governor proposed total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Current Budget Status: The Legislature acted on all of the DMV's January budget proposals (all were approved).

The DMV proposed an April 1 Finance Letter to reappropriate \$23.7 million for three capital outlay facility projects. The projects are: (1) Redding Field Office reconfiguration at a cost of \$2.9 million; (2) Fresno Field Office replacement at a cost of \$18.7 million; and (3), Oakland Field Office reconfiguration at a cost of \$2.1 million. Those requests were included on the April 28, 2011, hearing agenda, but left open pending resolution of the backlog in the issuance of driver licenses and identification cards.

Issue Suggested for Discussion and Vote:

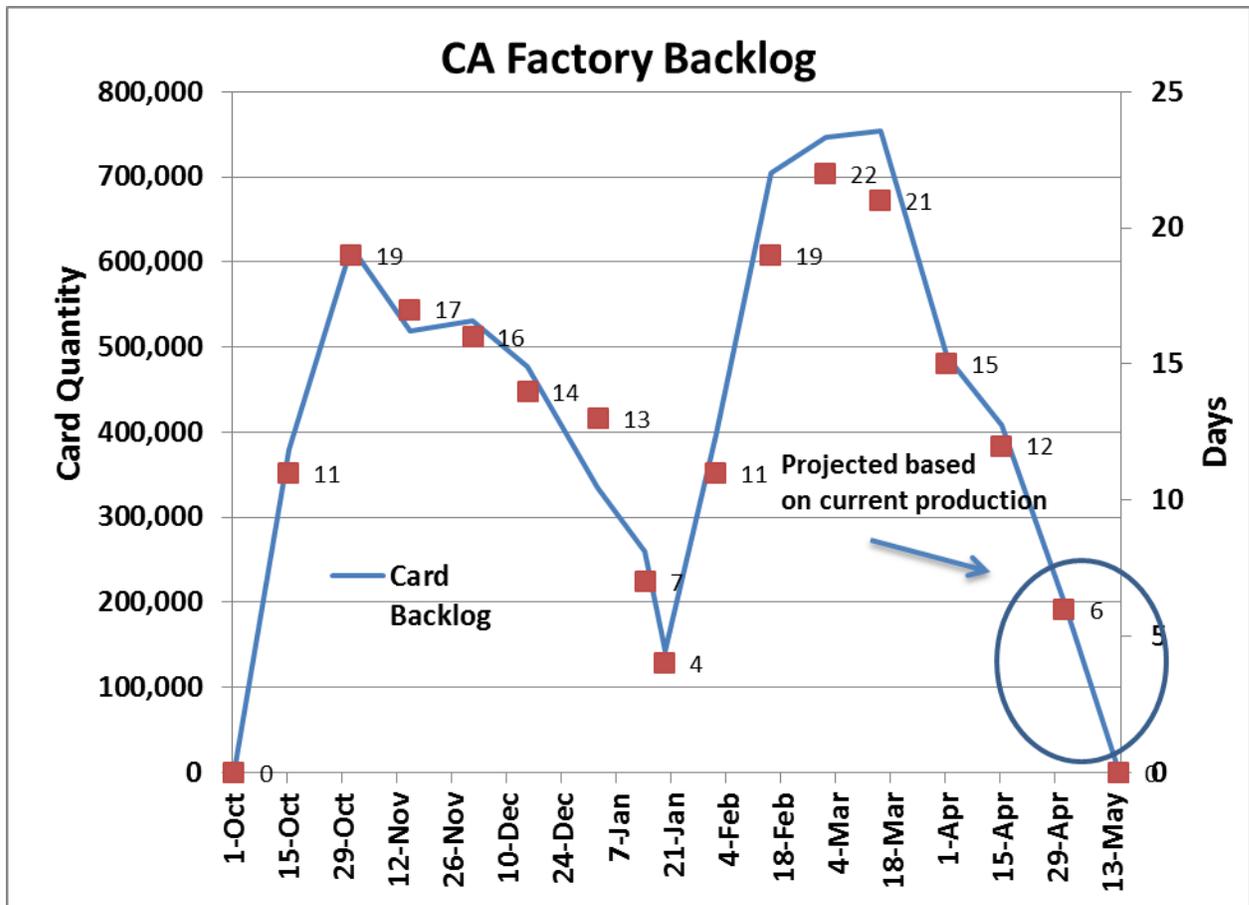
- 1. Informational Issue on Driver License Cards:** The DMV implemented a new driver license / identification (DL/ID) card design on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected many cards.

February 1 Hearing and February 15 Letter: At the Subcommittee #2 hearing on February 1, 2011, the DMV indicated that it was starting to see improvements with the vendor. In a letter dated February 15, 2011, DMV informed the Committee that it was optimistic the backlog would be eliminated by the end of March 2011. Additionally, DMV extended the duration of the temporary driver license from 60 days to 90 days and served a Notice of Breach letter to L-1.

April 28 Hearing: At the Subcommittee #2 hearing on April 28, 2011, the DMV testified to the current status of the backlog, which is detailed below. The Subcommittee asked DMV and an L-1 representative to return at the May 5 and May 12 hearings for weekly updates on the status of the backlog, and for updates on the status of determining damages that L-1 owes to the State.

Current Status: The DMV and the vendor missed the March 31 target for clearing the backlog and the chart on the following page was provided by DMV on April 21 to show the historic and projected backlog. The Administration is defining "backlog" as card orders that have been unreturned by L-1 within the 48 hours required by the contract. The DMV indicates the growth in backlog after January 21 was due to defective UV toner cartridges that caused the cards to print off color. A more comprehensive explanation of the various reasons for delay is outlined in a letter from L-1 Identity Solutions dated April 28, 2011. The Administration's data suggests the April 15 backlog was about 400,000 DL/ID cards and the average delay for those cards was 12 days.

As of May 3, 2011, DMV indicates that the backlog has been completely eliminated. Californians should now be receiving their cards within about two weeks of application. Those who faced longer delays in the past due to card defects, should also have their cards in the mail. The elimination of the backlog is about 10 days ahead of the schedule provided on April 21, and indicated on the chart.



Staff Comment: The DMV indicates they have not paid L-1 for any of the DL/ID cards pending liquidation of the backlog. The DMV and the L-1 representative should update the Subcommittee on the status of the cards and the status of fiscal damages from L-1’s breach of contract.

At the April 28, 2011, hearing, the Chair asked staff to calculate the budget reduction that would result from a 20-percent reduction in the DMV’s administrative funding. DMV’s budget for “Administration” is \$103.4 million (various special funds, no General Fund), and 20-percent of that number is \$20.7 million.

While the backlog has been cleared as of May 3, 2011, the chart indicates that the backlog has fluctuated, so the Subcommittee may want to still receive a status report from DMV next week to ensure the backlog has not re-emerged.

Staff Recommendation: Hold issue open and ask DMV to report back at the May 12 hearing.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA at \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.2 billion is currently "in hand" – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.2 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.8 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of the State positions were authorized last year, and due to the hiring freeze and other factors, only about 19 positions are currently filled.

January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals (BCPs) without prejudice to allow for further review. The BCPs rejected totaled \$186 million and \$6.0 million was retained in the budget to cover the base funding for HSRA staff and inter-agency contracts. The High Speed Rail Authority typically receives detailed workload proposals from its contractors in the spring, and that detail is still pending. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions.

Issues Suggested for Discussion

- 1. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo. The complete statement is "Attachment A" at the end of this agenda.

Summary of Statement: The three signers state the following: "We call on the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for a blended system that integrates high-speed rail with a 21st Century CalTrain.

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or "viaduct"; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,
- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible."

April 28, 2011, Hearing: At the April 28 hearing, the Subcommittee and HSRA discussed the joint statement and legal issues – primarily, the travel-time requirements in Proposition 1A and the requirements of the California Environmental Quality Act (CEQA). At the end of the discussion, HSRA concurred that the proposal in the joint statement could be achieved within the requirements of Proposition 1A and within the requirements of CEQA.

Staff Comment: The HSRA should be prepared to continue discussion on the joint statement.

Attachment A

Statement on California High-Speed Rail by:

Congresswoman Anna G. Eshoo

Senator S. Joseph Simitian

Assemblyman Richard S. Gordon

April 18, 2011

Since the passage of Proposition 1A in 2008, each of us has expressed our support for “high-speed rail done right,” by which we mean a genuinely statewide system that makes prudent use of limited public funds and which is responsive to legitimate concerns about the impact of high-speed rail on our cities, towns, neighborhoods and homes.

To date, however, the California High Speed Rail Authority has failed to develop and describe such a system for the Peninsula and South Bay. For

that reason, we have taken it upon ourselves today to set forth some basic parameters for what “high-speed rail done right” looks like in our region.

We start with the premise that for the Authority to succeed in its statewide mission it must be sensitive and responsive to local concerns about local impacts. Moreover, it is undeniable that funding will be severely limited at both the state and national levels for the foreseeable future.

Much of the projected cost for the San Jose to San Francisco leg of the project is driven by the fact that the Authority has, to date, proposed what is essentially a second rail system for the Peninsula and South Bay, unnecessarily duplicating existing usable infrastructure. Even if such a duplicative system could be constructed without adverse impact along the CalTrain corridor, and we do not believe it can, the cost of such duplication simply cannot be justified.

If we can barely find the funds to do high speed rail right, we most certainly cannot find the funds to do high speed rail wrong.

Accordingly, we call upon the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for *a blended system that integrates high-speed rail with a 21st Century CalTrain.*

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or “viaduct”; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,

- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.

Within the existing right-of-way, at or below grade, a single blended system could allow high-speed rail arriving in San Jose to continue north in a seamless fashion as part of a 21st Century CalTrain (using some combination of electrification, positive train control, new rolling stock and/or other appropriate upgrades) while maintaining the currently projected speeds and travel time for high-speed rail.

The net result of such a system would be a substantially upgraded commuter service for Peninsula and South Bay residents capable of accommodating high-speed rail from San Jose to San Francisco.

All of this is possible, but only if the High-Speed Rail Authority takes this opportunity to rethink its direction.

Over the course of the past 18 months the Authority has come under considerable criticism from the California Legislative Analyst's Office, the Bureau of State Audits, the California Office of the Inspector General, the Authority's own Peer Review Group and the Institute of Transportation Studies at the University of California at Berkeley. The Authority would do well to take these critiques to heart, and to make them the basis for a renewed and improved effort.

Frankly, a great many of our constituents are convinced that the High-Speed Rail Authority has already wandered so far afield that it is too late

for a successful course correction. We hope the Authority can prove otherwise.

An essential first step is a rethinking of the Authority's plans for the Peninsula and South Bay. A commitment to a project which eschews an aerial viaduct, stays within the existing right-of-way, sets aside any notion of a phased project expansion at a later date, and incorporates the necessary upgrades for CalTrain - which would produce a truly blended system along the CalTrain corridor - is the essential next step.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Hearing Outcomes

Agenda – Part B

Day: Thursday, May 5, 2011
Time: 9:30 a.m. or upon adjournment of session
John L. Burton Hearing Room (4203)

Consultant: Brian Annis

Transportation

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Issue Suggested for Discussion and Vote:

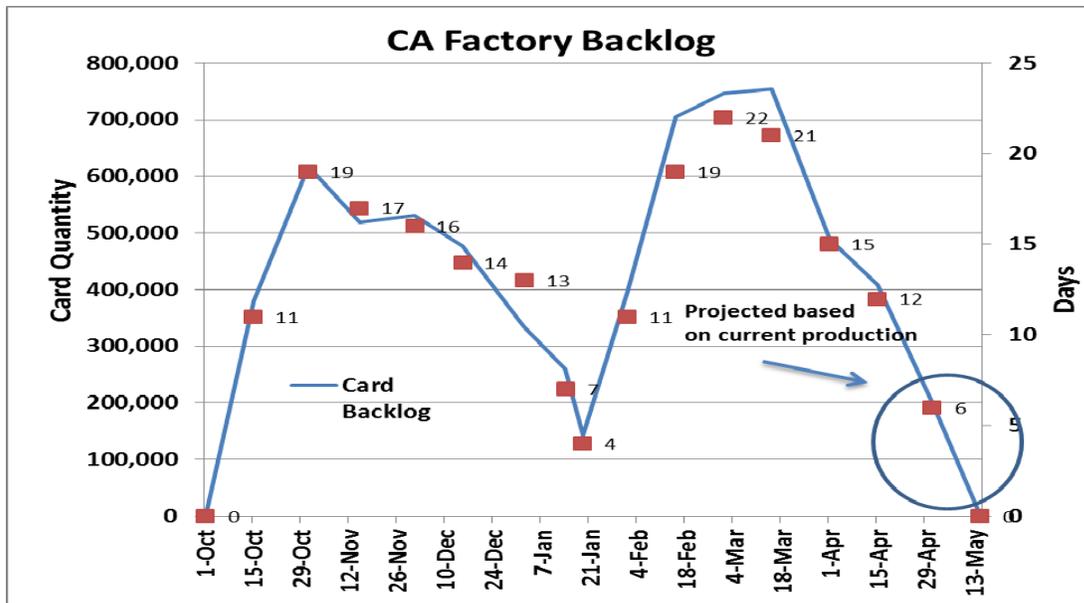
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Staff Comment: The DMV indicates they have not paid L-1 for any of the DL/ID cards pending liquidation of the backlog. The DMV and the L-1 representative should update the Subcommittee on the status of the cards and the status of fiscal damages from L-1’s breach of contract.

At the April 28, 2011, hearing, the Chair asked staff to calculate the budget reduction that would result from a 20-percent reduction in the DMV’s administrative funding. DMV’s budget for “Administration” is \$103.4 million (various special funds, no General Fund), and 20-percent of that number is \$20.7 million.

While the backlog has been cleared as of May 3, 2011, the chart indicates that the backlog has fluctuated, so the Subcommittee may want to still receive a status report from DMV next week to ensure the backlog has not re-emerged.

Staff Recommendation: Hold issue open and ask DMV to report back at the May 12 hearing.

Action: No budget action was taken, but DMV was asked, and agreed, to consult with the Department of General Services, and report back in writing within 30 days to the Subcommittee on: (1) improvements the State can make to its contract terms to ensure better outcomes when a contractor fails to deliver on key components of a contract; and (2) the ability to renegotiate the L-1 contract to include liquidated damages for non-compliance with quality and timeliness requirements of the contract. L-1 was asked, and agreed, to respond in writing within two weeks on how they will “make things right” or fully compensate the State for average delays of 15 days and defect rates up to 20-percent for card production over a 7-month period – this should include an indication of whether L-1 will support a contract amendment to add liquidated damages for failure to meet the 48-hour production time and failure to meet quality standards.

2665 High-Speed Rail Authority

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January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals (BCPs) without prejudice to allow for further review. The BCPs rejected totaled \$186 million and \$6.0 million was retained in the budget to cover the base funding for HSRA staff and inter-agency contracts. The High Speed Rail Authority typically receives detailed workload proposals from its contractors in the spring, and that detail is still pending. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions.

Issues Suggested for Discussion

- 1. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo. The complete statement is "Attachment A" at the end of this agenda.

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To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or "viaduct"; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
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- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible."

April 28, 2011, Hearing: At the April 28 hearing, the Subcommittee and HSRA discussed the joint statement and legal issues – primarily, the travel-time requirements in Proposition 1A and the requirements of the California Environmental Quality Act (CEQA). At the end of the discussion, HSRA concurred that the proposal in the joint statement could be achieved within the requirements of Proposition 1A and within the requirements of CEQA.

Staff Comment: The HSRA should be prepared to continue discussion on the joint statement.

Action: No budget action was taken, but the HSRA was asked to return next week and testify at the May 12 hearing. The HSRA also was asked, and agreed, to provide a written outreach plan within 4 weeks for the Board's action to explore an alternate alignment for the Bakersfield to Los Angeles segment.

Attachment A

Statement on California High-Speed Rail by:

Congresswoman Anna G. Eshoo

Senator S. Joseph Simitian

Assemblyman Richard S. Gordon

April 18, 2011

Since the passage of Proposition 1A in 2008, each of us has expressed our support for “high-speed rail done right,” by which we mean a genuinely statewide system that makes prudent use of limited public funds and which is responsive to legitimate concerns about the impact of high-speed rail on our cities, towns, neighborhoods and homes.

To date, however, the California High Speed Rail Authority has failed to develop and describe such a system for the Peninsula and South Bay. For

that reason, we have taken it upon ourselves today to set forth some basic parameters for what “high-speed rail done right” looks like in our region.

We start with the premise that for the Authority to succeed in its statewide mission it must be sensitive and responsive to local concerns about local impacts. Moreover, it is undeniable that funding will be severely limited at both the state and national levels for the foreseeable future.

Much of the projected cost for the San Jose to San Francisco leg of the project is driven by the fact that the Authority has, to date, proposed what is essentially a second rail system for the Peninsula and South Bay, unnecessarily duplicating existing usable infrastructure. Even if such a duplicative system could be constructed without adverse impact along the CalTrain corridor, and we do not believe it can, the cost of such duplication simply cannot be justified.

If we can barely find the funds to do high speed rail right, we most certainly cannot find the funds to do high speed rail wrong.

Accordingly, we call upon the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for *a blended system that integrates high-speed rail with a 21st Century CalTrain.*

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Within the existing right-of-way, at or below grade, a single blended system could allow high-speed rail arriving in San Jose to continue north in a seamless fashion as part of a 21st Century CalTrain (using some combination of electrification, positive train control, new rolling stock and/or other appropriate upgrades) while maintaining the currently projected speeds and travel time for high-speed rail.

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SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda – Part A

Day: Thursday, May 12, 2011
Time: upon adjournment of Budget and Fiscal Review
Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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Events this Week: In a May 9, 2011, press release, the federal government announced that the California High-Speed Rail Authority has been awarded another \$300 million for a 20-mile extension along the Central Valley Corridor. This brings total federal funds awarded to California HSRA to \$3.5 billion. On May 10, 2011, the Legislative Analyst's Office (LAO) released its recommendations on high-speed rail. At the time this agenda was finalized, staff was still reviewing the LAO recommendations. As time allows, the Subcommittee may want to receive an update from HSRA on the federal funds, and an overview from the LAO on its recommendations.

Staff notes that the Select Committee on High Speed Rail, which Senator Lowenthal chairs, and on which Senator Simitian sits, has a hearing scheduled for May 11, 2011, and the topic is review of the California High-Speed Rail Peer Review Group Report. The LAO report and other issues may also be discussed.

Issues Suggested for Discussion

- 1. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo. The complete statement is "Attachment A" at the end of this agenda.

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Staff Comment: The HSRA should be prepared to continue discussion on the joint statement.

2. Budget Change Proposals: The Administration submitted the following Budget Change Proposals:

- **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
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- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail on the vendors' 2011-12 workplans is still pending. Upon completion of the workplans, HSRA indicates there will probably be adjustments to the budgeted expenditures by segment via a May Revision Finance Letter. The financial consultant is not yet under contract, but HSRA hopes to sign this contract over the next few weeks and indicates the October 14, 2011, fiscal reporting deadline will be met.

Staff Recommendation: Hold open all BCPs pending additional detail.

Attachment A

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April 18, 2011

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SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Hearing Outcomes

Agenda – Part A

Day: Thursday, May 12, 2011
Time: upon adjournment of Budget and Fiscal Review
Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool's errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.

Within the existing right-of-way, at or below grade, a single blended system could allow high-speed rail arriving in San Jose to continue north in a seamless fashion as part of a 21st Century CalTrain (using some combination of electrification, positive train control, new rolling stock and/or other appropriate upgrades) while maintaining the currently projected speeds and travel time for high-speed rail.

The net result of such a system would be a substantially upgraded commuter service for Peninsula and South Bay residents capable of accommodating high-speed rail from San Jose to San Francisco.

All of this is possible, but only if the High-Speed Rail Authority takes this opportunity to rethink its direction.

Over the course of the past 18 months the Authority has come under considerable criticism from the California Legislative Analyst's Office, the Bureau of State Audits, the California Office of the Inspector General, the Authority's own Peer Review Group and the Institute of Transportation Studies at the University of California at Berkeley. The Authority would do well to take these critiques to heart, and to make them the basis for a renewed and improved effort.

Frankly, a great many of our constituents are convinced that the High-Speed Rail Authority has already wandered so far afield that it is too late

for a successful course correction. We hope the Authority can prove otherwise.

An essential first step is a rethinking of the Authority's plans for the Peninsula and South Bay. A commitment to a project which eschews an aerial viaduct, stays within the existing right-of-way, sets aside any notion of a phased project expansion at a later date, and incorporates the necessary upgrades for CalTrain - which would produce a truly blended system along the CalTrain corridor - is the essential next step.

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART B

May 12, 2011

9:30 am or upon adjournment of Budget and Fiscal Review
Rose Ann Vuich Hearing Room (2040)

Consultant: Catherine Freeman

Departments Proposed for Vote Only

3680	Department of Boating and Waterways	2
3540	Secretary for Cal-EPA	2
3940	State Water Resources Control Board	2

Departments Proposed for Discussion

3640	Wildlife Conservation Board	4
3760	State Coastal Conservancy	7
3790	Department of Parks and Recreation	10
3500	Department of Resources Recycling and Recovery	14
3540	Department of Forestry and Fire Protection	17
3860	Department of Water Resources	21
8570	California Department of Food and Agriculture	32
8660	California Public Utilities Commission	34
3600	Department of Fish and Game	39

Resources—Environmental Protection—Energy—Transportation

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DEPARTMENTS PROPOSED FOR VOTE-ONLY**0555 Secretary for Cal-EPA**

1. FL-1: Increase Federal Funding Reimbursement Authority to Support the Education and the Environment Initiative Curriculum. The governor requests \$388,000 in federal reimbursement authority from the National Oceanic and Atmospheric Administration. The federal competitively awarded grant will allow the Secretary to train teachers in the use of the Education and the Environment Initiative curriculum.

3680 Department of Boating and Waterways

2. BCP-1: Public Small Craft Harbor Loans and Boat Launching Grants. The department requests \$17.9 million (Harbors and Watercraft Revolving Fund) in local assistance public small craft loans and boat launching facilities. This item was denied without prejudice in February.

3. BCP-2: Department of Finance Recommendations—Boating and Facility Loans and Grants. The Governor requests \$100,000 (Harbors and Watercraft Revolving Fund) in ongoing state support to contract for the financial services required as recommended by an internal Department of Finance audit. This item was denied without prejudice in February.

4. FL-1: Channel Islands Boating Instruction and Safety Center (BISC). The Governor requests \$3.3 million (Harbors and Watercraft Revolving Fund) to fund the state's share of a continuing project to build multi-use public instructional, storage and dock facility with California State University, Channel Islands.

3940 State Water Resources Control Board

5. FL-1: Pacific Lumber Company Defense Litigation. The board requests \$3.4 million (\$2.4 million from the Waste Discharge Permit Fund, \$1 million from the General Fund) to continue reimbursing the Attorney General's office and outside counsel defending the State of California from a lawsuit filed by the Pacific Lumber Company. This request is consistent with a possible accelerated trial date presented with the Governor's January budget as required by the trial court.

6. FL-2: Operator Certification Fund. The Governor requests a technical amendment to the Water Code to ensure that money collected by the Wastewater Operator Certification Program are deposited into the Wastewater Operator Certification Fund.

7. FL-3: Continuing Implementation (Reappropriations) of Propositions 13, 40, 50, and 84. The Governor various technical adjustments for local assistance and state operations, reversion and re-appropriations for various bond funded programs.

Staff Comments. The administration and partner agencies have provided sufficient documentation to support the approval of these proposals.

Staff Recommendation: APPROVE ITEMS 1-7.

VOTE:

3640 Wildlife Conservation Board

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB's support funding comes from a number of fund sources, including the General Fund, the Wildlife Restoration Fund, the Habitat Conservation Fund (HCF), the Environmental License Plate Fund, and bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program	Technical Adjustment	Amount
1. Extension of Liquidation Period – Proposition 12	Request to extend the liquidation period for two projects due to the 2008 bond freeze for the San Joaquin River Conservancy. The original appropriation was \$14.6 million. \$145,000 of this has not been liquidated.	\$145,000
2. Habitat Conservation Fund	Request to extend the liquidation periods of the Habitat Conservation Fund and associated Proposition 50 transfer to implement the Wildlife Conservation Act. These extensions are necessary because of delays caused by permitting requirements that only allow restoration work to be completed in the summer.	various

Recommendation: APPROVE Technical Finance Letters 1-2

Items Proposed for Discussion**1. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.

LAO Recommendation (Updated)

In the Governor's January budget proposal, the Wildlife Conservation Board (WCB) requested reappropriation of \$39 million in unexpended bond funds for San Joaquin River Restoration (SJRR) activities and Natural Communities Conservation Planning (NCCP). We had initially recommended that the Legislature withhold its approval of these reappropriations pending demonstration by the board that the re-appropriated funding would result in physical projects. The Legislature subsequently took action to deny the request without prejudice.

The WCB has since informally withdrawn its request for the SJRR reappropriation (\$11 million from Proposition 84 and \$3 million from Proposition 40), and we accordingly recommend that the Legislature deny the reappropriation of those funds.

In response to the Legislature's denial without prejudice of the remaining \$25 million reappropriation request for NCCP activities, WCB has completed an action plan that indicates WCB's intention to spend \$27.5 million on NCCP in 2011-12, including the number of acres to be acquired in specific counties, and the number of NCCPs that these expenditures will support. In light of this action plan and WCB's success at expending reappropriations requested in 2010-11, we now recommend approval of the request to re-appropriate \$25 million from Proposition 84 for NCCP.

Finally, we note that postponing the expenditure of some portion or all of the re-appropriation request that we recommend be approved could serve as a one-time budget solution. The postponement serves this purpose by restraining the growth of the associated debt service costs (which are funded from the General Fund). As with all budget requests for bond expenditures, the Legislature may wish to evaluate whether these bond expenditures, while justified, are of sufficiently high priority to warrant incurring the associated debt service costs at this time.

Previous Budget Actions. The subcommittee previously heard this item and denied the reappropriations without prejudice. The board was required to return with an action plan for expenditure of funds by April 1, 2011.

Staff Update. The board has fully complied with the subcommittee's direction to return with an action plan for expenditures of the funds. The plan outlines the department's progress in two areas: the San Joaquin River and the NCCP program. In both cases, the department's slow progress was in part due to the 2008 bond freeze among other issues.

The board's plan for the San Joaquin River Conservancy funding includes using an authorized position to catch up on previous backlogged projects. The Conservancy has approximately \$31 million (including the proposed \$14 million in the budget year) in prior year expenditure authority, and a separate proposed extension of liquidation, to fund project development, acquisition, and restoration efforts and approximately a \$6.2 million backlog. In light of previous year difficulties implementing the projects and current sufficient funding to address the backlog, the board now supports the LAO recommendation to not re-appropriate the proposed San Joaquin River funds.

The board described an action plan to allocate funding for the NCCP program that includes estimated project costs for various California regions including the Delta, Inland Empire, and Southern California. These projects are anticipated to match both federal and state funding. Withholding funding now would jeopardize the ability to leverage these non-state funds.

Recommendation.

- (1) APPROVE Natural Communities Conservation Planning program funding.
- (2) DENY San Joaquin River Conservancy and San Joaquin River parkway funding.

Vote:

3720 State Coastal Conservancy

The State Coastal Conservancy develops and implements programs to protect, restore, and enhance natural, recreational and economic resources along California's coast, coastal watersheds, the ocean, and within the San Francisco Bay Area. The Coastal Conservancy also serves as staff and fiscal agent for the California Ocean Protection Council.

ITEM PROPOSED FOR VOTE-ONLY

1. FL-1: Public Access Program. The Governor requests \$300,000 (Violations Remediation Account) for the Conservancy's public access program according to existing adopted criteria. The request will provide additional assistance to local partners to manage several public access ways along the coast. Such access ways include paths and stairways that provide access to the beach and other coastal locations, as well as portions of the California Coastal Trail.

Staff Recommendation: APPROVE Item 1

Vote:

ITEMS PROPOSED FOR DISCUSSION**2. FL-2: Shift Support Funding to Bond Funds.**

Background. The Governor requests to decrease funding from the State Coastal Conservancy Fund of 1976 (Fund 0565) by \$2.4 million and provide an equivalent increase from Proposition 84 bond funds (split between two accounts) for support funding. According to the administration, Fund 0565 has existed since 1976, however with fewer deposits in recent years, declining balances require less annual appropriations out of the account. The Governor proposes this shift as to the ongoing, base budget at the Conservancy for support and state operations activities.

Staff Comments. The department has been judicious with the use of the proportion of bond funds available for administrative functions. As such, this proposal should not violate the bond rules set forth for administrative and support functions. However, the use of bond funds to supplant support costs raises concerns about the long-term viability of the State Coastal Conservancy when bond funds inevitably run out. Without a long-term funding source, the Coastal Conservancy may not be able to support its current staffing levels and activities, including those related to the Ocean Protection Council.

Recommendation. (1) APPROVE PROPOSAL with the following SRL:

On or before January 10, 2013, the State Coastal Conservancy shall submit a long-term plan for the State Coastal Conservancy spanning a 10-year period starting in 2013-14. The plans shall include funding needs should no new bond funds be made available, staffing reduction plans, and options for continued support for core functions (including the Ocean Protection Council).

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program	Technical Adjustment
1. Office of Historic Preservation Database	Extension of liquidation (\$163,000 GF) for database re-host project. Due to delays caused by the contractor, it is necessary to extend the liquidation period to complete the upgrade.
2. California State Railroad Museum Re-appropriation	Re-appropriation of \$11.6 million (\$6.6 million Proposition 40 bond funds and \$5 million reimbursements) to acquire former industrial buildings to comply with Chapter 689, Statutes of 2008 (AB 2945). This extension request will ensure the funds are available to complete the acquisition.
3. Technical Capital Outlay Amendments	Request for reappropriation and appropriation anew from bond funds and special funds for (1) Marshall Gold Discovery State Historic Park; (2) Oceano Dunes SVRA/Pismo Beach
4. Angel Island State Park	Approval of concession agreement for ferry service at Angel Island State Park.

Recommendation: APPROVE ITEMS 1-4

ITEMS PROPOSED FOR DISCUSSION**1. Subcommittee Issue—Local Bond Project Extensions**

Governor’s 2011-12 Budget. Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Due to the 2008 bond freeze, the grantees have not completed their projects. This adjustment reflects an adjusted timeline.

Staff Comments. Staff concurs with the administration’s list of projects meriting extensions of liquidation. The bond freeze caused numerous projects to be suspended, resulting in a greater than expected number of these projects requesting extensions of liquidation. In order to be more equitable, this extension of liquidation should be given to all such projects on a one-time basis. This would reduce department and staff workload evaluating each local assistance project.

Recommendation.

- (1) Staff recommends Budget Bill Language to provide a 2-year extension of liquidation for all Proposition 40 local parks projects. Staff will work with the Department of Finance and the Department of Parks and Recreation to craft appropriate language. This language is not intended to duplicate nor supplant previous actions by the Legislature on bond fund extensions.
- (2) Approve Finance Letter

Vote:

2. BCP-10: Budget Reduction Plan Fiscal Year 2011-12 Through 2012-13.

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Previous Budget Action. The budget reduced the overall Parks budget by \$11 million GF and \$22 million ongoing starting in 2012-13. The budget approved trailer bill language specifying criteria for reducing the state park system including selecting parks for closure, partial closure, or reduced service and language limiting liability for closed or partially closed parks.

- The department should update the subcommittee on its plan for park closures, and what the public should expect to see on July 1, 2011.

Staff Comments. The reductions in state parks have led to a number of questions about how the department budgets for park units, tracks revenues and visitor data, and uses employee assets. There are a number of legislative efforts underway to consider changes to the way the department manages the parks system, including proposals to allow more public-private partnerships.

In order for the Legislature to fully consider these proposals, the department should report on several issues, many of which the department will have considered as it created the current parks reduction plan.

Recommendation. Approve supplemental reporting language (below, in concept). No action is required on the state parks reduction plan.

- (1) The department shall, on January 10, 2012, report its budget to the Legislature on a park-unit basis. This includes an estimate of distributed shared costs on a pro-rata basis (personnel, materials, services) shared by sectors or across districts.
- (2) The department shall, on March 1, 2012, prepare a report on revenues by park unit and visitor data (by park unit, aggregated on a district basis) and compare to National Parks, other State Parks systems.
- (3) The department shall report, on March 1, 2012, statistics on peace officer's use of weapons in state parks to deter crime, or to respond to crimes in process; report on enforcement of non-Parks related crimes and for mutual aid as well as the number of park rangers not assigned to any park unit.

Vote:

3. Department of Parks and Recreation—Liability Language Cleanup

Background. Chapter 2, Statutes of 2011 included a provision to relieve liability to the Department of Parks and Recreation for closed or partially closed parks. There was concern that the language was overly-broad. The Senate agreed during public debate to review and revise the language to narrow the liability to only that needed by the department.

Staff Comments. Staff recommends the following Trailer Bill Language that will provide needed liability without impacting unnecessary provisions of law.

Recommendation. Approve the following Trailer Bill Language

SEC. 25. Section 5007 is added to the Public Resources Code, to read:

5007. (a) The department shall achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system. For purposes of this section, "required budget reductions" means the amount of funds appropriated in the annual Budget Act to the department that is less than the amount necessary to fully operate the 2010 level of 278 units of the state park system. The department shall select the units to be closed based solely on all of the following factors:

(1) The relative statewide significance of each park unit, preserving to the extent possible, parks identified in the department's documents including "Outstanding and Representative Parks," the "California State History Plan," and the "California State Parks Survey of 1928."

(2) The rate of visitation to each unit, to minimize impacts to visitation in the state park system.

(3) (A) The estimated net savings from closing each unit, to maximize savings to the state park system.

(B) For purposes of this subdivision, "net savings" means the estimated costs of operation for the unit less the unit's projected revenues and less the costs of maintaining the unit after it is closed.

(4) The feasibility of physically closing each unit.

(5) The existence of, or potential for, partnerships that can help support each unit, including concessions and both for-profit and nonprofit partners.

(6) Significant operational efficiencies to be gained from closing a unit based on its proximity to other closed units where the units typically share staff and other operating resources.

(7) Significant and costly infrastructure deficiencies affecting key systems at each unit so that continued operation of the unit is less cost effective relative to other units.

(8) Recent or funded infrastructure investments at a unit.

(9) Necessary but unfunded capital investments at a unit.

(10) Deed restrictions and grant requirements applicable to each unit.

(11) The extent to which there are substantial dedicated funds for the support of the unit that are not appropriated from the General Fund.

(b) A public entity or a public employee shall be limited from liability as provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a state park system unit that is designated as closed, partially closed, or subject to service reduction by the department pursuant to subdivision.

Vote:

3500 Department of Resources Recycling and Recovery

The DRRR was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, the DRRR 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. The DRRR 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, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes \$1.4 billion (no GF) for the DRRR, including \$1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and \$200 million for the Waste Reduction and Management Program (the old Waste Board).

ITEMS FOR DISCUSSION

1. BCP-5: Improve Audit Coverage and Internal Controls.

Background. The Governor's budget requests to redirect \$1.1 million Beverage Container Recycling Fund from the Consulting and Professional line item to fund 11.0 permanent positions to address the findings and recommendations in the State Auditor's report from June 2010.

In June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

LAO Reorganization Analysis. The LAO has raised issues with the level of savings from the overall creation of DRRR as well as the best proposed reorganization model. The LAO recommends holding hearings to discuss the reorganization plan particularly as it impacts department programs (including the Beverage Container Recycling Fund). The LAO also recommends reporting language to require the department to report on the savings from the reorganization.

Staff Comments. Budget and policy staff have met with the department and administration several times to discuss issues related to the reorganization and BCRF. The department has agreed to the following measures:

1. Provide single points of contact for all currently mandated programs.
2. Withdraw proposed reorganization plan from the Department of Personnel Administration because this plan violates statute.

Staff remain concerned that the department is reluctant to return to a statutorily valid reorganization plan where the Division of Recycling (and Beverage Container Recycling Fund) is functionally separate from the program areas that were under the former Integrated Waste Management Board. It would be appropriate for some administrative functions to be co-mingled but statute is clear that these functional divisions should remain separate.

The department has indicated that it is awaiting a Governor's appointment for an Director to make any further changes. This is largely unsatisfactory given that there is no timeframe for this appointment, and this presumes the department may continue to act outside of statutory guidelines in the interim.

Staff Recommendation: Staff recommends the following:

- 1) The Department shall convene a monthly workgroup starting July 1, 2011 and concluding December 31, 2011 to include Legislative budget and policy staff and the LAO. This working group shall focus on correcting the following issues at the department:
 - a. Separating the Division of Recycling from the former waste board functions
 - b. Ensuring that funds are not co-mingled between the Beverage Container Recycling Fund and the waste divisions
 - c. Removing any unnecessary CEA positions that functionally duplicate any Governor's appointees
 - d. Determining a pathway to return functional programs by policy area to foster expertise in subject areas.
- 2) Request an audit by the Bureau of State Audits to for a programmatic review of the department and it's compliance with state law, including its organization and structure.
- 3) DENY BUDGET PROPOSAL

Vote:

2. BCP-6: Fraud Prevention Program, Strategic Priority Initiative—Beverage Container Recycling Program.

Background. The Governor's budget requests 7 permanent positions funded by redirecting \$681,000 Beverage Container Recycling Fund from Consulting and Professional Services to Personal Services. These positions are requested to prevent and investigate fraud in the Beverage Container Recycling Program.

