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Senator Brian Dahle
Senator Mike McGuire
Senator Henry I. Stern



Wednesday, February 2, 2022
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State Capitol - Room 4203

Consultant: Joanne Roy

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VOTE-ONLY

0540 CALIFORNIA NATURAL RESOURCES AGENCY
3900 CALIFORNIA AIR RESOURCES BOARD
8570 DEPARTMENT OF FOOD AND AGRICULTURE

Issue 1: California Carbon Sequestration and Climate Resiliency Project Registry (SB 27)

Governor's Proposal. The Governor's budget requests the following:

CNRA: \$750,000 one-time and \$285,000 ongoing General Fund to implement SB 27 (Skinner), Chapter 237, Statutes of 2021. Of the funds requested, \$500,000 would be used for the development of the registry, \$250,000 would be used for the development of regulations through the Office of Administrative Law, and the \$300,000 ongoing would be to support two full-time staff (including salary, benefits, and O&E) to conduct registry operation, maintenance, and coordination.

SB 27 requires CNRA to, no later than July 1, 2023, establish and maintain the California Carbon Sequestration and Climate Resiliency Project Registry for the purposes of identifying and listing projects in the state that drive climate action on the state's natural and working lands and are seeking funding from state agencies or private entities. The bill requires CNRA to consider the environmental and public health impacts of any direct air capture project before adding the project to the registry. CNRA will create a process for listing projects on the registry and is required to track and report realized climate benefits through the registry.

CARB: Two permanent positions and \$425,000 Cost of Implementation Account (COIA) in 2022-23, \$1.923 million (including \$1.5 million in one-time contract funds) in 2023-24, and \$423,000 in 2024-25 and ongoing to incorporate the Natural and Working Lands Climate Smart Strategy in the Scoping Plan and implement CARB's responsibilities to support the Natural and Working Lands Registry of Projects as requested by SB 27.

SB 27 requires CARB to establish carbon dioxide removal targets for 2030 and beyond as part of the Scoping Plan process, and to take the Natural and Working Lands Climate Smart Strategy, science-based data, cost-effectiveness, and technological feasibility into consideration when setting these targets.

C DFA: \$125,000 General Fund and one permanent position in 2023-24 and ongoing to implement the functions required by SB 27. The bill requires C DFA to collaborate with CNRA to develop an application process for applicants whose projects are listed in the Carbon Sequestration and Climate Resiliency Project Registry and support applicants' ongoing participation in the registry.

Staff Recommendation. Approve as budgeted.

0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)
3900 CALIFORNIA AIR RESOURCES BOARD (CARB)
3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)
3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

Issue 2: CalEPA Bond and Technical Adjustments

Governor's Proposal. The Governor's budget proposal includes requests for various bond appropriations, reappropriations, and reversions; technical adjustments; reappropriations; and baseline adjustments to continue implementation of previously authorized programs.

Staff Recommendation. Approve as budgeted.

3900 CALIFORNIA AIR RESOURCES BOARD (CARB)
8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)**Issue 3: Alternative Fuels Quality and Regulatory Oversight**

Governor’s Proposal. The Governor’s budget requests \$1.451 million COIA in 2022-23 and \$1.363 million COIA ongoing thereafter to: (1) expand CDFA’s Alternative Fuels Quality and Regulatory Oversight Program (CDFA Program); (2) support the growth of alternative transportation fuels and associated fuel dispensing systems; (3) continue research in zero-emission fuel standards and standard method development; and (4) implement the zero-emission vehicle (ZEV) program as identified in the Scoping Plan and directed by Executive Orders B-48-18 and N-79-20.

Of the total, CDFA requests \$681,000 in 2022-23 and \$593,000 in 2023-24 and ongoing to support 3.3 existing permanent positions. CARB requests \$771,000 in 2022-23 and ongoing to support three new permanent positions, equipment, and operating expenses associated with testing new fuel dispensing systems.

These resources are intended to meet workload demands resulting from the rapidly growing infrastructure of retail hydrogen fueling stations and exponential growth in commercial electric vehicle charging stations. The Hydrogen Fueling Station Performance Testing (HyStEP) Program (CARB Program) will verify that retail hydrogen fueling stations are designed to meet established fueling protocols and provide fast, safe, and consistent fueling for customers across the growing network.

Staff Recommendation. Approve as budgeted.

3900 CALIFORNIA AIR RESOURCES BOARD (CARB)**Issue 4: Cement Sector Greenhouse Gas Reductions: Net-Zero Emissions Strategy (SB 596)**

Governor's Proposal. The Governor's budget requests \$725,000 COIA and two permanent positions in 2022-23 and \$423,000 COIA in 2023-24 and ongoing to develop and implement a comprehensive strategy to achieve net-zero emissions of greenhouse gas (GHG) emissions associated with cement use within the state by 2045 as required by SB 596 (Becker), Chapter 246, Statutes of 2021.

Staff Recommendation. Approve as budgeted.

Issue 5: Heavy-Duty Vehicle Inspection and Maintenance Program (SB 210)

Governor's Proposal. The Governor's budget requests \$7.624 million Air Pollution Control Fund (APCF) and 10 permanent positions in 2022-23 in order to implement and enforce the Heavy-Duty Vehicle Inspection Maintenance program to meet the statutory requirements of SB 210 (Leyva), Chapter 298, Statutes of 2019. This includes \$6 million in contract funding to support initial implementation needs.

Staff Recommendation. Approve as budgeted.

Issue 6: Labor Standards for Short-Haul and Drayage Trucking Fleets (AB 794)

Governor's Proposal. The Governor's budget requests \$1.154 million General Fund and six permanent positions in 2022-23 and \$2.3 million General Fund and six additional (12 total) permanent positions in FY 2023-24 and ongoing to implement AB 794 (Carrillo), Chapter 748, Statutes of 2021, which requires CARB to implement labor standards for short-haul and drayage trucking fleets participating in applicable incentive programs, as specified. This request is intended to provide CARB with the resources to develop and implement new processes for applicable program eligibility, develop expertise in applicable labor laws, investigate third party reporting of labor standard violations, and carry out enforcement.

Staff Recommendation. Approve as budgeted.

Issue 7: Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program (SB 372)

Governor's Proposal. The Governor's budget requests \$211,000 Air Quality Improvement Fund (AQIF) and one permanent position to implement the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program, pursuant to SB 372 (Leyva), Chapter 639, Statutes of 2021.

SB 372 directs CARB to develop and administer a program with the California Pollution Control Financing Authority to make financing tools and non-financial supports available to the operators of medium- and heavy-duty vehicle fleets in order to fully enable those operators to transition their fleets to zero-emission vehicles.

Staff Recommendation. Approve as budgeted.

Issue 8: Utilizing Methane Satellite Data

Governor's Proposal. The Governor's budget requests \$666,000 COIA and two permanent positions in 2022-23, and \$516,000 in 2023-24 and ongoing to operationalize the use of remote sensing data from two satellites that California will launch jointly with Planet Inc, JPL, and several philanthropic donors.

This Carbon Mapper program utilizes satellites that will pinpoint individual leaks of methane from space. CARB needs to develop the capacity and internal infrastructure to host a public data portal, conduct the needed data analysis, and evaluate mitigation options using the satellite data that will be available after the satellites are launched in 2023.

Staff Recommendation. Approve as budgeted.

Issue 9: New Clean Air Reporting Log Application Development

Governor's Proposal. The Governor's budget requests two permanent positions to support the implementation and maintenance of the Clean Air Reporting Log (CARL) application. Costs for the CARL application and associated staffing are funded through an existing Carl Moyer Local Assistance program appropriation. CARB is authorized to allocate up to five percent of Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) funding to program support and outreach efforts.

Staff Recommendation. Approve as budgeted.

Issue 10: Statewide Assessment for Fuel Cell Electric Vehicle Fueling Infrastructure and Fuel Production (SB 643)

Governor's Proposal. The Governor's budget requests \$211,000 Greenhouse Gas Reduction Fund (GGRF) and one permanent position to implement SB 643 (Archuleta), Chapter 646, Statutes of 2021. The requested position would perform the new duties associated with the required assessment in SB 643 that enlist CARB's experience and expertise with medium- and heavy-duty (MHD) vehicles and fleet regulations.

Background. *SB 643 (Archuleta), Chapter 646, Statutes of 2021.* SB 643 requires the California Energy Commission, in consultation with CARB and the California Public Utilities Commission, perform a statewide assessment of the fuel cell electric vehicle fueling infrastructure and fuel production needed to support the adoption of zero-emission trucks, buses, and off-road vehicles at levels necessary for the state to meet the goals and requirements of Executive Order N-79-20. This includes CARB regularity action that requires or allows zero-emission vehicles in the MHD vehicle or off-road sectors.

Staff Comment. There are other suitable funding options available to implement this proposal. CARB states that it is possible that COIA may also be appropriate funding for this work.

Staff Recommendation. **Approve as budgeted except in lieu of GGRF, appropriate \$211,000 from the Cost of Implementation Account.**

Issue 11: Implementation of GGRF: California Jobs Plan Act (AB 680)

Governor's Proposal. The Governor's budget requests \$399,000 GGRF and two permanent positions in 2022-23 and ongoing to meet the statutory requirements of AB 680 (Burke), Chapter 746, Statutes of 2021.

