

**Senator Bob Wieckowski, Chair**  
**Senator Brian W. Jones**  
**Senator Mike McGuire**  
**Senator William W. Monning**  
**Senator Henry I. Stern**



**Thursday, March 21, 2019**  
**9:30 a.m. or upon adjournment of session**  
**State Capitol - Room 112**

Consultant: Joanne Roy

## **OUTCOMES**

<u><b>Issue</b></u>	<u><b>Department</b></u>	<u><b>Page</b></u>
---------------------	--------------------------	--------------------

## **VOTE-ONLY CALENDAR**

<b>3970</b>	<b>DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)</b> .....	<b>4</b>
Issue 1:	Information Security Office Staffing <b>5-0</b>	
Issue 2:	2020 Statewide Waste Characterization Study <b>4-1 (Jones - No)</b>	
Issue 3:	Administrative Support Workload <b>4-1 (Jones - No)</b>	
<b>3940</b>	<b>STATE WATER RESOURCES CONTROL BOARD (SWRCB)</b> .....	<b>5</b>
Issue 4:	Bond Technical Adjustments <b>5-0</b>	
Issue 5:	Lead Exposure: Child Day Care Facilities (AB 2370) <b>5-0</b>	
Issue 6:	Timber Regulation and Forest Restoration Local Assistance Program <b>5-0</b>	

## ISSUES FOR DISCUSSION

<b>0555</b>	<b>CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)</b> .....	<b>7</b>
Issue 7: Various Technical Adjustments <b>Held open</b>		
Issue 7a: Various Technical Adjustments: AB 617 <b>5-0 (Rejected without prejudice)</b>		
<b>3980</b>	<b>OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA)</b> .....	<b>11</b>
Issue 8: Environmental Health Support for Communities (AB 617) <b>Held open</b>		
<b>3970</b>	<b>DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)</b> .....	<b>13</b>
Issue 9: Food Service Packaging (SB 1335) <b>4-1 (Jones - No)</b>		
Issue 10: Pharmaceutical and Sharps Waste Stewardship Program <b>5-0</b>		
<b>3930</b>	<b>DEPARTMENT OF PESTICIDE REGULATION (DPR)</b> .....	<b>16</b>
Issue 11: Pesticides: Schoolsites (AB 2816) <b>Held open</b>		
Issue 12: Information Security Team <b>Held open</b>		
<b>3960</b>	<b>DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)</b> .....	<b>19</b>
Issue 13: Increased Exide Residential Cleanup Costs <b>Held open</b>		
Issue 14: Acceleration of Additional Cleanup from Exide Technologies Facility <b>Held open</b>		
<b>3940</b>	<b>STATE WATER RESOURCES CONTROL BOARD (SWRCB)</b> .....	<b>26</b>
<b>4265</b>	<b>CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (DPH)</b> .....	<b>26</b>
Issue 15: Increased Drinking Water Laboratory Services <b>4-0 (Jones not voting)</b>		
<b>3940</b>	<b>STATE WATER RESOURCES CONTROL BOARD (SWRCB)</b> .....	<b>27</b>
Issue 16: Administrative Hearings Office (AHO) (AB 747) <b>4-0 (Jones not voting)</b>		
Issue 17: Drinking Water System Sanitary Survey <b>4-0 (Jones not voting)</b>		
Issue 18: Microplastics in Drinking Water: Testing in Drinking Water (SB 1422) <b>4-0 (Jones not voting)</b>		
Issue 19: Nonpotable Reuse Water Systems (SB 966) <b>4-0 (Jones not voting)</b>		
Issue 20: Sewer Service Provision for Disadvantaged Communities (SB 1215) <b>4-0 (Jones not voting)</b>		
Issue 21: State Administrators Consolidation (AB 2501) <b>4-0 (Jones not voting)</b>		
Issue 22: Wildfire Prevention and Recovery Legislation: Review of Timber Harvest Plan Exemptions and Utility Corridor Vegetation Management Permitting (SB 901) <b>Held open</b>		
Issue 23: Orphan Site Cleanup Fund Grants <b>4-0 (Jones not voting)</b>		

<b>8570</b>	<b>DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)</b> .....	<b>37</b>
Issue 24:	Turlock North Valley Animal Health Laboratory Replacement	<b>4-0 (Jones not voting)</b>
Issue 25:	California Biodiversity Initiative	<b>Held open</b>
Issue 26:	Citrus Pest and Disease Prevention Program Resources	<b>4-0 (Jones not voting)</b>
Issue 27:	Various Technical Adjustments	<b>Held open</b>
Issue 27a:	Various Technical Adjustments: Mountain Pass Border Protection Station Operations Expansion	<b>Held open</b>
Issue 27b:	Various Technical Adjustments: Office of Information Technology Services Infrastructure	<b>Held open</b>
Issue 27c:	Various Technical Adjustments: Development of Pesticide Alternatives	<b>Held open</b>
Issue 27d:	Various Technical Adjustments: Industrial Hemp Positions	<b>Held open</b>
Issue 27e:	Various Technical Adjustments: Organic Waste Management	<b>Held open</b>
Issue 28:	Deferred Maintenance	<b>4-0 (Jones not voting)</b>
<b>3940</b>	<b>STATE WATER RESOURCES CONTROL BOARD (SWRCB)</b> .....	<b>51</b>
<b>8570</b>	<b>CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)</b> .....	<b>51</b>
Issue 29:	Safe and Affordable Drinking Water (SADW) – Budget Change Proposal (BCP) and Trailer Bill Language (TBL)	<b>Held open</b>

*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) 651-1505. Requests should be made one week in advance whenever possible.*

## VOTE-ONLY CALENDAR

### 3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CalRecycle)

#### Issue 1: Information Security Office Staffing

**Governor's Proposal.** The Governor's budget proposes \$304,000 various special funds and two permanent, full-time positions to respond to increasing state information security mandates and to address the increased workload of security audits.

CalRecycle requests these positions to do the following:

- Develop and manage information securing infrastructure, policies, and programs.
- Manage information security systems to block cyber intrusion attempts, reconfigure software in response to incidents, coordinate information security actions with sister agencies, and combat and remediate ongoing social engineering (phishing) and other cybersecurity attacks;
- Meet new state security-related oversight and workload requirements.
- Perform required testing and refinement of the department Technology Recovery Plan to ensure the ability of the CalRecycle to recover from an interruption to information technology services, whether caused by a cyber-attack, or other event.

**Staff Recommendation.** Approve as budgeted.

#### Issue 2: 2020 Statewide Waste Characterization Study

**Governor's Proposal.** The Governor's budget proposes \$985,000 Integrated Waste Management Account for a waste characterization study during calendar year 2020. Of the total, \$715,000 is to characterize and quantify the types and amounts of materials disposed in processing, transfer, and disposal facilities statewide, and \$270,000 is to characterize and quantify the types and amounts of targeted materials generated by targeted sectors.

**Staff Recommendation.** Approve as budgeted.

#### Issue 3: Administrative Support Workload

**Governor's Proposal.** The Governor's budget proposes \$241,000 various special funds and two permanent positions to meet increased workload in the Human Resource Program to administer the hiring and recruitment program for increased staffing needs and to ensure fair and equal hiring.

**Staff Recommendation.** Approve as budgeted.

**3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)****Issue 4: Bond Technical Adjustments**

**Governor's Proposal.** The Governor's budget proposes technical bond adjustments including new appropriations, re-appropriations, reversions, and re-directions for various bond-funded programs. These technical adjustments are critical to meet the expectation that voter-approved bond funds will be provided to municipalities, local agencies and nonprofit organizations to provide safe drinking water and support local water quality programs.

**Staff Recommendation.** Approve as budgeted.

**Issue 5: Lead Exposure: Child Day Care Facilities (AB 2370)**

**Governor's Proposal.** The Governor's budget proposes one permanent full-time position, and \$350,000 in General Fund to do the following: (1) collaborate with the Department of Social Services in the development of lead regulations for day care facilities, develop and implement guidance documents for day care facilities, parents and staff for sampling protocol, create means for the electronic submittal of lead data and provide a response to lead level exceedances; (2) create a database for day care facilities, review facilities that have not reported lead levels to the SWRCB database or that have elevated lead levels and convey said information to the Department of Social Services. Determine if missing data results from non-compliance with sampling requirements, data entry issues, or problems with reporting the data, or if sampling and reporting is scheduled by the end of the sampling period. Ensure Environmental Laboratory Accreditation Program certified laboratories are used to run lead analyses and data is electronically submitted to SWRCB database; and (3) ensure compliance for all day care facilities and respond appropriately for facilities that exceed appropriate lead standards.

**Staff Recommendation.** Approve as budgeted.

**Issue 6: Timber Regulation and Forest Restoration Local Assistance Program**

**Governor's Proposal.** The Governor's budget proposes continued spending authority of \$1 million from the Timber Regulation and Forest Restoration Fund (TRFRF), for fiscal year 2019-20 for local assistance grants to implement forest restoration as provided for in AB 1492 (Blumenfield), Chapter 289, Statutes of 2012). These funds are requested with a three-year encumbrance period.

**Background.** *AB 1492 (Blumenfield).* AB 1492 established the Timber Regulation and Forest Restoration Program with goals that include creating a funding source for the restoration of the state's forested lands, promoting restoration of fisheries and wildlife habitat, improving water quality and promoting restoration and management of forested landscapes consistent with the California Global Warming Solutions Act of 2006 (AB 32 (Núñez), Chapter 488, Statutes of 2006).

The major responsibilities under the AB 1492 Timber Regulation and Forest Restoration Program are categorized under five key components:

- Timber Harvest Document Review, Approval and Enforcement
- Administrative Accountability, Efficiency and Transparency
- Data and Monitoring
- Ecological Performance Measures
- Forest Restoration Grants

A one percent fee on lumber and other wood products sold in California generates revenue deposited into the TRFRF and funds the activities of the program. SWRCB provides local assistance grants for forest restoration efforts - efforts that include water quality improvement projects. These funds are administered in conjunction with and generally use the same staff resources as the existing Clean Water Act Section 319 grant program. SWRCB administers the grant program using existing staff resources and no new positions are requested in this proposal.

**Grant Award History Fiscal Year 2015/16 – 2018/19**

<b>Grant Category</b>	<b>Number of Projects Funded</b>	<b>Total Funds</b>
Fire prevention/Post Fire Recovery	8	\$3,384,355
Sediment Control	6	\$3,531,211
Habitat Restoration	2	\$990,228
<b>Grand Total</b>	<b>16</b>	<b>\$7,905,794</b>

**Staff Recommendation. Approve as budgeted.**

## ITEMS FOR DISCUSSION

### 0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY (CALEPA)

#### OVERVIEW

According to the Department of Finance (DOF), CalEPA programs reduce greenhouse gas emissions, restore and protect environmental quality, and protect public health. The Secretary coordinates the state's environmental regulatory programs and ensures fair and consistent enforcement of environmental law, which safeguards the state's residents and promotes the state's economic vitality.

CalEPA has \$4.2 billion worth of expenditures, which does not include federal funds, certain non-governmental cost funds, or reimbursements. The following is a breakdown of each department's portion of CalEPA's budget (state funds):

- |                                                  |              |
|--------------------------------------------------|--------------|
| • Air Resources Board                            | 27.3 percent |
| • Department of Pesticide Regulation             | 2.5          |
| • Department of Resources Recycling and Recovery | 37.1         |
| • Department of Toxic Substances Control         | 7.4          |
| • State Water Resources Control Board            | 24.6         |
| • Other                                          | 1.0          |

The following table reflects positions and expenditures for each department in CalEPA for the budget year. State funds reflect total General Fund, special funds, and selected bond funds. Total funds include state funds, federal funds, other non-governmental cost funds, and reimbursements.

Code	Departments	Positions	Total State Funds (Dollars in thousands)	Total All Funds (Dollars in thousands)
0555	Environmental Protection, Secy	69.4	\$17,399	\$22,160
3900	Air Resources Board	1,542.40	\$1,158,367	\$1,185,088
3930	Department of Pesticide Regulation	378.3	\$106,645	\$109,626
3940	State Water Resources Control Board	2,129.50	\$1,044,712	\$1,419,592
3960	Department of Toxic Substances Control	953.8	\$313,220	\$363,055
3970	Resources Recycling and Recovery	723	\$1,574,685	\$1,578,413
3980	Environmental Health Hazard Assessment	132.9	\$23,701	\$27,862
3996	General Obligation Bonds-Environmental	-	\$3,330	\$3,330
<b>Totals, Positions and Expenditures</b>		<b>5,929.30</b>	<b>\$4,242,059</b>	<b>\$4,709,126</b>

**Issue 7: Various Technical Adjustments**

**Governor’s Proposal.** The Governor’s budget proposes for various technical adjustments, reappropriations, and baseline appropriation adjustments to continue implementation of previously authorized programs.

**Staff Comments.** As noted by the Legislative Analyst’s Office (LAO), several proposals lack typical support information, lacking detailed explanation and sufficient workload justification. This budget change proposal (BCP) may be considered one of them, which includes 14 proposals totaling \$29 million and six new positions. One proposal of note in this BCP relates to AB 617 implementation, which is included in this agenda immediately below (Issue 7a).

Although the Administration has been forthcoming in providing information when asked about specific proposals within a consolidated BCP, this information is not as readily available to the public as it would normally have been had it been posted on the Department of Finance’s website along with other BCPs.

**Staff Recommendation.** Hold open (not including Issue 7a).

**Issue 7a: Various Technical Adjustments: AB 617**

**Governor’s Proposal.** Within the CalEPA BCP for “Various Technical Adjustments,” the Governor’s budget proposes \$4.158 million Greenhouse Gas Reduction Fund to support 22 existing positions and three new Human Resources positions to continue the implementation of AB 617 (C. Garcia), Chapter 136, Statutes of 2017.

The Governor proposes \$3.8 million to extend funding for 22 Air Resources Board (ARB) positions that were also approved in 2017-18, but on a two-year limited-term basis. The Governor’s proposal would extend funding for these 22 positions for an additional three years. Four positions would work on the Technology Clearinghouse and 18 positions would work on selecting communities for future action. The proposal also provides \$405,000 to add three new permanent human resources positions.

**Background.** *Air Quality Regulation Divided Between ARB and Regional Air Districts.* In California, ARB and 35 regional air pollution control and air quality management districts (air districts) share responsibility for the regulation of air quality. Historically, regulatory efforts have largely focused on reducing “criteria” pollutants that affect regional air quality, such as nitrogen oxides that contribute to smog. Regional air districts generally manage the regulation of *stationary sources* of pollution (such as factories) and prepare regional implementation plans to achieve compliance with federal and state air quality standards. ARB is responsible primarily for the regulation of *mobile sources* of pollution (such as cars and trucks) and for the review of regional air district programs and plans. (Regional air districts also administer some mobile source incentive programs.) Over the last few decades, the state has also developed various programs intended to reduce local toxic air pollution—such as diesel particulate matter and hexavalent chromium—and global pollution that contributes to climate change, such as carbon dioxide.