As with the previous item, in June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

Staff Comments. As with the previous item, staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. Staff recommends denying the proposal consistent with the previous action.

Staff Recommendation: DENY BUDGET PROPOSAL

Vote:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or “CalFIRE,” under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor’s Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor’s Budget includes \$1.05 billion for support of the DFFP in 2011-12. This is a \$39 million (3.7 percent) decrease under current year expenditures. This is mainly due to the proposal to reduce engine firefighter staffing.

ITEM PROPOSED FOR VOTE-ONLY

1. FI-1 Blanchard Forest Fire Station and Shasta-Trinity Unit Headquarters. The Governor requests for the following capital outlay proposals: (1) \$300,000 for acquisition of the Blanchard Forest Fire Station and adjacent property; and (2) \$200,000 for acquisition of a purchase option for relocation of the Shasta-Trinity headquarters due to urbanization within the City of Redding.

2. FI-2 Proposition 40 Reappropriation. The Governor requests reappropriation of Proposition 40 bond funds due to a technical error in the budget act that previously extended only the liquidation period of these funds, rather than a reappropriation anew.

3. Civil Cost-Recovery Program. The Governor requests \$1.7 million and 10 two-year limited-term positions to augment its current Statewide Fire Suppression Civil Cost-Recovery Program. The California Health and Safety Code authorize fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws. This item was denied without prejudice in the April budget for further review.

Staff Comments. Staff have reviewed the proposals and have met with the department to discuss their plans for fleet and vehicle purchases for the Civil Cost Recovery Program.

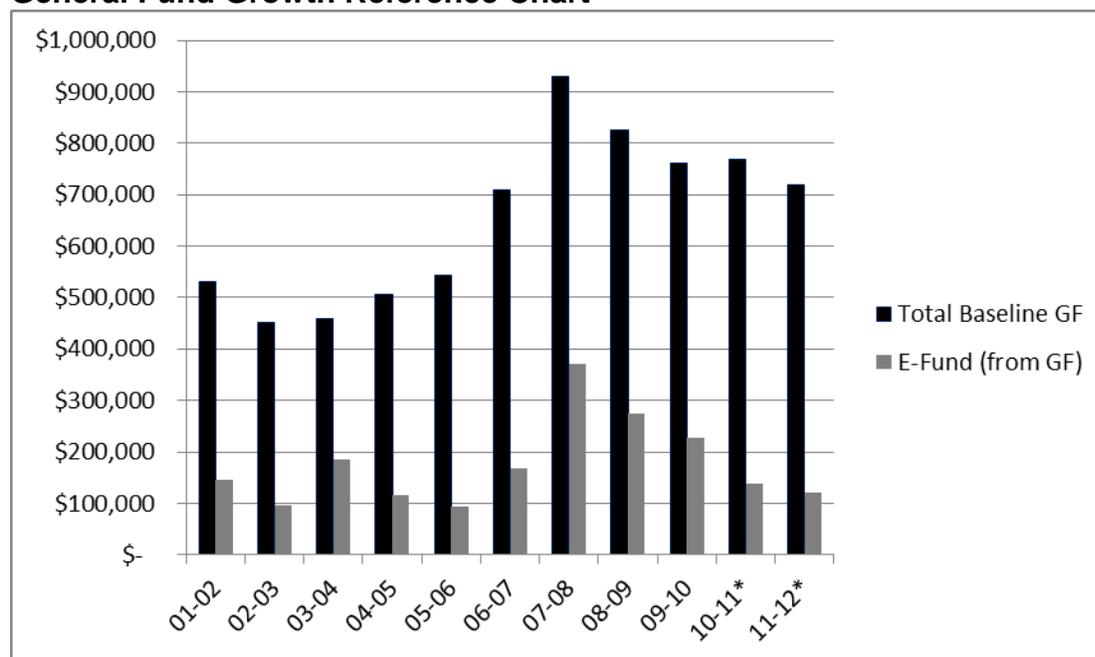
Recommendation: Approve Items 1-3

Vote:

ITEMS PROPOSED FOR DISCUSSION

4. Reducing Expenditures at CalFIRE

General Fund Growth Reference Chart**



* Estimated

** Capital outlay excluded (as well as certain related local assistance). Year-to-year carryover makes this figure meaningless for comparison.

Background

Expenditure Growth Unsustainable. Over the past several years, a number of proposals to adjust the way the state pays for, and is responsible for, wildland firefighting have been proposed. Factors including the rise in the number of homes in the urban-wildland interface, climate change, labor costs, and changes to the way local and federal agencies pay for firefighting have impacted how the department manages expenditures. One result is an increase of over 60 percent in firefighting costs from 2001-02 to 2011-12. Only two other Resources or Cal-EPA agencies increased General Fund costs over that time, Department of Water Resources and Department of Fish and Game.

Urban-Wildland Interface Should Be Explored. One of the primary targets for cost-saving discussions has been development in the urban-wildland interface. In this area, locals approve land use planning decisions while a combination of state, local and federal agencies provide firefighting services. Because of mutual aid agreements, this generally means that state firefighters respond to both wildfires as wells as local structural, vehicular and individual emergencies. In general, locals respond to wildland fires however, the federal government has some restrictions on its involvement with

local structural, vehicular and individual emergencies. A recent report by the Headwaters Economic group produced for the federal government ranked California high in the number of homes in the urban-wildland interface as compared to other western states.

Opportunity to Discuss Funding. Given the number of opportunities the Legislature and the administration have had to discuss funding for CalFIRE, it would seem a good time to bring people to the table for a focused discussion on future funding for the department.

Staff Recommendation: As the Governor's May Revision has not yet been released, staff recommends the subcommittee continue to hold open baseline budget items. However, in keeping with the desire to form a long-term solution to the cost of wildland firefighting in California, staff recommends:

- (1) The department convene a working group consisting (at a minimum) of legislative staff, department executive staff, the Legislative Analyst's Office, at least two fire chiefs (one from Northern California, one Southern and from both urban and rural districts) to discuss options for future funding, realignment and/or possible changes in the state's management of wildland firefighting. The group shall meet no less than 3 times between July 1, 2011 and December 1, 2011 to the extent possible in person, but at a minimum by telephone.
- (2) The department contract for an independent analysis of wildland firefighting costs as compared to other Western States, and to produce recommendations for funding solutions to the above working group.
- (3) The department shall report to the Legislature on the results of the working group's efforts in spring 2012 budget hearings, and shall work with the Legislature to implement any feasible changes to the budget at that time.

Vote:

ITEMS PROPOSED FOR DEFERRAL (Pending May Revision)

5. BCP-1: Fire Protection Permanent Funding. The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit at a zero-based budget. The request includes authority related to the Aviation Management Unit, Very Large Air Tanker and Victorville Air Attack Base, San Diego Helitack, Aviation Asset Coordinator, Lake Tahoe Basin Fire Engine Station and Staffing, and Defensible Space, and CAL Card Support.

6. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option. The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

Staff Comments: Each of these items may be impacted by the Legislature and the Governor's negotiations on the realignment and budget reductions process. Therefore it may be premature to approve or deny these proposals.

Staff Recommendation: (1) HOLD OPEN Items 5-6

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 \$1.5 billion (\$115 million General Fund) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$2.1 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

ITEMS PROPOSED FOR VOTE-ONLY

1. Finance Letter: Re-appropriation and Extension of Liquidation Requests (Proposition 1E). Various reappropriations totaling \$151.2 million (bond funds) for continuing capital outlay projects including Feather River, West Sacramento, Upper Sacramento River, Lower Cache Creek, Merced County, Sutter Bypass, and System-wide Levee Evaluations and Repairs.

2. Finance Letter: Reappropriation and Extension of Liquidation Requests (Proposition 84, Proposition 50, Proposition 13 and other funds). Various reappropriations including Flood Protection Corridors, Urban Streams, Delta Fish Facility Improvement, Drinking Water, Water Use Efficiency, Water Supply Reliability Sediment Removal, and Agricultural Drainage, among others.

3. Finance Letter: Salton Sea Restoration. The administration requests \$4.2 million in reimbursement authority for the Salton Sea Restoration Program. The LAO recommends the Legislature deny the April Finance Letter request for \$4.2 million in

reimbursement authority for Department of Water Resources (DWR). Expenditures are not appropriate at this time because of a lack of a formally approved restoration plan and legal uncertainty surrounding the Quantification Settlement Agreement (QSA).

Staff Comments (Item 3). The subcommittee heard this issue on May 5 under the Department of Fish and Game. In that hearing, the subcommittee rejected a related proposal for funding. Staff recommendation is consistent with this previous action.

Staff Recommendation. APPROVE Items 1-2. REJECT Item 3.

ITEMS PROPOSED FOR DISCUSSION**4. FloodSAFE California Program (Open Items)**

Background. The subcommittee previously heard the Governor's request for FloodSAFE funding of \$64.9 million (Proposition 1E and Proposition 13), three new positions, and extension of three limited-term positions. The Legislature (SB 69) took the following actions:

Approved

- 1) **Floodplain Risk Management** – \$6 million (Proposition 1E) for Central Valley floodplain evaluation and delineation
- 2) **Flood Projects and Grants** – \$53.3 million (Propositions 1E and 13) for flood system modifications, floodway corridors, Yuba-Feather flood protection, and North Delta Flood control and ecological restoration.

Denied Without Prejudice

- 3) **Evaluation and Engineering** – \$2 million for Delta Risk Management Strategy and the Delta Knowledge Improvement Program
- 4) **Flood Management Planning** – \$3.5 million for Central Valley Protection Plan and FloodSAFE Conservation strategy.

Staff Comments. Staff have met with the department to discuss the two open items. The department was able to provide sufficient information to recommend approval of the Flood Management Planning proposal. This proposal would streamline permitting and approval in the Central Valley for flood-related projects.

The department did not provide sufficient information to recommend approval of the Engineering and Evaluation proposal. As stated in the previous hearing:

(1) **Delta Knowledge Improvement Strategy.** Staff have concerns about the Evaluation and Engineering request for \$2 million (Proposition 1E) for the Delta Risk Management Strategy (DRMS) and Delta Knowledge Improvement Program (DKIP). This proposal is a request for contract support to complete follow-up efforts to the DRMS Phase Two report. The DKIP is a multi-year project designed to fill in data gaps left by the DRMS Phase One and Phase Two, and to provide more comprehensive information than was provided in the initial two phases. The Phase Two report has not been released and therefore it is unclear how or what the DKIP will provide to inform the Legislature's decisions on Delta issues.

In 2010, the Legislature approved \$2 million to start the DKIP process. Because the DRMS Phase Two project ran longer than expected, the DKIP project has not begun and a contract solicitation has not been announced.

It would seem appropriate to allow the public and the Legislature to review the DRMS Phase Two report prior to funding any further efforts related to DRMS or DKIP. In addition, the release of the Delta Plan in 2012 will further direct scarce funding to fill in specific data gaps that are needed to implement the state's efforts in the Delta.

The subcommittee may wish to have the department report on:

- Has the department released Phase Two of the DRMS study?

Recommendation.

- (1) REJECT \$2 million proposed for Engineering and Evaluation.
- (2) APPROVE January Conservation Strategy proposal for FloodSAFE (including three positions)

Vote:

5. State Water Project Position Requests (Open Items)

Background. The Governor's January budget requests 145 positions (33 of which were proposed for future years). The subcommittee heard each proposal, with recommendations to hold open (Deny Without Prejudice) the majority of these positions to give the department, staff, and the Legislative Analyst's Office time to more fully review them.

Ultimately, the Legislature in SB 69 held open the requests for three proposals: (1) Implementation of the Biological Opinions; (2) Mercury and Methylmercury Monitoring and Control Studies; and (3) Critical Support for the California State Water Project.

Staff Comments: Staff met with the department, State Water Contractors, the LAO and others to determine which positions should be approved in the budget year. The LAO spent considerable time reviewing the department's request. The LAO has posted their recommendations to their website.

Staff continues to have concerns about the proposal to fully fund the Mercury and Methylmercury Monitoring and Control studies solely by the State Water Project. This request is for compliance with a regional water board order regarding mercury in several water bodies upstream of the Delta. However it is clear that the State Water Project is not the only responsible party. In the subcommittee hearing in February, the administration was requested to return with a proposal that spreads the costs to more responsible parties. Staff recommends holding open the item anticipation of May Revision.

Staff Recommendation:

- (1) ADOPT LAO Recommendation (except as follows).
 (2) HOLD OPEN Mercury and Methyl Mercury Monitoring and Control studies.

SWP Position Requests	DWR Request	Staff Recommendation	Comments
Implementation of Biological Opinions	18	13	Adopt LAO Recommendation
<i>Sacramento-San Joaquin Facilities</i>	13	9	
<i>Suisun Marsh Facilities</i>	2	2	
<i>Regulatory Compliance</i>	3	1	
Mercury and Methylmercury Monitoring and Control Studies	4	Hold Open for May Revision	Pending plan requested from administration to spread costs to responsible parties.
Critical Support for the California State Water Project	123	87	Adopt LAO Recommendation
<i>2011-12 Positions</i>	90	87	
<i>Future Year Positions</i>	33	0	

6. Davis-Dolwig Cost Allocation Study

Background. The Governor requests \$34,000 from the Harbors and Watercraft Revolving Loan Fund to provide a second evaluation of the department's cost-allocation methodology for determining recreation benefits at the State Water Project. The LAO has provided a thorough analysis of the issue.

LAO Analysis:

Proposal. In a letter dated April 13, 2011, the Department of Finance (DOF) requests a one-time transfer of \$34,000 from the Harbors and Watercraft Revolving Fund to the Department of Water Resources (DWR) to fund a portion of the cost of a new cost allocation study. The study would serve to re-estimate the benefits provided by the State Water Project (SWP) in terms of water supply and recreation to assist with the allocation of total SWP costs between these two purposes. This request follows from the recent conclusion of a previous statutorily required study that examined DWR's methodology to calculate the state's share of total SWP costs.

Davis-Dolwig History. As described in our earlier report, "Funding Recreation at the State Water Project," 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 of fish and wildlife and to meet recreational needs." The Act also specifies that the SWP contractors (water agencies contracting for the deliveries of SWP water) should not be charged for the costs incurred in meeting the requirements of the Act. The DWR has historically used a cost-allocation methodology called Separable Costs-Remaining Benefits (SCRB) to calculate the state's responsibility under Davis-Dolwig. This methodology allocates "joint costs"—those costs that cannot be attributed solely to water supply or recreational purposes—on the basis of the proportion of the benefits provided by the SWP overall that are estimated to accrue to each purpose.

LAO Policy Concerns and Recommendations Made in Past Years. We have raised concerns in the past (again, see "Funding Recreation at the State Water Project," as well as our analyses of the 2009-10 and 2010-2011 Governor's budgets) over DWR's practice of using SCRB to calculate the state's share of SWP costs. Most importantly, the practical implication of the use of this methodology (as implemented by DWR) is that DWR assigns cost responsibility to the state for aspects of SWP that lack any direct recreational component--to even including assigning to the state some of the costs of the study that is this subject of this budget request. Given the "off-budget" nature of SWP (the Legislature only approves SWP positions, not expenditures), the DWR has been able to pursue development of SWP projects without expressed legislative consent, later retroactively billing the Legislature and the state's purse for its estimate of the state's share of the costs of those projects. This runs up against, and potentially conflicts with, the Legislature's exclusive constitutional authority to set its expenditure priorities by making appropriations. As discussed below, we have made recommendations for policy reforms to the Davis-Dolwig Act to address this issue by providing a clearer, more limited definition of the state's funding obligation under the Act. A related issue concerns the department's practice of charging to the state's public purse some of the costs of meeting federal regulatory requirements at SWP facilities (specifically, requirements that mandate recreational improvements to be made at federally licensed hydroelectric

facilities). Given that the Legislature has expressed its intent, in various contexts, that regulatory compliance costs should be borne by the beneficiaries of the regulated activity, we think that these regulatory mandated recreation costs should be borne fully by the SWP contractors.

We have previously offered three recommendations to address these issues. First, we have recommended that the Davis-Dolwig Act be amended to specify that only costs related to construction of recreation facilities at new SWP facilities are to be paid for by the state under the Act. Second, we have recommended that the Legislature specify that SWP is no longer to incur operational and maintenance costs for state recreation areas, or use SWP funds for these purposes. Finally, we also have recommended that the Legislature specify that any SWP recreation facilities that are to be developed or improved under a regulatory requirement shall not give rise to a state funding obligation under the Act.

Making Policy Reforms Has Been Difficult. The above reforms have not been enacted by the Legislature, in part due to legal issues that have been raised by DWR and DOF. Specifically, the administration has maintained that SCRB is required by various contracts and bond covenants that are in place, and that these constraints limit the Legislature's ability to revise the Davis-Dolwig Act, as we have recommended, to set parameters for the state's funding obligation for recreational expenditures. While informal legal opinions provided to the Legislature on these legal issues suggest an alternative view, it is fair to say that these fundamental legal issues remain unresolved. Until resolved, it will likely be difficult to proceed with any meaningful Davis-Dolwig policy reform.

Previous Cost Allocation Study Did Not Address the Legal Issues. As noted above, the Finance Letter requests funds to perform a recalculation of the benefits that are inputs into the SCRB process used by DWR. The 2010-11 Budget Act required DWR to hire an independent consultant to evaluate the cost allocation methodology DWR uses to calculate the state's Davis-Dolwig funding obligation. The consultant's report recently concluded that while the manner in which DWR implemented the current methodology is acceptable, the estimates of water supply and recreational benefits from total project costs could be improved. We have since raised concerns that the scope of the report was too narrow. Being constrained by the task list developed by DWR and by the expertise of the authors, the report fails to address the larger legal questions discussed above. For example, the report appeared to assume the administration's position that the SCRB methodology is required, without having examined whether SCRB is in fact legally required, and if it is required, how to reconcile that requirement with the Legislature's constitutional authority to set its expenditure priorities and make appropriations.

Recommendation. In light of our concerns over the previous study, and given the unresolved legal issues that are impeding Davis-Dolwig policy reform, we consider the study as proposed in this budget request to be premature. The proposed effort may be worthwhile down the road, if some resolution can be reached on the legal issues surrounding SCRB. It is worth noting that the results from re-estimating water supply and recreation benefits are likely to be utilized only if it were ultimately determined that SCRB is legally required. Therefore, in order to facilitate resolution of the legal questions we pose above, we recommend that an alternative study by an independent third-party contractor be conducted that specifically examines the legal questions we raise. That

third party should consist of, at a minimum, an academic with legal expertise, such as a University of California law professor. Specifically, we recommend that existing SWP contracting authority be used fully to pay for the study, and that the proposed budget bill language be amended as follows:

“The Department of Water Resources shall allocate [an amount to be determined] in existing State Water Project (SWP) contracting authority for an independent third-party review to determine: (1) what legal constraints, if any, exist to proscribe the California Legislature’s ability to revise the Davis-Dolwig statute, with specific attention to the contracts signed by the department with the SWP contractors and to the SWP bond covenants; (2) whether such legal constraints conflict with the Legislature’s authority to make laws and to set its expenditure priorities through its constitutionally granted authority to make appropriations; (3) how any such legal conflicts can be reconciled; and (4) what options exist to resolve the issues. The Department of Water Resources shall submit the task list for the contractor to the Legislative Analyst’s Office for its approval. The contractor shall work in periodic consultation with the Legislative Analyst’s Office, the Department of Finance, and the Department of Water Resources when performing its analysis. The department shall submit this analysis to the budget committees, and relevant policy committees of both houses of the Legislature, no later than January 30, 2012.”

Staff Comments: Staff concurs with the LAO assessment of the Davis-Dolwig report. Staff further believes the department, should, in good faith, participate in a working group convened by the Secretary for Natural Resources and consisting of legislative staff, Department of Finance, LAO, and the department to determine a long-term viable solution that addresses concerns laid out in the LAO’s March 19, 2009 report on Funding Recreation in the State Water Project.

Staff Recommendation: Adopt LAO Proposal (including amended Budget Bill Language). Adopt additionally the following budget bill language:

The Secretary of Natural Resources shall convene a working group consisting of the Department of Water Resources, key legislative staff, Department of Finance, the Secretary for Natural Resources staff, LAO, and the State Water Contractors to determine a long-term viable solution that addresses concerns laid out in the LAO’s March 19, 2009 report on Funding Recreation in the State Water Project. The group shall meet a minimum of three times between July 1, 2011 and December 31, 2011. The department shall provide a report, in person, to the subcommittee in 2012 budget hearings on the working group’s proposals for long-term solutions for funding recreation in the State Water Project.

7. State Water Project—Fish and Wildlife Enhancements and Recreation: Lake Perris Seismic Retrofit

Background. The Governor requests \$757,000 from Proposition 84 bond funds to perform seismic safety upgrades to the foundation at Lake Perris, Riverside County as well as repairs to the pipelines transporting water to this lake. The LAO has provided a thorough analysis of the issue.

LAO Analysis:

Proposal. In a Finance Letter dated April 13, 2011, the Department of Finance (DOF) requests \$757,000 from Proposition 84 bond funds to fund a portion of the state's share of the cost of seismic repairs to the foundation of Perris Dam (part of the State Water Project [SWP]). The total cost of the repairs is projected to be as much as \$300 million, up to \$20 million of which could be allocated to the state under the Davis-Dolwig Act under the Department of Water Resources' (DWR's) calculation of the assumed recreational component of the project. (For details of our concerns over the current process by which such cost allocations are made, please see our 2011 April Finance letter recommendation and our report "Funding Recreation at the State Water Project".)

Lake Perris History and Current Status. At the time of construction, the Lake Perris SWP facility was envisioned to serve both water supply and recreational purposes. Recreational activities at Lake Perris have historically consisted of swimming, boating, fishing, and picnicking, but seismic concerns by DWR's Division of Dam Safety resulted in the lowering of the water level at Lake Perris in 2005, hindering recreation at that site. The repairs proposed by DWR that are the subject of this budget request would allow raising the water level at the dam and thereby restore recreational opportunities at Lake Perris to their former condition.

Some action must be taken to resolve the seismic concerns at the site. There are potentially significant consequences from an earthquake near the site of the dam even with the water level lowered as it is currently. However, there are several possible alternatives for approaching repairs at this site, and the choice of repair alternative depends in part on the extent to which this SWP facility should continue to serve both recreational and water supply purposes. For example, maintaining Lake Perris as a water supply-only project should eliminate the state's obligation under Davis-Dolwig, and may potentially be less expensive to the SWP contractors (who will be paying the bulk of the costs for the repairs) as well. Thus, the level of recreation can impact both the cost of the repairs and the cost attributed to the state.

What Purposes Should Lake Perris Serve? Determining the level, if any, of recreation at the site is an important policy decision that also affects the extent of the state's funding obligation at the site and should therefore involve the Legislature. (While DWR argues that there is a statutory requirement, approved by the voters, for recreation at this site, it is unclear to us whether such requirement exists.) In our view, an analysis should be conducted to determine whether the cost of having recreation at this site is justified by the recreational benefits provided.

Legislature Lacks Information Needed to Make an Informed Policy Decision. We think that the Legislature lacks the information it needs to make an informed policy decision on this budget request. Recognizing that there are various options for making

the repairs (depending on the level of recreation to be provided at the site), we think that the Legislature should be provided with a comprehensive analysis of the various repair alternatives and their associated costs (to the state and the SWP contractors) and benefits. With such information, the Legislature can evaluate which alternative most closely aligns with its policy priorities for the Lake Perris site. Such a comprehensive analysis, however, has not been conducted by the department and provided to the Legislature for its review.

Recommendation. We therefore recommend that this budget request be denied because taking action on it is premature until a more comprehensive analysis of the costs and benefits of various repair alternatives is conducted. Such analysis is required to afford the Legislature the opportunity to make an informed policy decision about the extent of recreation at the Lake Perris site.

Staff Comments. Staff share the concerns of the LAO, and as in the previous item would recommend holding off on the state share of funding for this project until a new proposal for funding recreation at the state water project is brought forward. The working group proposed in the previous item may wish to use Lake Perris as the example in their discussions.

Recommendation. DENY PROPOSAL. Request the department work in good faith to determine a mutually acceptable solution to funding recreation at the State Water Project through the previously proposed working group.

8570 Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California's agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor's Budget. The Governor's Budget includes \$377 million (\$130 million GF) for support of the CDFA, an increase of approximately \$38 million, due primarily to increased efforts to control and eradicate various agricultural pests (supported by increased industry assessments as well as federal funds).

Budget Actions. The Legislature approved two major actions in the budget (SB 69), implemented through Chapter 2, Statutes of 2011 (AB 95). These include:

- Approved a proposal to eliminate state support (including coordination and local assistance) for the California Network of Fairs (a reduction of \$32 million GF).
- Approved an unallocated reduction of \$15 million in the budget and \$30 million ongoing. The department is required to return in spring budget hearings with a proposal for the allocation of the program reduction.

Implementation of the Administration's Proposal to Reduce CDFA General Fund

Background. Per the subcommittee's request, the Administration has submitted a spring Finance Letter that implements the previously unallocated reduction to the department. The governor requests various changes to the budget act to implement the Administration's proposal to reduce CDFA's General Fund budget by \$15 million in the budget year.

The proposal lists 19 programs that will either be eliminate or reduced including several weed management programs, invasive species programs, local assistance, and state operations. Most programs will continue, though to a lesser degree, with either federal funds or continuation of local programs. In some cases, fees were proposed to stakeholders who decided to run the programs themselves rather than continue with state support. Each proposal was reviewed by a stakeholder group which consisted of individuals representing each major department program area.

Presentation. The department is prepared to present the reduction proposal. The diversity of the reductions requires several statutory changes, which are included in the Administration's finance letter proposal.

Staff Comments. The administration has met with staff of both houses and parties, including the LAO. The proposal appears to reduce several programs where alternative programs, funding or other stakeholder partners are willing to increase their participation.

Recommendation. APPROVE Finance Letter.

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the CPUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Finance Letter: Division of Ratepayer Advocates: Natural Gas and Auditing Activities.** The administration requests \$173,000 from the PUC Ratepayer Advocate Account and redirection of 2 positions from the Workforce Cap Reduction to accommodate expanding workload related to natural gas safety and auditing activities.

Recommendation: APPROVE Item 1

Vote:

2. ITEMS FOR DISCUSSION

FL-1: Modernization of the Electric Grid (Advance Energy Storage “AES”).

Background. The Governor January budget requested two positions and \$229,000 to develop and implement advanced energy storage (AES) to serve the state’s peak demand more cost-effectively as part of the need to comply with the Federal Government’s Energy Independence and Security Act of 2007 (EISA). Title XIII of EISA requires state’s consideration of new standards and protocols for smart grid technologies including AES technologies. Implementing a Smart Grid system with energy storage will move the electric grid and customer service from a “static” to “dynamic” state to improve the efficiency and reliability of the electric delivery systems. AES technologies will support the modernization of the grid and the integration of renewable energy resources such as wind and solar into a Smart Grid Infrastructure to achieve the 33 percent renewables goal by 2020.

Previous Budget Actions. The Legislature denied this proposal without prejudice in order to give the CPUC an opportunity to rewrite the proposal to comply with Chapter 469, Statutes of 2010 (AB 2514, Skinner).

Finance Letter Proposal. The Governor requests \$452,000 from the PUC Utilities Reimbursement Account and a redirection of 4 positions pursuant to AB 2514. The proposal includes a workload analysis updated to current a statutory requirements.

Staff Comments. The Commission complied with the Subcommittee’s direction to return with a new proposal that: (1) appropriately addresses workload needs required by AB 2514; and (2) redirects positions rather than proposes positions anew in request.

Staff Recommendation: APPROVE

VOTE:

FL-1: Diablo Canyon Seismic Study Peer Review Panel.

Background. The Governor January budget requested an increase of \$500,000 in reimbursable consultant services, which will be reimbursed by PG&E. This will allow the CPUC to enter into a limited-term contract with a technical consultant to perform analysis of seismic studies at Diablo Canyon Power Plant per recommendations of Chapter 722 of 2006 (AB 1632, Blakeslee). In addition, the commission proposed to coordinate a peer review panel with other state agencies.

Previous Budget Actions. The Legislature denied this proposal without prejudice in order to give the CPUC an opportunity to return with (1) a revised lower-cost proposal that utilizes the services of the California Geological Survey; and (2) includes other state agencies in the peer review panel.

Finance Letter Proposal. The Governor requests \$393,000 (reimbursements) to fund an Independent Review Panel that will review seismic studies of the Diablo Canyon Power Plant (Diablo Canyon). This panel will be composed of several state agencies, including the California Geological Survey. The panel will review PG&E's seismic study and findings.

Staff Comments. The Commission complied with the Subcommittee's direction to return with a new proposal that: (1) reduces the cost of the proposal; and (2) utilizes other state agencies, including the California Geological Survey. This more closely matches the spirit of the statute and the Subcommittee's direction.

Staff Recommendation: APPROVE

VOTE:

CPUC Foundation – Information Item

Background. In January, the Subcommittee heard an issue related to the establishment of a new foundation, the “CPUC Foundation” that was to be the beneficiary of funds from the 100th Anniversary celebration of the California Public Utilities Commission. The Legislature adopted Trailer Bill Language requiring the Commission to report on interactions with the newly formed nonprofit, including any exchange of funding or endorsement of the nonprofit by CPUC staff or commissioners.

Staff Update. It is staff’s understanding that the CPUC Foundation members have decided not to continue pursuit of the foundation, and will not likely continue to exist.

Staff Comments. The Subcommittee may wish to get an update from the Commission on its understanding of the CPUC Foundation status, and the status of funds related to its 100th Anniversary event.

Staff Recommendation: NO ACTION—INFORMATION ITEM

VOTE:

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

1. Suction Dredging Budget

Background. Background: The Department of Fish and Game is responsible for administering Section 5653 of the Fish and Game Code which requires a permit from DFG to conduct recreational motorized suction dredge mining in state waters. The Department's existing suction dredge mining regulations, which were adopted in 1994, were the subject of a court order in 2006 which found that the regulations could result in environmental impacts harmful to coho salmon or other fish species listed as threatened or endangered under state or federal law, and ordered DFG to conduct a new environmental impact review and update the regulations as necessary. The Department was ordered by the court to complete the EIR by July of 2008.

After the Department failed to meet that deadline, the court in July 2009 prohibited DFG from issuing any suction dredge mining permits as long as the related litigation was pending. At the same time, the Legislature passed and the Governor signed into law SB 670 (Wiggins, c. 62, Statutes of 2009) on August 6, 2009. SB 670 imposed an immediate moratorium on suction dredge mining until three specified actions occur: 1) DFG completes the court-ordered environmental review of its permitting program; 2) DFG updates the existing regulations governing the program as necessary; and 3) The updated regulations take effect. DFG's draft EIR for suction dredge mining and new proposed revised regulations were released for public comment in February 2011. The draft EIR identifies a number of significant and unmitigated environmental impacts.

DFG has acknowledged in previous years that the current fees for suction dredge mining permits are inadequate to cover the full costs of the program. The current statutory base fee for a permit is \$25, which when adjusted for inflation equates to approximately \$40. The base fee is \$130 if an onsite inspection is required. Nonresident base fees are \$100 for a basic permit and \$220 for onsite inspection. The Senate policy committee analysis for SB 670 notes that DFG "has previously estimated that the permits cost an average of \$450 to process and to cover the costs of the program, which if extrapolated to the approximate 3,000 permits would result in an expenditure of about \$1.3 million."

Under the new proposed regulations DFG proposes to issue up to 4,000 permits. DFG's new estimate of revenue from 4,000 permits and onsite inspection fees is \$373,000. If the department's previous cost estimates are accurate, the program will cost \$1.8 million, not counting the additional costs of onsite inspections, potential legal defense costs if anticipated lawsuits challenging the regulations are filed, and costs for SWRCB permitting since the proposed regulations acknowledge that suction dredging in mercury impaired waters will cause significant unmitigated environmental impacts, but do not propose to limit suction dredging in such waters, leaving that problem to the SWRCB. The department has used 27 DFG employees in the development of the regulations so far. DFG wardens would also be required to enforce the regulations. The gap between the current fees and the costs of the program result in an estimated \$2 million subsidy of the program from the Fish and Game Preservation Fund and/or the General Fund.

Staff Recommendation: Approve the following:

- (1) Trailer bill language to continue the moratorium on issuance of suction dredge permits for an additional five years, or until such time as new regulations that fully mitigate all identified significant environmental impacts, and a proposed fee structure that will fully cover all program costs, are in place.
- (2) Approve Budget Bill Language prohibiting any funding at the department from being used for suction dredge mining regulation, permitting or other activities.

VOTE:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART B

May 12, 2011

9:30 am or upon adjournment of Budget and Fiscal Review
Rose Ann Vuich Hearing Room (2040)

Consultant: Catherine Freeman

OUTCOMES

Departments Proposed for Vote Only

3680	Department of Boating and Waterways	2
3540	Secretary for Cal-EPA	2
3940	State Water Resources Control Board	2

Departments Proposed for Discussion

3640	Wildlife Conservation Board	4
3760	State Coastal Conservancy	7
3790	Department of Parks and Recreation	10
3500	Department of Resources Recycling and Recovery	14
3540	Department of Forestry and Fire Protection	17
3860	Department of Water Resources	21
8570	California Department of Food and Agriculture	32
8660	California Public Utilities Commission	34
3600	Department of Fish and Game	39

Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR VOTE-ONLY**0555 Secretary for Cal-EPA**

1. FL-1: Increase Federal Funding Reimbursement Authority to Support the Education and the Environment Initiative Curriculum. The governor requests \$388,000 in federal reimbursement authority from the National Oceanic and Atmospheric Administration. The federal competitively awarded grant will allow the Secretary to train teachers in the use of the Education and the Environment Initiative curriculum.

3680 Department of Boating and Waterways

2. BCP-1: Public Small Craft Harbor Loans and Boat Launching Grants. The department requests \$17.9 million (Harbors and Watercraft Revolving Fund) in local assistance public small craft loans and boat launching facilities. This item was denied without prejudice in February.

3. BCP-2: Department of Finance Recommendations—Boating and Facility Loans and Grants. The Governor requests \$100,000 (Harbors and Watercraft Revolving Fund) in ongoing state support to contract for the financial services required as recommended by an internal Department of Finance audit. This item was denied without prejudice in February.

4. FL-1: Channel Islands Boating Instruction and Safety Center (BISC). The Governor requests \$3.3 million (Harbors and Watercraft Revolving Fund) to fund the state's share of a continuing project to build multi-use public instructional, storage and dock facility with California State University, Channel Islands.

3940 State Water Resources Control Board

5. FL-1: Pacific Lumber Company Defense Litigation. The board requests \$3.4 million (\$2.4 million from the Waste Discharge Permit Fund, \$1 million from the General Fund) to continue reimbursing the Attorney General's office and outside counsel defending the State of California from a lawsuit filed by the Pacific Lumber Company. This request is consistent with a possible accelerated trial date presented with the Governor's January budget as required by the trial court.

6. FL-2: Operator Certification Fund. The Governor requests a technical amendment to the Water Code to ensure that money collected by the Wastewater Operator Certification Program are deposited into the Wastewater Operator Certification Fund.

7. FL-3: Continuing Implementation (Reappropriations) of Propositions 13, 40, 50, and 84. The Governor various technical adjustments for local assistance and state operations, reversion and re-appropriations for various bond funded programs.

Staff Comments. The administration and partner agencies have provided sufficient documentation to support the approval of these proposals.

Staff Recommendation: APPROVE ITEMS 1-7.

VOTE:**ITEMS 1, 5, 7**

Approve as Budgeted 2-1 (Fuller)

ITEMS 2, 3, 4, 6

Approve as Budgeted 3-0

3640 Wildlife Conservation Board

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB's support funding comes from a number of fund sources, including the General Fund, the Wildlife Restoration Fund, the Habitat Conservation Fund (HCF), the Environmental License Plate Fund, and bond funds.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program	Technical Adjustment	Amount
1. Extension of Liquidation Period – Proposition 12	Request to extend the liquidation period for two projects due to the 2008 bond freeze for the San Joaquin River Conservancy. The original appropriation was \$14.6 million. \$145,000 of this has not been liquidated.	\$145,000
2. Habitat Conservation Fund	Request to extend the liquidation periods of the Habitat Conservation Fund and associated Proposition 50 transfer to implement the Wildlife Conservation Act. These extensions are necessary because of delays caused by permitting requirements that only allow restoration work to be completed in the summer.	various

Recommendation: APPROVE Technical Finance Letters 1-2

Vote:

ITEMS 1-2

Approve as Budgeted 2-1 (Fuller)

Items Proposed for Discussion**1. Reappropriations of Propositions 40 and 84 Bond Funds (Various)**

Background. The Governor's budget proposes a total of \$39 million in reappropriations for three budget proposals in the Wildlife Conservation Board:

- San Joaquin River Conservancy Acquisitions and Public Access, Recreation and Environmental Restoration—\$10 million Proposition 84 and \$1 million reimbursements. To date, no funding has been encumbered.
- San Joaquin River Conservancy—\$3 million of the original \$10.5 million appropriation in 2003.
- Proposition 84 Natural Communities Conservation Planning (NCCP) Reappropriation—\$24.9 million of the original \$25 million appropriation.