AB 680 requires CARB to work with the Labor and Workforce Development Agency to update its California Climate Investments Funding Guidelines (Funding Guidelines) by July 1, 2025 to include several workforce standards for certain programs that receive continuous appropriations from GGRF.

In addition to helping GGRF-funded programs implement these guidelines and assisting applicants with meeting these standards, these positions will develop and support administering agencies' use of tools and processes that will allow these programs to report the benefits produced by these new workforce standards.

Staff Recommendation. **Approve as budgeted.**

Issue 12: Southern California Headquarters (HQ) Building Management and Laboratory Support

Governor's Proposal. The Governor's budget requests \$3.313 million Air Pollution Control Fund (APCF) in 2022-23, \$3.333 million in 2023-24, \$3.434 million in 2024-25, \$1.145 million in 2025-26, and \$685,000 and five permanent positions in 2026-27 and ongoing to address increased workload at the new Southern Headquarters. This includes a total of \$8.48 million in contract funding over several years to renew the current Southern HQ building management contract through 2025-26. The five permanent positions will be located at the Northern and Southern HQ locations to assist the Business Management Branch team with daily duties.

Background. The new HQ facility in Riverside began construction in 2018 and CARB took occupancy December 3, 2021. The facility is approximately 402,604 square feet on an 18.5-acre site and is designed to support 460 employees. The new facility allowed CARB to consolidated six Southern California locations into a single location. The state-of-the-art facility includes an extended range of dedicated test cells for testing light-duty and heavy-duty vehicles, an advanced chemistry laboratory, workspace for accommodating new test methods for future generations of vehicles, space for developing enhanced onboard diagnostics and portable emissions measurement systems, visitor reception and education areas, a media center, flexible conference areas, and a large public auditorium.

Under standard state operations, Department of General Services (DGS) Facility Management Division would normally assume responsibility for building management. However, due to the difficulty of staffing state-owned buildings in Southern California, in November 2019, DGS notified CARB that DGS would be unable to manage the facility. In order to adequately manage the facility and maintain sustainability measures, CARB awarded a contract that covers building management, maintenance, custodial, security and landscaping services for the facility. The contract was funded for the first 18 months and written with three 12-month renewal options, executable upon approval of additional funding.

Staff Recommendation. Approve as budgeted.

3930 DEPARTMENT OF PESTICIDE REGULATION (DPR)**Issue 13: California Pesticide Electronic Submission Tracking (CalPEST) Project**

Governor's Proposal. The Governor's budget requests \$4.434 million DPR Fund and two permanent positions in 2022-23; and \$310,000 DPR Fund in 2023-24 and ongoing to support the second year of design, development, and implementation of the California Pesticide Electronic Submission Tracking (CalPEST) system and ongoing maintenance and operations tasks in support of the CalPEST system. The CalPEST system is a fully integrated information and document management system to substantially improve the current pesticide product registration process for pesticide product and device companies.

Staff Recommendation. Approve as budgeted.

Issue 14: Licensing and Certification Program Enhancements

Governor's Proposal. The Governor's budget requests three permanent positions and \$1.608 million General Fund in 2022-23 and 2023-24, \$1.558 million DPR Fund in 2024- 25, and \$1.258 million DPR Fund in 2025-26 and ongoing. To provide ongoing fiscal support, DPR will develop a regulation package for licensing and certification fee changes, which will be implemented in FY 2024-25. These funds will be used to address and implement necessary Licensing and Certification (L&C) responsibilities, required by new unfunded federal mandates issued in 2017, and to modernize elements of the licensing system.

Staff Recommendation. Approve as budgeted.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)**Issue 15: Exide Proposals**

Governor's Proposal. The Governor's budget requests the following:

Budget Change Proposal (BCP): 2014 Enforcement Order Program Oversight. \$706,000 Lead-Acid Battery Cleanup Fund (LABCF) in 2022-23 through 2025-26 for three temporary help positions to continue supporting activities to oversee and implement the remaining closure activities needed for the Exide 2014 Stipulation and Order (as amended in 2015) and the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order (collectively referred to herein as "Orders") against Exide Technologies, LLC (Exide).

BCP: Closure and Corrective Action: Third-Party Quality Assurance Oversight. \$600,000 annually from 2022-23 through 2025-26 from LABCF for a contractor to continue to provide Third-Party Quality Assurance (QA) as mandated by the December 8, 2016 Exide Closure Plan to oversee Phase 2 closure activities and the remaining activities needed to fulfill the Exide 2014 Stipulation and Order (as amended in 2015). The contractor will also oversee the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order (collectively referred to herein as "Orders") at the former battery recycling facility in Vernon, California (formerly owned by Exide).

Staff Recommendation. Approve as budgeted.

Issue 16: National Priorities List and State Orphan Sites

Governor's Proposal. The Governor's budget requests a revenue transfer of \$13.93 million from the Toxic Substances Control Account (TSCA) to the Site Remediation Account (SRA), and corresponding SRA appropriation of \$13.93 million, in 2022-23 to fund the state's National Priorities List (NPL) obligations and state orphan sites with Priorities 1A, 1B, 2, and statewide service contracts.

Health and Safety Code Section 25173.7 states the Legislature's intent that the annual Budget Act appropriate an amount sufficient to pay for the estimated direct site remediation costs identified in the department's annual SRA Report. The transfer and appropriation will fund the 2022-23 SRA estimated costs of \$13.93 million for the state's NPL obligations and state orphan sites with Priorities 1A, 1B, 2, and statewide service contracts.

Staff Recommendation. Approve as budgeted.

Issue 17: Resources Conservation and Recovery Act (RCRA) Grant Support

Governor's Proposal. The Governor's budget requests one permanent position in 2022-23 and ongoing to implement the Corrective Action Program tasks required by the US Environmental Protection Agency (US EPA) in the RCRA Grant Work Plan for the 2020-2023 three-year grant cycle, as well as subsequent grant cycles.

This resource is necessary to accomplish the Corrective Action Program commitments in the 2020- 2023 RCRA Grant Work Plan, which includes the following: (1) meeting annual environmental performance goals for Corrective Action sites; (2) screening Corrective Action sites for possible inclusion in the Government Performance and Results Act Corrective Action Baseline Site automated management system for monitoring and tracking the progress toward completing cleanup of Corrective Action Sites in California; (3) meeting with Corrective Action project managers to troubleshoot roadblocks delaying site cleanups; (4) ensuring adequate financial assurance for Corrective Action sites; (5) reporting on the progress toward environmental cleanup with a focus on impacted communities; and (6) achieving other annual environmental performance goals as required by the US EPA.

Staff Recommendation. Approve as budgeted.

Issue 18: Strengthen Emergency Response Capacity

Governor’s Proposal. The Governor’s budget requests six permanent positions and \$1.7 million General Fund in 2022-23, and \$1.2 million annually thereafter to support the Emergency Response (ER) Program. The requested resources will support ER when mission-tasked by the California Governor’s Office of Emergency Services (Cal OES) to respond to natural and/or man-made disasters (wildfires, floods, earthquakes, etc.) and enforcement-related activities.

Included in this request is a shift of \$1 million General Fund to the Toxic Substance Control Account (TSCA) annually for an emergency reserve account to readily respond to emergencies per Health and Safety Code Section 25354. Also included in the request is a one-time augmentation of \$230,000 in 2022-23 for equipment purchases, and \$50,000 in 2023-24 and annually thereafter for a four-week (160 hours) Hazardous Material Technician Class and for the annual Hazardous Materials Technician/Specialist Refresher class (3 days – 24 hours) for DTSC staff assisting with hazardous waste mitigation activities related to natural or man-made disasters such as wildfires, floods, and earthquakes; and \$75,000 in 2023- 24 and ongoing for necessary equipment maintenance, calibration, and replacement costs. The \$125,000 ongoing funding will be dedicated to funding for annual calibration and maintenance contract services for equipment utilized for disaster response-related activities, emergency response actions, and enforcement-related activities as well as for additional training.

Background. The Enforcement and Emergency Response Division (EERD), within DTSC’s Hazardous Waste Management Program (HWMP), has two primary responsibilities – enforcing hazardous waste laws and regulations, and responding to emergencies involving hazardous substances. The effective implementation of these functions protects California’s residents from hazardous wastes that may pose a threat to public health and the environment. In the past five years, EERD’s emergency response activities related to California’ increasing devastating wildfires has been pivotal to communities’ ability to recover.

The ER Program is comprised of four Senior Environmental Scientists and one Supervising Environmental Scientist responsible for day-to-day DTSC ER operations, interagency coordination, disaster recovery planning, and contract management. The unit provides a wide array of technical assistance to law enforcement and other agencies responding to hazardous substance spills and drug lab abandonments. Examples of the technical assistance provided include training in rail derailments, proper management of illegal butane honey oil labs, and management and disposition of lab wastes.

ER staff coordinate closely and routinely with the US EPA’s ER Program, participate in Local

Emergency Planning Committee meetings with state and local emergency response-related agencies, and serve as active participants on the Emergency Response Management Committee (ERMaC). The ERMaC is comprised of representatives from the emergency response programs of the Boards, Departments, and Office (BDOs) within the California Environmental Protection Agency (CalEPA). Participation on the ERMaC facilitates collaboration and coordination amongst the CalEPA BDOs.