**AB 617 Established a New Program Focusing on Heavily Polluted Communities.** Passed in 2017, AB 617 made a variety of changes that are intended to help monitor and reduce criteria and toxic air



pollutants that have adverse effects on heavily polluted communities. Importantly, these changes focus on pollution at the *community* level, rather focusing primarily on *global* or *regional* effects. Community-level effects include the cumulative pollution from regional criteria pollutants, as well local toxic air pollutants. The changes are implemented by both ARB and air districts, in consultation with community groups and other state agencies. The major requirements and implementation time frames include:

- ***Community Air Monitoring Systems.*** AB 617 required ARB, by October 1, 2018, to (1) develop a statewide plan for monitoring community air pollution, and (2) select the highest priority locations to deploy monitoring systems, based on their exposure to toxic and criteria pollutants. The purpose of the statewide monitoring plan is to provide guidance to air districts that will be deploying the monitoring systems in the selected communities. Once the initial communities (also known as “first year” communities) are selected, air districts must deploy the monitoring systems in those communities by July 1, 2020. Each year thereafter, ARB must select additional communities to deploy monitoring systems, as it deems appropriate, and the regional air districts must deploy systems in those communities within one year.
- ***Community Emission Reduction Plans.*** AB 617 also required ARB to develop, by October 1, 2018, a statewide strategy to reduce toxic and criteria emissions in communities with high pollution, and to update the strategy every five years. As part of the statewide strategy, ARB is also required to select communities with high cumulative exposure to air pollutants that will develop emission reduction programs (also known as first year communities). Within one year of selecting the communities, air districts—in consultation with local community groups and other stakeholders—must develop community emission reduction plans for each selected community and submit them to ARB for review. The plans must include emission reduction targets, specific reduction measures, a schedule for implementation, and an enforcement plan. ARB must select additional communities for emission reduction plans annually thereafter, as it deems appropriate.
- ***Other AB 617 Changes.*** AB 617 made a variety of other changes to air quality monitoring and regulation, including requirements that (1) ARB establish a uniform statewide system of reporting annual emissions of criteria pollutants from stationary sources, (2) ARB establish a clearinghouse that identifies best available technologies for pollution control, and (3) air districts adopt expedited schedules for requiring industrial facilities that are subject to the state’s cap-and-trade regulation to install updated pollution control technologies if they have not done so since 2007. It also required ARB to provide grants to community-based organizations for technical assistance and to support community participation in the AB 617 process.

**LAO Comments. *Funding to Extend 22 ARB Positions Lacks Adequate Justification.*** At the time of LAO’s report, “The 2019-20 Budget: Natural Resources and Environmental Protection” (February 14, 2019), ARB had not provided adequate information to justify the proposed \$3.8 million to extend funding for the above 22 positions. The proposal was originally submitted as part of a group of “technical” changes for California Environmental Protection Agency departments, with no description of the proposed activities or workload justification. Subsequently, after LAO requested information, ARB submitted a description of the type of AB 617 activities it will be conducting, plus workload information for the three new positions. However, for the 22 existing positions the information provided does not include a quantification of the amount of workload that the positions would complete, such as the estimated number of staff hours needed to complete different AB 617 activities. As a result, it is unclear how many positions will be needed to perform the work.

In 2017-18, the Legislature originally approved 22 of the 72 positions on a limited-term basis because AB 617 was a new program and there was significant uncertainty about ongoing workload. It was unclear how ARB's staffing needs would change as program activities transitioned from initial regulatory development to program implementation, much of which is done by local air districts. For example, ARB has now developed a statewide strategy and guidance for air monitoring systems and emission reduction plans, but the implementation of monitoring and emission reduction activities largely will be done by air districts and local communities. The information provided by the Administration so far does not adequately explain why the 22 positions are still needed as ARB's AB 617 responsibilities and workload evolve.

**LAO Recommendations. *Reject ARB Proposal to Extend Limited-Term Funding for 22 Positions.***

LAO does not have concerns with the vast majority of the Administration's proposed funding to continue implementation of AB 617. However, LAO recommends the Legislature reject the proposed \$3.7 million to extend ARB funding for 22 positions. At the time of LAO's report, there was inadequate workload justification to support the requested funding. If the Administration provides additional workload information in the coming months, the LAO will review the information and update the Legislature accordingly. The LAO notes that even under its recommendation to reject these positions, ARB would still retain funding for 50 positions approved in the 2017-18 budget on an ongoing basis, plus three new positions.

**Staff Recommendation. *Reject without prejudice.***

---

**3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA)**

---

**OVERVIEW**

OEHHA is the lead state agency for the assessment of health risks posed by environmental contaminants. OEHHA's mission is to protect human health and the environment through scientific evaluation of risks posed by hazardous substances. OEHHA provides scientific evaluations that inform, support and guide regulatory decisions and other actions. OEHHA performs risk assessments for various regulatory programs under CalEPA, as well as other state and local agencies, and provides these programs with the scientific tools and information upon which to base risk management decisions. Distinct programs focus on assessing health risks, including risks to children and other sensitive subpopulations, from exposure to chemicals in air, drinking water, food, pesticides, consumer products, hazardous and municipal waste facilities, fish and shellfish, and sediments in bay and estuarine waters. OEHHA also evaluates community pollution burdens and vulnerabilities that guide the state's efforts to invest in disadvantaged communities.

Among its various responsibilities, OEHHA implements the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, and compiles the state's list of substances that cause cancer or reproductive harm. OEHHA also develops health-protective exposure levels for contaminants in air, water, and soil as guidance for regulatory agencies and the public. These include health goals for contaminants in drinking water and both cancer potency factors and non-cancer reference exposure levels for the Air Toxics Hot Spots Program.

OEHHA's total amount of expenditures in 2018-19 is \$28.12 million with a proposed decrease in 2019-20 to \$27.86 million. OEHHA's total number of positions in 2018-19 is 125.4 positions with a proposed increase in 2019-20 to 132.9 positions.

**Issue 8: Environmental Health Support for Communities (AB 617)**

**Governor's Proposal.** The Governor's budget proposes \$982,000 in Greenhouse Gas Reduction Fund (GGRF) (including \$350,000 for contracts) and four permanent positions to support the Air Resources Board (ARB), local air districts, and impacted communities to implement AB 617 (C. Garcia), Chapter 136, Statutes of 2017.

AB 617 requires ARB, in consultation with OEHHA and other specified entities, to prepare a plan for the deployment of community air monitoring systems in high priority locations throughout the state and to develop a strategy to reduce emissions of air contaminants in burdened communities. The requested OEHHA staff and contract funds are intended to provide: (1) expertise in the interpretation of potential health effects that may result from exposures to air toxics observed through the air quality monitoring data, and the benefits in reducing emissions of those pollutants; (2) for the development of health guidance values needed to fully analyze the health effects and the benefits of reducing emissions of those pollutants; and (3) for the design and implementation of targeted biomonitoring studies to track exposures in communities.

**Background.** *AB 617 (C. Garcia).* AB 617 identifies OEHHA, along with other entities as consultants to ARB, for the development of both the community monitoring plan and the statewide emissions reduction strategy. OEHHA initially anticipated providing only a modest level of consultation that would require no additional resources. However, as the bill's implementation has progressed, ARB has recognized the concerns of local air districts and environmental justice organizations that have emphasized the importance of considering health impacts in the bill's activities.

OEHHA's core expertise is in evaluating the health impacts of environmental pollutants, and it has become apparent that OEHHA will need to provide a substantially higher level of consultation than originally anticipated. OEHHA is proposed to provide expert advice on the health implications of air monitoring studies and the health benefits of alternative emissions reduction strategies and activities.

Thus far, OEHHA has devoted existing resources to provide input to ARB in the development of its proposed community selection process, monitoring plan, and statewide strategy in 2017-18. OEHHA has primarily drawn on its experience in developing a statewide screening tool to identify cumulatively impacted communities (CalEnviroScreen) in providing advice regarding selection of priority locations. OEHHA has also supported ARB's public process by participating in regional workshops, and convening a meeting of Biomonitoring California's Scientific Guidance Panel to discuss ways to support AB 617 activities. ARB selected ten first-year communities in September 2018. The implementation of the air monitoring programs by the districts with selected communities is required to occur by July 1, 2019.

**Staff Recommendation.** Hold open.

**3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)****OVERVIEW**

CalRecycle protects public health, safety, and the environment by regulating solid waste facilities, including landfills, and promoting recycling of a variety of materials, including organics, beverage containers, electronic waste, waste tires, used oil, carpet, paint, mattresses, and other materials. CalRecycle also promotes the following waste management and recycling practices: (1) source reduction, (2) recycling and composting, and (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, public awareness, education, market development to promote recycling industries, and technical assistance to local agencies.

The following table reflects CalRecycle's positions and expenditures for past, current, and budget years:

**3-YEAR EXPENDITURES AND POSITIONS**

		<b>Positions</b>			<b>Expenditures</b>		
		<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2017-18*</b>	<b>2018-19*</b>	<b>2019-20*</b>
3700	Waste Reduction and Management	368.8	349.9	361.9	\$315,141	\$504,149	\$232,411
3705	Loan Repayments	-	-	-	-6,306	-3,501	-4,786
3710	Education and Environment Initiative	7.8	10.1	11.1	1,450	4,690	2,785
3715	Beverage Container Recycling and Litter Reduction	217.5	226.0	234.0	1,339,684	1,357,205	1,348,003
9900100	Administration	86.7	109.0	116.0	14,200	17,487	18,030
9900200	Administration - Distributed	-	-	-	-14,200	-17,487	-18,030
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>		<b>680.7</b>	<b>695.0</b>	<b>723.0</b>	<b>\$1,649,969</b>	<b>\$1,862,543</b>	<b>\$1,578,413</b>

*\*Dollars in thousands*

**Issue 9: Food Service Packaging (SB 1335)**

**Governor’s Proposal.** The Governor’s budget proposes \$152,000 Integrated Waste Management Fund and one permanent full-time position to implement the Sustainable Packaging for the State of California Act of 2018 (SB 1335 (Allen), Chapter 6, Statutes of 2018).

**Background. *SB 1335 (Allen).*** SB 1335 requires CalRecycle to promulgate regulations and establish a process for determining whether food service packaging is reusable, recyclable, or compostable. SB 1335 also requires CalRecycle to conduct ongoing evaluations of food service packaging, which will include analysis of materials and products’ performance at end-of-life, assessment of recycling and composting infrastructure and markets, review of various records, technical standards and tests, and extensive consultation with stakeholders and state agencies. CalRecycle is required to publish a list of food service packaging products used by state-owned food facilities on its website. CalRecycle anticipates conducting rulemaking every three to four years to update the list pursuant to the implementation of its evaluation process.

SB 1335 requires CalRecycle to develop criteria via regulations to define reusability, recyclability, and compostability of food service packaging and to publish a list of acceptable food service packaging products used by state-owned food facilities on its website.

***Ocean Pollution.*** According to the Ocean Protection Council, ocean litter, also commonly referred to as “marine debris,” is a persistent and growing problem worldwide that significantly impacts the health and beauty of oceans and beaches.

According to the National Oceanic and Atmospheric Administration, approximately 80 percent of marine debris comes from land-based sources, with food and beverage packaging making up the largest component of that debris. These food and beverage containers can enter the marine environment in several ways: through inefficient or improper waste management, intentional or accidental littering, and through stormwater runoff. Once in the marine environment, it can damage habitats, harm wildlife through entanglement and digestion, and have negative economic impacts on coastal communities. Scientific research shows that debris in oceans is increasing at an alarming rate.

***Solid Waste Diversion Goals.*** An estimated 35 million tons of waste are disposed of in California’s landfills annually. CalRecycle is tasked with diverting at least 75 percent of solid waste from landfills statewide by 2020. Local governments have been required to divert 50 percent of the waste generated within the jurisdiction from landfill disposal since 2000.

**Staff Recommendation. Approve as budgeted.**

**Issue 10: Pharmaceutical and Sharps Waste Stewardship Program**

**Governor's Proposal.** The Governor's budget proposes \$1.4 million Pharmaceutical and Sharps Stewardship Fund (PSSF) and 10 positions, and \$1.2 million ongoing beginning in 2022-23 to implement SB 212 (Jackson), Chapter 1004, Statutes of 2018.

This proposal includes a loan of \$1.8 million from the Electronic Waste Recovery and Recycling Account to the PSSF. This loan would provide adequate cash flow to support all direct appropriations charging to the fund until the administrative fee authorized by SB 212 can be collected by CalRecycle.

**Background. *SB 212 (Jackson).*** SB 212 requires covered entities (pharmaceutical and sharps manufacturers, distributors licensed as wholesalers, repackagers, licensees of trademarks or brands, and importers) to establish a pharmaceutical and sharps extended producer responsibility program. This private-sector approach would establish a Pharmaceutical and Sharps Program for the proper end-of-life management of covered drugs and home-generated sharps waste.

***Environmental Contamination.*** There are two general sources of pharmaceutical contamination in the environment: human excretion and disposal. Estimates suggest that 3 to 50 percent of prescriptions become waste. US hospitals and long-term care facilities annually flush approximately 250 million pounds of unused pharmaceuticals down the drain.

A study conducted by the US Geological Survey (USGS) from 1999-2000 sampled 139 streams across 30 states and found that 80 percent had measurable concentrations of drugs, steroids, and reproductive hormones. Since the USGS released its report in 2002, a number of studies have demonstrated the low-level presence of pharmaceutical agents throughout the environment.

***Medical Sharps.*** An estimated one million Californians inject medications outside traditional health care facilities, which generate approximately 936 million sharps each year that then need to be properly disposed. According to statistics from CalRecycle, 43 percent of all self-injectors throw needles in the trash.

**Staff Recommendation. Approve as budgeted.**



## 3930 DEPARTMENT OF PESTICIDE REGULATION (DPR)

**OVERVIEW.** DPR regulates pesticide sales and use and fosters reduced-risk pest management. DPR ensures compliance with pesticide laws and regulations through its oversight of County Agricultural Commissioners, who enforce pesticide laws and regulations at the local level.

**Department of Pesticide Regulation Fund.** Below is a table reflecting the fund condition statement for the DPR Fund.

	2017-18*	2018-19*	2019-20*
<b>0106 Department of Pesticide Regulation Fund<sup>5</sup></b>			
BEGINNING BALANCE	\$20,292	\$14,447	\$7,396
Adjusted Beginning Balance	\$20,292	\$14,447	\$7,396
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4121200 Delinquent Fees	235	425	425
4127400 Renewal Fees	16,062	16,175	16,363
4129200 Other Regulatory Fees	81,505	82,624	87,346
4129400 Other Regulatory Licenses and Permits	2,263	2,263	2,385
4140000 Document Sales	1	1	1
4143500 Miscellaneous Services to the Public	3	3	3
4163000 Investment Income - Surplus Money Investments	202	445	468
4170700 Civil and Criminal Violation Assessment	2,000	2,000	2,000
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	1	5	5
4172500 Miscellaneous Revenue	3	3	3
Total Revenues, Transfers, and Other Adjustments	\$102,275	\$103,944	\$108,999
Total Resources	\$122,567	\$118,391	\$116,395
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
Expenditures:			
0555 Secretary for Environmental Protection (State Operations)	998	1,023	1,023
3900 Air Resources Board (State Operations)	481	46	45
3930 Department of Pesticide Regulation (State Operations)	71,074	72,312	72,299
3930 Department of Pesticide Regulation (Local Assistance)	28,850	29,822	31,532
3960 Department of Toxic Substances Control (State Operations)	550	54	54
3970 Department of Resources Recycling and Recovery (State Operations)	79	196	127
3980 Office of Environmental Health Hazard Assessment (State Operations)	1,972	2,225	2,240
4265 Department of Public Health (State Operations)	320	328	328
8880 Financial Information System for California (State Operations)	92	8	-18
8885 Commission on State Mandates (Local Assistance)	50	65	65
9892 Supplemental Pension Payments (State Operations)	-	780	600
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	3,654	4,136	3,773
Total Expenditures and Expenditure Adjustments	\$108,120	\$110,995	\$112,068
FUND BALANCE	\$14,447	\$7,396	\$4,327
Reserve for economic uncertainties	14,447	7,396	4,327

Subcommittee staff notes that this fund condition statement, which is a significant majority of the department's budget, shows projected decreases in the fund balance/reserve for economic uncertainties in the current and budget years.



**Issue 11: Pesticides: Schoolsites (AB 2816)**

**Governor's Proposal.** The Governor's budget proposes one permanent Environmental Scientist position and \$136,000 DPR Fund annually for two years to implement AB 2816 (Muratsuchi), Chapter 720, Statutes of 2018, which requires DPR to submit a report to the Legislature, by January 1, 2021, to evaluate the implementation and the effect of the implementation of the Healthy Schools Act (HSA) and provide recommendations to improve the implementation and efficacy of the HSA.

