SUBCOMMITTEE 2
COMBINED AGENDAS 2003

Senate Budget and Fiscal Review

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SUBCOMMITTEE NO. 2 Agenda

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0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statues of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts and Executive Order D-31-02, the GCC is responsible for (1) administering the gaming license process, (2) controlling, collecting and accounting for all gaming device license fees, (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

Budget Request. The budget proposes total expenditures of $51.5 million for the commission, which is an increase of $523,000, or 1 percent above current year expenditures. Of the total funding for the commission, $46 million is from the Indian Gaming revenue Sharing Trust Fund, $3.3 million is from the Indian Gaming Special Distribution Fund, and $2.2 million is from the Gambling Control Fund. Funds in the Revenue Sharing Trust Fund are distributed to non-gaming tribes, as define in the compacts.

California Gambling Control Commission – Source of Funding

	Expenditures *(dollars in thousands)*				***Percent***
Fund	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Indian Gaming Revenue Sharing Trust Fund	$30,574	$46,000	$46,000	$0	0.0%
Indian Gaming Special Distribution Fund	1,890	2,951	3,344	393	13.3%
Gambling Control Fund	891	2,024	2,154	130	6.4%
Totals, Programs	**33,355**	**50,975**	**51,498**	**523**	**1.0%**
Authorized Positions	**20**	**40**	**46**	**6**	**14.6%**

ISSUES

License Approval Process

Background. The Gambling Control Act makes the GCC responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the GCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Last year, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there may be as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the GCC for findings of suitability. In addition to this number, there is an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the GCC in order to make findings of suitability.

According to the GCC, the Division of Gaming at the DOJ is currently processing about 1,200 applications and has forwarded a total of approximately 300 to the GCC. The GCC has reviewed and forwarded approximately 300 findings of suitability to tribal gaming authorities.

Staff Comments. The Subcommittee may wish to ask the commission if they have received a timeline from the DOJ regarding the background checks currently being processed and on DOJ's plans to process the outstanding applications.

Informational Issue

Tribal-State Gaming Compacts Scheduled for Renegotiations.

Background. As a result of the passage of Proposition 1A in March 2000, Class III gambling (such as slot machines and banked or percentage card games) became legal on California Indian land for those tribes that enter into a tribal-state compact approved by the Legislature, the Governor, and the federal government. These compacts lay out the legal relationship between the tribes and the state with respect to Indian gambling. According to the GCC, there are currently 107 federally recognized tribes in California, and 61 of these tribes have tribal-state gaming compacts that last until 2020. Of those 61 tribes, 49 are currently operating 50 casinos in California. The compacts have a scheduled renegotiation period in March 2003. The Governor proposes securing $1.5 billion in General Fund revenues as the result of these renegotiations. Currently, pursuant to the compacts, the tribes pay an estimated total of $123.3 million annually into the Revenue Sharing Trust Fund ($46 million) for distribution to non-gaming tribes, and the Special Distribution Fund ($77.3 million).

Issue. The LAO notes that it is unknown what amount of revenue, if any, will result from the renegotiations of the gaming compacts. However, the LAO has indicated that it is unlikely that the Governor will secure $1.5 billion in budget-year revenues for the following reasons:

- Under federal law, the Governor cannot impose a tax on the tribes, therefore, the tribes must agree to pay any additional monies.
- The $1.5 billion proposed is ten times what tribes currently pay, and about 30 percent of their current annual gross revenue of $5 billion.
- The budget proposes that the collected revenues go directly to the General Fund, as opposed to the current policy, in which the revenues are used largely in a manner related to the tribes or gambling.
- Since the renegotiated compacts also need to be approved by the federal government, it may be difficult to implement any changes to revenue payments to ensure full-year revenues in the budget year.

The LAO further notes that the compacts are voluntary agreements, and that some tribes could choose to continue to operate under the existing agreements for nearly two more decades. As such, the LAO believes that the administration will likely have to negotiate away items of significant value to secure any sizable increases in revenue. For instance, some existing compact tribes have already expressed interest in an expansion of their gaming. To the extent that any compacts are renegotiated, the Legislature would have to ratify the renegotiated compact.

Staff Comments. Staff notes that to the extent that some compacts are renegotiated, it is possible that some provisions related to the Revenue Sharing Trust Fund and the Special Distribution Fund could change for those renegotiated compacts.

Informational Issue.

Revenue Sharing Trust Fund

Background. Funds from the Indian Gaming Revenue Sharing Trust Fund (RSTF) are to be distributed quarterly to non-compact tribes, as defined in the compacts, with an annual maximum of $1.1 million, or an equal share of the fund should there be insufficient funds to provide the full $1.1 million to each non-compact tribe. Quarterly payments to the Revenue Sharing Trust Fund are made by compact tribes, dependent on the number of machines licensed to the compact tribe. In addition, a tribe must pay a one-time fee of $1,250 per machine to obtain a license for the machine.

Distributions. The GCC, as trustee of the RSTF, distributes the moneys received on a quarterly basis to tribes that have no casino or less than 350 gaming devices in operation for the entire quarter. As of March 2003, the GCC had made five distributions covering ten fiscal quarters from July 1, 2000 through December, 2002. These distributions total $75.6 million and represent approximately $101,000 per quarter per eligible tribe. The GCC indicates that it is now on a regular quarterly distribution cycle.

Informational Issue.

Special Distribution Fund

Background. Revenues to the Special Distribution Fund (SDF) are dependent on the number of slot machines in operation as of September 1, 1999. Tribes contribute revenues each quarter to the fund, up to 13 percent of the average daily net win from these machines. The GCC is responsible for collecting the appropriate amount of payments into this fund. Pursuant to the compacts, the first quarterly payments into this fund began September 30, 2002. For the first quarterly payment, the GCC reports that 27 of 28 tribes reported to the GCC and a total of $24 million was deposited into the SDF. The budget estimates that the tribes will contribute $77.3 million to the SDF in the budget year.

Pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

In the case *Coyote Valley Band of Pomo Indians v. The State of California* a federal district court ruled on the possible uses of the SDF, and in particular, "the other purposes specified by the Legislature." The opinion states that:

> "The Court thus construes the "other purposes" listed in Section 5.2(e) of the proposed compact to be limited to other purposes that, like the first four enumerated purposes, are directly related to gaming."

Budget Proposes New General Fund Backfill Expenditures From the SDF

Budget Proposal. Total resources in the SDF will be roughly $84.5 million ($77.3 million in payments from tribes plus interest and other revenues). The budget proposes expenditures of $13.7 million ($10 million for the DOJ, $3.3 million for the GCC, and $341,000 fort the Native American Heritage Commission). In addition, the budget proposes to transfer $220,000 from the SDF to the newly proposed California Indian Assistance Fund. The administration, however, does not propose expenditures for the remaining $70.8 million in the fund.

Native American Heritage Commission. As indicated above, the proposed expenditures include $341,000 for the Native American Heritage Commission. This department is scheduled to be before the Subcommittee at the hearing on March 13. Staff notes that the budget proposal would shift all funding for the Native American Heritage Commission from the General Fund to the SDF. At this time, staff is unaware of any functions that the Native American Heritage Commission performs that are related to gaming.

California Indian Assistance Program. The budget also proposes to transfer $220,000 from the SDF to the California Indian Assistance Fund. This proposal would shift all funding for the California Indian Assistance Program from the General Fund to the SDF. The California Indian Assistance Program funds a housing assistance program within the Department of Housing and Community Development (HCD is heard by Subcommittee #4). This proposal would fund 2 positions within HCD to provide technical assistance to support tribes in increasing their ability to access federal funding resources. The administration has submitted proposed trailer bill legislation relating to HCD that would allow the transfer of up to $1 million annually from the SDF to the California Indian Assistance Fund. At this time, staff is unaware of any functions that California Indian Assistance program performs that are related to gaming.

Staff Comments. Given the federal district court opinion, the Subcommittee may wish to ask the Department of Finance on what basis it believes that the SDF is an appropriate funding source for the Native American Heritage Commission and the California Indian Assistance Fund.

LAO Identified Potential Options for SDF

Analyst's Recommendation. In reviewing the options for spending the fund balance, the LAO indicates that there are many possible uses, that may be consistent with using the funds for gambling-related activities. The LAO notes that the impacts of gambling are widespread, even in communities without casinos. The LAO suggests that costs related to public safety, road maintenance, and gambling addiction, for instance, affect many cities, counties, and the state.

Given the budget situation and broad parameters of the fund, the LAO recommends using the $70.8 million for spending which both meets the requirements of the fund and helps the budget situation. For instance, funds currently spent by the General Fund on gambling-related expenses could be replaced with SDF revenues—generating General Fund savings. Below, the LAO identifies two such possible uses for the fund revenues as illustrative examples:

- ***Public Safety Demands.*** The LAO notes that gambling activities increase the needs for law enforcement services throughout the state. The LAO believes that the SDF could appropriately be used to address these public safety demands. In total, cities and counties spend billions of dollars annually on public safety. The LAO notes that the state contributes a small amount of this total annually ($116 million from the General Fund) though the Citizens' Option for Public Safety (COPS) program. If the Legislature continues to fund the COPS program, the LAO suggests that a portion of the funding could be directed from the SDF. Given the large amounts of money being spent, the LAO believes that it is reasonable to assume that such a small COPS-related portion of total public safety expenditures is already spent on gambling-related activities.

- ***Treat Gambling Addiction.*** The LAO notes that there are currently many individuals with gambling problems. The LAO suggests that it is reasonable to assume that some individuals that suffer from this problem seek mental health services. Currently, several hundreds of millions in General Fund dollars are allocated to counties to provide mental health services at the local level. As with the public safety example above, the LAO believes that a portion of these General Fund expenditures could be replaced with Special Distribution revenues.

Staff Comments. Staff notes that a number of bills related to use of the revenues in the SDF have been introduced. The GCC has identified the following bills related to the SDF: AB 113 (Chavez), and SB 769 (Battin), and SB 930 (Burton).

Staff Recommendation. Staff recommends that the Subcommittee get further justification from the administration regarding the legality of providing SDF funding the non-gaming activities in the Native American Heritage Commission and the California Indian Assistance Program prior to approving these transfers. Additionally, staff recommends directing the LAO to work with staff to develop specific options for a spending plan for the funds within the SDF, with an emphasis on funding programs that meet public safety demands, counteract environmental impacts of gaming, and provides gambling addiction treatment type services, while generating General Fund savings.

Compliance, Licensing, and Administration Increase

Budget Request. The budget requests six positions and $541,000 for workload at the GCC ($379,000 from the Indian Gaming SDF and $162,000 from the Gambling Control Fund).
This funding is proposed for the following purposes:

- Auditing Indian Gaming casinos for full, proper payment of revenues to the Indian Gaming SDF;
- Ensuring proper compliance with gaming device license payments, redistribution, and other compact compliance matters;
- Conducting revenue audits and other compliance reviews of gambling establishments to determine that proper application and license fees are collected under the Gambling Control Act;
- Initiating a compliance review and regulation development program;
- Reviewing and making recommendations to the commission on actions to take on license applications and compact findings of suitability determinations;
- Coming into compliance with a number of administrative-related statutory mandates.

The six requested positions consist of four auditors and two administrative staff.

Staff Comments. The Subcommittee has received a letter from the Agua Caliente Band of Cahuilla Indians, objecting to these proposed increases. The letter raises concerns over whether the requested positions are efforts by the GCC to perform tasks that are not needed, not necessary, and are not authorized by the compacts. Specifically, the letter questions whether the audit positions would fulfill a function better performed by the DOJ's Division of Gambling, and whether the requested administrative staff is needed.

Staff Recommendation. Staff notes that no objections to the proposal have been raised by the LAO. Staff recommends approval as budgeted.

8140 State Public Defender

The Office of the State Public Defender (OSPD) was established in 1976 to provide indigent representation. Chapter 869, Statutes of 1997, revised the mission of the State Public Defender. The OSPD is now required to concentrate on post-conviction proceedings following a judgment of death. Specifically, the OSPD is limited to representing capital appellants only for the purpose of the direct appeal for all cases to which the OSPD was appointed after January 1, 1998.

State Public Defender -- Program Expenditures

Program	*Expenditures (dollars in thousands)* 2001-02	2002-03	2003-04	Change	*Percent* Change
TOTAL, State Public Defender	**$11,525**	**$10,928**	**$11,038**	**$110**	**1.0%**
Total Positions	**98**	**104**	**103**	**-1**	**-0.5%**

Budget Request. The budget proposes $11 million from the General Fund, an increase of $110,000 or 1 percent above current year expenditures. The budget includes a reduction of $101,000 and 2 positions related to performing legal research and administrative functions.

Mid Year Reduction. The mid year revision included a reduction of $182,000 and 1.5 positions as well as savings related to two vacant attorney positions. These two positions are funded in the budget year.

Staff Recommendation. Staff recommends approval as budgeted.

Action.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency level of law enforcement officers by establishing minimum selection and training standards, improving management practices, and assisting local law enforcement agencies in providing necessary training and career development programs.

Budget Request. The budget proposes a total of $28.7 million, which is a decrease of $23.7 million, or 45.2 percent from the current year budget. This decrease is due primarily to the elimination of the local assistance program that partially reimburses local law enforcement agencies for certain training costs ($28.3 million).

Funding within POST supports law enforcement training needs such as developing and certifying courses that meet identified training needs, quality control of POST-certified courses, management and leadership training, and identifying emerging training needs. The budget proposes expenditures of $27.5 million from the Peace Officer's Training Fund (POTF). Included in this amount is the continuation of $2 million for the "Tools for Tolerance" training program operated by the Simon Wiesenthal Center-Museum of Tolerance.

POST Funding Sources

Funding Source	2001-02	2002-03	2003-04	Change	Percent Change
	(dollars in thousands)				
General Fund	$4,374	$1	$1	$0	0.0%
Peace Officers' Training Fund	60,739	51,172	27,485	-23,687	-46.3%
Reimbursements	1,041	1,259	1,259	0	0.0%
Totals, All Funds	**$66,154**	**$52,432**	**$28,745**	**-$23,687**	**-45.2%**

The table below shows the proposed program expenditures for the POST.

POST Program Expenditures

Program	2001-02	2002-03	2003-04	Change	Percent Change
	Expenditures *(dollars in thousands)*				
Standards	$6,683	$6,240	$6,682	$442	7.1%
Training	26,270	22,856	21,618	-1,238	-5.4%
Peace Officer Training	28,827	23,335	444	-22,891	-98.1%
Administration	4,445	5,206	5,023	-183	-3.5%
Distributed Administration	-4,445	-5,206	-5,023	183	-3.5%
State-Mandated Local Programs	4,374	1	1	0	0.0%
Totals, Programs	**$66,154**	**$52,432**	**$28,745**	**-$23,687**	**-45.2%**
Total Authorized Positions	**128**	**121**	**121**	**0**	**0.0%**

Budget Issues

Peace Officer Training Fund Transfer to the General Fund and Fund Condition

Background. Nearly 90 percent of the expenditures for POST are funded by the Peace Officers' Training Fund (POTF). The POTF receives monies from the State Penalty Assessment Fund, which in turn receives monies from penalty assessments on criminal and traffic fines. Since 1997-98, the amount derived from these assessments has been between $33 million and $37 million annually. In addition, in many years, another $14 million has been transferred annually from the Driver Training Penalty Assessment Fund through Control Section 24.10 of the Budget Act. In fiscal year 2000-01 the fund balance for the POTF was $24.7 million after adjustments. Due to the state's fiscal condition, funding was not transferred through Control Section 24.10 in 2001-02, and is not being proposed to be transferred in the budget year. Instead those funds would be transferred to the General Fund.

Proposal. The budget also proposes transfer of $14.3 million from the Peace Officers' Training Fund (POTF) to the General Fund. As can be seen in the table below, revenues into this fund have been below expenditures for a number of years, with the fund having to depend on transfers from the Driver Training Penalty Assessment Fund to meet expenditures.

Peace Officers' Training Fund – Fund Condition

			Expenditures *(dollars in thousands)*	
	2000-01	**2001-02**	**2002-03**	**2003-04**
Prior Year Balance After Adjustments	$29,617	$24,654	-$2,232	$4,456
Revenues	$39,536	38,853	39,154	39,445
Transfers to General Fund	*0*	*0*	*0*	*-14,300*
Transfers from Driver Training Penalty Assessment Fund	*14,000*	*0*	*18,706*	*0*
Total Resources	*83,153*	*63,507*	*55,628*	*29,601*
State Operations Expenditures	*36,937*	*32,016*	*27,954*	*27,041*
Local Assistance Expenditures	*23,811*	*28,723*	*23,218*	*444*
Other Expenditures	*0*	*5,000*	*0*	*0*
Total Expenditures	*60,748*	*65,739*	*51,172*	*27,502*
Reserve	**$22,405**	**-$2,232**	**$4,456**	**$2,099**

Staff Recommendation. Not approving the transfer would result in a loss of $14.3 million from the General Fund. Staff notes that this issue is related to the next issue regarding local law enforcement training reimbursements. At this time, staff recommends approving the proposed General Fund transfer.

Elimination of the Law Enforcement Reimbursements

POST certifies approximately 3,000 law enforcement training courses statewide. Traditionally, local agencies have relied on training reimbursement funds established pursuant to California Penal Code Section 1464 (f) (3). These monies, combined with Community College Funding and shared costs borne by local government have shared responsibilities for the some of the costs for local law enforcement training. POST has set a standard of 24 hours of training bi-annually. The budget proposes elimination of the program that reimburses local law enforcement for some of the costs of training for savings of $28.3 million from the Peace Officers' Training Fund. Specifically, the program reimburses local law enforcement agencies for travel, per diem, cost of replacement officers, and some tuition costs associated with sending officers to training. In 2001-02 POST reimbursed local agencies a total of $28.5 million.

Due to a projection of insufficient funds from the POTF in the *current* year, in January, POST informed local law enforcement agencies that reimbursement for training is suspended effective March 1, 2003. POST currently estimates that even with this action, the POTF may still be $1.3 to $1.5 million short to cover expenditures in the program. If so, POST indicates that it will end some contracts from the state operations portion of the budget to cover the shortfall.

The California State Sheriffs' Association has submitted a letter to the Governor stating that the elimination of $28.3 million in local assistance is a direct hit on Sheriff's Departments and their requirement and desire to provide ongoing and updated training. The Association notes that the state and local jurisdictions may be subject to "failure to adequately train" type of lawsuits if there is a reduction in training for officers and requests reconsideration of this reduction by the Governor.

At this time, there is no estimate on the impact that this change will have on the training programs.

Training Contracts. About 90 percent of courses for which POST reimburses training costs are offered in conjunction with community colleges. Of the $28.7 million remaining in the budget for POST, approximately $13.1 million is for contracts for non-community college offered courses. These courses tend to be more specialized courses that POST feels can't be done under the community college model, such as Driver Training Courses, the Command College, Specialized K-9 Courses, Meth Lab Removal Courses, and Forensic Science Courses.

Potential Alternative. The Budget Act of 2002 contains language that allows POST to transfer funding back and forth between its local assistance item (training reimbursements) and its state operations, including funding for the training contracts. One alternative may be to insert similar transfer language in the proposed budget bill and create a local assistance item with an appropriation of $1,000. This may give POST some flexibility to cancel some contracts if there is a large decrease in the demand for certain types of specialized training, and transfer the money to local assistance and offer a lower amount of reimbursement (for example, one half of the previous level) for a core component of training courses identified by POST.

Staff Recommendation. Staff recommends approving the proposed reduction, and approving budget bill language allowing POST to transfer fund between state operations and local assistance. Staff further recommends approving a local assistance appropriation within the POST budget with an appropriation of $1,000. This action may give POST additional flexibility to provide some level of reimbursement for a small core of training courses should POST determine that the reduction is having a severe impact on core training efforts.

Control Section 5.25 – Payments for Litigation

Control Section 5.25 provides that payments for any attorney fee claims, settlements, or judgments arising from actions in state court against a state agency or officer shall be paid from appropriations in the Budget Act that support the affected agency.

The proposed language is identical to the language approved in previous years. Last year, Subcommittee No. 2 approved this item as budgeted.

Staff Recommendation. No issues have been raised by LAO or other Legislative staff. Staff recommends approval as budgeted.

Control Section 24.10 – Driver Training Fund Transfers

Background. The Driver Training Penalty Assessment Fund receives funds from a portion of the State Penalty Assessment Fund. Historically, using Control Section 24.10, specified portions of the Driver Training Penalty Assessment Fund have been transferred to the Victim/Witness Assistance Fund, the Peace Officers' Training Fund, and the Corrections Training Fund, with the remaining balance going to the General Fund. The Budget Act of 2001 directed the Controller to transfer $38.3 million to the General Fund. In the current year, the budget estimates that $18.7 will be transferred to the Peace Officer Training Fund, $6.9 million to the Corrections Training Fund, and $14.2 million to the General Fund.

Proposed Language. Proposed budget bill language would transfer up to $4.1 million to the Victim Witness Assistance Fund, and an estimated $36 million to the General Fund.

Staff Recommendation. Staff recommends approval as budgeted.

8180 Payment to Counties for Costs of Homicide Trials

It is State policy that the cost of homicide trials should not unduly impact local government finances. Government Code Sections 15200 through 15204 implement this policy by allowing a county to apply to the Controller for reimbursement of specified costs of homicide trials and hearings. The reimbursement formulas vary by the population of the county and provide for reimbursement of a specified percentage of one percent of the full value of property assessed within the county.

Budget Request. The budget proposes total expenditures of $5 million from the General Fund. This is a reduction from $7.5 million for the current year.

Staff Comments. The budget for this item has been historically difficult to estimate. Last year the LAO recommended reducing the proposed budget of $7.5 to $5 million based on historical spending trends. The Legislature funded this item at $7.5 million due to the large number of murder trials that were scheduled for the current year. The DOF reports that based on a survey of the counties, it estimates that $5 million should be sufficient in the budget year.

Staff Recommendation. Staff recommends approval as budgeted. The Subcommittee may wish to have the Department of Finance provide an update of expenditures and estimated budget year costs at the time of the May Revision.

8700 California Victim Compensation and Government Claims Board

The California Victim Compensation and Government Claims Board, formerly known as the Board of Control, consists of three members, the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor. The primary functions of the Board of Control are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses, (2) consider and settle all civil claims against the state, (3) provide equitable travel allowances to certain government officials, (4) respond to bid protests against the state alleging improper or unfair acts of agencies in the procurement of supplies and equipment, and (5) provide reimbursement of counties' expenditures for special elections.

