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# SUBCOMMITTEE NO. 2

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# Agenda

Senator Lois Wolk, Chair  
Senator Jim Nielsen  
Senator Fran Pavley



**Thursday, April 7, 2016**  
**9:30 a.m. or upon adjournment of session**  
**State Capitol - Room 112**

Consultant: Catherine Freeman

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<b>3860 DEPARTMENT OF WATER RESOURCES</b>
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The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor-owned utilities (IOUs).

**Governor's Budget.** The Governor's budget includes \$3.1 billion (including infrastructure expenditures) and 3,320 positions for support of DWR. The proposed budget represents an overall decrease of \$2 billion mainly due to decreased appropriations for proposition 1E bond funds, which were fully appropriated last year.

**EXPENDITURES BY PROGRAM (in thousands)**

	Program	Actual 2014-15*	Estimated 2015-16*	Proposed 2016-17*
	Continuing Formulation of the California Water Plan	\$347,179	\$737,178	\$259,603
	Implementation of the State Water Resources Development System	362,531	1,708,660	1,707,902
	Public Safety and Prevention of Damage	218,112	1,714,088	150,293
	Central Valley Flood Protection Board	4,732	20,001	13,416
	Services	3,338	7,783	7,766
	California Energy Resources Scheduling	972,070	961,602	928,463
	Loan Repayment Program	- 1,112	- 1,405	- 1,405
	<b>Total Expenditures (All Programs)</b>	<b>\$1,906,850</b>	<b>\$5,147,909</b>	<b>\$3,066,040</b>

**VOTE-ONLY CALENDAR**

- 1. Riverine Stewardship Technical Assistance.** The department currently administers two programs relating to river and stream restoration; the Fish Passage Improvement Program and the Urban Streams Restoration Program. These programs have received funding under previous general obligation bond acts (Propositions 13, 50 and 84). This proposal requests that the remaining dollars from these bond acts (\$2.4 million from Proposition 13, \$600,000 from Proposition 50, and \$1.66 million from Proposition 84) be combined and used to provide technical assistance to federal, state, and local entities undertaking river and stream restoration projects. The proposal also seeks \$17 million in reimbursement authority to allow DWR to receive payment from federal or state entities as part of its providing the technical assistance.
- 2. San Joaquin River Restoration and Truckee River Operating Agreement Implementation (State and Federal Reimbursement).** The budget proposes to give DWR the authority to receive funds from other state and federal entities associated with the San Joaquin River Restoration (\$25.1 million in reimbursement) and would also provide DWR with ongoing support for implementation of the Truckee River Operating Agreement (\$350,000).
- 3. Drinking Water Quality – Pilot Projects (Safe Drinking Water Local Assistance Funding).** The budget requests \$2.5 million (Proposition 50) in local assistance funding to fund pilot and demonstration projects for treatment and removal of seven specific contaminants, as well as drinking water disinfection projects using ultraviolet technology and ozone treatment. The language of Proposition 50 specifically delineates that the funds must be used for pilot projects to eliminate seven specific, listed contaminants. This request appropriates the remaining Prop 50 funds for this work in one final grant round.
- 4. Water Loss Audit Program Implementation.** The budget requests \$350,000 (General Fund) ongoing support to implement the distribution system water loss audit program required by SB 555 (Wolk), Chapter 679, Statutes of 2015. In addition, a one-time appropriation of \$150,000 (General Fund) is requested to develop rules and processes for validation and submittal, and for the utilization of a public on-line water audit submittal tool and database. The costs in this proposal are consistent with cost estimates provided by the department to the Legislature during discussions of SB 555.

**Staff Recommendation:** Approve as proposed.

**Vote:**

**Issue 1: Flood Management and General Fund Restoration**

**Background.** According to a November 2013 report by DWR, California faces significant risk from flooding. The flood risk for a given area is determined by the amount of damage (such as damage to property and loss of life) that would be caused if a flood occurred, combined with the likelihood that a flood will occur. For example, an urban area along a river might have a relatively high flood risk—even if a flood is unlikely to occur—because the area has high property values and a large number of residents would be affected if flooding happened. In contrast, a rural area might have a lower flood risk—even if a flood is more likely to occur—because property values and populations in the area are lower.

**State Role in Flood Protection.** Historically, most flooding has occurred in the Central Valley. The state is the primary entity responsible for flood control in this area. The State Plan of Flood Control (SPFC) is the state’s system of flood protection in the Central Valley. It includes about 1,600 miles of levees, as well as other flood control infrastructure, such as bypasses and weirs, which are used to divert water at times of high flow.

Within the SPFC, the state funds the construction and repair of flood control infrastructure. Typically, the federal and local governments also provide funding for these projects. The state also provides grants to local governments to support local levee improvements and other activities. For most levee segments, the state has turned over the operations and maintenance to local governments (primarily local flood control districts). Even though some of these local agencies have failed to adequately maintain the levees in the past, the state has been found liable for such levee failures. Outside the SPFC, the state’s role in flood management generally consists of providing financial assistance to local governments for flood control projects located throughout the state.

**Voters Passed Proposition 1E.** In November 2006, California voters approved the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1E) in order to improve the condition of the state’s levees. Proposition 1E authorized the sale of \$4.1 billion in general obligation bonds for several broad categories of flood protection activities, such as improvements to the state’s flood control system and the construction of bypasses. The measure requires (1) all funds to be appropriated by July 1, 2016, (2) the funds to be directed to projects that achieve maximum public benefits, and (3) the Governor to submit an annual flood prevention expenditure plan that includes the amount of matching federal and local funds. These funds have been fully appropriated as of June 2015.