**Background. *Pests in Schools.*** Pests such as insects, rodents, fungi, and weeds can affect the school environment and the people who work and learn there. While pests can be found in many places in and around schools, common habitats for pests include cafeterias, classrooms, lockers, gyms, locker rooms, dumpsters, landscapes, and athletic fields. Pests can cause human health problems, structural damage, and plant damage.

**AB 2816 (*Muratsuchi*).** AB 2816 requires DPR, on or before January 1, 2021, to submit a report to the Legislature that 1) evaluates the implementation, and the effect of the implementation, of the provisions of the Healthy Schools Act of 2000, and 2) provides recommendations on improving the implementation and efficacy of the Healthy Schools Act of 2000. The bill authorizes the DPR to consult, as appropriate, with relevant local, state, or federal agencies, stakeholders, and experts in the preparation of the report.

***Healthy Schools Act of 2000 (HAS).*** AB 2260 (Shelley), Chapter 718, Statutes of 2000, established the HAS, which provides that it is the policy of the state for the least toxic pest management practices be the preferred method of managing pests at schoolsites in order to reduce children's exposure to toxic pesticides. The HSA established a process for notifying school staff and parents or guardians of pesticide use, including through posting warning signs at schoolsites 72 hours prior to pesticide application and through an annual written notification. Schools are required to keep records of pesticide use for four years. AB 2260 also required the DPR to assist schools in the development of Integrated Pest Management (IPM) programs that include a model program guidebook, resources provided through the DPR's Internet Web site, and a training program.

***IPM.*** Under the HSA, IPM is defined as a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using non-chemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls.

**Staff Recommendation. Hold open.**

**Issue 12: Information Security Team**

**Governor’s Proposal.** The Governor’s budget proposes \$446,000 DPR Fund and three positions in 2019-20 and \$646,000 for ongoing costs annually thereafter. These resources will support additional information technology security and administrative needs.

**Background.** According to the department, DPR’s mission is to protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management. To support this mission, DPR has a number of critical information systems including a large amount of sensitive data.

In 2017, the California Office of Information security implemented the California Compliance and Security Incident Reporting System (Cal-CSIRS). Cal-CSIRS includes a comprehensive risk management and compliance tool used to guide the evaluation of departmental applications against the National Institute of Standards and Technology 800-53 information security framework. The evaluation tool contains over 700 criteria, known as “controls,” that are individually evaluated against all state applications. All deficient controls require remediation, long-term support/maintenance, and re-reporting.

DPR implemented an enterprise security vulnerability scanner in 2018. Scans are performed on a monthly basis. In June 2018, the scanner identified over 49,000 vulnerabilities, including over 13,000 critical vulnerabilities, which require remediation. Additionally, new vulnerabilities and exploits are detected every day, and DPR requires staff to support the remediation of those items.

**Staff Recommendation. Hold open.**

## 3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)

### OVERVIEW

**DTSC: Three Major Program Areas.** DTSC's mission is to protect public health and the environment from toxic harm by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products. DTSC has approximately 900 scientists, engineers, toxicologists, chemists, geologists, attorneys, criminal investigators, and administrative staff. DTSC employees are geographically located in Sacramento headquarters and nine offices throughout the state, and in two environmental chemistry laboratories located in Berkeley and Pasadena. DTSC operations fall under three major program areas:

1. ***Site Mitigation and Brownfields Reuse Program.*** This program implements the state's laws regarding site cleanup and the federal Superfund program. The program currently oversees approximately 1,170 hazardous substance release site investigations and cleanups, known as US EPA National Priorities List (NPL) sites. The program also monitors long-term operations and maintenance activities at more than 470 sites where the cleanup process is complete. Additionally, the program is responsible for ensuring compliance with the terms of approximately 820 land-use restrictions in place on properties throughout the state. This program is responsible for the cleanup and restoration of contaminated sites throughout the state; including legacy landfills (e.g., Stringfellow Acid Pits and the BKK Landfill), the Santa Susana Field Lab, military bases, former industrial properties, and school sites.
2. ***Hazardous Waste Management Program.*** This program regulates the generation, storage, transportation, treatment, and disposal of hazardous waste to minimize risks to public health and the environment. The program oversees permitting and compliance at 119 authorized facilities that manage hazardous waste, approximately 900 registered businesses that transport hazardous waste, approximately 300 facilities/generators that are subject to corrective actions, and approximately 100,000 entities that generate hazardous waste in California. Many hazardous waste generators and facilities are located near communities who look to DTSC to protect them from the threats posed by potential releases of harmful chemicals into their air, land, and water. The program additionally monitors hazardous waste transfer, storage, treatment, and disposal facilities for illegal activity, including surveillance and monitoring of registered hazardous waste transporters; enforcement of hazardous waste requirement violations found through routine inspections; complaint intake, triage, and investigations; and other focused enforcement initiatives. The program also provides emergency response support for hazardous materials-related emergencies throughout California.
3. ***Safer Consumers Products and Workplaces Program.*** This program is responsible for reducing toxic chemicals in consumer products, creating new business opportunities in the emerging green chemistry industry, and helping consumers and businesses identify what chemicals are in the products they buy. Through this program, DTSC identifies and prioritizes chemicals of concern in consumer products, evaluates alternatives, and specifies regulatory responses to reduce chemicals of concern in products.

**DTSC: Two Primary Funding Sources.** DTSC 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 General Fund dollars. DTSC's operating budget for 2018-19 is \$317 million.

DTSC's two largest funding sources are the Hazardous Waste Control Account (HWCA) and the TSCA. These funds comprise more than half of the DTSC's spending authority. They provide funding for the Hazardous Waste Management Program, the Cleanup Program and the Safer Consumer Products Program. They are also the primary funding source for DTSC's support programs, including administration, information technology, legal and communications.

- **TSCA** is the largest fund available to DTSC. This account provides response authority for hazardous substances releases, including spills and hazardous waste disposal sites posing a threat to the public and the environment. The Environmental Fee constitutes over 80 percent of revenue deposited into the account. The Environmental Fee is assessed on all businesses in California, based on the number of employees, under the premise that every business generates some hazardous waste in its normal operations whether it be batteries, fluorescent lightbulbs, or oil. The base Environmental fee is set in statute (HSC §25205.6) and is adjusted annually, up or down, based on changes to the Consumer Price Index.
- **HWCA** is the second largest fund available to DTSC. This account supports DTSC's management of hazardous waste by generators, transporters, and storage, treatment, and disposal facilities in California. The HWCA supports these activities through the collection of a variety of fees, including the generator fee, facility fee, transporter fee and manifest user fee.

**DTSC: HWCA and TSCA Have Large, Growing Structural Deficits.** Expenditures out of HWCA and TSCA currently exceeds revenues from fees, taxes, and cost recovery. The structural imbalance is largely a reflection that the baseline fees that feed into both funds, while adjusted annually based Consumer Price Index, have not been modified in over 20 years to account for new statutory mandates and the growth and changes in various programs. Additionally, changes in the Consumer Price Index do not fully reflect changes in the cost of operating DTSC.

<b>HAZARDOUS WASTE CONTROL ACCOUNT (HWCA)</b>			
	<b>2017-18</b> <i>(in whole dollars)</i>	<b>2018-19</b> <i>(in whole dollars)</i>	<b>2019-20</b> <i>(in whole dollars)</i>
Adjusted beginning balance	\$16,842,000.00	\$4,592,000.00	-\$5,647,000.00
Total Revenues, Transfers & Loans	\$54,013,000.00	\$59,935,000.00	\$61,228,960.00
Total Expenditures	\$66,263,000.00	\$70,174,000.00	\$68,028,000.00
<b>Fund Balances</b>	<b>\$4,592,000.00</b>	<b>-\$5,647,000.00</b>	<b>-\$12,446,040.00</b>

<b>Toxic Substances Control Account (TSCA)</b>			
Adjusted beginning balance	\$ 11,440,000.00	\$ 29,811,000.00	\$ 22,527,000.00
Total Revenues, Transfers & Loans	\$ 78,472,000.00	\$ 129,299,000.00	\$ 154,676,000.00
Total Expenditures	\$ 60,101,000.00	\$ 136,583,000.00	\$ 171,871,000.00
<b>Fund Balances</b>	<b>\$ 29,811,000.00</b>	<b>\$ 22,527,000.00</b>	<b>\$ 5,332,000.00</b>

The structural deficit for TSCA is expected to worsen in the next couple of years as a number of Superfund/NPL sites are anticipated to enter the post-cleanup monitoring and maintenance phase. Under federal law, the state is responsible for all post-cleanup costs. The structural deficit in TSCA will also grow with the identification of additional cleanup sites, especially when there is no responsible party available (i.e. orphan sites). Currently DTSC has identified approximately 10,000 sites, however, US EPA estimates there are between 96,000 and 212,000 sites in the state.

DTSC estimates the demand for funding NPL and state orphan sites to be \$15 - \$20 million annually for the next few years from TSCA, though the account only has approximately \$10 million in revenues annually. Failure to address this revenue shortfall will prevent DTSC from carrying out its core mission, especially in regards to the remediation of orphan sites, many of which are impacting groundwater designated for irrigation or drinking, or migrating towards priority groundwater reserves. Orphan sites also release toxic vapors into buildings where people live and work.

**Issue 13: Increased Exide Residential Cleanup Costs**

**Governor’s Proposal.** The Governor’s budget proposes a loan of \$24.5 million from the General Fund to the TSCA to complete cleanup activities at residences, schools, parks, day care centers, and child care facilities near the Exide Technologies, Inc. lead-acid battery recycling facility in the City of Vernon.

**Background. *Exide Technologies Facility Closed in 2015.*** Exide Technologies Inc. (Exide), headquartered in Georgia, is a worldwide producer, distributor, and recycler of lead-acid batteries. In 2000, Exide purchased a facility—first opened in 1922—in an industrialized area in the City of Vernon, a few miles southeast of downtown Los Angeles, and operated the facility until its closure in 2015. The facility’s operations included recycling scrap materials from lead-acid batteries.

The Exide residential cleanup project constitutes the largest cleanup effort undertaken by California. Several factors contribute to its complexity, including the nature of the contamination, the concentration of people in a relatively small area, the high number of impacted property owners and residents, the comparatively short timeline to conduct the cleanup, and the keen interest in the project by members of the community and stakeholders.

***Legislature Has Provided Funds for Exide Cleanup.*** In order to expedite the cleanup of contamination in the residential neighborhoods surrounding Exide to address the public health threat posed, the Legislature has provided the following funding for cleanup and enforcement activities:

- ***Exide Enforcement Order (\$1.7 Million).*** In 2015-16, the Legislature provided \$734,000 (Hazardous Waste Control Account) annually for two years, and in 2018-19, the Legislature provided an additional \$1 million from the Lead-Acid Battery Cleanup Fund (LABCF) annually for two years to continue overseeing the Exide enforcement order.
- ***Emergency Funding (\$7 Million).*** In 2015-16, the Legislature provided \$7 million (special funds) in emergency funding to (1) sample up to 1,500 residential properties around the Exide facility, (2) develop a comprehensive cleanup plan, and (3) begin cleanup of the 50 highest-priority properties based on the extent of lead contamination and the potential for exposure.
- ***General Fund Loan to TSCA (\$176.6 Million).*** AB 118 (Santiago), Chapter 10, Statutes of 2016 and SB 93 (de León), Chapter 9, Statutes of 2016, provided a one-time \$176.6 million General Fund loan to the TSCA for Exide-related cleanup of residential properties. DTSC has committed all of the \$176.6 million to cleanup activities and anticipates fully expending it by June 2021.
- ***Third-Party Quality Assurance Contractor (\$1.4 Million).*** In 2017-18, the Legislature provided \$1.4 million annually for three years from a loan from LABCF to the Hazardous Waste Control Account for a third-party quality contractor to monitor Exide cleanup activities.
- ***Parkways Cleanup Funding (\$6.5 Million).*** In 2018-19, the Legislature provided \$6.5 million (\$5 million General Fund and \$1.5 million California Environmental License Plate Fund) on a one-time basis to sample soil and clean up parkways in the communities around Exide.

***Cleanup Activities are Underway.*** As of February 2019, lead removal has been completed at roughly 600 parcels. This includes 330 parcels that have been cleaned up based on initial work plans and orders. For example, DTSC ordered Exide to clean up 186 properties in the initial assessment areas between August 2014 and November 2015.



In addition, cleanup activities have been completed at an additional 275 parcels consistent with DTSC's July 2017 cleanup plan and final environmental impact report for the cleanup of lead-impacted soil in neighborhoods around the Exide recycling facility. In total, the cleanup plan calls for removing lead contamination from approximately 2,500 properties within 1.7 miles of the former battery recycling facility—known as the preliminary investigation area (PIA)—over a two-year period. Properties were initially prioritized for cleanup based on properties sampled prior to release of the cleanup plan, and DTSC has entered into contracts to conduct the cleanup activities. At that time, soil samples had been collected and analyzed for more than 8,200 parcels out of an estimated total of 10,173 in the PIA. DTSC had indicated that it might identify additional properties for cleanup if funding permits.

**LACBF.** AB 2153 (C. Garcia), Chapter 666, Statutes of 2016, created new fees on lead-acid battery manufacturers and purchasers, with the resulting revenue deposited into the LACBF. The fund may be used (among other purposes) for repayment of the \$177 million loan made from the General Fund for activities related to the Exide cleanup. Payments of \$16.7 million from LACBF to the General Fund are budgeted for this purpose in 2018-19.

**Cleanup Plan.** In 2018, DTSC awarded three contracts for the cleanup of up to 2,025 parcels prioritized under the Cleanup Plan. DTSC began implementation of the Cleanup Plan in May 2018. To date, DTSC has overseen the cleanup of 560 parcels within 1.7 miles of the facility with the highest lead levels and greatest exposure risk (including parcels addressed prior to and under the Cleanup Plan). DTSC has fully committed the \$176.6 million appropriation toward investigation and cleanup of lead-contaminated properties in the PIA. DTSC anticipates completing cleanup activities under the Cleanup Plan and fully expending funding by June 2021. The 2018 Budget Act includes \$6.5 million to sample and cleanup parkways around the former Exide facility. DTSC anticipates that sampling of the parkways within the PIA will begin in the spring of 2019.

The Exide residential cleanup project constitutes the largest cleanup effort ever undertaken by the State of California. Several factors contribute to its complexity, including the nature of the contamination, the concentration of people in a relatively small area, the high number of impacted property owners and residents, the comparatively short timeline to conduct the cleanup, and the keen interest in the project by members of the community and stakeholders.

When DTSC prepared its cost estimate for undertaking the cleanup activities in 2016, it had limited information about the scope and nature of the contamination in the communities surrounding Exide and about the potential costs of the cleanup work. Since undertaking the cleanup effort, DTSC has concluded that its initial cost estimate did not include certain activities (i.e., quality assurance sampling contractor, sample storage, project labor agreement, and performance and payment bonds). In addition, other activities have proven to be costlier than originally estimated. This has resulted in higher overall project costs than originally estimated.

**LAO Comments.** *State Has an Interest in Accelerating Exide Cleanup.* Due to the public health risks from lead contamination, the state has a clear and immediate interest in cleaning up the residential parcels contaminated with lead by the Exide facility. As described earlier in this analysis, Exide may take up to ten years or more to pay for the cleanup after DTSC's approval of the Residential Corrective Measures Study and implementation of a cleanup plan. If the state waited for this process to unfold, residents within the PIA would potentially be exposed to unhealthy levels of lead contamination for up to a decade or more compared to the accelerated approach adopted by the state.