ER is also responsible for answering a 24-hour hotline where requests for DTSC assistance are received from law enforcement, local agencies, and CalOES. During 2020-21, ER received requests from law enforcement and local health agencies to provide support for over 150 drug labs and off-highway responses. Total expenditures associated with these requests were approximately \$1 million. With limited staff resources, one employee must be available 24 hours, 7 days per week (phone duty) to ensure requests from law enforcement and local health agencies are addressed in a timely manner, thus reducing the number of staff available for emergency response.

Disaster removal operations require a high degree of care, oversight, timeliness, and attention to detail. These operations require critical field decision-making based on experience and expertise. Work cycles for these response actions is typically Monday through Saturday working up to 12-14 hours per day. Since early September 2020, DTSC staff have been in the field overseeing HazMat Crews, removing household hazardous waste from destroyed residential, commercial, and public properties. After completing the initial wildfire response action, the ER unit continues to provide support to CalRecycle for additional hazardous waste discovered during debris removal operations. Additionally, upon CalRecycle's confirmation of soil samples detecting the presence of elevated metal concentrations above the residential cleanup numbers, DTSC returns to the location to characterize and remove the contaminants-of-concern, in most cases, mercury and/or lead, in the soil.

As the number and intensity of wildfires increases in California due to weather-related incidents, utility and power line failures, and man-made causes, the length of wildfire season has increased from being seasonal to year-round. As a result, DTSC ER staff are continuously in the field for months at a time in remote locations overseeing the removal of household hazardous waste and bulk asbestos from destroyed structures. This level of effort is solely supported by four ER staff, including the ER Supervisor, which is unsustainable

Staff Recommendation. Approve as budgeted.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

Issue 19: BKK Class III Landfill Administrative Costs and Gas Monitoring System Evaluation

Governor's Proposal. The Governor's budget requests \$182,000 from the Integrated Waste Management Account (IWMA) annually to fund an ongoing shortfall in BKK Corporation's (BKK) administrative expenses for operating the BKK Class III Landfill (landfill) for the next 17 years. CalRecycle entered into a judicially enforceable Settlement Agreement (Agreement) with BKK to ensure that the landfill is not abandoned by BKK and does not become a ward of the state. In exchange for a commitment from BKK to fulfill their responsibilities as the landfill operator, CalRecycle has undertaken a contractual and mandatory obligation to fund this shortfall.

CalRecycle also requests one-time expenditure authority for \$300,000 IWMA to fund the evaluation of the landfill gas monitoring system and replace critical gas wells to protect public health, safety, and the environment.

This request covers a total of \$482,000 IWMA in 2022-23 and \$182,000 ongoing for the next 17 years.

Staff Recommendation. Approve as budgeted.

Issue 20: Environmental Advertising Implementation

Governor's Proposal. The Governor's budget requests 1.25 permanent, full-time positions, and \$965,000 in fiscal year 2022-2023 and \$163,000 ongoing IWMA. The newly requested positions will focus on the initial rulemaking and material characterization study execution, as well as subsequent reporting changes necessary to implement environmental advertising under SB 343 (Allen), Chapter 507, Statutes of 2021. Of the total, \$800,000 is the estimated cost to perform a material characterization study required by Public Resources Code Section 42355.51(d)(1)(B)(i).

Background. Existing California law requires that environmental marketing claims should be substantiated by competent and reliable evidence to prevent deceiving or misleading consumers. SB 343 establishes measurable criteria that products and packaging sold in California must meet, to use the chasing arrow recyclable symbol or otherwise direct a consumer to recycle that product or packaging in its labeling.

SB 343 requires CalRecycle to provide sufficient information to the public to evaluate whether a product or packaging is recyclable in the state and is of a material type and form that routinely becomes feedstock used in the production of new products and packaging. In order to meet those requirements, CalRecycle is tasked with updating regulations to require additional reporting from operations and facilities that recover and recycle materials. This additional reporting will provide information to the department regarding how the material was collected, and what material types and forms are actively recovered and not considered contaminants by the operation or facility.

The bill also requires CalRecycle to conduct, publish on its internet website, and update periodically, a

characterization study of material types and forms that are collected, sorted, sold, or transferred by solid waste facilities identified by the department for inclusion in the study.

SB 343 requires, by January 1, 2024, an initial material characterization study be performed by CalRecycle. CalRecycle is also required to update this material characterization study by January 1, 2027, and no less than every five years thereafter. For each material characterization study conducted pursuant to SB 343, CalRecycle is required to publish on its internet website the preliminary findings of the study and conduct a public meeting to present the preliminary findings and receive public comments.

Staff Recommendation. Approve as budgeted.

Issue 21: Materials Management and Local Assistance Division Permanent Staffing

Governor's Proposal. The Governor's budget requests nine permanent, full-time positions and \$110,000 from the Electronic Waste Recycling and Recovery Account (E- Waste) to fulfill fiduciary and enforcement obligations related to grant and payment programs, and the Covered Electronic Waste (CEW) Recycling Program.

CalRecycle intends to repurpose funds previously used for temporary help positions to offset the costs of the newly requested positions, hence the request for \$110,000 from E-Waste.

Background. CalRecycle's Materials Management and Local Assistance Division (MMLA) is responsible for promoting a sustainable future through reducing the amount of waste generated; encouraging recycling and composting to create new materials and products; and properly managing universal and hazardous wastes that cannot be landfilled. MMLA can achieve this through a variety of mandated grant and payment programs. The Financial Resources Management Branch (FiRM) is responsible for administering and managing grants and payments including but not limited to the Beverage Container Recycling Program, Used Oil Certified Collection Center (CCC), and Greenhouse Gas Reduction Program. The E-Waste Branch is responsible for administering the Covered Electronic Waste (CEW) Recycling Program under the Electronic Waste Recycling Act of 2003 (Public Resources Code (PRC) 42460 et seq.).

Over the past four years, FiRM's grant and repayment programs have increased from 16 to 20. These programs often require a variety of administrative tasks to achieve compliance with respective laws and regulations. These administrative tasks have often been completed by temporary help. While other FiRM staff have attempted to absorb this additional workload, there continues to be a backlog/delay in several areas.

The E-Waste Branch is responsible for administering the CEW Recycling Program. Under this program, recyclers receive CEW from approved collectors and thereafter, file a claim for payment. CalRecycle must review and verify these claims for within 90 days and may impose administrative civil penalties for false claims or failure to comply. While claim review must be performed by analysts, validation of compliance is often completed by temporary staff. Given the nature of temporary help positions, the number of validations performed has decreased, resulting in reduced compliance verification and reduced evidence of enforcement cases.

Staff Recommendation. Approve as budgeted.

Issue 22: CalRecycle Integrated Information System (CRIIS)

Governor’s Proposal. The Governor’s budget requests \$1.606 million in 2022-23 from the Beverage Container Recycling Fund (BCRF) to support efforts for stages 2-4 of California Department of Technology (CDT)’s Project Approval Lifecycle (PAL) process for the CalRecycle Integrated Information System (CRIIS) project. As part of CDT’s PAL process, the CRIIS project has completed and received approval for the Stage 1 Business Analysis (S1BA).

Background. CalRecycle’s Division of Recycling Integrated Information System (DORIIS) is the primary automated system used by beverage container manufacturers, recyclers, processors, and internal staff associated with the Beverage Container Recycling Program (BCRP). The DORIIS automated system was completed in July 2010 at a cost of approximately \$21 million. In the merger that created CalRecycle in 2010, no permanent staffing was provided for the support of DORIIS. DORIIS was developed and operates within an Oracle ERP E-Business Suite technical environment, which is specialized and not broadly supported by the vendor community. In comparison, CalRecycle’s other automated systems use the Microsoft development environment (C#, .NET 3.0). Therefore, there remains limited internal technical knowledge and experience supporting DORIIS.

CalRecycle currently has a separate contract in place through May 2023 at an annual cost of approximately \$1.5 million for the ongoing maintenance and support of DORIIS. The consulting contract utilizes six dedicated consulting staff to directly support DORIIS. Additional contractor staff are engaged, as needed, to perform specific technical functions. Due to reliance on a contracted vendor for maintenance and support, as well as the system being over 12 years old, DORIIS is considered to be high risk. The aging system is at risk of not receiving continued maintenance and support upon expiration of the contract. If this current system were to fail, CalRecycle is at risk of losing millions of dollars, daily, and failing to meet state-mandated requirements.

Staff Recommendation. Approve as budgeted.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**Issue 23: Proposition 65 Fund Shift**

Governor's Proposal. The Governor's budget requests a fund shift of \$1.8 million from the Safe Drinking Water and Toxic Enforcement Fund (SDWTEF) to the General Fund 2022-23 and ongoing. This fund shift is necessary to continue funding the voter-approved Proposition 65 program.