**Central Valley Flood Protection Plan Developed.** Subsequently, the Legislature passed the Central Valley Flood Protection Act of 2008 (Chapter 364, Statutes of 2007 [SB 5, Machado]). Chapter 364 required DWR to develop a plan—the Central Valley Flood Protection Plan (CVFPP)—for reducing the risk of flooding throughout the SPFC system, including recommended actions and projects. The CVFPP was developed by DWR in 2012 and identified a total flood control funding need of \$14 billion to \$17 billion.

**State Flood Protection Activities.** The state funds several types of flood protection activities. This includes three types of state-managed capital outlay projects:

- **Urban Capital Outlay Projects.** These projects protect urban areas, typically by improving levees. Projects in urban areas often provide large reductions in flood risk for the protected areas because the levees protect high value property and large populations. However, the way urban capital projects have historically been constructed often negatively affect fish habitat for several reasons, such as by reducing native vegetation. Consequently, such projects often require significant environmental mitigation. The federal government often provides most of the funding for these projects because they meet certain federal criteria for reducing flood risk in a cost-effective manner.
- **Rural Capital Outlay Projects.** These projects protect rural areas by repairing levees and making other improvements, such as flood-proofing structures or widening floodplains. The impact of rural flood projects on fish habitat depends on how they are designed. For example, some of these projects include “setback” levees, which are built further back from the bank of the river. This connects the river to its historical floodplain, which creates additional habitat and provides good food sources for fish and other species. Because these projects reduce risk in rural areas—which do not have high populations or property values—they often do not meet the federal government’s cost-effectiveness criteria. Thus, the state typically pays over half the cost of these projects, with local governments paying the remainder.
- **Systemwide Capital Outlay Projects.** These projects include building or expanding existing bypasses (such as the Yolo Bypass near Davis). Bypasses significantly reduce the chance of flooding for large regions—including urban and rural areas—and improve environmental benefits for fish species that migrate through them. However, because some of the flood benefits accrue to rural areas, these projects may not reduce flood risk as cost-effectively as urban projects. The cost shares among state, federal, and local governments depend on the specific project.

The state also provides funding for other activities, including:

- **Grants to Local Governments.** The state provides grants to support a variety of flood protection activities at the local level. Specifically, the state funds a share of the costs associated with projects that are developed and led by local governments. This includes grant programs focused on reducing flood risk in small communities and supporting local levee maintenance.
- **State Operations.** The state also supports various state flood protection activities, such as updates to the CVFPP, analyses of flood risk, levee maintenance, and purchasing equipment and supplies needed to respond to flood emergencies.

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**Governor's Flood and Hydrography Budget Requests**

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**Governor's Proposals.** The Governor's budget includes several proposals designed to improve flood protection statewide. These include:

**1. General Fund Restoration (\$11.5 million).** The proposal includes \$10.1 million for flood system operations and maintenance. The department directly operates and maintains 293 miles of state-federal project levees, where no local levee protection district exists. Additionally, the department maintains over 1200 miles of flood control channels and more than 20 related flood control structures and activities. General Fund reductions in 2011 left the department with no funding to undertake routine levee maintenance activities, replace or repair equipment, or undertake channel maintenance work to ensure unimpeded flows. Support for such activities would not be a legal use of general obligation bond funds, so Proposition 1E was not an option from which to draw.

The proposal includes \$900,000 for flood emergency response. The department annually works with local agencies with responsibilities for flood protection, and emergency response and planning. This includes assessment of critical infrastructure and potential deficiencies, preplanning and repositioning of flood fight material, and ensuring that state and local response entities (police, fire, county offices of emergency management, regional California Office of Emergency Services staff, and the department) have clear communication and a clear understanding of responsibilities in the event of a flood emergency. When the General Fund was cut from this program, temporary support of the activities was able to be supported by Proposition 1E, but as those bond funds are drawn down, reinstatement of General Fund support is needed.

Finally, the proposal includes \$500,000 for flood risk reduction programs. The department administers various flood risk reduction programs currently funded through appropriations from Proposition 1E. In the 2015-16 Budget Act, the Legislature approved bond funding for continuing urban (\$270 million), nonurban (\$118 million), and systemwide (\$300 million) flood risk reduction actions. While project funding is currently supported by bond funds, these programs, and the local flood projects that they support, are ongoing. This funding is used to support various activities associated with those programs, including geodetic surveys, property review and transfers, and support for the Central Valley Flood Protection Board in processing permits and other associated activities. This request will restore the General Fund that was temporarily shifted to bond funds, as the bond funds for these activities will be expended by FY 2016-17. Absent this support, work timelines will be extended or possibly projects will be deferred.

**2. Increased Flood Protection (Bond Funds).** The budget requests reversion of \$28.9 million from unused balances of Proposition 84, and a new appropriation of \$62.5 million from Proposition 84, and \$360,000 from Proposition 13. This proposal specifically requests \$60 million (Propositions 84) to provide state-support of local flood management activities within the Sacramento-San Joaquin Delta. Additionally, approximately \$1.4 million (Propositions 13 and 84) is requested in support of the department's Flood Corridors Program and \$1.5 million (Propositions 84) in support of the Statewide Flood Control Subventions Program. The language of these bond acts dedicates these funds specifically for the purposes of delta flood protection,

the flood corridors program, and flood control subventions. This is the remaining funding from these bond acts for these purposes.

**3. California National Hydrography Dataset and Stream Gages.** The budget request \$2.3 million (General Fund) to continue and restore the collection and use of data relating to statewide hydrology.