Budget Request. The budget proposes $180.4 million ($791,000 from the General Fund), which is a decrease of $30.6 million, or 14.5 percent from anticipated current year expenditures. Of the total proposed expenditures, $171.2 million is proposed for the Citizens Indemnification Program, which indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. This represents a decrease of $30.4 million for this program from estimated current year expenditures.

The Claims Board is primarily funded from the Restitution Fund, with total expenditures of $126.1 million are proposed from the Restitution Fund, and $53.4 million from Federal Funds.

California Victim Compensation and Government Claims Board -- Program Expenditures

	Expenditures (dollars in thousands)				*Percent*
Program	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Citizens Indemnification	$160,905	$201,661	$171,222	-$30,439	-15.1%
Quality Assurance & Revenue Recovery	7,489	7,797	8,310	$513	6.6%
Disaster Relief Claim Program	7	19	19	$0	0.0%
Civil Claims Against the State	901	785	791	$6	0.8%
Citizens Benefiting the Public (Good Samaritans)	10	20	20	$0	0.0%
Administration	6,698	7,702	7,715	$13	0.2%
Distributed Administration	-6,698	-7,702	-7,715	-$13	0.2%
Counties' Special Election Reimbursements	1,104	667	0	-$667	-100.0%
Totals, Programs	**$170,416**	**$210,949**	**$180,362**	**-$30,587**	**-14.5%**
Total Authorized Positions	**321**	**325**	**325**	**0**	**0.0%**

California Victim Compensation and Government Claims Board – Source of Funding

	Expenditures (dollars in thousands)				*Percent*
Fund	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
General Fund	$1,978	$1,452	$791	-$661	-45.5%
Missing Children Reward Fund	0	2	2	0	0.0%
Restitution Fund	137,362	154,571	126,145	-28,426	-18.4%
Federal Trust Fund	31,042	54,905	53,405	-1,500	-2.7%
Reimbursements	34	19	19	0	0.0%
Totals, Programs	**$170,416**	**$210,949**	**$180,362**	**-$30,587**	**-14.5%**

Restitution Fund

Background. The budget estimates that *current year* claim payments to victims from the Restitution Fund will total $106.7 million, an increase of $13.7 million or 14.8 percent from the prior year. For the *budget year*, estimated claims payments are projected to decrease by $27.2 million, or 25.5 percent to $79.5 million. In both the current year, total expenditures from the Restitution Fund are approximately $47 million greater than revenues, and are financed by drawing down the reserve. As can be seen in the following table, the reserve for the Restitution Fund will decrease from about $80 million at the end of 2000-01 to an estimated $454,000 at the end of the budget year. This change is due primarily to large increases in expenditures since 1999-2000, while revenues have remained relatively flat.

Restitution Fund – Revenues, Expenditures, and Reserve

			Expenditures *(dollars in thousands)*				***Prior Year***	***Percent***
	1998-99	**1999-00**	**2000-01**	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Prior Year Balance After Adjustments	$54,029	$75,911	$82,625	$78,626	$47,930	$1,001	-$46,929	-97.9%
Revenues	95,829	102,154	107,267	110,388	111,750	125,598	13,848	12.4%
Total Resources	*149,858*	*178,065*	*189,892*	*$189,892*	*$159,680*	*$126,599*	*-$33,081*	*-20.7%*
Total Expenditures	*83,008*	*100,512*	*109,232*	*141,084*	*158,679*	*126,145*	*-32,534*	*-20.5%*
Reserve	**66,850**	**77,553**	**80,660**	**47,930**	**1,001**	**454**	**-547**	**-54.6%**

Substantial Increase in Compensation Applications. The board notes that the number of applications received has increased dramatically. Between 1999-00 and 2001-02, applications increased 50 percent from 42,257 to 63,225. In the same period, payments increased by 45 percent from $86 million to $124 million. The board estimates that in the current year, application will total 76,000 and that payments will increase to $158 million. The board indicates that despite the increasing claims, it has made significant efforts to reduce the claim processing time. In 1998-99 the average claim was processed in 119 days, while in the current year that number has been reduced to 65 days.

Revenues Relatively Constant. Between 1999-00 and 2001-02, state Restitution Fund revenues increased by 8 percent, from $102 million to $110 million.

Board Actions to Prevent Over-Expending the Restitution Fund.
In July 2002, the board took the following actions to reduce expenditures:

- Adopted the Medicare fee schedule for medical expenses.
- Adopted the Denticare fee schedule for dental expenditures.
- Adopted mental health treatment reimbursement rates of $70 for master's degree level therapists and $90 for psychiatrists and psychologists.
- Implemented several administrative cost reduction strategies, including elimination of 19 vacant positions ($712,000), freezing 24 vacant positions at Joint Power county agencies ($1.1 million), reducing contract staff, and restricting non-essential training and travel.

Given an estimated 36 percent increase in payments in the current fiscal year, the board estimated that these reductions would not be sufficient to close the gap between revenues and expenditures.

As a result, the board took the following actions in January 2003:

- Because the board anticipates cash flow problems in the current year, it directed that if insufficient funds are available for payment of all expenses and eligible claims, that payment are to be prioritized as follows:
    1. Payroll and operating expenses
    2. Victim payments
    3. Provider payments

The board indicates that it is delaying provider payments in the current year.

Mental Health Session Limits. According to the National Association of Crime Victim Compensation Boards, while other states pay an average of 6 percent of their total payments for mental health services, California pays 40 percent of its total payments for mental health services. California's mental health payments constitute nearly 70 percent of all mental health benefits paid nationally for victim compensation programs. Based on preliminary analysis, the board indicates that the following factors play a role in the difference between California and other states: (1) California receives a substantially higher percentage of applications from child victims, not as a result of a larger population per capita, or a higher percentage of substantiated child abuse cases, but likely from better outreach efforts, (2) the average amount paid on mental health treatment is higher in California, probably due to longer lengths of treatment and higher benefit limits, (3) many states limit payment for mental health treatment to family members of homicide survivors only, while California provides reimbursements for all crime types.

- At its January 2003 meeting, the board adopted the following service limitations for mental health counseling:
    1. For a child victim, 40 sessions
    2. For an adult victim, 30 sessions
    3. For a family member when the victim has been killed, 30 sessions
    4. For a family member in all other cases, 15 sessions
    5. Extension of mental health treatment may be extended in cases requiring additional treatment or in dire or exceptional cases.

The board estimates that these actions will provide $1 million in savings in the current year and $18 million in the budget year.

Medical Services. As indicated above, the board adopted the Medicare Fee Schedule for all medical bills at the July 2002 meeting. Previously, the board used the Workers Compensation Fee Schedule for some bills, other were reduced by 25 percent, and some were paid at 100 percent of the billed amount. The Medicare Fee schedule is approximately 25 percent *lower* than the Workers Compensation Fee Schedule and about 50 percent *higher* that the MediCal Fee Schedule.

- At the board meeting in January 2003, the board adopted the Medicare Fee Schedule minus 20 percent for reimbursement of medical expenses. The board estimates that this will result in $3 million in savings for the current year and $9 million in the budget year.

Domestic Violence Reimbursements. At its January 2003 meeting, the board adopted guidelines regarding the following criteria for reimbursement of domestic violence relocation expenses (estimated savings of $300,000 in the current year and $500,000 in the budget year):

1. The $2,000 relocation benefit limited to the move of a household and not each eligible member of the household
2. The victim must submit a copy of a formal lease agreement or a statement from the landlord
3. Directed the Executive Officer to develop a checklist for law enforcement and/or mental health providers to complete to substantiate the statutory basis for the relocation benefit
4. If the relocation is necessary for the victim's emotional well being, the victim must be receiving supportive counseling services from a licensed mental health therapist or intern, or a domestic violence or sexual assault program

Proposed Trailer Bill Language

Additionally, at its January meeting, the board indicated that it will pursue the following legislation. These proposals are included as trailer bill language.

- Limits the award to victims and family members to $70,000 per victimization unless a victim is permanently disabled rather than $70,000 per victim. If the victim is permanently disabled, an additional $70,000 would be available for all family members to share for support loss. The board estimates that this would produce savings of $400,000.
- Increases the minimum restitution fines for misdemeanor from $100 to $250 and for felonies from $250 to $500. Specifies that the court may not stay the restitution fine after it has been imposed. The board estimates that this would increase revenues by $13.1 million in the budget year and $17 million annually thereafter. The board indicates that getting to a $250 minimum will allow it to use the FTB's collection program (which requires a minimum collection amount of $250).
- Allows the restitution order to include reasonable attorney fees and costs of collection incurred by public entities on behalf of a victim.
- Would require a defendant who has an unpaid balance on a restitution order or fine at the time of his or her release from probation or parole to submit a current financial disclosure document to his or her probation or parole officer. The board indicates that having current bank account information and current addresses of property will allow for better collection.
- Specifies that any portion of a restitution order, fine, or diversion fee that remains unsatisfied upon the death of a defendant endures and attaches to the estate until satisfied.
- Requires a court to mail to the board a copy of any order requiring a defendant to pay restitution to the board within 10 days of the imposition of the order. The board indicates that this will give it better information on what is being assessed and how much is being collected.
- Specifies that the parole revocation restitution fine becomes effective on revocation of parole, and cannot be waived or reduced by the court, and creates a probation revocation restitution fine to be assessed by the court each time a person's probation is revoked.
- Increases the reissue fee for reinstating a driver's license after the license has been suspended for DUI or refusing to take a chemical test from $125 to $225 with $100 deposited into the Restitution Fund. The board estimates that this would increase revenues by $1.4 million in the budget year and $6.6 million annually thereafter.

In addition, the board has submitted a letter of support to the Department of Corrections, regarding a proposed regulation change to increase the percentage of funds being collected from Inmate Trust Accounts from 20 percent, up to the statutory maximum of 50 percent. The board has estimated that half year funding at 30 percent would generate $2 million in the current year and the proposed increase from 30 percent to 50 percent in the budget year would generate $9.6 million in the budget year.

Staff Comments. Staff notes that even assuming these requested revenue and cost containment proposals, the Restitution Fund may not have adequate funds in both the current and budget years. Additionally, staff notes that many of these proposed legislative changes raise significant policy issues. As indicated below, staff notes that some of the revenue projections included in the current estimates may not materialize. Additionally, some provisions of the proposed trailer bill language, such as the requirement that courts mail to the board any order requiring a defendant to pay restitution within 10 days of the imposition of the order may be burdensome for the state's court system (which already notifies the State DOJ on all restitution orders related to felonies) and duplicative and unmanageable for the board. Staff recommends that this language be introduced in a bill going through the regular bill process, or that the Subcommittee refer the language to the appropriate policy committees.

Additional Revenue Proposals Will Not Generate Estimated Revenues

As indicated above, the revenue estimates for the Restitution Fund are projected to increase in the current year and the budget year due regulation changes at the Department of Corrections to increase collections from the Inmate Trust Accounts ($2 million in the current year and $9.3 million in the budget year), and in the budget year due to proposed trailer bill language to increase the minimum fines for misdemeanor and felony convictions ($13.1 million), and to charge a $100 reissue fee that goes directly to the Restitution Fund when reinstating a driver's license that has been suspended for a DUI ($1.4 million). The reserve for the Restitution Fund with these new revenues is projected to be $1 million in the current year, and $454,000 in the budget year.

Increased Collections From Inmate Trust Accounts. The budget assumes $2 million in the current year from half-year funding from an increase in the amount that CDC collects from Inmate Trust Accounts. In January, the CDC held public meetings regarding this proposed regulation change. The CDC indicates that a decision on the regulation change will be forthcoming. Because this amount is not currently being collected, the $2 million estimated in the revenue projections will be eroded in the current year.

Minimum Fines for Misdemeanor and Felony Convictions. The proposal assumes $13.1 million in the budget year and $17 million ongoing due to increasing the minimum restitution fines on misdemeanor ($100 to $250) and felony convictions ($250 to $500). In its estimates, the board assumed a collection rate of 25 percent. Due to lack of information, staff can not determine whether this is a reasonable expectation, especially in the first year of implementation. Staff notes that last year the Legislature added a 20 percent surcharge on all criminal fines and penalties, estimating that additional revenues of $45.8 million. Due to implementation delays and to actual collection rates, as of February, a total of $1.5 million has been collected.

DUI Reissue Fee Increase. The proposal assumes $1.4 million in the budget year and $6.6 million ongoing by increasing the reissue fee for reinstating a driver's license after the license has been suspended for DUI or refusing to take a chemical test from $125 to $225 with $100 deposited into the Restitution Fund. The board has recently informed staff that this proposed fee increase, which goes directly to the Restitution Fund, violates the Constitution. The board will withdraw this proposal, further eroding the revenue estimates in the budget year.

Staff Recommendation. For these reasons, staff believes that the projected revenues for the Restitution will not be generated in either the current year or the budget year. Staff recommends that the Subcommittee direct the LAO to review the revenue estimates and the projections for the Restitution Fund and the proposed new revenues and report back to the Subcommittee by the Open Issues hearing on May 8 with an estimate of the revenues for the current year and the budget year, and with recommendations regarding additional options for enhancing revenues.

State Operations Expenditures

Issue. As can be seen in the table on the following page, administrative expenses in the current year are estimated to make up about 25 percent of total expenditures by the board. This amount has been reduced from 32 percent in 2000-01. Staff notes that even at 25 percent, these expenditures seem relatively high. For example, for the Medi-Cal program, which performs similar administrative functions such as determining eligibility of applicants, processing bills and claims, making provider payments, in addition to tasks not performed by the board such as providing treatment authorization, and performing licensing and certification of facilities, expends between 10 percent and 15 percent for administrative expenses.

Further, the board indicates that the federal funds that it administers limit state operations funding to only 5 percent for those funds.

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)

	Expenditures (dollars in thousands)						*Estimated*	
Type of Expenditure	**1999-00**	**Percent**	**2000-01**	**Percent**	**2001-02**	**Percent**	**2002-03**	**Percent**
Administrative Expense	$35,012	29%	$41,339	32%	$45,879	27%	$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	**$120,699**	**100%**	**$129,592**	**100%**	**$169,831**	**100%**	**$211,757**	**100%**

Attorney Fees. On example of administrative expenses is attorney fees. Under current law, an attorney may receive up to 10 percent of the amount of a victim's award or $500, whichever is less, for rendering legal services. Under the current process, attorneys are automatically awarded 10 percent of the paid amount, or $500, irrespective of the level or amount of legal services provided to the victim. In 2001-02, the board paid out $782,000 for attorney expenses. The board indicates that in a significant number of instances, attorneys are awarded 10 percent for filing an application with no other legal services rendered.

The board has discussed proposals to pay attorney fees only on claims where there is an appeal, a hearing is conducted, and the attorney makes an appearance in an administrative hearing on a claim. Of the 438 appeal hearings held in 2002, the board indicates that attorneys represented 58 victims who appealed their cases. Based on these numbers, the board staff has estimated that annual savings of $696,000 could be achieved.

The federal Office of Victims of Crime (OVC) supports limiting attorney fees. The board notes that in a July 2002 letter, the OVC director states, "We do not believe that victims need an attorney to apply for compensation and would not want to see limited (Victims of Crime Act) dollars used to reimburse attorneys to the detriment of reimbursing victims for out-of-pocket expenses. This is particularly true in a state like California where the application requirements and procedures have been substantially modified to make the process accessible and easy for victims to apply for compensation benefits."

To date, the board has taken no action on this issue.

Supplemental Report. Last year, because of concerns raised about the Restitution Fund balance, the Legislature approved Supplemental Report Language directing the board to report on updated revenue projections, revenue enhancement efforts, and cost containment proposals. The report, due January 10, is still under review and has not been released to the Legislature.

Staff Recommendation. Staff recommends that the Subcommittee direct the LAO to review expenditures from the Restitution Fund, including (1) comparing expenditure levels with victim compensation boards nation-wide, (2) examining the expenditure reductions proposed by the board, (3) comparing administrative expenditures of the board with other state agencies that perform similar functions, and (4) developing potential options for additional expenditure reductions, and report back to the Subcommittee by the May 8 Open Issues hearing with recommendations for additional cost containment proposals.

Witness Protection Funding

Background. The Witness Protection Program was established by AB 856 (Hertzberg) in 1997. Each year, the Legislature has appropriated approximately $3 million from the Restitution Fund for this program. The funds from the program go directly to witnesses who are credibly threatened with retaliation, violence, and/or death. The role of the DOJ and local prosecutors is to determine whether a witness meets the criteria to receive relocation funding.

Budget Request. The proposed budget deletes funding for this program, for a savings of $3 million from the Restitution Fund. There is legislative intent language in AB 856 that Witness Protection Program be funded from the surplus in the Restitution Fund. Because there is no estimated surplus in the budget year, the appropriation for the program is proposed to be deleted.

Issue. The Los Angeles District Attorney's Office indicates that last year in Los Angeles County, 511 witnesses in 194 criminal cases were relocated. Of these cases, the LA DA's Office reports that 85 percent were gang related and 121 cases involved homicide or attempted homicide.

The LA DA's Office argues these funds should not be deleted for two reasons:

- The statement of legislative intent cannot bind future legislatures.
- Since 1997 the Legislature has passed several bills adding numerous expenditures, such as reimbursements for the purchase of home alarm systems, compensation for various persons who are not direct victims of crime, compensation for additional services, and increases in the total amount of benefits paid. The LA DA's Office argues that in none of these bills did the Legislature give these new expenditures priority over funding for the Witness Protection Program.

Staff Comments. The DOJ and the LA DA's Office have indicated a willingness to work with the board to help identify potential savings in the Restitution Fund that could help pay for this program.

Staff Recommendation. As highlighted in the previous issue, staff believes that there may be insufficient funds in the Restitution Fund to fund the *proposed* expenditures in the current year and in the budget year. Staff recommends that the board work with the LAO, DOF, local district attorneys, and the DOJ to identify potential revenue increases or expenditure reductions that would allow this program to continue getting some level of funding from the Restitution Fund.

Special Election Reimbursements.

Background. Under current law, all expenses incurred in the preparation for a special election to fill vacancies in the State Legislature or Congress are reimbursed by the state. These provisions are set to sunset by January 2005, unless extended by the Legislature.

Budget Request. The budget proposes savings of $ 1 million in the budget year, and the administration proposes trailer bill language to remove the requirement that the state pays for such elections. This action would leave the county to pay for these special election costs.

CSAC has indicated that it opposes the proposed trailer bill.

Staff Comments. As indicated above, the Legislature has historically appropriates $1 million for this purpose. To the extent that there are no appropriate special election costs, the funding reverts back to the General Fund. Should a special election requiring reimbursement occur, additional funding has been appropriated through the budget process, or through a deficiency request. Staff notes that it may be possible to reduce expenditures for this purpose without adopting trailer bill language. This action would provide savings, but would require the state to reimburse the costs of a special election should one be called.

Staff Recommendation. Staff recommends adopting the proposed $1 million reduction, but rejecting the proposed trailer bill language.

Government Claims Board and Settlements and Judgments by the Department of Justice

The budget for this item reflects: (1) statewide expenditures for certain equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and referred to the Legislature in the omnibus claims bills for payment, (2) certain settlements and judgments against the state paid through judgment and settlement bills sponsored by the Department of Justice, and (3) administration and payment of tort and liability claims.

Background. The Department of Justice (DOJ) currently has the delegated authority to approve and pay General Fund tort claims against the State that do not exceed $35,000. In previous years, Item 9670-001-0001 has provided up to $1.2 million General Fund for this purpose. The approved claims were paid from this appropriation and the remainder of the $1.2 million would revert back to the General Fund.

Budget Request. The budget does not propose any General Fund appropriation for this purpose. Claims under $35,000 from General Fund agencies would be paid from the base budget of affected agency. Special Fund departments (such as the Department of Transportation) would also have the authority under this item to pay claims up to $35,000 with DOF approval. To enable these departments to continue to pay special fund claims pursuant to this authority, the DOF is proposing to leave Item 9670 in the Budget Bill, with the provisional language addressing special funds, minus the General Fund appropriation.

The proposed language is identical to the language that was approved by the Legislature last year.

Staff Recommendation. Staff recommends approval as budgeted.

8100 Office of Criminal Justice Planning

The goal of the Office of Criminal Planning (OCJP) is to improve the criminal justice system by providing financial and technical assistance to local jurisdictions, state agencies, and the private sector, providing education and training for citizens, and providing technical support to the Administration.

The OCJP is the lead executive branch agency with respect to crime prevention, crime suppression, and criminal justice planning. In order to fulfill its goals, the OCJP is responsible for; (1) developing effective approaches for crime prevention and victim services programs, (2) providing technical assistance, (3) disseminating information on successful program models, (4) conducting training conferences and seminars on programs and issues, (5) conducting research, crime analysis, and program evaluations, (6) developing publications on crime prevention, victimology, and victim services for statewide distribution, and (7) providing financial assistance for victim services and criminal justice programs.

Budget Request. The OCJP is organized into two programs: Administration and Criminal Justice Projects, the table below summarizes expenditures for these programs. Funding for the Criminal Justice Projects Program is budgeted at $247.2 million, a decrease of $12.7 million, or 4.9 percent, below anticipated current year expenditures. The primary reason for this decrease is that budget proposes transferring $9.8 million for the Domestic Violence Shelter Program to the Department of Health Services.

Proposed Reductions. Due to uncertain economic conditions, the budget proposes total reductions of $719,000, including elimination of 5 positions and reductions in various OE&E expenditures.

Office of Criminal Justice Planning -- Program Expenditures

	Expenditures *(dollars in thousands)*				***Percent***
Program	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Administration	$3,348	$3,757	$3,834	$77	2.0%
Distributed Administration	-3,348	-3,757	-3,834	-77	2.0%
Criminal Justice Projects	303,957	259,832	247,166	-12,666	-4.9%
California Antiterrorism Information Center	0	6,700	6,700	0	0.0%
Totals, Programs	**$303,957**	**$266,532**	**$253,866**	**-$12,666**	**-4.8%**
Total Authorized Positions	**145**	**139**	**132**	**-6**	**-4.5%**

Authorized Positions. The number of authorized positions is proposed to decrease by 6 to 132 positions in the budget year.

The table on the following page summarizes the funding sources for OCJP programs. The majority of funding for OCJP is provided from federal funds -- the budget proposes $168.3 million, or 66.3 percent from the Federal Trust Fund, while $64.6 million (25.4 percent) is from the General Fund. Of the total budgeted amount for OCJP, $20.3 million(8 percent of the total budget) is for State Operations, and $233.5 million (92 million) is for Local Assistance. The State Operations budget increased significantly in the current year primarily due to funding for the California Antiterrorism Information Center ($6.7 million).