Background. Since its approval by voters in 1986 and until 2009, the state's Proposition 65 program was funded primarily by the General Fund. Due to a General Fund shortfall, the Budget Act of 2009 shifted \$2.273 million in Proposition 65 funding from the General Fund to SDWTEF. The 2009-10 Budget included \$4.125 million for the Proposition 65 program, \$1.852 million SDWTEF and \$2.273 million General Fund. At the time, revenues to SDWTEF outpaced expenditures, but it was acknowledged that this was not a long-term funding solution. Reserves from SDWTEF have been able to support the program until now, but current expenditures are much higher than the revenues needed to support the program.

SDWTEF receives its revenues from Proposition 65 penalties paid by businesses in enforcement cases pursuant to Health and Safety Code Section 25249.7. SDWTEF was intended to augment funding for the Proposition 65 program, since penalties are insufficient to fund the program and the revenues going into the fund are unpredictable. In the past two fiscal years, revenues averaged \$3.3 million, while the portion of the program funded through SDWTEF has approximately \$4.2 million in costs, leading to a structural deficit.

OEHHA is the lead entity for implementation of Proposition 65, and is projected to expend \$4.21 million SDWTEF in the current fiscal year. Based on the current fund condition, SDWTEF will only sustain the Proposition 65 program through 2024-2025. Unless funds from another source are appropriated for Proposition 65 activities, SDWTEF will be exhausted in 2025-26. This will leave the voter-mandated Proposition 65 program without adequate funding.

Staff Recommendation. Approve as budgeted.

Issue 24: Strengthening CalEnviroScreen

Governor's Proposal. The Governor's budget requests \$370,000 Reimbursement Authority and two permanent positions in 2022-23 and ongoing to use the data developed for the CalEnviroScreen mapping tool to track changes over time in community pollution burdens and conditions.

These two positions are requested to develop methods and perform analyses to examine trends, track changes, and measure progress using CalEnviroScreen data. The tool is not currently designed to evaluate changes over time and current staffing and resources are not sufficient to undertake this work. The new positions will support work to develop methods to use CalEnviroScreen data to examine trends and changes in environmental conditions and conduct analyses to measure progress in pollution reduction.

Staff Recommendation. Approve as budgeted.

DISCUSSION

3900 CALIFORNIA AIR RESOURCES BOARD (CARB)
3360 ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION (CALIFORNIA ENERGY COMMISSION (CEC))
3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CALFIRE)
3720 CALIFORNIA COASTAL COMMISSION
3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Issue 25: Cap-and-Trade Expenditure Plan

Governor’s Proposal. The Governor’s budget proposes a roughly \$1 billion discretionary cap-and-trade expenditure plan, shown below in the chart below:

Proposed 2022-23 Cap-and-Trade Expenditure Plan	
(In Millions)	
Program	Amount
Continuous Appropriations^a	\$1,465
High-speed rail	\$487
Affordable housing and sustainable communities	389
Forest health and fire prevention	200
Transit and intercity rail capital	195
Transit operations	97
Safe drinking water program	97
Other Existing Commitments	\$239
SRA backfill	\$79
Manufacturing sales tax exemption backfill	72
Other state administrative costs ^b	88
Discretionary Spending	\$979
Heavy-duty vehicle incentives (ZEV Package)	\$600
AB 617 local air pollution reduction incentives	180
Clean Cars 4 All (ZEV Package)	76
AB 617 local air district implementation	50
Safe drinking water program	33
Expanded air monitoring	30
AB 617 technical assistance grants	10
Total	\$2,683

^a Based on Governor’s revenue assumption of \$2.3 billion in 2022-23.
^b Includes \$2.3 million in state administrative costs to continue existing programs and implement recently enacted legislation.

SRA = State Responsibility Area; ZEV = zero-emission vehicle; and AB 617 = Chapter 136 of 2017 (AB 617, C. Garcia).

Source: LAO

The Governor’s budget also includes BCPs, which propose appropriating funds from GGRF as follows:

BCP: CARB: Centralizing and Expanding Community Monitoring. \$30 million GGRF in 2022-23 to deploy new, mobile Community Air Monitoring data collection and visualization approaches over a limited term to build on and complement existing CARB stationary air monitoring and data visualization tools. Limited-term hyper-local and real-time mobile pollution monitoring will provide a snapshot of information to increase understanding of current community exposure to the pollutants measured across

the state and facilitate focused community and agency action, including prioritizing locations for and establishment of community-scale pollution monitoring in the future.

BCP: CARB: 2022 Cap-and-Trade Expenditure Plan: Community Air Protection Program, Local Air District Implementation, and Technical Assistance to Community Groups, \$240 million GGRF in 2022-23 for Community Air Protection Incentives, Air District implementation and Community Air Grants to meet the statutory requirements of AB 617 (C. Garcia), Chapter 136, Statutes of 2017. These investments are part of the 2022 cap-and-trade expenditure plan.

These community investments are intended to be complemented by the Zero Emission Vehicle (ZEV) Package, which aim to accelerate and implement the California ZEV Market Development Strategy. The investments in this package and the Zero Emission Vehicle Package are meant to propel forward the equitable transition to zero-emission transportation opportunities for all Californians and to improve local health for our communities.

BCP: CARB and CEC: ZEV Package. Among its various components, the ZEV package includes the following GGRF spending:

- **Low-Income Zero-Emission Vehicle Incentives.** \$76 million GGRF for the Low-Income ZEV Incentives (total \$256 million, with the remaining \$180 million as General Fund). This proposed funding is in addition to the \$250 million appropriated in the 2021 ZEV Package (with \$125 million in 2022-23) to take Clean Cars 4 All statewide.
- **Heavy-Duty Zero-Emission Vehicles and Supporting Infrastructure.** \$1.1 billion (\$600 million GGRF and \$500 million General Fund) for zero-emission clean trucks, buses, and off-road equipment and infrastructure, and \$400 million to enable port electrification, all leveraging both battlers and hydrogen fuel cells.

BCP: OEHHA: Biomonitoring in Community Air Protection Program (AB 617) Communities. \$350,000 GGRF in 2022-23 and ongoing for targeted biomonitoring studies in Community Air Protection Program (AB 617) communities. Limited-term contract funding was originally approved in 2019-20 for a period of three years, but ongoing contract funding is needed for OEHHA to serve the large number of communities disproportionately impacted by air pollution, apply biomonitoring to directly measure exposures in community members over time, and increase understanding of the potential health risks they face.

The contract funding will support academic and local partners who help carry out community-based biomonitoring studies. This funding will also support specialized laboratory analyses not available within the state laboratory system. Results from the biomonitoring studies will generate essential data needed by these disproportionately impacted communities to develop and implement effective strategies to reduce their harmful air pollution exposures.

BCP: California Coastal Commission: Essential Climate Resiliency and Sea Level Rise Support. \$750,000 GGRF ongoing in baseline to address the ongoing and growing sea level rise/climate resiliency workload of the commission. Funding would help the commission better support local governments in climate change planning and decision-making and streamline the review and authorization of climate change related plans and projects.

Improvements will be measured by tracking participation in interagency and local outreach efforts related to climate change adaptation and mitigation plans and projects, as well as tracking the number

of approved plans and projects.

Background. *Cap-and-Trade Auction Revenue.* According to the LAO, revenues from quarterly cap-and-trade auctions are deposited in GGRF and the funds are generally allocated to climate-related programs. Under current law, about 65 percent of auction revenue is continuously appropriated to certain projects and programs, including high-speed rail, affordable housing, transit, and safe drinking water. In addition, beginning in 2022-23, \$200 million is continuously appropriated for forest health and wildfire prevention. This \$200 million is taken “off the top” before calculating the other continuous appropriation percentages. The remaining revenue is available for appropriation by the Legislature through the annual budget for other ongoing funding commitments (such as state administrative costs and statutory transfers), as well as discretionary spending programs.

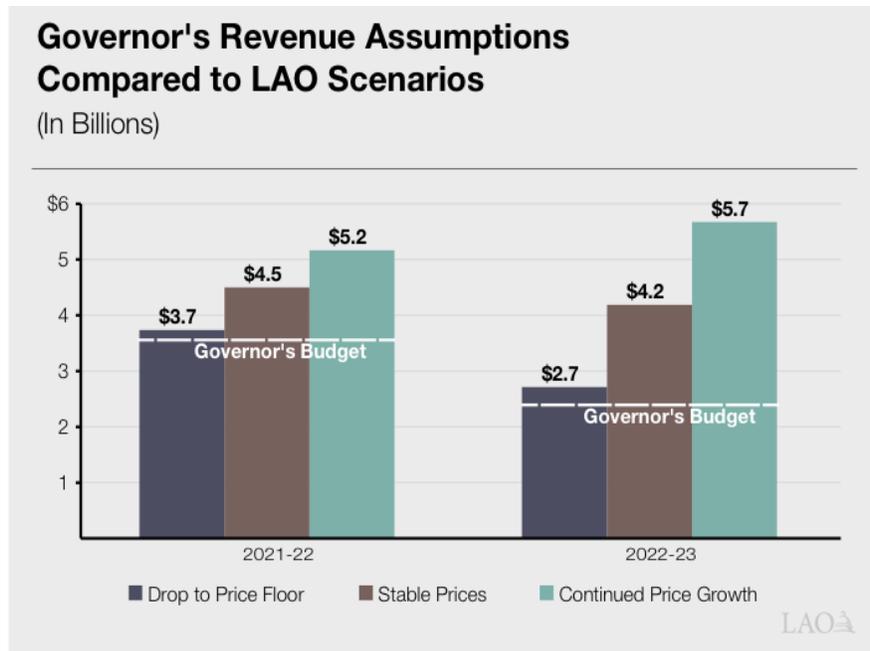
LAO Comments. *Governor Proposes Almost \$1 Billion Discretionary Spending.* The Governor’s budget assumes cap-and-trade auction revenue of \$3.6 billion in 2021-22. Based on this revenue estimate, there would be roughly \$600 million in carryover funding available to be allocated in 2022-23, plus an estimated \$2.3 billion in revenue collected in 2022-23. About \$1.5 billion would go to continuously appropriated programs in 2022-23, \$239 million would go to other existing spending commitments, and \$979 million would go to proposed discretionary spending. Also, based on these assumptions, there would be a roughly \$200 million fund balance at the end of 2022-23 (also known as a reserve).