LAO Recommendation (Updated)

In the Governor's January budget proposal, the Wildlife Conservation Board (WCB) requested reappropriation of \$39 million in unexpended bond funds for San Joaquin River Restoration (SJRR) activities and Natural Communities Conservation Planning (NCCP). We had initially recommended that the Legislature withhold its approval of these reappropriations pending demonstration by the board that the re-appropriated funding would result in physical projects. The Legislature subsequently took action to deny the request without prejudice.

The WCB has since informally withdrawn its request for the SJRR reappropriation (\$11 million from Proposition 84 and \$3 million from Proposition 40), and we accordingly recommend that the Legislature deny the reappropriation of those funds.

In response to the Legislature's denial without prejudice of the remaining \$25 million reappropriation request for NCCP activities, WCB has completed an action plan that indicates WCB's intention to spend \$27.5 million on NCCP in 2011-12, including the number of acres to be acquired in specific counties, and the number of NCCPs that these expenditures will support. In light of this action plan and WCB's success at expending reappropriations requested in 2010-11, we now recommend approval of the request to re-appropriate \$25 million from Proposition 84 for NCCP.

Finally, we note that postponing the expenditure of some portion or all of the re-appropriation request that we recommend be approved could serve as a one-time budget solution. The postponement serves this purpose by restraining the growth of the associated debt service costs (which are funded from the General Fund). As with all budget requests for bond expenditures, the Legislature may wish to evaluate whether these bond expenditures, while justified, are of sufficiently high priority to warrant incurring the associated debt service costs at this time.

Previous Budget Actions. The subcommittee previously heard this item and denied the reappropriations without prejudice. The board was required to return with an action plan for expenditure of funds by April 1, 2011.

Staff Update. The board has fully complied with the subcommittee's direction to return with an action plan for expenditures of the funds. The plan outlines the department's progress in two areas: the San Joaquin River and the NCCP program. In both cases, the department's slow progress was in part due to the 2008 bond freeze among other issues.

The board's plan for the San Joaquin River Conservancy funding includes using an authorized position to catch up on previous backlogged projects. The Conservancy has approximately \$31 million (including the proposed \$14 million in the budget year) in prior year expenditure authority, and a separate proposed extension of liquidation, to fund project development, acquisition, and restoration efforts and approximately a \$6.2 million backlog. In light of previous year difficulties implementing the projects and current sufficient funding to address the backlog, the board now supports the LAO recommendation to not re-appropriate the proposed San Joaquin River funds.

The board described an action plan to allocate funding for the NCCP program that includes estimated project costs for various California regions including the Delta, Inland Empire, and Southern California. These projects are anticipated to match both federal and state funding. Withholding funding now would jeopardize the ability to leverage these non-state funds.

Recommendation.

- (1) APPROVE Natural Communities Conservation Planning program funding.
- (2) DENY San Joaquin River Conservancy and San Joaquin River parkway funding.

Vote:

Approve Staff Recommendation 3-0

3720 State Coastal Conservancy

The State Coastal Conservancy develops and implements programs to protect, restore, and enhance natural, recreational and economic resources along California's coast, coastal watersheds, the ocean, and within the San Francisco Bay Area. The Coastal Conservancy also serves as staff and fiscal agent for the California Ocean Protection Council.

ITEM PROPOSED FOR VOTE-ONLY

1. **FL-1: Public Access Program.** The Governor requests \$300,000 (Violations Remediation Account) for the Conservancy's public access program according to existing adopted criteria. The request will provide additional assistance to local partners to manage several public access ways along the coast. Such access ways include paths and stairways that provide access to the beach and other coastal locations, as well as portions of the California Coastal Trail.

Staff Recommendation: APPROVE Item 1

Vote:

ITEM 1

Approve as Budgeted 2-1 (Fuller)

ITEMS PROPOSED FOR DISCUSSION**2. FL-2: Shift Support Funding to Bond Funds.**

Background. The Governor requests to decrease funding from the State Coastal Conservancy Fund of 1976 (Fund 0565) by \$2.4 million and provide an equivalent increase from Proposition 84 bond funds (split between two accounts) for support funding. According to the administration, Fund 0565 has existed since 1976, however with fewer deposits in recent years, declining balances require less annual appropriations out of the account. The Governor proposes this shift as to the ongoing, base budget at the Conservancy for support and state operations activities.

Staff Comments. The department has been judicious with the use of the proportion of bond funds available for administrative functions. As such, this proposal should not violate the bond rules set forth for administrative and support functions. However, the use of bond funds to supplant support costs raises concerns about the long-term viability of the State Coastal Conservancy when bond funds inevitably run out. Without a long-term funding source, the Coastal Conservancy may not be able to support its current staffing levels and activities, including those related to the Ocean Protection Council.

Staff Recommendation. (1) APPROVE PROPOSAL with the following SRL:

On or before January 10, 2013, the State Coastal Conservancy shall submit a long-term plan for the State Coastal Conservancy spanning a 10-year period starting in 2013-14. The plans shall include funding needs should no new bond funds be made available, staffing reduction plans, and options for continued support for core functions (including the Ocean Protection Council).

ITEM 2

Approve Staff Recommendation (SRL) 2-1 (Fuller)

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

FINANCE LETTERS PROPOSED FOR VOTE-ONLY

Fund/Program	Technical Adjustment
1. Office of Historic Preservation Database	Extension of liquidation (\$163,000 GF) for database re-host project. Due to delays caused by the contractor, it is necessary to extend the liquidation period to complete the upgrade.
2. California State Railroad Museum Re-appropriation	Re-appropriation of \$11.6 million (\$6.6 million Proposition 40 bond funds and \$5 million reimbursements) to acquire former industrial buildings to comply with Chapter 689, Statutes of 2008 (AB 2945). This extension request will ensure the funds are available to complete the acquisition.
3. Technical Capital Outlay Amendments	Request for reappropriation and appropriation anew from bond funds and special funds for (1) Marshall Gold Discovery State Historic Park; (2) Oceano Dunes SVRA/Pismo Beach
4. Angel Island State Park	Approval of concession agreement for ferry service at Angel Island State Park.

Recommendation: APPROVE ITEMS 1-4

Vote:

ITEMS 1, 3, 4

Approve as Budgeted 3-0

ITEM 2

Approve as Budgeted 2-1 (Fuller)

ITEMS PROPOSED FOR DISCUSSION**1. Subcommittee Issue—Local Bond Project Extensions**

Governor’s 2011-12 Budget. Proposition 40 provides funding for a specified list of grant programs and provides a total of eight years (until June 30, 2011) for grantees to complete their projects. Due to the 2008 bond freeze, the grantees have not completed their projects. This adjustment reflects an adjusted timeline.

Staff Comments. Staff concurs with the administration’s list of projects meriting extensions of liquidation. The bond freeze caused numerous projects to be suspended, resulting in a greater than expected number of these projects requesting extensions of liquidation. In order to be more equitable, this extension of liquidation should be given to all such projects on a one-time basis. This would reduce department and staff workload evaluating each local assistance project.

Staff Recommendation.

- (1) Staff recommends Budget Bill Language to provide a 2-year extension of liquidation for all Proposition 40 local parks projects. Staff will work with the Department of Finance and the Department of Parks and Recreation to craft appropriate language. This language is not intended to duplicate nor supplant previous actions by the Legislature on bond fund extensions.
- (2) Approve Finance Letter

Vote:

Approve Staff Recommendation 3-0

2. BCP-10: Budget Reduction Plan Fiscal Year 2011-12 Through 2012-13.

Governor's 2011-12 Budget. The budget proposes to reduce Park's budget by \$11 million in 2011-12 and growing to \$22 million General Fund ongoing beginning in 2012-13. These reductions will be proportionately distributed between field units of the state park system and the State Parks headquarters' functions including administrative and managerial support functions.

Previous Budget Action. The budget reduced the overall Parks budget by \$11 million GF and \$22 million ongoing starting in 2012-13. The budget approved trailer bill language specifying criteria for reducing the state park system including selecting parks for closure, partial closure, or reduced service and language limiting liability for closed or partially closed parks.

- The department should update the subcommittee on its plan for park closures, and what the public should expect to see on July 1, 2011.

Staff Comments. The reductions in state parks have led to a number of questions about how the department budgets for park units, tracks revenues and visitor data, and uses employee assets. There are a number of legislative efforts underway to consider changes to the way the department manages the parks system, including proposals to allow more public-private partnerships.

In order for the Legislature to fully consider these proposals, the department should report on several issues, many of which the department will have considered as it created the current parks reduction plan.

Recommendation. Approve supplemental reporting language (below, in concept). No action is required on the state parks reduction plan.

- (1) The department shall, on January 10, 2012, report its budget to the Legislature on a park-unit basis. This includes an estimate of distributed shared costs on a pro-rata basis (personnel, materials, services) shared by sectors or across districts.
- (2) The department shall, on March 1, 2012, prepare a report on revenues by park unit and visitor data (by park unit, aggregated on a district basis) and compare to National Parks, other State Parks systems.
- (3) The department shall report, on March 1, 2012, statistics on peace officer's use of weapons in state parks to deter crime, or to respond to crimes in process; report on enforcement of non-Parks related crimes and for mutual aid as well as the number of park rangers not assigned to any park unit.

Vote:

HOLD OPEN—DOF and LAO to work with staff on language.

3. Department of Parks and Recreation—Liability Language Cleanup

Background. Chapter 2, Statutes of 2011 included a provision to relieve liability to the Department of Parks and Recreation for closed or partially closed parks. There was concern that the language was overly-broad. The Senate agreed during public debate to review and revise the language to narrow the liability to only that needed by the department.

Staff Comments. Staff recommends the following Trailer Bill Language that will provide needed liability without impacting unnecessary provisions of law.

Recommendation. Approve the following Trailer Bill Language

SEC. 25. Section 5007 is added to the Public Resources Code, to read:

5007. (a) The department shall achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system. For purposes of this section, "required budget reductions" means the amount of funds appropriated in the annual Budget Act to the department that is less than the amount necessary to fully operate the 2010 level of 278 units of the state park system. The department shall select the units to be closed based solely on all of the following factors:

- (1) The relative statewide significance of each park unit, preserving to the extent possible, parks identified in the department's documents including "Outstanding and Representative Parks," the "California State History Plan," and the "California State Parks Survey of 1928."*
- (2) The rate of visitation to each unit, to minimize impacts to visitation in the state park system.*
- (3) (A) The estimated net savings from closing each unit, to maximize savings to the state park system.
(B) For purposes of this subdivision, "net savings" means the estimated costs of operation for the unit less the unit's projected revenues and less the costs of maintaining the unit after it is closed.*
- (4) The feasibility of physically closing each unit.*
- (5) The existence of, or potential for, partnerships that can help support each unit, including concessions and both for-profit and nonprofit partners.*
- (6) Significant operational efficiencies to be gained from closing a unit based on its proximity to other closed units where the units typically share staff and other operating resources.*
- (7) Significant and costly infrastructure deficiencies affecting key systems at each unit so that continued operation of the unit is less cost effective relative to other units.*
- (8) Recent or funded infrastructure investments at a unit.*
- (9) Necessary but unfunded capital investments at a unit.*
- (10) Deed restrictions and grant requirements applicable to each unit.*
- (11) The extent to which there are substantial dedicated funds for the support of the unit that are not appropriated from the General Fund.*

(b) A public entity or a public employee shall be limited from liability as provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a state park system unit that is designated as closed, partially closed, or subject to service reduction by the department pursuant to subdivision.

Vote:

Approve Staff Recommendation (TBL)

2-1 (Fuller)

3500 Department of Resources Recycling and Recovery

The DRRR was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, the DRRR 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. The DRRR 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, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes \$1.4 billion (no GF) for the DRRR, including \$1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and \$200 million for the Waste Reduction and Management Program (the old Waste Board).

ITEMS FOR DISCUSSION

1. BCP-5: Improve Audit Coverage and Internal Controls.

Background. The Governor's budget requests to redirect \$1.1 million Beverage Container Recycling Fund from the Consulting and Professional line item to fund 11.0 permanent positions to address the findings and recommendations in the State Auditor's report from June 2010.

In June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

LAO Reorganization Analysis. The LAO has raised issues with the level of savings from the overall creation of DRRR as well as the best proposed reorganization model. The LAO recommends holding hearings to discuss the reorganization plan particularly as it impacts department programs (including the Beverage Container Recycling Fund). The LAO also recommends reporting language to require the department to report on the savings from the reorganization.

Staff Comments. Budget and policy staff have met with the department and administration several times to discuss issues related to the reorganization and BCRF. The department has agreed to the following measures:

1. Provide single points of contact for all currently mandated programs.
2. Withdraw proposed reorganization plan from the Department of Personnel Administration because this plan violates statute.

Staff remain concerned that the department is reluctant to return to a statutorily valid reorganization plan where the Division of Recycling (and Beverage Container Recycling Fund) is functionally separate from the program areas that were under the former Integrated Waste Management Board. It would be appropriate for some administrative functions to be co-mingled but statute is clear that these functional divisions should remain separate.

The department has indicated that it is awaiting a Governor's appointment for an Director to make any further changes. This is largely unsatisfactory given that there is no timeframe for this appointment, and this presumes the department may continue to act outside of statutory guidelines in the interim.

Staff Recommendation: Staff recommends the following:

- 1) The Department shall convene a monthly workgroup starting July 1, 2011 and concluding December 31, 2011 to include Legislative budget and policy staff and the LAO. This working group shall focus on correcting the following issues at the department:
 - a. Separating the Division of Recycling from the former waste board functions
 - b. Ensuring that funds are not co-mingled between the Beverage Container Recycling Fund and the waste divisions
 - c. Removing any unnecessary CEA positions that functionally duplicate any Governor's appointees
 - d. Determining a pathway to return functional programs by policy area to foster expertise in subject areas.
- 2) Request an audit by the Bureau of State Audits to for a programmatic review of the department and it's compliance with state law, including its organization and structure.
- 3) DENY BUDGET PROPOSAL

Vote:

Approve Staff Recommendation (Item 1 as BBL) 3-0

2. BCP-6: Fraud Prevention Program, Strategic Priority Initiative—Beverage Container Recycling Program.

Background. The Governor's budget requests 7 permanent positions funded by redirecting \$681,000 Beverage Container Recycling Fund from Consulting and Professional Services to Personal Services. These positions are requested to prevent and investigate fraud in the Beverage Container Recycling Program.

As with the previous item, in June 2010, the Bureau of State Audits released its findings from an audit of the Beverage Container Recycling Fund (BCRF). The audit found the department failed to complete a three year audit plan and made findings regarding insufficient management controls. Internal fund audits are important to reduce fraud following reporting by the department of greater than 100 percent recycling rates (among other issues).

Staff Comments. As with the previous item, staff have been unable to get a clear picture regarding the state of the Beverage Container Recycling Fund. Staff recommends denying the proposal consistent with the previous action.

Staff Recommendation: DENY BUDGET PROPOSAL

Vote:

Deny Budget Proposal 3-0

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or “CalFIRE,” under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor’s Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor’s Budget includes \$1.05 billion for support of the DFFP in 2011-12. This is a \$39 million (3.7 percent) decrease under current year expenditures. This is mainly due to the proposal to reduce engine firefighter staffing.

ITEM PROPOSED FOR VOTE-ONLY

1. FI-1 Blanchard Forest Fire Station and Shasta-Trinity Unit Headquarters. The Governor requests for the following capital outlay proposals: (1) \$300,000 for acquisition of the Blanchard Forest Fire Station and adjacent property; and (2) \$200,000 for acquisition of a purchase option for relocation of the Shasta-Trinity headquarters due to urbanization within the City of Redding.

2. FI-2 Proposition 40 Reappropriation. The Governor requests reappropriation of Proposition 40 bond funds due to a technical error in the budget act that previously extended only the liquidation period of these funds, rather than a reappropriation anew.

3. Civil Cost-Recovery Program. The Governor requests \$1.7 million and 10 two-year limited-term positions to augment its current Statewide Fire Suppression Civil Cost-Recovery Program. The California Health and Safety Code authorize fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws. This item was denied without prejudice in the April budget for further review.

Staff Comments. Staff have reviewed the proposals and have met with the department to discuss their plans for fleet and vehicle purchases for the Civil Cost Recovery Program.

Recommendation: Approve Items 1-3

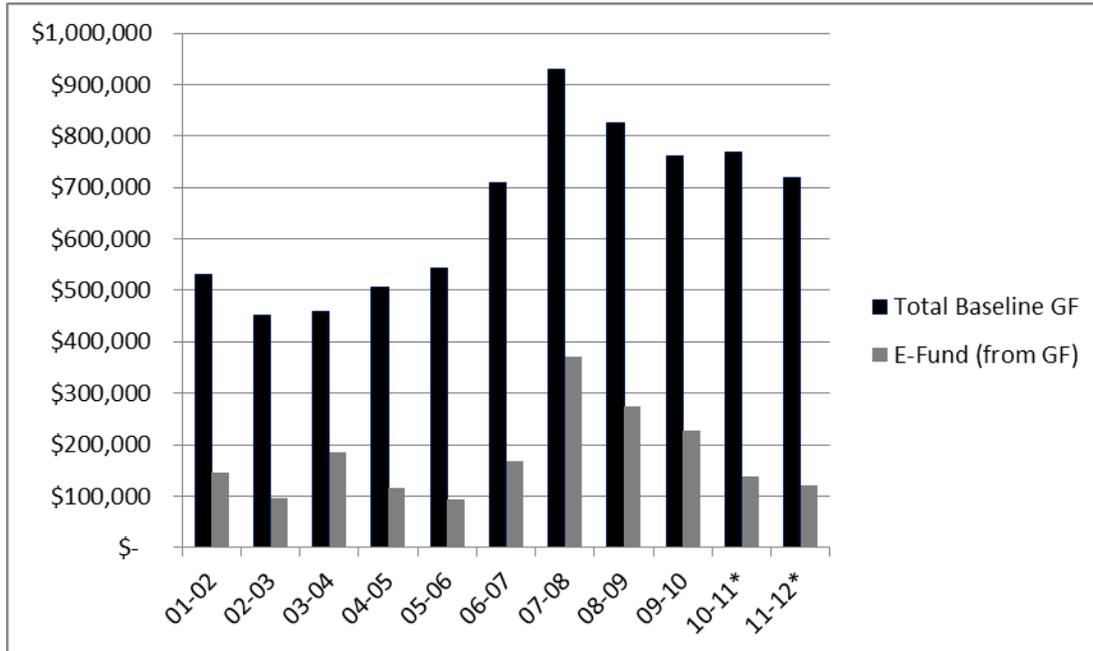
Vote:

ITEMS 1-2	Approve as Budgeted	3-0
ITEM 3	Approve as Budgeted	2-1 (Fuller)

ITEMS PROPOSED FOR DISCUSSION

4. Reducing Expenditures at CalFIRE

General Fund Growth Reference Chart**



* Estimated

** Capital outlay excluded (as well as certain related local assistance). Year-to-year carryover makes this figure meaningless for comparison.

Background

Expenditure Growth Unsustainable. Over the past several years, a number of proposals to adjust the way the state pays for, and is responsible for, wildland firefighting have been proposed. Factors including the rise in the number of homes in the urban-wildland interface, climate change, labor costs, and changes to the way local and federal agencies pay for firefighting have impacted how the department manages expenditures. One result is an increase of over 60 percent in firefighting costs from 2001-02 to 2011-12. Only two other Resources or Cal-EPA agencies increased General Fund costs over that time, Department of Water Resources and Department of Fish and Game.

Urban-Wildland Interface Should Be Explored. One of the primary targets for cost-saving discussions has been development in the urban-wildland interface. In this area, locals approve land use planning decisions while a combination of state, local and federal agencies provide firefighting services. Because of mutual aid agreements, this generally means that state firefighters respond to both wildfires as wells as local structural, vehicular and individual emergencies. In general, locals respond to wildland

fires however, the federal government has some restrictions on its involvement with local structural, vehicular and individual emergencies. A recent report by the Headwaters Economic group produced for the federal government ranked California high in the number of homes in the urban-wildland interface as compared to other western states.

Opportunity to Discuss Funding. Given the number of opportunities the Legislature and the administration have had to discuss funding for CalFIRE, it would seem a good time to bring people to the table for a focused discussion on future funding for the department.

Staff Recommendation: As the Governor's May Revision has not yet been released, staff recommends the subcommittee continue to hold open baseline budget items. However, in keeping with the desire to form a long-term solution to the cost of wildland firefighting in California, staff recommends:

- (1) The department convene a working group consisting (at a minimum) of legislative staff, department executive staff, the Legislative Analyst's Office, at least two fire chiefs (one from Northern California, one Southern and from both urban and rural districts) to discuss options for future funding, realignment and/or possible changes in the state's management of wildland firefighting. The group shall meet no less than 3 times between July 1, 2011 and December 1, 2011 to the extent possible in person, but at a minimum by telephone.
- (2) The department contract for an independent analysis of wildland firefighting costs as compared to other Western States, and to produce recommendations for funding solutions to the above working group.
- (3) The department shall report to the Legislature on the results of the working group's efforts in spring 2012 budget hearings, and shall work with the Legislature to implement any feasible changes to the budget at that time.

Vote:

Approve Staff Recommendation (as BBL) 3-0

ITEMS PROPOSED FOR DEFERRAL (Pending May Revision)

5. BCP-1: Fire Protection Permanent Funding. The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit at a zero-based budget. The request includes authority related to the Aviation Management Unit, Very Large Air Tanker and Victorville Air Attack Base, San Diego Helitack, Aviation Asset Coordinator, Lake Tahoe Basin Fire Engine Station and Staffing, and Defensible Space, and CAL Card Support.

6. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option. The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

Staff Comments: Each of these items may be impacted by the Legislature and the Governor's negotiations on the realignment and budget reductions process. Therefore it may be premature to approve or deny these proposals.

Staff Recommendation: (1) HOLD OPEN Items 5-6

Vote:

HOLD OPEN

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 \$1.5 billion (\$115 million General Fund) for support of the DWR, a decrease of approximately \$1.6 billion, due primarily to reduced bond fund expenditures. An additional \$2.1 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis).

ITEMS PROPOSED FOR VOTE-ONLY

1. Finance Letter: Re-appropriation and Extension of Liquidation Requests (Proposition 1E). Various reappropriations totaling \$151.2 million (bond funds) for continuing capital outlay projects including Feather River, West Sacramento, Upper Sacramento River, Lower Cache Creek, Merced County, Sutter Bypass, and System-wide Levee Evaluations and Repairs.

2. Finance Letter: Reappropriation and Extension of Liquidation Requests (Proposition 84, Proposition 50, Proposition 13 and other funds). Various reappropriations including Flood Protection Corridors, Urban Streams, Delta Fish Facility Improvement, Drinking Water, Water Use Efficiency, Water Supply Reliability Sediment Removal, and Agricultural Drainage, among others.

3. Finance Letter: Salton Sea Restoration. The administration requests \$4.2 million in reimbursement authority for the Salton Sea Restoration Program. The LAO recommends the Legislature deny the April Finance Letter request for \$4.2 million in

reimbursement authority for Department of Water Resources (DWR). Expenditures are not appropriate at this time because of a lack of a formally approved restoration plan and legal uncertainty surrounding the Quantification Settlement Agreement (QSA).

Staff Comments (Item 3). The subcommittee heard this issue on May 5 under the Department of Fish and Game. In that hearing, the subcommittee rejected a related proposal for funding. Staff recommendation is consistent with this previous action.

Staff Recommendation. APPROVE Items 1-2. REJECT Item 3.

ITEMS 1-2

Approve as Budgeted 3-0

ITEM 3

Reject Proposal 3-0

ITEMS PROPOSED FOR DISCUSSION**4. FloodSAFE California Program (Open Items)**

Background. The subcommittee previously heard the Governor's request for FloodSAFE funding of \$64.9 million (Proposition 1E and Proposition 13), three new positions, and extension of three limited-term positions. The Legislature (SB 69) took the following actions:

Approved

- 1) **Floodplain Risk Management** – \$6 million (Proposition 1E) for Central Valley floodplain evaluation and delineation
- 2) **Flood Projects and Grants** – \$53.3 million (Propositions 1E and 13) for flood system modifications, floodway corridors, Yuba-Feather flood protection, and North Delta Flood control and ecological restoration.

Denied Without Prejudice

- 3) **Evaluation and Engineering** – \$2 million for Delta Risk Management Strategy and the Delta Knowledge Improvement Program
- 4) **Flood Management Planning** – \$3.5 million for Central Valley Protection Plan and FloodSAFE Conservation strategy.

Staff Comments. Staff have met with the department to discuss the two open items. The department was able to provide sufficient information to recommend approval of the Flood Management Planning proposal. This proposal would streamline permitting and approval in the Central Valley for flood-related projects.

The department did not provide sufficient information to recommend approval of the Engineering and Evaluation proposal. As stated in the previous hearing:

(1) **Delta Knowledge Improvement Strategy.** Staff have concerns about the Evaluation and Engineering request for \$2 million (Proposition 1E) for the Delta Risk Management Strategy (DRMS) and Delta Knowledge Improvement Program (DKIP). This proposal is a request for contract support to complete follow-up efforts to the DRMS Phase Two report. The DKIP is a multi-year project designed to fill in data gaps left by the DRMS Phase One and Phase Two, and to provide more comprehensive information than was provided in the initial two phases. The Phase Two report has not been released and therefore it is unclear how or what the DKIP will provide to inform the Legislature's decisions on Delta issues.

In 2010, the Legislature approved \$2 million to start the DKIP process. Because the DRMS Phase Two project ran longer than expected, the DKIP project has not begun and a contract solicitation has not been announced.

It would seem appropriate to allow the public and the Legislature to review the DRMS Phase Two report prior to funding any further efforts related to DRMS or DKIP. In addition, the release of the Delta Plan in 2012 will further direct scarce funding to fill in specific data gaps that are needed to implement the state's efforts in the Delta.

The subcommittee may wish to have the department report on:

- Has the department released Phase Two of the DRMS study?

Recommendation.

- (1) REJECT \$2 million proposed for Engineering and Evaluation.
- (2) APPROVE January Conservation Strategy proposal for FloodSAFE (including three positions)

Vote:

Approve Staff Recommendation 3-0

5. State Water Project Position Requests (Open Items)

Background. The Governor's January budget requests 145 positions (33 of which were proposed for future years). The subcommittee heard each proposal, with recommendations to hold open (Deny Without Prejudice) the majority of these positions to give the department, staff, and the Legislative Analyst's Office time to more fully review them.

Ultimately, the Legislature in SB 69 held open the requests for three proposals: (1) Implementation of the Biological Opinions; (2) Mercury and Methylmercury Monitoring and Control Studies; and (3) Critical Support for the California State Water Project.

Staff Comments: Staff met with the department, State Water Contractors, the LAO and others to determine which positions should be approved in the budget year. The LAO spent considerable time reviewing the department's request. The LAO has posted their recommendations to their website.

Staff continues to have concerns about the proposal to fully fund the Mercury and Methylmercury Monitoring and Control studies solely by the State Water Project. This request is for compliance with a regional water board order regarding mercury in several water bodies upstream of the Delta. However it is clear that the State Water Project is not the only responsible party. In the subcommittee hearing in February, the administration was requested to return with a proposal that spreads the costs to more responsible parties. Staff recommends holding open the item anticipation of May Revision.

Staff Recommendation:

- (1) ADOPT LAO Recommendation (except as follows).
- (2) HOLD OPEN Mercury and Methyl Mercury Monitoring and Control studies.

SWP Position Requests	DWR Request	Staff Recommendation	Comments
Implementation of Biological Opinions	18	13	Adopt LAO Recommendation
<i>Sacramento-San Joaquin Facilities</i>	13	9	
<i>Suisun Marsh Facilities</i>	2	2	
<i>Regulatory Compliance</i>	3	1	
Mercury and Methylmercury Monitoring and Control Studies	4	Hold Open for May Revision	Pending plan requested from administration to spread costs to responsible parties.
Critical Support for the California State Water Project	123	87	Adopt LAO Recommendation
<i>2011-12 Positions</i>	90	87	
<i>Future Year Positions</i>	33	0	

Figure corrected 5/13 (Staff Recommendation "Implementation of Biological Opinions is 12).

Vote:

Implementation of Biological Opinions

Approve 4 positions

Vote: 3-0

Mercury and Methylmercury Monitoring and Control Studies

HOLD OPEN

Critical Support for the California State Water Project

Approve 87 positions (LAO Recommendation)

Vote: 3-0

6. Davis-Dolwig Cost Allocation Study

Background. The Governor requests \$34,000 from the Harbors and Watercraft Revolving Loan Fund to provide a second evaluation of the department's cost-allocation methodology for determining recreation benefits at the State Water Project. The LAO has provided a thorough analysis of the issue.

LAO Analysis:

Proposal. In a letter dated April 13, 2011, the Department of Finance (DOF) requests a one-time transfer of \$34,000 from the Harbors and Watercraft Revolving Fund to the Department of Water Resources (DWR) to fund a portion of the cost of a new cost allocation study. The study would serve to re-estimate the benefits provided by the State Water Project (SWP) in terms of water supply and recreation to assist with the allocation of total SWP costs between these two purposes. This request follows from the recent conclusion of a previous statutorily required study that examined DWR's methodology to calculate the state's share of total SWP costs.

Davis-Dolwig History. As described in our earlier report, "Funding Recreation at the State Water Project," 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 of fish and wildlife and to meet recreational needs." The Act also specifies that the SWP contractors (water agencies contracting for the deliveries of SWP water) should not be charged for the costs incurred in meeting the requirements of the Act. The DWR has historically used a cost-allocation methodology called Separable Costs-Remaining Benefits (SCRB) to calculate the state's responsibility under Davis-Dolwig. This methodology allocates "joint costs"—those costs that cannot be attributed solely to water supply or recreational purposes—on the basis of the proportion of the benefits provided by the SWP overall that are estimated to accrue to each purpose.

LAO Policy Concerns and Recommendations Made in Past Years. We have raised concerns in the past (again, see "Funding Recreation at the State Water Project," as well as our analyses of the 2009-10 and 2010-2011 Governor's budgets) over DWR's practice of using SCRB to calculate the state's share of SWP costs. Most importantly, the practical implication of the use of this methodology (as implemented by DWR) is that DWR assigns cost responsibility to the state for aspects of SWP that lack any direct recreational component--to even including assigning to the state some of the costs of the study that is this subject of this budget request. Given the "off-budget" nature of SWP (the Legislature only approves SWP positions, not expenditures), the DWR has been able to pursue development of SWP projects without expressed legislative consent, later retroactively billing the Legislature and the state's purse for its estimate of the state's share of the costs of those projects. This runs up against, and potentially conflicts with, the Legislature's exclusive constitutional authority to set its expenditure priorities by making appropriations. As discussed below, we have made recommendations for policy reforms to the Davis-Dolwig Act to address this issue by providing a clearer, more limited definition of the state's funding obligation under the Act. A related issue concerns the department's practice of charging to the state's public purse some of the costs of meeting federal regulatory requirements at SWP facilities (specifically, requirements that mandate recreational improvements to be made at federally licensed hydroelectric

facilities). Given that the Legislature has expressed its intent, in various contexts, that regulatory compliance costs should be borne by the beneficiaries of the regulated activity, we think that these regulatory mandated recreation costs should be borne fully by the SWP contractors.

We have previously offered three recommendations to address these issues. First, we have recommended that the Davis-Dolwig Act be amended to specify that only costs related to construction of recreation facilities at new SWP facilities are to be paid for by the state under the Act. Second, we have recommended that the Legislature specify that SWP is no longer to incur operational and maintenance costs for state recreation areas, or use SWP funds for these purposes. Finally, we also have recommended that the Legislature specify that any SWP recreation facilities that are to be developed or improved under a regulatory requirement shall not give rise to a state funding obligation under the Act.

Making Policy Reforms Has Been Difficult. The above reforms have not been enacted by the Legislature, in part due to legal issues that have been raised by DWR and DOF. Specifically, the administration has maintained that SCRB is required by various contracts and bond covenants that are in place, and that these constraints limit the Legislature's ability to revise the Davis-Dolwig Act, as we have recommended, to set parameters for the state's funding obligation for recreational expenditures. While informal legal opinions provided to the Legislature on these legal issues suggest an alternative view, it is fair to say that these fundamental legal issues remain unresolved. Until resolved, it will likely be difficult to proceed with any meaningful Davis-Dolwig policy reform.

Previous Cost Allocation Study Did Not Address the Legal Issues. As noted above, the Finance Letter requests funds to perform a recalculation of the benefits that are inputs into the SCRB process used by DWR. The 2010-11 Budget Act required DWR to hire an independent consultant to evaluate the cost allocation methodology DWR uses to calculate the state's Davis-Dolwig funding obligation. The consultant's report recently concluded that while the manner in which DWR implemented the current methodology is acceptable, the estimates of water supply and recreational benefits from total project costs could be improved. We have since raised concerns that the scope of the report was too narrow. Being constrained by the task list developed by DWR and by the expertise of the authors, the report fails to address the larger legal questions discussed above. For example, the report appeared to assume the administration's position that the SCRB methodology is required, without having examined whether SCRB is in fact legally required, and if it is required, how to reconcile that requirement with the Legislature's constitutional authority to set its expenditure priorities and make appropriations.

Recommendation. In light of our concerns over the previous study, and given the unresolved legal issues that are impeding Davis-Dolwig policy reform, we consider the study as proposed in this budget request to be premature. The proposed effort may be worthwhile down the road, if some resolution can be reached on the legal issues surrounding SCRB. It is worth noting that the results from re-estimating water supply and recreation benefits are likely to be utilized only if it were ultimately determined that SCRB is legally required. Therefore, in order to facilitate resolution of the legal questions we pose above, we recommend that an alternative study by an independent third-party contractor be conducted that specifically examines the legal questions we raise. That

third party should consist of, at a minimum, an academic with legal expertise, such as a University of California law professor. Specifically, we recommend that existing SWP contracting authority be used fully to pay for the study, and that the proposed budget bill language be amended as follows:

“The Department of Water Resources shall allocate [an amount to be determined] in existing State Water Project (SWP) contracting authority for an independent third-party review to determine: (1) what legal constraints, if any, exist to proscribe the California Legislature’s ability to revise the Davis-Dolwig statute, with specific attention to the contracts signed by the department with the SWP contractors and to the SWP bond covenants; (2) whether such legal constraints conflict with the Legislature’s authority to make laws and to set its expenditure priorities through its constitutionally granted authority to make appropriations; (3) how any such legal conflicts can be reconciled; and (4) what options exist to resolve the issues. The Department of Water Resources shall submit the task list for the contractor to the Legislative Analyst’s Office for its approval. The contractor shall work in periodic consultation with the Legislative Analyst’s Office, the Department of Finance, and the Department of Water Resources when performing its analysis. The department shall submit this analysis to the budget committees, and relevant policy committees of both houses of the Legislature, no later than January 30, 2012.”

Staff Comments: Staff concurs with the LAO assessment of the Davis-Dolwig report. Staff further believes the department, should, in good faith, participate in a working group convened by the Secretary for Natural Resources and consisting of legislative staff, Department of Finance, LAO, and the department to determine a long-term viable solution that addresses concerns laid out in the LAO’s March 19, 2009 report on Funding Recreation in the State Water Project.

Staff Recommendation: Adopt LAO Proposal (including amended Budget Bill Language). Adopt additionally the following budget bill language:

The Secretary of Natural Resources shall convene a working group consisting of the Department of Water Resources, key legislative staff, Department of Finance, the Secretary for Natural Resources staff, LAO, and the State Water Contractors to determine a long-term viable solution that addresses concerns laid out in the LAO’s March 19, 2009 report on Funding Recreation in the State Water Project. The group shall meet a minimum of three times between July 1, 2011 and December 31, 2011. The department shall provide a report, in person, to the subcommittee in 2012 budget hearings on the working group’s proposals for long-term solutions for funding recreation in the State Water Project.

Vote:

Motion:

Adopt Working Group BBL (bottom of page 29)

HOLD OPEN LAO Legal Analysis Recommendation (top of page 29)

Staff, LAO, DOF, and department to continue to work on integrating these recommendations.

Vote: 2-1 (Fuller)

7. State Water Project—Fish and Wildlife Enhancements and Recreation: Lake Perris Seismic Retrofit

Background. The Governor requests \$757,000 from Proposition 84 bond funds to perform seismic safety upgrades to the foundation at Lake Perris, Riverside County as well as repairs to the pipelines transporting water to this lake. The LAO has provided a thorough analysis of the issue.