**Uncertainty Remains About Total Cost of the Cleanup and When Loans Will Be Repaid.** DTSC has not provided an estimate of the total cost for the Exide cleanup, or the time frame for completing the

cleanup. Under the Governor's proposal, DTSC would be provided an additional \$74.5 million in one-time loans to complete the cleanup of 3,200 parcels out of about 10,173 parcels in the PIA. However, DTSC is still in the process of sampling some of the parcels in the PIA for lead contamination, and obtaining permission from property owners to sample other parcels. Therefore, it is uncertain how many parcels will ultimately need to be cleaned up and what the total cleanup cost may be.

There is also uncertainty about when Exide will begin to pay for cleanup costs in addition to the \$14 million it was already required to deposit into the Trust Fund. The Administration has expressed its intent to recover all the cleanup costs the state incurs from Exide in keeping with the polluter pays principle that the responsible party should bear the costs of the cleanup. However, as discussed above, Exide is contesting DTSC's requirement to complete the study. Moreover, according to the department, moneys deposited into the Trust Fund cannot be used to reimburse DTSC for costs it has incurred in implementing the interim residential cleanup work. According to DTSC, it is working with the Attorney General's Office to ensure that all necessary steps are taken to hold Exide responsible. Consequently, it is unclear how much of the cleanup costs the company ultimately will pay and when they will be received by the state.

**LAO Recommendation.** *Approve Additional General Fund Loans to Continue Cleanup Efforts.* The LAO recommends the Legislature approve the Governor's proposals to provide a total of \$74.5 million in one-time General Fund loans to TSCA for the cleanup of residential parcels contaminated by the Exide facility. Due to the serious public health threat posed by lead contamination in the soil, the LAO believes the state should move forward with the cleanup as expeditiously as possible.

**Require DTSC to Report at Budget Hearings on Estimated Cleanup Cost and Time Line.** The Legislature would benefit from additional information to assess anticipated time lines and costs for cleanup activities. This information would allow the Legislature to assess what additional costs the state is likely to incur for the Exide cleanup beyond what is requested in 2019-20, as well as when Exide will begin to bear the costs of the cleanup. The LAO recommends the Legislature require DTSC to respond at budget hearings to the following questions:

- When does DTSC anticipate it will complete the sampling of the 10,173 parcels within the PIA and the cleanup of parcels contaminated by lead?
- How much does DTSC estimate it will cost to complete the sampling and cleanup of all of the parcels that require cleanup within the PIA? Should the Legislature expect to see additional requests for one-time General Fund loans in future budgets?
- When does DTSC estimate Exide will begin to repay the state for the cleanup costs it has incurred and how are these payments likely to be scheduled over time?
- What authority does DTSC have to ensure Exide will ultimately bear the costs of the cleanup?

**Staff Recommendation.** Hold open.

<b>Issue 14: Acceleration of Additional Cleanup from Exide Technologies Facility</b>
--------------------------------------------------------------------------------------

**Governor's Proposal.** The Governor's budget proposes a loan of \$50 million one-time General Fund to the TSCA to accelerate the cleanup of additional properties within 1.7 miles of the Exide



---

Technologies facility in Vernon by June 30, 2021.

The proposal includes trailer bill language specifies purposes for which the loan may be used, which includes cleanup and investigation of properties contaminated with lead, job training activities related to the cleanup and investigation, and actions to pursue all available remedies against potential responsible parties.

This proposal is intended to support the acceleration of soil testing and clean up for approximately 700 additional properties with the highest lead contamination levels and greatest potential for exposure within a 1.7-mile radius of the Exide facility.

**Background.** *(Please see Background in Issue 13.)*

**LAO Comments.** *(Please see LAO Comments in Issue 13.)*

**LAO Recommendation.** *(Please see LAO Recommendation in Issue 13.)*

**Staff Recommendation.** Hold open (BCP and TBL).

**3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)  
4265 CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (DPH)****Issue 15: Increased Drinking Water Laboratory Services**

**Governor's Proposal.** The Governor's budget proposes \$837,000 in 2019-20 and \$782,000 annually thereafter from the Safe Drinking Water Account to fund four positions and laboratory equipment under an interagency agreement with the California Department of Public Health (DPH) to meet the primacy agreement with the United States Environmental Protection Agency (US EPA) and, in support of those activities, meet new laboratory standards.

DPH has a request for a corresponding increase in reimbursement authority and four permanent positions.

**Background.** On July 1, 2014, the Division of Drinking Water (DDW), and its authority to enforce the Safe Drinking Water Act (SDWA), was transferred from DPH to SWRCB. US EPA granted primacy to SWRCB for enforcement of SDWA in California through a primacy agreement.

Among other requirements, the primacy agreement requires SWRCB to have the ability to analyze every contaminant listed under the SDWA and have access to a reference laboratory as necessary. DPH serves as SWRCB's Principal Laboratory in accordance with requirements of the primacy delegation agreement for the drinking water regulatory program from the US EPA.

SWRCB identified 51 additional constituents that DPH's Drinking Water and Radiation Laboratory (DWRL) did not previously have the capacity to perform. These 51 constituents require 25 separate analytical methods that require method validation, measurement of limits detection and quantification, evaluation of precise and bias, evaluation of selectivity, and proficiency testing.

This proposal is intended to provide resources necessary to meet an expanded range of water quality analyses and the development of new analytical methods for regulatory standards and method validation. When promulgating state drinking water standards, SWRCB must identify analytical methods that detect a particular constituent at low levels sufficient to protect public health.

**Staff Recommendation.** Approve as budgeted.

## 3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)

### Issue 16: Administrative Hearings Office (AHO) (AB 747)

**Governor's Proposal.** The Governor's budget proposes a total of \$2.2 million funded by the Water Rights Fund (\$1.7 million) and the General Fund (\$572,000) for the support of nine permanent positions to establish an AHO which will provide administrative hearing officers and supporting staff to preside over administrative hearings in water right enforcement actions and prepare proposed decisions. The resources requested are necessary to implement AB 747 (Caballero), Chapter 668, Statutes of 2018.

**Background. AB 747 (Caballero).** AB 747 creates an AHO within SWRCB, effective July 1, 2019. The purpose of the office would be to provide qualified, impartial hearing officers, to ensure that water rights matters, including water-related cannabis enforcement matters, are resolved in a timely manner, and to provide the board flexibility to assign hearing officers to other matters, such as those involving water right change petitions and other matters concerning water right permits and licenses.

Hearings in enforcement actions for water right violations are conducted administratively before SWRCB, with one or more board members acting as hearing officers, assisted by staff from SWRCB's Office of Chief Counsel and Division of Water Rights. SWRCB's administrative adjudication procedures are consistent with modern administrative practices, and SWRCB's procedures and proceedings, including the separation of the administrative and adjudicative functions, have been upheld by the California Supreme Court as meeting due process requirements. There is, however, a perception of unfairness and inefficiency, which has led to calls to have independent hearing officers. In addition, SWRCB anticipates prosecuting more water right enforcement actions due to its new cannabis enforcement authority and expects implementation of the Drinking Water Program and the Sustainable Groundwater Management Act to result in more hearing requests in the coming years. As more hearings are requested, board member and advisory staff time will be consumed with hearings at the expense of other responsibilities, unless some of the workload is delegated to hearing officers comprised of SWRCB staff.

Due to a variety of factors, including competing responsibilities for board members and key staff, there is a backlog on processing hearing requests. There can be long delays, sometimes for years, between a request for hearing and when a hearing is scheduled, and between the completion of the hearing and the release of a proposed decision. Having hearings held by qualified hearing officers, whose focus is to apply their specialized knowledge to presiding at hearings and preparing proposed decisions, as authorized by AB 747, is intended to help address these problems.

**Staff Recommendation. Approve as budgeted.**

**Issue 17: Drinking Water System Sanitary Survey**

**Governor's Proposal.** The Governor's budget proposes six additional permanent positions and \$1.1 million from the Safe Drinking Water Account to increase staffing in the Northern and Southern California Field Operations Branches to resolve the backlog of sanitary surveys (i.e. water system inspections). Though the Division of Drinking Water (DDW) has continued to improve its rate of sanitary survey completion, it continues to have a backlog in federally mandated water system sanitary surveys, including small water systems in severely disadvantaged communities. These six positions are intended to increase the number of federally mandated sanitary surveys completed annually.

**Background.** The DDW currently has 242 authorized positions. Of those positions, 181 (75 percent) are assigned to the field offices, which implement the drinking water program across the state. The total number of field staff in technical classifications to perform sanitary surveys is 132. Field office workload is measured by a number of metrics including: (1) water systems regulated, (2) number of permits issued or amended, (3) number of sanitary surveys conducted within mandated timeframes, and (4) number of enforcement actions issued.

In July 2016, Budget Change Proposal, 3940-301-BCP-BR-2016-A1, Drinking Water Program Federally Mandated Inspections Workload, was approved and created 10 additional field positions for the DDW. The result over the last two years was that the sanitary survey federally mandated rate was increased from 75 percent to 88 percent. Sanitary surveys completed in calendar year 2016 (860) compared to calendar year 2017 (1152) shows an increase of 292 sanitary surveys.

SWRCB, as the federally designated primacy agency for the drinking water regulatory program in California, is responsible for the implementation of the federal Safe Drinking Water Act (SDWA). Part of the SDWA required workload involves water system inspections (sanitary surveys). As of January 2018, SWRCB determined that there were 455 backlogged sanitary surveys of public water systems. The US EPA has communicated a number of concerns with the DDW backlog, and that given this backlog, SWRCB could be subject to US EPA sanctions, including the possible loss or withholding of federal funds.

Additionally, based on the DDW Human Right to Water webpage on July 1, 2018, there are currently 269 public water systems serving a population of approximately 352,631 people, mostly located in disadvantaged and severely disadvantaged communities that are in violation of one or more primary maximum contaminant levels. "Severely disadvantaged community" means a community with a median household income of less than 60 percent of the statewide average.

**Staff Recommendation.** Approve as budgeted.

**Issue 18: Microplastics in Drinking Water: Testing in Drinking Water (SB 1422)**

**Governor's Proposal.** The Governor's budget proposes \$1.1 million Environmental License Plate Fund in 2019-20, followed by \$175,000 Safe Drinking Water Account for three years to implement SB 1422 (Portantino), Chapter 902, Statutes of 2018, which among other things, requires SWRCB to define microplastics in drinking water and develop testing protocol for microplastics in drinking water.

The resources equivalent to a position are for purposes of drafting and managing the contract to acquire the scientific and statistical expertise to define microplastics and develop an analytical method for determining its concentration. The funding is also intended to be utilized to accredit laboratories under the Environmental Laboratory and Accreditation Program, develop the microplastic testing protocol, ensure public water systems conduct testing of their water supply for microplastics, and if appropriate, move forward with public notification and/or consumer guidance regarding microplastics in water. \$900,000 is requested on a one-time basis to fund and implement the contract.

**Background. *SB 1422 (Portantino).*** SB 1422 requires SWRCB to do the following:

- By July 1, 2020, adopt a definition for microplastics in drinking water.
- By July 1, 2021, develop an analytical method for testing microplastics in water.
- Develop a procedure to accredit laboratories performing the developed analytical method.
- Adopt testing requirements for microplastics in drinking water.
- If appropriate, develop notification levels and/or guidance that adequately protect public health for consumers that have microplastics in the potable water.

SWRCB is not resourced to implement the provisions SB 1422 and the new requirements related to microplastics.

***Microplastics in Tap Water.*** Microplastics is an emerging contaminant of concern. Researchers at the State University of New York and the University of Minnesota tested 159 drinking water samples from cities and towns across five continents. 83 percent of those samples worldwide contained microplastics. In the United States, 94 percent of the samples contained microplastics, including a sample collected from the US EPA headquarters. People, therefore are ingesting microplastics when they drink and eat foods prepared by using tap water.

Developing a definition is a process that requires a cross section of experts consisting of analytical chemists, health professionals, and engineers, as well as individuals from the plastics manufacturing industry. SWRCB does not have this type of expertise in-house and must draft a contract to bring such a group together. Also, SWRCB does not have in-house laboratory services and must contract with DPH's DWRL to develop the analytical method.

The Administration states that both requirements must be performed using contract services and will require \$1.075 million for the actual services along with funding to write the contracts and manage their outcome.

**Staff Recommendation. Approve as budgeted.**

**Issue 19: Nonpotable Reuse Water Systems (SB 966)**

**Governor's Proposal.** The Governor's budget proposes \$924,000 General Fund for the following:

- 2019-20 one-time \$500,000 from the General Fund in contracting costs to form an expert panel to develop risk-based log reduction targets for removal of pathogens to protect public health.
- Ongoing \$424,000 annually to fund one Senior Water Resources Control Engineer (WRCE) position and one WRCE position to do the following: administer and supervise the expert panel, consult with other agencies and states on a technical risk-based framework development, develop and adopt detailed regulations required per SB 966, develop and implement the new program statewide, and provide technical assistance to local jurisdictions across the state. After the program is developed, the two positions are intended to review monitoring reports, assist local jurisdictions with highly technical issues, and conduct enforcement actions needed statewide.

**Background. *Recycled Water.*** Recycled water, also known as reclamation or reuse, is an umbrella term encompassing the process of treating wastewater and storing, distributing, and using recycled water. Recycled water means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

**SB 966 (Wiener).** SB 966 requires SWRCB to regulate and permit onsite nonpotable water treatment and reuse, which is recycled water used onsite for non-drinking purposes. SB 966 requires standards for onsite nonpotable reuse. Expanded onsite nonpotable water treatment and reuse, through the local programs is authorized under this bill, and may result in significant water savings across the state.

SB 966 requires a local jurisdiction (city and/or county) that elects to establish a program for onsite treated nonpotable water systems to, among other things, adopt, through ordinance, a local program that includes the risk-based water quality standards established by SWRCB. SB 966 prohibits an onsite treated nonpotable water system from being installed except under a program established by a local jurisdiction in compliance with SWRCB regulations.

SWRCB does not have staff available with the expertise, experience, and training needed to fulfill the requirements of SB 966. As a result, SWRCB will convene an expert panel to assist in developing the risk-based framework.

Two (one senior and one staff) WRCE are requested to administer the expert panel, consult with other agencies, develop the new onsite water reuse regulations, develop and implement a new statewide program, and provide highly technical assistance to local jurisdictions across the state that establish the program. After the new statewide program is established, these positions are intended to provide ongoing support of permitting, review of monitoring reports, inspections, and enforcement. Including providing highly technical assistance to local jurisdictions across the state, conducting technical reviews of performance-based log reduction targets for the treatment of pathogens, and reviewing management and monitoring practices, new water sources, end uses, advances in approaches, and methodologies to estimate the risk.

**Staff Recommendation. Approve as budgeted.**

**Issue 20: Sewer Service Provision for Disadvantaged Communities (SB 1215)**

**Governor's Proposal.** The Governor's budget proposes three initial permanent positions and \$525,000 Waste Discharge Permit Fund spending authority annually in 2019-20, six additional permanent positions and \$1.612 Waste Discharge Permit Fund spending authority ongoing annually for purposes of implementing SB 1215 (Hertzberg), Chapter 982, Statutes of 2018.

**Background. *SB 1215 (Hertzberg).*** SB 1215 (Hertzberg), Chapter 982, Statutes of 2018, authorized the Regional Water Quality Control Boards (RWQCBs) to order a city, county or special districts with an existing receiving system (collection system and/or wastewater treatment system) to provide sewer services to disadvantaged communities with inadequate septic tank systems, for protection of public health, and prevention of potential impacts to sources of drinking water.

SB 1215 is intended to address the need to encourage, and as necessary, mandate local agencies with existing sewer systems to provide sewer services to adjacent disadvantaged communities with inadequate septic tanks. Through SB 1215, RWQCBs are authorized to order agencies with existing systems to provide sewer service to adjacent disadvantaged communities through annexation or extension of their service areas. SB 1215 requires SWRCB and RWQCBs to take certain actions before ordering a local agency (a receiving system) to extend its sewer services, similar to required actions for the consolidation or extension of drinking water systems (through SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015, which authorized SWRCB to order consolidation with another public water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water).