Proposal Mostly Provides Funding for Existing Programs. Almost all of the proposed discretionary spending would support existing programs that have received GGRF allocations in past years. Specifically, \$676 million would support ZEV programs at CARB and \$240 million would go to continued implementation of AB 617 (C. Garcia), Chapter 136, Statutes of 2017. (The proposed ZEV-related spending is part of the Governor’s broader package of ZEV-related proposals.) The proposed expenditure plan also provides \$33 million in discretionary funding for safe and affordable drinking water. This funding — in addition to the estimated \$97 million provided through continuous appropriations — would bring total funding for safe and affordable drinking water to \$130 million in 2022-23, consistent with past budgets.

The only new major spending proposed in the discretionary spending package is \$30 million one time for expanded community-level air monitoring. Mobile monitors would be used to provide one-time snapshot of air pollution at the local level. According to the Administration, the data would be integrated into CARB tools that help visualize local pollution, and potentially inform future AB 617 activities to reduce community pollution in disadvantaged communities.

The budget also includes several proposals to continue or increase staff and resources to administer GGRF programs. Some of these proposals are related to implementing recently enacted legislation. Funding would support staff at CARB, the Office of Planning and Research, the Coastal Commission, and OEHHA.

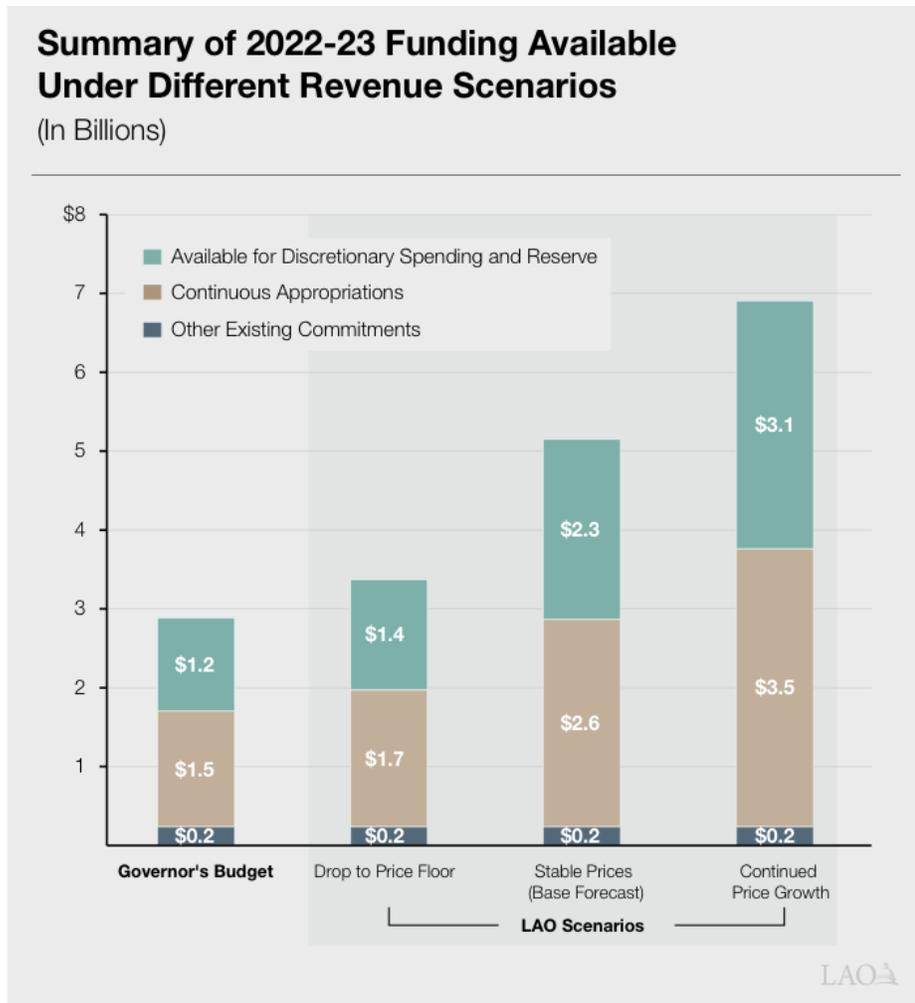
Governor’s Revenue Assumptions Are Conservative. In LAO’s December 2021 post, Cap-and-Trade Auction Update and GGRF Projections, the LAO estimated GGRF revenue under three different allowance price scenarios. As shown in the figure below, the Administration’s revenue assumptions in both 2021-22 and 2022-23 are slightly below LAO’s low revenue scenario, where the LAO assumes all allowances sell at the floor price. Although the Administration also assumes that allowances will sell at the floor price, its estimates of the number of allowances offered and the level of the floor price are slightly lower than the LAO’s.



Source: LAO

There is substantial uncertainty in auction revenue, so it is possible that revenue could drop below LAO’s low revenue scenario. However, even under relatively conservative assumptions, LAO thinks total auction revenue will be at least \$600 million higher than the Governor’s budget assumes over the two-year period. Under LAO’s base revenue scenario (stable allowance prices), which LAO considers the most likely of its three scenarios, total revenue over the two-year period would be \$2.8 billion higher than assumed under the Governor’s budget. LAO will provide the Legislature with updated revenue forecasts in the coming months as more information becomes available, including the results of future quarterly auctions.

Several Hundred Million Dollars More Could Be Available for Discretionary Spending. As shown in the table below, there is roughly \$1.2 billion available for discretionary spending and a reserve under the Governor’s revenue assumptions. This amount is somewhat lower than the amount that would be available under LAO’s low revenue scenario (\$1.4 billion) and significantly lower than the amount that would be available under LAO’s base revenue scenario (\$2.3 billion).



Source: LAO

Ultimately, the amount of discretionary funding allocated in 2022-23 budget will depend on both (1) revenue assumptions and (2) how much the Legislature chooses to leave as a reserve in GGRF to address revenue uncertainty. These two factors are related and the Legislature could take different budgeting approaches. If the Legislature assumes higher revenues, it might also want to maintain a substantial reserve in the GGRF in case revenue is lower than expected. For example, in previous reports, the LAO suggested a reserve of about 10 percent of estimated annual revenue is a reasonable starting point. Under LAO’s base revenue forecast, a 10 percent reserve would be slightly more than \$400 million — which would leave about \$1.9 billion available for discretionary programs. If the Legislature assumes lower revenues, there is less of a need to maintain a substantial reserve because there is little risk that revenues would be lower than expected. Under LAO’s lower revenue scenario where allowance prices drop to the floor, the Legislature would collect enough revenue to allocate \$1.4 billion in discretionary programs, but leave very little money in the reserve. Under both budgeting approaches, the Legislature would have several hundred million dollars in additional funding available for discretionary spending.

Issues for Legislative Consideration. *Do Continuous Appropriations Continue to Reflect Legislative Priorities?* The Legislature will want to consider the degree to which both continuous appropriations and past discretionary spending programs continue to be consistent with its current priorities. Most of the continuous appropriations were established as part of the 2014-15 budget, and it is possible that legislative priorities have changed over the last several years. In addition, as revenues increase,

continuous appropriations going to these programs would be much higher than in prior years. Under LAO's base forecast, about \$2.4 billion would be continuously appropriated to these programs in 2022-23 (not including the \$200 million continuous appropriation for forest health and wildfire prevention). This is roughly twice the average annual continuous appropriation provided in past years. The Legislature might want to consider whether these appropriation levels continue to reflect its priorities.

Depending on its spending priorities, the Legislature could consider a variety of modifications to the continuous appropriations. For example, if the Legislature considers certain discretionary programs higher priority, it could give those discretionary programs first call on future auction revenues. This could be similar to the Legislature's action to allocate \$200 million off the top to forest health and wildfire prevention as part of the 2021-22 budget agreement. The Legislature could also consider allocating a specific annual amount to each continuously appropriated program, rather than a set percentage of auction revenue. This approach would provide a more consistent funding amount for these programs. Plus, if annual revenue continues to grow, this structure would allow the Legislature to use the annual budget process to determine how to allocate the additional funding in a way that best reflects its changing priorities.