LAO Analysis:

Proposal. In a Finance Letter dated April 13, 2011, the Department of Finance (DOF) requests \$757,000 from Proposition 84 bond funds to fund a portion of the state's share of the cost of seismic repairs to the foundation of Perris Dam (part of the State Water Project [SWP]). The total cost of the repairs is projected to be as much as \$300 million, up to \$20 million of which could be allocated to the state under the Davis-Dolwig Act under the Department of Water Resources' (DWR's) calculation of the assumed recreational component of the project. (For details of our concerns over the current process by which such cost allocations are made, please see our 2011 April Finance letter recommendation and our report "Funding Recreation at the State Water Project".)

Lake Perris History and Current Status. At the time of construction, the Lake Perris SWP facility was envisioned to serve both water supply and recreational purposes. Recreational activities at Lake Perris have historically consisted of swimming, boating, fishing, and picnicking, but seismic concerns by DWR's Division of Dam Safety resulted in the lowering of the water level at Lake Perris in 2005, hindering recreation at that site. The repairs proposed by DWR that are the subject of this budget request would allow raising the water level at the dam and thereby restore recreational opportunities at Lake Perris to their former condition.

Some action must be taken to resolve the seismic concerns at the site. There are potentially significant consequences from an earthquake near the site of the dam even with the water level lowered as it is currently. However, there are several possible alternatives for approaching repairs at this site, and the choice of repair alternative depends in part on the extent to which this SWP facility should continue to serve both recreational and water supply purposes. For example, maintaining Lake Perris as a water supply-only project should eliminate the state's obligation under Davis-Dolwig, and may potentially be less expensive to the SWP contractors (who will be paying the bulk of the costs for the repairs) as well. Thus, the level of recreation can impact both the cost of the repairs and the cost attributed to the state.

What Purposes Should Lake Perris Serve? Determining the level, if any, of recreation at the site is an important policy decision that also affects the extent of the state's funding obligation at the site and should therefore involve the Legislature. (While DWR argues that there is a statutory requirement, approved by the voters, for recreation at this site, it is unclear to us whether such requirement exists.) In our view, an analysis should be conducted to determine whether the cost of having recreation at this site is justified by the recreational benefits provided.

Legislature Lacks Information Needed to Make an Informed Policy Decision. We think that the Legislature lacks the information it needs to make an informed policy decision on this budget request. Recognizing that there are various options for making

the repairs (depending on the level of recreation to be provided at the site), we think that the Legislature should be provided with a comprehensive analysis of the various repair alternatives and their associated costs (to the state and the SWP contractors) and benefits. With such information, the Legislature can evaluate which alternative most closely aligns with its policy priorities for the Lake Perris site. Such a comprehensive analysis, however, has not been conducted by the department and provided to the Legislature for its review.

Recommendation. We therefore recommend that this budget request be denied because taking action on it is premature until a more comprehensive analysis of the costs and benefits of various repair alternatives is conducted. Such analysis is required to afford the Legislature the opportunity to make an informed policy decision about the extent of recreation at the Lake Perris site.

Staff Comments. Staff share the concerns of the LAO, and as in the previous item would recommend holding off on the state share of funding for this project until a new proposal for funding recreation at the state water project is brought forward. The working group proposed in the previous item may wish to use Lake Perris as the example in their discussions.

Recommendation. DENY PROPOSAL. Request the department work in good faith to determine a mutually acceptable solution to funding recreation at the State Water Project through the previously proposed working group.

Vote:

Deny Proposal 2-0 (Fuller not voting)

8570 Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California's agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor's Budget. The Governor's Budget includes \$377 million (\$130 million GF) for support of the CDFA, an increase of approximately \$38 million, due primarily to increased efforts to control and eradicate various agricultural pests (supported by increased industry assessments as well as federal funds).

Budget Actions. The Legislature approved two major actions in the budget (SB 69), implemented through Chapter 2, Statutes of 2011 (AB 95). These include:

- Approved a proposal to eliminate state support (including coordination and local assistance) for the California Network of Fairs (a reduction of \$32 million GF).
- Approved an unallocated reduction of \$15 million in the budget and \$30 million ongoing. The department is required to return in spring budget hearings with a proposal for the allocation of the program reduction.

Implementation of the Administration's Proposal to Reduce CDFA General Fund

Background. Per the subcommittee's request, the Administration has submitted a spring Finance Letter that implements the previously unallocated reduction to the department. The governor requests various changes to the budget act to implement the Administration's proposal to reduce CDFA's General Fund budget by \$15 million in the budget year.

The proposal lists 19 programs that will either be eliminate or reduced including several weed management programs, invasive species programs, local assistance, and state operations. Most programs will continue, though to a lesser degree, with either federal funds or continuation of local programs. In some cases, fees were proposed to stakeholders who decided to run the programs themselves rather than continue with state support. Each proposal was reviewed by a stakeholder group which consisted of individuals representing each major department program area.

Presentation. The department is prepared to present the reduction proposal. The diversity of the reductions requires several statutory changes, which are included in the Administration's finance letter proposal.

Staff Comments. The administration has met with staff of both houses and parties, including the LAO. The proposal appears to reduce several programs where alternative programs, funding or other stakeholder partners are willing to increase their participation.

Recommendation. APPROVE Finance Letter.

Approve as Budgeted 3-0

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the CPUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Finance Letter: Division of Ratepayer Advocates: Natural Gas and Auditing Activities.** The administration requests \$173,000 from the PUC Ratepayer Advocate Account and redirection of 2 positions from the Workforce Cap Reduction to accommodate expanding workload related to natural gas safety and auditing activities.

Recommendation: APPROVE Item 1

Vote:

Approve as Budgeted 2-0 (Fuller not voting)

2. ITEMS FOR DISCUSSION**FL-1: Modernization of the Electric Grid (Advance Energy Storage “AES”).**

Background. The Governor January budget requested two positions and \$229,000 to develop and implement advanced energy storage (AES) to serve the state’s peak demand more cost-effectively as part of the need to comply with the Federal Government’s Energy Independence and Security Act of 2007 (EISA). Title XIII of EISA requires state’s consideration of new standards and protocols for smart grid technologies including AES technologies. Implementing a Smart Grid system with energy storage will move the electric grid and customer service from a “static” to “dynamic” state to improve the efficiency and reliability of the electric delivery systems. AES technologies will support the modernization of the grid and the integration of renewable energy resources such as wind and solar into a Smart Grid Infrastructure to achieve the 33 percent renewables goal by 2020.

Previous Budget Actions. The Legislature denied this proposal without prejudice in order to give the CPUC an opportunity to rewrite the proposal to comply with Chapter 469, Statutes of 2010 (AB 2514, Skinner).

Finance Letter Proposal. The Governor requests \$452,000 from the PUC Utilities Reimbursement Account and a redirection of 4 positions pursuant to AB 2514. The proposal includes a workload analysis updated to current a statutory requirements.

Staff Comments. The Commission complied with the Subcommittee’s direction to return with a new proposal that: (1) appropriately addresses workload needs required by AB 2514; and (2) redirects positions rather than proposes positions anew in request.

Staff Recommendation: APPROVE

VOTE:

Approve as Budgeted

2-0 (Fuller not voting)

FL-1: Diablo Canyon Seismic Study Peer Review Panel.

Background. The Governor January budget requested an increase of \$500,000 in reimbursable consultant services, which will be reimbursed by PG&E. This will allow the CPUC to enter into a limited-term contract with a technical consultant to perform analysis of seismic studies at Diablo Canyon Power Plant per recommendations of Chapter 722 of 2006 (AB 1632, Blakeslee). In addition, the commission proposed to coordinate a peer review panel with other state agencies.

Previous Budget Actions. The Legislature denied this proposal without prejudice in order to give the CPUC an opportunity to return with (1) a revised lower-cost proposal that utilizes the services of the California Geological Survey; and (2) includes other state agencies in the peer review panel.

Finance Letter Proposal. The Governor requests \$393,000 (reimbursements) to fund an Independent Review Panel that will review seismic studies of the Diablo Canyon Power Plant (Diablo Canyon). This panel will be composed of several state agencies, including the California Geological Survey. The panel will review PG&E's seismic study and findings.

Staff Comments. The Commission complied with the Subcommittee's direction to return with a new proposal that: (1) reduces the cost of the proposal; and (2) utilizes other state agencies, including the California Geological Survey. This more closely matches the spirit of the statute and the Subcommittee's direction.

Staff Recommendation: APPROVE

VOTE:

Approve as Budgeted 3-0

CPUC Foundation – Information Item

Background. In January, the Subcommittee heard an issue related to the establishment of a new foundation, the “CPUC Foundation” that was to be the beneficiary of funds from the 100th Anniversary celebration of the California Public Utilities Commission. The Legislature adopted Trailer Bill Language requiring the Commission to report on interactions with the newly formed nonprofit, including any exchange of funding or endorsement of the nonprofit by CPUC staff or commissioners.

Staff Update. It is staff’s understanding that the CPUC Foundation members have decided not to continue pursuit of the foundation, and will not likely continue to exist.

Staff Comments. The Subcommittee may wish to get an update from the Commission on its understanding of the CPUC Foundation status, and the status of funds related to its 100th Anniversary event.

Staff Recommendation: NO ACTION—INFORMATION ITEM

VOTE:

No Action

3600 Department of Fish and Game

The Department of Fish and Game (DFG) 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 department in its activities and regulates fishing and hunting. The DFG 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 \$401 million for support of the DFG, a reduction of \$86 million, or 21 percent, under current year expenditures. This reduction is primarily due to reduction in bond funded expenditures.

1. Suction Dredging Budget

Background. Background: The Department of Fish and Game is responsible for administering Section 5653 of the Fish and Game Code which requires a permit from DFG to conduct recreational motorized suction dredge mining in state waters. The Department's existing suction dredge mining regulations, which were adopted in 1994, were the subject of a court order in 2006 which found that the regulations could result in environmental impacts harmful to coho salmon or other fish species listed as threatened or endangered under state or federal law, and ordered DFG to conduct a new environmental impact review and update the regulations as necessary. The Department was ordered by the court to complete the EIR by July of 2008.

After the Department failed to meet that deadline, the court in July 2009 prohibited DFG from issuing any suction dredge mining permits as long as the related litigation was pending. At the same time, the Legislature passed and the Governor signed into law SB 670 (Wiggins, c. 62, Statutes of 2009) on August 6, 2009. SB 670 imposed an immediate moratorium on suction dredge mining until three specified actions occur: 1) DFG completes the court-ordered environmental review of its permitting program; 2) DFG updates the existing regulations governing the program as necessary; and 3) The updated regulations take effect. DFG's draft EIR for suction dredge mining and new proposed revised regulations were released for public comment in February 2011. The draft EIR identifies a number of significant and unmitigated environmental impacts.

DFG has acknowledged in previous years that the current fees for suction dredge mining permits are inadequate to cover the full costs of the program. The current statutory base fee for a permit is \$25, which when adjusted for inflation equates to approximately \$40. The base fee is \$130 if an onsite inspection is required. Nonresident base fees are \$100 for a basic permit and \$220 for onsite inspection. The Senate policy committee analysis for SB 670 notes that DFG "has previously estimated that the permits cost an average of \$450 to process and to cover the costs of the program, which if extrapolated to the approximate 3,000 permits would result in an expenditure of about \$1.3 million."

Under the new proposed regulations DFG proposes to issue up to 4,000 permits. DFG's new estimate of revenue from 4,000 permits and onsite inspection fees is \$373,000. If the department's previous cost estimates are accurate, the program will cost \$1.8 million, not counting the additional costs of onsite inspections, potential legal defense costs if anticipated lawsuits challenging the regulations are filed, and costs for SWRCB permitting since the proposed regulations acknowledge that suction dredging in mercury impaired waters will cause significant unmitigated environmental impacts, but do not propose to limit suction dredging in such waters, leaving that problem to the SWRCB. The department has used 27 DFG employees in the development of the regulations so far. DFG wardens would also be required to enforce the regulations. The gap between the current fees and the costs of the program result in an estimated \$2 million subsidy of the program from the Fish and Game Preservation Fund and/or the General Fund.

Staff Recommendation: Approve the following:

- (1) Trailer bill language to continue the moratorium on issuance of suction dredge permits for an additional five years, or until such time as new regulations that fully mitigate all identified significant environmental impacts, and a proposed fee structure that will fully cover all program costs, are in place.
- (2) Approve Budget Bill Language prohibiting any funding at the department from being used for suction dredge mining regulation, permitting or other activities.

VOTE:

Approve Staff Recommendation with the following modification:

- (2) Approve Budget Bill Language prohibiting any funding at the department from being used for suction dredge mining regulation, permitting or other activities with the exception of enforcement and legal defense.

Vote: 2-1 (Fuller)

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART A

May 25, 2011

9:30 am or On Call of the Chair
Room 112

Consultant: Catherine Freeman

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Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

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

1. Delta Service Center Construction. The Governor requests re-appropriation of two items for the Delta Service District Center consistent with previous budget actions. Project delays have been due to the recent Pooled Money Investment Board suspension of interim financing loans. Project re-appropriations will be used for all phases of the capital project.

2. Tahoe Base Center Relocation. The Governor requests reappropriation of funds for a portion of the Tahoe Base Center Relocation. The requested funds would be used to comply with required permit compliance for design work through the construction phases of the capital project.

3. EnergySmart Jobs Program—ARRA Funded. The Governor requests a one-time \$812,000 augmentation (reimbursements to the Collins Dugan Reimbursement Account) to fund the last year of services for energy-efficiency auditors through the EnergySmart Jobs Program.

4. California Energy Service Corps. The Governor requests a three-year augmentation to the Collins Dugan Reimbursement Account (\$1.6 million per year) to fund resources necessary to accommodate an AmeriCorps grant recently awarded to the CCC by the federal Corporation for National and Community Service through California Volunteers to fulfill requests from partnering sponsor agencies. The AmeriCorps grant, and the partnering sponsor agencies, will reimburse the CCC for all costs to implement energy savings weatherization project work to be completed during the grant period.

5. Caltrans Transportation Enhancement Project Work. The Governor requests \$881,000 in 2011-12 and \$533,000 in 2012-13 (Collins Dugan Reimbursement Account) to fund the last two years of project work requested by Caltrans. Caltrans will reimburse CCC for all project expenses including for site preparation, installation (plants, seeds, mulch, irrigation), and plant establishment activities.

6. Statewide Trails Program. The Governor requests \$105,000 (Collins Dugan Reimbursement Account) to fund related expenses of a partnership between CCC and the Department of Parks and Recreation to develop a pilot Statewide Trails Program. The program will be reimbursed by the Department of Parks and Recreation and will extend the project by two years.

3500 Department of Resources Recycling and Recovery

- 7. Delay of General Fund Loan Repayments to the PET (Polyethylene Terephthalate) and Glass Processing Fee Accounts.** The Governor requests budget bill language to delay two loan repayments from the General Fund to the Glass (\$39 million) and PET (\$27 million) Processing Fee Accounts until fiscal year 2013-14. These are not impacted by a separate May Revision proposal to accelerate repayment of two loans to the Beverage Container Recycling Fund for about \$173 million.

3540 Department of Forestry and Fire Protection

- 8. BCP-1: Fire Protection Permanent Funding.** The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit a zero-based budget. The request includes authority related to the Aviation Management Unit; Very Large Air Tanker and Victorville Air Attack Base; San Diego Helitack; Aviation Asset Coordinator; Lake Tahoe Basin Fire Engine Station and Staffing; and Defensible Space and CAL Card Support.

- 9. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option.** The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

3940 State Water Resources Control Board

- 10. Open Issue: One-Time Augmentation for Underground Storage Tank Cleanup Fund.** The Governor requests a one-time augmentation of \$90 million in state operations, \$13.2 million in local assistance authority from the School District Account, and \$15.8 million from the Orphan Site Cleanup Fund. The Subcommittee denied this item without prejudice in order to review the proposal and recent program audit further.

3960 Department of Toxic Substances Control

11. Expedited Remedial Action—Payment for Cleanup of Orphan Share. The Governor requests \$731,000 (Expedited Site Remediation Trust Fund) to reimburse Santa Cruz Metro for the orphan share associated with its remediation activities at the Greyhound Site in the City of Santa Cruz.

12. General Fund Reduction—Fund Shift to Illegal Drug Lab Cleanup Account. The Governor proposes a one-time reduction of \$802,000 from the General Fund by shifting the illegal drug lab removals contract funding from the General Fund to the Illegal Drug Lab Cleanup Account. This is a one-time proposal. The administration proposes, in the budget year, to explore alternative revenue/funding sources that could provide stable funding for the removal of hazardous materials at clandestine drug labs in California.

8560 California Department of Food and Agriculture

13. California Animal Health and Food Safety Laboratory. The Governor requests authority to re-appropriate funds for the Tulare/Fresno lab consolidation and replacement which was delayed due to the need to develop a comprehensive operating and development agreement with partner agencies. The project is in the working drawings capital outlay phase.

14. Yermo Agriculture Inspection Station. The Governor requests authority to re-appropriate funds for acquisition, preliminary plans, working drawings and construction. The project was delayed by efforts to secure additional property rights from the federal Bureau of Land Management to support lease-revenue bond financing. Construction is expected to begin in 2011-12.

Staff Recommendation:

APPROVE ITEMS 1-14 as budgeted.

VOTE:

0555 Secretary for Cal-EPA

The Secretary for Cal-EPA is the cabinet level agency for the protection of human health and the environment. The Secretary coordinates the state's environmental regulatory programs and oversees programs to restore, protect, and enhance environmental quality. The Secretary directly oversees the Certified Unified Program Agencies, the California–Mexico border environmental efforts, and the Education and the Environment Initiative.

Items for Discussion

Positions at Cal-EPA

Background. The Secretary for Cal-EPA has 88 authorized positions funded from a number of special funds and the General Fund. Many of these positions were authorized by legislation, or are dedicated to specific programs that were shifted to the Secretary level. These include:

- 14 positions for the Certified Unified Program Agency coordination. The Unified Program consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of six environmental and emergency response programs.
- 13 positions for the Education and the Environment Initiative which was transferred to the Secretary in 2009 as part of the Integrated Waste Board and Department of Conservation recycling program consolidations.
- Six positions for the California-Mexico Border program.
- Eight positions for Climate Change and AB 32-related activities.
- 22 positions for a centralized unit within Cal-EPA to streamline mail, reproduction, shipping and receiving, and transportation for all Boards and Departments within Cal-EPA.
- 25 positions for the Secretary's office.

Staff Comments. It is unclear how many Deputy and Assistant Secretary level positions are authorized and filled at the Secretary's office. According to the Governor's budget, there are three authorized Assistant Secretaries and one Deputy Secretary. However, according to the Secretary's website, there are six Deputy Secretaries and five Assistant Secretaries. Some of these positions directly oversee statutory programs while others are related to energy, climate policy, or green business partnerships.

Recommendation. Staff recommends reducing the number of high-level executive staff at the agency that are not directly related to statutory programs. Staff recommends the following changes:

- (1) Eliminate the positions of Deputy Secretary for Energy (this is duplicative of activities at the California Energy Commission and California Public Utilities Commission); Deputy Secretary Special Counsel for Green Business

Development and International Partnerships. Shift savings to Department of Toxic Substances Control for direct Green Chemistry activities.

- (2) Eliminate six Climate Change positions. The Secretary for Cal-EPA does not have a statutory role in climate change coordination. Savings should be returned to fee payers in the form of rate reductions.
- (3) Eliminate six positions for the California-Mexico Border Program. The program accomplished many of its goals before statutory authority was conferred to the program in 2006, and has been less active in recent years. The elimination of these positions will require the Secretary to absorb future border discussions into daily activities. Savings should be returned directly to enforcement activities at Cal-EPA agencies and to the General Fund (\$375,000).
- (4) The Secretary shall, in coordination with the Department of Finance, identify positions that can be distributed to the boards and departments at Cal-EPA in the 2012-13 budgets to reduce the program scope of the Secretary's office (budget bill language).

Summary Recommendation. Adopt Staff Recommendation to reduce 14 positions at the Secretary's office. Savings would be mostly returned to fee payers or to direct enforcement and program activities at Cal-EPA departments.

Vote:

3360 California Energy Commission (Energy Resources Conservation and Development Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes \$386.2 million (no GF) for support of the CEC, a decrease of approximately \$196 million, due primarily to decreases in special funds that have a two-year encumbrance period.

Vote-Only Item

1. Continuing Implementation of the Solar Homes Initiative. The Governor requests to continue two expiring limited-term positions to June 30, 2013, to continue implementation of the California Solar Initiative program mandated by Chapter 132, Statutes of 2006 (SB 1, Murray). SB 1 mandated the development and implementation of this program to dramatically expand the number of energy efficient, solar powered buildings in California.

Recommendation. APPROVE Item 1

Vote:

Energy Resources Program Account

Background: The Legislature, in SB 69, denied \$8.4 million in Energy Resources Program Account (ERPA) funds due to a dispute over why the underlying surcharge was raised after previous year discussions regarding funding for pending legislation. The subcommittee required the CEC to return in spring hearings with an explanation and discussion of the fund condition of ERPA, programs funded by the surcharge, and impacts of the surcharge increase on ratepayers.

Staff Comments: CEC was able to describe program activities related to the ERPA; however it is unclear how the commission prioritizes this fund as well as the Renewable Resources Trust Fund given the pending sunset of the Public Goods Charge. When consulted for legislation, the commission has said it is able to absorb workload; however, it is not clear when, and if, rate increases will be needed, nor if the Commission has a plan for the potential elimination of public goods charge funding.

Recommendation. Staff recommends allocating \$400,000 to a Joint Legislative Audit Committee programmatic audit to determine how the Commission sets funding priorities based on statute, if duplication exists between programs, and how the commission adjusts revenue streams to statutory requirements (staff will work with the Auditor for precise language). Staff recommends holding open the remaining \$8 million for further review.

Summary Recommendation. Allocate \$400,000 for a programmatic audit. Hold Open \$8.0 million Energy Resources Program Account expenditure authority.

Vote:

Conversion of Four Existing Positions from ERPA to AB 32 Fee

Background. The Governor requests 4.0 existing permanent positions with responsibilities mandated by Assembly Bill 32 to be converted to the AB 32 Fee funding source. The Energy Commission received these positions in 2007 for work directly related to reduction of greenhouse gas emissions.

Staff Comments. The Energy Commission's role in AB 32 is not authorized in Statute as it does not regulate greenhouse gas emissions. According to the Zero-Based AB 32 budget, CEC uses these positions to:

- (1) Develop and implement the low carbon fuel standard regulation (1 position)
- (2) Develop and implement a Renewable Energy Standard (1 position)
- (3) Support energy sector measures (1 position)
- (4) Support SB 375 measures (1 position)

The California Public Utilities Commission (CPUC) also has similar positions for work related to the Investor Owned Utilities. However, because they too do not have a role authorized in statute, any work they conduct is justified with other statutory requirements and absorbed into their current ratepayer structure.

The AB 32 fee is likely to be collected from similar entities as are currently funding both the CPUC and the CEC. Therefore, shifting the fee from one entity to another makes no material change to the fee payer, but may add a layer of bureaucracy as the fee is collected by the ARB and then transferred to the CEC. The Legislature and Governor are currently reviewing the AB 32 Zero-Based Budget report and may have further recommendations in the coming year, across multiple boards and departments.

Recommendation. DENY funding shift. Shift positions to Renewable Portfolio Standard activity (next item).

Implementation of California's Renewables Portfolio Standard

Background: Chapter 1, Statutes of 2011 (SBx1 2, Simitian) requires California energy providers to buy 33 percent of their energy from clean, renewable energy sources by 2020. The statute provides a clear directive for private and public utilities to reach 33 percent renewable energy use, and provides the flexibility necessary to acquire that energy in the coming decade.

Previous law required that investor-owned utilities procure 20 percent of their renewable resources by December 31st of 2010. Previous law also, however, "capped" the amount of renewable energy that the Public Utilities Commission could order a utility to buy or build at 20 percent. The new law requires utilities to acquire at least 33 percent of their energy resources from renewable resources by 2020 and extends this to publicly owned utilities.

Governor's Proposal. The Governor requests five permanent positions and \$100,000 in one-time contract funds to conduct the work mandated by the new RPS standard to be funded by the Renewable Resources Trust Fund (RRTF). The RRTF receives funds both from surplus investments as well as a public goods charge on utility ratepayers. This public goods charge sunsets in January 2012. The Governor's budget also proposes to repay the RRTF about \$64 million from the General Fund for previous year loans.

Staff Comments: Staff concurs with the need for positions related to this new statutory mandate. However, it is not clear whether new positions are needed, nor if the proposed funding sources will continue beyond the budget year. In addition, it is clear that the CEC has positions that are being utilized for activities for which it does not have statutory requirements (previous item), that could be shifted to these new mandates.

Recommendation.

- (1) SHIFT 4 positions from AB 32 activities to this request from the Renewable Resources Trust Fund.
- (2) APPROVE 1 additional new position and one-time contract funds.
- (3) Require the CEC to return in January 2012 with a proposal for long-term funding for these positions in supplemental reporting language.

Vote:

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the PUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

Implementation of California's Renewables Portfolio Standard

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Previous law required that investor-owned utilities procure 20 percent of their renewable resources by December 31st of 2010. Previous law also, however, "capped" the amount of renewable energy that the Public Utilities Commission could order a utility to buy or build at 20 percent. The new law requires utilities to acquire at least 33 percent of their energy resources from renewable resources by 2020 and extends this to publicly owned utilities.

Governor's Proposal. The Governor requests 10 positions and \$2.1 million (Public Utilities Reimbursement Account), including \$1 million in consulting services for the Renewable Portfolio Standard (RPS) program evaluation and technical assistance to fulfill mandates created by the new law. This includes a new Governor's initiative for a Clean Energy Jobs Plan which includes a commitment to increase the quantity of renewable distributed generation in California by 12,000 Mw of localized renewable energy.

Staff Comments. It is not clear that the PUC direction is consistent with the Legislature's intent for how the PUC should implement the 33 percent RPS statute. Further, the request includes a new initiative that has not been vetted in the policy committees for 12,000 Mw of distributed generation. The commission should pursue this new initiative through the policy arena.

The commission agreed in the prehearing to meet with Legislative staff prior to initiating any new program activities to ensure their actions mirror legislative intent.

Recommendation: Approve 9 positions. Deny one position for 12,000 Mw distributed generation work.

Vote:

Public Safety Risk Assessment and Analysis Unit

Background: The Legislature, in SB 69, approved 4 positions to improve the safety of natural gas distribution systems in California. This was in response to the September 9, 2010 pipeline failure in San Bruno as well as new regulations enacted by the Federal Department of Transportation, Pipeline, and Hazardous Material Safety Administration.

Governor's May Revision Proposal. The 4 positions and \$1.0 million (PUC Utilities Reimbursement Account) are requested to develop, implement, and maintain a risk analysis-based public safety program to review and identify public safety risks posed by investor-owned gas and electric utilities, to reduce the likelihood of high consequence failures by utilities, and to proactively impose remedies to optimize the safety functions at the PUC. The proposal includes \$500,000 in consulting services to jumpstart the public safety program and address immediate safety concerns.

Staff Comments. Both the policy and budget committees have been concerned about staffing levels in the Consumer Product and Safety Division (CPSD). In multiple hearings, the PUC has been asked what the adequate level of staffing for that division should be. In workload analysis submitted with budget proposals, staffing is considered unsatisfactory in many cases.

In a letter from the Senate Energy, Utilities and Communications committee to the PUC dated May 19, 2011, the commission was asked to report to this subcommittee with their assessment of personnel and funding needed for this critical division including, but not limited to, the auditors and investigators necessary to fulfill consumer protection responsibilities at a much more adequate level.

The current May Revision request does not increase auditors nor inspectors in CPSD. While the proposal for a risk-assessment unit has merit, the PUC should be prepared to respond to the letter from the Senate with its workload assessment.

Recommendation:

Vote:

Elimination of Boards, Commissions, Task Forces, and Offices

Background. The Governor's May Revision proposes to eliminate and/or consolidate several boards, commissions, task forces and offices across state government. These include the Colorado River Board, Salton Sea Council, State Mining and Geology Board, and nine advisory committees and review panels at the Department of Fish and Game. These include: (1) the Commercial Salmon Fishing Review Board, (2) the Commercial Sea Urchin Advisory Committee, (3) the Dungeness Crab Review Panel, (4) the Recreational Abalone Advisory Committee, (5) the California Advisory Committee on Salmon and Steelhead Trout, (6) the State Interagency Oil Spill Committee Review Subcommittee, (7) the State Interagency Oil Spill Committee, (8) the Striped Bass Advisory Committee, and (9) the Abalone Advisory Committee.

Staff Comments. For the most part, staff concurs with the elimination and consolidation of defunct, duplicative, or unnecessary boards and advisory committees. However, questions have been raised about two eliminations as follows.

- **Salton Sea Council.** Chapter 303, Statutes of 20110 created the Salton Sea Restoration Council as a separate department under the Natural Resources Agency. Though this statute was recently passed, the administration now believes that it is inefficient to create a new department for a limited time with only one employee. Furthermore, the administration believes it would be premature to develop preferred alternatives until a viable funding plan is created (given that proposals for restoring the Salton Sea range from hundreds of millions to over \$9 billion).
- **Colorado River Board.** The Colorado River Board is responsible for developing a plan for using Colorado River Water. The board is comprised of a board of Southern California water users that receive water under California's Colorado River water rights. The board is fully funded by reimbursements from these water users.

Staff concurs with the elimination of the Salton Sea Council; however, the subcommittee may wish to ask the administration how they plan to prioritize funding, provide needed public input to the restoration, and provide the public and Legislature with a single point of contact for Salton Sea Restoration decisions.

Staff does have concerns with the elimination of the Colorado River Board (CRB) as a state agency. The Colorado River Board not only develops a plan for using Colorado River water, it also represents the state on numerous multi-state working groups and is the state's point of contact for allocation of the state's 4.4 million acre feet of water rights on the Colorado River. According to the board in its representation to the federal

Department of Interior, the CRB is “the State agency charged with safeguarding and protecting the rights and interests of the State, its agencies and citizens, in the water and power resources of the seven-state Colorado River System.”

Staff has concerns that without the Board in place, the state may be forced to utilize a separate state agency to represent the state before the Department of Interior and in negotiations with the other seven states in the Colorado River System. The likeliest state agency would be the State Water Resources Control Board since it is charged with administering water rights in the state. This would put additional burdens on the board and the existing water rights fee payers.

The LAO has recommendations on both the Salton Sea Council and the Colorado River Board elimination proposals.

Recommendation. No action is necessary, however, the subcommittee may recommend action to the Full Budget Committee or Subcommittee #4 as it deliberates the many entities proposed for elimination.

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 \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

Item for Discussion

Oil and Gas Permitting and Enforcement Staff Augmentation
--

May Revision Proposal. The Governor requests 36 position and \$4.7 million (Oil, Gas, and Geothermal Administrative Fund) to enhance the onshore and offshore regulatory programs of the Division of Oil, Gas and Geothermal Resources (DOGGR) to improve environmental compliance, underground injection control, and construction site review.

Previous Budget Actions. The subcommittee previously heard this department on February 3 and denied a related proposal without prejudice in SB 69 to get a better understanding of the division's needs. The subcommittee then heard testimony from the department on May 5 regarding their restructuring effort following an augmentation of \$3.2 million and 17 permanent positions within the Underground Injection Control and Enhanced Oil Recovery Program.

Staff Comments. This is the second year in a row that the department has come forward with a major proposal for positions, restructuring, permitting, and new regulatory activities during May Revision. In appearances before the subcommittee, the department did not discuss a need for further positions beyond the original 17 allocated to the division in 2011. The department also reported on May 5 to this subcommittee that they had just recently completed the process to fill the 17 positions and could begin to address the backlog of permits associated with those positions.

Staff has concerns with the manner in which the department has submitted these proposals and the lack of adequate time for legislative review of these major proposals. There are numerous potential implications of this expansion, including the impact on permitted entities, local governments, environmental compliance, and any further requirements this division may need in the budget and policy context.

The LAO has recommended denying the proposal.

Recommendation. Deny Proposal

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.

Items Proposed for Vote-Only

1. General Fund Reduction—Proposition 1E Fund Shift. The Governor requests to shift \$16 million from the General Fund to Proposition 1E bond funds for levee maintenance, Delta levees, and floodplain mapping activities in order to address the remaining budget shortfall.

2. Conforming Action—Davis-Dolwig Reporting. The subcommittee on May 12 heard the issue of the Davis-Dolwig Cost Allocation Study. The subcommittee held open the LAO recommended reporting language to better conform the timing of the due dates. The recommended language shifts the completion of the alternative LAO proposed study to December 31, 2011, and requires the working group to meet both before, to set the parameters of the study, and after, to move forward under a common understanding of available reform options as developed by the study's authors. The working group would be required to develop recommendations by April 1, 2012. The following language is proposed:

"The Secretary of Natural Resources shall convene a working group consisting of the Department of Water Resources, key legislative staff, Department of Finance, the Secretary for Natural Resources staff, LAO, and the State Water Contractors to determine a long-term viable solution that addresses concerns laid out in the LAO's March 19, 2009 report on Funding Recreation in the State Water Project. In its review, the working group may seek an independent third-party legal review of the Davis-Dolwig cost-allocation issues relating to the State Water Project within appropriate Department of Water Resources funding sources, if necessary, to determine, at a minimum: (1) what legal constraints, if any, exist to proscribe the California Legislature's ability to revise the Davis-Dolwig statute, with specific attention to the contracts signed by the department with the SWP contractors and to the SWP bond covenants; (2) whether such legal constraints conflict with the Legislature's authority to make laws and to set its expenditure priorities through its constitutionally granted authority to make appropriations; (3) how any such legal conflicts can be reconciled; and (4) what options exist to resolve the issues. For any contract entered into for this purpose, the Department of Water Resources shall submit the task order for the contract to the working group for its review and concurrence in the tasks and the working group shall meet with the independent third-party before its review begins, to set the parameters of the study, and after, to move forward under a common understanding of available reform options as developed

by study's authors.. The contractor shall work in periodic consultation with the working group when performing its analysis. The department shall submit this analysis to the budget committees, and relevant policy committees of both houses of the Legislature, no later than December 31, 2012.

The group shall meet a minimum of three times between July 1, 2011 and April 1, 2012. The department shall provide a report, in person, to the subcommittee in 2012 budget hearings on the working group's proposals for long-term solutions for funding recreation in the State Water Project."

Recommendation. APPROVE Items 1-2

Vote:

Fund Shift—Watermaster Fees

Background. The department provides Watermaster services in both Northern and Southern California. The Northern Region Office provides Watermaster service on certain streams that have court adjudication and agreements. The Southern Region Office provides Watermaster service to several major groundwater basins. In areas where DWR is not the Watermaster, fees pay 100 percent of the Watermaster services from the water rights holders and adjudicated parties.

In 2004, statute was created to eliminate General Fund support and require water right holders to pay all costs associated with the program. Program billing rates have not reflected this statutory requirement and remained nearly constant for between 12 and 20 years prior to the law change. After 2004, General Fund was appropriated to cover increases in fees even though the water code states that 100 percent of the cost of the program should be paid by the water rights holders.

Governor's May Revision Proposal. The Governor proposes to shift \$1.2 million from the General Fund to reimbursements to address the General Fund shortfall. This would allow the department to fully comply with existing law (Chapter 230, Statutes of 2004) which requires water right holders to pay all costs associated with the program. This is consistent with other Watermaster programs in the state.

Staff Comments. Staff recommends approval of the project. There is a clear nexus between the work of the water master and the fee payer. This would bring DWR's Watermaster program into compliance with the law and make it comparable to other Watermaster programs in the state.

Recommendation. APPROVE as budgeted.

Vote:

General Fund Reduction—Control Section

Governor's May Revision Proposal. The Governor's May Revision proposes a decrease of \$1.8 million in 2011-12 for water data collection, support for the Central Valley Flood Board, and flood control activities. The department's overall General Fund would remain at \$64 million.

The reduction is proposed to be taken as follows:

- \$443,000 – California Water Plan
- \$557,000 – North Delta Program
- \$350,000 – Flood Management
- \$420,000 – Central Valley Flood Protection Board

Staff Comments. The department proposes to spread out the reductions over various program areas. In most cases, the General Fund reduction is much less than the overall program budget. For example, the California Water Plan has about \$10 million of bond funds available for use.

The department may wish to comment on how it came up with its prioritization of activities proposed for reduction.

Recommendation. No Action—this item will be taken up in Subcommittee #4.

Mercury and Methylmercury Monitoring and Control Studies

Governor's Proposal. The Governor's budget requests four full-time positions at an estimated cost of \$900,000 (State Water Project off-budget funds) for collaborative studies and laboratory and statistical analysis for implementation of the newly adopted regulations from the Central Valley Regional Water Quality Control Board ("regional board"). These positions will allow for dedicated staff to plan and implement the required studies, to participate in a required adaptive management approach, and will provide funds to enable internal department coordination as well as collaboration with other mercury researchers and land and water managers.