The proposal includes \$1.1 million annually plus \$775,000 one-time (General Fund), to support the maintenance of the National Hydrograph Dataset (NHD). The NHD works in a manner similar to Google Maps, but for data regarding waterways. Currently, the data contained in the NHD for California is at a very low resolution and covers only major waterways. This proposal will allow DWR to update the NHD to include details for streams, canals, sloughs and smaller waterways. This update would provide a basis for local communities to collaborate on urban stream restoration and flood control projects, as well as state and federal agencies to collaborate on the San Francisco Bay Delta. An accurate, high-resolution map of the waterways in California, opens up the possibility of new uses for the data by government, business, and non-profit organizations. This proposal would build on the work started (but abandoned) by the US Geological Survey, and provide California with a consistent, authoritative source for California's water features. This request includes \$775,000 one-time support to expand the number of California waterways covered and the detail of the resolution.

The proposal includes \$1.25 million in 2016-17 and 2017-18 (General Fund) to repair, replace, address stream gage safety issues. This proposal would provide for the renovation and upgrade of 30 existing stream gages on the San Joaquin, Sacramento, Feather, Consumes, Scott, Shasta, and Susan Rivers and tributaries to these rivers. This work would address corroded, damaged, or otherwise unsafe structural elements of the flow measurement gages, and provides the opportunity to upgrade technology. According to the department, California established the first gages in 1849 and continuous water data records are vital to management of the state's water resources.

**4. Deferred Maintenance.** The Governor's budget includes \$100 million (General Fund) for general deferred maintenance at the department. The department plans to expend \$60 million for facilities within the state plan of flood control (Central Valley), including \$10 million for department facility repair. The remaining \$40 million is proposed for flood protection facilities outside the state plan of flood control, including a competitive grant program for local flood control agencies (outside of the state plan of flood control).

**Staff Comments.** The proposals listed are necessary to continuing the state's commitment to flood protection, both in the statewide plan of flood control and local flood-prone areas. Similarly, the hydrography datasets are critical to future water management decisions. The department should address its plan for deferred maintenance in its presentation.

**Staff Recommendation.** Approve as proposed.

**Vote:**

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**Issue 2: Drought Emergency Response**

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**Background.** The Governor's budget includes continuing drought-related proposals. In January, the Legislative Analyst's Office (LAO) provided an extensive analysis of the state's drought conditions, drought response, and Governor's budget proposals. The LAO's executive summary follows:

**State Has Been Experiencing Exceptionally Dry Period.** California has been experiencing a serious drought for the past four years. In fact, by some measures the current drought actually began in 2007, with one wet year—2011—in the middle. While there are optimistic signs that El Niño weather patterns will bring California a wet winter in 2016, how much precipitation will fall as snow in the state's northern mountain ranges—a major source of the state's water throughout the year—remains uncertain. Moreover, the cumulative deficit of water reserves resulting from multiple years of drought is sufficiently severe that some degree of drought conditions likely will continue at least through 2016. Scientific research also suggests that climate change will lead to more frequent and intense droughts in the future.

**Drought Has Affected Various Sectors in Different Ways.** Sector-specific water needs and access to alternative water sources have led to notable distinctions in the severity of the drought's impacts across the state. For example, while the drought has led to a decrease in the state's agricultural production, farmers and ranchers have moderated the drought's impacts by employing short-term strategies, such as fallowing land, purchasing water from others, and—in particular—pumping groundwater. In contrast, some rural communities—mainly in the Central Valley—have struggled to identify alternative water sources upon which to draw when their domestic wells have gone dry. Multiple years of warm temperatures and dry conditions have had severe effects on environmental conditions across the state, including degrading habitats for fish, waterbirds and other wildlife, killing millions of the state's trees, and contributing to more prevalent and intense wildfires. For urban communities, the primary drought impact has been a state-ordered requirement to use less water, including mandatory constraints on the frequency of outdoor watering.

**State Funded Both Short- and Long-Term Drought Response Activities.** The state has deployed numerous resources—fiscal, logistical, and personnel—in responding to the impacts of the current drought. This includes appropriating \$3 billion to 13 different state departments between 2013-14 and 2015-16. State general obligation bonds (primarily Proposition 1, the 2014 water bond) provided about three-quarters of these funds, with state General Fund contributing around one-fifth. Some of the funded activities (such as providing bottled drinking water or rescuing fish) are to meet an emergency need stemming from the current drought, and then will conclude. Other projects, particularly those supported by bond funds (such as building new wastewater treatment plants), will be implemented over the course of several years, and therefore will be more helpful in mitigating the effects of future droughts. Lastly, other activities (such as lawn removal or water efficiency upgrades), often are intended to have noticeable effects in both the current and future droughts.

**Drought Response Has Also Included Policy Changes and Regulatory Actions.** In addition to increased funding, the state's drought response has included certain policy changes. Because current drought conditions require immediate response but are not expected to continue forever, most changes have been authorized on a temporary basis, primarily by gubernatorial executive order or emergency departmental regulations. For example, one of the most publicized temporary drought-related policies has been the Governor's order (enforced through regulations) to reduce statewide urban water use by 25 percent. State regulatory agencies also have exercised their existing authority in responding to drought conditions. For example, the State Water Resources Control Board has ordered and enforced that less water be diverted from some of the state's rivers and streams, and the Department of Fish and Wildlife has closed some streams and rivers to fishing.

**Governor Proposes Continued Funding for Drought Response Activities in 2016-17.** The Governor's budget proposal provides \$323 million for drought response efforts in 2016-17. This funding would primarily support the continuation of initiatives funded in recent years that address emergency drought response needs. For example, the proposal includes funding for increased wildland firefighting, to provide various forms of human assistance in drought-affected communities (such as drinking water, food, financial assistance, and housing and employment services), and to monitor and assist at-risk fish and wildlife. The proposal also dedicates cap-and-trade revenues for four conservation programs intended to improve water and energy efficiency.