How Should the Legislature Allocate Discretionary Funding? The Governor's proposal largely allocates funding to existing programs. As always, the Legislature will have to weigh many different spending priorities when considering how to allocate discretionary funding, including how to balance greenhouse gas reductions, local air quality improvements and monitoring, and other spending priorities. One factor it might want to consider is what other funding sources are available and already allocated to climate-related programs. For example, the Governor's proposed budget includes \$6.1 billion in total a five-year ZEV package, which includes \$676 million from GGRF. This is in addition to a \$3.9 billion three-year package for ZEVs included in the 2021-22 budget agreement. The Legislature will want to consider the degree to which cap-and-trade funding should be used in 2022-23 to supplement these other ZEV efforts versus targeting other programs that would not receive any new funding as part of the Governor's proposal, such as waste diversion programs and other climate-related programs.

Also, as the LAO has emphasized in previous reports, the Legislature is not limited to focusing its cap-and-trade expenditure plan on spending options. The LAO recommends the Legislature consider using a portion of GGRF revenue to provide direct financial support to households and/or businesses. For example, the Legislature could use GGRF to provide lump sum rebates to households, reduce other state taxes (such as sales tax rates), or use the funds to reduce retail electricity rates. Importantly, each of these "revenue recycling" options could be structured in a way that maintains cap-and-trade's incentive for households and businesses to reduce GHGs, while also partially or fully offsetting the financial impact of cap-and-trade prices on businesses and consumers—particularly low- and moderate-income households. In LAO's view, these revenue recycling options become even more attractive if allowance prices—and associated impacts on energy prices—continue to increase.

What Benefits Will New Air Monitoring Effort Provide? As discussed above, the only new program proposed is \$30 million for expanded air monitoring using mobile monitors. In concept, efforts to improve the scope and quality of air quality monitoring could have merit, as there are some gaps in the existing air quality monitoring networks, particularly at the neighborhood level. The network of monitors used to assess state compliance with federal ambient air quality standards is relatively sparse in some areas of the state, and these monitors are not intended to measure air quality at the community level. To address this gap, in recent years, funding provided to local air districts through the AB 617 program has been used to establish 14 community-level air quality monitoring networks in heavily polluted communities. However, many communities in the state still do not have robust community level air quality monitoring systems.

Although there are likely some benefits to additional air quality monitoring, based on LAO's initial review, it is unclear why the Governor's proposal is the most effective monitoring approach. Some questions for the Legislature to consider about the proposal include:

- Why is the Administration proposing to establish a new monitoring approach instead of expanding existing monitoring efforts through AB 617?
- What is the advantage to using mobile monitoring compared to other technologies, such as stationary monitors that can measure pollution in a specific location?
- Why should the state invest in a one-time snapshot of air pollution, rather than a system that can help the state track changes in air pollution over time?
- How many areas of the state would be monitored? How does the Administration plan to select which communities will be monitored?
- How will this funding be used to inform future air quality improvement activities? For example, once the additional information is collected, how will that information be used to inform future regulatory or spending decisions?
- Will the state have any ongoing costs associated with undertaking this one-time effort?

As the Legislature considers this proposal, and weighs it against other spending priorities, it might want to direct the Administration to report at budget hearings on the questions above. This would help the Legislature evaluate the overall merits of the proposal. Without additional detail about why this new monitoring effort is the most effective approach to monitoring, the Legislature might consider redirecting this funding to other existing programs that are high legislative priorities.

Staff Recommendation. Hold open.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)

Issue 26: DTSC Governance and Fiscal Reform Proposals

Governor's Proposal. For purposes of implementing DTSC governance and fiscal reform that was approved last year, the Governor's budget proposes the following:

BCP: Administrative Support for Core Programs. 37.6 permanent positions and \$5.6 million ((\$1.9 million Hazardous Waste Control Account (HWCA) and \$3.7 million Toxic Substances Control Account (TSCA)) in 2022-23 and \$5.6 million (\$1.8 million HWCA, \$3.7 million TSCA) annually thereafter to support the core program expansions. More specifically, this request justifies the support services needed to implement the core program expansions in the following 2022-23 BCPs to implement the 2021 Governance and Fiscal Reform:

- Cleanup in Vulnerable Communities Initiative (CVCI)
- Safer Consumer Products Program Full Implementation
- Hazardous Waste Management Plan
- Enhancing Environmental Protection in Vulnerable Communities through Compliance
- Increase Frequency of Transporter Inspections
- Criminal Enforcement Increase in Vulnerable Communities
- Review of Lead Agency CEQA Documents
- Hazardous Waste Classification

BCP: Cleanup in Vulnerable Communities Initiative. 73.5 permanent positions and \$12.9 million TSCA in 2022-23 and 79.5 permanent positions and \$13.9 million TSCA in 2023-24 and annually thereafter to implement the Cleanup in Vulnerable Communities Initiative.

BCP: Criminal Enforcement Increase in Vulnerable Communities. 14 permanent positions and \$2.3 million HWCA in 2022-23 and annually thereafter. The 14 positions will provide support for mission critical work performed by the Office of Criminal Investigations (OCI). These resources will support DTSC's mission-critical work addressing the most serious environmental violations by increasing criminal enforcement in the most disproportionately impacted vulnerable communities.

BCP: Enhancing Environmental Protection in Vulnerable Communities through Compliance. 16 permanent positions and \$2.9 million HWCA in 2022-23 and annually thereafter to improve the quality of hazardous waste generator inspections in disadvantaged communities and to educate regulated businesses and Certified Unified Program Agencies (CUPAs) on compliance with hazardous waste control laws as required by Health and Safety Code Section 25142.5. The resources are to help follow through on DTSC's commitment to communities, regulated entities, and the US EPA that DTSC provide delegated local agencies the technical support necessary to effectively implement the hazardous waste generator program. The hazardous waste generator program is integral to effective inspection and enforcement, compliance with regulations and statutes, and protection of all communities, especially the most disadvantaged communities.

BCP: Hazardous Waste Classification. Eight permanent positions and \$1.5 million HWCA in 2022-23 and ongoing to evaluate the existing California hazardous waste criteria, recommend modifications to those criteria, assist in the adoption of any approved recommendations, and provide waste classification determination and recycling exclusion interpretations and technical support.

BCP: Hazardous Waste Management Plan. Seven permanent positions and \$1.2 million HWCA in 2022-23 and ongoing to fully implement the Hazardous Waste Management Plan. SB 158 (Committee on Budget and Fiscal Review), Chapter 73, Statutes of 2021, requires DTSC to prepare a report by March 1, 2023, and every three years thereafter, that includes an analysis of available data related to hazardous waste that includes specified components. SB 158 also requires DTSC to establish and maintain a state Hazardous Waste Management Plan based on reports to be approved by the Board of Environmental Safety every three years. This plan requires an analysis of hazardous waste generation and site assessments of hazardous waste facilities.

BCP: Increase Frequency of Transporter Inspections. Eight permanent positions and \$1.3 million HWCA in 2022-23 and annually thereafter. This request provides inspection and enforcement resources for the hazardous waste transportation industry to verify compliance with Hazardous Waste Control Laws (HWCLs). These resources are essential to support the Governor's vision of a California for All, where disadvantaged communities are protected from the impacts of multiple sources of pollution. These resources are also crucial to ensuring transporters of hazardous waste comply with HWCLs, from the point of generation to disposal. Finally, transporter inspections are crucial for accomplishing DTSC's mission to protect California's people, communities, and environment from toxic substances.

BCP: Legal Resources Augmentation for Support of Core Programs. 24 permanent positions and \$6.8 million (\$2.1 million HWCA, \$4.7 million TSCA) in 2022-23 and \$7.3 million (\$2.6 million HWCA, \$4.7 million TSCA) annually thereafter to properly resource the management, operations, and litigation functions of DTSC's Office of Legal Counsel to allow focus on enforcing hazardous waste control laws, holding polluters accountable for contamination, and compelling manufacturers to make safer consumer products.

BCP: Modernizing Information Technology (IT) Infrastructure. 24 permanent positions and \$6.1 million (various special funds) in 2022-23 and annually thereafter to (1) address the gaps between workload and current Office of Environmental Information Management information technology (IT) staffing levels and technology costs (2) support the core program expansions that are part of the implementation of the 2021 Governance and Fiscal Reform. These resources will provide support for DTSC's mission critical work to address high risk legacy systems, adequately manage data, and take necessary steps to modernize DTSC's technology infrastructure. Specifically, this request includes \$1.8 million annually for the increased cost of modernizing DTSC's infrastructure, business solutions, and IT services, including professional services for strategic planning, IT specialized training, and departmental IT literacy training. Funding for this request was included in the new fee structure enacted in SB 158.

BCP: Office of Environmental Equity. Nine permanent positions and \$1.3 million (\$281,000 HWCA and \$1 million TSCA) in 2022-23, and \$1.3 million (\$279,000 HWCA, \$1.0 million TSCA) annually thereafter to provide the resources necessary for the Office of Environmental Equity to support core program expansions included in other BCPs.

BCP: Review of Lead Agency California Environmental Quality Act (CEQA) Documents. Two permanent positions and \$306,000 HWCA in 2022-23 and \$304,000 in 2023-24 and annually thereafter to meet its legal obligations under CEQA, which requires that DTSC, as a Responsible Agency, review and provide comments on CEQA documents.