Background. In April 2010, the regional board adopted a Total Maximum Daily Load (TMDL) and Basin Plan Amendment for mercury and methylmercury in the Sacramento-San Joaquin Delta Estuary (including the Yolo bypass and Cache Creek Settling Basin). These regulations will become effective after US EPA approval in 2011. The regulations address both point (specific location) and nonpoint (unspecified location) sources. The regional water board held the State Water Project solely liable and responsible for implementation of this aspect of the regulation.

Staff Comments. This subcommittee heard this issue and denied the proposal without prejudice based on concerns that the appropriate entities were not sharing the cost of the regulatory compliance. The regional water board and the administration had made the argument that the State Water Contractors were fully funding the compliance because they had funds available.

Staff agrees that the State Water Project should pay a portion of this monitoring and control as it is a primary user of Delta water. This is consistent with several environmental restoration efforts the State Water Project is undertaking that would impact how much mercury and methylmercury is released into delta waters. However, it would be appropriate for the State to also fund a portion of the compliance effort. At this time, one option would be a 2-year appropriation of Environmental License Plate Fund in the amount of \$300,000 per year to offset the State Water Project funded proposal.

Recommendation: APPROVE proposal for positions. Approve \$300,000 per year for two years from the Environmental License Plate Fund for the state-share of this regulatory compliance.

Vote:

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

Item Proposed for Vote-Only

1. Proposition 99 Funding. The Governor proposes an increase of \$98,000 from the Proposition 99 fund to provide additional support to the state park system. There are sufficient funds to support this requested augmentation because of an increase in projected revenue.

Recommendation: APPROVE Item 1

Vote:

Public Safety Technology Modernization Project Reappropriation

Governor's Proposal. The Governor's budget requests \$4.5 million (State Parks and Recreation Fund), a re-appropriation of \$1.6 million (Off-Highway Motor Vehicle Recreation Funds), and a reversion of \$4.5 million General Fund for a Computer Aided Dispatch (CAD) system. This proposal supports a new phased Special Project Request. The dispatch system supports both the State Parks Rangers and Fish and Game Wardens.

Background. In March 2007, a Feasibility Study Report was approved which identified technology needs and a business case to modernize the dispatching system, Records Management System, and provide mobile access to data systems for Peace Officers in the Field. The selected vendor was not able to meet the terms of the contract delaying the project.

A Special Project Request was submitted to the California Technology Agency in January 2011 supporting a new phased approach to this project, to focus on the dispatch system first, thereby decreasing the significant business risk associated with potential failure of the current system.

Staff Comments. Staff have a number of concerns with the proposal. First, the proposal is based on a Special Project Request that has not been submitted to the Legislature for review. Based on commentary in the budget proposal, it seems likely that the project scope and approach has changed; therefore, funding priorities and needs may have changed as well.

Second, it is unclear why State Parks is paying for 100 percent of the capital cost of the dispatch program. Department of Fish and Game (DFG) also benefits from the dispatch system and pays ongoing reimbursements to the Department of Parks and Recreation (DPR) for ongoing costs. Though DFG funds have a structural imbalance, the same could be said for the department given the recent park reduction proposals.

The LAO has a recommendation to deny the proposal but approve the proposed General Fund reversion.

Recommendation: DENY Proposal. Approve proposed General Fund reversion.

Vote:

Parks Reduction List—Proposals for New Revenue

Background. The Governor released the list of parks that are proposed to be closed in compliance with SB 69 and AB 95, the budget bill and resources trailer bill passed earlier this year. The list includes 70 parks ranging from the North State to the Salton Sea. The department also submitted to the subcommittee a detailed spreadsheet enumerating the costs of each park on the list, revenue streams, capital outlay issues, maintenance costs and closure complexities.

Staff Comments. The Legislature is considering various statutory efforts to provide alternatives to full closure of the parks on the elimination list. Some proposals include increasing the number of nonprofits, local agencies, or other partners who might manage and run a state park in lieu of the state itself. Others include allowing more creative fee collections at the park.

The department has broad authority to adjust its fee schedules to meet budget requirements. Until recently, the department was not receptive to options to changing how fees are collected within the parks system, particularly where there are no entrance fees to a park (there may be parking fees, but most people just park outside the park and walk in without paying).

According to the department, it is too hard to collect entrance fees in most locations. However, those who have visited parks on the list (including Castle Rock and Austin Creek) have found that simple signage notifying the public that an entrance fee is due, with an appropriate “iron ranger” collection facility, would allow the department to collect fees from people even if they park on the roadside and walk into the park (through the paid parking lot). In most cases, a collection facility already exists for the parking lot, with appropriate receipt collection facilities as well. The department also has the civil authority to fine individuals who do not pay.

Staff recommends the department institute a change to its fee structure, to allow park entrance fees as well as phased in civil penalties to correspond with failure to pay parking fees.

The department may wish to comment on other proposals it is now working on to mitigate park closures.

Recommendation. APPROVE \$750,000 (State Parks and Recreation Fund) to institute park entrance fees (including “iron rangers” and appropriate signage).

Vote:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART A

May 25, 2011

9:30 am or On Call of the Chair
Room 112

Consultant: Catherine Freeman

Errata

Items for Vote-Only

3600 Department of Fish and Game

- 1. Automated License Data System Reappropriation.** The Governor proposes a re-appropriation of un-used budget authority to align the Automated License Data System project budget with the current project schedule. These funds are requested to be made available for expenditure through 2013-14
- 2. Salmon Conservation and Research Facility.** The Governor proposes \$1.4 million (bond funds reimbursed from the Secretary for Natural Resources Proposition 84 San Joaquin River allocation) for the first phase of a new Salmon Conservation and Research Facility.

Recommendation: Approve Errata Items 1-2.

Vote:

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART A
Agenda and Outcomes
May 25, 2011
9:30 am or On Call of the Chair
Room 112

Consultant: Catherine Freeman

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ERRATA Page ATTACHED

Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

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

1. Delta Service Center Construction. The Governor requests re-appropriation of two items for the Delta Service District Center consistent with previous budget actions. Project delays have been due to the recent Pooled Money Investment Board suspension of interim financing loans. Project re-appropriations will be used for all phases of the capital project.

2. Tahoe Base Center Relocation. The Governor requests reappropriation of funds for a portion of the Tahoe Base Center Relocation. The requested funds would be used to comply with required permit compliance for design work through the construction phases of the capital project.

3. EnergySmart Jobs Program—ARRA Funded. The Governor requests a one-time \$812,000 augmentation (reimbursements to the Collins Dugan Reimbursement Account) to fund the last year of services for energy-efficiency auditors through the EnergySmart Jobs Program.

4. California Energy Service Corps. The Governor requests a three-year augmentation to the Collins Dugan Reimbursement Account (\$1.6 million per year) to fund resources necessary to accommodate an AmeriCorps grant recently awarded to the CCC by the federal Corporation for National and Community Service through California Volunteers to fulfill requests from partnering sponsor agencies. The AmeriCorps grant, and the partnering sponsor agencies, will reimburse the CCC for all costs to implement energy savings weatherization project work to be completed during the grant period.

5. Caltrans Transportation Enhancement Project Work. The Governor requests \$881,000 in 2011-12 and \$533,000 in 2012-13 (Collins Dugan Reimbursement Account) to fund the last two years of project work requested by Caltrans. Caltrans will reimburse CCC for all project expenses including for site preparation, installation (plants, seeds, mulch, irrigation), and plant establishment activities.

6. Statewide Trails Program. The Governor requests \$105,000 (Collins Dugan Reimbursement Account) to fund related expenses of a partnership between CCC and the Department of Parks and Recreation to develop a pilot Statewide Trails Program. The program will be reimbursed by the Department of Parks and Recreation and will extend the project by two years.

3500 Department of Resources Recycling and Recovery

- 7. Delay of General Fund Loan Repayments to the PET (Polyethylene Terephthalate) and Glass Processing Fee Accounts.** The Governor requests budget bill language to delay two loan repayments from the General Fund to the Glass (\$39 million) and PET (\$27 million) Processing Fee Accounts until fiscal year 2013-14. These are not impacted by a separate May Revision proposal to accelerate repayment of two loans to the Beverage Container Recycling Fund for about \$173 million.

3540 Department of Forestry and Fire Protection

- 8. BCP-1: Fire Protection Permanent Funding.** The Governor requests permanent General Fund and position authority following a legislative direction to shift permanent emergency-fund expenditures to the base budget, and to submit a zero-based budget. The request includes authority related to the Aviation Management Unit; Very Large Air Tanker and Victorville Air Attack Base; San Diego Helitack; Aviation Asset Coordinator; Lake Tahoe Basin Fire Engine Station and Staffing; and Defensible Space and CAL Card Support.

- 9. BCP-5: Hemet-Ryan Lease/Build to Suit with Purchase Option.** The Governor requests Budget Bill Language to authorize a lease for an Air Attack Base at Hemet-Ryan Airport.

3940 State Water Resources Control Board

- 10. Open Issue: One-Time Augmentation for Underground Storage Tank Cleanup Fund.** The Governor requests a one-time augmentation of \$90 million in state operations, \$13.2 million in local assistance authority from the School District Account, and \$15.8 million from the Orphan Site Cleanup Fund. The Subcommittee denied this item without prejudice in order to review the proposal and recent program audit further.

3960 Department of Toxic Substances Control

11. Expedited Remedial Action—Payment for Cleanup of Orphan Share. The Governor requests \$731,000 (Expedited Site Remediation Trust Fund) to reimburse Santa Cruz Metro for the orphan share associated with its remediation activities at the Greyhound Site in the City of Santa Cruz.

12. General Fund Reduction—Fund Shift to Illegal Drug Lab Cleanup Account. The Governor proposes a one-time reduction of \$802,000 from the General Fund by shifting the illegal drug lab removals contract funding from the General Fund to the Illegal Drug Lab Cleanup Account. This is a one-time proposal. The administration proposes, in the budget year, to explore alternative revenue/funding sources that could provide stable funding for the removal of hazardous materials at clandestine drug labs in California.

8560 California Department of Food and Agriculture

13. California Animal Health and Food Safety Laboratory. The Governor requests authority to re-appropriate funds for the Tulare/Fresno lab consolidation and replacement which was delayed due to the need to develop a comprehensive operating and development agreement with partner agencies. The project is in the working drawings capital outlay phase.

14. Yermo Agriculture Inspection Station. The Governor requests authority to re-appropriate funds for acquisition, preliminary plans, working drawings and construction. The project was delayed by efforts to secure additional property rights from the federal Bureau of Land Management to support lease-revenue bond financing. Construction is expected to begin in 2011-12.

Staff Recommendation:

APPROVE ITEMS 1-14 as budgeted.

VOTE:

ITEMS 1-6, 8-14	Approve as budgeted.	3-0
ITEM 7	Approve as budgeted.	2-1 (Fuller)

0555 Secretary for Cal-EPA

The Secretary for Cal-EPA is the cabinet level agency for the protection of human health and the environment. The Secretary coordinates the state's environmental regulatory programs and oversees programs to restore, protect, and enhance environmental quality. The Secretary directly oversees the Certified Unified Program Agencies, the California–Mexico border environmental efforts, and the Education and the Environment Initiative.

Items for Discussion

Positions at Cal-EPA

Background. The Secretary for Cal-EPA has 88 authorized positions funded from a number of special funds and the General Fund. Many of these positions were authorized by legislation, or are dedicated to specific programs that were shifted to the Secretary level. These include:

- 14 positions for the Certified Unified Program Agency coordination. The Unified Program consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of six environmental and emergency response programs.
- 13 positions for the Education and the Environment Initiative which was transferred to the Secretary in 2009 as part of the Integrated Waste Board and Department of Conservation recycling program consolidations.
- Six positions for the California-Mexico Border program.
- Eight positions for Climate Change and AB 32-related activities.
- 22 positions for a centralized unit within Cal-EPA to streamline mail, reproduction, shipping and receiving, and transportation for all Boards and Departments within Cal-EPA.
- 25 positions for the Secretary's office.

Staff Comments. It is unclear how many Deputy and Assistant Secretary level positions are authorized and filled at the Secretary's office. According to the Governor's budget, there are three authorized Assistant Secretaries and one Deputy Secretary. However, according to the Secretary's website, there are six Deputy Secretaries and five Assistant Secretaries. Some of these positions directly oversee statutory programs while others are related to energy, climate policy, or green business partnerships.

Recommendation. Staff recommends reducing the number of high-level executive staff at the agency that are not directly related to statutory programs. Staff recommends the following changes:

- (1) Eliminate the positions of Deputy Secretary for Energy (this is duplicative of activities at the California Energy Commission and California Public Utilities Commission); Deputy Secretary Special Counsel for Green Business

Development and International Partnerships. Shift savings to Department of Toxic Substances Control for direct Green Chemistry activities.

- (2) Eliminate six Climate Change positions. The Secretary for Cal-EPA does not have a statutory role in climate change coordination. Savings should be returned to fee payers in the form of rate reductions.
- (3) Eliminate six positions for the California-Mexico Border Program. The program accomplished many of its goals before statutory authority was conferred to the program in 2006, and has been less active in recent years. The elimination of these positions will require the Secretary to absorb future border discussions into daily activities. Savings should be returned directly to enforcement activities at Cal-EPA agencies and to the General Fund (\$375,000).
- (4) The Secretary shall, in coordination with the Department of Finance, identify positions that can be distributed to the boards and departments at Cal-EPA in the 2012-13 budgets to reduce the program scope of the Secretary's office (budget bill language).

Summary Recommendation. Adopt Staff Recommendation to reduce 14 positions at the Secretary's office. Savings would be mostly returned to fee payers or to direct enforcement and program activities at Cal-EPA departments.

Vote:

No Action

3360 California Energy Commission (Energy Resources Conservation and Development Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes \$386.2 million (no GF) for support of the CEC, a decrease of approximately \$196 million, due primarily to decreases in special funds that have a two-year encumbrance period.

Vote-Only Item

1. Continuing Implementation of the Solar Homes Initiative. The Governor requests to continue two expiring limited-term positions to June 30, 2013, to continue implementation of the California Solar Initiative program mandated by Chapter 132, Statutes of 2006 (SB 1, Murray). SB 1 mandated the development and implementation of this program to dramatically expand the number of energy efficient, solar powered buildings in California.

Recommendation. APPROVE Item 1

Vote:

ITEM 1 Approve as budgeted. 3-0

Energy Resources Program Account

Background: The Legislature, in SB 69, denied \$8.4 million in Energy Resources Program Account (ERPA) funds due to a dispute over why the underlying surcharge was raised after previous year discussions regarding funding for pending legislation. The subcommittee required the CEC to return in spring hearings with an explanation and discussion of the fund condition of ERPA, programs funded by the surcharge, and impacts of the surcharge increase on ratepayers.

Staff Comments: CEC was able to describe program activities related to the ERPA; however it is unclear how the commission prioritizes this fund as well as the Renewable Resources Trust Fund given the pending sunset of the Public Goods Charge. When consulted for legislation, the commission has said it is able to absorb workload; however, it is not clear when, and if, rate increases will be needed, nor if the Commission has a plan for the potential elimination of public goods charge funding.

Recommendation. Staff recommends allocating \$400,000 to a Joint Legislative Audit Committee programmatic audit to determine how the Commission sets funding priorities based on statute, if duplication exists between programs, and how the commission adjusts revenue streams to statutory requirements (staff will work with the Auditor for precise language). Staff recommends holding open the remaining \$8 million for further review.

Summary Recommendation. Allocate \$400,000 for a programmatic audit. Hold Open \$8.0 million Energy Resources Program Account expenditure authority.

Vote:

HOLD OPEN

Conversion of Four Existing Positions from ERPA to AB 32 Fee

Background. The Governor requests 4.0 existing permanent positions with responsibilities mandated by Assembly Bill 32 to be converted to the AB 32 Fee funding source. The Energy Commission received these positions in 2007 for work directly related to reduction of greenhouse gas emissions.

Staff Comments. The Energy Commission's role in AB 32 is not authorized in Statute as it does not regulate greenhouse gas emissions. According to the Zero-Based AB 32 budget, CEC uses these positions to:

- (1) Develop and implement the low carbon fuel standard regulation (1 position)
- (2) Develop and implement a Renewable Energy Standard (1 position)
- (3) Support energy sector measures (1 position)
- (4) Support SB 375 measures (1 position)

The California Public Utilities Commission (CPUC) also has similar positions for work related to the Investor Owned Utilities. However, because they too do not have a role authorized in statute, any work they conduct is justified with other statutory requirements and absorbed into their current ratepayer structure.

The AB 32 fee is likely to be collected from similar entities as are currently funding both the CPUC and the CEC. Therefore, shifting the fee from one entity to another makes no material change to the fee payer, but may add a layer of bureaucracy as the fee is collected by the ARB and then transferred to the CEC. The Legislature and Governor are currently reviewing the AB 32 Zero-Based Budget report and may have further recommendations in the coming year, across multiple boards and departments.

Recommendation. DENY funding shift. Shift positions to Renewable Portfolio Standard activity (next item).

Vote:

Deny Proposal 3-0

Implementation of California's Renewables Portfolio Standard

Background: Chapter 1, Statutes of 2011 (SBx1 2, Simitian) requires California energy providers to buy 33 percent of their energy from clean, renewable energy sources by 2020. The statute provides a clear directive for private and public utilities to reach 33 percent renewable energy use, and provides the flexibility necessary to acquire that energy in the coming decade.

Previous law required that investor-owned utilities procure 20 percent of their renewable resources by December 31st of 2010. Previous law also, however, "capped" the amount of renewable energy that the Public Utilities Commission could order a utility to buy or build at 20 percent. The new law requires utilities to acquire at least 33 percent of their energy resources from renewable resources by 2020 and extends this to publicly owned utilities.

Governor's Proposal. The Governor requests five permanent positions and \$100,000 in one-time contract funds to conduct the work mandated by the new RPS standard to be funded by the Renewable Resources Trust Fund (RRTF). The RRTF receives funds both from surplus investments as well as a public goods charge on utility ratepayers. This public goods charge sunsets in January 2012. The Governor's budget also proposes to repay the RRTF about \$64 million from the General Fund for previous year loans.

Staff Comments: Staff concurs with the need for positions related to this new statutory mandate. However, it is not clear whether new positions are needed, nor if the proposed funding sources will continue beyond the budget year. In addition, it is clear that the CEC has positions that are being utilized for activities for which it does not have statutory requirements (previous item), that could be shifted to these new mandates.

Recommendation.

- (1) SHIFT 4 positions from AB 32 activities to this request from the Renewable Resources Trust Fund.
- (2) APPROVE 1 additional new position and one-time contract funds.
- (3) Require the CEC to return in January 2012 with a proposal for long-term funding for these positions in supplemental reporting language.

Vote:

Approve Staff Recommendation with (3) as supplemental reporting language.

2-0 (Fuller not voting)

8660 California Public Utilities Commission

The California Public Utilities Commission (PUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's Budget proposes \$1.4 billion to support the PUC in the budget year. This is approximately \$170 million more than estimated expenditures in the current year. This is due to a large increase in the Universal Lifeline Telephone Service Trust Administrative Committee Fund, a special fund. The commission does not receive any General Fund support.

Implementation of California's Renewables Portfolio Standard

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Previous law required that investor-owned utilities procure 20 percent of their renewable resources by December 31st of 2010. Previous law also, however, "capped" the amount of renewable energy that the Public Utilities Commission could order a utility to buy or build at 20 percent. The new law requires utilities to acquire at least 33 percent of their energy resources from renewable resources by 2020 and extends this to publicly owned utilities.

Governor's Proposal. The Governor requests 10 positions and \$2.1 million (Public Utilities Reimbursement Account), including \$1 million in consulting services for the Renewable Portfolio Standard (RPS) program evaluation and technical assistance to fulfill mandates created by the new law. This includes a new Governor's initiative for a Clean Energy Jobs Plan which includes a commitment to increase the quantity of renewable distributed generation in California by 12,000 Mw of localized renewable energy.

Staff Comments. It is not clear that the PUC direction is consistent with the Legislature's intent for how the PUC should implement the 33 percent RPS statute. Further, the request includes a new initiative that has not been vetted in the policy committees for 12,000 Mw of distributed generation. The commission should pursue this new initiative through the policy arena.

The commission agreed in the prehearing to meet with Legislative staff prior to initiating any new program activities to ensure their actions mirror legislative intent.

Recommendation: Approve 9 positions. Deny one position for 12,000 Mw distributed generation work.

Vote:

Approve as budgeted with budget bill language directing that funding for the 12,000 Mw distributed generation work is intended to explore policy options rather than make policy or regulatory decisions.

2-0 (Fuller not voting)

Public Safety Risk Assessment and Analysis Unit

Background: The Legislature, in SB 69, approved 4 positions to improve the safety of natural gas distribution systems in California. This was in response to the September 9, 2010 pipeline failure in San Bruno as well as new regulations enacted by the Federal Department of Transportation, Pipeline, and Hazardous Material Safety Administration.

Governor's May Revision Proposal. The 4 positions and \$1.0 million (PUC Utilities Reimbursement Account) are requested to develop, implement, and maintain a risk analysis-based public safety program to review and identify public safety risks posed by investor-owned gas and electric utilities, to reduce the likelihood of high consequence failures by utilities, and to proactively impose remedies to optimize the safety functions at the PUC. The proposal includes \$500,000 in consulting services to jumpstart the public safety program and address immediate safety concerns.

Staff Comments. Both the policy and budget committees have been concerned about staffing levels in the Consumer Product and Safety Division (CPSD). In multiple hearings, the PUC has been asked what the adequate level of staffing for that division should be. In workload analysis submitted with budget proposals, staffing is considered unsatisfactory in many cases.

In a letter from the Senate Energy, Utilities and Communications committee to the PUC dated May 19, 2011, the commission was asked to report to this subcommittee with their assessment of personnel and funding needed for this critical division including, but not limited to, the auditors and investigators necessary to fulfill consumer protection responsibilities at a much more adequate level.

The current May Revision request does not increase auditors nor inspectors in CPSD. While the proposal for a risk-assessment unit has merit, the PUC should be prepared to respond to the letter from the Senate with its workload assessment.

Recommendation:

Vote:

Approve as budgeted. Add 5.5 positions for inspectors and auditors.

3-0

Elimination of Boards, Commissions, Task Forces, and Offices

Background. The Governor's May Revision proposes to eliminate and/or consolidate several boards, commissions, task forces and offices across state government. These include the Colorado River Board, Salton Sea Council, State Mining and Geology Board, and nine advisory committees and review panels at the Department of Fish and Game. These include: (1) the Commercial Salmon Fishing Review Board, (2) the Commercial Sea Urchin Advisory Committee, (3) the Dungeness Crab Review Panel, (4) the Recreational Abalone Advisory Committee, (5) the California Advisory Committee on Salmon and Steelhead Trout, (6) the State Interagency Oil Spill Committee Review Subcommittee, (7) the State Interagency Oil Spill Committee, (8) the Striped Bass Advisory Committee, and (9) the Abalone Advisory Committee.

Staff Comments. For the most part, staff concurs with the elimination and consolidation of defunct, duplicative, or unnecessary boards and advisory committees. However, questions have been raised about two eliminations as follows.

- **Salton Sea Council.** Chapter 303, Statutes of 20110 created the Salton Sea Restoration Council as a separate department under the Natural Resources Agency. Though this statute was recently passed, the administration now believes that it is inefficient to create a new department for a limited time with only one employee. Furthermore, the administration believes it would be premature to develop preferred alternatives until a viable funding plan is created (given that proposals for restoring the Salton Sea range from hundreds of millions to over \$9 billion).
- **Colorado River Board.** The Colorado River Board is responsible for developing a plan for using Colorado River Water. The board is comprised of a board of Southern California water users that receive water under California's Colorado River water rights. The board is fully funded by reimbursements from these water users.

Staff concurs with the elimination of the Salton Sea Council; however, the subcommittee may wish to ask the administration how they plan to prioritize funding, provide needed public input to the restoration, and provide the public and Legislature with a single point of contact for Salton Sea Restoration decisions.

Staff does have concerns with the elimination of the Colorado River Board (CRB) as a state agency. The Colorado River Board not only develops a plan for using Colorado River water, it also represents the state on numerous multi-state working groups and is the state's point of contact for allocation of the state's 4.4 million acre feet of water rights on the Colorado River. According to the board in its representation to the federal Department of Interior, the CRB is "the State agency charged with safeguarding and

protecting the rights and interests of the State, its agencies and citizens, in the water and power resources of the seven-state Colorado River System.”

Staff has concerns that without the Board in place, the state may be forced to utilize a separate state agency to represent the state before the Department of Interior and in negotiations with the other seven states in the Colorado River System. The likeliest state agency would be the State Water Resources Control Board since it is charged with administering water rights in the state. This would put additional burdens on the board and the existing water rights fee payers.

The LAO has recommendations on both the Salton Sea Council and the Colorado River Board elimination proposals.

Recommendation. No action is necessary, however, the subcommittee may recommend action to the Full Budget Committee or Subcommittee #4 as it deliberates the many entities proposed for elimination.

Vote:

Action was re-taken during Part B of the agenda clarify Subcommittee’s Action:

Reject any associated Trailer Bill Language and any control section language associated with the Colorado River Board and State Mining and Geology Board. Move these items to policy committee review.

3-0

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 \$97.8 million (\$4.6 million GF) for support of the DOC, a decrease of approximately \$37 million, due mainly to a reduction in bond funds.

Item for Discussion

Oil and Gas Permitting and Enforcement Staff Augmentation

May Revision Proposal. The Governor requests 36 position and \$4.7 million (Oil, Gas, and Geothermal Administrative Fund) to enhance the onshore and offshore regulatory programs of the Division of Oil, Gas and Geothermal Resources (DOGGR) to improve environmental compliance, underground injection control, and construction site review.

Previous Budget Actions. The subcommittee previously heard this department on February 3 and denied a related proposal without prejudice in SB 69 to get a better understanding of the division's needs. The subcommittee then heard testimony from the department on May 5 regarding their restructuring effort following an augmentation of \$3.2 million and 17 permanent positions within the Underground Injection Control and Enhanced Oil Recovery Program.

Staff Comments. This is the second year in a row that the department has come forward with a major proposal for positions, restructuring, permitting, and new regulatory activities during May Revision. In appearances before the subcommittee, the department did not discuss a need for further positions beyond the original 17 allocated to the division in 2011. The department also reported on May 5 to this subcommittee that they had just recently completed the process to fill the 17 positions and could begin to address the backlog of permits associated with those positions.

Staff has concerns with the manner in which the department has submitted these proposals and the lack of adequate time for legislative review of these major proposals. There are numerous potential implications of this expansion, including the impact on permitted entities, local governments, environmental compliance, and any further requirements this division may need in the budget and policy context.

The LAO has recommended denying the proposal.

Recommendation. Deny Proposal

Vote:

APPROVE ½ of the proposal with the intent that should the department need further funding, it would come before this subcommittee in January of 2012.

APPROVE 18 positions and \$2.3 million.

2-1 (Fuller)

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.

Items Proposed for Vote-Only

1. General Fund Reduction—Proposition 1E Fund Shift. The Governor requests to shift \$16 million from the General Fund to Proposition 1E bond funds for levee maintenance, Delta levees, and floodplain mapping activities in order to address the remaining budget shortfall.

2. Conforming Action—Davis-Dolwig Reporting. The subcommittee on May 12 heard the issue of the Davis-Dolwig Cost Allocation Study. The subcommittee held open the LAO recommended reporting language to better conform the timing of the due dates. The recommended language shifts the completion of the alternative LAO proposed study to December 31, 2011, and requires the working group to meet both before, to set the parameters of the study, and after, to move forward under a common understanding of available reform options as developed by the study's authors. The working group would be required to develop recommendations by April 1, 2012. The following language is proposed:

"The Secretary of Natural Resources shall convene a working group consisting of the Department of Water Resources, key legislative staff, Department of Finance, the Secretary for Natural Resources staff, LAO, and the State Water Contractors to determine a long-term viable solution that addresses concerns laid out in the LAO's March 19, 2009 report on Funding Recreation in the State Water Project. In its review, the working group may seek an independent third-party legal review of the Davis-Dolwig cost-allocation issues relating to the State Water Project within appropriate Department of Water Resources funding sources, if necessary, to determine, at a minimum: (1) what legal constraints, if any, exist to proscribe the California Legislature's ability to revise the Davis-Dolwig statute, with specific attention to the contracts signed by the department with the SWP contractors and to the SWP bond covenants; (2) whether such legal constraints conflict with the Legislature's authority to make laws and to set its expenditure priorities through its constitutionally granted authority to make appropriations; (3) how any such legal conflicts can be reconciled; and (4) what options exist to resolve the issues. For any contract entered into for this purpose, the Department of Water Resources shall submit the task order for the contract to the working group for its review and concurrence in the tasks and the working group shall meet with the independent third-party before its review begins, to set the parameters of the study, and after, to move forward under a common understanding of available reform options as developed by study's authors.. The contractor shall work in periodic consultation with the working group when performing its analysis. The department shall submit this analysis to the budget

committees, and relevant policy committees of both houses of the Legislature, no later than December 31, 2012.

The group shall meet a minimum of three times between July 1, 2011 and April 1, 2012. The department shall provide a report, in person, to the subcommittee in 2012 budget hearings on the working group's proposals for long-term solutions for funding recreation in the State Water Project."

Recommendation. APPROVE Items 1-2

Vote:

ITEM 1	Approve as budgeted.	3-0
ITEM 2	Approve as budgeted.	2-1 (Fuller)

Fund Shift—Watermaster Fees

Background. The department provides Watermaster services in both Northern and Southern California. The Northern Region Office provides Watermaster service on certain streams that have court adjudication and agreements. The Southern Region Office provides Watermaster service to several major groundwater basins. In areas where DWR is not the Watermaster, fees pay 100 percent of the Watermaster services from the water rights holders and adjudicated parties.

In 2004, statute was created to eliminate General Fund support and require water right holders to pay all costs associated with the program. Program billing rates have not reflected this statutory requirement and remained nearly constant for between 12 and 20 years prior to the law change. After 2004, General Fund was appropriated to cover increases in fees even though the water code states that 100 percent of the cost of the program should be paid by the water rights holders.

Governor's May Revision Proposal. The Governor proposes to shift \$1.2 million from the General Fund to reimbursements to address the General Fund shortfall. This would allow the department to fully comply with existing law (Chapter 230, Statutes of 2004) which requires water right holders to pay all costs associated with the program. This is consistent with other Watermaster programs in the state.

Staff Comments. Staff recommends approval of the project. There is a clear nexus between the work of the water master and the fee payer. This would bring DWR's Watermaster program into compliance with the law and make it comparable to other Watermaster programs in the state.

Recommendation. APPROVE as budgeted.

Vote:

Approve as budgeted. 2-1 (Fuller)

General Fund Reduction—Control Section

Governor's May Revision Proposal. The Governor's May Revision proposes a decrease of \$1.8 million in 2011-12 for water data collection, support for the Central Valley Flood Board, and flood control activities. The department's overall General Fund would remain at \$64 million.

The reduction is proposed to be taken as follows:

- \$443,000 – California Water Plan
- \$557,000 – North Delta Program
- \$350,000 – Flood Management
- \$420,000 – Central Valley Flood Protection Board

Staff Comments. The department proposes to spread out the reductions over various program areas. In most cases, the General Fund reduction is much less than the overall program budget. For example, the California Water Plan has about \$10 million of bond funds available for use.

The department may wish to comment on how it came up with its prioritization of activities proposed for reduction.

Recommendation. No Action—this item will be taken up in Subcommittee #4.

NO ACTION

Mercury and Methylmercury Monitoring and Control Studies

Governor's Proposal. The Governor's budget requests four full-time positions at an estimated cost of \$900,000 (State Water Project off-budget funds) for collaborative studies and laboratory and statistical analysis for implementation of the newly adopted regulations from the Central Valley Regional Water Quality Control Board ("regional board"). These positions will allow for dedicated staff to plan and implement the required studies, to participate in a required adaptive management approach, and will provide funds to enable internal department coordination as well as collaboration with other mercury researchers and land and water managers.

Background. In April 2010, the regional board adopted a Total Maximum Daily Load (TMDL) and Basin Plan Amendment for mercury and methylmercury in the Sacramento-San Joaquin Delta Estuary (including the Yolo bypass and Cache Creek Settling Basin). These regulations will become effective after US EPA approval in 2011. The regulations address both point (specific location) and nonpoint (unspecified location) sources. The regional water board held the State Water Project solely liable and responsible for implementation of this aspect of the regulation.

Staff Comments. This subcommittee heard this issue and denied the proposal without prejudice based on concerns that the appropriate entities were not sharing the cost of the regulatory compliance. The regional water board and the administration had made the argument that the State Water Contractors were fully funding the compliance because they had funds available.

Staff agrees that the State Water Project should pay a portion of this monitoring and control as it is a primary user of Delta water. This is consistent with several environmental restoration efforts the State Water Project is undertaking that would impact how much mercury and methylmercury is released into delta waters. However, it would be appropriate for the State to also fund a portion of the compliance effort. At this time, one option would be a 2-year appropriation of Environmental License Plate Fund in the amount of \$300,000 per year to offset the State Water Project funded proposal.

Recommendation: APPROVE proposal for positions. Approve \$300,000 per year for two years from the Environmental License Plate Fund for the state-share of this regulatory compliance.

Vote:

Approve staff recommendation to approve positions and \$300,000 per year for two years from the Environmental License Plate fund.

2-1 (Fuller)

3790 Department of Parks and Recreation

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

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

Governor's Budget. The Governor's Budget includes \$682 million for Parks. This is a decrease of nearly 29 percent from current year due primarily to a decrease in bond fund expenditures. Of this amount, \$119 million is from the General Fund, a 2 percent decrease from current year estimates.

Item Proposed for Vote-Only

1. Proposition 99 Funding. The Governor proposes an increase of \$98,000 from the Proposition 99 fund to provide additional support to the state park system. There are sufficient funds to support this requested augmentation because of an increase in projected revenue.

Recommendation: APPROVE Item 1

Vote:

Item 1 APPROVE as budgeted. 3-0

Public Safety Technology Modernization Project Reappropriation

Governor's Proposal. The Governor's budget requests \$4.5 million (State Parks and Recreation Fund), a re-appropriation of \$1.6 million (Off-Highway Motor Vehicle Recreation Funds), and a reversion of \$4.5 million General Fund for a Computer Aided Dispatch (CAD) system. This proposal supports a new phased Special Project Request. The dispatch system supports both the State Parks Rangers and Fish and Game Wardens.

Background. In March 2007, a Feasibility Study Report was approved which identified technology needs and a business case to modernize the dispatching system, Records Management System, and provide mobile access to data systems for Peace Officers in the Field. The selected vendor was not able to meet the terms of the contract delaying the project.

A Special Project Request was submitted to the California Technology Agency in January 2011 supporting a new phased approach to this project, to focus on the dispatch system first, thereby decreasing the significant business risk associated with potential failure of the current system.

Staff Comments. Staff have a number of concerns with the proposal. First, the proposal is based on a Special Project Request that has not been submitted to the Legislature for review. Based on commentary in the budget proposal, it seems likely that the project scope and approach has changed; therefore, funding priorities and needs may have changed as well.

Second, it is unclear why State Parks is paying for 100 percent of the capital cost of the dispatch program. Department of Fish and Game (DFG) also benefits from the dispatch system and pays ongoing reimbursements to the Department of Parks and Recreation (DPR) for ongoing costs. Though DFG funds have a structural imbalance, the same could be said for the department given the recent park reduction proposals.

The LAO has a recommendation to deny the proposal but approve the proposed General Fund reversion.

Recommendation: DENY Proposal. Approve proposed General Fund reversion.

Vote:

Approve proposal with budget bill language to require the department to return to the Joint Legislative Budget Committee for 60-day review and approval upon California Technology Agency approval of the Special Project Report. The department shall also send its report to this subcommittee for review.

3-0

Parks Reduction List—Proposals for New Revenue

Background. The Governor released the list of parks that are proposed to be closed in compliance with SB 69 and AB 95, the budget bill and resources trailer bill passed earlier this year. The list includes 70 parks ranging from the North State to the Salton Sea. The department also submitted to the subcommittee a detailed spreadsheet enumerating the costs of each park on the list, revenue streams, capital outlay issues, maintenance costs and closure complexities.

Staff Comments. The Legislature is considering various statutory efforts to provide alternatives to full closure of the parks on the elimination list. Some proposals include increasing the number of nonprofits, local agencies, or other partners who might manage and run a state park in lieu of the state itself. Others include allowing more creative fee collections at the park.

The department has broad authority to adjust its fee schedules to meet budget requirements. Until recently, the department was not receptive to options to changing how fees are collected within the parks system, particularly where there are no entrance fees to a park (there may be parking fees, but most people just park outside the park and walk in without paying).