**Staff Recommendation. Approve as budgeted.**

**Issue 21: State Administrators Consolidation (AB 2501)**

**Governor's Proposal.** The Governor's budget proposes \$730,000 General Fund to support four permanent positions to address the greatly expanded number of potential consolidation cases that will occur. This includes \$419,000 to support two permanent positions annually for the Division of Drinking Water (DDW) to conduct necessary review and casework for each new consolidation or administrator appointment, and \$311,000 to support two permanent positions annually for the Office of Public Participation to coordinate associated public outreach efforts.

**Background. AB 2501 (Chu).** There are approximately 7,500 public water systems in California; many located in rural disadvantaged communities which lack the size, expertise, and financial capacity to maintain and operate their drinking water infrastructure systems. This lack of capacity and resources results in thousands of customers being served drinking water that does not meet public health standards.

AB 2501 (Chu), Chapter 871, Statutes of 2018, expands SWRCB's authority to require consolidation of public and state small drinking water systems and individual wells that serve disadvantaged people, and which consistently fail to deliver safe drinking water. AB 2501 authorizes the DDW to appoint administrators to provide administrative and managerial services to struggling water systems that fail to deliver an adequate and affordable supply of safe drinking water, particularly if consolidation is not a viable option.

**Staff Recommendation. Approve as budgeted.**



**Issue 22: Wildfire Prevention and Recovery Legislation: Review of Timber Harvest Plan Exemptions and Utility Corridor Vegetation Management Permitting (SB 901)**

**Governor's Proposal.** The Governor's budget proposes 22 permanent positions and \$4.4 million (\$2.6 million General Fund and \$1.8 million Waste Discharge Permit Fund) in fiscal year 2019-20, \$4.1 million in 2020-21, \$3.5 million annually through 2023-24, and \$1.8 million annually thereafter to address workload associated with implementation of SB 901 (Dodd), Chapter 626, Statutes of 2018, including:

- Field inspections and enforcement due to the newly authorized road building activities without prior regulatory review or oversight under the newly revised Forest Fire Prevention Exemption.
- New workload associated with conducting inspections and enforcement of timberlands harvested under the Small Timberland Owner exemption.
- Creation or modification and enforcement of various timber, fire, and vegetation management plans.
- Increased engagement in revised Board of Forestry rulemaking proceedings that may now occur continually throughout the year.
- Development, implementation, and enforcement of a statewide utility corridor vegetation management permit.

**Background. 2018 Wildfire Legislation Package.** In September 2018, a comprehensive wildfire prevention and recovery package was enacted to strengthen California's ability to prevent and recover from catastrophic wildfires. The bills make a number of changes to do the following:

- Remove barriers to facilitate increases in the rate of forest health and fire prevention activities.
- Improve fire safety standards across the state.
- Set more rigorous requirements for utility wildfire mitigation plans and the maintenance and improvement of utility infrastructure.

The 2019-20 Governor's Budget proposes a total of \$234.5 million to implement the various requirements of the legislation and build the state's resilience to climate change-driven wildfire activity.

**Water Boards and Forestland & Vegetation Management.** The mission of SWRCB and regional water quality control boards (RWQCBs) is to preserve, enhance, and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

The water boards are responsible for protecting and enforcing the many uses of water, including the needs of industry, agriculture, municipal districts, and the environment. RWQCBs are responsible for enforcing the Porter-Cologne Water Quality Control Act (Act) through implementation of regional

Basin Plans, and Total Maximum Daily Loads within their regions. The Act and the Basin Plans prohibit the discharge of materials that adversely affect the beneficial uses of waters of the state. RWQCBs have authority to take enforcement action, ranging from staff level informal enforcement actions to issuing administrative civil liabilities (fines) against persons who violate the Porter-Cologne Water Quality Control Act and/or the water quality objectives contained in the Basin Plans.

Forestland and vegetation management operations are considered nonpoint sources and generally have a high potential to cause discharges of waste to waters of the state. The state has a nonpoint source implementation and enforcement policy that provides the water boards with three options to address nonpoint source discharges: 1) develop waste discharge requirements (WDRs or permit), 2) develop conditional waivers of WDRs (permit), or 3) establish prohibitions.

Currently, the Central Valley, Lahontan and North Coast RWQCBs have one or more general or individual WDRs, and/or conditional waivers to address timber harvesting activities, however these mechanisms are not currently tailored to the timber harvest exemptions included in SB 901 and do not cover any of the utility corridor work outlined in SB 901. Further, existing RWQCB staff are required to triage newly submitted timber harvest plans (THPs) to prioritize response based upon the highest risk to water quality. This review and triage do not currently include review of activities conducted under the numerous Forest Practice Act exemptions since the focus is on the discretionary permits (THPs).

Timber harvesting activities with the greatest potential to impact waters of the state include: road construction and reconstruction, road use and maintenance, road removal; watercourse crossing construction, reconstruction, or removal; felling, yarding, and hauling of trees; and pesticide (herbicide) applications.

Excessive vegetation alteration associated with these land disturbing activities, along with soil erosion and sediment delivery can negatively impact the beneficial uses of water by:

- Silting over fish spawning habitats
- Clogging drinking water intakes
- Filling in pools creating shallower, wider, and warmer streams (increasing favorable conditions for harmful algal blooms), and increasing downstream flooding
- Creating unstable stream channels
- Causing infrastructure failure (such as downslope roads and watercourse crossings)
- Impacting the quality of drinking and domestic use water
- Creating loss of riparian vegetation, habitat and function

***Inspections and Enforcement.*** The water boards have historically demonstrated that upfront inspections and technical outreach and assistance through the compliance inspection and enforcement process significantly increases compliance and improves the performance outcomes of land disturbing activities.

Timber harvesting activities under an Exemption SB 901 expands the types and extent of timber harvesting and vegetation management activities that may be performed under an exemption to the Forest Practice Act with the modifications to the Section 4527 exemption, the Forest Fire Prevention Exemption and the Small Timberland Owner Exemption.

SB 901 authorizes timber harvesting, vegetation removal, and road construction under the Forest Fire

Prevention Exemption, using a process that is exempt from the standard Timber Harvest Plan review process and without any prior review or conditioning by the established multi-agency review team. This bill expands the current Forest Fire Prevention exemption to include the building of roads on slopes of 30 percent or less with additional specified conditions.

Roads and road construction alter forest hydrology by increasing and concentrating storm water runoff, thereby increasing erosion and potential sediment discharges to streams. Roads also increase the potential for landslides, and thus further sediment discharges to streams. Such discharges impact the beneficial uses of water, the health of aquatic species and their habitats in-stream, create potential for increased water temperatures (conditions ideal for invasive aquatic species and harmful algal growth), and threaten clean drinking water supplies.

Additional water quality concerns with forestland management activities include the use of pesticides adjacent to surface waters, which may result in bare soil conditions that are vulnerable to erosion, and the potential discharge of pesticides (herbicides) directly to surface waters along with eroded soil.

Historically, the water boards have not participated in field inspections for the multitude of Forest Practice Act exemption types, primarily because operations conducted under exemptions have not been allowed to include activities like construction of roads and watercourse crossings. The water boards anticipate that many timberland owners will conduct timber harvesting activities under these modified exemptions of the Forest Practice Rules rather than completing a traditional Timber Harvest Plan (THF). The expected increase in use of these exemptions will require increases in RWQCB staffing to conduct field inspections to ensure that adverse effects upon water quality are mitigated and to pursue enforcement action for violations of water quality standards where necessary. The bill requires workload activities that are entirely new to the water boards.

**Staff Recommendation. Hold open.**

**Issue 23: Orphan Site Cleanup Fund Grants**

**Governor's Proposal.** The Governor's budget proposes \$10 million Petroleum Contamination Orphan Site Cleanup Fund one-time for orphan site cleanup grants. SWRCB requests the local assistance funds be available for encumbrance until June 30, 2022, and liquidation of encumbrance until June 30, 2025.

**Background. *Orphan Site Cleanup.*** The Orphan Site Cleanup Account (OSCA) was established in 2005, under the Underground Storage Tank (UST) Cleanup Fund to provide financial assistance for remediation of the harm caused by petroleum contamination from USTs where the financially responsible party has not been identified. OSCA was established to make funding available to person that did not cause the petroleum contamination but are willing to undertake the cleanup. Projects range from commercial development to affordable infill housing.

OSCA received \$10 million per year for three fiscal years 2005-06, 2006-07, and 2007-08 before its expiration on January 1, 2008. SWRCB awarded the full appropriation of \$30 million in grants.

Effective 2009, a new Orphan Site Cleanup Fund (OSCF) was created and \$10 million was appropriated into the fund in 2008-09, 2009-10, and 2010-11 for \$30 million total. A total of \$14.4 million was transferred from the UST Cleanup Fund to OSCF and SWRCB also received \$15.6 million in federal American Recovery and Reinvestment Act (ARRA) Leaking Underground Storage Tank Trust Fund grant for brownfields in July 2009. SWRCB fully expended the ARRA grants by September 2011.

The request for OSCF grants decreased for a number of years and is on the rise again. The decrease was a result of the use of ARRA to fund projects rather than the OSCF and the reduction in number of requests due to the long-term impacts of the recession on the real estate market. Current trends in grant applications are increasing due to both the stronger real estate market and the expansion of OSCF eligibility by removing the "urban brownfield" requirement effective September 25, 2014.

**Staff Recommendation. Approve as budgeted.**

## 8570 DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)

### OVERVIEW

CDFA is charged with promoting and protecting a safe, healthy food supply, and enhancing local and global agricultural trade, through efficient management, innovation, and sound science, with a commitment to environmental stewardship.

CDFA is organized into five divisions:

- Animal Health and Food Safety Services
- Inspection Services
- Marketing Services
- Measurement Standards
- Plant Health and Pest Prevention Services

The following table reflects CDFA's positions and expenditures for past, current, and budget years.

		Positions			Expenditures		
		2017-18	2018-19	2019-20	2017-18*	2018-19*	2019-20*
6570	Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	1,076.7	1,078.5	1,144.5	\$247,075	\$263,664	\$259,056
6575	Marketing; Commodities and Agricultural Services	373.9	461.1	422.1	127,680	171,399	151,378
6580	Assistance to Fair and County Agricultural Activities	8.2	10.2	10.2	4,817	8,440	11,934
6590	General Agricultural Activities	25.0	34.5	40.5	253,534	227,257	139,445
9900100	Administration	174.4	185.4	194.4	24,786	27,480	29,077
9900200	Administration - Distributed	-	-	-	-24,607	-27,301	-28,898
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>		<b>1,658.2</b>	<b>1,769.7</b>	<b>1,811.7</b>	<b>\$633,285</b>	<b>\$670,939</b>	<b>\$561,992</b>

*\*Dollars in thousands.*

The year-over-year decrease in spending is mainly explained by a few one-time appropriations made in 2018-19 that are not proposed in 2019-20. The specific reductions include:

- A net reduction of \$62 million from the Greenhouse Gas Reduction Fund (reflecting a proposed spending reduction of \$74 million for methane reductions from dairies, partly offset by a proposed increase of \$13 million for the Healthy Soils Program);
- A net reduction of \$23 million in Proposition 68 (2018) bond funds mostly related to decreased spending on the Healthy Soils Program and water efficiency; and,
- A \$15 million reduction in General Fund spending for grants to provide nutrition incentives to CalFresh clients who purchase fruits and vegetables at farmers markets and funding to small businesses to purchase energy-efficient refrigeration units.

**Issue 24: Turlock North Valley Animal Health Laboratory Replacement**

**Governor's Proposal.** The Governor's budget proposes \$3.946 million General Fund one-time for the Performance Criteria Phase of the design-build project to build a new full-service California Animal Health and Food Safety Laboratory System (CAHFS) laboratory in the northern San Joaquin Valley to replace the existing, obsolete CAHFS Turlock laboratory.

**Background. *Turlock North Valley Animal Health Laboratory.*** Due to infrastructure deficiencies, the existing laboratory, which opened in 1958, prevents CAHFS from fully meeting the testing required to safeguard human and animal health from animal and food-borne diseases in the northern San Joaquin Valley or provide comprehensive services to the large concentration of livestock and poultry producers in this area. The existing lab is too small (approximately 5,100 assignable square feet including two on-site trailers) to provide mammalian necropsy/pathology services to the San Joaquin Valley, and as a result only accepts avian (bird) species. The current avian necropsy room is approximately 245 sf, and does not have adequate space or capacity for a large animal hoist, a large animal necropsy table, or floor drains necessary to accommodate cows that can exceed 1,500 pounds. Owners, veterinarians, and producers of cattle and calves, sheep and lambs, goats, and pigs in the surrounding areas do not have a laboratory in close proximity to bring their carcasses for necropsy. According to the Journal of Veterinary Diagnostic Investigation, there is a statistically significant downward trend in the likelihood to submit when clients are located farther from a laboratory.

***Design-Bid-Build vs. Design-Build.*** According to CDFA, for Capital Outlay projects, there are typically two ways that they get built:

- *Design-Bid-Build* is the most common process, which may include an initial study, acquisition, preliminary plans, working drawings, and construction phases.
- *Design-Build* includes an initial study, acquisition phase if necessary, a performance criteria phase, and a design/construction phase. Design-build projects can be more efficient because there are less steps and the company constructing the project is the same that designed it. The Performance Criteria Phase is where the scope and requirements are identified to provide companies with enough information to place a bid to design and build the facility.

The difference between the two is in the design-bid-build process, one entity complete the plans for a project and then it is put out to bid for a company to construct. For design-build, the design and construction are put out as one project, where one company designs and constructs the facility.

For the Turlock project, CDFA had initially started with the design-bid-build process in mind. After discussions with Department of General Services (DGS), DGS thought this project would be a good candidate for a design-build project. At this point in the project, CDFA has done an initial study and received funds for acquisition. Up to this point, the processes are identical.

The Acquisition Phase for this project was approved in 2017-18 Budget Act as a design-bid-build project. Since that time, the proposed procurement method has been re-evaluated. This proposal requests authority and funding to replace the existing Turlock Laboratory using the design-build process.

**Staff Recommendation. Approve as budgeted.**



**Issue 25: California Biodiversity Initiative**

**Governor's Proposal.** The Governor's budget proposes \$4.22 million General Fund one-time, \$3.9 million General Fund in 2020-21 and ongoing and eight positions to initiate the planning and coordination of the workload associated with the California Biodiversity Initiative-A Roadmap for Protecting the State's Natural Heritage. This proposal also includes funding to restart CDFA's noxious weed management program, as well as provisional language to make this funding available for encumbrance or expenditure over a two-year period.