BCP: Safer Consumer Products Program Full Implementation. 37 permanent positions and \$7.2 million TSCA in 2022-23 and ongoing to provide the resources needed to fully implement the Safer Consumer Products Program. This request also includes \$246,000 for contracts. This proposal would

increase DTSC's capacity to identify product- chemical combinations for regulation under the regulatory framework, perform rulemaking tasks, review Alternatives Analyses, and provide technical support to regulated manufacturers for Alternatives Analysis development.

Background. According to LAO:

DTSC Is Responsible for Protecting California From Toxic Substances. DTSC is charged with protecting the people of California and the environment from the harmful effects of toxic substances. DTSC administers the following major programs:

- **Hazardous Waste Management Program.** The department regulates the generation, storage, transportation, and disposal of hazardous waste through permitting, compliance monitoring, and enforcement of noncompliance.
- **Site Mitigation and Restoration Program.** DTSC implements the state's laws regarding the identification, assessment, and cleanup of sites contaminated by toxic substances. The department also monitors long-term operations and maintenance activities at sites where cleanup is complete.
- **Safer Consumer Products Program.** This program identifies and prioritizes chemicals of concern in consumer products, evaluates alternatives, and specifies regulatory responses to reduce chemicals of concern in products.

DTSC Supported by Two Special Funds. The department's ongoing operations are primarily supported by HWCA and TSCA. HWCA largely supports the Hazardous Waste Management Program. The account is sustained by regulatory fees charged to hazardous waste generators, waste disposal entities, and other facilities that handle hazardous waste. TSCA largely supports the Site Mitigation and Restoration Program and the Safer Consumer Products Program. The account is primarily funded by a broad-based tax charged to businesses that contribute to hazardous waste.

Department Recently Underwent Significant Governance and Fiscal Reform. Budget trailer legislation as part of the 2021-22 budget package, SB 158 (Committee on Budget and Fiscal Review), Chapter 73, Statutes of 2021, restructured and increased the charges that support HWCA and TSCA. The resulting revenues provided from the changes are intended to (1) solve the longstanding structural deficits in HWCA and TSCA, (2) support a new Board of Environmental Safety, (3) support programmatic expansions that address high-priority programs and activities, and (4) build sufficient reserves in both accounts. Beginning in 2022-23, these reforms are estimated to increase revenues in HWCA by \$46.3 million (\$22.5 million to address the account's structural deficit and \$23.8 million for programmatic expansions) and increase revenues in TSCA by \$53.1 million (\$11.5 million to address the account's structural deficit and \$41.6 million for programmatic expansions). (Since the state would not begin to receive revenues until 2022-23—due to the timing of how charges for both accounts are collected—the 2021-22 budget provided one-time General Fund resources of \$29 million and \$11.5 million to HWCA and TSCA, respectively, to keep the accounts solvent and to advance high-priority programmatic expansions a year early.) To inform the 2021-22 budget decisions, DTSC provided the Legislature with an expenditure plan that stated the programs and activities the department intended to augment with the additional revenues from HWCA and TSCA. However, the department still needs statutory authorization to use all of the additional funds in 2022-23.

SB 158 also established the Board of Environmental Safety within the department. The five-member board is responsible for hearing hazardous waste permit appeals and providing strategic guidance to the department. The board also has the authority to set charge levels for HWCA and TSCA in future years beginning in 2023-24. Specifically, the board will set charges annually to align revenues from both accounts to the amount of expenditures authorized by the Legislature through the annual budget act.

Legislature Provided Considerable New Funding for DTSC to Address Brownfields. In addition to the above fiscal and governance reforms, the 2021-22 budget package provided DTSC with one-time General Fund of \$300 million to address brownfields—properties underutilized due to the presence or potential presence of hazardous contaminants. Most of the funding was allocated for (1) DTSC to investigate and clean up brownfields with contracted assistance and (2) a new grant program—Equitable Community Revitalization Grant (ECRG) Program—to provide funding to municipalities, nonprofits, tribes, and other governmental agencies for brownfield investigations, cleanups, and community-wide assessments. The 2021-22 budget package also provided an additional \$100 million in 2022-23 and in 2023-24 to continue these activities. A portion of the \$300 million provided in 2021-22 is being used to support the staff needed to begin implementing the above activities, with the expected revenue increases in TSCA anticipated to cover staff costs starting in 2022-23.

LAO Comments. The Governor’s Budget Provides Funding for DTSC to Significantly Expand Activities. The Governor’s budget includes multiple proposals requesting authorization to use the additional revenues that HWCA and TSCA received from the restructured and increased charges. As shown in the table below, the funding would be used to support various programmatic expansions to fully implement the reforms initiated in 2021-22. As discussed earlier, some of these activities began in 2021-22 using one-time General Fund, but would switch to HWCA and TSCA beginning in 2022-23. The new proposals request \$16.1 million in additional spending from HWCA and \$33.4 million in additional spending from TSCA, in order to support 260 additional ongoing positions. All of the funding and positions are proposed on an ongoing basis.

DTSC Reform Implementation Proposals			
(Dollars in Millions)			
Proposals	HWCA	TSCA	Positions
Approved in 2021-22^a			
Implement Violations Scoring Procedure	\$3.1	—	11.0
Resource Conservation and Recovery Act	2.5	—	17.0
Board of Environmental Safety	1.5	\$1.5	15.0
Information technology security unit	0.6	0.6	4.0
Subtotals	(\$7.7)	(\$2.1)	(47.0)
Governor's 2022-23 Proposals			
Enhance hazardous waste generator inspections	\$2.9	—	16.0
Criminal enforcement increase	2.3	—	14.0
Modernize information technology infrastructure	2.3	\$3.8	24.0
Legal support for core programs	2.1	4.7	24.0
Administrative support for core programs	1.9	3.7	37.6
Hazardous waste classification	1.5	—	8.0
Increase frequency of transporter inspections	1.3	—	8.0
Hazardous Waste Management Plan	1.2	—	7.0
California Environmental Quality Act review	0.3	—	2.0
Office of Environmental Equity	0.3	1.0	9.0
Administrative support for brownfield cleanups	—	12.9	73.5
Expand Safer Consumer Products Program	—	7.2	37.0
Subtotals	(\$16.1)	(\$33.4)	(260.1)
Totals	\$23.8	\$35.5	307.1

^a Activities funded with one-time General Fund in 2021-22.
 DTSC = Department of Toxic Substances Control; HWCA = Hazardous Waste Control Account; and TSCA = Toxic Substances Control Account.

Source: LAO

Major requests from HWCA include funding to improve inspections of hazardous waste generators and to enhance criminal enforcement investigations. The most significant proposals to be funded from TSCA include funding to administer brownfield cleanups and expand the Safer Consumer Products Program.

Proposals Consistent With Department’s Intended Expenditure Plan. Overall, the LAO finds that the Governor’s budget aligns with the expenditure plan provided to the Legislature last year. Specifically, the proposed activities, associated number of new staff, and corresponding costs are generally consistent with the information the Legislature used as the basis for approving HWCA and TSCA increases.

Need for New Cleanup Staff Will Diminish in Future Years Absent Additional Program Funding. The Governor’s budget includes ongoing funding from TSCA for staff to administer the new \$500 million brownfields cleanup program. While the workload for the proposed staffing levels is clear in the near term, the need for these positions will diminish in future years as the department completes investigation and cleanup contracts and ECRG projects. The LAO estimates that the department will encumber most of the \$500 million after five years, at which point the department will start to see a gradual decline in workload. Unless the Legislature provides comparable levels of additional funding for annual brownfield investigation and cleanup contracts and/or grants in future years, the need for the proposed staffing levels likely will begin to gradually phase out after five years.

LAO Recommendations. Approve DTSC Reform Implementation Proposals. The LAO recommends the Legislature adopt the Governor’s DTSC reform implementation proposals, given that they align with the expenditure plan provided to the Legislature last year and are consistent with the assumptions upon which the HWCA and TSCA funding increases were based. Approving these proposals will provide the department with additional resources that will better enable DTSC to enforce hazardous waste laws and clean up contaminated sites.

Monitor Implementation of Program Expansions and Brownfield Cleanups. The LAO recommends the Legislature use future budget hearings to conduct oversight on how the department is implementing these significant programmatic expansions. In addition to solving the structural deficits within HWCA and TSCA, the Legislature enacted the reform measures to ensure that high-priority programs and activities were adequately funded to improve DTSC’s outcomes. Continued monitoring of the department’s efforts will further ensure that DTSC is meeting its mission and achieving the Legislature’s goals. Moreover, such oversight would allow the Legislature to identify when changes—such as to staffing or funding levels, implementation strategies, or statutory requirements—for particular activities might be warranted to improve desired outcomes. Some examples of information the Legislature could request from the department include the average time DTSC takes to make hazardous waste facility permit decisions, the number of additional hazardous waste transporters the department is able to inspect, and the number of additional product-chemical combination investigations completed by the Safer Consumer Products Program.