According to the department, it is too hard to collect entrance fees in most locations. However, those who have visited parks on the list (including Castle Rock and Austin Creek) have found that simple signage noticing the public that an entrance fee is due, with an appropriate “iron ranger” collection facility, would allow the department to collect fees from people even if they park on the roadside and walk into the park (through the paid parking lot). In most cases, a collection facility already exists for the parking lot, with appropriate receipt collection facilities as well. The department also has the civil authority to fine individuals who do not pay.

Staff recommends the department institute a change to its fee structure, to allow park entrance fees as well as phased in civil penalties to correspond with failure to pay parking fees.

The department may wish to comment on other proposals it is now working on to mitigate park closures.

Recommendation. APPROVE \$750,000 (State Parks and Recreation Fund) to institute park entrance fees (including “iron rangers” and appropriate signage).

Vote:

Approve Staff Recommendation on pilot basis 3-0

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



PART A

May 25, 2011

9:30 am or On Call of the Chair
Room 112

Consultant: Catherine Freeman

Errata

Items for Vote-Only

3600 Department of Fish and Game

- 1. Automated License Data System Reappropriation.** The Governor proposes a re-appropriation of un-used budget authority to align the Automated License Data System project budget with the current project schedule. These funds are requested to be made available for expenditure through 2013-14
- 2. Salmon Conservation and Research Facility.** The Governor proposes \$1.4 million (bond funds reimbursed from the Secretary for Natural Resources Proposition 84 San Joaquin River allocation) for the first phase of a new Salmon Conservation and Research Facility.

Recommendation: Approve Errata Items 1-2.

Vote:

Items 1-2 Approve as budgeted. 3-0

SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



Agenda – Part B

Day: Wednesday, May 25, 2011
Time: 9:30 a.m.
Room 112

Consultant: Brian Annis

Transportation

Departments Suggested for Vote-Only:

2720 Department of the California Highway Patrol 1

Departments Suggested for Discussion and Vote:

2740 Department of Motor Vehicles 2

2665 High-Speed Rail Authority 6

2660 Department of Transportation 16

Attachment I – Organization Chart for the High-Speed Rail Authority 33

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Suggested for Vote-Only

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

January 10 Budget Summary: The Governor proposed total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Current Budget Status: The Legislature acted on all of the CHP's January budget proposals and an April 1 Finance Letter (all were approved). The Governor proposed one technical change in a May Finance Letter which is described below.

Issues Suggested for Vote Only:

- 1. CHP Enhanced Radio System (CHPERS) (May 1 Finance Letter #1).** The Administration requests a reappropriation of \$548,000 (special funds) for the sixth year of the public safety radio project, which is mostly complete. Due to lease negotiations and mandatory design changes to address local or federal concerns, working drawings for three of the fifteen radio tower replacement projects are delayed beyond 2010-11.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$343 million for a savings to the state of \$148 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles.

Staff Recommendation: Approve the May 1 Finance Letter.

Vote:

Departments Suggested for Discussion and Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

January 10 Budget Summary: The Governor proposed total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Current Budget Status: The Legislature acted on all of the DMV's January budget proposals (all were approved). The Governor proposed largely technical changes in April Finance Letters and a May Finance Letter – all related to facilities projects. The Subcommittee has not acted on any of these Finance Letter requests, which are described in Issue #2.

Issue Suggested for Discussion and Vote:

- 1. Informational Issue on Driver License Cards:** The DMV implemented a new driver license / identification (DL/ID) card design on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected many cards.

February 1 Hearing and February 15 Letter: At the Subcommittee #2 hearing on February 1, 2011, the DMV indicated that it was starting to see improvements with the vendor. In a letter dated February 15, 2011, DMV informed the Subcommittee that it was optimistic the backlog would be eliminated by the end of March 2011. Additionally, DMV extended the duration of the temporary driver license from 60 days to 90 days and served a Notice of Breach letter to L-1.

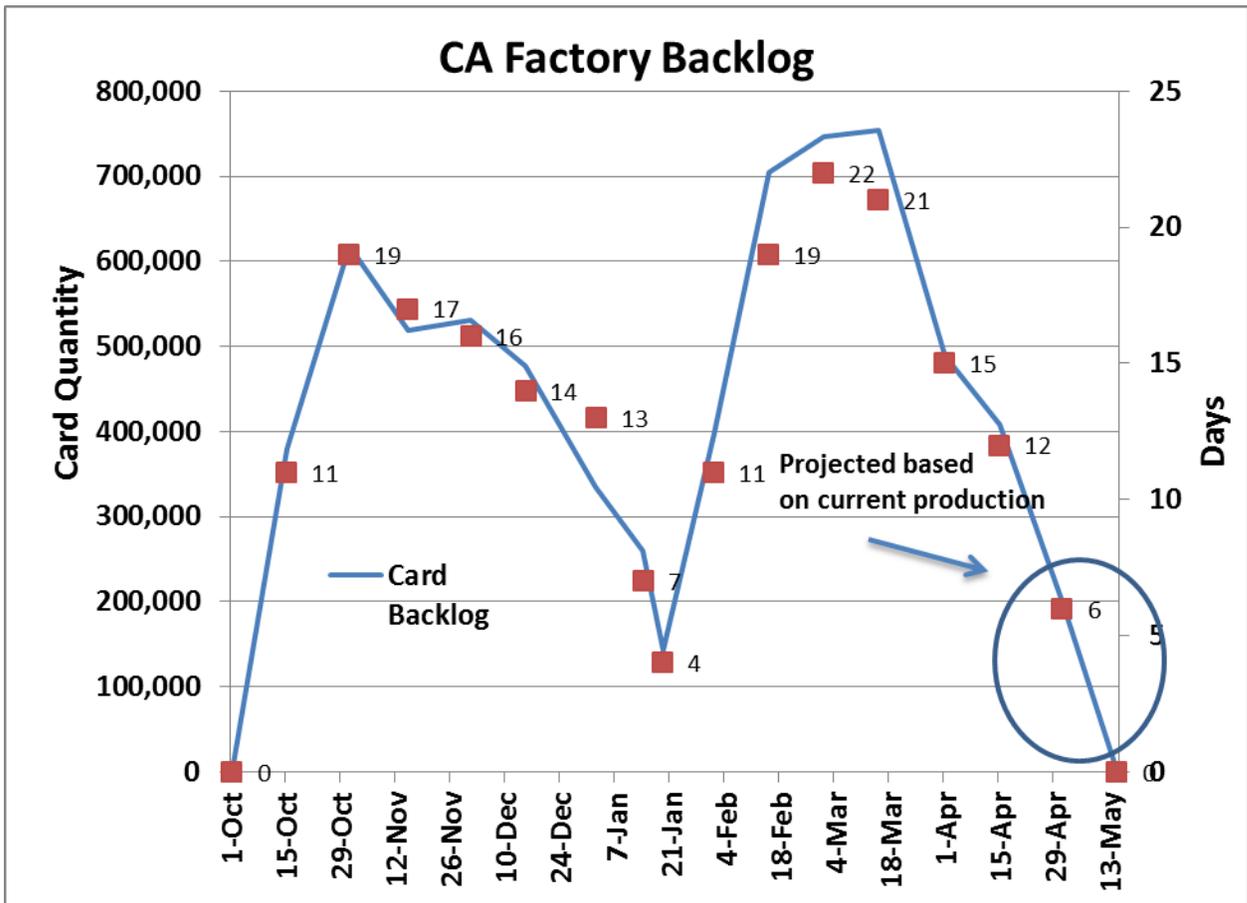
April 28 Hearing: At the Subcommittee #2 hearing on April 28, 2011, the DMV testified to the current status of the backlog, indicating the backlog still existed. The Subcommittee asked DMV and an L-1 representative to return at the May 5 and May 12 hearings for weekly updates on the status of the backlog, and for updates on the status of determining damages that L-1 owes to the State.

May 5 Hearing: At the hearing on May 5, 2011, the DMV testified that the backlog had been completely cleared as of May 3. No budget action was taken, but DMV was asked, and agreed, to consult with the Department of General Services, and report back in writing within 30 days to the Subcommittee on: (1) improvements the State can make to its contract terms to ensure better outcomes when a contractor fails to deliver on key components of a contract; and (2) the ability to renegotiate the L-1 contract to include liquidated damages for non-compliance with quality and timeliness requirements of the contract. L-1 was asked, and agreed, to respond in writing within two weeks on how they will “make things right” or fully compensate the State for average delays of 15 days and defect rates up to 20-percent for card production over a 7-month period – this should include an indication of whether L-1 will support a contract amendment to add liquidated damages for failure to meet the 48-hour production time and failure to meet quality standards.

Background and detail: The chart on the following page was provided by DMV on April 21 to show the historic and projected backlog. The Administration is defining “backlog” as card orders that have been unreturned by L-1 within the 48 hours required by the contract. The DMV indicates the growth in backlog after January 21 was due to defective UV toner cartridges that caused the cards to print off color. The Administration’s data suggests the backlog peak was in early March with about 700,000 DL/ID cards backlogged causing an average delay of 22 days.

Current Status: The DMV indicates L-1 has met the 48-hour delivery requirement for DL/ID cards every day since the backlog was eliminated on May 3. The recent

defect rate for cards is averaging 1.5 percent, and the DMV hopes to reduce this number further.



Staff Comment: The DMV and the L-1 representative should update the Subcommittee on the status of the cards, the status of payment to L-1 and any penalties deducted, and the status of a contract amendment as described at the May 5 hearing (see prior page).

At the April 28, 2011, hearing, the Chair asked staff to calculate the budget reduction that would result from a 20-percent reduction in the DMV’s administrative funding. DMV’s budget for “Administration” is \$103.4 million (various special funds, no General Fund), and 20-percent of that number is \$20.7 million.

Staff Recommendation: Take no action – both DMV and L-1 will be submitting written responses to the Subcommittee later this month.

2. Capital Outlay Finance Letters (April 1 and May 16): The Administration submitted two requests to reappropriate funds, and one request to revert funds, for state-owned DMV field office facilities. DMV operates a mix of State-owned and leased facilities. Expenditure of these funds was approved last year, and these changes would allow the expenditures to move from 2010-11 to 2011-12, or from 2010-11 to 2012-13, as applicable.

- **Redding Field Office Reconfiguration Project - Reappropriation (Construction Phase):** The Administration requests reappropriation of \$2.9 million (various special funds) for the construction phase of the Redding project. Prior costs of \$495,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$3.4 million. The reconfigured facility will provide additional workload capacity and address physical infrastructure deficiencies.
- **Fresno Field Office Replacement Project – Reappropriation (Construction Phase):** The Administration requests reappropriation of \$18.7 million (various special funds) for the construction phase of the Fresno project. Prior costs of \$2.1 million have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$20.8 million. The new facility would replace the 50-year old customer service field office on the same site with a larger facility.
- **Palmdale/Lancaster Field Office Consolidation – Reversion (Moving Costs):** The Administration requests to revert \$359,000 appropriated in 2010-11 to fund the consolidation of the Palmdale field office and the Lancaster field office into a larger consolidated facility. This consolidation is now on hold until 2012-13 and the Administration indicates it will submit a budget request next spring for 2012-13 funding.

Staff Recommendation: Approve these requests.

Vote:

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA at \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.5 billion is currently "in hand" – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.5 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.5 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of the State positions were authorized last year, and due to the hiring freeze and other factors, only about 19 positions are currently filled.

January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals (BCPs) without prejudice to allow for further review. The BCPs rejected totaled \$186 million and \$6.0 million was retained in the budget to cover the base funding for HSRA staff and inter-agency contracts. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions. The High-Speed Rail Authority typically receives detailed workload proposals from its contractors in the spring, and that detail was provided in mid-May.

The Governor submitted several May Revision Finance Letters that add positions and adjust funding for HSRA. Among the significant adjustments in the May Revision was the recognition that \$47.4 million in 2010-11 contract funding will go unexpended and carry over into 2011-12. Accordingly, the Administration has reduced the 2011-12 budget request to reflect these carryover funds. The updated request is reflected in the table below (in millions).

2011-12 Budget	Prop 1A Bonds	Federal Funds	Total
January Version	\$102.4	\$89.7	\$192.1
May Version	\$83.2	\$66.6	\$149.8
Plus 2010-11 carryover	\$23.7	\$23.7	\$47.4
Total Funding Request	\$106.9	\$90.3	\$197.1

Issues Suggested for Discussion

1. Legislative Analyst Report and Major Issues Raised: On May 10, 2011, the Legislative Analyst's Office (LAO) released a report titled, *High-Speed Rail Is at a Critical Juncture*. The report cites great risk concerning the ability of the State to secure the remaining \$30 billion needed to funding construction costs totaling \$43 billion for the San Francisco to Anaheim segment – and this assumes the project can stay within the \$43 billion cost estimate. Given these risks and other concerns, the LAO recommends the Legislature only fund the HSRA at \$7 million and suspend contract work on the project until a new governance structure is implemented, until the federal government approves flexibility for the timing and start point for HSRA construction, and until new criteria is established for determining the start point for initial construction. Members of the Subcommittee heard a presentation of the report at the May 11, 2011, Senate Select Committee on High-Speed Rail hearing. The report was also discussed briefly at the May 12, 2011, Subcommittee hearing. The three major recommendations are discussed below:

- **Revise the governance structure for high speed rail.** The LAO report suggests the current governance structure of the HSRA Board grants the Authority more independence and autonomous decision-making ability than is appropriate because Board members are not subject to confirmation by the Legislature and not required to follow the policy direction of the Governor. The LAO additionally notes that the HSRA is not integrated into the current transportation planning structure of the California Transportation Commission and, if kept independent, redundancies would develop with other transportation-related functions of State government. To address these issues, the LAO recommends the responsibility for development and construction of the system be moved to the California Department of Transportation (Caltrans). The HSRA Board would continue in an advisory role.
- **Renegotiate terms with the federal government.** The LAO recommends the HSRA renegotiate the terms of the federal funding awarded to the State by the Federal Railroad Administration. The new terms would permit the State to spend federal funds before state bond funds, and to remove the federal requirement that the HSRA start construction in the Central Valley. Spending the federal funds first would reduce, or delay, State General Fund costs for bond debt service.
- **Establish new criteria for selecting where to implement construction.** The LAO suggests that given the risk additional federal funds may not materialize, there is a possibility only one or two segments of the high-speed rail system will ultimately be constructed. Therefore, the initial segment should be focused on a segment with high independent utility. The LAO suggests investment on the San Francisco / San Jose segment and/or the Los Angeles / Anaheim segment would have independent utility benefits for commuter rail, and the San Jose / Merced segment would have independent

utility for traditional intercity rail. The independent utility from a stand-alone Central Valley segment is seen as limited.

Implementation of LAO recommendations would take time. The LAO recognizes that major changes to the HSRA governance and project plan would take some time to develop and implement in law. The LAO does not suggest these changes should be implemented with the 2011 Budget Act, but rather that budget funding should be limited, and major contract work suspended. New deliverables from the HSRA are recommended for inclusion in an October 2011 report, which would form one basis for the evaluation of alternatives. The LAO recommends budget bill language that would authorize the Administration to seek an augmentation of HSRA's budget to allow it to proceed with the development of the segment approved by the Legislature. The LAO states the entire multistep process should take no more than a few months and should not significantly affect the state's ability to meet the federal deadlines. The LAO timeline might be a little optimistic given the October HSRA reporting date and the Legislative calendar – the interim study recess begins on September 10, and the Legislature reconvenes on January 4, 2012. So any legislative action that depends on data in the October HSRA report could likely not occur any earlier than the early months of 2012.

Should HSRA suspend work while issues are reviewed? The LAO suggests HSRA contract work should be suspended while the issues of governance, federal funding and flexibility, and selection of the initial construction segment are considered further by the Legislature. The question arises about whether the HSRA could continue, instead of suspend, work while these issues are considered by the Legislature. The HSRA indicates there are about 600 contractors currently working on the project – suspension of work and funding for an indeterminate period would clearly result in disruption as the contractors would be reassigned or laid off and many would not return, or not return immediately, upon a future resumption of work. The LAO notes that while huge appropriations are not needed now and would likely be considered as part of the January 2011 budget request, the HSRA is proceeding with development activities that speed work on the Central Valley segment, while completion dates for environmental and initial design work on other segments are being pushed back. The LAO concludes that if the Legislature has concerns about the path the high-speed rail project is on, it will diminish its opportunities to have meaningful input over such issues as the location of the first construction segment if it waits until 2012-13 to do so.

The LAO report raises valid risks. Transportation megaprojects such as the Boston Big Dig, and the San Francisco–Oakland Bay Bridge Replacement Project, often experience unforeseen challenges and cost overruns that are several multiples of the original estimates. The high-speed rail project's funding at this point in time is even more uncertain and undefined than what those projects would have planned at an equivalent point in time. If history is a guide, at some future point the costs estimates for construction of the San Francisco to Anaheim segment will increase and the State will be obliged to scale back the project or contribute additional State revenues. So it is important for the Legislature to consider these risks, to demand

from the HSRA plans for risk management for construction phasing and alternative financing plans. Due to the importance of these considerations, they should not be set aside because the HSRA Board or the federal government have already made a determination.

Staff Comment: The LAO raises important issues for consideration, but there are multiple considerations and not a clear single solution. For example, the recommendation to consider implementation of construction along the San Francisco / San Jose or Los Angeles / Anaheim segments might provide the highest independent utility if all federal funding is discontinued and the project stopped, but an initial operable high-speed rail segment might instead be San Jose to Bakersfield, or Merced to Los Angeles, in which case, the measure of independent utility might not produce the best outcome and should not be weighted above all other criteria. Federal flexibility, especially in regard to advancing federal funds before State funds is clearly desirable and should be pursued; however, it is not clear that should be a prerequisite for continuing with the project. Various governance models are being debated as policy bills move forward, and it is unclear if sufficient agreement exists to direct implementation to a budget trailer bill. For example, SB 517 (Lowenthal) would restructure the HSRA Board and place HSRA under the Business, Transportation, and Housing Agency, and AB 145 (Galgiani) would create a Department of High-Speed Rail.

The reports scheduled for October 2011 - the Draft Business Plan and the Financial Plan - will provide additional information that will be valuable to the Legislature in determining the feasibility of proceeding to construction on the Central Valley segment and appropriating billions of dollars for that purpose. If the HSRA cannot make the case for proceeding with the Central Valley segment, the Legislature would be free to reject funding for that purpose in the 2012-13 budget. Either suspending contractor work now, or continuing work now but directing a new segment selection in the spring would delay initial construction work. Given these dynamics, it seems preferable to continue contract work now, consider the information in the October reports, and provide legislative direction on a timeline determined by the circumstances – either during the spring budget process in 2012 or earlier. However, it seems the HSRA should not proceed to purchase right-of-way or sign design-build construction contracts in the Central Valley prior to legislative review of the October reports and an appropriation for such purposes in the 2012 Budget Act. Provisional language stating this limitation may be worth consideration.

Staff Recommendation: Consider the budget requests on the following pages based on their individual merits and do not limit funding to \$7 million as recommended by the LAO. Adopt budget bill language that prohibits the HSRA from signing design-build contracts or purchasing right-of-way in 2011-12, or until such time approval is granted by the Legislature. (*See also the recommendation to issues #2 which is related*)

Vote:

- 2. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on the HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo.

Summary of Statement: The three signers state the following: “We call on the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for a blended system that integrates high-speed rail with a 21st Century CalTrain.

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or “viaduct”; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,
- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool’s errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.”

Prior Hearings in April and May: The statement by the three elected officials was discussed in Subcommittee hearings in April and early May. The HSRA Chief Executive Officer, Mr. Roelof van Ark indicated he would further review the issues raised in the statement and report back to the Subcommittee.

Staff Comment: In addition to issues on the Peninsula, at prior hearings, the Subcommittee discussed deficiencies with public outreach around the Bakersfield to Los Angeles segment - the Subcommittee requested an outreach plan for this segment. Per the requirements in AB 105 (Statutes of 2011), the HSRA is required to submit to the Legislature by October 14, 2011, a complete legal analysis of the revenue guarantee and the updated financial plan. The draft business plan will be delivered by this date also. The language makes 25-percent of the HSRA 2011 Budget Act appropriations contingent on the reporting and 60-day legislative review.

Staff Recommendation: Approve trailer bill language to add the following elements to the October 14, 2011, reporting package:

- The public outreach plan for the Bakersfield to Los Angeles segment.
- The formal response and full analysis of the joint statement on the Peninsula.
- A formal response and full analysis of the issues raised in the May 10, 2011, LAO report.

Vote

- 3. Public Information and Communication Services Contract (January BCP #3 and May FL #5).** The Administration requests a total of \$2.3 million from Prop 1A bond funds for the 2011-12 cost of a specialty contract with Ogilvy Public Relations Worldwide (Ogilvy) for communications and public outreach services. The amount of the funding request is \$500,000 more than the funding provided for 2010-11.

Background / Detail: The HSRA signed a five-year, \$9 million contract with Ogilvy to provide this service. Ogilvy also has several subcontractors. The contract requires Ogilvy to coordinate the various regional outreach activities related to the environmental review process and supplements those efforts with statewide communications including but not limited to stakeholder outreach, Web site and social media activities, legislative tracking, event planning, and the production of written materials such as fact sheets.

The May Finance Letter includes a chart with details on planned expenditures by categories. The table below was prepared by Subcommittee staff based on the information in the letter:

Task	Budget	Comment
Outreach - via attendance and meetings, phone calls, etc.	\$880,000	Performed by Ogilvy and regional subcontractors
Lobbying - in Sacramento and Washington DC	\$360,000	One lobbyist subcontractor in Sacramento, two in DC
Media – purchase of advertisements for outreach	\$350,000	Online, newspapers, radio, outdoor
Media – monitoring and contact with media	\$120,000	Includes drafting press releases
Website – content and maintenance	\$165,000	Including social media
Advising HSRA – message development, board meetings, written material	\$220,00	Including strategic counsel, planning and executing public meetings
Printing, Production and Mail Costs	\$100,000	Includes mail distribution of postcards, fact sheets
Research	\$75,000	Researching and writing documents such as white papers
Administration	\$30,000	Cost of producing summary reports and submitting invoices
Total	\$2,300,000	

Staff Comment: Staff has listed the Ogilvy deliverables in detail because concerns have been raised about the nature of the contract activities. When the Legislature originally approved funding for the contract, the focus was on outreach to members of the general public. The workplan also indicates Ogilvy and subcontractors are

engaged in lobbying legislators, advising the HSRA on message, doing research, and purchasing advertising.

Another question is the whether some of these activities can be, or should be, performed by State staff. For example, the HSRA currently has incumbents in the positions of Director of Communications and Outreach, and Information Officer. Three additional positions are either approved and vacant, or requested in the May Finance Letter, for that unit. According to the organizational chart provided, the five people in the unit would be located in Sacramento with none reporting to the three Regional Director positions.

The Subcommittee may want to consider reducing budget funding for this contract based on this analysis:

- Increase public outreach by adding three state positions (and appropriate funding – about \$300,000) that would be regionally located and report to Regional Directors. Decrease consultant funding for this purpose by half (\$440,000). The HSRA should also study best-practices for how to use consulting resources along with State staff to facilitate discussion and to develop two-way communication with the public.
- Delete funding for lobbying (\$360,000). State legislators can meet directly with HSRA staff, and the Governor has representatives in Washington DC to advocate for the State's interests.
- Delete funding for unspecified research (\$75,000).
- Reduce the remainder of the contract funds by half (\$493,000) since existing and new State staff in the area of communications, website maintenance, etc., should be able to perform these functions within their current job duties.

If all of the above actions were adopted, budget funding would be reduced by \$1,068,000, resulting in remaining funding of \$1,232,000.

The Legislature may want to consider an audit by the Bureau of State Audits (BSA) or the Department's Office of State Audits and Evaluations (OSAE).

Staff Recommendation: Reduce budget funding from \$2.3 million to \$1.2 million.

- 4. HSRA Staffing Request (May FL #2):** In the May Revision, the Administration requests a funding increase of \$1.4 million and approval of 15 new positions. No new positions were requested in the January budget, so these positions would be added to the 2010-11 base, resulting in a total of 54 authorized positions. The HSRA reported at a recent hearing that about 20 of the currently authorized positions are still vacant.

Detail: An updated organization chart was provided by the HSRA and is an attachment at the back of this agenda. Of the 15 positions requested: 4 would be in the area of budget and finance; 2 would be for contract oversight; 7 would be for right-of-way, including 2 in the Central Valley; and 2 would be information officers in the communications and public outreach area.

Staff Comment: The HSRA should update the Subcommittee on the status of filling state positions, including: (1) positions currently filled; (2) status of the salary survey and filling of exempt positions; and (3) status of exemptions from the hiring freeze and the target date to fully staff the Authority.

Since the HSRA currently has a significant number of vacancies, and this request would add 15 new positions, it is unlikely the HSRA will fill all 35 or so position by July 1. To the extent the HSRA cannot fully fill vacancies by July 1, there will exist excess budget authority. The HSRA should explain their timeline for filling vacancies in 2011-12 and the budget funding should be adjusted to reflect that hiring plan.

Staff Recommendation: Approve the request, but as appropriate, reduce funding on a one-time basis to conform to the expected hire dates for the new positions.

Vote:

5. Other Budget Change Proposals and Finance Letters: The Administration submitted the following budget requests:

- **Program Management Contract (Part of COBCPs #1-7, as modified by May Finance Letters):** The Administration requests a total of \$58.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. This funding request includes about \$9.4 million that is paid to resource agencies and other third parties for environmental review and other deliverables related to project development.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ, DGS, and Caltrans (BCP #7, and May FL #4).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS). The Administration also requests \$1.3 million for contracts with Caltrans for workload related to where the high-speed rail system would intersect with the state highway system. Budget language would allow the funding for Caltrans to increase by up to \$1.0 million should additional workload be identified.
- **Information Technology (IT) Services Contract (May FL #1):** The Administration requests an augmentation of \$745,000 to address IT needs for hardware, software, and related services. The California Technology Agency indicated this funding level was reasonable for a department of this size and activity; however, the funding is requested as one-time, because an analysis will be performed on the benefit of hiring new HSRA positions to perform some of the workload.
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7, as modified by May Finance Letters):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$122.0 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. Of this amount, \$75 million would be appropriated in the 2011 Budget Act and \$47 million would be unused funds from 2010-11 that carry-over to 2011-12. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Most of the above activities are continuations of activities funded in prior years.

Staff notes one issue is not included in the budget request that was funded last year. In April 2009, HSRA signed a multi-year Memorandum of Understanding (MOU) with Caltrain, whereby the HSRA would fund a portion of the Caltrain cost of cooperative planning activities on the HSRA corridor. The amount included for this purpose in the 2010-11 budget was \$1.6 million. Staff understands the funding necessary to continue this workload in 2011-12 is \$1.1 million – consistent with the provisions of the MOU.

Staff Recommendation: Approve these requests, with the addition of about \$1.1 million to fund the 2011-12 cost of the 2009 MOU with Caltrain.

Vote:

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Current Budget Status: The Legislature approved the Caltrans baseline budget and a number of Budget Change Proposals (BCPs) in March but rejected some proposals without prejudice to allow for further review. Those BCPs that were rejected without prejudice and new April and May Finance Letters are included in this agenda.

Issues proposed for Vote Only:**1. Clean Energy Renewable Energy Bonds (CREBs) - Reappropriation**

(May FL #13): The Administration requests a reappropriation to utilize the remaining \$2 million from the \$20 million CREBs program initially authorized in the 2008-09 budget. CREBs are a federal energy program that helps finance solar-generated electricity projects. Caltrans was authorized to issue \$20 million in CREBs to place solar panels on 70 state office buildings and maintenance facilities. The bonds are repaid over 16 years with annual debt service payments of \$1.2 million. The funding for the debt service payments comes from utility savings that result from the installation of the photovoltaic systems on department facilities. CREBs are authorized as part of the federal Tax Incentives Act of 2005, and provide qualified borrowers the ability to borrow at a 0% interest rate. Caltrans indicates the program has been successful, but that installation of 4 of the 70 projects will be delayed past 2010-11, and a reappropriation is necessary to complete those last four projects.

Staff Recommendation: Approve this request.

Vote:**2. Construction Management System (CMS) – Reappropriation (May FL #10):**

The Administration requests approval of a revised project budget and expenditure schedule for CMS that anticipates project completion in 2013-14 and conforms to the latest Special Project Report (SPR) dated February 2011. The project was originally approved by the Legislature in 2006-07 and at that time had a one-time cost estimate of \$21.0 million – the updated cost estimate in this Finance Letter is \$22.8 million. The project would replace the 35-year old legacy system known as the Contract Administration System (CAS) with a customized commercial-off-the-shelf (COTS) application. The new system would allow better expenditure tracking by project and is estimated to produce annual savings from cost avoidance of about \$18.8 million from a combination of reducing bad payments to contractors and reducing federal ineligibility notices. The project has been modified and delayed over the years due to procurement issues and to comply with the direction of control agencies including the California Technology Agency.

Staff Recommendation: Approve this request.

Vote:

- 3. Fuel Cost Increase (January BCP #2):** The Administration requests a permanent increase of \$1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average \$3.17 per gallon in 2011-12, instead of the baseline level of \$3.06 per gallon. This would bring Caltrans' total fuel budget up to \$43.3 million – the department consumes about 13.6 million gallons of fuel per year. This request was rejected without prejudice in February so that the updated forecast of fuel prices could be considered with the May Revision. While fuel prices at the pump have continued to increase since February, the Administration did not submit a revised forecast or budget request with the May Revision. It seems likely fuel prices in 2011-12 will meet or exceed the \$3.17 per gallon mark, but the Administration indicates it intends to absorb any cost increases within their existing budget.

Staff Recommendation: Approve this request.

Vote:

- 4. Local Reimbursements for Public Private Partnerships (P3) (May FL #9):** The Administration requests an increase in reimbursement authority of \$1.6 million to receive funding from local governments to review locally-sponsored P3 proposals for the state highway system. P3 projects generally have construction financed by a private partner, with debt repaid with new toll revenues. Last year, the prior Administration requested \$4.5 million for this purpose funded from the State Highway Account. The Legislature rejected the funding, but did allow an augmentation of up to that amount if workload materialized and with reporting to the Joint Legislative Budget Committee (JLBC). In March 2011, Caltrans submitted a request for \$4.5 million to the JLBC. The Legislative Analyst reviewed the request and found little or no cash was needed for expenditures in 2010-11. Accordingly, JLBC objected to the request and directed Caltrans to pursue a Finance Letter through the normal budget process. In the May Finance Letter, Caltrans has changed direction by reducing the amount and requiring the project sponsor to reimburse for the cost. Caltrans indicates the cost is reduced, because at this point they will only hire fiscal consultants, not legal consultants. The anticipated projects for review are the same as those cited last year – the Bay Area Express Lane Network, the I-710 North Gap project, and the I-710 Freight Corridor. After Caltrans completes its review and recommendations, the project sponsors can submit the request to the California Transportation Commission for their review.

Staff Recommendation: Approve the request.

Vote:

- 5. Proposition 42 Maintenance-of-Effort (MOE) for Santa Rosa:** Representatives of the City of Santa Rosa are requesting budget trailer bill language to provide additional time to meet the MOE requirements for Proposition 42 revenue received by the city in 2009-10. A budget trailer bill adopted last year, SB 525 (Cogdill), provided similar flexibility for the County of Fresno. Due to the fuel tax swap, starting in 2010-11, Prop 42 sales-tax revenue is eliminated and local funding is backfilled with new fuel excise tax revenue. The excise tax revenue and related statutory provisions do not include MOE requirements. Due to economic hardship in 2009, the City of Santa Rosa, like the County of Fresno, was unable to meet the MOE requirement within that fiscal year. SB 524 still requires that the MOE be met, but extends the deadline until 2014-15. No counties or cities, other than the County of Fresno and the City of Santa Rosa, have requested such relief.

Staff Recommendation: Approve placeholder trailer bill language that would grant additional time for the City of Santa Rosa to meet 2009-10 Prop 42 MOE requirements – similar to language adopted last year for the County of Fresno.

Vote:

Issues proposed for Discussion and Vote:

- 6. Weight Fee / Transportation Loan Proposal (Governor's May Revision):** The Governor's May Revision budget includes new trailer bill language that would revise the loan repayment schedule for prior loans from transportation special funds to the General Fund. This revised repayment schedule would provide General Fund relief in 2012-13 and through 2020-21 in three ways. First, outstanding loans to the General Fund, derived from truck weight fee revenue would be directed upon repayment to fund transportation-related bond debt (about \$971 million in outstanding loans fall into this category). Second, outstanding transportation loans to the General Fund not associated with truck weight fees, would have statutory repayment dates extended to 2020-21, with the intent to pay them prior to 2020-21, but as the General Fund is able (about \$358 million in outstanding loans fall into this category). Third, authority would be added to allow new loans of weight fee revenue to the General Fund if weight fee revenue falls below applicable bond debt service in a given year (the Administration believes this could occur in 2012-13 and 2013-14 for a total of \$171 million in new loans, but does not actually score this in the multi-year projection of General Fund revenues).

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related general obligation (GO) bonds, and to provide General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which had been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of \$350 million.

Proposition 22 and Proposition 26: These two propositions, approved by voters at the November 2010 election, both have implications for the fuel tax swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 created a risk that the fuel tax swap would become void in November 2011.

March 2011, Budget Action. The Governor proposed action in his January Budget to modify the fuel tax swap to conform to the requirements of Prop 22 and Prop 26. The Legislature enacted, and the Governor signed, AB 105 in March, which reenacted the fuel tax swap with a two-thirds vote, and modified the financing of debt

service such that truck weight fees would be directed to that purpose instead of gasoline excise tax revenues. The March package also directed weight fee revenue not needed for GO debt to the General Fund as a loan (about \$841 million). Transportation interests were generally supportive of AB 105 because it preserved both transit funding and highway funding that was at legal risk with the passage of Prop 22 and Prop 26. The modified fuel tax swap retained most of the components of the original fuel tax swap, but because truck weight fee revenue was less than excise tax revenue, a new “cap” of about \$900 million was placed on the amount of transportation revenues eligible to reimburse GO bond debt. Since transportation bond debt is expected to exceed annual truck weight fee revenue in 2014-15, the amount of out-year General Fund solution was reduced by the modified fuel swap.

Future Forecast of Revenue and Bond Debt: Current statute contains formulas to distribute excise tax revenue, which is somewhat volatile due to the revenue-neutral provisions that result in a new excise tax rate every July 1. Truck weight fee revenue is less volatile, but the amount of applicable GO debt service in any given year is also subject to change based on the timing of future bond sales. With those caveats stated, the Administration has provided a forecast of the net new benefit available to highways and local roads with the modified fuel tax swap.

Forecast of new revenue to highways and roads from modified Swap
(\$ in millions)

	2011-12	2012-13	2013-14	2014-15
Highway Rehabilitation (SHOPP)	\$202	\$224	\$284	\$256
Highway Capacity (STIP)	\$120	\$256	\$431	\$287
Local Streets and Roads	\$120	\$256	\$431	\$287
TOTAL net new benefit of swap	\$442	\$736	\$1,146	\$830

Forecast of weight fees and debt service
(\$ in millions)

	2011-12	2012-13	2013-14	2014-15
Weight Fee Revenue	\$910	\$918	\$930	\$943
Applicable GO Bond Debt Service	\$778	\$756	\$919	\$1,192
Surplus / (Deficit) for Bond Debt	\$132	\$162	\$11	(\$249)

As the first table indicates, the modified fuel tax swap is expected to result in significant new revenues for highways and roads – about \$3.0 billion over the four-year period through 2014-15. However, as the second table indicates, a deficit emerges for GO debt service in 2014-15 that represents an eroded General Fund solution of \$249 million relative to the original 2010 fuel swap. The Administration’s trailer bill would direct some of the loan repayment to this GO debt service to restore the General Fund solution in the out-years.

Staff Comment: Because the original fuel tax swap included a higher level of General Fund relief for debt service than achieved with the March modified fuel tax swap, the proposed trailer bill would seem reasonable within the general intent to maintain the structure of the original fuel swap where constitutionally allowable. Since none of the proposed amendments affects the 2011-12 budget, a question arises over the need to take this action now. The Administration's response is that they want to fully address the multi-year General Fund problem and not delay action when needed. Additionally, acting now would reduce uncertainty for the California Transportation Commission (CTC) as they update the 5-year Fund Estimate for transportation funding. While the Subcommittee may want to consider approving the revised repayment schedule for *existing* loans, the Subcommittee may want to reject the proposal to allow *new* special fund loans to the General Fund in 2012-13 and 2013-14. The Administration believes a total \$173 million might be available for new budgetary loans; however, they do not score this in their long-term General Fund revenue projections. These future loans would be from weight fee revenue that would already be set aside for bond debt, so there is no impact on the CTC Fund Estimate, and the Legislature could always grant this authority as part of next year's budget if needed.

Staff Recommendation: Approve placeholder trailer bill language that modifies the schedule for repayment of *existing* loans, but reject the language to provide authority for *new* loans.