**LAO Recommendations for 2016-17: Adopt Most of Governor's Drought-Related Budget Proposals.** We believe the Governor's approach to focus primarily on the most urgent human and environmental drought-related needs makes sense. The severity of enduring drought conditions supports the continued need for these response activities. As such, we recommend the Legislature adopt the components of the Governor's drought package that meet essential human and environmental needs and that are likely to result in immediate water conservation. We believe additional information is needed, however, before adopting the Governor's four cap-and-trade-funded conservation proposals. Whether these proposals represent the best approach to achieving water and energy savings and reducing greenhouse gases is unclear. We therefore recommend the Legislature delay deciding on whether to fund these programs until the administration has provided additional information to justify the request.

**LAO Recommendations for Longer Term: Learn Lessons to Apply in Future Droughts.** Given the certainty that droughts will reoccur, and the possibility that subsequent droughts might be similarly intense, we recommend the Legislature continue to plan now for the future. Such planning can be facilitated by (1) learning from the state's response to the current drought, (2) identifying and sustaining short-term drought-response activities and policy changes that should be continued even after the current drought dissipates, and (3) identifying and enacting new policy changes that can help improve the state's response to droughts in the future. We recommend the Legislature spend the coming months and years vetting various drought-related budget and policy proposals for their potential benefits and trade-offs, and enacting changes around which

there is widespread and/or scientific consensus. This could include both changes that remove existing barriers to effective drought response, as well as proactive changes that improve water management across the state. The Legislature can gather such information through a number of methods, including oversight hearings and public forums, but we also recommend the administration submit two formal reports: one that provides data measuring the degree to which intended drought response objectives were met, and one that provides a comprehensive summary of lessons learned from the state's response to this drought.

### **Governor's Budget Drought Proposals**

**Governor's Proposal.** The Governor's 2016-17 budget includes \$64 million (General Fund) in support of continuing emergency response activities associated with the state's current drought. The proposal has three main elements: (1) \$17 million in support of 25 positions that are undertaking drought response activities; (2) \$5 million to assist disadvantaged communities with emergency water supply and public health issues associated with drought conditions; and (3) \$42 million for Delta salinity barrier construction work (the removal in fall 2016 if installed in spring 2016, and the reinstallation, if necessary, in spring 2017). Specifically, the proposal includes:

This request is substantially similar to the appropriations made in the 2015-16 Budget Act.

- **Salinity Barriers (\$42 million).** The 2015-16 Budget Act included \$11 million for the one-time removal of the 2015 barrier. The 2016-17 request would cover the complete costs of one cycle of removal and installation of a salinity barrier or barriers should that be necessary due to continuing drought conditions.
- **State Operations (\$17 million).** This proposal identifies the same 11 program areas that were funded in fiscal year 2015-16. These are:
  1. State's Save Our Water public outreach campaign.
  2. Departmental communication and actions with local agencies.
  3. Drought Response Management.
  4. Drought Task Force.
  5. Advanced planning for drought response, mitigation and recovery.
  6. Oversight of projects to implement Drought Action Plan.
  7. Development and management of analytic hydrology, climate, groundwater data.
  8. Assistance to urban and agriculture agencies to update water management plans to support drought conservation activities.
  9. Inspections, assessments and evaluation of local infrastructure and plans to support regional water improvements including water interties.
  10. Water flow and quality monitoring, and impacts modeling.
  11. Facilitate multi-agency coordination and communication relating to water transfers to address drought conditions.

- **Emergency Assistance (\$5 million)** - This proposal, while similar to the \$5 million in the 2015-16 Budget Act, expands slightly the scope of work that can be funded in efforts to assist communities facing drinking water shortages. According to the department, this proposal would allow support for projects that address an imminent drought-related emergency, but rather than providing a one-time fix, would provide resiliency to the water supply to head off such an emergency in the future as well.

**Staff Comments.** As April begins, the state is in better shape, water-wise, than in previous years. However years of groundwater overdraft, drought conditions, and low-precipitation have left many areas deficient. At this time, it is unclear whether or not certain proposals will be necessary, for example the delta barriers are not likely to be necessary given that water flows through the Delta have improved significantly. Similarly, it is unclear to what extent the water transfers will continue to be needed in the coming budget year.

The subcommittee may wish to ask the department to provide an update on the drought conditions, both north and south of the Delta, and to outline which pieces of the proposal may not be necessary in the budget year.

**Staff Recommendation.** Hold open for May Revision.

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**Issue 3: Greenhouse Gas Emission Programs**

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**Background.** In June, 2015, the department announced the award of \$28 million in June 2015 to 22 entities for 25 projects that will save water and energy and reduce greenhouse gas emissions. The grants are designed to help California respond to the immediate drought while building resiliency to cope with future droughts and climate change. They are DWR's first grants using proceeds from California's cap-and-trade program for combating climate change. Through the Greenhouse Gas Reduction Fund (GGRF), DWR and other state agencies are investing in projects that reduce carbon pollution while also creating jobs, improving air quality and providing other benefits, such as energy and water savings.

In all, the 25 projects are anticipated to save an estimated 270,000 acre-feet of water and prevent the release of approximately 199,000 metric tons of greenhouse gas emissions, which contribute to climate change. Over 70 percent of the funding will provide benefits to disadvantaged communities that are targeted for investments from the GGRF. The projects include installation of water meters for Merced residents that can be read and tracked by satellite, design and installation of a smart irrigation control system for 18 Bakersfield parks, and distribution of water conservation toolkits to households in the small Tulare County town of Alpaugh.