Office of Criminal Justice Planning – Source of Funding

Fund	*Expenditures* (dollars in thousands) 2001-02	2002-03	2003-04	Change	*Percent* Change
State Operations					
General Fund	$4,907	$11,038	$10,691	-$347	-3.1%
Local Public Prosecutors/Defenders Training Fund	67	67	72	5	7.5%
Victim/Witness Assistance Fund	1,482	1,492	1,564	72	4.8%
High Technology Theft Apprehension/ Prosecution Program Trust Fund	778	767	767	0	0.0%
Less funding provided by General Fund	-857	-731	-731	0	0.0%
Less funding provided by Federal Funds	-36	-36	-36	0	0.0%
Federal Trust Fund	6,606	8,094	7,712	-382	-4.7%
Reimbursements	55	310	310	0	0.0%
Totals, State Operations	*$13,002*	*$21,001*	*$20,349*	*-$652*	*-3.1%*
Local Assistance					
General Fund	$111,779	$59,421	$53,891	-$5,530	-9.3%
Local Public Prosecutors/Defenders Training Fund	792	792	792	0	0.0%
Peace Officer Training Fund	5,000	0	0	0	n/a
Victim/Witness Assistance Fund	15,519	15,519	15,519	0	0.0%
High Technology Theft Apprehension/ Prosecution Program Trust Fund	13,518	13,518	13,518	0	0.0%
Less funding provided by General Fund	-13,300	-13,300	-13,300	0	0.0%
Less funding provided by Federal Funds	-218	-218	-218	0	0.0%
Federal Trust Fund	155,379	167,025	160,541	-6,484	-3.9%
Reimbursements	2,486	2,774	2,774	0	0.0%
Totals, Local Assistance	*$290,955*	*$245,531*	*$233,517*	*-$12,014*	*-4.9%*
Totals, Programs	**$303,957**	**$259,832**	**$247,166**	**-$12,666**	**-4.9%**

The table on the next page summarizes the OCJP's funding by program. The budget proposes funding for 37 programs, generally divided between victim services programs, and public safety programs.

OCJP Summary of Program Budget Amounts by Fund – Local Assistance **2003-04**
(Dollars in Thousands)

Program	Total	Fund Source			
		General Fund	Federal Fund	Special Fund	Reimb.
Victim Services					
Victim Witness Assistance	$10,871			$ 10,871	
Victim's Legal Resource Center	41	41			
Domestic Violence	0				
Family Violence Prevention	50	50			
Violence Against Women Act (VAWA)	12,990		12,990		
Rural Domestic Violence/Child Victimization	571		571		
Rape Crisis	3,720	50		3,670	
Rape Prevention (DHS)	5,571		5,571		
Homeless Youth	396	396			
Youth Emergency Telephone Referral	127	127			
Child Sex Abuse & Exploitation	978	0		978	
Child Sex Abuse Prevention & Training	302	302			
Victims of Crime Act (VOCA)	40,698		40,698		
Mandates Claims Bill	2	2			
Subtotals- Victims Services	*$76,317*	*$968*	*$59,830*	*$15,519*	*$0*
Public Safety					
Community Crime Resistance	$231	$231			
War on Methamphetamine	15,000	15,000			
Career Criminal Apprehension	866	866			
Career Criminal Prosecution	3,637	3,637			
Major Narcotics Vendors Prosecution	2,641	2,641			
Serious Habitual Offender	137	137			
Vertical Prosecution of Statutory Rape	6,770	6,770			
Elder Abuse Vertical Prosecution	2,000	2,000			
Child Sex Assault Prosecution	1,304	1,304			
Evidentiary Medical Training	648	648			
Forensic Sciences Improvement Act	358		358		
Children's Justice Act (CJA)	1,850		1,775		75
Vertical Defense of Indigents	172	172			
Public Prosecutors/Defenders Training	800	8		792	
Byrne Fund	52,118		52,118		
Residential Substance Abuse Treatment	9,135		9,135		
Local Law Enforcement	882		882		
Peace Officer Protective Equipment	1,275		1,275		
High Tech Theft Apprehension/Prosecution	13,518			13,518	
Suppression of Drug Abuse in Schools	2,416	690			1,726
Gang Violence Suppression	4,063	2,085	1,005		973
Multi Agency Gang Enforcement Consortium	93	93			
Juvenile Justice & Delinquency Prevention	6,060		6,060		
Community Delinquency Prevention	5,002		5,002		
Juvenile Accountability Incentive	21,769		21,769		
Juvenile Justice—Project Challenge	1,114		1,114		
Rural Crime Prevention	3,341	3,341			
Subtotals – Public Safety	*$157,200*	*$39,623*	*$100,493*	*$14,310*	*$2,774*
Totals, Local Assistance	**$233,517**	**$40,591**	**$160,323**	**$29,829**	**$2,774**

Budget Issues

Bureau of State Audits Report on OCJP's Programs

Audit Findings. At the request of the Legislature, the Bureau of State Audits (BSA) issued a report in October 2002 examining OCJP's administration of state and federal grants, including the domestic violence shelter program. In particular, the BSA was requested to review how the department makes decisions on which grant applicants to approve or deny for receipt of federal and state funds. The BSA also investigated OCJP's program monitoring and evaluation process. Overall, the BSA audit found that while OCJP met some of its responsibilities in administering state and federal grant programs, it failed to meet other important responsibilities. The findings generally fall into two categories: those relating to the applications review process, and those relating to program evaluations.

- ***Application Review Process Lacking.*** According to BSA, OCJP lacked established guidelines and a structured review process for denying funding to applicants based on past performance. In addition, OCJP did not provide consistent and prompt oversight of grant recipients. The OCJP had not performed planned site visits, sometimes did not follow up with grant recipients that failed to submit required reports on time, had not promptly reviewed required reports, and had not ensured that grant recipients promptly implemented corrective actions.

- ***OCJP's Evaluation Process Lacking.*** The BSA also found that OCJP had not properly planned its evaluations or managed its evaluation contracts. As regards evaluation planning, OCJP did not have a planning process in place to prioritize evaluations of those grants that do not have mandated evaluation requirements. Also, the office did not have guidelines stating what an evaluation should include or what an evaluation should accomplish. As regards evaluation contracts, OCJP failed to develop measurable deliverables in its scope of work in two contracts, and consequently it had no way of ensuring that it would receive what it needed from these evaluations. Finally, BSA concluded that during the past three years, OCJP's evaluation branch spent $2.1 million on activities that culminated in evaluations of uneven quality, content, and usefulness.

The BSA review also looked more closely at the management of the domestic violence programs that are administered by OCJP and the Department of Health Services (DHS). In addition to the some of the concerns regarding OCJP's administration, the report also notes that DHS has not established guidelines as to how past performance will be considered when competitively awarding grants and has failed to perform some of its oversight responsibilities such as completing site visits for 3 f its 91 shelter-based grant recipients.

Finally, the report concludes that because many of OCJP's and DHS's activities for awarding grants and conducting oversight of shelter-based grant recipients overlap, the state could improve its provision of domestic violence services by moving toward greater coordination or consolidation of their respective programs.

BSA Recommendations Regarding OCJP's Administration of Grants. The BSA report highlights twenty recommendations relating to the grant application process, grant oversight, evaluations of grants, and allocation of administrative costs.

Finding: Weaknesses in OCJP's Process for Awarding Grants May Result in the Appearance that its Awards are Arbitrary or Unfair. To ensure its application process is fair and impartial, BSA recommends that OCJP create guidelines and criteria to determine when a grant applicant's past performance issues rise to the level for it to consider denying continued funding for that applicant. BSA also recommends that OCJP conduct periodic uniform reviews of all applicants' past performance and clearly state in the rejection letters sent to the applicants the reasons they were denied funding. To improve outreach to its grant recipients and comply with legislation that is soon to take effect, BSA recommends that OCJP create an advisory committee for the domestic violence program that could provide guidance on key program decisions.

Finding: OCJP Does Not Provide Consistent and Prompt Oversight of Grant Recipients. The BSA report also recommends that OCJP take several actions to improve its oversight of grant recipients. These actions include ensuring prompt site visits of newly funded grant recipients, establishing a process for identifying which grant recipients OCJP should visit first when it conducts monitoring visits, developing written guidelines to determine when and how staff should follow up on late progress reports, ensuring that it reviews audit reports within six months of receipt in order to comply with federal guidelines, and revising its audit report review of municipalities to eliminate duplication of effort with the State Controller's Office. BSA recommends that OCJP also establish written guidelines to address how staff should follow up on problems identified in progress reports or during site visits, and require that its monitors review grant recipients' corrective action plans to ensure problems identified during monitoring visits have been appropriately resolved.

Finding: OCJP Has Not Properly Planned Its Evaluations or Managed Its Evaluation Contracts. The BSA found that over the last three fiscal years, the evaluations branch at OCJP spent approximately $2.1 million on activities culminating in evaluations that proved of uneven quality, content, and usefulness because of OCJP's lack of proper planning and poor contract management. To improve its evaluations branch, BSA recommends that OCJP develop a plan for selecting and designing evaluations. OCJP should include measurable deliverables and timelines in its contracts with evaluators and hold evaluators to their contracts. It should also ensure that interagency agreements with university campuses comply with state guidelines regarding competitive bidding.

Finding: OCJP's Allocation of Indirect and Personnel Costs May Have Resulted in Some Programs Paying for the Administration of Others. The BSA found that indirect and personnel costs account for $10.7 million or 80 percent of the $13.3 million it spent on administrative costs in 2000-01. However, because of the flaws in allocating indirect and personnel costs, it cannot be sure that it assigned these costs to the program that incurred them. BSA recommends that OCJP ensure that it equitably allocates all indirect costs to appropriate units and it maintains sufficient documentation to support the basis for cost allocation. Budget Committee staff notes that at this time, OCJP cannot provide information to the Subcommittee which allocates personnel or personnel-years across programs. Because of this, for the proposal to transfer the domestic violence program to DHS, the Subcommittee has no information to indicate whether the proposed reduction of 1.4 positions from OCJP is appropriately the number of positions that work on that program.

BSA Recommendations for Potential Coordination/Consolidation of Domestic Violence Services. As noted above, among its findings, the BSA review notes that because OCJP and DHS are operating similar shelter-based programs, some duplication occurs in award and oversight activities.

Finding: Greater Cooperation or Consolidation Between OCJP's and DHS's Domestic Violence Programs Could Increase Efficiency. The BSA report recommends that to improve the efficiency of the State's domestic violence programs, OCJP and DHS coordinate the development of their application

processes and identify areas common to both where they could share information or agree to request information in a similar format. To eliminate duplicate oversight activities, OCJP and DHS should also consider aligning their reporting periods for progress reports, coordinating their visits to shelters, and establishing procedures for communicating concerns or problems regarding shelters. In addition, the report concludes that OCJP and DHS, along with the Legislature, should consider implementing one of the following alternatives:

- Continue to coordinate the departments' activities on projects in which both have interests in improving services. In addition, OCJP and DHS should each strive to identify opportunities to focus funding on specific activities. This would include establishing base funding for shelters.

- Issue a joint application for both departments' shelter-based programs but have each department continue its separate oversight.

- Combine the shelter-based programs at one department. This alternative would require some changes to state law and funding appropriations because both departments have authorizing legislation establishing their shelter-based programs. The legislation also imposes separate requirements on the funding each receives.

- Consolidate all domestic violence programs at one department. This alternative would also require legislative and funding appropriation changes.
-

BSA suggests Consolidating at OCJP Rather Than DHS May be More Efficient. With respect to combining the shelter based programs at one department, the BSA report suggests that OCJP would be the more efficient choice because of the complexity of three federal funding sources that fund the domestic violence shelter program and other victim programs within OCJP, the potential for linkage between the domestic violence shelter program and other OCJP programs that train law enforcement personnel and prosecutors to more effectively respond to violence against women.

In its response to the report, OCJP indicates that it agrees with many of the recommendations and indicates that it is taking actions to implement changes in response.

Staff Comments. The Subcommittee may wish to ask OCJP to report on specific actions it is taking with respect to the major findings in BSA's audit, including actions related to improvements in (1) its grant award process, (2) its appeal process, (3) planning of evaluations and management of evaluation contracts, (4) and proper allocation of indirect and personnel costs across programs.

According to information received by the Subcommittee, OCJP has begun implementing actions recommended by the BSA audit.

Appeal Decisions. OCJP has drafted revised appeal guidelines regarding competitive funding decisions. OCJP has requested that the California Council on Criminal Justice, the body that hears such appeals, review and approve the guidelines in their April 2003 meeting. OCJP does not plan to solicit input from the field prior to implementing the draft guidelines. In January, OCJP indicated that it had anticipated implementing these guidelines by March.

Oversight of Grantees. OCJP has drafted a plan to address improvements, which is currently under review by its executive staff.

Allocation of Indirect and Personnel Costs. OCJP has begun to use functional timesheets on a trial basis and expects to use these department-wide by June.

Staff Recommendation. Staff recommends withholding funding for OCJP pending full implementation of the actions recommended in the BSA report from last October.

Shift of Domestic Violence Shelter Program to the Department of Health Services

Budget Request. The budget proposes shifting $9.8 million for OCJP's domestic violence shelter program to the Department of Health Services (DHS). The amounts to be transferred include $9.1 million from the federal Family Violence Prevention Block Grant, and $730,000 from the General Fund.

The proposal would transfer a total of $359,000 in state operations funding to DHS. A total of 1.4 positions would be eliminated at OCJP. No new positions would be created at the DHS.

Proposed Transfer is Incomplete. OCJP indicates that it is working with DOF and DHS to determine if any additional funding will be transferred in order to support the domestic violence program. The level of funding for this program in the current year is approximately $15 million. The difference between this amount and the $9.1 million that is proposed to be transferred is made up of Victim Of Crime Act (VOCA) and Violence Against Women Act (VAWA) funds.

OCJP indicates that it is working with DOF and DHS regarding the transfer of this program to DHS. However, at this time, there is no specific proposal for how the administration intends to transfer the VOCA and VAWA funds historically used to fund program to DHS. Staff notes that there is no mention of the transfer of additional funds in the Budget Change Proposal (BCP), and at the time of this being written, staff has not received anything in writing from the OCJP or the administration with assurances that there will not be a decrease in funding for the domestic violence shelter program. The Subcommittee may wish to ask OCJP and the administration why there is no mention of transferring the VOCA and VAWA funds in the BCP, whether there is a commitment to maintain funding for the program at the current level, and the options that are being explored for transferring the VOCA and VAWA funds.

The Legislature has received a letter from the California Alliance Against Domestic Violence indicating that a majority of the domestic violence service providers that it represents would prefer to remain at OCJP while consolidation of domestic violence and sexual assault funding is further explored.

Report on Crime Victim Services. Last year, the Legislature enacted Chapter 89, Statutes of 2002 (AB 2435, Jackson), which requires the Secretary of State and Consumer Services to submit a report by January, 2004 on crime victim services in the state. The legislation specifies that the report shall include the following:

- A review of the location, effectiveness, and appropriateness of services for victims of crime in the state in comparison to services in other states, federal standards outlined in publications of the federal Office for Victim Services, and comprehensive programs for services to crime victims.
- An examination of, and recommendations on revisions to, state law germane to crime victim services, with the goal of improving and integrating the services.
- A survey of existing training for providers of services to crime victims to identify gaps or inadequacies.

- A review of expenditures and revenues, including out-year projections of the cost of current services, and recommendations for increased services and revenues.
- An exploration of a variety of funding options to ensure seamless, integrated service delivery.

Staff Recommendation. Staff notes that the work being performed for this victim services report could provide the State and Consumer Services Agency with an opportunity to review consolidation options and make recommendations on options for consolidation of victim services generally, including options for consolidation or coordination of services for victims of domestic violence. Staff recommends that the legislature reject the proposed consolidation of funding at the DHS (and the proposed trailer bill language), pending receipt and review of the report from the Secretary of State and Consumer Service in January 2004.

Shifting OCJP Functions to Other Departments

Background. Currently, OCJP is the designated state agency for the administration of several large federal grant programs. The federal grants include the Violence Against Women Act, Victims of Crime Act, Byrne Act, and the Juvenile Justice and Delinquency Prevention Act. As the lead agency responsible for the administration of these federal grants, the OCJP provides quarterly financial and annual programmatic information to the federal government on these programs. The OCJP also provides staff support to several advisory committees. In addition to these federal programs, OCJP administers numerous other state initiated programs aimed at addressing public safety, victim services, and juvenile justice. For the most part, OCJP is a vehicle for disbursing federal and state funds to local government and community-based organizations, as compared to directly administering programs.

LAO Notes Significant Programmatic Overlap. In its *Analysis*, the LAO notes that there is significant programmatic overlap between the programs that OCJP administers and programs administered by several other state agencies. The OCJP programs fall into three broad categories: victim services, public safety, and juvenile justice. The primary mission of the victim services programs is to help victims overcome the trauma of crime and to help communities prevent violent crimes. For the most part, this is achieved by providing grants—mainly federal grants, such as Violence Against Women Act grants—to state, local, and community-based organizations for the administration of programs. This mission, or components thereof, is shared by other state agencies, such as the DHS and the California Victim Compensation and Claims Board (CVCCB). The CVCCB, for example, works with local governments and community-based nonprofit victim support organizations to provide education and outreach to victims of crime. Some of these same counties and community-based organizations receive grants from OCJP for the provision of victim-related services.

Through its public safety programs OCJP provides funds and technical assistance to law enforcement agencies throughout the state, including district attorney's offices, sheriff's departments, and probation departments. These funds help support crime prevention and targeted law enforcement activities. The Lao notes that other departments, most notably the Board of Corrections (BOC) and the Department of Justice (DOJ), share these same broad goals and objectives.

In terms of the public safety mission, there is evidence of overlap of effort between DOJ and OCJP. For example, both OCJP and the DOJ have programs that target methamphetamine-related crimes. The OCJP

administers the War on Methamphetamine program, while DOJ administers the California Methamphetamine Strategy (CALMS). The programs share the same goal in that both seek to reduce and eradicate the illegal production of methamphetamine through increased arrests, prosecutions, and lab seizures. The only major difference is that OCJP provides funds to local government, while DOJ funds state-level law enforcement officers who provide technical assistance to the local agencies in support of their law enforcement efforts. In addition, it should be noted that both programs are maintaining or developing a database to track the locations of labs and the number of seizures.

Based upon its assessment, the LAO indicates that it can find no benefit to having these programs administered by separate departments. From both an administrative and cost-efficiency perspective, the LAO believes that it would be more beneficial to have all of the existing methamphetamine activities under one department, thereby reducing the likelihood of duplication and improving the level of coordination between state and local agencies.

Juvenile Justice Programs. The OCJP administers about $30 million in federal funds that support several programs aimed at reducing juvenile delinquency and juvenile crimes, including the Juvenile Justice and Delinquency Prevention program, the Juvenile Justice-Project Challenge Grant program, and the Community Delinquency Prevention program. These programs generally provide local assistance to counties and other agencies to conduct programs that are intended to decrease juvenile delinquency. These OCJP programs are very similar to programs administered by the BOC, in particular the Juvenile Crime Enforcement and Accountability Challenge Grant Program and the Crime Prevention Act of 2000 which are designed to reduce the threat of juvenile crime and delinquency.

Consolidating Could Improve Service Delivery and Efficiency. The LAO believes that consolidating OCJPs programs into other departments that have the same goals, and/or serve similar constituencies would likely improve these programs and result in program efficiencies. For example, the LAO notes that consolidating both of the methamphetamine programs into one division at DOJ should result in program efficiencies since one department would oversee all aspects of the program. Similarly, the LAO indicates that consolidating all juvenile justice programs into one division at BOC, would allow local governments that receive existing BOC funds as well as OCJP funds to apply to one department for these grant funds instead of two. Furthermore, BOC staff could use their knowledge of the programs available in these communities to maximize the use of these resources.

Analyst's Recommendation. In view of its poor performance record and overlapping functions with other state agencies, the LAO recommends that OCJP programs be transferred to other state departments. Specifically, the LAO believes that consolidating victims programs at the Victim Compensation and Government Claims Board, juvenile justice programs at the Board of Corrections, and public safety programs at the Department of Justice would likely improve service delivery and efficiency.

LAO's Estimated Administrative Savings. In addition to improving service delivery and efficiency, the LAO indicates that program consolidation would result in General Fund savings, as well as freeing up additional federal funds to support victims and law enforcement programs. For 2002-03, OCJP had 163 authorized positions distributed as follows: 28 in the executive office, 49 in administration, and 86 for program operations. The LAO recommends that all of the program positions be transferred to the recommended departments, thus retaining all program capabilities necessary to carry out the shifted programs. Within the executive office, the LAO recommends eliminating 17 positions, and moving 11 positions to the affected departments. Of the 49 administration positions, the LAO recommends eliminating 34 positions and transferring 15 (1 Staff Services Manager, 1 Staff Services Analyst, 1 Information Systems Analyst, 1 Accounting Technician, and 1 Office Technician to each of the departments to which programs would be transferred). In total, this results in a reduction of 51 positions and salary savings of $2.9 million. When staff benefits and operating expenses and equipment are

incorporated, total savings are approximately $5.3 million. Based on the 29 percent General Fund share of state operations costs at OCJP, General Fund savings from this consolidation are estimated to be $1.5 million, leaving $3.7 million in federal funds that could be used for programs.

Staff Comments. Last year, based on an option provided by the LAO, the Subcommittee considered transferring OCJP program to other departments. The Subcommittee did approve transferring OCJP's juvenile justice programs to the Board of Corrections. The Conference Committee later restored these programs to OCJP.

Staff Recommendation. Staff recommends that the Subcommittee direct the LAO to work with staff, OCJP grantees, the DOF, and OCJP to provide additional detail regarding their recommendation, including a proposal specifying the programs and dollar amounts that would be transferred to other agencies, and a revised savings estimate.

Local Assistance Grant Reductions.

Budget Proposal. The budget proposes a reduction of $3.6 million from various local assistance grant programs. The proposed reductions would continue reductions proposed in the current year revision for various local assistance grant programs. The table below highlights the proposed reductions.