**Background.** In 2018, Governor Brown's Executive Order (CA EO B-54-18) established the Roadmap, which embraces the broad goals of securing the future of all existing native California Species by preserving, protecting, recovering and increasing the ecosystems and native species distributions. The goal is also to improve ecological conditions, ecosystem functions and natural processes vital for sustaining these ecosystems across California. The Roadmap focuses on several goals that are relevant to the mission of CDFA. These goals include:

- *Establishing the California Biodiversity initiative Working Group.* The cross-agency working group will be co-chaired by the Director of the Department of Fish and Wildlife and the Secretary of the Department of Food and Agriculture to facilitate coordinated actions to achieve the state's biodiversity goals. Government must work across its Institutions such as: the California Landscape Conservation Cooperative; California Biodiversity Council; Strategic Growth Council; Department of Conservation; Governor's Office of Planning and Research; Ocean Protection Council; Department of Parks and Recreation; Fish and Game Commission; Natural Resources Agency; and, California Environmental Protection Agency.
- *Accelerating and Streamlining Prevention, Detection and Management of invasive Species and Pests.* California has an interest in minimizing the threats posed by invasive species and pests. The Roadmap calls for the expansion of programs to prevent, detect and manage invasive species and pests; develop California-specific invasive species risks assessments; support and expand early detection programs and evaluate and improve weed management efforts.
- *Expanding Seed Banking and Collection to Create a Hedge Against Extinction.* Expanding seed and germplasm banking is a hedge against permanent loss of native plant biodiversity. California Plant Rescue is a collaborative project involving the Department of Fish and Wildlife, CDFA, the California Native Plant Society, Consortium of California Herbaria, the National Center for Genetic Resources Preservation and several California's arboreta, botanic gardens, universities and other non-governmental organizations. This network preserves the future of California's native flora by collecting seeds of California species for long-term preservation in secure regional seed banks. In two years, this program has collected and stored the seeds of over 300 seed accessions of 95 rare plant taxa. The plan should advance a statewide seed banking effort to conserve the native plant biodiversity of California and to develop an official California Seed Bank, as a distributed network of currently existing seed banks. This effort could include generating philanthropic support.
- *Establishing a Soil Carbon Map of California.* The soil carbon map will serve as an indicator of soil health, which is key to ecosystem health and maintenance of biodiversity. There are current projects that map soil carbon in California, including, the University of California, Davis Web Soil Survey and the compost eligibility mapping tool developed by the California



---

Air Resources Board.

**Staff Comments. *Germplasm Bank to Preserve and Protect Native Plant Species.*** This proposal states, “California currently does not have a germplasm bank to preserve and protect its native plant species. A fully staffed germplasm facility is needed for collecting and storing the native plant species in a central location and ensure their long-term viability...CDFA requests one-time funding of \$125,000 for a feasibility study for a germplasm facility.”

Stakeholders have stated that such a study is not needed because germplasm banks currently exist and the collection and storage of native plant species is taking place now. The California Plant Rescue program is a collaboration of California universities, nongovernmental organizations, and the California Department of Fish and Wildlife (DFW) Natural Diversity Database, which focuses on seed banking.

The purpose of preserving and protecting native plant species is laudable. However, a question arises as to where the proper home, state agency-wise, is to lead such efforts – Is CDFA more appropriate to oversee native plant species preservation and protection on behalf of the state than other state entities, such as DFW or a university already in the collaborative mentioned above?

CDFA’s mission statement is “To serve the citizens of California by promoting and protecting a safe, healthy food supply, and enhancing local and global trade, through efficient management, innovation and sound science, with a commitment to environmental stewardship.” CDFA states its goals to be the following:

- Ensure that only safe and quality food reaches the consumer.
- Protect against invasion of exotic pests and diseases.
- Promote California agriculture and food products both at home and abroad.
- Ensure an equitable and orderly marketplace for California’s agricultural products.
- Build coalitions supporting the state’s agricultural structure to meet evolving industry needs.

A question arises as to how CDFA’s request for one-time funding for a feasibility study for a germplasm facility to preserve and protect native plant species fits within the CDFA’s mission.

DFW’s mission statement says, “The Mission of [DFW] is to manage California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for the ecological values and their use and enjoyment by the public.”

Also, according to DFW’s website, the “California Endangered Species Act (CESA) states that all *native* species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and *plants*, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be *protected or preserved*. The California *Department of Fish and Wildlife* will work with all interested persons, agencies and organizations to *protect and preserve such sensitive resources* and their habitats.” (*emphasis added*.)

In addition, the Department of Forestry and Fire Protection (CalFire) provides a substantial seed bank for the wide genetic variety of forest tree species at the L.A. Moran Reforestation Center. The center specializes in forest tree cone and seed processing and seed bank storage.

If there should be one state agency to lead the charge in preserving and protecting native plants, it seems that a reasonable choice may be an agency with the statutory purview of protecting and

preserving native species. However, it would certainly behoove the state entities, including departments and universities, to provide their expertise and work collaboratively towards the same goal of preserving and protecting native plants.

Also, the subcommittee may wish to ask: With the current efforts of seed banking taking place in the state, are there gaps that exist in those efforts? If gaps do exist, then how best should they be addressed?

**Staff Recommendation. Hold open.**

**Issue 26: Citrus Pest and Disease Prevention Program Resources**

**Governor's Proposal.** The Governor's budget proposes \$5 million ongoing (\$2.5 million General Fund and \$2.5 million Department of Food and Agriculture Fund) and 65 positions to build a dedicated Citrus Pest and Disease Prevention Division (CPDPD) within CDFA to enhance Asian Citrus Psyllid (ACP) and Huanglongbing (HLB) detection, suppression and eradication activities throughout the state.

**Background.** According to CDFA's Pest Ratings Policy and Definitions, ACP and HLB are 'A' rated pests, and as such, CDFA is required to take steps to mitigate their spread. Detecting, controlling/eradicating and enforcing quarantine regulations to prevent the artificial movement of ACP will prevent the HLB disease from infecting citrus trees.

HLB has been found in limited areas in Los Angeles, Orange, and Riverside Counties; allowing the ACP population to increase and spread is a recipe for disaster. The vast majority of commercial and residential citrus can still be protected by enhanced suppression and quarantine enforcement activities in the existing infested areas and newly detected areas. The establishment of ACP and HLB in other parts of the state would also result in the imposition of quarantines on both commercial citrus growers and ornamental nurseries.

Citrus produced in an area that is within quarantine must be treated with pesticides and all stems and leaves must be removed from the fruit before transiting out of the quarantine area. Nursery stock grown in an HLB quarantine area requires inspection and testing for HLB, must be grown within a CDFA-approved screen house, tested for HLB, and only sold within the HLB quarantine area. The enforcement of statewide quarantine regulations is also a benefit to the general public. Therefore, the Administration proposes that it is reasonable to establish a dedicated program and use General Fund to help support program activities.

In counties considered to be infested with ACP, growers engage in area-wide management activities and the CPDPD funds buffer treatments in surrounding residential areas. CDFA is currently suppressing infestations of ACP in 16 California counties utilizing industry funds. In prior years, suppression operations began in the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, Ventura, Tulare, Santa Barbara, San Benito, Fresno, Kern, Madera, San Joaquin, Santa Clara and San Luis Obispo. The ACP suppression activities have expanded into the counties of Kings, Placer, Monterey, Solano, Yolo, Alameda, Contra Costa, San Mateo, Stanislaus and Merced, as ACP was detected in these areas for the first time between 2015 and 2017. In counties where ACP was known to occur, there was a three-fold increase in the ACP population. Growers in Riverside, Imperial, Ventura, San Bernardino, Santa Barbara and San Diego Counties have transitioned to area-wide ACP management which requires that CDFA conduct residential buffer treatments around commercial groves that participate in the coordinated area-wide treatment.

**LAO Comments.** *ACP and HLB Continue to Spread.* Data indicates that the area affected by ACP and HLB has increased substantially in California in recent years.

## Spending on Suppression and Eradication of ACP and HLB

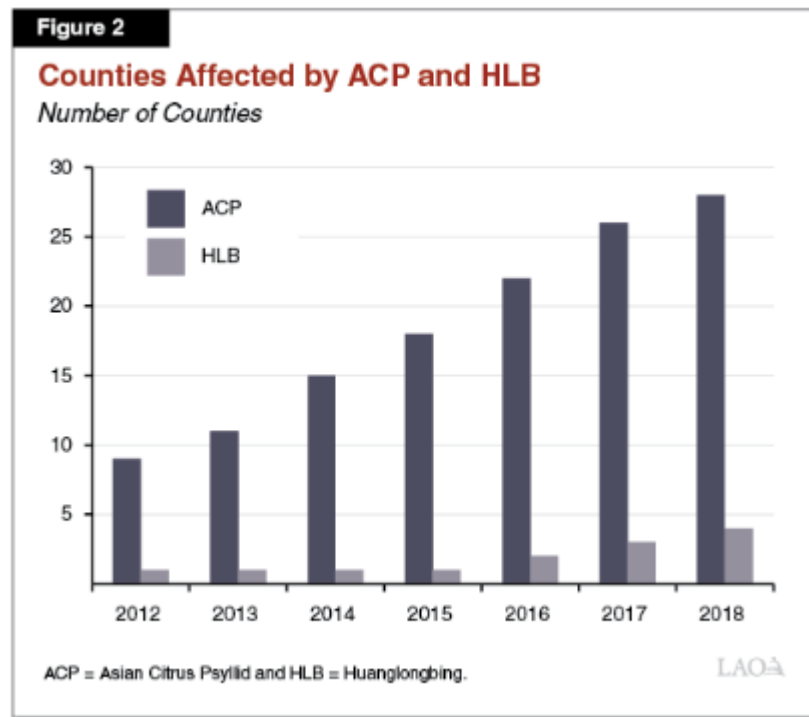
Fund Source (In Millions)

Program Budget	2013-14	2014-15	2015-16	2016-17	2017-18	Estimated 2018-19	Proposed 2019-20
General Fund	\$1.0	—	—	—	\$9.8	\$12.5	\$5.0
Reimbursements	0.5	\$0.4	\$0.5	\$0.4	—	—	—
Food and Agriculture Fund	8.9	16.2	16.1	21.3	19.9	16.3	22.8
Federal funds	8.1	8.2	13.3	11.6	13.3	12.1	12.1
<b>Totals</b>	<b>\$18.5</b>	<b>\$24.8</b>	<b>\$29.9</b>	<b>\$33.3</b>	<b>\$43.0</b>	<b>\$40.9</b>	<b>\$39.9</b>

ACP = Asian Citrus Psyllid and HLB = Huanglongbing.

Source: LAO.

The following figure shows that from 2012 through 2018 the number of counties where ACP has been detected more than tripled from 9 to 28, and the number of counties with an HLB infected tree grew from one to four. Over this period, the number of square miles under quarantine for ACP more than tripled from 25,813 to 87,656. Similarly, between 2014 and 2018 the number of square miles under quarantine for HLB increased more than nine-fold, from 92 to 850, and the number of trees identified as infected with HLB grew from 1 to 906.



**CDFA Estimates It Will Not Spend Entire ACP/HLB Budget This Year.** Below, Figure 3 summarizes revised estimated funding for ACP and HLB suppression and eradication in 2018-19 compared to the amount budgeted. As illustrated in the figure, CDFA estimates it will spend \$7.8 million less than the \$48.7 million budgeted in 2018-19. CDFA has not explained why current-year spending is expected to be significantly lower than the budgeted level.

Figure 3

**Current-Year Budgeted Versus Estimated Spending on Suppression of ACP and HLB***(In Millions)*

Fund Source	Budgeted	Estimated Expenditures	Difference
General Fund	\$12.5	\$12.5	—
Reimbursements	0.5	—	-\$0.5
Food and Agriculture Fund	20.2	16.3	-3.9
Federal funds	15.5	12.1	-3.4
<b>Totals</b>	<b>\$48.7</b>	<b>\$40.9</b>	<b>-\$7.8</b>

ACP = Asian Citrus Psyllid and HLB = Huanglongbing.

***Proposal Would Help Ensure a Continuous Effort to Suppress ACP and HLB.*** The creation of a new CPDPD within CDFA—including the addition of 65 new permanent positions—would help ensure that the state’s program to suppress and eradicate ACP and HLB has sufficient dedicated resources to perform key functions throughout the year. Specifically, the proposed CDPDP would have a dedicated workforce to perform ongoing activities such as enforcement of quarantine areas and eradication of HLB infected trees. As previously mentioned, the state’s citrus program has at times been disrupted by outbreaks of other pests. When outbreaks occurred, such as the one that occurred when a major Mediterranean fruit fly infestation occurred in Los Angeles County, CDFA redirected staff away from ACP and HLB suppression and eradication activities in order to address a more immediate threat.

In LAO’s view, having a dedicated division for these activities makes sense because efforts to suppress and eradicate ACP and HLB are distinct, in some ways, from efforts to suppress and eradicate pests that infest other crops. This is because citrus trees are widely found in residential areas, as well as in commercial groves. Therefore, ACP and HLB suppression and eradication efforts require coordination across large geographic areas including residential neighborhoods. This is especially true where neighborhoods are located near commercial groves. In comparison, many other fruit trees and other types of crops (such as grapes) are not as widely grown in residential areas. Instead they are more concentrated in certain geographic areas where climate and soil conditions are favorable and they are mainly grown by farmers. This typically allows suppression and eradication efforts to be concentrated in the areas where growers operate.

**LAO Recommendations. *Approve Governor’s Proposal.*** The LAO recommends the Legislature approve the Governor’s request for funding to suppress ACP and HLB. Given the recent increases in the spread of both ACP and HLB, the growing number of trees infected with HLB over the past few years, and the threat ACP and HLB pose to the state’s citrus industry, the LAO believes the request for additional staff resources and a dedicated division is reasonable.

***Require CDFA to Report at Budget Hearings on Current-Year Expenditures.*** The LAO recommends the Legislature require CDFA to report at budget hearings on projected spending in the current year on ACP and HLB suppression and eradication activities. Specifically, the department should report on why it anticipates that \$7.8 million of the funds appropriated for the program in 2018-19 are projected to remain unspent. This total includes \$3.9 million from the Food and Agriculture Fund and \$3.4 million in Federal Funds.

***Require CDFA to Report on Ongoing Efforts to Manage Spread of ACP and HLP.*** The LAO recommends the Legislature require CDFA to report at budget hearings on the status of its efforts to address the spread of ACP and HLP, including whether the proposed level of resources will be sufficient on an ongoing basis to address the threat posed by ACP and HLB to the state’s citrus crops.

Specifically, the department should report on (1) why the measures it is currently implementing have been insufficient to stop the continuing geographic spread of ACP and HLB, (2) how the Governor's proposal would address any shortfalls in the current program, (3) what targets and outcomes CDFA would use to measure the effectiveness of its ACP/HLB suppression efforts, and (4) whether there are additional measures that the state should implement to suppress ACP and HLB. This information would help the Legislature assess CDFA's progress to date for suppression of ACP/HLB and establish reasonable expectations for suppression of ACP/HLB in the future.

**Staff Recommendation. Approve as budgeted.**

**Issue 27: Various Technical Adjustments**

**Governor's Proposal.** The Governor's budget proposes for technical baseline appropriation adjustments to continue implementation of previously authorized programs and chaptered legislation proposals without an appropriation.

Among seven proposals in the "Various Technical Adjustments" BCP, the Governor's proposal includes two requests that fall within the realm of "technical":

- **Technical Adjustment to Convert Blanket Positions to Authorized Positions:** Request to convert six blanket positions to permanent authorized positions pursuant to Budget Letter (BL) 18-16. This is a request for position authority only with no increase in expenditure authority.
- **Federal Milk Marketing Order and Quota Implementation Program Establishment:** Request of a reduction of 34 positions to close the Dairy Marketing Branch (DMB) and the Milk Pooling Branch (MPB) in 2019-20 and ongoing due to the establishment of the Federal Milk Marketing Order (FFMO), which was effective November 2018. CDFA also requests \$799,000 in Department of Food and Agriculture Fund authority for 2019-20 and ongoing to support five positions that were reclassified to comply with the request from the dairy industry to create a stand-alone Quota Implementation Program (QIP).

The other five proposals in this BCP arguably should have warranted separate BCPs. They are included in this agenda as Issues 27a-27e.

**Staff Recommendation.** For all requests in Issue 27 (including 27a-27e), hold open.

**Issue 27a: Various Technical Adjustments: Mountain Pass Border Protection Station Operations Expansion**

**Governor's Proposal.** The Governor's budget proposes \$724,000 General Fund and eight positions in 2019-20 and ongoing to operate additional lanes at the new Border Protection Station (BPS) in Mountain Pass based on expanded design capacity.