**Governor's Proposal.** The budget requests \$10 million (GGRF) for grants that would reduce water use and would also provide for a measurable reduction in carbon emissions associated with that reduced water use. This would be the fourth appropriation of GGRF dollars to the department for this purpose. The 2016-17 appropriation would be rolled into the 2015-16 program (for a total of \$29 million in grants available) to fund projects received under the one grant solicitation rather than a second solicitation effort.

**Legislative Analyst's Office (LAO) Assessment.** The LAO assessment, as discussed in previous hearings, has focused on a general lack of detail provided by the Administration regarding overall cap-and-trade proposals.

**Staff Comments.** Staff concurs with the necessity of continued water-energy focus for GGRF dollars. The Legislature needs to weight whether or not this program continues to be the highest priority for cap-and-trade funding, or whether there are other ways to reduce greenhouse gas emission within the water/energy sector.

**Staff Recommendation.** Hold open.

**Issue 4: Delta Habitat Conservation and Conveyance Program (DHCCP) and WaterFix**

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

**Governor's Proposal.** The budget requests the conversion of 38 limited-term positions to permanent positions. These positions are intended to carry out the preliminary design phase activities within components of the Delta Habitat Conservation and Conveyance Program (DHCCP). This proposal includes no funding request as the positions are funded by the State Water Project and have no impact on the state's annual budget act. The DHCCP is the unit within the department that would carry out the planning and design of the Governor's proposed tunnels to convey water through the Sacramento-San Joaquin Delta as part of the effort to achieve the goals of ecosystem restoration and water supply reliability in the Delta.

Through fiscal year 2012-13, the Legislature had approved 37 permanent positions and 38 two-year limited-term positions to support the DHCCP. In fiscal year 2014-15 the Department requested that the 38 two-year limited-term positions be converted to permanent. Noting "the complexity and scope of this project and its multiple delays," the Assembly rejected the conversion to permanent, and instead granted a two-year extension of the limited-term positions. The Senate took this same action to conform.

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

**Staff Comments.** Staff concurs with the following comments of the Assembly Budget Committee: "The DWR has yet to complete a CEQA document for this project including specifying operational criteria or making binding agreements to fund all construction, operations, maintenance, and mitigation. The Delta Reform Act requires these actions must be complete before construction can begin. Until it is clear that this project has met its binding commitments and is moving forward, new permanent positions for WaterFix are premature. Further, the department has only filled four of the 38 limited-term positions it previously received."

Staff recommends denying the Administration's request to make the positions permanent, but recommends approving, for another two years, the four positions that have already been filled.

**Recommendation:** Deny proposal to make positions permanent. Approve extension of four positions for two years.

**Vote:**

<b>3885 DELTA STEWARDSHIP COUNCIL</b>
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Established in 2009 by the Delta Reform Act, the mission of the Delta Stewardship Council, through a seven-member board, is to further the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta ecosystem. The goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta. In 2013, the council adopted a legally enforceable Delta Plan to further the state's goals and guide state and local agency activities related to the Delta. Under state law, agencies are required to coordinate their actions pursuant to the Delta Plan with the council and the other relevant agencies.

The council is informed by scientific input from the Delta Science Program and the Delta Independent Science Board. The mission of the Delta Science Program is to provide the best possible unbiased scientific information to inform water and environmental decision-making in the Delta. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program.

**Governor's Budget.** The Governor's January budget includes \$26 million (mostly General Fund), an increase of \$1.5 million. The increase is mainly due to a proposal to implement the Delta Plan.

**EXPENDITURES BY FUND (in thousands)**

<b>Fund</b>	<b>Actual 2014-15*</b>	<b>Estimated 2015-16*</b>	<b>Proposed 2016-17*</b>
General Fund	\$ 10,309	\$ 17,233	\$ 18,734
California Environmental License Plate Fund	604	809	807
Federal Trust Fund	159	2,749	2,785
Reimbursements	1,369	4,450	4,450
Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	997	-	-
<b>Total Expenditures (All Funds)</b>	<b>\$13,438</b>	<b>\$25,241</b>	<b>\$26,776</b>

**Issue 1: Delta Plan and Delta Science Program**

**Background.** The Delta Stewardship Council (DSC) was created in 2009 as an independent state agency to guide the state's goals of: (1) providing more reliable water supply through the Delta and, (2) restoring the Delta. The Delta Plan, adopted in 2013, is both a regulatory document and a series of recommendations for state and local agencies operating within the Delta.

The Delta Reform Act required the Delta Plan to include an adaptive management strategy for ongoing ecosystem restoration and water management decisions, and that Plan implementation be based on best available science. The act also requires the council to "review the Delta Plan at least once every five years and revise it as the council deems appropriate." The dynamic nature of the Delta has resulted in several high priority updates that are necessary to achieve the coequal goals. Updating the plan on an "as-needed basis" would not only ensure the relevancy of the Plan in terms of serving as a framework towards achieving the coequal goals, but it would do so in a cost-effective manner.

The Delta Reform Act includes requirements for incorporating the BDCP into the Delta Plan (with conditions) in order to create a single, complete management plan for the Delta. In the 2015 budget act, the council received a one-time augmentation of \$1.0 million for consultant contracts to assist with anticipated updates to the Delta Plan in the event of BDCP approval and incorporation into the plan. In April 2015, the state and federal agencies responsible for the BDCP proposed a new approach to replace the proposed plan: WaterFix and a parallel initiative, EcoRestore. Given the timing of the shift, the council's 2015-16 budget change request did not anticipate this change in approach.