Various OCJP Local Assistance Programs			
Program Name	Previous Grant Amount	Reduction Amount	Proposed 2003-04 Budget
Victims Legal Resource Center	86,000	-45,000	41,000
Family Violence Prevention	97,000	-47,000	50,000
Homeless Youth	441,000	-45,000	396,000
Youth Emergency Telephone	169,000	-42,000	127,000
Child Sexual Abuse & Exploitation	1,000	-1,000	0
Child Sexual Abuse Prevention & Training	336,000	-34,000	302,000
Community Crime Resistance	461,000	-230,000	231,000
Career Criminal Apprehension	1,154,000	-288,000	866,000
Career Criminal Prosecution	3,987,000	-350,000	3,637,000
Serious Habitual Offender	273,000	-136,000	137,000
Vertical Prosecution - Statutory Rape	8,361,000	-1,591,000	6,770,000
Evidentiary Medical Training	682,000	-34,000	648,000
Vertical Defense of Indigents	346,000	-174,000	172,000
Public Prosecutor/Defender Training	14,000	-6,000	8,000
Suppression of Drug Abuse in Schools	768,000	-78,000	690,000
Gang Violence Suppression	2,321,000	-236,000	2,085,000
Multi-Agency Gang Enforcement Consortium	124,000	-31,000	93,000
Rural Crime Prevention	3,541,000	-200,000	3,341,000
Total	**$23,162,000**	**-$3,568,000**	**$19,594,000**

Staff Comments. The Subcommittee may wish to ask OCJP to explain the rationale for the reductions to these programs and not to others. Further, the Subcommittee may wish to review other local assistance programs to determine if additional adjustments should be considered. For example, no reductions were proposed for OCJP's two largest General Fund grant programs, the War on Methamphetamine Program which provides $15 million to central valley and northern rural counties to target anti-methamphetamine efforts, and the High Technology Theft and Apprehension Program which provides $13.3 million from the General Fund to support regional High Technology Task Forces which target high technology crime.

Staff Recommendation. Staff recommends approving the proposed reductions and directing the LAO to work with staff to identify options for additional reductions from OCJP's grant programs.

Hearing of the Select Committee on Governmental Oversight

At a hearing on March 4, the Senate Select Committee on Governmental Oversight reviewed operations at OCJP. At the hearing, the committee discussed a broad range of topics, including the BSA audit, the LAO consolidation recommendation, as well as issues related to the efficiency and effectiveness of OCJP.

Staff Comments. Staff notes that the Select Committee will be recommending actions to be taken by the Subcommittee. Budget Committee staff will work with Select Committee staff as they review the information being provided to the Select Committee. Given the discussions at the hearing, staff anticipates potential recommendations from the Select Committee related to OCJP's implementation of the BSA audit recommendations, consolidation of OCJP with other departments, the management structure of OCJP and the ratio of managers to employees at the department, and the efficiency of administrative expenditures generally by the department.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, March 13, 2002
Upon Adjournment of Session
Room 112

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0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. OES provides leadership assistance and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private resources in emergencies. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then call for assistance from its neighbors.

Office of Emergency Services – Program Expenditures

Program	*Expenditures (dollars in thousands)* 2001-02	2001-02	2002-03	$ Change	% Change
Mutual Aid Response	$16,428	$15,502	$15,798	$296	1.9%
Plans and Preparedness	30,066	37,116	35,439	-1,677	-4.5%
Disaster Assistance	587,877	669,941	599,804	-70,137	-10.5%
Administration and Executive	5,648	6,037	5,715	-322	-5.3%
Distributed Administration and Executive	-4,753	-5,142	-4,820	322	-6.3%
Totals, Programs	**$635,266**	**$723,454**	**$651,936**	**-$71,518**	**-9.9%**
Total Authorized Positions	**498**	**469**	**444**	**-25**	**-5.3%**

Budget Request. The budget proposes total expenditures of $651.9 million ($58.8 million General Fund) for state operations and local assistance, a decrease of $71.5 million ($5.2 million General Fund) below the current year. As can be seen in the table above, the majority of OES's reduction ($70.1 million) is due to a decrease in funds for disaster assistance, particularly federal disaster assistance funds ($66 million reduction). The decrease in federal disaster assistance is due to several of the major disasters that were obligated funding in previous years are in the process of project closeout.

Other major General Fund reductions in the budget include:

- A reduction of $1.2 million (32 positions) and $556,000 (11 positions) to the Pasadena Disaster Assistance Office and the Coastal Region Office respectively.
- A reduction of $5.1 million for local disaster assistance grants and subventions under the Natural Disaster Assistance Act.
- A reduction of $480,000 and 10 positions at the California Specialized Training Institute resulting in decreased training for Hazardous Materials and Emergency Management.

Staff Recommendation. No issues have been raised with respect to the OES budget. Staff recommends approval as budgeted.

8550 California Horse Racing Board

The seven-member board supervises all race meetings in the state where pari-mutuel wagering is conducted. Principal activities of the board include: protecting the betting public; licensing of racing

associations; sanctioning of every person who participates in any phase of horseracing; designating racing days and charity days; acting as a quasi-judicial body in matters pertaining to horse racing meets; collecting the state's lawful share of revenue derived from horse racing meets; and enforcing laws, rules, and regulations pertaining to horse racing in California. The state's revenue from horseracing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odds cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

Budget Request: The budget proposes $8.5 million from special funds, a decrease of $69,000, or less than 1 percent from the current year.

***Staff Recommendation*:** No issues have been raised with respect to the CHRB budget. Staff recommends approval as budgeted.

8690 Seismic Safety Commission

The Seismic Safety Commission was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Seismic Safety Commission – Source of Funding

	Funding *(dollars in thousands)*				
Program	**2001-02**	**2001-02**	**2002-03**	**$ Change**	**% Change**
General Fund	$891	$881	$0	-$881	N/A
Insurance Fund	0	0	884	884	N/A
Natural Disaster Assistance Fund		100	0	-100	N/A
Reimbursements	4	175	75	-100	-8.7%
Totals, Programs	**$895**	**$1,156**	**$959**	**$-197**	**-17%**
Total Authorized Positions	**7**	**8**	**8**	**0**	**0%**

Budget Request: The budget proposes total expenditures of $959,000 ($884,000 from the Insurance Fund and $75,000 in reimbursements) for eight positions at the commission. This amount is $197,000, or 17 percent below estimated current-year expenditures. As can be seen above, a shift in funding is proposed from the General Fund to the Insurance Fund.

ISSUES

Seismic Safety Fee

Background: The proposed fund shift of SSC from the General Fund to the Insurance Fund would be funded by an annual $1 fee on all earthquake insurance policies in the state. These fees would generate

an estimated $1.3 million in the budget year and be deposited into a newly created Seismic Safety Account within the Insurance Fund. The SSC would be funded from revenues in the Seismic Safety Account upon allocation by the Legislature.

Issue: The Administration's budget proposed allocating $884,000 from the Seismic Safety Account for SSC activities for FY 2003-04. The proposed trailer bill language designates 95 percent of funds in the account (5 percent to the Department of Insurance for administrative activities relating to fee collection) exclusively for funding SSC activities.

As stated above, anticipated revenues from the Seismic Safety Fee would generate approximately $1.3 million, leaving a surplus of $351,000 in the account. This amount represents a 27 percent surplus in the Seismic Safety Account over what is needed for SSC funding. Earthquake policy data from the Department of Insurance also suggest that fee revenues will continue to generate approximately $1.3 million annually in future years.

Department Response: The department states the anticipated surplus revenue was proposed to ensure that necessary funds are in the Seismic Safety Account throughout the fiscal year. The department anticipates potential volatility in the account balance due to the necessary time between establishing the fee, notifying insurers, and actually collecting the fee annually.

Staff Recommendation: In light of the anticipated surplus generated by the Seismic Safety Fee, staff recommends the subcommittee approve SSC's budget as proposed, however reduce the proposed fee level to $.75 per earthquake policy which would only generate the funds necessary for SSC's proposed budget along with a prudent reserve. Staff also recommends adding trailer bill language to allow the Seismic Safety Account to borrow from the Insurance Fund at the beginning of the fiscal year to deal with the anticipated shortfall in the Seismic Safety Account. The Seismic Safety Fee will then be collected to repay the loan to the Insurance Fund throughout the fiscal year.

8830 California Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes statutory elimination of the California Law Revision Commission. The CLRC's current-year budget is $660,000 ($645,000 General Fund and $15,000 Reimbursements) supporting five positions.

ISSUES

Elimination of the CLRC

Issue: The CLRC is proposed to be statutorily eliminated.

Background: The CLRC was formed in 1953 as a successor to the Code Commission and was charged with reviewing California Law, studying it to remove obsolete sections and to recommend reforms. Some major projects over the history of the commission including drafting California's Evidence Code,

recodifying the California's Probate Code, drafting California's Family Code, and continuing to examine code for California's trial court unification. Over the history of the CLRC, 350 recommendations have been delivered to the Legislature, with more than 320 enacted.

Current Commission Workplan: The CLRC plans to submit to the Legislature for the 2003 session recommendations for comprehensive revision of criminal and civil procedure statutes that are obsolete or need revision in the wake of trial court unification, improvements to the code governing alternative dispute resolution in Common Interest Developments, reorganization of the code governing civil discovery, potential code improvements from the Uniform Unincorporated Nonprofit Association Act, comparisons of California and federal evidence codes, potential code improvements from the Uniform Trust Code, and a study of arbitration procedure improvements. During 2003, the CLRC is currently working on a comprehensive review of financial privacy laws, a comprehensive review of Common Interest Development Law, and continued work on revision of code from trial court reunification.

Staff Recommendation: The limited General Fund savings provided by the elimination of the CLRC does not seem to justify this budget proposal. Staff recommends rejecting this proposal and adopting a reduced budget of $550,000 for the 2003-04 Budget Year. CLRC and staff have identified this 15 percent reduction in CLRC's budget as a reasonable alternative, while still allowing the CLRC to be productive.

8840 Commission on Uniform State Laws

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of six members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request: The budget proposes statutory elimination of the Commission on Uniform State Laws. The CUSL current year's budget is $138,000 General Fund and is staffed by Legislative Counsel.

ISSUES

Elimination of the CUSL

Issue: The CUSL is proposed to be statutorily eliminated during the FY 2003-04.

Background: Since 1987, the CUSL has sponsored legislation for over 30 uniform code proposals on a wide array of issues to provide uniformity in laws across states where it is beneficial to all states. Many uniform laws have been adopted to benefit California such as:

- The Uniform Commercial Code, allowing more efficient and better regulated business transactions;
- The Uniform Electronic Transfer Act and the Uniform Fraudulent Transfer Act, allowing more consistent regulation of electronic transfers;
- The Uniform Family Support Act, the Uniform Interstate Family Support Act, and the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, all of which enhance family support and protection mechanisms in California and across state boundaries.

Staff Recommendation: Staff recommends rejecting elimination of the Commission on Uniform State Laws as it provides significant benefit to the Legislature. Staff has identified a reduced CUSL budget of $110,000 as a reasonable alternative, while still allowing the CUSL to be productive.

3780 Native American Heritage Commission

The nine-member Native American Heritage Commission (NAHC) preserves and protects California Native American cultures. The commission's powers and duties include: identifying, cataloging, and preserving geographic sites of importance to Native Americans; helping Native Americans obtain access to these sites when necessary; protecting Native American burial and sacred sites; and ensuring that remains are treated appropriately when burial sites are discovered.

Budget Request: The budget proposes to shift funding support for the NAHC from the General Fund to the Indian Gaming Special Distribution Fund. NAHC's budget proposes four positions and $341,000 from the Indian Gaming Special Distribution Fund, which is $1,000 more than the current year appropriation.

Native American Heritage Commission – Source of Funding

Fund	***Funding*** *(dollars in thousands)* 2001-02	2002-03	2003-04	$ Change	% Change
General Fund	$325	$340	$0	-$340	N/A
Indian Gamin Special Distribution Fund	0	0	341	341	N/A
Reimbursements	5	0	0	0	0%
Totals, Programs	**$325**	**$340**	**$341**	**$1**	**0.3%**
Total Authorized Positions	**3**	**4**	**4**	**0**	**0%**

ISSUES

Tribal Gaming Special Distribution Fund

Background: The budget proposes to shift full funding support for the NAHC from the General Fund to the Indian Gaming Special Distribution Fund. The Tribal Gaming Special Distribution Fund revenues are derived from quarterly payments from tribes as a percentage of average net winnings of their slot machines. The tribes are expected to contribute $94 million to the fund this year. The current Tribal Gaming Compact restricts the uses of funds to the following criteria:

- Reimbursement for state regulatory costs associated with the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

Issue: While the last criteria is broad, a federal district court has ruled that since this broad statement follows four specific statements related to gambling, all of the funds must be expended for gambling related activities. This ruling is currently under appeal. In light of the court ruling, it is unclear, despite

the mission of the NAHC, that the Special Distribution Fund can statutorily be used to fund NAHC activities.

Staff Recommendation: The Department of Finance and the Legislative Counsel are still in the process of evaluating this issue. Staff recommends leaving this issue for future discussion.

8570 Department of Food and Agriculture

The department mission is to promote and regulate the state's agricultural industry. In specific, the department promotes and regulates the department through (1) eradication and control of harmful plant and animal pests and diseases, (2) marketing, exporting, and other related assistance for various agricultural commodities, (3) assurance of true weights and measures in commerce, and (4) financial and administrative assistance to the state's 80 district, county, and citrus fairs.

Budget Request: The budget proposes total expenditures of $269.3 million ($86.6 million General Fund) a decrease of $32.3 million (10.7 percent) from the current-year budget.

The Administration's budget proposes just under $5 million in General Fund reductions to various programs. Some major General Fund reductions include:

- $1.5 million (15.5 positions) from the Weed and Vertebrate Program and the Biological Control Program.
- $1.5 million from the "Buy California" program, eliminating all state-funded support for this program.
- $1.4 million (34 positions) from the border inspection program. The reduction is accomplished by a change in inspection policy from inspecting all vehicles entering the state to inspecting only commercial vehicles entering the state.

Department of Food and Agriculture – Program Expenditures

	Expenditures *(dollars in thousands)*				
Fund	**2001-02**	**2001-02**	**2002-03**	**$ Change**	**% Change**
Agricultural Plant and Animal Health; Pest Prevention; Food Safety	$137,049	$146,512	$131,857	-$14,655	-10.0%
Marketing. Commodities and Agricultural Services	61,453	99,031	80,767	-18,264	-22.6%
Assistance to Fairs and County Agricultural Activities	56,177	54,825	55,471	646	1.2%
Executive, Management and Administrative Services	11,684	12,155	12,155	0	0%
Distributed Executive, Management and Administrative Services	-10,532	-11,223	-11,223	0	0%
Totals, Programs	**$255,831**	**$301,300**	**$269,027**	**-$32,273**	**-10.7%**
Total Authorized Positions	**1,552**	**1,837**	**1811**	**26**	**-1.4%**

ISSUES

Medfly Preventive Release Program

Background: The budget proposes $8.9 million from the General Fund and 138 positions to provide for Mediterranean Fruit Fly (Medfly) preventative control efforts on an ongoing basis. The department began efforts to control the impact of the medfly on California's agricultural industry in 1975. Since 1980, the state has spent around $150 million from the General Fund to support this effort, with a similar amount provided by the federal government.

The current Preventative Release Program (PRP) began in 1996 and involves raising sterile medflies and releasing them throughout a 2,500 square mile area in the Los Angeles Basin. Total program costs are approximately $18 million annually, shared equally between the state and federal government. The Legislature approved this as a five-year program with a June 30, 2001 sunset date. In both 2001-02 and 2002-03, the program was extended on a one-year basis.

Issue: It has been the intention of the subcommittee over the last two years to partially or wholly shift the state portion of this program from the General Fund to the Agriculture Fund. Last year, the Legislature, as recommended by the LAO, directed CDFA to provide a report on how the PRP could be shifted in whole, or in part from the General Fund to the Agriculture Fund. Staff has recently received the report from CDFA outlining several alternative funding options for the PRP program.

LAO Recommendation: The LAO recommends that the subcommittee enact legislation authorizing the department to assess fees for the nonfederal cost of the Medfly Preventative Release Program, and subsequently eliminate General Fund support for this program.

Staff Recommendation: Due to the short period since receiving the department's report, staff has not had sufficient time evaluate the alternative funding options for this program. Staff recommends leaving this issue open to allow further time to evaluate this report.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, March 20, 2003
Upon Adjournment of Session
Room 112

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Proposed Consent Calendar

The following items are proposed for the consent calendar. No issues have been raised with the following departments, boards, or commissions.

Item	Department	Total Funds	General Fund
3110	Special Resources Programs	4,395,000	0
3460	Colorado River Board	1,067,000	192,000
3680	Department of Boating and Waterways	78,562,000	0
3720	California Coastal Commission	15,825,000	10,587,000
3820	SF Bay Conservation and Development Commission	4,240,000	3,458,000
3840	Delta Protection Commission	307,000	0

Staff Recommendation: Staff recommends the subcommittee approve the proposed consent calendar.

Action:

0540 Secretary for Resources

The Secretary for Resources has administrative responsibility for the 21 state departments, boards, commissions, and conservancies within the Resources Agency. The budget proposes total expenditures of $54.3 million ($1.3 million, General Fund), a decrease of $386.2 million from the current-year budget. This decrease is attributable to a reduction in the Bay-Delta Ecosystem Restoration Account.

Issues

Overview: Funding for Natural Resources Programs

Background: Earlier this year, Budget Committee staff prepared an analysis of the Administration's mid-year and budget-year proposed reductions. Based on data provided by the Department of Finance, committee staff identified the following:

2002-2003 Mid-Year Reductions		2003-2004 Proposed Reductions	
General Fund	$143,622,000	General Fund	$203,572,000
Special Funds	$52,045	Special Funds	$70,527

Issues: When compared to reductions proposed in other areas of the budget, the dollar amounts associated with these cuts do not appear to be drastic. In fact the Governor's budget summary estimates $4.0 billion in total spending for natural resources programs (not including expenditures for CalEPA). It is important to emphasize however that General Fund support for natural resource programs has been significantly reduced for three consecutive years. As the subcommittee reviews the 2003-2004 budget proposals, an important issue to consider is what effects these cuts will have on natural resources programs, in light of the total reductions that have been made over the past three years.

Other issues for the subcommittee to consider include the following (these numbers are taken from the Governor's Budget Summary):

- Total spending for natural resources has increased from $2.2 billion in 1999-2000, to $4.1 billion in 2003-2004
- As a percentage of the total state budget, natural resources spending has increased from 2.6 percent in 1999-2000 , to 5.3 percent in 2003-2004.
- Total General Fund spending for natural resources has increased from $926 million in 1999-2000, to $958 million in 2003-04.
- As a percentage of total General Fund spending, natural resources GF spending has decreased from 1.8 percent in 1999-2000, to 1.5 percent in 2003-2004.

If doing a cursory review of these numbers, one could argue that natural resources spending has increased over the past few years despite the recent reductions. However, the numbers over this period are misleading for various reasons. First, total natural resource spending has increased due in large part to the passage of Propositions 12 (2000), 13 (2000), 40 (2002), and 50 (2002). In total, voters have approved over $10 billion in natural resources bonds since 2000.

Second, the slight increase in General Fund spending is attributable to one area. When calculating total General Fund expenditures, the Governor's budget summary includes debt service on general obligation

bonds. The 2003-2004 proposed budget includes $260 million of debt service as part of all natural resource expenditures. So if debt service is not considered, total General Fund spending for natural resources has decreased by $29 million since 1999-2000. Additionally, these figures do not account for population growth, program expansion, and/or inflation.

Another issue to consider is which natural resource departments receive General Fund dollars. For the 2003-2004 budget-year, natural resources programs will receive $958 million from the General Fund. The majority of these funds are dedicated to the following three departments: Department of Forestry and Fire Protection ($413.8 million), Department of Parks and Recreation ($97.9 million), and the Department of Water Resources ($42.6 million). In total, approximately 60 percent of all natural resources General Fund spending is dedicated to three departments.

In comparison, listed below is a 3-year General Fund budget summary of various departments who administer high priority programs established by the Legislature ($ in thousands):

Department	2001-2002	2002-2003	2003-2004
Conservation Corps	$60,227	$45,688	$36,815
Conservation	$21,222	$21,435	$5,396
Fish and Game	$67,658	$48,651	$41,167

Unfortunately the perception of natural resources programs tends to center around land acquisitions and park openings, but vital programs have been established to protect and preserve the state's natural and cultural resources. Programs such as resource assessment, conservation planning, enforcement, and regulating coastal development are all vital programs for the state. However given the current status of natural resources funding, and our reliance on bond funds, core resources programs continue to receive minimal General Fund support.

Staff Recommendation: Staff recommends the subcommittee establish funding priorities within the Resources Agency with or without assistance from the Administration. To that end, the subcommittee may wish to direct staff to identify additional cuts and/or revenue enhancements to offset spending reductions to key programs the subcommittee wishes to restore.

The subcommittee may also wish to have the Secretary respond to the issues raised in this analysis.

Action:

Other Issues

Staff Recommendation: No additional budget issues have been raised by staff. The Subcommittee may wish to consider withholding action on the Secretary's budget pending further direction from Senate leadership.

Action:

3340 California Conservation Corps

The corps provides on-the-job training and educational opportunities to California residents aged 18 through 23, with projects that conserve and enhance the state's natural resources and environment. The corps is headquartered in Sacramento and operates 13 residential base centers, 1 nonresidential service district, and more than 30 nonresidential satellite centers in urban and rural areas. The corps also develops and provides funding for eleven community conservation corps in neighborhoods with large concentrations of minority youth and high youth unemployment.

The Governor proposes to reduce the Conservation Corps' General Fund budget by $8.9 million (19.4 percent) for the 2003-2004 budget-year.

Issue

Corps Member Health Benefits

Background: As stated in the department's mission statement, corps members provide numerous services that protect and enhance the state's natural resources, environment, and residential communities. More importantly, the corps provides valuable job training and education to young men women who live in disadvantaged communities.