In addition, the LAO recommends the Legislature track major outcomes from the brownfields cleanup funding. For instance, the Legislature will want to know how many sites the department was able to investigate and clean up, average time lines for completing projects, the number of ECRG projects funded with grants, the human and environmental benefits associated with these activities, and the communities that benefited from funding. Such information can help inform whether the Legislature should consider providing additional funding for cleanup activities—and associated staffing, as discussed next—in the future.

Revisit Staffing Levels in Future Years. The LAO recommends that the Legislature revisit the department’s staffing levels in future years to evaluate whether the approved level of positions are still needed for the same activities. In particular, we recommend the Legislature request annual updates beginning in 2024-25 regarding how much funding and workload remains from the \$500 million in brownfields funding to assess the degree to which the 79.5 staff and associated \$13.9 million are still needed to administer the program. Based on its assessment of the outcomes of the brownfields program and whether it finds merit in funding additional rounds of contracts and grants, the Legislature could consider one of the following options in future years when the \$500 million is largely expended:

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- Provide additional funding for brownfield cleanups and adjust TSCA funding for staffing levels commensurate to the new workload.
 - Reallocate some of the TSCA funding from staffing to instead be used for cleanup grants or contracts to sustain a continued but down-sized program.
 - Redirect the \$13.9 million in TSCA funding and the 79.5 associated staff from the brownfields cleanup program to a different DTSC priority activity.

Staff Recommendation. Hold open.

**3900 CALIFORNIA AIR RESOURCE BOARD (CARB)
3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
(OEHHA)****Issue 27: Racial Equity Proposals**

Governor's Proposal. The Governor's budget requests the following:

BCP: CARB: Operationalizing Racial Equity within CARB Programs, Plans, and Practices. \$1.847 million Air Pollution Control Fund (APCF), four permanent positions in 2022-23, and \$1.843 million APCF ongoing to advance racial equity efforts, with an initial focus on research, incentive programs, regulations, air quality planning, and climate change.

BCP: OEHHA: Advancing Racial Equity and Environmental Justice in OEHHA's Scientific Activities. requests \$565,000 General Fund and two positions (including \$90,000 in contracts) in 2022-23 and ongoing to create a new racial equity and environmental justice (REEJ) program. The program would formulate strategies and policies for advancing racial equity and environmental justice in OEHHA's scientific activities, including in the methods to assess the cumulative health risks that communities face from exposures to numerous pollutants from multiple sources.

Background. CalEPA Environmental Justice and Racial Equity. According to CalEPA, the principles of environmental justice call for fairness, regardless of race, color, national origin or income, in the development of laws and regulations that affect every community's natural surroundings. The agency has a vision statement on its commitment to racial equity. Each of CalEPA's boards, departments, and office have a designated Racial Equity Contact.

CalEPA Environmental Justice Program. The program covers disadvantaged communities designations, includes CalEnviroScreen, which is the state's environmental health screening tool that can be used to identify and address communities that are disproportionately burdened by multiple sources of pollution, and provides Environmental Justice Small Grants, which help community organizations and federally-recognized Tribal governments affected by environmental pollution and hazards.

CalEPA Environmental Justice Task Force. The Environmental Justice Task Force coordinates the compliance and enforcement work of CalEPA's boards, departments, and office in cares of California that are burdened by multiple sources of pollution and are disproportionately vulnerable to its effects. The Task Force's mission is to facilitate the use of environmental justice considerations in compliance and enforcement programs and enhance communications with community members to maximize benefits in disproportionately impacted areas. In 2016, the Task Force began received permanent funding through the 2016 Budget Act. The law created a mandate for CalEPA to continue its multi-agency compliance and enforcement approach and to give priority to disadvantaged communities.

CARB Office of Environmental Justice (OEJ). Part of the efforts put forth by CARB's OEJ is to advance racial equity, address environmental justice, inform community engagement, outreach, and partnership building.

CARB's Environmental Justice and Community Air Protection Program. CARB has a Deputy Executive Officer for Environmental Justice who oversees the board's Environmental Justice and Community Air Protection Program. As noted on the CARB website, the Deputy Executive Officer

“plays a key role in CARB’s programs designed to address disproportionate impacts from air pollution and climate change and associated chronic health conditions affecting Black, Latinx, and other communities of color across the state. She also serves as CARB’s primary internal and external contact for CARB on environmental justice, climate equity, and community air protection efforts.”

Staff Comments. A question arises as to whether the proposed racial equity programs and offices in these CalEPA organizations overlap existing efforts to address racial equity issues. Could the purpose of the proposals be incorporated in existing programs and organizations within CalEPA? Why does CARB need an office separate from the existing Office of Environmental Justice for these activities?

Staff Recommendation. Hold open.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

Issue 28: Compostable and Biodegradable Product Labeling Implementation (AB 1201)

Governor’s Proposal. The Governor’s proposal requests one permanent, full-time Environmental Scientist position, and \$132,000 from the Integrated Waste Management Account (IWMA) to implement AB 1201.

Background. AB 1201 (Ting), Chapter 504, Statutes of 2021, expands product-labeling requirements related to biodegradability and compostability from plastic products to all products regardless of material type.

Products labeled as compostable should biodegrade when subjected to environmental conditions found in a commercial composting operation. Many compostable products are currently made from bioplastic materials, meaning they are made from either plants or microbes rather than fossil fuels. Polylactic acid (PLAs) and starch-based blends are common bioplastics used to make products such as compostable coffee cups and lids. However, many products made from bioplastics are not acceptable inputs for organic agriculture under the US Department of Agriculture (USDA) National Organic Program (NOP) due to their production methods.

Under AB 1201, the composition of all compostable products, which includes the ink coloring, will need to be made from non-synthetic materials as defined by the NOP. Organic compost can only contain minerals, plants, and animal matter that has not undergone a synthetic process in accordance with 7 Code of Federal Regulations § 205.203 and 205.602. Additionally, the compost used in organic agriculture must improve soil organic matter content in a manner that does not contribute to the contamination of crops, soil, or water.

Staff Comments. On September 8, 2021, the author of AB 1201, Assemblymember Ting wrote a Letter to the Journal, stating:

AB 1201, as amended on September 3, 2021, expands the content and labeling requirements for compostable products. Among other things, it amends Section 42357 of the Public Resources Code to provide as follows:

“By January 1, 2024, the department, through a public stakeholder process, shall determine whether, for purposes of this section, it would be feasible to separate the collection of products in order to recover organic waste that is suitable for use in organic agricultural applications from the collection of products not suitable for use in organic agricultural applications. If the department determines that such bifurcation is feasible and would enable efficient processing by solid waste processing facilities, the department shall adopt regulations on or before January 1, 2026, to establish a bifurcated approach, and products that are not collected for the purpose of recovering organic waste that is suitable for use in organic agricultural applications shall comply with the department’s regulations and are not subject to the requirements of this subparagraph.”

This bill and this provision are designed to expand content and labeling requirements for compostable products, not adopt new regulations requiring a bifurcated organic waste collection and processing system.

It was brought to my attention, after the amendment deadline, that this language could be construed to invest CalRecycle with authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

It is not the intent of the Legislature that AB 1201, specifically the additions to Public Resources Code Section 42357(g)(1)(B), require CalRecycle to modify their newly-adopted organic waste recycling regulations and impose a completely new dual stream collection system for organic waste. The only intent of this provision was for CalRecycle's feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach *to product labeling*.

To the extent that AB 1201 could be construed to grant CalRecycle broader authority than outlined above, I am clarifying that the language in the bill is intended only for CalRecycle, after a public stakeholder process and a feasibility determination to focus its efforts on establishing a bifurcated approach to product labeling, and does not provide authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

I commit that in 2022, I will seek to amend this statute to clarify this intent and address this unintended consequence of AB 1201.

In addition, the definition of "desirable organic wastes" in section 42357(g)(1)(E) of the Public Resources Code is meant to include reduces which are intentionally collected by local governments and private solid waste service providers who provide organic waste collection services to residential and commercial customers in the state. Products associated with the recovery of desirable organic wastes would include compostable bin liners for the collection of yard trimmings or other green materials, food scraps, foodservice packaging that will be collected with uneaten food, and produce stickers, but would not include packaging for organic wastes that are generally not allowed in residential compost program, including pet waste.

Concern has been raised that this BCP is not consistent with the legislation passed last year and the accompanying Letter to the Journal. For example, the BCP states, "Upon determining that it is feasible to bifurcate the collection of organic waste products, the requested staff resources will organize stakeholder working groups, hold public meetings, and promulgate regulations for a bifurcated organic waste collection system." (*Emphasis added.*). The BCP also states, "Compostable product manufacturers will need assistance on permissible materials and compounds acceptable in California. Local jurisdictions, cities, counties, and their various waste collection programs will need ongoing support and review to ensure proper bifurcation of acceptable compostable products." (*Emphasis added.*) As noted in the Letter to Journal, "It is not the intent of the Legislature that AB 1201...require CalRecycle to modify their newly-adopted organic waste recycling regulations and impose a new dual stream collection system for organic waste. The only intent of this provision was for CalRecycle's feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach *to product labeling*."

This issue needs to be sorted out before approving funding to implement AB 1201.

Staff Recommendation. Hold Open.