Vote:

7. Proposition 1B Budget Request (January Budget as modified by May FL #12):

In January, the Governor requested \$2.4 billion in Prop 1B bond funds for programs administered by Caltrans - the Legislature approved this funding level as a placeholder amount. In May, the Administration submitted an updated request that recognizes about \$2.0 billion appropriated for Prop 1B in prior years has not been allocated and will revert in June 2011. Due to the reversion and the revised estimate of new project allocations, the Governor is now requesting an increase in the appropriation of \$1.0 billion. The table below indicates detail by program. (dollars in millions):

Proposition 1B Category	Total 1B Amount	January Request for 2011-12	May Revision Additional Request for 2011-12	Total
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$631	\$594	\$1,225
State Transportation Improvement Program (STIP)	\$2,000	\$0	\$0	\$0
State Highway Operations and Preservation Program (SHOPP)	\$500	\$0	\$48	\$48
State Route 99 Improvements	\$1,000	\$392	\$135	\$527
Local Bridge Seismic Retrofit	\$125	\$22	-\$8	\$14
Intercity Rail	\$400	\$117	\$0	\$117
Grade Separations	\$250	\$0	\$0	\$0
Traffic-Light Synchronization	\$250	\$0	\$0	\$0
Trade Infrastructure	\$2,000	\$972	\$192	\$1,164
State/Local Partnership	\$1,000	\$200	-\$35	\$165
Local Streets & Roads	\$2,000	\$37	\$0	\$37
Transit	\$3,600	\$0	\$123	\$123
TOTAL for these programs	\$15,625	\$2,371	\$1,047	\$3,418

Status of bond sales: The May Revision indicates that the Administration will reduce the size of the Fall 2011 general obligation bond sale from \$5.8 billion to \$1.5 billion. Of the reduced sale, about \$530 million is tentatively reserved for Prop 1B bonds. Additionally, as of April 2011, about \$2.7 billion in cash proceeds remain for Prop 1B projects from prior bond issuances. The Administration believes the cash on-hand, plus the additional \$530 million, would provide sufficient funds to support Prop 1B projects until the next planned bond sale in the Spring of 2012. By reducing the fall bond sales by \$4.3 billion, the Administration indicates it will realize General Fund savings of \$127 million in 2011-12 due to associated interest savings. Staff notes that due to the modified fuel tax swap and truck weight fees, the majority of Prop 1B General Fund costs are reimbursed from transportation funds.

Cash plan for Prop 1B programs: In recent years, the ability to sell bonds and the size of a bond issuance have been more of a constraint on Prop 1B projects than the level of funds appropriated by the Legislature. The Administration is reducing bond sales and closely managing cash to reduce interest costs, but this creates risk and

possible delays for projects. Staff are working with the Administration to develop a statutory reporting requirement that would provide additional information to the Legislature on the Prop 1B bond program and expenditure projections.

Staff Recommendation: Approve the May Letter, but also approve placeholder reporting trailer bill language, that would require the Administration to share their analysis related to the Fall 2011 bond sale (for all GO bonds) and detail the cash expenditure plan for Prop 1B programs.

Vote:

8. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1): In the January budget, the Governor requested an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Legislature rejected this request without prejudice to allow additional time for review. The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate	Compliance Strategy	# of Equip.	Cost (in 1000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The Department developed their compliance plan in coordination with the Air Resources Board (ARB). At the April 28, 2011 hearing, ARB representative testified that no changes were anticipated to the compliance plan or ARB regulations.

Governor’s Fleet Reduction Executive Order: The Governor issued Executive Order B-2-11 on January 28, 2011, which requires state agencies to conduct an analysis of their fleets and equipment and submit the analysis to the Department of General Services (DGS). The executive order also requires the Department of Finance to adjust departmental budgets to reflect any savings. If Caltrans reduces its fleet pursuant to the order, there could be some resulting savings from reduced vehicle replacement. This issue was held open at the April 28 hearing at the recommendation of the Legislative Analyst so that budget modifications could be made to conform the budget request to savings that might be achieved from the executive order.

LAO Recommendation: The Analyst recommends that the funding be approved, but that budget bill language be added that would direct the Department of Finance to reduce the funding level if the Governor’s Fleet Reduction Plan results in cost savings. Any costs savings would be directed to pavement maintenance.

Staff Recommendation: Approve with the addition of budget bill language suggested by the LAO.

Vote:

- 9. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4 as modified by May FL #11):** *In the January budget*, the Administration proposed to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project. At the April 28 hearing, the Subcommittee rejected the reimbursement funding for locally sponsored highway projects and instead funded all PIDs out of the SHA – the Assembly Subcommittee took the same action. The overall funding for PIDs was budgeted at \$33.0 million. *In the May Revision request*, the Administration modifies their January proposal by deleting reimbursement funding of \$7.5 million and eliminating 74 positions – instead trailer bill language is proposed that would allow Caltrans to increase reimbursement authority administratively when local governments request PIDs services and sign cooperative agreements to reimburse costs. The May Letter zero-bases the workload for State Highway Operations and Protection Program (SHOPP) PIDs and adds, or adds back, 78 positions and \$8.6 million that is needed for that purpose.

Recent History of PIDs Issues in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstuffed and recommended that all PIDs work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto of the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Governor - May Revision	261 positions	3 positions plus TBL to augment	264 positions
2011-12 Legislative Action in April as modified by May SHOPP and HSRA workload adjustment	336 positions	2 positions (for HSRA)	338 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PIDs program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources.

April 1, 2011, Report: Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger

basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects. The report indicates reimbursement agreements on 3 projects have been completed and another 15 are being negotiated. However, these represent only a small fraction of the anticipated reimbursable workload.

April 19, 2011, Caltrans Letter to Locals: In a letter dated April 19, 2011, Caltrans informed locals of interim guidance for the development of PIDs. The letter indicates that, effective immediately, all PIDs developed for the State Transportation Improvement Program (STIP) and special funded projects will use the Project Study Report-Project Development Support (PSR-PDS) process. The letter says that the PSR-PDS is a streamlined PID document that does not require the same level of engineering detail as the traditional Project Study Report (PSR). The amended PID guidance on PSR-PDS development is expected to be completed by July 1, 2011.

April 28, 2011 Subcommittee Hearing: As indicated, the Subcommittee voted on April 28 to fund PID work from the State Highway Account instead of local reimbursement for those projects where local governments fund the capital cost of work on the state highway system.

Staff Comment: The contract required with locals for a PIDs reimbursement appears to currently be a lengthy process that can result in a six-month delay. The staff at Caltrans has been reduced to zero-base the workload and Caltrans has – as of April 19, 2011 – implemented a streamlined PID. The May Letter indicates the streamlined PID process is reflected in the revised staffing calculations. Major reforms have been implemented for the program including zero-basing staffing and streamlining PIDs. Using local reimbursement as a mechanism to drive the reform may not be necessary and may produce new inefficiencies such as the need for negotiating cooperative agreements for each project.

Staff Recommendation:

- Approve the Governor's revised workload number for highway rehabilitation (SHOPP) PIDs and approve an augmentation of 78 positions and \$8.6 million (State Highway Account).
- Reject proposed trailer bill language and other changes in conflict with the Subcommittee's April 28 action.
- Approve 2 positions for High-Speed Rail Authority (HSRA) workload (reimbursed from Prop 1A bond funds). If in conflict with final action in the HSRA budget, action in the HSRA budget is controlling.

Vote:

10. Capital Outlay Support (COS) Workload (May FL #8). The Administration requests a net budget increase of \$60.4 million (various special funds, bond funds, and federal funds) to increase consultant engineering contracts by 122 positions, or Full Time Equivalents (FTEs), and to fund the cost escalation for the base-level of consultant contracts. This request would result in a total COS budget of \$1.9 billion and 10,756 FTEs in state and contract resources (9,120 state staff positions, 398 state-staff overtime FTEs, and 1,238 FTEs of contract staff). Within the \$60.4 million request, is \$1.3 million in one-time funding for long-term travel assignments to move construction oversight staff across regions due to temporary workload imbalances. The cost of consultant engineering contracts has increased from the \$213,000 per FTE budget in 2010-11 to \$243,000 per FTE requested in the Finance Letter. As a way to address this cost escalation, the Administration is proposing trailer bill language for a pilot program that would involve 122 FTEs of contract work. The pilot would involve modifying procurement so that firms bid on specific projects, instead of bidding on the hourly price of engineering services. The budget assumes this pilot will bring costs down to \$209,000 per FTE for the pilot subset of projects. Finally, four positions, and budget bill language is requested for workload related to the High Speed Rail Authority.

Background on Annual COS Budget Request: Each year, Caltrans zero-bases its project workload based on the program of projects adopted by the California Transportation Commission. Relative to other areas of the budget, COS staffing sees large fluctuations in staffing as transportation funds ebb and flow – Proposition 1B and American Recovery and Reinvestment Act (ARRA) funds being recent examples of new revenues that could not have been anticipated in the years prior to their enactment. The COS workload is addressed primarily by state staff (in regular time and overtime), who historically have performed 90 percent of the project work. The remainder of the workload is addressed by contract staff, who historically have performed 10 percent of the workload. While state staff is less expensive than contract staff (\$158,000 for state staff position, \$96,000 for state staff overtime FTEs, and \$243,000 for contract staff), a contingent of contract staff has been seen as beneficial to perform specialty work, such as the Bay Bridge replacement, and to provide more flexible staffing across districts and at times of large workload adjustments.

BSA April 2011 Report: In April, the Bureau of State Audits (BSA) released an audit report on Caltrans' COS program. The BSA findings from that report include the following:

- The BSA found that Caltrans has done little analysis to determine the frequency or magnitude of support cost budget overruns and inform stakeholders of cost overruns.
- For the years 2007-08 through 2009-10, 62 percent of the projects had support cost overruns. However, most of the cost overruns are explained by an increase in the hourly labor rates instead of exceeding the budget for hours.

- Caltrans’ time-reporting system lacks strong internal controls, and better project monitoring and the use of performance metrics could help it minimize cost overruns.
- Caltrans’ annual budget request process for the COS program was reasonable.

BSA Recommendations from April Report: To improve the department’s administration of the COS program, the BSA suggests Caltrans institute improved tracking and reporting of budgets and expenditures. The following recommendations would require legislative action to fully implement:

- Adopt legislation to require Caltrans to improve its existing report to the Legislature by including addition summaries and analysis. The current report provides detail by project, but does not include useful summaries and measures.
- Adopt legislation to expressly require the California Transportation Commission to review and approve project construction support cost overruns for individual projects that exceed the budget by 20 percent.
- Appropriate funds for an independent study of the costs and benefits of using consultants to address temporary increases in workload.

Cost savings verses flexibility for COS: The Administration forecasts moderate reductions in workload over the next several years – a reduction in the range of 200 to 300 FTEs for 2012-13. However, there remains significant uncertainty about the level of federal funding over the next 5-year period. Due to this forecast reduction, the Administration indicates it prefers the more flexible (but more expensive) contract staff over state staff positions. The Administration does note that state-staff overtime is also a flexible resource, and it is a less costly alternative to contracting. If the forecast for 2012-13 proves accurate, a future reduction of 200-300 FTEs is clearly absorbable without layoffs, through attrition, reduced overtime, and reduced contracting out. To compare cost savings versus flexibility, the below table outlines four options for addressing the 122 FTE workload need.

Administration’s Proposal:	Description	Cost
122 new contract staff	Flexible / costly	\$60 million
Alternative Proposals:		
(a) 122 new state staff	Less flexible / less costly	\$45 million*
(b) 61 new state staff plus 61 FTEs of state staff overtime	Moderately flexible / less costly	\$43 million*
(c) 122 new FTEs of state staff overtime	Flexible / least costly	\$41 million*

* Subcommittee staff estimates

Staff Comment: Given the relatively stable outlook for COS workload over the next several years, the Subcommittee may want to consider a balanced approach such as alternative (b) on the prior table. That alternative would save about \$17 million, keep staff overtime at a normal level, and maintain this historic average split of 90 percent state staff and 10 percent contract resources. (See the below table for a historical perspective on the COS workload.) As has been done in some past years,

the Subcommittee may want to direct this savings, on a one-time basis, to preventative highway maintenance.

In terms of pilot program to reduce contract costs, the Subcommittee may want to adopt the Administration's assumption that about 122 FTEs of contract resources can be procured through an alternative negotiation that would result in a cost of \$209,000 per FTE instead of \$243,000. However, the trailer biller language proposed with this pilot is not legally needed to implement the pilot.

In terms of the BSA recommendations, the recommendation to improve the annual report to the Legislature has merit by making the information more useful to a broader audience. It may be premature to act on the recommendation to require CTC approval of support cost overruns at Caltrans without fully understanding the workload and staffing implications for the CTC. Finally, the BSA recommends new expenditures for a new study on the cost of contract resources versus state staff. However, the BSA report cites three prior studies that show either significant savings or equal costs for state staff over contract resources. It is unclear in these difficult fiscal times, if a new report would add value to the debate.

Historical and Proposed Capital Outlay Support Staffing				
(measured in full-time equivalents (FTEs))				
Year	State Staff	Overtime	Contract Out	Total
1997-98	7,538	351	1,176	9,065
1998-99	9,434	692	921	11,047
1999-00	9,854	546	592	10,992
2000-01	10,565	822	1,159	12,546
2001-02	11,072	650	1,646	13,368
2002-03	10,803	650	1,382	12,835
2003-04	10,245	303	500	11,048
2004-05	10,651	699	1,070	12,420
2005-06	10,815	710	1,568	13,093
2006-07	10,638	636	1,343	12,617
2007-08	11,064	668	1,393	13,125
2008-09	10,779	473	1,266	12,518
2009-10	9,901	450	1,166	11,517
2010-11	9,307	398	1,116	10,821
2011-12 as proposed	9,120	398	1,238	10,756
2011-12 Staff Recommendation	9,181	459	1,116	10,756

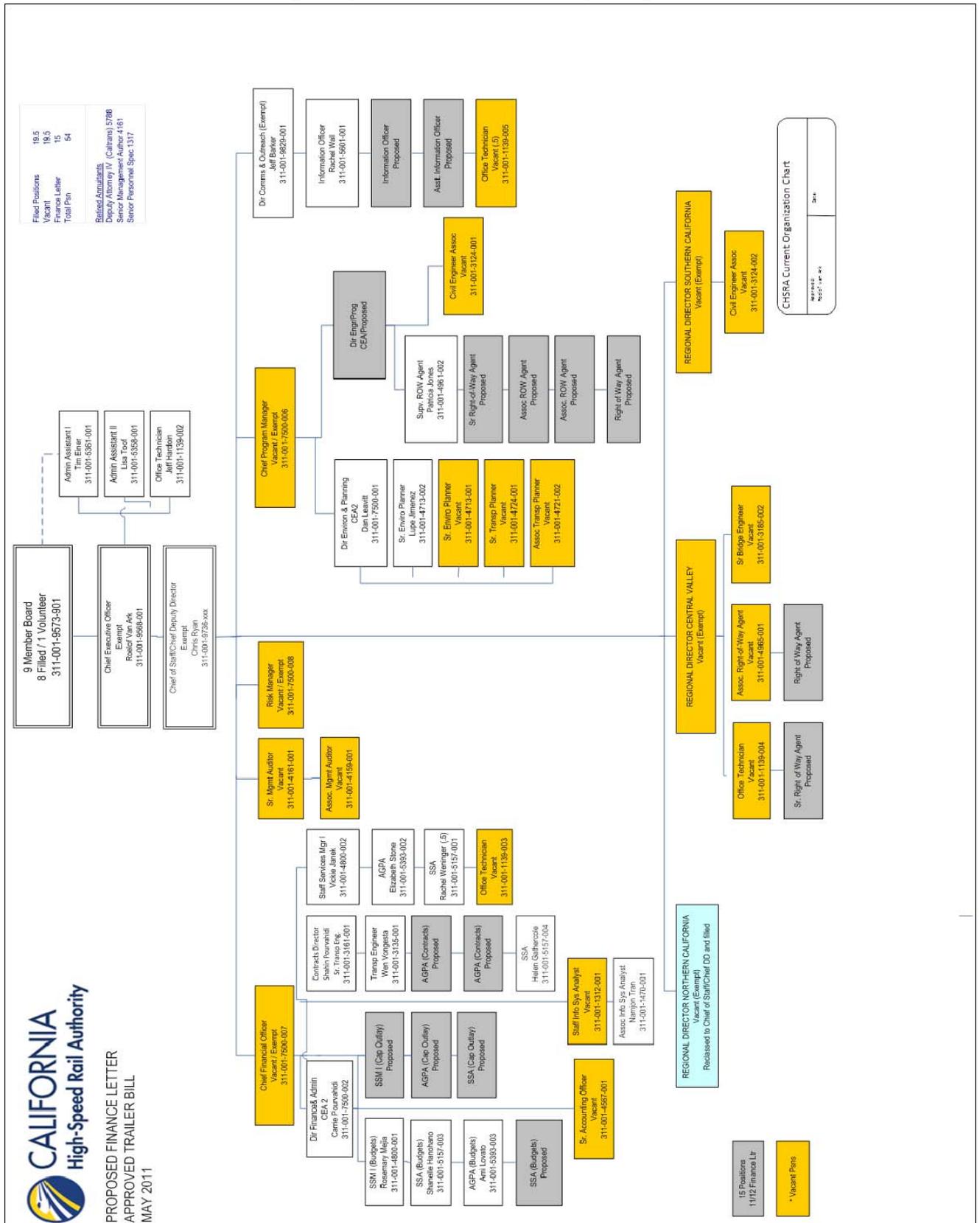
Staff Recommendation:

- Adopt the Administration's workload numbers but address the newly-identified workload need with less-costly state staff (61 positions, and 61 units of overtime) to save \$17 million*.
- Direct the \$17 million* in savings to preventative highway maintenance.
- Adopt the Administration's savings estimates from the procurement pilot project for contracts, but reject trailer bill language that is not necessary
- Adopt placeholder BSA trailer bill language to improve the annual report to the Legislature on the COS program.
- Approve 4 positions for High-Speed Rail Authority (HSRA) workload (reimbursed from Prop 1A bond funds). If in conflict with final action in the HSRA budget, action in the HSRA budget is controlling.

* The \$17 million savings number is a Subcommittee staff estimate, because an Administration estimate was still pending when this agenda was finalized. The final scoring should reflect any necessary technical adjustments.

Vote:

Attachment I: High-Speed Rail Authority Organization Chart



SUBCOMMITTEE NO. 2

Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal



HEARING OUTCOMES

Agenda – Part B

Day: Wednesday, May 25, 2011

Time: 9:30 a.m.

Room 112

Consultant: Brian Annis

Transportation

Departments Suggested for Vote-Only:

2720 Department of the California Highway Patrol 1

Departments Suggested for Discussion and Vote:

2740 Department of Motor Vehicles..... 2

2665 High-Speed Rail Authority 6

2660 Department of Transportation 16

Attachment I – Organization Chart for the High-Speed Rail Authority 33

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Suggested for Vote-Only

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

January 10 Budget Summary: The Governor proposed total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

Current Budget Status: The Legislature acted on all of the CHP's January budget proposals and an April 1 Finance Letter (all were approved). The Governor proposed one technical change in a May Finance Letter which is described below.

Issues Suggested for Vote Only:

- 1. CHP Enhanced Radio System (CHPERS) (May 1 Finance Letter #1).** The Administration requests a reappropriation of \$548,000 (special funds) for the sixth year of the public safety radio project, which is mostly complete. Due to lease negotiations and mandatory design changes to address local or federal concerns, working drawings for three of the fifteen radio tower replacement projects are delayed beyond 2010-11.

Background: In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$343 million for a savings to the state of \$148 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles.

Staff Recommendation: Approve the May 1 Finance Letter.

Action: Approved Finance Letter on a 3 – 0 vote.

Departments Suggested for Discussion and Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

January 10 Budget Summary: The Governor proposed total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

Current Budget Status: The Legislature acted on all of the DMV's January budget proposals (all were approved). The Governor proposed largely technical changes in April Finance Letters and a May Finance Letter – all related to facilities projects. The Subcommittee has not acted on any of these Finance Letter requests, which are described in Issue #2.

Issue Suggested for Discussion and Vote:

- 1. Informational Issue on Driver License Cards:** The DMV implemented a new driver license / identification (DL/ID) card design on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected many cards.

February 1 Hearing and February 15 Letter: At the Subcommittee #2 hearing on February 1, 2011, the DMV indicated that it was starting to see improvements with the vendor. In a letter dated February 15, 2011, DMV informed the Subcommittee that it was optimistic the backlog would be eliminated by the end of March 2011. Additionally, DMV extended the duration of the temporary driver license from 60 days to 90 days and served a Notice of Breach letter to L-1.

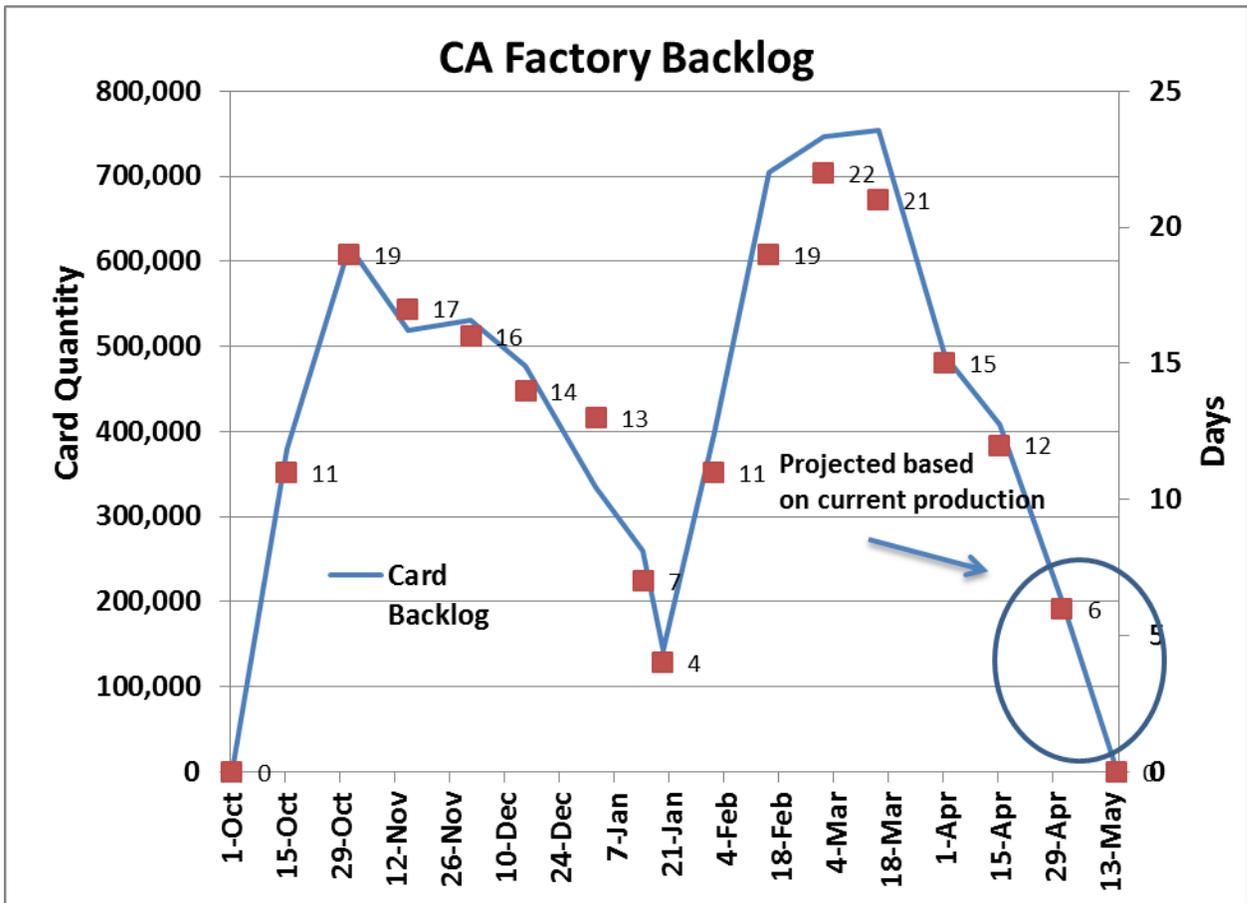
April 28 Hearing: At the Subcommittee #2 hearing on April 28, 2011, the DMV testified to the current status of the backlog, indicating the backlog still existed. The Subcommittee asked DMV and an L-1 representative to return at the May 5 and May 12 hearings for weekly updates on the status of the backlog, and for updates on the status of determining damages that L-1 owes to the State.

May 5 Hearing: At the hearing on May 5, 2011, the DMV testified that the backlog had been completely cleared as of May 3. No budget action was taken, but DMV was asked, and agreed, to consult with the Department of General Services, and report back in writing within 30 days to the Subcommittee on: (1) improvements the State can make to its contract terms to ensure better outcomes when a contractor fails to deliver on key components of a contract; and (2) the ability to renegotiate the L-1 contract to include liquidated damages for non-compliance with quality and timeliness requirements of the contract. L-1 was asked, and agreed, to respond in writing within two weeks on how they will “make things right” or fully compensate the State for average delays of 15 days and defect rates up to 20-percent for card production over a 7-month period – this should include an indication of whether L-1 will support a contract amendment to add liquidated damages for failure to meet the 48-hour production time and failure to meet quality standards.

Background and detail: The chart on the following page was provided by DMV on April 21 to show the historic and projected backlog. The Administration is defining “backlog” as card orders that have been unreturned by L-1 within the 48 hours required by the contract. The DMV indicates the growth in backlog after January 21 was due to defective UV toner cartridges that caused the cards to print off color. The Administration’s data suggests the backlog peak was in early March with about 700,000 DL/ID cards backlogged causing an average delay of 22 days.

Current Status: The DMV indicates L-1 has met the 48-hour delivery requirement for DL/ID cards every day since the backlog was eliminated on May 3. The recent

defect rate for cards is averaging 1.5 percent, and the DMV hopes to reduce this number further.



Staff Comment: The DMV and the L-1 representative should update the Subcommittee on the status of the cards, the status of payment to L-1 and any penalties deducted, and the status of a contract amendment as described at the May 5 hearing (see prior page).

At the April 28, 2011, hearing, the Chair asked staff to calculate the budget reduction that would result from a 20-percent reduction in the DMV’s administrative funding. DMV’s budget for “Administration” is \$103.4 million (various special funds, no General Fund), and 20-percent of that number is \$20.7 million.

Staff Recommendation: Take no action – both DMV and L-1 will be submitting written responses to the Subcommittee later this month.

Action: No action taken – DMV indicated they will submit a written response to the Subcommittee on the issues raised at the May 5 hearing.

- 2. Capital Outlay Finance Letters (April 1 and May 16):** The Administration submitted three requests to reappropriate funds, and one request to revert funds, for state-owned DMV field office facilities. DMV operates a mix of State-owned and leased facilities. Expenditure of these funds was approved last year, and these changes would allow the expenditures to move from 2010-11 to 2011-12, or from 2010-11 to 2012-13, as applicable.
- **Redding Field Office Reconfiguration Project - Reappropriation (Construction Phase):** The Administration requests reappropriation of \$2.9 million (various special funds) for the construction phase of the Redding project. Prior costs of \$495,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$3.4 million. The reconfigured facility will provide additional workload capacity and address physical infrastructure deficiencies.
 - **Fresno Field Office Replacement Project – Reappropriation (Construction Phase):** The Administration requests reappropriation of \$18.7 million (various special funds) for the construction phase of the Fresno project. Prior costs of \$2.1 million have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$20.8 million. The new facility would replace the 50-year old customer service field office on the same site with a larger facility.
 - **Oakland Field Office Reconfiguration Project (Construction Phase):** The Administration requests reappropriation of \$2.1 million (various special funds) for the construction phase of the Oakland project. Prior costs of \$300,000 have already been incurred for preliminary plans and working drawings. Total project cost is estimated at \$2.4 million. The reconfigured facility would serve as a DMV Business Service Center and the Regional Administrator's Office.
 - **Palmdale/Lancaster Field Office Consolidation – Reversion (Moving Costs):** The Administration requests to revert \$359,000 appropriated in 2010-11 to fund the consolidation of the Palmdale field office and the Lancaster field office into a larger consolidated facility. This consolidation is now on hold until 2012-13 and the Administration indicates it will submit a budget request next spring for 2012-13 funding.

Staff Recommendation: Approve these requests.

Action: Approved these requests on a 3 – 0 vote.

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA at \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.5 billion is currently "in hand" – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.5 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.5 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of the State positions were authorized last year, and due to the hiring freeze and other factors, only about 19 positions are currently filled.

January 10 Budget Overview: The January Governor's Budget proposed funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Current Budget Status: The Legislature retained the Authority's baseline budget, but rejected all the Budget Change Proposals (BCPs) without prejudice to allow for further review. The BCPs rejected totaled \$186 million and \$6.0 million was retained in the budget to cover the base funding for HSRA staff and inter-agency contracts. The Legislature approved, and the Governor signed, the transportation budget trailer bill, AB 105, which includes reporting requirements and makes one-quarter of the 2011-12 budget authority contingent on submittal and review of the reports. AB 105 also included new authority for HSRA to establish up to six exempt positions. The High-Speed Rail Authority typically receives detailed workload proposals from its contractors in the spring, and that detail was provided in mid-May.

The Governor submitted several May Revision Finance Letters that add positions and adjust funding for HSRA. Among the significant adjustments in the May Revision was the recognition that \$47.4 million in 2010-11 contract funding will go unexpended and carry over into 2011-12. Accordingly, the Administration has reduced the 2011-12 budget request to reflect these carryover funds. The updated request is reflected in the table below (in millions).

2011-12 Budget	Prop 1A Bonds	Federal Funds	Total
January Version	\$102.4	\$89.7	\$192.1
May Version	\$83.2	\$66.6	\$149.8
Plus 2010-11 carryover	\$23.7	\$23.7	\$47.4
Total Funding Request	\$106.9	\$90.3	\$197.1

Issues Suggested for Discussion

1. Legislative Analyst Report and Major Issues Raised: On May 10, 2011, the Legislative Analyst's Office (LAO) released a report titled, *High-Speed Rail Is at a Critical Juncture*. The report cites great risk concerning the ability of the State to secure the remaining \$30 billion needed to funding construction costs totaling \$43 billion for the San Francisco to Anaheim segment – and this assumes the project can stay within the \$43 billion cost estimate. Given these risks and other concerns, the LAO recommends the Legislature only fund the HSRA at \$7 million and suspend contract work on the project until a new governance structure is implemented, until the federal government approves flexibility for the timing and start point for HSRA construction, and until new criteria is established for determining the start point for initial construction. Members of the Subcommittee heard a presentation of the report at the May 11, 2011, Senate Select Committee on High-Speed Rail hearing. The report was also discussed briefly at the May 12, 2011, Subcommittee hearing. The three major recommendations are discussed below:

- **Revise the governance structure for high speed rail.** The LAO report suggests the current governance structure of the HSRA Board grants the Authority more independence and autonomous decision-making ability than is appropriate because Board members are not subject to confirmation by the Legislature and not required to follow the policy direction of the Governor. The LAO additionally notes that the HSRA is not integrated into the current transportation planning structure of the California Transportation Commission and, if kept independent, redundancies would develop with other transportation-related functions of State government. To address these issues, the LAO recommends the responsibility for development and construction of the system be moved to the California Department of Transportation (Caltrans). The HSRA Board would continue in an advisory role.
- **Renegotiate terms with the federal government.** The LAO recommends the HSRA renegotiate the terms of the federal funding awarded to the State by the Federal Railroad Administration. The new terms would permit the State to spend federal funds before state bond funds, and to remove the federal requirement that the HSRA start construction in the Central Valley. Spending the federal funds first would reduce, or delay, State General Fund costs for bond debt service.
- **Establish new criteria for selecting where to implement construction.** The LAO suggests that given the risk additional federal funds may not materialize, there is a possibility only one or two segments of the high-speed rail system will ultimately be constructed. Therefore, the initial segment should be focused on a segment with high independent utility. The LAO suggests investment on the San Francisco / San Jose segment and/or the Los Angeles / Anaheim segment would have independent utility benefits for commuter rail, and the San Jose / Merced segment would have independent

utility for traditional intercity rail. The independent utility from a stand-alone Central Valley segment is seen as limited.

Implementation of LAO recommendations would take time. The LAO recognizes that major changes to the HSRA governance and project plan would take some time to develop and implement in law. The LAO does not suggest these changes should be implemented with the 2011 Budget Act, but rather that budget funding should be limited, and major contract work suspended. New deliverables from the HSRA are recommended for inclusion in an October 2011 report, which would form one basis for the evaluation of alternatives. The LAO recommends budget bill language that would authorize the Administration to seek an augmentation of HSRA's budget to allow it to proceed with the development of the segment approved by the Legislature. The LAO states the entire multistep process should take no more than a few months and should not significantly affect the state's ability to meet the federal deadlines. The LAO timeline might be a little optimistic given the October HSRA reporting date and the Legislative calendar – the interim study recess begins on September 10, and the Legislature reconvenes on January 4, 2012. So any legislative action that depends on data in the October HSRA report could likely not occur any earlier than the early months of 2012.

Should HSRA suspend work while issues are reviewed? The LAO suggests HSRA contract work should be suspended while the issues of governance, federal funding and flexibility, and selection of the initial construction segment are considered further by the Legislature. The question arises about whether the HSRA could continue, instead of suspend, work while these issues are considered by the Legislature. The HSRA indicates there are about 600 contractors currently working on the project – suspension of work and funding for an indeterminate period would clearly result in disruption as the contractors would be reassigned or laid off and many would not return, or not return immediately, upon a future resumption of work. The LAO notes that while huge appropriations are not needed now and would likely be considered as part of the January 2011 budget request, the HSRA is proceeding with development activities that speed work on the Central Valley segment, while completion dates for environmental and initial design work on other segments are being pushed back. The LAO concludes that if the Legislature has concerns about the path the high-speed rail project is on, it will diminish its opportunities to have meaningful input over such issues as the location of the first construction segment if it waits until 2012-13 to do so.

The LAO report raises valid risks. Transportation megaprojects such as the Boston Big Dig, and the San Francisco–Oakland Bay Bridge Replacement Project, often experience unforeseen challenges and cost overruns that are several multiples of the original estimates. The high-speed rail project's funding at this point in time is even more uncertain and undefined than what those projects would have planned at an equivalent point in time. If history is a guide, at some future point the costs estimates for construction of the San Francisco to Anaheim segment will increase and the State will be obliged to scale back the project or contribute additional State revenues. So it is important for the Legislature to consider these risks, to demand

from the HSRA plans for risk management for construction phasing and alternative financing plans. Due to the importance of these considerations, they should not be set aside because the HSRA Board or the federal government have already made a determination.

Staff Comment: The LAO raises important issues for consideration, but there are multiple considerations and not a clear single solution. For example, the recommendation to consider implementation of construction along the San Francisco / San Jose or Los Angeles / Anaheim segments might provide the highest independent utility if all federal funding is discontinued and the project stopped, but an initial operable high-speed rail segment might instead be San Jose to Bakersfield, or Merced to Los Angeles, in which case, the measure of independent utility might not produce the best outcome and should not be weighted above all other criteria. Federal flexibility, especially in regard to advancing federal funds before State funds is clearly desirable and should be pursued; however, it is not clear that should be a prerequisite for continuing with the project. Various governance models are being debated as policy bills move forward, and it is unclear if sufficient agreement exists to direct implementation to a budget trailer bill. For example, SB 517 (Lowenthal) would restructure the HSRA Board and place HSRA under the Business, Transportation, and Housing Agency, and AB 145 (Galgiani) would create a Department of High-Speed Rail.

The reports scheduled for October 2011 - the Draft Business Plan and the Financial Plan - will provide additional information that will be valuable to the Legislature in determining the feasibility of proceeding to construction on the Central Valley segment and appropriating billions of dollars for that purpose. If the HSRA cannot make the case for proceeding with the Central Valley segment, the Legislature would be free to reject funding for that purpose in the 2012-13 budget. Either suspending contractor work now, or continuing work now but directing a new segment selection in the spring would delay initial construction work. Given these dynamics, it seems preferable to continue contract work now, consider the information in the October reports, and provide legislative direction on a timeline determined by the circumstances – either during the spring budget process in 2012 or earlier. However, it seems the HSRA should not proceed to purchase right-of-way or sign design-build construction contracts in the Central Valley prior to legislative review of the October reports and an appropriation for such purposes in the 2012 Budget Act. Provisional language stating this limitation may be worth consideration.

Staff Recommendation: Consider the budget requests on the following pages based on their individual merits and do not limit funding to \$7 million as recommended by the LAO. Adopt budget bill language that prohibits the HSRA from signing design-build contracts or purchasing right-of-way in 2011-12, or until such time approval is granted by the Legislature. (See also *the recommendation to issues #2 which is related*)

Action: See consolidated HSRA actions on page 15.