Since the 2001-02 fiscal-year, the corps General Fund budget has been reduced by $23.4 million. As part of the proposed General Fund reduction for the 2003-04 budget-year, the Governor proposes the following:

- Eliminate health benefits to corps members: $2.3 million
- Lay off field administrative staff: $3.2 million
- Reduce operating expenses: $3.3 million
- Close two fire centers: $1.9 million
- Eliminate local corps contracts: $846,000

Issues: The Administration's proposed General Fund reduction would result in a 25 percent total cut to the corps. Since the corps' budget is primarily funded from the General Fund, it is susceptible to reductions when the state is in a fiscal crisis. However, the Administration's proposed budget cuts undermine the corps' efforts to fulfill their mission statement. The corps provides valuable services to help protect and preserve the state's natural resources, but more importantly the corps provides opportunities to disadvantaged youth throughout the state. The success of this program can not be measured by the number of new trails or fire prevention activities; but rather the success of the corps can be defined by the number of people who join this program to help improve their lives. The corps provides alternatives to people in areas where few opportunities exist. Eliminating health benefits for the corpsmembers is not a prudent thing to do. Given the limited savings this cut provides the General Fund, the proposal is both unnecessary and insensitive.

Staff Recommendation: Staff recommends the subcommittee direct staff to identify additional General Fund reductions to backfill the Administration's proposed reductions for the corps' health benefits program.

Other issues

Staff Recommendation: No other issues have been raised with the corps budget.

Action:

3480 Department of Conservation

The Department of Conservation (DOC) protects public health and safety, ensures environmental quality, and supports the state's long-term viability in the use of California's earth resources. The Department performs numerous functions relating to agricultural and open space lands and soils; beverage container recycling; geology and seismology; and mineral, geothermal, and petroleum resources.

The budget proposes total expenditures of $541.1 million ($5.4 million, General Fund), a decrease of $13.6 million (2.5 percent) from the current-year budget.

Issues

Funding the Surface Mining and Reclamation Account (SMARA)

Background: The intent of SMARA is to assure reclamation of mined lands, encourage production and conservation of minerals, and create surface mining policies. State mining operators, under SMARA, mine everything from aggregate for building the state's infrastructure to precious metals to gypsum and borax. With department estimates of a per-capita consumption rate of 7 tons/person/year of aggregate alone—the amount of mining in the state is certain to continue to grow. Yet as population grows and urban areas sprawl into traditionally mined areas—it becomes more important to have state oversight on how to balance the competing needs of future growth, the environment and the health of the communities in which mines are placed. In order to do this, the department should thoroughly evaluate reclamation plans of mine operators and ensure that financial assurances are adequate. These roles the department plays are critical for ensuring true reclamation occurs, preventing the land from being useless in the future and repairing any environmental impact of the mining. Without sufficiently funding current SMARA activities—the state and local governments risk greater long-term costs from sites not being monitored, regulated or correctly reclaimed.

SMARA currently caps reporting fees paid by individual mining operations, (deposited in the Mine Reclamation Account) at $2000 and caps the total revenue generated by reporting fees at $1 million. With inflation adjustments, the total revenue stands currently at about $1.4 million. The result is not only a small amount of funding to effectively evaluate all operators' reports and financial assurances—but also ends up placing an unfair burden on smaller mines. Since there has been no increase in the per-mine cap in over a decade—almost all mines must pay the full amount for the department to provide the bare-bones requirements of the program.

Lead agencies play a key role in implementing SMARA at the local level. However, especially with current budget cruches, many lead agencies do not have the staff to adequately administer SMARA's requirements—like annual inspection. As a result, the State Mining and Geology Board end up having to takeover this role—requiring one additional fulltime employee to per takeover. Current board staff work for two mines in El Dorado County - Diamond Quarry (1 position) and Weber Creek Quarry (2 positions). The unfortunate result is that existing staff are diverted from their assigned work of reviewing reclamation plans to complete the requested lead agency assistance. Clearly current levels of staffing and funding are insufficient to provide an effective SMARA program.

Apart from fees, SMARA receives its core funding annually from federal royalties paid to the state from mineral leases—however, these have declined so that funding for the SMARA program has fallen disproportionately to $1.1 million.

Additional Revenues for SMARA
Senate Bill 649 (Kuehl) doubles the current cap on the program and resets the cap on the total revenue collected to an amount where the department can more effectively run the program in a way to preserve public health, look at environmental impacts of mining and meet the needs of the regulated community. The bill will raise the per mine fee to $4000 and allow for inflation adjustments. The total revenue collected for $3.5 million dollars with inflation adjustments. The Intent of SMARA is to assure reclamation of mined lands, encourage production and conservation of minerals, and create surface mining policies. State mining operators, under SMARA, mine everything from aggregate for building the state's infrastructure to precious metals to gypsum and borax. With department estimates of a per-capita consumption rate of 7 tons/person/year of aggregate alone—the amount of mining in the state is certain to continue to grow. Yet as population grows and urban areas sprawl into traditionally mined areas—it becomes more important to have state oversight on how to balance the competing needs of future growth, the environment and the health of the communities in which mines are placed. In order to do this, the department should thoroughly evaluate reclamation plans of mine operators and ensure that financial assurances are adequate. These roles the department plays are critical for ensuring true reclamation occurs, preventing the land from being useless in the future and repairing any environmental impact of the mining.

ABANDONED MINES
California is behind the times for abandoned mine cleanup and identification in comparison to other western states. States like California, who do not have coal mines, are ineligible for funding from the Federal Surface Mining Control and Reclamation Act of 1977 (SMCRA)—a program funding abandoned mine reclamation programs through fees imposed on active coal mining activities.

What states with federal SMCRA money have done
The SMCRA fund distributes money to 24 states for administration of state abandoned mine programs, including a mandatory "Stay-Out, Stay-Alive" program. Colorado's two-decade-old program has conducted its inventory-- estimating that there are 23,000 abandoned mines in the state and approximately 4,000 have been remediated. States like Montana and Utah, operating coal mines under SMCRA's jurisdiction, are permitting to remediate environmental hazards caused by the mining and put liens on the affected properties to recover the costs of the remediation. California, without coal mining, is one of the state who does not receive funding from SMCRA.

What states, like California, without SMRCA money have done
A sister state without SMCRA funding, Arizona—realizing the public and environmental safety reasons for conducting abandoned mine reclamation and appropriated money for an abandoned mine inventory—appropriated a state abandoned mines program in 1990. By 1999, Arizona had identified 1,149 mines posing significant public hazards on state lands alone. Other non-SMRCA states, Oregon and Idaho partnered up with Washington (SMCRA state) to complete priority reclamation projects and to inventory abandoned mine sites.

Nevada's Division of Environmental Protection, Bureau of Mining Regulation and Reclamation regulates exploration and mining operations in Nevada on both private and public lands. The Division issues permits to exploration and mining operations to reclaim the disturbance created to a safe and stable condition to ensure a productive post-mining land use. In addition to obtaining a reclamation permit, an operator must file a surety with the Division or federal land manager to ensure that reclamation will be completed, should an operator default on the project. **Additionally, Nevada provided funding for an**

abandoned mine safety program through an industry fee which was supported by the mining industry. Active mining operations are assessed a relatively small amount to cover costs for program administration, hazard mitigation and public education. To date, Nevada has remediated over 70% of the estimated 7,520 abandoned mine sites that it had deemed hazardous.

The intent of SB 649 is to ensure that additional fees are placed on those mining operators who work with precious metals—the same industry which created the legacy of abandoned mines. Like Nevada, California will have a reasonable, industry-funded abandoned mine program. With systematic identification by geologists at the department, proper agencies (like regional water boards) can be notified about potential hazard sources. Public members—on foot and on off-road vehicle—can be protected from falling into these hazard-traps. With a low $5 fee on each ounce of precious metal mined in the state and an average of 300,000 ounces of mined precious metals mined annually—the program (around 1.5 million) can be run at a level to ensure public safety and environmental protection.

Staff Recommendation: In light of the subcommittee's efforts in prior years to enhance the abandoned mine reclamation program, the subcommittee may wish to consider approving SB 649 as a trailer bill.

Action:

Beverage Container Recycling Fund

Background: The Beverage Container Recycling Program seeks to encourage the voluntary recycling of beverage containers by guaranteeing a minimum payment (California Redemption Value, or CRV) for each container returned to certified recycling centers. Distributors of beverages subject to the program pay the CRV (currently 2.5 cents for most containers) into the Beverage Container Recycling Fund (BCRF), which is maintained by the department. Distributors typically pass the cost of the CRV along to retailers who in turn charge the CRV to consumers. Consumers can recoup the CRV at any certified recycling center when they return their empty containers.

In addition to maintaining the BCRF, the department enforces program requirements, certifies and audits recyclers and processors, calculates recycling costs and associated fees, encourages the development of markets for recycled materials, and awards grants to public and private groups that promote recycling.

Issue: Last year the subcommittee approved a $218 million loan from the BCRF to the General Fund. The subcommittee also approved budget bill language to repay the BCRF and ensure that the recycling program was not adversely effected by the loan. The 2003-2004 budget proposes a $80 million loan to the General Fund from the BCRF, leaving the BCRF with a $31 million fund balance.

Staff Recommendation: Staff recommends the subcommittee ask the department to respond in writing to the following questions. Additionally staff requests the opportunity to evaluate the department's response prior to subcommittee action on the proposed loan.

1. What is the condition of the BCRF, including the balances in the Glass Processing Fee Account, the Plastic Processing Fee Account, and the Penalty Account? Please describe the projected condition of

the fund and each account for the next four quarters, taking into account the remaining balance that may be drawn down by the loan authorized by the Legislature in last year's budget Act.

2. How will the $80 million loan requested in the budget year affect the balance in the fund? If the subcommittee approves that loan, should it structure withdrawals in order to ensure that there is always a positive balance in the fund?

3. Public Resources Code Section 14581 requires the department, subject to the availability of funds, to spend monies in the fund for handling fees, curbside programs, grants for various activities and other related matters. Will the department be able to continue to fund these activities fully given the balance remaining on the current loan? Will the department be able to fund those activities if the Legislature approves the loan proposed for the budget year?

4. SB 23 is currently pending before the Senate. The bill proposes to reduce processing fees paid by beverage manufacturers by offsetting them from revenues in the BCRF. It also proposes increasing expenditures from the fund. How will this legislation affect expenditures in the fund?

The subcommittee may also wish to consider the following budget bill language:

Upon written approval of the Director of Finance, funds may be transferred from the Beverage Container Recycling Fund to the General Fund. The transfer made by this item is a loan to the General Fund and shall be fully repaid by June 30, 2009. This loan shall be repaid with interest at the rate earned by the Pooled Money Investment Account at the time of the transfer. The Controller shall, within 15 working days of receipt of written notification from the Director of Finance, transfer from the General Fund to the Beverage Container Recycling Fund the full amount of the loan or increments thereof as requested by the Director of Finance. It is the intent of the Legislature that the repayment is made so as to ensure that the pro-grams supported by this fund are not adversely affected by the loan.

Upon written approval of the Director of Finance, funds from this loan shall be transferred back to the Beverage Container Recycling Fund in an amount necessary to provide operating funds for support of the Beverage Container Recycling Pro-gram. Once the monthly cash-flow needs of the California Beverage Container Recycling Pro-gram are met, any excess General Fund moneys transferred to the California Beverage Container Recycling Fund during the 2002–03 fiscal year shall revert to the General Fund by June 30, 2003.

Other Issues

Staff Recommendation: No other issues have been raised with the department's budget.

Action:

3540 Department of Forestry and Fire Protection

The Department of Forestry and Fire Protection (CDF), under the policy direction of the Board of Forestry, provides fire protection services for timberlands, rangelands, and brushlands. The Department regulates timber harvesting on state or privately owned forestland and also provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

The Office of the State Fire Marshall is responsible for protecting life and property from fire through the development and application of fire prevention engineering, enforcement, and education regulations. The State Fire Marshall also trains and certifies fire service personnel throughout the state.

The budget proposes total expenditures of $603.7 million ($413.3 million, General Fund) a decrease of $52.6 million (8.0 percent) from the current-year budget.

Issues

Fire Protection Fees

Issue: The budget proposes approximately $341 million from the General Fund for support of the fire protection program. The LAO recommends the Legislature approve legislation to fund one-half of the proposed General Fund budget for fire protection on state responsibility areas by imposing fees on property owners who benefit from these services. This would result in a savings of about $170 million to the General Fund. The LAO also recommends the enactment of legislation to establish a new special fund for the deposit of the fees.

LAO Analysis: The department is responsible for fire protection on approximately one-third (31 million acres) of California's lands. The lands for which CDFFP is responsible are mostly privately owned forestlands, watersheds, and rangelands referred to as "state responsibility areas" (SRAs). There can be several different types of property owners in SRAs, such as timber operators, rangeland owners, and owners of individual residences. However, CDFFP is not responsible for the protection of structures in SRAs.

Property owners in SRAs directly benefit from CDFFP's fire protection services, as does the state's general population though the preservation of natural lands and their wildlife habitat. The LAO believes the subcommittee should approve legislation that would provide for a sharing of the costs of fire protection in SRAs between property owners and the general public. This approach is also consistent with that of several other western states which require landowners to share in the costs of fire protection services provided by the state. This approach is used in Oregon and Washington and appears to be a reasonable approach to allocating costs of a service for which the benefits and costs cannot be precisely measured and allocated.

To this end, the LAO has identified the following fee options for the Legislature to consider:

- ***A Fee Based on Wildland Fire Risk.*** This fee would be based on the department's analysis of wildland fire risk to a particular area, to reflect the fact that parcels in high risk areas are likely to receive greater benefit from CDFFP services than those parcels in areas less likely to experience

wildland fire. Risk could be based on historical fire patterns and the vegetation type of particular areas.

- ***A Fee Based on the Type of Land.*** Under this fee option, fee rates would differ depending on the type of land. For example, timberland could be charged a higher fee than rangelands because it is generally more costly to suppress a timberland fire than a rangeland fire. Oregon and Washington, for example, have fee structures with differing assessment rates based on land types.

- ***Per-Acre Fees Based on Past Actual Regional Costs.*** Under this fee option, each of the 21 CDFFP fire districts would determine a per-acre assessment based on the past actual costs of fire suppression in that specific district. This fee structure is used in Oregon to partially fund state fire protection services.

- ***A Flat Per-Acre Fee***. Under this fee option, property owners would be charged a simple per-acre fee regardless of the type of land, risk, or level of improvements on the land.

The LAO believes the preferred approach for the budget year would involve two steps: (1) establishing a simple per-acre fee structure as part of the county tax collection efforts for the interim (2003-04 and 2004-05) and (2) establishing a process to develop a permanent fee structure. The fee would need to be about $6 per acre in order to fund one-half of the proposed General Fund budget for fire protection in SRAs.

A per-acre fee is the preferred approach among the options discussed because it is the most efficient fee mechanism by which the state could recover a portion of its costs of providing wildland fire protection services to landowners in the budget year. Furthermore, acreage is a reasonable proxy for benefit to landowners and, unlike many of the other options, it is broad based and would not disproportionately affect one type of landowner over another. Lastly, the state's costs to collect the fee would be reduced by using an existing collection process (county property tax assessment and collection), rather than creating an entirely new one.

The LAO also recommends a permanent fee structure be developed and established by the Board of Forestry (to be implemented beginning with 2005-06) based upon further analysis of the various fee options. Such an analysis is needed in order to further refine the fee structure by making more precise the relationship between the amount of the fee assessed and the benefit a particular landowner receives from the state's firefighting services.

Staff Recommendation: The subcommittee may wish to have the LAO report on this issue. The subcommittee may also wish to have staff to develop trailer bill language for review prior to the final hearing in May.

Action:

Funding Timber Harvest Plan Review and other Departmental Programs

Background: The budget proposes $23.5 million for timber harvest plan review and enforcement. Of this amount, $13.8 million is allocated to the department. Over the past few years the subcommittee has made numerous attempts to improve the overall review and enforcement of timber harvest plans. Due to limited resources, the state currently reviews approximately 12 percent of all timber harvest plans. Listed below are alternatives to increase revenues for THP review and enforcement.

Timber Harvest Plan Review
Background: Timber harvest plans are reviewed by the Department of Forestry and Fire Protection, the Department of Fish and Game, the Department of Conservation, and the Water Resources Control Board. The Department of Forestry and Fire Protection is ultimately responsible for approving THPs.

LAO Recommendation: The LAO argues that timber operators should pay fees to cover the total state agency costs to review and enforce THPs, including the cost of monitoring the impact of timber harvesting on natural resources. The Analyst believes there is a direct link between the THP review and enforcement and those who directly benefit from it through their harvesting of timber. The LAO makes a valid argument by stating that without state review and approval of THPs, businesses would not be able to harvest timber.

The Analyst identifies the following fee mechanisms for the subcommittee to consider:

1. **A Per Acre Fee**. Timber operators would pay a fee based on the number of acres proposed to be harvested in the submitted THP, without regard to the value of the proposed harvest. Under this option, fees could be structured with a sliding scale so that above a certain minimum number of acres, the cost per acre could be reduced. The fees would be payable to CDFFP upon submission of a THP.

2. **A Flat Fee Per THP.** Timber operators would pay a flat fee for each THP submitted to CDFFP, without regard to the value of the proposed harvest. The fees would be payable to CDFFP upon submission of a THP.

3. **A Fee for Service Basis.** A fee would be assessed based on the costs of state agencies related to reviewing a particular THP. Under this option, THPs requiring more state agency review time would be assessed a higher fee. A fee would be collected at the conclusion of the review process.

4. **A Timber Yield Fee.** Timber operators would pay a fee based on the value of timber that is harvested. Such a fee could be collected using the existing timber tax collection system in which timber owners are required to report each quarter the value of timber harvested to the State Board Of Equalization (BOE) for payment of timber yield taxes, based on the value of the harvested timber.

Prior Action: Last year the subcommittee approved trailer bill language to implement a 4 percent timber yield fee on timber operators to cover the cost of THP review and enforcement.

Timber Products Fee
Background: Senate Bill 557 (Kuehl) is structured (1) as an alternative to imposing a timber harvest review fee directly on applicants; (2) to replace the $21 million current General Fund outlay for all departmental reviews of timber harvest plans; (3) to provide funding to increase and improve the reviews

of timber harvest plans by all relevant departments; and (4) to provide a revenue stream for the life of the legislation for a variety of restoration and forestry-related projects that would otherwise not be funded.

The revenue source that the bill would generate is imposed by a user fee collected at retail. The fee would be a penny per board foot for dimensional lumber, and a penny a square foot for materials customarily sold as sheeting, such as plywoods. The Department of Forestry estimates that Californians purchase 10-11 billion board feet of lumber each year. Thus, the penny/board foot has the potential to generate $100 million annually.

Additional Issues to Consider

1. While some argue that such a fee should be imposed on industry, the fact is that such a fee would be viewed by applicants as punitive. Given the historic low prices that the industry is facing, and that many observers believe will continue indefinitely, a fee on production that is based on the yield tax will necessarily be high in order to generate sufficient funds to replace General Fund expenditures. Such a surcharge will likely be especially harmful to smaller producers. Moreover, such a fee will not generate funds to improve the agency reviews of timber harvest plans or funds for restoration activities. Such a fee could potential create the adverse environmental consequence of driving some timberland owners to sell their lands for some other purpose. While it is important to improve the environmental performance of the industry, it is equally important to maintain timberlands as timberlands. Timberlands converted to housing or to vineyards provide very little habitat or watershed values.

2. It is highly unlikely that new General Fund dollars will be available any time soon to improve the performance of departments that review timber harvest plans. There is no dispute that improvement is necessary in order to increase the rate of review from a paltry 10-15% to something much more significant. The Department of Fish and Game, the regional water boards, and the Department of Conservation all need to improve their performance. SB 557 creates a priority for funding these improvements and it represents the only realistic way to achieve that objective.

3. There is no dispute that forestry practices have had a significant effect on California's environment, and that insufficient mitigation has been required. With the funds not required for timber harvest plan review, this bill proposes to spend money on projects directly connected to mitigating the actions of the industry. For example, a cost-share program with counties could decommission or maintain roads which are the single largest cause of sedimentation into North Coast rivers and streams, and the reason all these streams are listed as impaired under the Clean Water Act. Grants could also fund watershed groups who are working to protect water quality or habitat in timber country, and could fund the restoration of wild salmon streams.

The bill would enable California to purchase conservation easements from cooperating landowners that would ensure that timberlands remain as timberland, and that logging practices improve so that no additional water quality or wildlife threats are generated. Landowners have clamored for years for this new approach, and it is a reasonable request if it is coupled with improved logging practices.

What is at stake is the conservation of public trust resources, and a public source of funding is clearly appropriate. This bill is designed to contrast with the proposals to assess fees against producers, but at the same time, it is designed to leverage much better environmental performance than can be provided solely through a regulatory approach.

Prior Action: The subcommittee has not considered this proposal in prior years.

Staff Recommendation: Prior to the subcommittee's final hearing, staff recommends at least one of these proposals be approved as trailer bill language.

Action:

Funding the Computer Aided Dispatch System

Background: In the 2001-02 Budget-Act, the Legislature approved $10.4 million (General Fund) to the department for the development and implementation of the CAD system. The department originally estimated this project would be implemented over a 5-year period. The budget proposes $2.6 million from the State Emergency Telephone Number (911) Account to continue the implementation of the CAD system.

Issue: The LAO has recommended that the Legislature delete funding for the Computer Aided Dispatch System (CAD) because funding the proposal from the 911 account is inconsistent with current law and changes the nature of the 911 surcharge.

Department's Response: It is important to note that if a 9-1-1 call involves fire or a medical response, the call is routed to a CDF emergency command center. According to the department's staff,
CDF has twenty-one, 24-hours 9-1-1 Emergency Command Centers throughout the state.

The department also states the following:

- All ECCs are Public Safety Answering Point (PSAP) because CDF is responsible for protecting over 31 million acres of California's privately-owned wildlands.
- CDF dispatched 314,849 emergency calls in 2002
- The 5-year average is 285,726 calls a year
- 35 of California's 58 counties have some kind of contractual agreement for services with CDF
- Contracts include appropriate personnel and operations costs for additional staffing and equipment

Staff Recommendation: Staff recommends the subcommittee approve the CAD funding proposal. However, in the likelihood that the Administration's 911 proposals are not approved the subcommittee may wish to consider funding the CAD project from an additional revenue source.

Action:

Non-industrial Timber Management Plans (NTMPs)

Background: The provisions of Chapter 1290, Statutes of 1989 (SB 1566 – Keene) authorize any timberland owners with less than 2500 acres to file a nonindustrial timber management plan (NTMP) with CDF in lieu of a regular 3-year timber harvest plan (THP). NTMPs are on unlimited duration and only available to landowners who intend to manage their timberland on a "sustained yield" basis and not utilize "even age" logging methods (clearcutting). If CDF determines that a landowner is not following these management objectives, or there are persistent violations of the forest practice rules, Chapter 1290 requires the that the NTMP be cancelled and any further timber operations under the plan be terminated.