In light of this significant change, additions and modifications to the Delta Plan, its narrative, regulatory policies, and recommendations, will be necessary. These Delta Plan revisions, in turn, will provide guidance to the Department of Water Resources, which will need to certify the WaterFix project's consistency with the Delta Plan, as will EcoRestore's individual restoration projects.

**Budget Proposal.** The Governor's budget requests \$3.6 million (General Fund) to support independent science through the Delta Science Program and to update the Delta Plan and regulations to address flood management, ecosystem restoration, and water supply reliability. Specifically, the proposal includes:

- **Delta Science Program.** The budget proposes \$2.1 million annually to bolster the Delta Science Program's mission of providing the best available science by increasing support for monitoring and science investigations, and the Delta Plan Interagency Implementation Committee's High-Impact Science Actions, which were endorsed in 2015 by the 17-member panel comprised of state and federal agencies; and
- **High-Priority Delta Plan Updates.** The budget proposes \$1.45 million for the next two years to update the Delta Plan, regulations, and recommendations relative to flood

management, ecosystem restoration, water supply, and the significant shift in policy from the Bay Delta Conservation Plan (BDCP) to WaterFix and EcoRestore.

**Staff Comments.** Staff concurs with the need to continue a baseline Delta Science Program and the baseline activities proposed by the council in the current-year's budget. Science-based adaptive management is important to ensuring that the Delta Plan remains an effective and relevant document upon which decision-making in the Delta is reliant. Without the ability to actively update the Delta Plan as is currently needed, the plan's effectiveness and relevancy will be significantly compromised, impacting the council's ability to effectively carry out its statutory mandates, including consistency determinations for covered actions such as the WaterFix and EcoRestore projects.

It is important to clarify that none of this funding would go to complete the Bay Delta Conservation Plan (BDCP), WaterFix, or to incorporate WaterFix into the Delta Plan if it advances.

**Staff Recommendation:** Approve as proposed.

**Vote:**

### 3840 DELTA PROTECTION COMMISSION

The Delta Protection Act was adopted by the Legislature in 1992 and updated in 2009. The act declares that the Sacramento-San Joaquin Delta is “a natural resource of statewide, national, and international significance, containing irreplaceable resources, and that it is the policy of the State to recognize, preserve, and protect those resources of the Delta for the use and enjoyment of current and future generations.”

The Delta Protection Commission was created under the 1992 Act to recognize and protect the unique cultural, recreational, natural and agricultural resources of the Delta, and is further defined as “the appropriate agency to identify and provide recommendations to the Delta Stewardship Council on methods of preserving the Delta as an evolving place.” With this mandate, the commission focuses on the oversight of delta land use and resource management, levees and emergency response, the support of delta agriculture, recreation, tourism and local economic development, and the protection of delta historic, cultural and natural resources.

**Governor’s Budget.** The Governor’s January budget includes \$1.6 million (mostly Environmental License Plate Fund), about the same amount as in previous years.

#### EXPENDITURES BY FUND (in thousands)

	Fund	Actual 2014-15*	Estimated 2015-16*	Proposed 2016-17*
	General Fund	\$ -	\$ -	\$ 150
	California Environmental License Plate Fund	866	1,073	1,086
	Harbors and Watercraft Revolving Fund	386	240	253
	Reimbursements	245	259	82
	<b>Total Expenditures (All Funds)</b>	<b>\$1,497</b>	<b>\$1,572</b>	<b>\$1,571</b>

**Issue 1: Economic Sustainability Plan Update**

**Background.** Section 29759 of the Public Resources Code mandated the Delta Protection Commission (DPC) to, not later than July 1, 2011, prepare and adopt, by a majority vote of the membership of the commission, an economic sustainability plan. The economic sustainability plan is required to include information and recommendations that inform the Delta Stewardship Council's policies regarding the socioeconomic sustainability of the Delta region. The economic sustainability plan was completed on time and includes all of the following:

1. Public safety recommendations, such as flood protection recommendations.
2. The economic goals, policies, and objectives in local general plans and other local economic efforts, including recommendations on continued socioeconomic sustainability of agriculture and its infrastructure and legacy communities in the Delta.
3. Comments and recommendations to the Department of Water Resources concerning its periodic update of the flood management plan for the Delta.
4. Identification of ways to encourage recreational investment along key river corridors, as appropriate.

**Budget Proposal.** The Governor's budget requests \$150,000 (one-time, General Fund), for consultant work to review, and partially update, the economic sustainability plan as required by statute, including necessary public participation processes. The Delta Protection Act requires the commission to review and make necessary amendments to the plan every five years. Existing staff are fully extended with ongoing workload requirements and efforts to meet other mandates in the Delta Protection Act and Delta Reform Act. This proposal would provide funding for consultants to augment the commission staff and assist in the review and update of the policies and recommendations of the plan, as well as conduct required public participation processes.

**Staff Comments.** Staff concurs with the need for the proposal. However, given the changing timelines related to the development of WaterFix, it would be helpful for the commission to discuss how it plans to keep up with the changing timelines.

**Staff Recommendation:** Approve as proposed.

**Vote:**

### 3940 STATE WATER RESOURCES CONTROL BOARD

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

**Governor's Budget.** The Governor's January budget includes \$1 billion to support the board's activities, a decrease of \$1.9 billion over the current year budget. This change is primarily due to the appropriation of Proposition 1 bond funds in 2015. Most of the board's budget is special funds, with \$47.9 million of the proposed total funding coming from General Fund.