**Background.** The BPS' mission is mandated within Food and Agricultural Code Sections 5341-5349 to protect ornamental and native horticulture as well as agricultural crops and animals from the harm caused by exotic pests and diseases. The impacts of invasive species are economically and environmentally devastating to California. Insects, pathogens, weeds and animals that plague other states and countries are a constant threat. The most significant commercial pathways for invasive species are private vehicles (passenger vehicles, vans, recreational vehicles, private moving trucks, etc.) entering via overland highways and private parcel shipments mailed into California. The Mountain Pass BPS was approved by the Legislature in the late 1990s, and completed in August 2018, to replace the aging Yermo BPS that is part of the Division of Plant Health and Pest Prevention Services, Border Protection Station Program (BPS Program). The Yermo BPS was originally designed to accommodate approximately one million vehicles annually, but by 2017, yearly traffic volume surpassed 8.3 million vehicles per year. In 2017, the Yermo BPS issued 1,104 warning holds on suspect agricultural products, made 451 pest interceptions, and issued 226 rejections to contents of vehicles entering from out of state. Out of the 451 pest interceptions, 47 were found to be "actionable"



pests that require CDFA to legally take enforcement action. Positioned directly on 1-15 without the option for vehicles to bypass, the Yermo BPS often created a risky traffic situation for the public due to the large volume of traffic coming from Las Vegas and other points further east which caused long inspection queues for extended periods of time.

While an expanded BPS at Mountain Pass will address the structural deficiencies of the aging Yermo BPS, a new facility alone does not address the health and safety issues to the public, nor does it address the need for additional staff. With vehicle traffic exceeding 8.3 million coming into California on 1-15 in 2017, additional CDFA staff is needed to perform state mandated inspections fast enough to prevent massive traffic back-ups on 1-15. Previously, the queues for inspection during peak traffic times are so long, that the California Highway Patrol (CHP) often asked CDFA to cease inspections out of concern for the public's safety. At that point, CDFA was forced to choose between enforcing state quarantine laws to keep economically damaging pests out of the state and CHP's request to put public safety first. The Mountain Pass BPS was built with more lanes to help create a better flow of traffic. It is important for this newly constructed BPS to have additional staff to successfully run the station without traffic issues and minimize health and safety issues.

**Staff Recommendation.** For all requests in Issue 27 (including 27a-27e), hold open.

<b>Issue 27b: Various Technical Adjustments: Office of Information Technology Services Infrastructure</b>
-----------------------------------------------------------------------------------------------------------

**Governor's Proposal.** The Governor's budget proposes \$930,000 in distributed administration and one position in 2019-20 and \$142,000 and one position in 2020-21 and ongoing to (1) operate and monitor CDFA's network and security infrastructure; (2) migrate to the California Department of Technology's (CDT) Tenant Managed Services Data Center environment; and (3) replace critical equipment that has reached the end of its useful life.

**Background.** In 2016, CDFA underwent a security audit by the California Military Department on behalf of CDT; several security findings were documented and needed remediation. Since the audit, CDFA's Office of Information Technology Services (OITS) has established a Project Management Office; developed an Enterprise Architecture; categorized and classified all program data; purchased Information Technology (IT) Asset Management software; documented and improved on processes; purchased hardware to accelerate system response time in remote offices; and developed policies for cybersecurity. Some of the findings identified in the audit still need to be implemented. This request is part of CDFA's continued effort to reform, improve and enhance performance of CDFA's IT infrastructure.

**Staff Recommendation.** For all requests in Issue 27 (including 27a-27e), hold open.

<b>Issue 27c: Various Technical Adjustments: Development of Pesticide Alternatives</b>
----------------------------------------------------------------------------------------

**Governor's Proposal.** The Governor's budget proposes \$671,000 Department of Food and Agriculture Fund (Ag Fund) authority in 2019-20 and ongoing for the Office of Pesticide Consultation and Analysis (OPCA) to support the scientific development of biological control efforts and testing of alternatives for pesticides being considered for deregistration in California.

**Background.** OPCA was formed in 1992 after the separation of CDFA's pesticide regulatory functions and subsequent formation of the California Environmental Protection Agency's Department of Pesticide Regulation (DPR). OPCA's primary role is to provide DPR unbiased analysis of potential pesticide regulatory impacts and pest management alternatives that may result in economic impacts to the agriculture food production sector. In 2018-19, CDFA received \$529,000 General Fund to support scientific development of alternatives for pesticides. However, despite the augmentation, OPCA retains a shortfall in resource authority necessary to fully implement plans to develop pesticide alternatives. This proposal will be funded from a reserve from the mill assessment on agricultural pesticide sales that is deposited into the Ag Fund. CDFA's Memorandum of Understanding with DPR will include language that specifically allows CDFA to utilize the funding for the research requested in this proposal.

**Implementation Plan.** OPCA anticipates funding three or four new IR-4 projects and a new biological control project every one to three years. IR-4 and biological control projects will be implemented on a three to five-year schedule. An average implementation timeline for IR-4 and Biological Control projects is reflected in the table below. All project outcomes will be included in the grant agreements and verified by OPCA's scientists.

July 2019 – August 2019	<b>IR-4 &amp; Biological Control:</b> Research priorities, project selection and logistics will be developed in collaboration with USDA, DPR, and University cooperators.
September 2019 – October 2019	<b>IR-4:</b> Review 2019 research plan, protocols, field trial locations, etc. <b>Biological Control:</b> Review foreign exploration plans, applications for importation and rearing of target pest and natural enemies.
January 2020 – July 2020	<b>IR-4:</b> Finalize sampling protocol and monitor fieldwork and residue analysis. <b>Biological Control:</b> Monitor overseas fieldwork and rearing protocols. Begin non-target species testing.
July 2020 – July 2022	<b>IR-4:</b> Review final report and petition for submission to DPR and Environmental Protection Agency. <b>Biological Control:</b> Continue non-target species testing and review USDA paperwork for release permits for natural enemies.

**Staff Recommendation.** For all requests in Issue 27 (including 27a-27e), hold open.

#### Issue 27d: Various Technical Adjustments: Industrial Hemp Positions

**Governor's Proposal.** The Governor's budget proposes six positions in 2019-20 and ongoing for the development, enforcement, and administration of the Industrial Hemp Program (IHP) in accordance with Food and Agricultural Code (FAC) Division 24, which pertains to industrial hemp.

**Background. SB 566 (Leno).** SB 566 (Leno), Chapter 398, Statutes of 2013, created the California Industrial Hemp Farming Act, which authorized the commercial production of industrial hemp in California and established an Industrial Hemp Advisory Board. Although chaptered in 2013, the California Industrial Hemp Farming Act was not effective until the Adult Use of Marijuana Act (Proposition 64, November 2016) made FAC Division 24 operative on January 1, 2017.

The California Industrial Hemp Farming Act requires that CDFA establish a registration fee and appropriate a renewal fee to be paid by growers of industrial hemp for commercial purposes and seed breeders, not including an established agricultural research institution, to cover the actual costs of implementing, administering, and enforcing the provisions of FAC Division 24.

**Staff Recommendation. For all requests in Issue 27 (including 27a-27e), hold open.**

<b>Issue 27e: Various Technical Adjustments: Organic Waste Management</b>
---------------------------------------------------------------------------

**Governor's Proposal.** The Governor's budget proposes \$140,000 General Fund and one position in 2019-20 through 2025-26 to administer CDFA functions specified in AB 1981 (Limón), Chapter 633, Statutes of 2018.

Through January 1, 2026, AB 1981 continues the requirement for CalEPA to coordinate with several other state agencies, including CDFA, to develop and implement policies to aid in diverting organic waste from landfills by promoting the composting of specific organic waste and by prompting the appropriate use of that compost in California. The bill also specifies the purpose of promoting the appropriate use of that compost through the state to improve the state's soil organic matter.

**Background. *Healthy Soils Program (HSP).*** CDFA's HSP incentivizes growers to implement management practices, including the use of compost, that build the state's soils organic matter. CDFA anticipates being closely engaged in the interagency discussion, research and technical work that informs policy development to promote production and agricultural land application of compost.

CDFA's HSP is designed to reduce greenhouse gases and promote carbon sequestration in agricultural soils. These greenhouse gas reductions contribute to the agricultural sector meeting its 2020 and 2030 targets. Compost application to agricultural soils, including rangeland soils, is one of the most popular management practices in the HSP among applicants and award recipients.

The diversions referenced in AB 1981 create a "supply" while the HSP provides the "demand" for compost production and use in California. CDFA has engaged with CalEPA, with existing resources, on interagency workgroup efforts to address the diversion of organic waste from landfills into compost production and use in agricultural lands.

However, CDFA does not have additional resources to cover the required functions of AB 1981. These functions include meeting at least quarterly with other agencies and specific stakeholders, including agricultural land managers, to implement policies needed to meet the goal of organic diversion from landfills; and working to ensure and promote the application of compost on working land such as agricultural lands and rangelands.

In addition, AB 1981 updated the Public Resources Code Section 42649.87 to include the Department of Forestry and Fire Protection to engage with other state agencies in the development of policies to aid in diverting organic waste from landfills by promoting the composting of specific organic waste and by prompting the appropriate use of that compost in California. CDFA is included as a collaborating state agency considering houses the HSP.

**Staff Recommendation. For all requests in Issue 27 (including 27a-27e), hold open.**

**Issue 28: Deferred Maintenance**

**Governor's Proposal.** The Governor's budget proposes \$3 million General Fund one-time to address critical structural deficiencies at the Hawaii Fruit Fly Rearing Facility and the Plant Pest Diagnostic Center in Sacramento.

**Background. *The Hawaii Fruit Fly Rearing Facility.*** The Administration states that this facility needs \$1.174 million to replace the heating, ventilation, and air conditioning system that no longer function properly. Due to the climate in this location, a reliable system is needed to maintain the environmental conditions necessary to produce sterile medflies. The replacement of this system is intended to address this issue.

***Plant Pest Diagnostic Center.*** The Administration states that the Plant Lab needs \$1.826 million to address water intrusion repairs, replacement of failed window systems and ponding issues in some areas of the building. Continuing water issues can result in mold and other damages over time that could be more costly and hazardous to address in the future. CDFA has recently completed the replacement of the lab's roof. This requested funding is intended to allow CDFA to further protect the lab from additional water damage.

**Staff Recommendation.** Approve as budgeted, and adopt supplemental reporting language requiring the Department of Finance to notify the Chair of the Joint Legislative Budget Committee prior to allocating deferred maintenance funding to the department.

**3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)**  
**8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)****Issue 29: Safe and Affordable Drinking Water (SADW) – Budget Change Proposal (BCP) and Trailer Bill Language (TBL)**

**Governor's Proposal.** The Governor's budget proposes the following BCP and TBL:

- BCP of \$4.8 million General Fund one-time as follows:
  - \$3.4 million to SWRCB for 23 positions to: (1) map high-risk aquifers and process water quality data from small water systems; (2) develop an assessment of the total annual funding needed to assist water systems in the state to deliver safe drinking water; (3) develop an implementation plan that includes funding priorities and guidelines; and, (4) process fees that will be deposited into a new fund and perform accounting work.
  - \$1.4 million to CDFA for seven positions to: (1) establish a new registration and fee collection system for dairies, farms, and ranches; and (2) administer the fertilizer materials mill assessments augmentation.
- TBL, which do the following:
  - Establish four charges, including:
    - A safe drinking water fee for confined animal facilities excluding dairies (amount generated not estimated).
    - A fertilizer safe drinking water fee (\$14 million to \$17 million).
    - A dairy safe drinking water fee (\$5 million).
    - A SADW fee for community water system customers (\$100 million to \$110 million).
  - Establish the SADW Fund to provide a source of funding to assist communities in paying for costs of obtaining access to SADW, such as operations and maintenance costs and capital costs associated with water system consolidation and service extensions.
  - Require SWRCB to administer a new SADW Program.
  - Require SWRCB to conduct a public review and assessment of the Safe Drinking Water Fund at least every 10 years.
  - Require SWRCB to prepare a report of expenditures annually, as specified.
  - Require SWRCB to make available a map of aquifers that are high-risk of containing contaminants and that exceed primary federal and state drinking water standards.

- Exempt an agricultural operation from enforcement action for causing, contributing, creating, or threatening to create a condition of pollution or nuisance for nitrates in groundwater if the operation meets specified criteria.

Under a separate BCP, the Governor's budget proposes \$168.5 million in Proposition 68 funds for public water systems in disadvantaged communities for infrastructure improvements, including drinking water and wastewater treatment projects. This BCP was heard on March 7, 2019, in this subcommittee, as part of the Proposition 68 issue.

The Legislature and Governor enacted AB 72 (Committee on Budget), Chapter 1, Statutes of 2019), which does the following to address safe and affordable drinking water needs in the current budget year, 2018-19:

- \$10 million General Fund one-time to continue emergency funding for emergency drinking water and technical assistance.
- \$10 million General Fund one-time for grants and contracts to provide administrative, technical, operational, or managerial services to water systems – mainly in disadvantaged communities – to support compliance with current drinking water standards.

**Background. *Sources of Drinking Water.*** According to the State Water Resources Control Board (SWRCB), the majority of public water systems (PWSs) in California use groundwater as their primary source of supply. PWSs that use both groundwater sources and surface water sources are categorized as surface water systems by convention. Although over 80 percent of PWSs use only groundwater as their primary source of water, these systems serve less than 20 percent of the population. Almost 80 percent of the population served by PWSs are served treated surface water in whole or part.

***Federal, State, and Local Entities Regulate Drinking Water.*** The federal Safe Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The United States Environmental Protection Agency (US EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted “primacy” by the US EPA, giving them authority to implement and enforce the federal SDWA at the state level.

SWRCB's Division of Drinking Water (DDW) regulates PWSs that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year. DDW also oversees water recycling projects, permits water treatment devices, supports and promotes water system security and works closely with SWRCB's Division of Financial Assistance (DFA) on funding for PWSs. DDW regulates approximately 7,500 water systems, of which about one-third of these systems have between 15 and 200 service connections.

The state does not regulate water systems with less than 15 connections. Instead, county health officers oversee these smaller systems. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown but estimated to be in the thousands.

At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the SWRCB to regulate small water systems with between 15 and 200 connections within their jurisdiction to ensure that these systems deliver adequate and safe drinking water.



For investor-owned public water utilities under the jurisdiction of the California Public Utilities Commission (CPUC), the CPUC shares water quality regulatory authority (including compliance with the Safe Drinking Water Act) with the DDW or LPAs.

***SADW as a Human Right.*** In response to concerns about the prevalence of unsafe drinking water in California, the Legislature and the Governor enacted AB 685 (Eng), Chapter 524, Statutes of 2012. This law declares the state's policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Under AB 685, state agencies are required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria. AB 685 stated that it did not expand any obligation of the state to provide water or to require the expenditure of additional resources to develop water infrastructure.

***California Safe Drinking Water Act.*** The California Safe Drinking Water Act requires SWRCB to regulate drinking water to protect public health, and requires SWRCB to ensure that PWSs are operated in compliance with the Act. If a PWS within a disadvantaged community (DAC) consistently fails to provide an adequate supply of safe drinking water, SWRCB may order the water system to consolidate with a receiving water system. SWRCB may also contract with an administrator to provide administrative and managerial services to a designated PWS to assist with the provision of an adequate and affordable supply of safe drinking water.

***Multiple Causes of Unsafe Drinking Water.*** The causes of unsafe drinking water generally can be separated into two categories (1) contamination caused by human action and (2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water.

Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses. High concentrations of nitrates in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrates in groundwater, although other sources can be important in certain areas.

***PWS Violations.*** According to SWRCB, violations data for 2017 shows that 93.8 percent of PWSs, serving 98.4 percent of people in the state, complied with maximum contaminant levels (MCLs) and treatment techniques (TTs) contained in the federal rules established under SDWA.

In 2017, the Drinking Water Program issued approximately 2,220 enforcement actions to PWSs for failing to comply with regulations. The board's records show that 459 PWSs had one or more violations in 2017. In all, about 592,000 people were affected by these violations. That number does not include people who rely on private wells or "state small" water systems with fewer than 15 connections. Overall, 24 percent of PWSs subject to enforcement actions had returned to compliance for an MCL or TT violation incurred in 2017.