Section 14 of Chapter 1290 (an uncodified section of law) required CDF to submit a report to the Governor and Legislature on or before January 1, 1998, evaluating whether the objectives of uneven-age management and sustained yield are being met for "each parcel or group of contiguous parcels for which an NTMP had been previously approved since 1989. Section 14 was included in Chapter 1290 as a compromise in lieu of inserting a specific "sunset" provision to SB 1566 when it was originally considered by the Legislature. To date, this report has not been submitted to the Legislature.

Staff Recommendation: The subcommittee may wish to have the department report on the status of the NTMP progress report. The subcommittee may also wish to consider budget bill language prohibiting NTMPs pending delivery of the report to the Legislature.

Action:

Informational Item

Forest Resources Improvement Fund (FRIF)/State Forest Management

Background: Under current law, the Forest Resources Improvement Fund is the repository for all net revenues derived by CDF from the sale of timber harvested in the Jackson State Demonstration Forest and other state forests managed by the department. Existing law makes FRIF available to support grants and loans to nonindustrial timberland owners through the California Forest Improvement Program (CFIP), and to pay for operation of the CDF forest nursery system, forest pest research and other activities, like the Forest and Rangeland Assessment Program (FRAP). In recent years, however, the department has barred from selling any timber from the Jackson State Forest due to litigation. Prior to enactment of the California Forest Improvement Act in 1978, all state forest revenues were deposited into the General Fund.

Staff Recommendation: The subcommittee may wish to ask the department questions regarding this item.

Other issues

Staff Recommendation: No other issues have been raised with the department's budget proposal.

Action:

3560 State Lands Commission

The Commission is comprised of the State Controller, the Lieutenant Governor, and the Director of Finance. It is responsible for the management of lands the state has received from the federal government. These lands total more than four million acres and include tide and submerged lands, swamp and overflow lands, the beds of navigable waterways, and vacant state school lands. The Commission generates significant state revenue from the development and extraction of oil, gas, geothermal energy, and other minerals on state lands. Most of this revenue is from oil production on state tidal and submerged lands along the coast of southern California. The commission also administers regulations and policies for operation of marine facilities in the state to protect against oil spills.

Issue

Tidelands Oil Revenues – Impact on Salmon and Steelhead Restoration

Background: Existing law (SB 271) requires tidelands oil revenues to be annually allocated for support of salmon and steelhead restoration projects and other natural resource purposes. These allocations "sunset" on January 1, 2007, pursuant to SB 271. Last year, the Legislature denied the Governor's Budget proposal to repeal the existing but suspended the tidelands revenue allocations on a one-year basis. The Legislature also back-filled the $8 million that would have otherwise been allocated for salmon and steelhead projects with an equivalent amount of Prop. 40 bond funds. Instead, the budget proposes to transfer $18.8 million of tidelands oil revenues that would have otherwise been allocated pursuant to SB 271.

Staff Recommendation: The subcommittee may wish to ask the commission the following question:

- Does the commission have updated revenue estimates for how much tidelands oil revenue would be deposited into the General Fund if the Legislature approves the early "sunset" of the allocations established by SB 271?

Action:

3600 Department of Fish and Game

The Department of Fish and Game (DFG) administers programs and enforces laws pertaining to the fish and wildlife resources of the state. The Fish and Game Commission sets policies to guide the department in its activities and regulates the sport taking of fish and game. The DFG currently manages approximately 160 ecological reserves, wildlife management areas, habitat conservation areas, and interior and coastal wetlands throughout the state.

The budget proposes total expenditures of $275.8 million ($41.2 million General Fund), an increase of $4.5 million (1.7 percent) from the current-year budget. The proposed spending increase is attributable to Federal Trust Fund and reimbursement authority increases.

Issues

Enforcement Positions

Issue: The Administration has proposed a total reduction of 50 vacant positions and $4.5 million ($1.64 million in 2002-03, and $2.9 million in 2003-04) for enforcement (Fish and Game Wardens) As part of the first extraordinary session, the Senate approved the department's proposal to reduce funding for vacant enforcement positions in the current fiscal-year, however the Senate submitted a letter to the journal stating intent to maintain the positions through the fiscal-year.

Fish and Game Wardens perform numerous functions for the department, including the protection of California's public trust resources. Enforcement at the department has been historically been understaffed and underfunded. In light of this problem, the Legislature has approved 36 additional warden positions since 1998 to address chronic underfunding of enforcement, monitoring, and environmental review at the department.

The primary concern with the Administration's proposal is that the number of enforcement positions will decrease below 372 wardens, which was the number or wardens prior to the Legislature's augmentations to the program. Eliminating these positions would hinder any progress made by Department to increase enforcement activities, and would undermine the Legislature's intent to increase funding for enforcement.

An important issue to consider is this; the department has not been able to recruit and/or hire new wardens because of factor outside their control. Fish and Game Wardens make significantly less money when compared to other peace officers. The issue regarding pay cannot be addressed by the Legislature. The Department of Personnel Administration negotiates these contracts through collective bargaining. The subcommittee does not have the authority to augment warden's salaries.

Staff Recommendation: The Subcommittee may wish to consider budget bill language to exempt the department from the 6-month vacancy requirement and the state hiring freeze. This would enable to the department to maintain the vacant warden positions that would otherwise be eliminated, and allow the department to fill positions that are currently vacant due to the hiring freeze.

Action:

Other Issues

Staff Recommendation: The subcommittee may wish to have the department respond to the following questions either at the hearing or through a written response.

License and Fee Increases

- What other DFG permit and license fees are fixed by statute and have not been adjusted for inflation?
- Has the department's costs for monitoring and enforcement of the programs financed by these fees also increased with inflation?
- How is DFG going to cover its permit review costs, as well as monitor and enforce compliance with the recently-adopted regulations pertaining to transgenic species? Will the fees be adequate to cover annual inspections of facilities issued these permits to determine whether environmental safeguards are being followed?

Northern Pike in Lake Davis

- Does the department have any real plan for successfully eradicating this exotic species or is DFG merely attempting to contain it in Lake Davis, given the increasing number of northern pike being captured and killed by department staff

- What would be the more effective method of eliminating this population? Should Lake Davis be drained or poisoned against, as was done in 1997?

Coho Salmon Recovery Project

- What is the legal basis for the department implementing a recovery plan for the coho salmon when the listing petitioners did not concur with this alternative after listing was determined to be warranted?

- How is the department paying for the costs of this recovery planning effort?

- How can the public be assured that further losses to coho salmon populations are not occurring in view of the failure of the commission to adopt any new measures

Tidelands Oil Revenues

- How much total bond money and federal funds is DFG requesting for salmon and steelhead trout restoration projects authorized by PRC Section 6217.1?

3790 Department of Parks and Recreation

The Department of Parks and Recreation (DPR) acquires, develops, preserves, interprets, and manages the natural, cultural, and recreational resources in the state park system and in the State Vehicular Recreation Area and Trail System (SVRATS). In addition, the department administers state and federal grants to cities, counties, and special districts that help provide parks and open-space areas throughout the state. The state park system consists of 273 units, 31 of which are administered by local and regional park agencies. The system contains approximately 1.4 million acres of land, with 285 miles of coastline and 822 miles of lake, reservoir, and river frontage.

The budget proposes total expenditures of $912.0 million, ($97.9 million, General Fund), a decrease of $91.7 million (9.1 percent) from the current-year budget.

Issues

Proposition 40: Cultural and Historical Grant Funds

Background: The budget proposes $98 million from Proposition 40 for a new historical and cultural grants program.

Issue. The LAO argues that the budget proposal for the cultural and historical grant program lacks key information necessary to evaluate this initiative. The Analyst states that the proposal does not set out criteria or priorities for awarding grants, making it difficult for the Legislature to assess what the program might achieve in terms of protection and restoration of cultural and historical resources.

Assembly Bill 716: The Legislature passed AB 716 (Firebaugh) to establish a cultural and historical grant program. Since Proposition 40 did not specify nor establish a process for administering these funds, AB 716 was intended to create a structure and process for awarding historical and cultural grants and loans. AB 716 also establishes the Cultural and Historical Endowment to administer these funds and include participation from stakeholders and the public to identify priorities.

AB 716 authorized $128 million to the endowment to begin the cultural and historical grant program. However, the Governor vetoed the appropriation for the following reasons:

1. Given the state's fiscal condition, now is not the time to establish a new, permanent bureaucratic entity with broad new duties.

2. The duties of the Endowment as proposed in this measure extend well beyond competitive grant-making responsibilities and would create significant general fund cost pressure.

3. The proposed endowment appears to be "significantly redundant and unnecessary given the duties and expertise of the Department of Parks and Recreation, the Office of Historic Preservation (OHP) and the State Historic Resources Commission." The veto massage further states: "In particular, by directing the Endowment to conduct competitive grant-making for historical preservation purposes, the bill undermines the successful efforts of the OHP and the Commission in disbursing Proposition 12 historical preservation monies. Failure to take advantage of such expertise will lead to unnecessary costs and delays in implementation. of competitive grants."

Staff Recommendation: Staff recommends the subcommittee deny the all components of the Administration's Cultural and Historical grant program. Additionally the subcommittee may wish to consider allocating $98 million from Proposition 40 to the Cultural and Historical Endowment established in AB 716.

Action:

Harbors and Watercraft Fund Transfer

Issue: The budget proposes a $26 million transfer from the Harbors and Watercraft fund to the State Parks and Recreation Fund. Traditionally the Legislature has approved an $11 million transfer to the Parks and Recreation fund on an annual basis. However the current-year budget authorizes a $26 million transfer to offset general fund reductions to the department. The Legislature approved the additional $15 million transfer with budget bill language requiring the department to repay the loan.

The departments states that the additional transfer from the Harbors and Watercraft fund reflects the costs associated with operating state reservoirs and boating facilities.

Staff Recommendation: Staff recommends the subcommittee approve the $26 million transfer. Additionally, the subcommittee may wish to consider the following budget bill language:

Of the transfer specified in this item, $15,000,000 is a loan to the State Parks and Recreation Fund. It is the intent of the Legislature that repayment of this loan be made to the Harbors and Watercraft Revolving Fund no later than June 30, 2007, so as to ensure that the programs supported by this fund are not adversely affected.

Action:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, March 27, 2003
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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

0552 Office of the Inspector General

The Office of the Inspector General has the responsibility for oversight of the state's correctional system through audits and investigations of the boards and departments within the Youth and Adult Correctional Agency. Chapter 969, Statutes of 1998 changed and expanded the role of the Inspector General and re-established the Office as an independent entity reporting directly to the Governor. In addition, Chapter 338, Statutes of 1998 requires the Office of the Inspector General to review Level 1 and Level 2 Internal Affairs investigations of the boards and departments within the Youth and Adult Correctional Agency.

OIG – Summary of Program Expenditures

	(dollars in thousands)				
Program	**2001-02**	**2002-03**	**2003-04**	Change	Percent Change
Office of the Inspector General	**$ 10,906**	**$ 8,781**	**$ 7,700**	**-$ 1,081**	**-12.3%**
Authorized Positions	**97**	**81**	**70**	**-11**	**-13.4%**

Mid Year Reduction. The mid year revision included a reduction of 7.5 vacant positions in the areas of management review audits, retaliation investigations, and administrative positions, and a total of $695,000 related to the positions and for a reduction to out-of-state travel.

Budget Request. The budget proposes $7.7 million for operations of the Office of the Inspector General (OIG), which is a decrease of $1.1 million, or 12.3 percent below current year expenditures. This reduction is primarily due to the elimination of a total of 19 positions to reflect reductions in the number of audits and investigations to be performed as well as reductions in administrative staff.

Workload. The OIG reports the following workload.

- Complaints received increased from 1,572 in 2000 to 4,515 and 5,652 cases in 2001 and 2002, respectively.
- Investigation opened declined from 299 in 2000 to 181 in 2001. The number increased to 508 cases in 2002. 341 of the cases opened in 2002 were assigned to a newly instituted rapid response team, to address complaints involving urgent health and safety issues.
- Investigations closed increased slightly from 291 cases in 2000 to 306 cases in 2001. The number sent to 456 cases in 2002, which includes 290 rapid response cases.
- Five management review audit reports were issued in 2001 and three in 2002. A management review audit report of the Substance Abuse Treatment Facility was issued in January 2003 although the project was completed in 2002. Between two to three management review audits are anticipated for 2003.
- Six special review reports were issued in 2001 and ten in 2002. A special review report of the Board of Prison Terms was issued in January 2003. Again, the project was completed in 2002, but the report was held up pending the department's response. Between five to eight special reviews are anticipated for 2003.

Proposed Reductions.

Budget Request. The budget proposes to reduce 7.5 positions in the current year and a total 19 positions by the budget year, as shown in the table below.

OIG – Proposed Reductions

	FY 2002-03		FY 2003-04	
Unit	**Positions**	**Dollars**	Positions	Dollars
Management Review Audits	2.7	$235,000	5	$449,000
Retaliation Investigations	4.3	438,000	10	1,028,000
Administration	.5	22,000	4	330,000
Totals	**7.5**	**$695,000**	**19**	**$1,807,000**

Previous Reductions. For the last several years the total budget for the OIG has decreased from nearly $10.9 million and 97 positions in 2001-02 to a proposed $7.7 million and 70 positions in the budget year. The major cuts include:

- Expiration of 10 limited term positions on June 30, 2002 -- $704,000.
- Unallocated state operation reduction (Section 3.90) -- $292,000.
- Reduction of 2.5 positions and closure of Southern California field offices -- $366,000.
- A reduction of 9.4 positions -- $1,000,000.

Proposed Trailer Bill Language. As part of the reduction proposal, the administration is proposing trailer bill language that would have the effect of reducing workload for the OIG. Under current law, the OIG is required to conduct management audit reviews of CDC wardens and CYA superintendents who have held their positions for more than four years, or upon the confirmation or appointment of a new warden or superintendent. The proposed trailer bill language removes these requirements and provides that the OIG may conduct management audit reviews. With respect to retaliation investigations, current law requires the OIG to commence an investigation within 30 days upon receiving a complaint of retaliation from an employee. The proposed trailer bill language removes the 30 day requirement and provides that the OIG may commence retaliation investigations.

Staff Recommendation. Staff recommends approval as budgeted.

0550 Secretary for Youth & Adult Correctional Agency

The Youth and Adult Correctional Agency (YACA) includes the Department of Corrections, Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, Board of Corrections, Prison Industry Authority, the Narcotic Addict Evaluation Authority, and the Commission on Correctional Peace Officers' Standards and Training. The Agency provides communication, coordination, and budget and policy direction for the departments and boards.

Budget Overview - The total proposed budget for the Youth and Adult Correctional Agency is $1.2 million, which is a decrease of $53,000, or 4.2 percent, from estimated current year expenditures. Of this amount, General Fund support decreases by $53,000 to a total of $938,000. The remainder of the funding is from reimbursements. The proposed reductions include reductions in travel, general expense, and elimination of an executive assistant position. In addition to the authorized positions indicated below, YACA has borrowed four positions from CDC and CYA to perform its functions.

YACA – Summary of Program Expenditures

	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	Change	Change
Secretary for Youth and Adult Correctional Agency	**$1,222**	**$1,249**	**$1,196**	**-$53**	**-4.2%**
Authorized Positions	**11**	**11**	**10**	**-1**	**-9%**

Oversight of Departments within YACA.
The YACA's responsibility as parent agency is to provide budget and policy direction among the departments within the Agency, as well as to ensure coordination of resources and program.

In the last several years, a number of the departments within YACA have faced a number of high profile issues in the areas of lawsuits, structural budget shortfalls, effectiveness of treatment programs, and efficiency of operations.

Lawsuits. There have been a number of high profile lawsuits against CDC and CYA, including a suit to compel compliance with state laws requiring licensing of inpatient medical and mental health beds at the Youth Authority, a civil rights suit alleging inhumane, discriminatory and punitive conditions at the Youth Authority, and *Plata* inmate healthcare lawsuit at CDC.

Structural Budget Shortfalls. In the last three years, the CDC has had deficiencies of $53.1 million, $157.6 million, and $249.4 million. These budget shortfalls occurred as a result of a number of factors including (1) higher than budgeted use of overtime, due largely to vacancies

and higher than budgeted use of sick leave, (2) unanticipated increased costs for pharmacy and contract medical services, and (3) workers' compensation claims.

Effectiveness of Treatment Programs. Based on a review of treatment programs at CYA, the LAO concluded that there is little evidence of program effectiveness, that programs are inefficiently administered, and that program accountability is lacking.

Conditions of Confinement. In response to investigations of the OIG and recommendations from Secretary Presley, the Governor directed YACA to conduct a comprehensive review of policies and procedures at the CYA. The Board of Corrections created a Technical Assistance Plan (TAP) to aid the CYA in improving conditions of confinement within its institutions. YACA was charged with ensuring that CYA implemented the recommendations and the proposed regulations in the TAP.

Efficiency of Operations. Public scrutiny, litigation, and legislative concerns have increased demand for additional funding to improve operations at the CYA. However, in the last seven years, the CYA has experienced dramatic reductions in its caseload, from more than 10,000 wards in 1996 to an estimated ward population of 5,095 by the end of the budget year. While CYA's population has declined by nearly 50 percent since 1996, that department's expenditures have failed to decline at a comparable pace. Expenditures have dropped by about 26 percent in inflation adjusted dollars over this period. As CYA's ward population has downsized, many fixed costs remain intact. As of November 2002, 24 living units were closed at CYA facilities. This policy prevents CYA from gaining any potentially significant savings associated with consolidation and forces the department to continue supporting its full infrastructure and overhead with a smaller budget. As CYA's ward population continues to drop, the average institution cost per ward (adjusted for inflation) has steadily risen from $43,500 in 1996 to nearly $66,000 by December 2002.

Staff Comments. The Subcommittee may wish to ask YACA what efforts it is making in these four areas to oversee the departments within its responsibility. Specifically, the Subcommittee may wish to ask the policy and budget direction that YACA is performing in the following areas:

- Regarding risk management assessments and other policies, in order to limit future lawsuits.
- In assisting CDC to monitor and overcome its structural budget deficiencies
- In implementation of the CYA's Technical Assistance Plan
- In improving the effectiveness of the CYA's treatment programs
- In reducing overhead expenditures at the CYA.

Staff Recommendation. Staff recommends approval as budgeted.

5430 BOARD OF CORRECTIONS

The Board of Corrections works in partnership with city and county officials to develop and maintain the standards for the construction and operation of local jails and juvenile detention facilities, as well as standards for the employment and training of local corrections and probation personnel. The board also disburses training funds, administers the allocation of funds to counties for the federal Violent Offender Incarceration/Truth-in-Sentencing Grant Program, the Juvenile Hall/Camp Restoration Program, the Mentally Ill Offender Crime Reduction Grant Program, and the Juvenile Crime Enforcement and Accountability Challenge Grant Project. In addition, the board regularly conducts special studies in penology and corrections.

Board of Corrections - Source of Funds

	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	Change	Change
General Fund	$118,998	$75,623	$44,813	-$30,810	-68.8%
Corrections Training Fund	18,458	19,623	2,401	-17,222	-87.8%
Federal Trust Fund	75,052	33,466	84,256	50,790	151.8%
Reimbursements	527	588	588	0	0.00%
Totals	**$213,035**	**$129,300**	**$132,058**	**$2,785**	**2.2%**

Budget Overview – The budget for the Board of Corrections (BOC) proposes total expenditures of $132.1 million which is an increase of $2.8 million, or 2.2 percent above estimated current year expenditures. This increase is due primarily to an increase in federal local assistance funding for grant awards for construction projects determined in previous years for which funds will be dispersed in the budget year. The General Fund portion of BOC's budget is proposed to decrease by $30.8 million for a total of $44.8 million. This reduction is due to construction grant funding from previous years that will be expended in the current year.

The proposed funding for state operations is $8.2 million, which is a decrease of $682,000 from the current year. The number of authorized personnel would decrease from 62 positions to 61 positions. The proposed local assistance budget is $123.9 million, which is $3.4 million greater than current year expenditures.

Board of Corrections - Summary of Program Expenditures

	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	Change	Change
Corrections Planning and Programs	$143,338	$106,953	$126,922	$19,969	18.7%
Facilities Standards and Operations	49,980	2,466	2,477	11	0.4%
Standards and Training for Local Officers	18,713	19,879	2,657	-17,222	-86.6%
Administration	325	333	333	0	0.0%
Distributed Administration	-325	-333	-333	0	0.0%
State-Mandated Local Programs	1,004	2	2	0	0.0%
Totals	**$213,035**	**$129,300**	**$132,058**	**$2,758**	**2.1%**
Authorized Positions	**67**	**62**	**61**	**1**	**-0.8%**

Mid-Year Reductions. The Legislature approved a reduction of $70,000 and one positions pursuant to Control Section 31.6.

Budget Year Adjustments.

- A reduction of $176,000 and two positions related to the Local Juvenile Detention Facility Inspection Program.
- A reduction of $70,000 and one position pursuant to Control Section 31.6.
- An increase of $93,000 General Fund and one position to accommodate workload requirements for development of standards and procedures for criminal identification, specimen or sample collection, and use of force associated with enactment of Chapter 632, Statutes of 2000 (SB 1242, Brulte).
- Transfer of $10.2 million from the Corrections Training Fund to the General Fund,
- A reduction of $16.2 million from the Corrections Training Fund and elimination of the program that reimburses the cost of training of local correctional officers.

Issues

Local Juvenile Detention Facility Inspection Program.

Budget Request. The budget proposes a reduction of $176,000 and two positions related to the Local Juvenile Detention Facility Inspection Program. To implement the reduction, the administration proposes budget trailer bill language to amend Welfare and Institutions Code Section 209 in order to delete the power of the board in enforcing local juvenile facility standards.

Background. Existing law requires the board to conduct a biennial inspection of facilities used to house minors. If the board deems that the facility is not being operated and maintained as a suitable place for confinement, the board can order that the facility not be used for confinement of minors until its condition is remedied.

Issue. The proposal would remove the board's power to enforce its own Juvenile Facility Standards affecting county juvenile halls and jails holding minors. More than 100,000 California children each year are booked into these facilities.. The board's standards affect staffing ratios, health services, food quality, environmental safety and other factors related to the welfare of all of these confined juveniles.