- 2. Statement on HSRA by Congresswoman Anna G. Eshoo, Senator S. Joseph Simitian, and Assemblyman Richard S. Gordon:** On April 18, 2011, the Senate Budget Subcommittee #2 Chair issued a joint statement on the HSRA with Assembly Budget Subcommittee #3 Chair Assemblyman Gordon, and Congresswoman Eshoo.

Summary of Statement: The three signers state the following: “We call on the High-Speed Rail Authority and our local CalTrain Joint Powers Board to develop plans for a blended system that integrates high-speed rail with a 21st Century CalTrain.

To that end:

- We explicitly reject the notion of high-speed rail running from San Jose to San Francisco on an elevated structure or “viaduct”; and we call on the High-Speed Rail Authority to eliminate further consideration of an aerial option;
- We fully expect that high-speed rail running from San Jose to San Francisco can and should remain within the existing CalTrain right of way; and,
- Third and finally, consistent with a project of this more limited scope, the Authority should abandon its preparation of an EIR (Environmental Impact Report) for a phased project of larger dimensions over a 25 year timeframe. Continuing to plan for a project of this scope in the face of limited funding and growing community resistance is a fool’s errand; and is particularly ill-advised when predicated on ridership projections that are less than credible.”

Prior Hearings in April and May: The statement by the three elected officials was discussed in Subcommittee hearings in April and early May. The HSRA Chief Executive Officer, Mr. Roelof van Ark indicated he would further review the issues raised in the statement and report back to the Subcommittee.

Staff Comment: In addition to issues on the Peninsula, at prior hearings, the Subcommittee discussed deficiencies with public outreach around the Bakersfield to Los Angeles segment - the Subcommittee requested an outreach plan for this segment. Per the requirements in AB 105 (Statutes of 2011), the HSRA is required to submit to the Legislature by October 14, 2011, a complete legal analysis of the revenue guarantee and the updated financial plan. The draft business plan will be delivered by this date also. The language makes 25-percent of the HSRA 2011 Budget Act appropriations contingent on the reporting and 60-day legislative review.

Staff Recommendation: Approve trailer bill language to add the following elements to the October 14, 2011, reporting package:

- The public outreach plan for the Bakersfield to Los Angeles segment.
- The formal response and full analysis of the joint statement on the Peninsula.
- A formal response and full analysis of the issues raised in the May 10, 2011, LAO report.

Action: See consolidated HSRA actions on page 15.

- 3. Public Information and Communication Services Contract (January BCP #3 and May FL #5).** The Administration requests a total of \$2.3 million from Prop 1A bond funds for the 2011-12 cost of a specialty contract with Ogilvy Public Relations Worldwide (Ogilvy) for communications and public outreach services. The amount of the funding request is \$500,000 more than the funding provided for 2010-11.

Background / Detail: The HSRA signed a five-year, \$9 million contract with Ogilvy to provide this service. Ogilvy also has several subcontractors. The contract requires Ogilvy to coordinate the various regional outreach activities related to the environmental review process and supplements those efforts with statewide communications including but not limited to stakeholder outreach, Web site and social media activities, legislative tracking, event planning, and the production of written materials such as fact sheets.

The May Finance Letter includes a chart with details on planned expenditures by categories. The table below was prepared by Subcommittee staff based on the information in the letter:

Task	Budget	Comment
Outreach - via attendance and meetings, phone calls, etc.	\$880,000	Performed by Ogilvy and regional subcontractors
Lobbying - in Sacramento and Washington DC	\$360,000	One lobbyist subcontractor in Sacramento, two in DC
Media – purchase of advertisements for outreach	\$350,000	Online, newspapers, radio, outdoor
Media – monitoring and contact with media	\$120,000	Includes drafting press releases
Website – content and maintenance	\$165,000	Including social media
Advising HSRA – message development, board meetings, written material	\$220,00	Including strategic counsel, planning and executing public meetings
Printing, Production and Mail Costs	\$100,000	Includes mail distribution of postcards, fact sheets
Research	\$75,000	Researching and writing documents such as white papers
Administration	\$30,000	Cost of producing summary reports and submitting invoices
Total	\$2,300,000	

Staff Comment: Staff has listed the Ogilvy deliverables in detail because concerns have been raised about the nature of the contract activities. When the Legislature originally approved funding for the contract, the focus was on outreach to members of the general public. The workplan also indicates Ogilvy and subcontractors are

engaged in lobbying legislators, advising the HSRA on message, doing research, and purchasing advertising.

Another question is the whether some of these activities can be, or should be, performed by State staff. For example, the HSRA currently has incumbents in the positions of Director of Communications and Outreach, and Information Officer. Three additional positions are either approved and vacant, or requested in the May Finance Letter, for that unit. According to the organizational chart provided, the five people in the unit would be located in Sacramento with none reporting to the three Regional Director positions.

The Subcommittee may want to consider reducing budget funding for this contract based on this analysis:

- Increase public outreach by adding three state positions (and appropriate funding – about \$300,000) that would be regionally located and report to Regional Directors. Decrease consultant funding for this purpose by half (\$440,000). The HSRA should also study best-practices for how to use consulting resources along with State staff to facilitate discussion and to develop two-way communication with the public.
- Delete funding for lobbying (\$360,000). State legislators can meet directly with HSRA staff, and the Governor has representatives in Washington DC to advocate for the State's interests.
- Delete funding for unspecified research (\$75,000).
- Reduce the remainder of the contract funds by half (\$493,000) since existing and new State staff in the area of communications, website maintenance, etc., should be able to perform these functions within their current job duties.

If all of the above actions were adopted, budget funding would be reduced by \$1,068,000, resulting in remaining funding of \$1,232,000.

The Legislature may want to consider an audit by the Bureau of State Audits (BSA) or the Department's Office of State Audits and Evaluations (OSAE).

Staff Recommendation: Reduce budget funding from \$2.3 million to \$1.2 million.

Action: See consolidated HSRA actions on page 15.

- 4. HSRA Staffing Request (May FL #2):** In the May Revision, the Administration requests a funding increase of \$1.4 million and approval of 15 new positions. No new positions were requested in the January budget, so these positions would be added to the 2010-11 base, resulting in a total of 54 authorized positions. The HSRA reported at a recent hearing that about 20 of the currently authorized positions are still vacant.

Detail: An updated organization chart was provided by the HSRA and is an attachment at the back of this agenda. Of the 15 positions requested: 4 would be in the area of budget and finance; 2 would be for contract oversight; 7 would be for right-of-way, including 2 in the Central Valley; and 2 would be information officers in the communications and public outreach area.

Staff Comment: The HSRA should update the Subcommittee on the status of filling state positions, including: (1) positions currently filled; (2) status of the salary survey and filling of exempt positions; and (3) status of exemptions from the hiring freeze and the target date to fully staff the Authority.

Since the HSRA currently has a significant number of vacancies, and this request would add 15 new positions, it is unlikely the HSRA will fill all 35 or so position by July 1. To the extent the HSRA cannot fully fill vacancies by July 1, there will exist excess budget authority. The HSRA should explain their timeline for filling vacancies in 2011-12 and the budget funding should be adjusted to reflect that hiring plan.

Staff Recommendation: Approve the request, but as appropriate, reduce funding on a one-time basis to conform to the expected hire dates for the new positions.

Action: See consolidated HSRA actions on page 15.

5. Other Budget Change Proposals and Finance Letters: The Administration submitted the following budget requests:

- **Program Management Contract (Part of COBCPs #1-7, as modified by May Finance Letters):** The Administration requests a total of \$58.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. This funding request includes about \$9.4 million that is paid to resource agencies and other third parties for environmental review and other deliverables related to project development.
- **Program Management Oversight Contract (BCP #1):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.
- **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of \$1.0 million was provided in the 2010-11 budget for this same purpose.
- **Interagency Contracts for DOJ, DGS, and Caltrans (BCP #7, and May FL #4).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS). The Administration also requests \$1.3 million for contracts with Caltrans for workload related to where the high-speed rail system would intersect with the state highway system. Budget language would allow the funding for Caltrans to increase by up to \$1.0 million should additional workload be identified.
- **Information Technology (IT) Services Contract (May FL #1):** The Administration requests an augmentation of \$745,000 to address IT needs for hardware, software, and related services. The California Technology Agency indicated this funding level was reasonable for a department of this size and activity; however, the funding is requested as one-time, because an analysis will be performed on the benefit of hiring new HSRA positions to perform some of the workload.
- **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7, as modified by May Finance Letters):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$122.0 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. Of this amount, \$75 million would be appropriated in the 2011 Budget Act and \$47 million would be unused funds from 2010-11 that carry-over to 2011-12. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Most of the above activities are continuations of activities funded in prior years.

Staff notes one issue is not included in the budget request that was funded last year. In April 2009, HSRA signed a multi-year Memorandum of Understanding (MOU) with Caltrain, whereby the HSRA would fund a portion of the Caltrain cost of cooperative planning activities on the HSRA corridor. The amount included for this purpose in the 2010-11 budget was \$1.6 million. Staff understands the funding necessary to continue this workload in 2011-12 is \$1.1 million – consistent with the provisions of the MOU.

Staff Recommendation: Approve these requests, with the addition of about \$1.1 million to fund the 2011-12 cost of the 2009 MOU with Caltrain.

Action:

MOTION #1 – adopted on a 2 – 1 vote with Senator Fuller voting “no”:

- (a) **Adopted budget bill language that prohibits the HSRA from signing design-build contracts in FY 2011-12. Adopted budget bill language that prohibits the HSRA from purchasing right of way in 2011. (reference agenda issue #1)**
- (b) **Approved May Finance Letter #2 that provides \$1.4 million to establish 15 new positions. (reference agenda issue #4)**
- (c) **Approved the budget change proposals and finance letters listed in issue number 5 on page 14. (reference agenda issue #5)**
- (d) **Approved funding for the 2011-12 cost of the 2009 HSRA MOU with CalTrain – an amount of \$1.1 million. Approved budget bill language for the San Francisco to San Jose segment that requires the environmental and design work to stay substantially within the existing rail corridor for the sections in Santa Clara and San Mateo counties. (reference agenda issue #5)**
- (e) **Approved trailer bill language that would revise current law to change from 25-percent to 50-percent the amount of 2011 Budget Act funding that is contingent on October 14, 2011, reporting and 60-day Joint Legislative Budget Committee Review. (reference agenda issue #1 and #2)**

MOTION #2 – adopted on a 3 – 0 vote: Approved trailer bill language to add the following elements to the October 14, 2011, reporting package:

- **The public outreach plan for the Bakersfield to Los Angeles segment.**
- **The formal response and full analysis of the joint statement on the Peninsula.**
- **A formal response and full analysis of the issues raised in the May 10, 2011, LAO report. (reference agenda issue #2 for this motion)**

MOTION #3 – adopted on a 3 – 0 vote: Approved January BCP #3 as modified by May Finance Letter #5 to provide \$2.3 million for the public information and communication services contract. Added budget bill language that HSRA shall step up efforts for public outreach in the Central Valley, consistent with the current plan of the HSRA Board to make that the initial segment for construction. (reference agenda issue #3)

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of \$12.8 billion (\$83 million General Fund) and 20,377 positions, a decrease of about \$332 million and a decrease of 249 positions over the revised current-year budget.

Current Budget Status: The Legislature approved the Caltrans baseline budget and a number of Budget Change Proposals (BCPs) in March but rejected some proposals without prejudice to allow for further review. Those BCPs that were rejected without prejudice and new April and May Finance Letters are included in this agenda.

Issues proposed for Vote Only:**1. Clean Energy Renewable Energy Bonds (CREBs) - Reappropriation**

(May FL #13): The Administration requests a reappropriation to utilize the remaining \$2 million from the \$20 million CREBs program initially authorized in the 2008-09 budget. CREBs are a federal energy program that helps finance solar-generated electricity projects. Caltrans was authorized to issue \$20 million in CREBs to place solar panels on 70 state office buildings and maintenance facilities. The bonds are repaid over 16 years with annual debt service payments of \$1.2 million. The funding for the debt service payments comes from utility savings that result from the installation of the photovoltaic systems on department facilities. CREBs are authorized as part of the federal Tax Incentives Act of 2005, and provide qualified borrowers the ability to borrow at a 0% interest rate. Caltrans indicates the program has been successful, but that installation of 4 of the 70 projects will be delayed past 2010-11, and a reappropriation is necessary to complete those last four projects.

Staff Recommendation: Approve this request.

Action: Approved on a 3 – 0 vote.

2. Construction Management System (CMS) – Reappropriation (May FL #10):

The Administration requests approval of a revised project budget and expenditure schedule for CMS that anticipates project completion in 2013-14 and conforms to the latest Special Project Report (SPR) dated February 2011. The project was originally approved by the Legislature in 2006-07 and at that time had a one-time cost estimate of \$21.0 million – the updated cost estimate in this Finance Letter is \$22.8 million. The project would replace the 35-year old legacy system known as the Contract Administration System (CAS) with a customized commercial-off-the-shelf (COTS) application. The new system would allow better expenditure tracking by project and is estimated to produce annual savings from cost avoidance of about \$18.8 million from a combination of reducing bad payments to contractors and reducing federal ineligibility notices. The project has been modified and delayed over the years due to procurement issues and to comply with the direction of control agencies including the California Technology Agency.

Staff Recommendation: Approve this request.

Action: Approved on a 3 – 0 vote.

- 3. Fuel Cost Increase (January BCP #2):** The Administration requests a permanent increase of \$1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average \$3.17 per gallon in 2011-12, instead of the baseline level of \$3.06 per gallon. This would bring Caltrans' total fuel budget up to \$43.3 million – the department consumes about 13.6 million gallons of fuel per year. This request was rejected without prejudice in February so that the updated forecast of fuel prices could be considered with the May Revision. While fuel prices at the pump have continued to increase since February, the Administration did not submit a revised forecast or budget request with the May Revision. It seems likely fuel prices in 2011-12 will meet or exceed the \$3.17 per gallon mark, but the Administration indicates it intends to absorb any cost increases within their existing budget.

Staff Recommendation: Approve this request.

Action: Approved on a 3 – 0 vote.

- 4. Local Reimbursements for Public Private Partnerships (P3) (May FL #9):** The Administration requests an increase in reimbursement authority of \$1.6 million to receive funding from local governments to review locally-sponsored P3 proposals for the state highway system. P3 projects generally have construction financed by a private partner, with debt repaid with new toll revenues. Last year, the prior Administration requested \$4.5 million for this purpose funded from the State Highway Account. The Legislature rejected the funding, but did allow an augmentation of up to that amount if workload materialized and with reporting to the Joint Legislative Budget Committee (JLBC). In March 2011, Caltrans submitted a request for \$4.5 million to the JLBC. The Legislative Analyst reviewed the request and found little or no cash was needed for expenditures in 2010-11. Accordingly, JLBC objected to the request and directed Caltrans to pursue a Finance Letter through the normal budget process. In the May Finance Letter, Caltrans has changed direction by reducing the amount and requiring the project sponsor to reimburse for the cost. Caltrans indicates the cost is reduced, because at this point they will only hire fiscal consultants, not legal consultants. The anticipated projects for review are the same as those cited last year – the Bay Area Express Lane Network, the I-710 North Gap project, and the I-710 Freight Corridor. After Caltrans completes its review and recommendations, the project sponsors can submit the request to the California Transportation Commission for their review.

Staff Recommendation: Approve the request.

Action: Approved on a 3 – 0 vote.

- 5. Proposition 42 Maintenance-of-Effort (MOE) for Santa Rosa:** Representatives of the City of Santa Rosa are requesting budget trailer bill language to provide additional time to meet the MOE requirements for Proposition 42 revenue received by the city in 2009-10. A budget trailer bill adopted last year, SB 525 (Cogdill), provided similar flexibility for the County of Fresno. Due to the fuel tax swap, starting in 2010-11, Prop 42 sales-tax revenue is eliminated and local funding is backfilled with new fuel excise tax revenue. The excise tax revenue and related statutory provisions do not include MOE requirements. Due to economic hardship in 2009, the City of Santa Rosa, like the County of Fresno, was unable to meet the MOE requirement within that fiscal year. SB 524 still requires that the MOE be met, but extends the deadline until 2014-15. No counties or cities, other than the County of Fresno and the City of Santa Rosa, have requested such relief.

Staff Recommendation: Approve placeholder trailer bill language that would grant additional time for the City of Santa Rosa to meet 2009-10 Prop 42 MOE requirements – similar to language adopted last year for the County of Fresno.

Action: Approved on a 3 – 0 vote.

Issues proposed for Discussion and Vote:

- 6. Weight Fee / Transportation Loan Proposal (Governor's May Revision):** The Governor's May Revision budget includes new trailer bill language that would revise the loan repayment schedule for prior loans from transportation special funds to the General Fund. This revised repayment schedule would provide General Fund relief in 2012-13 and through 2020-21 in three ways. First, outstanding loans to the General Fund, derived from truck weight fee revenue would be directed upon repayment to fund transportation-related bond debt (about \$971 million in outstanding loans fall into this category). Second, outstanding transportation loans to the General Fund not associated with truck weight fees, would have statutory repayment dates extended to 2020-21, with the intent to pay them prior to 2020-21, but as the General Fund is able (about \$358 million in outstanding loans fall into this category). Third, authority would be added to allow new loans of weight fee revenue to the General Fund if weight fee revenue falls below applicable bond debt service in a given year (the Administration believes this could occur in 2012-13 and 2013-14 for a total of \$171 million in new loans, but does not actually score this in the multi-year projection of General Fund revenues).

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related general obligation (GO) bonds, and to provide General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which had been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of \$350 million.

Proposition 22 and Proposition 26: These two propositions, approved by voters at the November 2010 election, both have implications for the fuel tax swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 created a risk that the fuel tax swap would become void in November 2011.

March 2011, Budget Action. The Governor proposed action in his January Budget to modify the fuel tax swap to conform to the requirements of Prop 22 and Prop 26. The Legislature enacted, and the Governor signed, AB 105 in March, which reenacted the fuel tax swap with a two-thirds vote, and modified the financing of debt

service such that truck weight fees would be directed to that purpose instead of gasoline excise tax revenues. The March package also directed weight fee revenue not needed for GO debt to the General Fund as a loan (about \$841 million). Transportation interests were generally supportive of AB 105 because it preserved both transit funding and highway funding that was at legal risk with the passage of Prop 22 and Prop 26. The modified fuel tax swap retained most of the components of the original fuel tax swap, but because truck weight fee revenue was less than excise tax revenue, a new “cap” of about \$900 million was placed on the amount of transportation revenues eligible to reimburse GO bond debt. Since transportation bond debt is expected to exceed annual truck weight fee revenue in 2014-15, the amount of out-year General Fund solution was reduced by the modified fuel swap.

Future Forecast of Revenue and Bond Debt: Current statute contains formulas to distribute excise tax revenue, which is somewhat volatile due to the revenue-neutral provisions that result in a new excise tax rate every July 1. Truck weight fee revenue is less volatile, but the amount of applicable GO debt service in any given year is also subject to change based on the timing of future bond sales. With those caveats stated, the Administration has provided a forecast of the net new benefit available to highways and local roads with the modified fuel tax swap.

Forecast of new revenue to highways and roads from modified Swap
(\$ in millions)

	2011-12	2012-13	2013-14	2014-15
Highway Rehabilitation (SHOPP)	\$202	\$224	\$284	\$256
Highway Capacity (STIP)	\$120	\$256	\$431	\$287
Local Streets and Roads	\$120	\$256	\$431	\$287
TOTAL net new benefit of swap	\$442	\$736	\$1,146	\$830

Forecast of weight fees and debt service
(\$ in millions)

	2011-12	2012-13	2013-14	2014-15
Weight Fee Revenue	\$910	\$918	\$930	\$943
Applicable GO Bond Debt Service	\$778	\$756	\$919	\$1,192
Surplus / (Deficit) for Bond Debt	\$132	\$162	\$11	(\$249)

As the first table indicates, the modified fuel tax swap is expected to result in significant new revenues for highways and roads – about \$3.0 billion over the four-year period through 2014-15. However, as the second table indicates, a deficit emerges for GO debt service in 2014-15 that represents an eroded General Fund solution of \$249 million relative to the original 2010 fuel swap. The Administration’s trailer bill would direct some of the loan repayment to this GO debt service to restore the General Fund solution in the out-years.

Staff Comment: Because the original fuel tax swap included a higher level of General Fund relief for debt service than achieved with the March modified fuel tax swap, the proposed trailer bill would seem reasonable within the general intent to maintain the structure of the original fuel swap where constitutionally allowable. Since none of the proposed amendments affects the 2011-12 budget, a question arises over the need to take this action now. The Administration's response is that they want to fully address the multi-year General Fund problem and not delay action when needed. Additionally, acting now would reduce uncertainty for the California Transportation Commission (CTC) as they update the 5-year Fund Estimate for transportation funding. While the Subcommittee may want to consider approving the revised repayment schedule for *existing* loans, the Subcommittee may want to reject the proposal to allow *new* special fund loans to the General Fund in 2012-13 and 2013-14. The Administration believes a total \$173 million might be available for new budgetary loans; however, they do not score this in their long-term General Fund revenue projections. These future loans would be from weight fee revenue that would already be set aside for bond debt, so there is no impact on the CTC Fund Estimate, and the Legislature could always grant this authority as part of next year's budget if needed.

Staff Recommendation: Approve placeholder trailer bill language that modifies the schedule for repayment of *existing* loans, but reject the language to provide authority for *new* loans.

Action: Approved staff recommendation on a 3 – 0 vote.

7. Proposition 1B Budget Request (January Budget as modified by May FL #12):

In January, the Governor requested \$2.4 billion in Prop 1B bond funds for programs administered by Caltrans - the Legislature approved this funding level as a placeholder amount. In May, the Administration submitted an updated request that recognizes about \$2.0 billion appropriated for Prop 1B in prior years has not been allocated and will revert in June 2011. Due to the reversion and the revised estimate of new project allocations, the Governor is now requesting an increase in the appropriation of \$1.0 billion. The table below indicates detail by program. (dollars in millions):

Proposition 1B Category	Total 1B Amount	January Request for 2011-12	May Revision Additional Request for 2011-12	Total
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$631	\$594	\$1,225
State Transportation Improvement Program (STIP)	\$2,000	\$0	\$0	\$0
State Highway Operations and Preservation Program (SHOPP)	\$500	\$0	\$48	\$48
State Route 99 Improvements	\$1,000	\$392	\$135	\$527
Local Bridge Seismic Retrofit	\$125	\$22	-\$8	\$14
Intercity Rail	\$400	\$117	\$0	\$117
Grade Separations	\$250	\$0	\$0	\$0
Traffic-Light Synchronization	\$250	\$0	\$0	\$0
Trade Infrastructure	\$2,000	\$972	\$192	\$1,164
State/Local Partnership	\$1,000	\$200	-\$35	\$165
Local Streets & Roads	\$2,000	\$37	\$0	\$37
Transit	\$3,600	\$0	\$123	\$123
TOTAL for these programs	\$15,625	\$2,371	\$1,047	\$3,418

Status of bond sales: The May Revision indicates that the Administration will reduce the size of the Fall 2011 general obligation bond sale from \$5.8 billion to \$1.5 billion. Of the reduced sale, about \$530 million is tentatively reserved for Prop 1B bonds. Additionally, as of April 2011, about \$2.7 billion in cash proceeds remain for Prop 1B projects from prior bond issuances. The Administration believes the cash on-hand, plus the additional \$530 million, would provide sufficient funds to support Prop 1B projects until the next planned bond sale in the Spring of 2012. By reducing the fall bond sales by \$4.3 billion, the Administration indicates it will realize General Fund savings of \$127 million in 2011-12 due to associated interest savings. Staff notes that due to the modified fuel tax swap and truck weight fees, the majority of Prop 1B General Fund costs are reimbursed from transportation funds.

Cash plan for Prop 1B programs: In recent years, the ability to sell bonds and the size of a bond issuance have been more of a constraint on Prop 1B projects than the level of funds appropriated by the Legislature. The Administration is reducing bond sales and closely managing cash to reduce interest costs, but this creates risk and

possible delays for projects. Staff are working with the Administration to develop a statutory reporting requirement that would provide additional information to the Legislature on the Prop 1B bond program and expenditure projections.

Staff Recommendation: Approve the May Letter, but also approve placeholder reporting trailer bill language, that would require the Administration to share their analysis related to the Fall 2011 bond sale (for all GO bonds) and detail the cash expenditure plan for Prop 1B programs.

Action: *Approved staff recommendation on a 3 – 0 vote.*

- 8. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1):** In the January budget, the Governor requested an augmentation of \$63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Legislature rejected this request without prejudice to allow additional time for review. The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate	Compliance Strategy	# of Equip.	Cost (in 1000s)	Type of Request
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	\$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	\$1,404	One-Time
	Repower	1	\$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	\$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	\$1,152	One-Time
Total		636	\$63,272	

Background: The Department developed their compliance plan in coordination with the Air Resources Board (ARB). At the April 28, 2011 hearing, ARB representative testified that no changes were anticipated to the compliance plan or ARB regulations.

Governor’s Fleet Reduction Executive Order: The Governor issued Executive Order B-2-11 on January 28, 2011, which requires state agencies to conduct an analysis of their fleets and equipment and submit the analysis to the Department of General Services (DGS). The executive order also requires the Department of Finance to adjust departmental budgets to reflect any savings. If Caltrans reduces its fleet pursuant to the order, there could be some resulting savings from reduced vehicle replacement. This issue was held open at the April 28 hearing at the recommendation of the Legislative Analyst so that budget modifications could be made to conform the budget request to savings that might be achieved from the executive order.

LAO Recommendation: The Analyst recommends that the funding be approved, but that budget bill language be added that would direct the Department of Finance to reduce the funding level if the Governor’s Fleet Reduction Plan results in cost savings. Any costs savings would be directed to pavement maintenance.

Staff Recommendation: Approve with the addition of budget bill language suggested by the LAO.

Action: Approved request with the addition of LAO budget bill language on a 2 – 1 vote, with Senator Fuller voting “no”.

- 9. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4 as modified by May FL #11):** *In the January budget*, the Administration proposed to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. A “PID” is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project. At the April 28 hearing, the Subcommittee rejected the reimbursement funding for locally sponsored highway projects and instead funded all PIDs out of the SHA – the Assembly Subcommittee took the same action. The overall funding for PIDs was budgeted at \$33.0 million. *In the May Revision request*, the Administration modifies their January proposal by deleting reimbursement funding of \$7.5 million and eliminating 74 positions – instead trailer bill language is proposed that would allow Caltrans to increase reimbursement authority administratively when local governments request PIDs services and sign cooperative agreements to reimburse costs. The May Letter zero-bases the workload for State Highway Operations and Protection Program (SHOPP) PIDs and adds, or adds back, 78 positions and \$8.6 million that is needed for that purpose.

Recent History of PIDs Issues in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift \$2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PIDs work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto of the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the “local” PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of \$7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing		
	<i>State Highway Account (SHA) funded</i>	<i>Reimbursement funded</i>	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Governor - May Revision	261 positions	3 positions plus TBL to augment	264 positions
2011-12 Legislative Action in April as modified by May SHOPP and HSRA workload adjustment	336 positions	2 positions (for HSRA)	338 positions

* The prior Governor vetoed \$7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PIDs program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources.

April 1, 2011, Report: Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger

basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects. The report indicates reimbursement agreements on 3 projects have been completed and another 15 are being negotiated. However, these represent only a small fraction of the anticipated reimbursable workload.

April 19, 2011, Caltrans Letter to Locals: In a letter dated April 19, 2011, Caltrans informed locals of interim guidance for the development of PIDs. The letter indicates that, effective immediately, all PIDs developed for the State Transportation Improvement Program (STIP) and special funded projects will use the Project Study Report-Project Development Support (PSR-PDS) process. The letter says that the PSR-PDS is a streamlined PID document that does not require the same level of engineering detail as the traditional Project Study Report (PSR). The amended PID guidance on PSR-PDS development is expected to be completed by July 1, 2011.

April 28, 2011 Subcommittee Hearing: As indicated, the Subcommittee voted on April 28 to fund PID work from the State Highway Account instead of local reimbursement for those projects where local governments fund the capital cost of work on the state highway system.

Staff Comment: The contract required with locals for a PIDs reimbursement appears to currently be a lengthy process that can result in a six-month delay. The staff at Caltrans has been reduced to zero-base the workload and Caltrans has – as of April 19, 2011 – implemented a streamlined PID. The May Letter indicates the streamlined PID process is reflected in the revised staffing calculations. Major reforms have been implemented for the program including zero-basing staffing and streamlining PIDs. Using local reimbursement as a mechanism to drive the reform may not be necessary and may produce new inefficiencies such as the need for negotiating cooperative agreements for each project.

Staff Recommendation:

- Approve the Governor's revised workload number for highway rehabilitation (SHOPP) PIDs and approve an augmentation of 78 positions and \$8.6 million (State Highway Account).
- Reject proposed trailer bill language and other changes in conflict with the Subcommittee's April 28 action.
- Approve 2 positions for High-Speed Rail Authority (HSRA) workload (reimbursed from Prop 1A bond funds). If in conflict with final action in the HSRA budget, action in the HSRA budget is controlling.

Action: On a 2 – 0 vote, with Senator Fuller not voting, approved staff recommendation, but reduced the total number of positions by 24 for a new total of 314 positions consistent with the Administration's updated workload estimate.

10. Capital Outlay Support (COS) Workload (May FL #8). The Administration requests a net budget increase of \$60.4 million (various special funds, bond funds, and federal funds) to increase consultant engineering contracts by 122 positions, or Full Time Equivalents (FTEs), and to fund the cost escalation for the base-level of consultant contracts. This request would result in a total COS budget of \$1.9 billion and 10,756 FTEs in state and contract resources (9,120 state staff positions, 398 state-staff overtime FTEs, and 1,238 FTEs of contract staff). Within the \$60.4 million request, is \$1.3 million in one-time funding for long-term travel assignments to move construction oversight staff across regions due to temporary workload imbalances. The cost of consultant engineering contracts has increased from the \$213,000 per FTE budget in 2010-11 to \$243,000 per FTE requested in the Finance Letter. As a way to address this cost escalation, the Administration is proposing trailer bill language for a pilot program that would involve 122 FTEs of contract work. The pilot would involve modifying procurement so that firms bid on specific projects, instead of bidding on the hourly price of engineering services. The budget assumes this pilot will bring costs down to \$209,000 per FTE for the pilot subset of projects. Finally, four positions, and budget bill language is requested for workload related to the High Speed Rail Authority.

Background on Annual COS Budget Request: Each year, Caltrans zero-bases its project workload based on the program of projects adopted by the California Transportation Commission. Relative to other areas of the budget, COS staffing sees large fluctuations in staffing as transportation funds ebb and flow – Proposition 1B and American Recovery and Reinvestment Act (ARRA) funds being recent examples of new revenues that could not have been anticipated in the years prior to their enactment. The COS workload is addressed primarily by state staff (in regular time and overtime), who historically have performed 90 percent of the project work. The remainder of the workload is addressed by contract staff, who historically have performed 10 percent of the workload. While state staff is less expensive than contract staff (\$158,000 for state staff position, \$96,000 for state staff overtime FTEs, and \$243,000 for contract staff), a contingent of contract staff has been seen as beneficial to perform specialty work, such as the Bay Bridge replacement, and to provide more flexible staffing across districts and at times of large workload adjustments.

BSA April 2011 Report: In April, the Bureau of State Audits (BSA) released an audit report on Caltrans' COS program. The BSA findings from that report include the following:

- The BSA found that Caltrans has done little analysis to determine the frequency or magnitude of support cost budget overruns and inform stakeholders of cost overruns.
- For the years 2007-08 through 2009-10, 62 percent of the projects had support cost overruns. However, most of the cost overruns are explained by an increase in the hourly labor rates instead of exceeding the budget for hours.

- Caltrans' time-reporting system lacks strong internal controls, and better project monitoring and the use of performance metrics could help it minimize cost overruns.
- Caltrans' annual budget request process for the COS program was reasonable.

BSA Recommendations from April Report: To improve the department's administration of the COS program, the BSA suggests Caltrans institute improved tracking and reporting of budgets and expenditures. The following recommendations would require legislative action to fully implement:

- Adopt legislation to require Caltrans to improve its existing report to the Legislature by including addition summaries and analysis. The current report provides detail by project, but does not include useful summaries and measures.
- Adopt legislation to expressly require the California Transportation Commission to review and approve project construction support cost overruns for individual projects that exceed the budget by 20 percent.
- Appropriate funds for an independent study of the costs and benefits of using consultants to address temporary increases in workload.

Cost savings versus flexibility for COS: The Administration forecasts moderate reductions in workload over the next several years – a reduction in the range of 200 to 300 FTEs for 2012-13. However, there remains significant uncertainty about the level of federal funding over the next 5-year period. Due to this forecast reduction, the Administration indicates it prefers the more flexible (but more expensive) contract staff over state staff positions. The Administration does note that state-staff overtime is also a flexible resource, and it is a less costly alternative to contracting. If the forecast for 2012-13 proves accurate, a future reduction of 200-300 FTEs is clearly absorbable without layoffs, through attrition, reduced overtime, and reduced contracting out. To compare cost savings versus flexibility, the below table outlines four options for addressing the 122 FTE workload need.

Administration's Proposal:	Description	Cost
122 new contract staff	Flexible / costly	\$60 million
Alternative Proposals:		
(a) 122 new state staff	Less flexible / less costly	\$45 million*
(b) 61 new state staff plus 61 FTEs of state staff overtime	Moderately flexible / less costly	\$43 million*
(c) 122 new FTEs of state staff overtime	Flexible / least costly	\$41 million*

* Subcommittee staff estimates

Staff Comment: Given the relatively stable outlook for COS workload over the next several years, the Subcommittee may want to consider a balanced approach such as alternative (b) on the prior table. That alternative would save about \$17 million, keep staff overtime at a normal level, and maintain this historic average split of 90 percent state staff and 10 percent contract resources. (See the below table for a historical perspective on the COS workload.) As has been done in some past years,

the Subcommittee may want to direct this savings, on a one-time basis, to preventative highway maintenance.

In terms of pilot program to reduce contract costs, the Subcommittee may want to adopt the Administration's assumption that about 122 FTEs of contract resources can be procured through an alternative negotiation that would result in a cost of \$209,000 per FTE instead of \$243,000. However, the trailer biller language proposed with this pilot is not legally needed to implement the pilot.

In terms of the BSA recommendations, the recommendation to improve the annual report to the Legislature has merit by making the information more useful to a broader audience. It may be premature to act on the recommendation to require CTC approval of support cost overruns at Caltrans without fully understanding the workload and staffing implications for the CTC. Finally, the BSA recommends new expenditures for a new study on the cost of contract resources versus state staff. However, the BSA report cites three prior studies that show either significant savings or equal costs for state staff over contract resources. It is unclear in these difficult fiscal times, if a new report would add value to the debate.

Historical and Proposed Capital Outlay Support Staffing				
(measured in full-time equivalents (FTEs))				
Year	State Staff	Overtime	Contract Out	Total
1997-98	7,538	351	1,176	9,065
1998-99	9,434	692	921	11,047
1999-00	9,854	546	592	10,992
2000-01	10,565	822	1,159	12,546
2001-02	11,072	650	1,646	13,368
2002-03	10,803	650	1,382	12,835
2003-04	10,245	303	500	11,048
2004-05	10,651	699	1,070	12,420
2005-06	10,815	710	1,568	13,093
2006-07	10,638	636	1,343	12,617
2007-08	11,064	668	1,393	13,125
2008-09	10,779	473	1,266	12,518
2009-10	9,901	450	1,166	11,517
2010-11	9,307	398	1,116	10,821
2011-12 as proposed	9,120	398	1,238	10,756
2011-12 Staff Recommendation	9,181	459	1,116	10,756

Staff Recommendation:

- Adopt the Administration's workload numbers but address the newly-identified workload need with less-costly state staff (61 positions, and 61 units of overtime) to save \$17 million*.
- Direct the \$17 million* in savings to preventative highway maintenance.
- Adopt the Administration's savings estimates from the procurement pilot project for contracts, but reject trailer bill language that is not necessary
- Adopt placeholder BSA trailer bill language to improve the annual report to the Legislature on the COS program.
- Approve 4 positions for High-Speed Rail Authority (HSRA) workload (reimbursed from Prop 1A bond funds). If in conflict with final action in the HSRA budget, action in the HSRA budget is controlling.

* The \$17 million savings number is a Subcommittee staff estimate, because an Administration estimate was still pending when this agenda was finalized. The final scoring should reflect any necessary technical adjustments.

Action: On a 2 – 1 vote with Senator Fuller voting “no,” approved the staff recommendation, but also added budget bill language that requires Caltrans to commission an independent study of the costs and benefits of using consultants to address temporary increases in workload, as recommended by Bureau of State Audits report 2010-122. In developing the report scope, Caltrans shall consult with the Department of Finance, the Bureau of State Audits, the Legislative Analyst’s Office, and legislative staff.