In some cases, unsafe contamination levels may persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low-income of the customers, and the small number of customers among whom the costs would be spread.

***Office of Sustainable Water Solutions (OSWS).*** AB 92 (Committee on Budget), Chapter 2, Statutes of 2015, established the OSWS, which is in SWRCB's Division of Financial Assistance (DFA). The purpose of OSWS is to promote permanent and sustainable drinking water and wastewater treatment



solutions ensuring effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

OSWS provides grants, principal forgiveness and low interest loans for planning and construction projects utilizing state and federal funds. In addition, OSWS provides pre-planning assistance for projects seeking funding and technical, managerial and financial assistance through its technical assistance program.

OSWS staff manage over 330 drinking water projects in 290 communities and over 250 wastewater projects in 150 communities. The 580 active drinking water and wastewater projects currently span approximately 56 of the 58 counties in California. Since January 2018, OSWS has received, and is working on processing, 220 new applications for drinking water and wastewater projects (121 and 99, respectively).

***OSWS: Accomplishments since 2014.*** Since DDW was established at SWRCB in July 2014, DFA has been able to help approximately 7.2 million people in 220 communities receive safe and reliable drinking water. Approximately 1.15 million of the people reside in 200 small disadvantaged (approximately 40 percent of the 200) or small severely disadvantaged communities (approximately 60 percent of the 200).

***OSWS: Technical Assistance.*** In calendar year 2018, technical assistance was provided to approximately 174 small disadvantaged communities, benefitting more than 175,000 people, to develop projects to provide safe drinking water and wastewater solutions. Approximately 120 of the communities that received technical assistance were small disadvantaged or small severely disadvantaged drinking water systems. The scope of technical assistance provided to the drinking water systems included: (1) assisting the water system to improve their compliance and develop their technical, managerial, and financial capacity; and (2) assisting the communities that do not currently have access to safe and adequate drinking water to be connected to sustainable water suppliers.

***Current SWRCB Funding Programs Addressing SADW Issues.*** DFA administers multiple funding programs to assist water systems to achieve and maintain compliance with safe drinking water standards. These programs use federal funds and state funds to address the highest priorities of infrastructure need and include the following:

***Drinking Water State Revolving Fund (DWSRF).*** The largest drinking water funding program that SWRCB administers is DWSRF. US EPA provides DWSRF funds to states, including California, in the form of annual capitalization grants. States, in turn, provide low-interest loans and other assistance to PWSs for infrastructure improvements. Total funding provided to PWSs in executed loans and grants to date is over \$1.3 billion.

***American Recovery and Reinvestment Act (ARRA).*** On February 17, 2009, President Obama signed ARRA, which allocated \$2 billion nationally for safe drinking water infrastructure improvements. California's share of these funds was \$159 million, and was administered by the California Department of Public Health through the DWSRF program prior to the transfer of the drinking water program to SWRCB. ARRA funds were a one-time opportunity for the state and did not require matching funds from the state. Funding agreements were issued, totaling \$149 million, to 51 projects statewide and among 47 community drinking water systems.

***Proposition 50.*** The Water Security, Clean Drinking Water, Coastal, and Beach Protection Act of 2002 (Proposition 50) was voter-approved in 2002. Proposition 50 allocated \$485 million to drinking water quality issues.

*Proposition 84.* The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 (Proposition 84) was voter-approved in 2006. Proposition 84 allocated \$300 million to address drinking water and other water quality issues.

*Proposition 1.* The Water Quality, Supply and Infrastructure Improvement Act of 2014 (Proposition 1) was voter-approved in 2014 and authorized \$7.12 billion in general obligation bonds. Proposition 1 authorized \$520 million for projects that improve water quality or help provide clean, safe, and reliable drinking water.

*Proposition 68.* The Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2017 (Proposition 68) was voter-approved in 2018. Proposition 68 allocated a total of \$4.1 billion – \$4 billion of which was new bond authority and the remaining \$100 million of which was redirected from unsold bonds previously approved as part of Propositions 1, 40, and 84. Proposition 68 dedicated \$250 million specifically to safe drinking water.

A summary of small DAC drinking water projects funded by funding source between July 2010 and January 2019 is as follows:

- DWSRF: \$440,232,198 (63 percent)
- Proposition 1: \$213,231,560 (31 percent)
- Proposition 84: \$ 41,693,201 (6 percent)
- Proposition 50: \$ 814,877 (<1 percent)

A summary of small DAC projects funded by type of assistance between July 2010 and January 2019 is as follows:

Type of Assistance	Number of Projects	Amount
Planning	138	\$ 62,081,772
Construction	99	603,502,578
Technical Assistance	13	29,184,796
LEFA	11	1,202,690
<b>TOTAL Funding for small DAC projects between July 2010 and January 2019</b>		<b>\$696,691,836</b>

*Interim/Emergency Drinking Water Funding.* Below is a table reflecting interim/emergency drinking water funding between April 2010 and January 2019. These funding sources fund emergency needs, such as well rehabilitation or replacement, emergency interties, extension of service, treatment systems, including point of use treatment, and interim water supplies, such as bottled or hauled water.

**Interim/Emergency Drinking Water Funding Summary: April 2010 through January 2019\***

<b>Funding Source</b>	<b>Number of Projects</b>	<b>Funding Approved</b>
Proposition 84, Chapter 2 Safe Drinking Water Projects, Section 75021 Emergency Funding (\$10 million)*	129	\$7,827,904
Public Water System Drought Emergency Response (PWSDER) - SB 103 (Committee on Budget and Fiscal Review), Chapter 2, Statutes of 2014 (\$15 million)*	85	\$14,894,973
Interim Emergency Drinking Water Program - Allocation from Cleanup and Abatement Account (CAA) per SB 103 (\$4 million)	14	\$3,438,300
Interim Replacement Emergency Drinking Water Program - Allocation from CAA per SWRCB Resolution No. 2014-0028, June 17, 2014 (\$2.125 million)	25	\$2,042,789
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 (Committee on Budget), Chapter 1, Statutes of 2015 (\$4 million)	30	\$3,580,068
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 (\$15 million)**	21	\$9,300,043
Interim Emergency Drinking Water Program - Allocation from CAA per SB 826 (Leno), Chapter 23, Statutes of 2016 (\$15 million)	13	\$4,715,196
Set-Aside for Contamination Related Projects - Allocation from CAA per SWRCB Resolution No. 2016-0039, July 19, 2016 (\$4 million)	56	\$3,813,890
CAA for Urgent Drinking Water Needs - Continuous Authority per AB 339 (Mathis), Chapter 439, Statutes of 2017	22	\$1,649,184
Household Well Replacement Program - SB 108 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2017 (\$8 million)**	2	\$5,000,000
Drinking Water for Schools Grant Program - SB 828 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2016 (\$9.5 million) (project totals here include water quality impairment only, not access)	6	\$643,787
<b>TOTAL PROJECTS</b>	<b>401</b>	<b>\$51,906,134</b>
<b>TOTAL COMMUNITIES SERVED***</b>	<b>265</b>	
<b>ESTIMATED TOTAL CONNECTIONS</b>	<b>139,209</b>	
<b>ESTIMATED TOTAL POPULATION</b>	<b>427,882</b>	

Source: SWRCB.

\*The drinking water program was transitioned from the Department of Public Health to SWRCB on July 1, 2014. Prior to that date, approximately 84 projects (\$6,683,866) and 11 projects (\$2,556,182) were funded by the Proposition 84 and PWSDER allocations, respectively. The remaining 306 projects were funded after the transition.

\*\*Of the \$15 million allocation in 2015, \$5 million was awarded to three non-profits to provide well replacements for households impacted by the drought. An additional \$5 million was awarded from the \$8 million allocation in 2017, and the remaining \$3 million of that 2017 allocation will likely be awarded for the same purpose. Households benefitting under these agreements are not included in the above estimates of connections and population served.

\*\*\*Recipient Median Household Income (MHI) data was not historically tracked throughout this entire time period. However, based on available information, it can be concluded that the overwhelming majority of these funds went to disadvantaged communities.

**The 2018-19 Budget.** Last year, the Administration proposed, but the Legislature did not adopt, a SADW proposal, which would have done the following: (1) established the SADW Fund; (2) created a

SADW fee for all water customers statewide and three other fees for confined animal facilities, fertilizer, and dairy to address nitrates in groundwater; and, (3) given liability relief for agricultural operations from unlawful discharges of nitrate to groundwater and exempted them from nitrate-related enforcement actions, as specified.

Instead, the 2018-19 Budget Act provided \$23.5 million General Fund for allocation to safe drinking water actions, as follows:

- \$3.5 million for emergency water tanks for homes.
- \$10 million for emergency relief grants to household to fund well replacement, septic system replacement, permanent connections to public systems, well or septic abandonment, point-of-use and point-of-entry systems, and debt relief for households that have financed well replacement as a result of drought emergency. Of that amount, \$750,000 was to create a pilot program to provide grants for wells and septic replacements in households affected by wildfire and not covered by insurance.
- \$6.8 million for Safe Drinking Water for Schools grant program, which included up to \$1 million for technical assistance.
- \$200,000 for the implementation of AB 1577 (Gipson), Chapter 859, Statutes of 2018, to authorize SWRCB to order the Sativa Water District to accept full management and control by an administrator selected by SWRCB.
- \$3 million to conduct a needs assessment.

Last year, the Administration's trailer bill language was substantially similar to SB 623 (Monning), as amended August 21, 2017. That version of SB 623 was not heard in a policy committee and died in the Assembly Rules Committee.

**LAO Comments. *Uncertain Extent to which Proposed Revenues Will Fully Address Problems.*** The Administration has not completed an estimate of the total cost associated with bringing drinking water systems that are currently unable to meet water quality standards into compliance on an ongoing basis. SWRCB is currently conducting a study, pursuant to SB 862 (Committee on Budget and Fiscal Review), Chapter 449, Statutes of 2018, that is not expected to be completed until the fall of 2020. However, a private consulting firm estimated the total annual cost to address contaminated drinking water at roughly \$140 million (30 million for nitrate treatment and \$110 million for other contaminants). However, that estimate is highly uncertain given the lack of data, especially regarding the number of smaller water systems and domestic wells that fail to provide safe drinking water. It is possible that actual costs could be significantly higher or lower.

***Most Charged Payers Would Not Be Beneficiaries of the Program.*** The main beneficiaries of the program would be people in disadvantaged communities and those served by smaller water systems. These water customers should get access to clean drinking water at lower cost to them than would otherwise be available to them without this program. The largest share of program costs, however, would be paid by water system ratepayers across the state (with certain exceptions for low-income persons and customers of systems with less than 200 connections). The majority of these ratepayers are served by systems that already provide SADW. Therefore, ratepayers of these systems are unlikely to benefit from the proposed program.

***Most Charged Payers Would Not Be at Fault for the Contamination Being Mitigated.*** The vast majority of nitrate contamination is caused by agricultural activities such as fertilizer applications and animal operations such as dairies. The Administration's proposal to have agricultural entities pay charges to address the effects of nitrate contamination creates a link between operations that are the main source of the nitrate contamination and the entities that would pay charges to mitigate it. However, it is worth noting that some of the current nitrate contaminants in groundwater are not from current agricultural operations. Instead, some of these nitrates are legacy contamination that could be from as much as decades ago.

In addition, CDFA estimates the charges on dairies, fertilizer, and confined animal operations combined would total about \$19 million per year when fully implemented. (At the time the LAO analysis was prepared, the Administration had not completed a revenue estimate for the charge on confined animals.) Consequently, if the costs to mitigate nitrate-related contamination in drinking water exceeds the revenues generated by charges on agricultural entities, then nitrate-related contamination in drinking water could be addressed from revenues generated by the charge on water system customers rather than from agricultural entities.

***Alternative Sources of Funding are Limited.*** Generally, alternative funding sources to pay for the Governor's SADW proposal are limited. The SADW program will require a steady ongoing funding stream to meet the state's commitment to provide long-term support for operations and maintenance for water systems. General Fund is an alternative funding source for the program. However, SADW would have to compete with other programs for funding from a limited amount of General Fund. To the extent that there are any reductions in General Fund support for the program, it could result in potentially serious threats to public health if the water systems benefiting from the program fall out of compliance with drinking water standards due to neglect. In contrast, the Governor's proposal would provide a dedicated revenue source for the program.

In addition, the LAO finds that bond funding would not be appropriate for this program because bonds provide a one-time fund source and should not be relied on as an ongoing fund source. Moreover, general obligation bonds are repaid from the General Fund with interest and, therefore, would cause this approach to be somewhat more expensive than direct appropriations from the General Fund. The LAO also notes that it has not identified any existing special funds that would be appropriate to support this program and would have sufficient available funds.

***Safe Harbor Provisions Would Affect Enforcement Authority.*** The proposal's safe harbor provisions involve some policy trade-offs compared to the state's current enforcement approach. On the one hand, the proposal is structured to better ensure that significant funding is available for water quality mitigation throughout the state rather than to limited areas in the state. This is because the state's current enforcement approach generally relies on targeting individual or groups of polluters in a limited geographic area, and these enforcement actions can be administratively difficult to complete. For example, the state rarely issues a cleanup and abatement order for nitrate contamination (though it has reached settlements in two regions). On the other hand, under the proposal, the state would relinquish its authority to take certain enforcement actions –such as cleanup and abatement orders – against polluters if they are otherwise complying with their applicable permits and waivers. This would limit SWRCB's authority, and the Legislature will want to ensure that it is okay with this trade-off before approving the proposal.

***Staff Comments. Sharing a Common Goal.*** The problem of being able to provide safe and affordable drinking water to all Californians has been grappled with for several years in the Legislature and by the Administration. The Governor's proposal, along with a similar proposal by the

Administration last year, SB 623 (Monning) from the 2017-18 legislative session, as well as other policy bills introduced this year, demonstrate the strong will and determination of the Legislature and Administration to establish a new fund with a steady source of funding to address the persistent issue of providing safe and affordable drinking water. It is the expectation of this subcommittee that this is the year to achieve that goal.

**Source of Funding: Options.** As noted above, the Governor’s proposal includes four charges, including three agricultural-related fees and a SADW “fee” on water consumers. In particular, the charge on water consumers is a tax pursuant to the Supermajority Vote to Pass New Taxes and Fees Act (better known as Proposition 26). Proposition 26 was approved by voters in November, 2010, and amended the state constitution to address state and local fees. Among the provisions of Proposition 26, the initiative required that state laws that result in *any* taxpayer paying a higher tax be approved by two-thirds of each house of the Legislature. Proposition 26 expanded the scope of what is considered a tax and includes specific exemptions for a charge from being considered a tax. The SADW fee on water consumers is a tax and requires a two-thirds vote by the Legislature. A tax has the flexibility to be diverted to other purposes – there are no guarantees that the SADW fee will always be used to fund purposes included in this proposal.

Alternatively, the General Fund may be considered a viable funding source to address this issue. A specified sum of General Fund may be transferred to a proposed SADW Fund as a dedicated, ongoing funding source. However, this too, has the same risk as a tax in that the moneys could be diverted to other purposes.

Another option for funding the proposed program could be a combination of charges and the General Fund. This may create a broader portfolio of funding sources to provide ongoing revenue.

**The Road to the Goal.** There are two main components to this proposal: (1) Establish the structure for the fund and implementation plan for use of moneys in that fund; and, (2) Determine the funding source. Creating the parameters for the plan, its main components, and the fund are best addressed through a policy bill and reviewed by policy committees. SB 200 (Monning) is the legislative bill for which these components should be reviewed and analyzed. For the second component, the budget process is appropriate for determining the funding source and how it fits within the state budget overall.

**Staff Recommendation. Hold open.**