Staff Comments. The BOC indicates that under current law, 130 facilities statewide undergo inspections every two years, and that without this funding, it would not be able to accomplish the workload. Currently, both the BOC and juvenile court judges share the responsibility for ensuring that facilities meet the standards.

Staff Recommendation. Given the potential liabilities that local jurisdictions could face if the facilities do not meet standards, staff recommends the Subcommittee request staff, LAO, DOF, and the board to investigate the potential for recouping the costs for the inspections through fees.

Corrections Training Fund Transfer to the General Fund and Fund Condition

Background. The Corrections Training Fund (CTF) provides funding to local agencies to offset the training costs of meeting training standards.

The CTF gets revenues from penalties on traffic violations. The amount derived from these assessments has been about $12 million annually. As can be seen in the table below, annual expenditures have been growing from $17.9 million in 2000-01 to an estimated $19.6 million in the current year. Since 1998, an additional $6.5 million has been transferred annually from the Driver Training Penalty Assessment Fund through Control Section 24.10 of the Budget Act. At the end of fiscal year 2000-01 the reserve for the CTF was $6.6 million. Due to the state's fiscal condition, funding was not transferred through Control Section 24.10 in 2001-02, and is not being proposed to be transferred in the budget year. Instead those funds from the Driver Training Penalty Assessment Fund would be transferred to the General Fund.

Proposal. The budget proposes transfer of $10.2 million from the CTF to the General Fund. As can be seen in the table below, revenues into this fund have been below expenditures for a number of years, with the fund having to depend on transfers from the Driver Training Penalty Assessment Fund to meet expenditures.

Corrections Training Fund – Fund Condition

	Expenditures *(dollars in thousands)*			
	2000-01	**2001-02**	**2002-03**	**2003-04**
Prior Year Balance After Adjustments	$5,839	$6,596	$244	$78
Revenues	12,236	12,103	12,542	12,638
Transfers to General Fund	*0*	*0*	*0*	*-10,164*
Transfers from Driver Training Penalty Assessment Fund	*6,500*	*0*	*6,915*	*0*
Total Resources	*24,575*	*18,702*	*19,701*	*2,552*
State Operations Expenditures	*2,352*	*1,774*	*2,387*	*2,401*
Local Assistance Expenditures	*15,582*	*16,684*	*17,236*	*0*
Total Expenditures	*17,934*	*18,458*	*19,623*	*2,401*
Reserve	**$6,641**	**$244**	**$78**	**$151**

Staff Comments. Not approving the transfer would result in a loss of $10.2 million from the General Fund. Staff notes that this issue is similar to issues raised at the March 6 hearing with respect to the Peace Officers' Training Fund, and is related to the next issue regarding the elimination of the local corrections training reimbursements.

Staff Recommendation. Staff recommends approving the proposal to transfer funds from the CTF to the General Fund.

Elimination of the Corrections Training Reimbursements

Budget Request. The budget proposes a reduction of $16.2 million from the Corrections Training Fund and elimination of the program that reimburses the cost of training of local correctional officers.

The program reimburses local law enforcement agencies for travel, per diem, cost of replacement officers, and some tuition costs associated with sending correctional officers to training. In 2001-02 the board reimbursed local agencies a total of $16.7 million, and is estimated at $17.2 million in the current year. The BOC indicates that the program funds approximately one-third of the total costs associated with the training.

Staff Comments. Staff notes that the BOC indicates that without reimbursement through this program, local jurisdictions may not be able to meet the training standards.

Staff Recommendation. Due to the condition of the General Fund, staff recommends approval of this proposal.

5450 Youthful Offender Parole Board

The Youthful Offender Parole Board (YOPB) is the paroling authority for youths committed by the courts. First established by the Legislature in 1941, the Board consists of seven members, each of whom is appointed by the Governor and confirmed by the Senate for four year terms. The primary function of the YOPB is to recommend treatment programs, discharge of commitments, parole conditions for young offenders, revocation or suspension of parole, and the return of nonresident persons to the jurisdiction of the state of legal residence. It also gives each offender a classification based on category of offense.

YOPB – Summary of Program Expenditures

	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	Change	Change
Youthful Offender Parole Board	**$3,389**	**$3,281**	**$3,287**	**$6**	**0.2%**
Authorized Positions	**31**	**28**	**28**	**0**	**0%**

Mid Year Reduction. The Legislature approved a reduction of $39,000 and one position as part of the mid-year revision. In addition, $53,000 and one position was eliminated pursuant to Control Section 31.6.

Budget Request. The budget proposes total expenditures of $3.3 million from the General Fund, an increase of $6,000 or 0.2 percent from current year expenditures.

Partial Year Funding Provided in the Current Year

Last year, the Legislature provided half year funding for the YOPB in the Budget Act, pending legislation to eliminate YOPB and transfer those responsibilities to the committing juvenile court. The Legislation was vetoed. SB 459 (Burton), contains funding for the remainder of the current year, and consolidates the YOPB within the Youth Authority, effective January 2004. This bill was approved in the Senate and is now in the Assembly.

Staff Comments. The YOPB indicates that it is continuing to have hearings but has scaled back certain operations due to lack of funding.

Staff Recommendation. The budget for YOPB will be significantly impacted depending upon the outcome of SB 459. Staff recommends withholding action at this time, pending the outcome of the consolidation bill.

5460 Department of the Youth Authority

The goals of the California Youth Authority (CYA) are to provide public safety through the operation of secure institutions, rehabilitate offenders, encourage restorative justice, transition offenders back to the community, and support local government intervention programs.

Youth Authority -- Funding Sources

Funding Sources	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	Change	Change
General Fund	$357,844	$354,596	$336,757	-$17,839	-5.0%
1988 County Correctional Facility Capital Expenditure and Youth Facility Bond Fund	288	58	0	-58	-100.0%
Lottery Education Fund	490	526	528	2	0.4%
Federal Trust Fund	957	1,456	1,472	16	1.1%
Reimbursements	74,097	69,611	75,285	5,674	8.2%
Totals	**$433,676**	**$426,247**	**$414,042**	**-$12,205**	**-2.9%**

Budget Overview. The Governor's Budget proposes expenditures of $414 million, a decrease of $12.2 million, or 2.9 percent from the current year. Of the total, $336.8 million is General Fund, which is a decrease of $17.8 million, or 5 percent below the current year. Of the General Fund appropriation, $37.4 million is General Fund- Proposition 98, a decrease of $326,000 from current year expenditures. Authorized positions are proposed to be 4,538, which would be a decrease of 183 positions from the current year. This reduction is primarily due to an estimated decrease in the ward population. The budget estimates that it will receive $75.4 million in reimbursement in 2002-03. These reimbursements primarily come from fees that counties pay for the wards they send to the CYA.

Ward Population Estimates. The proposed budget estimates that the ward population will decrease by 105 (2 percent) below previous estimates for the current year to 5,340 on June 30, 2003. The budget is based on estimates that the ward population will decline by 245 wards in the budget year, resulting in a population of 5,095 by June 30, 2004. The ward population has reduced in recent years from 10,114 wards at the end of the 1995-96 fiscal year. Long range projections call for the institution population to stabilize in 2004-05 and then begin to increase again, reaching 5,520 by June 2007. The department will be releasing Spring population estimates with the May Revise which will likely include further downward reductions in the ward population estimates. Recent population numbers show that actual population is more than 260 wards below the current year budget assumptions.

Parolee Population Estimates. The proposed budget estimates that the parole population will decrease to 4,040 by the end of current year, and to decrease by 210 cases to 3,830 by June 30, 2004. The department attributes the expected decrease to the declining institution population that will result in fewer parole releases. The parole population has reduced in recent years from 6,249 at the end of the 1996-97 fiscal year.

Youth Authority Program Expenditures					
Spending by Program	(dollars in thousands)				Percent
	2001-02	**2002-03**	**2003-04**	Change	Change
Institutions and Camps	$326,135	$318,575	$315,728	-$2,847	-0.9%
Parole Services	55,074	55,532	46,707	-8,825	-15.9%
Education Services	50,877	50,557	50,024	-33	-0.1%
Administration	28,417	29,569	27,271	-2,298	-7.8%
Distributed Administration	-26,827	-27,986	-25,688	-2,298	-8.2%
Totals, All Programs	**$433,676**	**$426,247**	**$414,042**	**-$12,205**	**-2.9%**
Authorized Positions	**4,701**	**4,721**	**4,438**	**-283**	**-6%**

Issues

Sliding Scale Adjustment.

Background. Under current law, counties are required to share the cost of housing juvenile offenders in the CYA. For many years, counties paid a flat fee of $25 per month per offender. Chapter 6, Statutes of 1996 (SB 681, Hurtt) made two major changes in the cost sharing arrangement. First, it increased the flat fee that counties pay from $25 per month to $150 per month to account for inflation. Second, it established a "sliding scale" fee structure which adjusts the amount that counties pay monthly based upon the classification of the juvenile offender.

The sliding scale legislation was intended to provide counties with a fiscal incentive to develop and use more locally-based programs for less serious juvenile offenders, thereby reducing their dependence on costly CYA commitments. This fee structure was modified somewhat by Chapter 632, Statutes of 1998 (SB 2055, Costa). This measure froze the per capita costs on which the sliding scale fees are based at the levels in effect on January 1, 1997 ($2,600), thereby effectively capping the fees. Accordingly, counties pay 50 percent of per capita costs ($1,300 per month) for category V commitments, 75 percent ($1,950 per month) for category VI, and the full cost ($2,600) for category VII commitments monthly. The monthly fee for category I –IV commitments remained at $150.

Budget Request. The budget proposes an increase of $7.1 million in reimbursements from counties and a corresponding savings in General Fund to adjust for inflation the County Sliding Scale Fee assessed to counties for commitments to the CYA. The administration proposes trailer bill language to implement this change.

The trailer bill legislation would adjust the monthly fee for category I – IV commitments from $150 to $176, category V from $1,300 to $1,521, category V from $1,950 to $2,281, and category VII from $2,600 to $3,042 to account for inflation.

Staff Recommendation. Staff recommends withholding action at this time on the proposal. Staff notes that potential options that the Subcommittee may wish to consider include adjusting the fee to the actual per capita costs incurred by CYA (approximately $60,000), and a juvenile justice realignment proposal recommended by the LAO.

Correctional Treatment Center Beds

Background. In May 2000, a lawsuit (*Morris v. Harper*) was brought against CYA for not complying with the state licensing requirements for inpatient medical and mental health beds. The lawsuit followed in the wake of news accounts of medical maltreatment of wards. The trial court ruled against the CYA stating that although the CYA had taken steps toward licensing three of its medical facilities, the licensing requirements were likely not to be completed without judicial intervention. The CYA appealed the decision arguing that it was actively seeking licensure. The appellate court rejected the arguments and upheld the decision of the lower court.

CYA's plans for licensure at 8 facilities and in their intensive treatment programs have been reduced to pursue licensing of 33 beds statewide at three facilities.

Budget Request. The budget proposes $675,000 and 11 positions in the current year and $1.4 million and 18.5 positions to meet mandates for the implementation and operation of CTCs at CYA. The proposal would fund 13 CTC beds at Heman G. Stark effective October 2002, 6 CTC beds at Ventura effective January 2003, and 14 beds at Northern California Youth Correctional Center (NCYCC) effective February 2004.

Staff Comments. Staff notes that the proposed beds at Stark which were scheduled to be operational in October 2002 are not yet operating as a CTC and are six months behind schedule for licensure.

Staff Recommendation. Staff recommends that the CYA provide the Subcommittee with an updated schedule for CTC licensure for the requested facilities, and provide an estimate for any savings resulting in the current year or the budget year from delays in the schedule.

Closure Plan

Background. As part of last year's budget package, legislation was adopted directing the Youth Authority to close one of its facilities by the end of 2003-04. The legislation also required the department to submit a plan by November 1, 2002 on the process for closing a total of three facilities. The Legislature's action was in recognition of the rapid population decline which the Youth Authority has experienced since 1996. The Legislature received the plan in January 2003.

Issue. In the last seven years, the CYA has experienced dramatic reductions in its caseload, from more than 10,000 wards in 1996 to an estimated ward population of 5,095 by the end of the budget year. While CYA's population has declined by nearly 50 percent since 1996, that department's expenditures have failed to decline at a comparable pace. Expenditures have dropped by about 26 percent in inflation adjusted dollars over this period. As CYA's ward population has downsized, many fixed costs remain intact. As of November 2002, 24 living units were closed at CYA facilities. This policy prevents CYA from gaining any potentially significant savings associated with consolidation and forces the department to continue supporting its full infrastructure and overhead with a smaller budget. As CYA's ward population

continues to drop, the average institution cost per ward (adjusted for inflation) has steadily risen from $43,500 in 1996 to nearly $66,000 by December 2002.

Closure Response. The CYA's response, which is not an endorsement or a proposal for facility closures, would occur in two phases. The first phase would close two facilities, the Ventura Youth Correctional Facility and the DeWitt Nelson Youth Correctional Facility in Stockton, by the end of the budget year. The second phase would close a third facility, Fred C. Nelles Youth Correctional Facility in Whittier, by June 2006. For the Ventura facility, the plan would only close the male portion of the facility. A portion of the facility would continue to operate with a female-only population.

The table below shows the fiscal impact of the closure plan. Staff notes that as provided, the plan would have budget year costs of $2.6 million. To the extent that the facilities were closed prior to the last day of the fiscal year, there may be potential savings in the budget year from a facility closure.

Youth Authority Closure Plan— Fiscal Impact [a]				
2003-04 Through 2007-08 (In Millions)				
Year	Ventura	DeWitt	Nelles	Total
2003-04	-$1.2	-$1.4	—	-$2.6
2004-05	3.2	1.8	—	5.0
2005-06	5.3	3.6	-$2.8	6.1
2006-07	5.3	3.6	11.2	20.1
2007-08	5.3	3.6	14.3	23.2
[a] Savings (+) / costs (-).				

Staff Comments. No facility closures are currently contemplated in the budget. Staff notes that given the population decrease in the current year, it is likely that CYA will have to close additional living units in the current year.

Analyst's Recommendation. The LAO recommends that the Youth Authority report at budget hearings on the following: (1) the basis for the 405 day time frame for implementation of each of the two phases and (2) the feasibility of closing the Nelles facility prior to the DeWitt Nelson facility.

English Learner Program

Background. In 1999, the Office of Civil Rights (OCR) within the U.S. Department of Education reviewed the English Language Learner program for its compliance with Title VI of the Civil Rights Act of 1964. The OCR found "significant compliance concerns." For example, it found that staff were not adequately trained to identify students who have a primary or home language other than English and that there was no overall structure or design to provide a core curriculum to English Language Learner students.

As a result, and in order to continue to receive federal funds, the state developed a Voluntary Resolution Plan to address the compliance issues. However, in 2001, OCR conducted a follow-up review of the CYA's compliance and noted significant concerns with the Youth Authority's implementation of the plan. Because OCR found continued noncompliance with Title VI, it required the CYA to submit a written action plan detailing how the deficiencies would be corrected, who would be responsible for implementing each action, the resources necessary for implementation, and the time frames for completion. The OCR indicated that when it is unable to obtain voluntary compliance, it is obligated to take steps to initiate its enforcement mechanisms, which can result in the loss of federal financial assistance ($6.4 million in the budget year). The CYA submitted its proposed action plan in October 2002 and is waiting for approval of the plan from OCR.

Budget Request. The budget proposes a total of $723,000 for this program in the budget year. In addition, the administration proposes $1.1 million for a three-year plan to certify all Youth Authority teachers meet the needs of English Language Learners.

Analyst's Recommendation. The LAO raised concerns and recommended that the CYA report at budget hearings on the status of the action plan submitted to the federal government, and additional funding in the budget year and subsequent years for the program to comply with federal law.

Proposition 98 Funding

Background. Unlike other school districts, the CYA is ineligible for most categorical sources of Proposition 98 funding and must rely on the funding it receives based on a ratio formula to cover almost all of the expenses for operating its accredited schools. The current student-teacher staffing ratios at CYA are:
Non-special education teachers -- 15:1
Special education resource specialists -- 28:1
Special education teaching assistants -- 35:1
Emotionally Learning Handicapped Teacher – 12:1
Emotionally Learning Handicapped Teacher Assistants – 35:1
Language, Speech and Hearing Specialist -- 55:1

These staffing ratios have not changed in at least the last 20 years. For purposes of assumptions for special education needs, the proposal assumes 23 percent of the wards at CYA have identifiable special education needs. This assumption has also not changed recently, and may not accurately reflect the CYA's current population.

Serious questions have been raised about the quality of education services provided in CYA. For example, the Inspector General in a January 2001 audit of the Nelles facility found a shortage of teachers and qualified substitutes who are willing to work inside the facility. The teacher shortage is especially severe in special education. In addition, the audit found that the special

education services were severely compromised, with only between 38 and 77 percent of wards receiving adequate special education services. Similar findings resulted from the Inspector General'' October 2000 audit of the Stark facility.

Budget Request. The budget proposes $37.4 million in General Fund- Proposition 98 expenditures, a decrease of $326,000 from current year Proposition 98 expenditures. Based on the existing formulas, the Proposition 98 funds would likely be reduced by $500,000 at the May Revise due to population declines.

Supplemental Report Language. Last year, the Legislature adopted Supplemental Report Language directing the CYA to report on the methodology for determining the level of education funding in its caseload adjustments. The report, due November 1, 2002, has not be received by the Legislature.

Staff Recommendation. Staff recommends that the CYA report at the hearing on the status of the report and the reasons for its delayed release.

Treatment Programs

Analyst's Review. Based on a review of treatment programs at CYA, the LAO concluded that there is little evidence of program effectiveness, that programs are inefficiently administered, and that program accountability is lacking.

Analyst's Recommendations. The LAO recommends (1) that the CYA standardize the content of its core treatment programs, (2) adoption of supplemental report language requiring the CYA to develop a plan for evaluating its core treatment programs, (3) that the CYA provide the fiscal committees with a list of programs they intend to continue after program consolidation has occurred, (4) adoption of supplemental report language that requires the CYA to develop written placement criteria for all core treatment programs, and (5) adoption of supplemental report language directing the Department of Finance to display treatment program expenditures in the Governor's budget document.

Research Unit

Budget Request. The budget reduces the number of positions in the CYA's Research Unit from 25 positions to one position.

Staff Comments. Staff notes that the CYA is attempting to redirect resources to restore a minimum core for the Research Unit. That unit is responsible for population projections, tracking recidivism, program evaluation and other research.

Staff Recommendation. The Subcommittee may wish to ask for the rationale for reducing the research unit to one position, and its predicted impact on operations.

5460 California Youth Authority

Capital Outlay

Facility Condition Survey

Analyst's Recommendation. The LAO notes that CYA's aging infrastructure, which ranges from 12 to 58 years old provides a particular challenge that should be addressed in a comprehensive way. The LAO recommends that the Legislature adopt supplemental report language directing the department to prepare and submit a facility condition survey by November 1, 2003.

Staff Recommendation. Staff recommends adoption of Supplemental Report Language.

Mental Health Treatment Facilities

Analyst's Recommendation. The LOA recommends that the Legislature adopt supplemental report language directing the department to provide by November 1, 2003 a mental health treatment program plan which includes identification of and cost estimates for any facility impacts. The report would include information such as, the types of facilities that are needed, program information regarding treatment protocols and estimates of the number of wards requiring treatment, and opportunities for reuse of facilities.

Staff Recommendation. Staff recommends adoption of Supplemental Report Language.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, April 3, 2003
Upon Adjournment of Session
Room 112

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Proposed Consent Calendar

The following items are proposed for the consent calendar. No issues have been raised with the following departments, boards, or commissions.

Item	Department	Total Funds	General Fund
3125	California Tahoe Conservancy	15,609,000	0
3810	Santa Monica Mountains Conservancy	22,253,000	0
3825	San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	17,697,000	0
3830	San Joaquin River Conservancy	1,355,000	0
3835	Baldwin Hills Conservancy	8,567,000	0
3845	San Diego River Conservancy	265,000	0
3850	Coachella Valley Mountains Conservancy	9,380,000	0

Staff Recommendation: Staff recommends the subcommittee approve the proposed consent calendar.

Action:

Informational Item

Proposition 50 Bond Funds

The 2003-04 proposed budget utilizes approximately $1.1 billion in Proposition 50 bond funds. Proposition 50, The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 authorizes $3.4 billion in general obligation bonds for various water projects and programs. Listed below is a brief summary of the bond elements, and the Governor's Proposition 50 proposals for the 2003-04 budget-year.

Water Security **$50,000,000**

Water security are discretionary to the extent that no water security program currently exists. The Legislature can appropriate these funds for projects that protect state, local, and regional drinking water systems from terrorist attack or deliberate acts of destruction or degradation.

The budget proposes $15.1 million from the Water Security fund for 2003-2004.

Safe Drinking Water **$435,000,000**

Safe drinking water funds are available to the Department of Health Services for grants and loans for infrastructure improvements designed to meet safe drinking water standards. Examples of the types of projects and grants that are eligible for funding include the following:

- Grants to small community drinking water systems to upgrade monitoring, treatment, or distribution infrastructure.
- Grants for the development of new technologies and related facilities for water contaminant removal and treatment.
- Grants for community water quality monitoring facilities and equipment.
- Grants for drinking water source protection.
- Grants for treatment facilities necessary to meet safe drinking water standards.

To help address the water demand issues, 60 percent of these funds can also be used for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use to 4.4 million acre feet per year.

The budget proposes $102.1 million from the Safe Drinking Water fund for 2003-04.

Clean Water and Water Quality **$370,000,000**

These funds are scheduled as follows:

- $100 million to the Water Resources Control Board (SWRCB) for competitive grants for the following purposes:
  (1) Water pollution prevention.
  (2) Water reclamation.
  (3) Water quality improvement.
  (4) Water quality blending and exchange projects.
  (5) Drinking water source protection projects.
  (6) Projects to mitigate pathogen risk from recreational uses at drinking water storage facilities.
- $100 million to the Resources Agency Secretary for River Parkways projects.

- $40 million to the Tahoe Conservancy for land and water acquisition, development, and restoration to improve the water quality of Lake Tahoe.
- $100 million to the Water Board for projects that restore and protect the water quality and environment of coastal waters, estuaries, bays and near-shore waters, and groundwater. Of these funds, a minimum of $20 million is appropriated for projects in the Santa Monica Bay Restoration Plan.
- $30 million to the Secretary for Resources for water quality and land acquisition projects in the Sierra Nevada-Cascade Mountain Region.