#### EXPENDITURES BY PROGRAM (in thousands)

	Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
	Water Quality	\$1,049,287	\$2,834,905	\$915,041
	Drinking Water Quality	39,463	44,216	47,761
	Water Rights	22,507	33,590	41,996
	Department of Justice Legal Services	1,217	1,217	1,217
	Administration	23,762	33,485	33,820
	Administration - Distributed	- 23,762	- 33,487	- 33,822
	<b>Total Expenditures (All Programs)</b>	<b>\$1,112,474</b>	<b>\$2,913,926</b>	<b>\$1,006,013</b>

**VOTE-ONLY CALENDAR**

- 1. Drinking Water Operator Certification Program.** The Governor's budget requests \$110,000 and one permanent position for the Drinking Water Operator Certification Program (DWOCP) to replace a limited-term position that will expire on June 30, 2016. The new position will assist with the examination process and the increased workload within the unit. The position cost of \$110,000 will be offset by a reduction in contract costs of \$388,000. The net result is a reduction of \$278,000 to the Drinking Water Operator Certification Special Account.
- 2. Board Member Per Diem.** The Governor proposes \$335,000 (various special funds) for increased regional board member per diem payments and budget TBL. The proposal increases Regional Water Board member per diem from \$100 to \$500. It also authorizes board members to receive one day's per diem to review materials in preparation for board meetings. Further, it deletes provisions stating that board members receiving unrelated salary are not eligible for per diem and caps total statewide expenditures for Board member per diem in lieu of the current cap for each regional board. This cap is in accordance with the increased per diem payments proposed and assumes each regional board meets once monthly.
- 3. Low-Income Water Rate Assistance Program.** The Governor's budget requests \$129,000 per year for two years (Waste Discharge Permit Fund, Civil Penalties) and one position to develop a plan for the funding and implementation of the Low-Income Water Rate Assistance Program, as required by AB 401 (Dodd), Chapter 662, Statutes of 2015. AB 401 requires the SWRCB to consider existing rate assistance programs authorized by the Public Utilities Commission in developing the plan and include recommendations for other cost-effective methods of providing assistance to low-income water customers. The SWRCB must also submit a report to the Legislature no later than February 1, 2018, on its findings regarding the feasibility, financial stability, and desired structure of the program, including any recommendations for legislative action that may need to be taken.
- 4. No Cost Conversion of Surface Water Ambient Monitoring Program Contract Funding to Personal Services.** The Governor's budget proposes to redirect existing contract funds, from the Waste Discharge Permit Fund (WDPF), currently used for contracted water quality monitoring tasks to hire six permanent state employees to conduct this work. This proposal does not require additional funding.
- 5. Public Water Systems Consolidations.** The Governor's budget requests 2.5 permanent positions and \$352,000 (Safe Drinking Water Account) to address the increased workload associated implementing SB 88 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2015. SB 88 authorizes the SWRCB to require a public water system or state small system serving a disadvantaged that consistently fails to provide an adequate supply of safe drinking water to be consolidated with, or receive an extension of service from, another public water system. The legislation also requires the SWRCB to make funds available for the costs of completing the consolidation or extension, and would provide liability protection to the receiving water system, wholesaler or other agency in the chain of distribution.

- 6. Safe Drinking Water Account Expenditure Authority.** The Governor's budget requests an additional \$3,702,000 per year in expenditure authority from the Safe Drinking Water Account to support the Drinking Water Program. Approval of this proposal will allow the SWRCB to shift expenditures for Large Water Systems (LWS) that are currently being subsidized by federal funds and grant money to fees paid by LWS. These federal funds are no longer available to support program administrative costs. This increase will allow the program to fully fund budgetary expenditures with fees.
- 7. Urban Retail Water Suppliers.** The Governor's budget requests one position and \$540,000 (\$400,000 Local Assistance) from the Small System Technical Assistance Account to address the increased workload associated with implementing the provisions of SB 555 (Wolk), Chapter 679, Statutes of 2015. SB 555 requires the SWRCB to develop regulations establishing performance standards for urban water supplier water loss and provide up to \$400,000 towards procuring water loss audit report validation assistance for urban retail water suppliers.
- 8. School District Account Technical Assistance.** The Governor's budget requests a reappropriation of the unencumbered local assistance balance in the School District Account from FYs 2009-10, 2010-11, and 2011-12. Extending the encumbrance period would provide the SWRCB with the ability to continue paying claims to school districts that perform corrective action in response to an unauthorized release of petroleum from underground storage tanks. The SWRCB requests that the reappropriated funds be available for encumbrance until June 30, 2019.
- 9. Site Cleanup Subaccount.** The Governor's budget requests a reappropriation to extend the encumbrance and liquidation period of the local assistance funds in the Site Cleanup Subaccount (SCS) and the Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Loans from the fiscal year 2015-16 appropriation. The SWRCB requests that the re-appropriated funds be available for encumbrance until June 30, 2018 and liquidation until June 30, 2021. The Governor's 2015-16 Budget proposal inadvertently left out this request for extended encumbrance and liquidation periods.
- 10. Timber Regulation and Forest Restoration Program Implementation.** The Governor's Budget requests conversion of 5.3 limited term positions to permanent and \$547,000 from the Timber Regulation and Forest Restoration Fund to continue the implementation of AB 1492 (Blumenfeld), Chapter 289, Statutes of 2012), as they pertain to the authorities and responsibilities of the state and regional water boards.
- 11. Water Rights Fund Technical Adjustment.** The Governor's Budget requests trailer bill language (TBL) to make \$3.75 million in Water Rights Fund (WRF) that is currently appropriated without regard to fiscal year (used to support 25 enforcement positions) available for encumbrance for one year, rather than the current default three-year period. This TBL will provide funding for the enforcement positions, but correct an issue where unspent funds are rolled to subsequent years even though they are not required for the operational purpose of supporting the 25 water rights enforcement positions. These

changes are consistent with legislative intent to fund the positions, but allow unspent funds to revert to the WRF so as to not cause additional pressures when setting fees.

**Staff Recommendation:** Approve as proposed.

Vote:

**Issue 1: Water Rights Permitting and Licensing Augmentation**

**Background.** The SWRCB Division of Water Rights Permitting and Licensing Program is tasked with processing applications to appropriate water (permits), requests for licenses on fully developed water right permits, registrations, and petitions to change existing rights and redirect wastewater for beneficial use.

A water right permit is an authorization to develop a water diversion and use project. In addition to authorizing diversion and beneficial use, permits also include terms and conditions that help to protect public trust resources and other legal users of water. An application to divert and use water by permit may be filed by any person or other entity that seeks to divert and beneficially use a reasonable amount of surface water. Filing of the application initiates a public process which includes administrative and environmental reviews by Permitting and Licensing Program staff.

The board has maintained a significant water rights program backlog for many years. The current number of pending items, as of June 2015, consists of 385 applications, 304 registrations, 578 petitions, and 1,626 expired permits subject to licensing review. Using average recent non-drought years, completion rates to estimate, current backlog is 14 years for applications to appropriate water, nine years for registrations, eight years for petitions, and 44 years for licensing of water rights permits. To date, streamlining and other efficiency efforts have not been able to overcome the high workload volume. According to the board, without this proposal, existing staff will continue to focus on the highest priority projects. The bulk of the projects in the backlog will likely continue to experience a lack of progress. Parties who are illegally diverting without valid water rights will likely continue to divert. Increasing staffing levels should directly increase the number of water right permits, licenses, registrations, petitions, and related water orders issued in any given year as compared to the number issued under current staffing levels.

**Budget Proposal.** The budget proposes seven positions and \$851,000 (Water Rights Fund) to process applications to appropriate water, petitions to change existing rights, wastewater change petitions, and licensing of water rights. The program is funded through fees charged to water right permit and license holders. The SWRCB estimates that this proposal would increase water right's permits, licenses, and application fees by approximately eight percent.

**Staff Comments.** Staff concurs with the necessity of the proposal, which will result in more rapid action on new water rights, water right change petitions, wastewater petitions and water rights licensing. Given the serious nature of the drought, changing water systems, and increasing local reliance, the state should do all it can to move forward with water rights program reforms.

**Staff Recommendation:** Approve as proposed.

**Vote:**

**Issue 2: Water Recycling**

**Background.** The state prioritizes the review and approval of projects and programs that increase local water supplies including recycled water. Due to the drought, the number of projects proposing to use recycled water has increased significantly and has expanded to areas of the state that historically have not considered use of recycled water. The water board anticipates that the number of recycled water projects will continue to increase as local agencies plan for future sustainable water supplies.

Proposition 1 allocated \$725 million for water recycling to the water board, upon appropriation. Of this amount, \$293 million has been appropriated over two years.

**Budget Proposal.** The Governor's budget requests three existing limited term positions be converted to permanent positions and \$498,000 (\$149,000 from Waste Discharge Permit Fund and \$349,000 from the Safe Drinking Water Account) to address the increased water recycling work load associated with the drought. The Division of Drinking Water currently has three limited-term positions dedicated to developing criteria for indirect potable reuse of recycled water. These positions expire on June 30, 2016. The workload for these positions will extend beyond their current expiration date and will shift from criteria development to implementation. Once these criteria are in place, the board anticipates an increase in projects proposing potable reuse of recycled water.

**April Finance Letter.** The spring finance letter requests \$322 million (Proposition 1), including \$320.3 million in local assistance to fund water recycling projects. The request includes an extended encumbrance period until June 30, 2019, and liquidation until June 30, 2021. The funding would be allocated in a manner similar to the previous allocation, and according to the recent rulemaking at the board.

**Staff Comments.** Staff concurs with the need for the proposal. Over the past few months many water recycling project proponents have contacted the budget office concerned that, with regulations ready to go, the water board has not proposed new allocations of water recycling funding. The spring finance letter addresses concerns raised by constituents and stakeholders who have projects ready for funding.

The subcommittee may wish to ask the board to discuss the status of the water recycling regulations and demand for water recycling funding, and how the spring finance letter proposed funding will be allocated.

**Staff Recommendation:** Approve as proposed.

**Vote:**

**Issue 3: Environmental Lab Accreditation Program Fees**

**Background.** ELAP provides evaluation and accreditation of environmental testing laboratories to verify the quality of analytical data used for regulatory purposes meets requirements of the State's drinking water, wastewater, shellfish, food, and hazardous waste programs. The current ELAP fee schedule has not generated sufficient revenue to meet the program's budgetary authority. Total ELAP revenue for Fiscal Year 2014-15 fell short of total budgetary authority by approximately \$1.8 million. In order to address this structural deficit, fees needed to be increased by approximately 58% in 2015-16. Absent this authority to adjust fees for 2016-17 and beyond, other fund sources would be necessary to offset continuing operational costs.

**Budget Proposal.** The Governor's budget requests budget trailer bill language (TBL) to amend the Health and Safety Code to allow the State Water Resources Control Board (SWRCB) to adopt fee regulations by emergency actions so that the annual fee schedule will generate sufficient revenue to support the Environmental Laboratory Accreditation Program (ELAP) annual budgetary appropriation. This request will align the ELAP fee process with the SWRCB's fee authority for its water quality, water rights, and other drinking water programs.

**Staff Comments.** Staff concurs with the need for increased funding and appreciates the board's outreach to stakeholders in order to identify a fee schedule that reflects its general fee authority for other water board programs.

**Staff Recommendation:** Approve as proposed.

**Vote:**