The budget proposes $87.9 million from the Clean Water and Water Quality fund for 2003-04.

Contaminant and Salt Removal Technologies **$100,000,000**
The funds in this account are available the Department of Water Resources (DWR) to award grants for desalination projects. To qualify for these funds, a grant recipient must satisfy a 50 percent match requirement of non-state source revenues for the project.

The budget proposes $27.0 million from the Contaminant and Salt Removal Technologies fund in 2003-04.

CALFED Bay-Delta Program **$825,000,000**
Proposition 50 supports the state's ongoing commitment to the CALFED Bay-Delta Program. Key components of the proposal include $180 million for each of the following CALFED program elements: water supply reliability, ecosystem restoration, and water use efficiency.

The budget proposes $306.6 million from the CALFED fund in 2003-04. Additionally, the 2002-03 current-year budget contains $46.6 million of Prop 50 funds for CALFED.

Integrated Regional Water Management **$640,000,000**
The allocation of Integrated Regional Water Management funds will likely require legislation to establish and implement this new program. As stated in the bond, the funds in this account are intended to protect communities from drought, protect and improve water quality, and improve local water security. Fifty percent (50%) of these funds are allocated to the SWRCB to select projects that meet certain requirements, including projects that are consistent with approved integrated water management plans, and projects that include local matching funds. Other restrictions on these funds include prohibiting projects that include an on-stream surface water storage facility, or an off-stream surface water storage facility other than percolation ponds for groundwater recharge in urban areas.

The budget proposes $93.7 million from the Integrated Regional Water Management fund in 2003-04.

As part of this account, the Wildlife Conservation Board (WCB) will receive $140 million for projects and grants that protect water quality and improve water supply reliability.

The budget proposes $60.2 million to the WCB in 2003-04.

Colorado River **$70,000,000**
Twenty million ($20,000,000) of these funds are available to DWR for canal lining and other projects designed to reduce the state's use Colorado River water. Fifty million ($50,000,000) of the funds are available to the WCB for acquisition, protection, and restoration of land and water resources that help satisfy the states' limit on Colorado River water.

The budget proposes $54 million from the Colorado River fund in 2003-04.

Coastal Watershed and Wetland Protection **$200,000,000**
The Coastal Watershed and Wetland Protection funds are available for grants and/or projects that protect coastal watersheds. The allocation of these funds are as follows:

- $120,000,000 million to the State Coastal Conservancy
- $20,000,000 million for the San Francisco Bay Conservancy Program
- $40,000,000 million to the Santa Monica Mountains Conservancy, of which $20,000,000 is for the protection of the Los Angeles River watershed (north of the City of Vernon), and $20,000,000 million for the Santa Monica Bay and Ventura County coastal watersheds.
- $20,000,000 million for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy.

The budget proposes $46.0 million from the Coastal Watershed and Wetland Protection fund for 2003-04.

Wildlife Conservation Board **$750,000,000**
Proposition 50 authorizes $750 million, continuously appropriated, to the WCB for acquisition, protection, and restoration of coastal wetlands, upland areas adjacent to coastal wetlands, and coastal watershed lands. The bond specifies that $300 million must be spent on projects within Los Angeles, Santa Barbara and Ventura Counties, and $200 million must go to projects in the San Francisco bay area. The WCB can also acquire at least 100 acres of upland mesa areas adjacent to the state ecological reserve in the Bolsa Chica wetlands in Orange County.

The budget proposes $272.0 million to the WCB in 2003-04. The Administration has also scheduled approximately $170.7 million of the WCB fund in the 2002-03 fiscal-year.

0540 Secretary for Resources

The Secretary for Resources has administrative responsibility for the 21 state departments, boards, commissions, and conservancies within the Resources Agency. The budget proposes total expenditures of $54.3 million ($1.3 million, General Fund), a decrease of $386.2 million from the current-year budget. This decrease is attributable to a reduction in the Bay-Delta Ecosystem Restoration Account.

Issues

Public and Legislative Oversight of Land Acquisitions Should Be Reviewed

Background. Propositions 40 and 50 both provide hundreds of millions of dollars for acquisitions of private lands by state wildlife agencies. Funds for acquisitions for the Wildlife Conservation Board alone total over $1 billion. Concerns have arisen over what the specific statutory and regulatory obligations for public disclosure of pertinent documents (e.g. appraisals, environmental reviews of property conditions and other evaluations) are of state agencies participating in acquisitions.

These concerns emanate principally from the recent completion of the acquisition of the 16,000 acre Cargill Salt Ponds in the San Francisco Bay Area in which both the press and environmental groups expressed concern over the lack of documentation available to the public, even after the acquisition was completed.

While the California Public Records Act (Government Code Section 6250 et.seq.) establishes the conditions under which such documents are required to be released, it and other bodies of law may limit release of information that are trade secrets. Moreover, acquisitions where federal agencies are involved may further limit the public's ability to obtain and review documents due to limitations in federal law and regulations.

Staff Recommendation: Given the large amount of funds in the budget appropriated for acquisitions, and the lack of clarity on the laws and procedures governing the public disclosure of acquisitions, the subcommittee may wish to ask the following questions of state acquisition agencies and, to the extent it concludes further action is needed, may wish to consider directing staff to work with the LAO and the agencies to develop trailer bill language spelling out procedures for public disclosure more clearly:

1. What laws and regulations govern the disclosure of documents associated with state acquisitions of lands? What laws and regulations govern those acquisitions where the federal government is involved?

2. At what point in the process of acquiring land does the Wildlife Conservation Board, the Coastal Conservancy, and other similar agencies make public documents like the purchase agreement, the appraisal, and any assessments of lands to be acquired?

3. Are these agencies be barred by law from entering into contractual agreements that limit the public's ability to access these documents? If not, should they be?

River Parkways Program

Issue: The budget proposes $25.4 million from Proposition 50 and $7.9 million from Proposition 40 in support of river parkway programs. .

In the past 3 natural resources bonds (Propositions 12, 13, and 40) river parkway funds were available for urban creek protection, restoration, and enhancement, and for acquisition and restoration of riparian habitat, riverine aquatic habitat, and other lands in close proximity to rivers and streams and for river and stream trail projects. The language in Proposition 50 does not provide any further direction or guidance on the use of these funds.

Since 2000, the River Parkways Program has received over $300 million (including funds available in Proposition 50). The issue for the Legislature to consider is twofold; is it desirable to spend these funds through project lists that are proposed by the Administration and without legislative input? Or, should the Legislature assert more control over this program and establish a more comprehensive program with a long-term approach to improving river parkways?

LAO Analysis: The Legislative Analyst recommends deletion of all River Parkway funds pending legislation that defines these programs, establishes grant or project funding criteria, and sets expenditure priorities.

The bond measures providing funding for these proposals give the implementing agencies very broad authority to expend the funds. Therefore, it is important that the budget proposals supply more specifics on how the programs will be implemented. For example, neither of the river parkway proposals describes how the programs will be implemented. Among unanswered questions are whether the program will consist of direct expenditures on projects or grants, what criteria will be used to choose projects or award grants, and whether there will be any allocation by geographic area.

Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to establish a River Parkway Program.

Action:

Proposition 50 Statewide Costs

Issue: The budget proposes $2.3 million (Proposition 50 bond funds) for the Secretary for Resources to provide overall coordination and administration of Proposition 50 expenditures. The proposal includes a number of different components, including (1) accounting activities ($388,000), (2) the development of a public web site ($603,000), and (3) overall coordination, and audit expenses ($1.3 million).

LAO Analysis: The budget proposes $603,000 from Proposition 50 to develop a public Web site that would provide the geographic location of all Proposition 50 bond funded projects. Current state policy requires the Department of Finance to review and approve a Feasibility Study Report (FSR) for any information technology project prior to requesting funding in the budget. According to the Department of Finance, a FSR has not been completed for the proposed public web site project.

LAO Recommendation: The LAO recommends the Legislature deny funding for the public web site.

Staff Recommendation: The subcommittee may wish to consider approving the Secretary's Proposition 50 proposal.

Action:

3640 Wildlife Conservation Board

The board acquires property to protect and preserve wildlife and provides fishing, hunting, and recreational access facilities. The board is composed of the Directors of the Departments of Fish and Game and Finance, and the Chairman of the Fish and Game Commission. In addition, three members of the Senate and three members of the Assembly serve in an advisory capacity to the board.

Issue

Proposition 50 Proposed Expenditures

Background: Proposition 40 and Proposition 50 authorize approximately $1.2 billion to the Wildlife Conservation Board (WCB). Almost all of these funds are continuously appropriated to the board, which means that the funds are approved outside of the budget process.

LAO Recommendation: The LAO raises several issues with the Administration's proposal, and makes the following recommendations:

- Bond Fund Expenditures Should Be Appropriated in Budget Bill.
- Expenditures Should Be Scheduled in Budget Bill by Category.
- Require Legislative Notification of Project Funding.

The LAO argues that current process of authorizing bond funds to the WCB reduces the Legislature's oversight and review of the board's proposals. In addition to appropriating the WCB's bond-funded expenditures in the budget bill, the LAO believes the Legislature's oversight of these expenditures would be increased if the expenditures were scheduled in the budget bill by broad category. To that end the LAO recommends the WCB display its proposed expenditures by category and submit its schedule to the budget subcommittees prior to budget hearings. The LAO argues that Control Section 26.00 of the budget bill provides flexibility to the administration to make intra-schedule transfers under a specified threshold amount. Finally, the LAO recommends the Legislature amend control section 9.45 in the budget bill to apply to Proposition 50 bond funds. Control Section 9.45 requires notification to the Legislature regarding projects exceeding $25 million. This would enable the Legislature to receive notification of all major projects scheduled for funding by the WCB.

Issue: The LAO's recommendations focus on accountability and oversight of the WCB's expenditure of Prop 50 bond funds. Traditionally the subcommittee has sought to have an influence on bond fund expenditures, particularly for major land acquisitions. However it is important to have a balance between oversight of these bond funds and hindering the board's ability to due its work. The board has a process by which all project allocations are voted on at public hearings. The WCB also has 6 members from the Legislature that serve as an advisory committee. The board briefs these 6 members and provides all relevant information on projects that are proposed to receive funding.

Staff Recommendation: Staff recommends the subcommittee only approve the LAO recommendation to apply Control Section 9.45 to the WCB. (Require notification on all projects that are scheduled to receive over $25 million in funding).

Action

Proposition 50 – Colorado River Proposals

Background: Proposition 50 allocates $50 million to WCB for the acquisition, protection, and restoration of land and water resources that help satisfy the state's limit on Colorado River water. Senate Bill 482 (Kuehl-Chapter 617, Statutes of 2002) established conditions for the expenditure of the $50 million, including the execution of a settlement agreement among various water agencies relating to Colorado River water entitlements by December 31, 2002.

LAO Recommendation: The LAO argues that the Colorado River proposals are contrary to the Proposition 50 requirement that the Colorado River funds be appropriated by the Legislature, as well as contrary to the requirements of Chapter 617.

Staff Recommendation: Staff recommends the board respond to the issues raised by the LAO.

Action:

3760 State Coastal Conservancy

The conservancy is authorized to acquire land, undertake projects, and award grants for the purposes of (1) preserving agricultural land and significant coastal resources, (2) consolidating subdivided land, (3) restoring wetlands, marshes, and other natural resources, (4) developing a system of public accessways, and (5) improving coastal urban land uses. The conservancy's jurisdiction covers the entire coastal zone including San Francisco Bay and the Suisun Marsh. The conservancy governing board consists of the Chairperson of the Coastal Commission, the Secretary of the Resources Agency, the Director of Finance, and four public members.

Informational Item

Proposition 50 Proposed Expenditures

Staff Recommendation: The subcommittee may wish to have the Coastal Conservancy report on its proposed expenditures from Proposition 50.

Action:

3790 Department of Parks and Recreation

The Department of Parks and Recreation (DPR) acquires, develops, preserves, interprets, and manages the natural, cultural, and recreational resources in the state park system and in the State Vehicular Recreation Area and Trail System (SVRATS). In addition, the department administers state and federal grants to cities, counties, and special districts that help provide parks and open-space areas throughout the state. The state park system consists of 273 units, 31 of which are administered by local and regional park agencies. The system contains approximately 1.4 million acres of land, with 285 miles of coastline and 822 miles of lake, reservoir, and river frontage.

Capital Outlay Issues

Funding for the California Indian Museum

Issue: The budget proposes $5 million (Proposition 40, Cultural and Historical Funds) for the Phase I development of the California Indian Museum.

Background: Senate Bill 2063 (Brulte-Chapter 290, Statutes of 2002), establishes the California Indian Cultural Center and Museum Task Force, and requires the task force to make recommendations on potential sites and cultural/design concepts for the California Indian Museum.

LAO Recommendation: The LAO argues that it is premature to appropriate an additional $5 million for the California Indian Museum until the task force issues its recommendations on a site and design. The LAO also believes the department should complete its study/planning documents and acquire a site for the project before these funds are appropriated.

Staff Recommendation: The subcommittee may wish to approve the following budget bill language if funds for this project are authorized in the 2003-2004 budget bill.

Provisions:
3. Funds appropriated in Schedule (22) of this Item shall only be available for expenditure after the California Indian Cultural Center and Museum Task Force (Public Resources Code section 5097.994) has issued its recommendations on potential sites and cultural and design concepts for the California Indian Museum.

Action:

California Heritage Center Project

Issue: The budget proposes $10 million (Proposition 40, Cultural and Historical Funds) for the acquisition and construction of the California Heritage Center. This project would provide a facility to house and display various historic and culturally significant artifacts that DPR has acquired over time. Currently, DPR is using a leased warehouse facility to store many of the artifacts, and the rest are being stored in various facilities throughout the state.

LAO Recommendation: The LAO recommends the subcommittee approve $3.4 million of the proposed $10 million for the Heritage Center project.

The budget proposal requests funding of all project phases, including a master plan study and site acquisition. According to the DPR proposal, it first needs to identify and acquire a site in the Sacramento area and develop a master plan for the project site.

The LAO recommends approval of $3 million for site acquisition, and $443,000 for the master plan study. With the completion of these phases, the department will have an accurate statement of cost and scope for the project, and can propose funding for future phases in subsequent budget acts.

Staff Recommendation: The LAO argues that $10 million for this project is not adequately justified. The Analyst believes the $10 million figure was arbitrarily identified by the administration. The department argues that these funds are needed to leverage private funds to help fund the total costs of the project. The department believes these funds are needed to move forward with the project.

Action:

3860 Department of Water Resources

The Department of Water Resources (DWR) is responsible for developing and managing California's water through the implementation of the State Water Resources Development System, including the State Water Project. The Department also maintains the public safety and prevents damage through flood control operations, supervision of dams, and safe drinking water projects.

The budget proposes total expenditures of $6.1 billion ($39 million, General Fund), an increase of $324.5 million (5.7 percent) from the current-year budget. The increase in spending is attributable to the allocation of Proposition 50 bond funds to the department ($300.1 million).

Issues

Integrated Regional Water Management and Water Security Proposals Need Definition

Background: Proposition 50 allocates $640 million for Integrated Regional Water Management. The Administration proposes the following expenditures for the 2003-2004 budget-year:

Department of Water Resources: $57.1 million for program implementation and staff
Water Resources Control Board: $33.1 million for water management projects
Wildlife Conservation Board: $60.1 million for various projects that improve water supply reliability

The allocation of Integrated Regional Water Management funds will require legislation to establish and implement this new program. As stated in the bond, the funds in this account are intended to protect communities from drought, protect and improve water quality, and improve local water security. Fifty percent (50%) of these funds are allocated to the SWRCB to select projects that meet certain requirements, including projects that are consistent with approved integrated water management plans, and projects that include local matching funds. Other restrictions on these funds include prohibiting projects that include an on-stream surface water storage facility, or an off-stream surface water storage facility other than percolation ponds for groundwater recharge in urban areas. As part of this Integrated Regional Water Management account, the Wildlife Conservation Board (WCB) will receive $140 million for projects and grants that protect water quality and improve water supply reliability.

Water Security
Proposition 50 allocates $50 million for the Water Security Program. These funds are discretionary to the extent that no water security program currently exists. The Legislature can appropriate these funds for projects that protect state, local, and regional drinking water systems from terrorist attack or deliberate acts of destruction or degradation.

The Administration proposes the following for the 2003-2004 budget-year:

Department of Water Resources: $1 million for dam security analysis
$3.8 million for State Water Project security improvements
Department of Health Services: $9.9 million for "projects"

LAO Analysis: The LAO raises issues with the Administration's Integrated Regional Water Management and Water Security proposals. The LAO argues that these proposals are sparsely defined, and that it is unclear how the implementing agencies will coordinate their efforts.

LAO Recommendation: The LAO argues that the proposals to expend Proposition 50 bond funds on integrated regional water management projects and water security activities lacks sufficient detail to justify approval. The Analyst recommends the deletion of the funding for these programs from the budget bill, and recommends the appropriations be placed in legislation. According to the Analyst, the legislation should provide policy direction for allocating the grant funds, including more definition of program priorities and criteria for evaluating the grants.

Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to implement the Integrated Regional Water Management and Water Security proposals. Additionally, the Subcommittee may wish to have the LAO and/or the department respond to the proposals outlined in SB 21 (Machado)

Action:

Proposition 50-Desalination Funds

Background: The budget proposes $15.2 million for desalination projects and staff. Proposition 50 authorizes a total of $50 million for the desalination program. Assembly Bill 2717 (Hertzberg - Chapter 957, Statutes of 2002) establishes a water desalination task force, and requires the task force to report to the Legislature by July 1, 2004 on its recommendations regarding the role of the state in furthering desalination technologies.

LAO Recommendation: The LAO argues that the Legislature should wait for the task force to make its recommendations before authorizing the bond funds.

Staff Recommendation: Staff recommends the subcommittee approve $15 million for desalination projects and budget bill language that restricts the use of these funds for feasibility studies.

Action:

The Dam Safety Program

Background: The budget proposes $8.8 million ($7.8 million General Fund) for the dam safety program. The General Fund amount reflects fee revenues that are deposited directly in the General Fund.

LAO Recommendation: The LAO recommends that the Legislature enact legislation to increase the existing filing and annual maintenance fees on dam owners so that fees cover 100 percent of program costs. The LAO argues that dam owners under the program's jurisdiction directly benefit from the services provided by the program. To protect small dam owners, the Analyst recommends that the legislation direct DWR to structure the revised fees in a manner that limits the amount of the fee increases for privately owned dams that have less than 100 acre-feet of storage capacity.

Additionally the LAO recommends the creation of special fund that would receive these fees in order to increase the Legislature's oversight of, and accountability for, the use of dam safety fees.

LAO Analysis: The department's dam safety program regulates approximately 1,250 dams in the state that are not under federal jurisdiction. The program is responsible for supervising the maintenance and operation of all non-federal dams that are of a specified minimum size (dams within the department's jurisdiction are either over 25 feet tall or have storage capacity that exceeds 50 acre-feet).

The current fee structure in the dam safety program was established by statute and was last revised in 1991. It consists of two fees. The first fee is an annual maintenance fee of $200 per dam plus $24 times the dam's height in feet. The second is a filing fee for a new dam or enlargement, alteration, or repair of an existing dam. This filing fee is calculated as a fixed percentage of estimated costs of the project (tiered depending on project size), and the minimum filing fee is $300. Statute has limited the amount of fees for dams located on farms or ranch properties and for small "privately owned" dams (small privately owned dams refers to dams with less than 100 acre-feet of storage capacity owned by individuals and businesses). These fees are set at $150 per dam plus $16 times the dam's height in feet.

The department collects around $1.9 million annually in maintenance fees. These fees have remained virtually constant over the last five years. The division also collects an average of $475,000 annually in filing fees for new dams or changes to existing dams. However, revenues from the filing fees have varied significantly—ranging from $300,000 to $5 million annually—depending on workload.

Staff Recommendation: The subcommittee may wish to have the LAO present their proposal, and have the department respond to the issues raised by the LAO.

Action:

3870 CALFED Bay-Delta Authority

The California Bay-Delta Authority, established by legislation enacted in 2002, provides a permanent governance structure for the collaborative state-federal effort that began in 1994. The Authority is composed of representatives from six state agencies and six federal agencies, five public members from the Program's five regions, two at-large public members, a representative from the Bay-Delta Public Advisory Committee, and four ex officio members, namely the chairs and vice-chairs of the Senate and Assembly water committees.

Prior to creation of the Authority, the Program functioned as a consortium of state and federal agencies, each operating under its independent statutory authority to implement various elements of the Bay-Delta Plan, set forth in the CALFED Bay-Delta program Record of Decision signed in August 2000. Under the Authority, the agencies have a more formalized role in advancing the goals of the Program. The Authority was established by enactment of Senate Bill 1653 (Costa) of 2002. The legislation calls for the Authority to sunset on January 1, 2006, unless federal legislation has been enacted authorizing the participation of appropriate federal agencies in the Authority.

The budget proposes $216.4 million ($12.6 million, General Fund) in total expenditures. Overall, the budget proposes $582.1 million in total funding for the CALFED Bay-Delta program.

Information Item

LAO Recommendations on CALFED

Staff Recommendation: Staff recommends the LAO present their recommendations on CALFED. Staff also recommends the Executive Director of the CALFED Bay-Delta Authority provide an overview of the 2003-2004 budget.

Action:

3940 State Water Resources Control Board

The Board regulates water quality in the state and administers water rights. The Board carries out its water quality control responsibilities by (1) establishing wastewater discharge policies; (2) implementing programs to ensure that the waters of the state are not contaminated by surface impoundments, underground tanks, or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment facilities. Nine regional water quality control Boards establish water discharge requirements and carry out water pollution control programs in accordance with state Board policies. The Board's water rights responsibilities involve issuing and reviewing permits and licenses to applicants who wish to appropriate water from the state's streams, rivers, and lakes.

Issue

Proposition 50 Proposed Expenditures

Issue: The Governor's budget proposes the following expenditures from Proposition 50 in 2003-2004:

Clean Water and Water Quality
- $36.3 million in competitive grants for water quality improvements
- $18 million in grants and loans to restore and protect coastal waters

CALFED
- $26.6 million in local assistance funding for water recycling

Integrated Regional Water Management
- $32.5 million for water management projects

Staff Recommendation: Staff recommends the board respond to the LAO's issues regarding coordination with the Department of Water Resources for the Integrated Regional Water Management Program.

Action:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, April 10, 2003
Upon Adjournment of Session
Room 112

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0555 Secretary for Environmental Protection

The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The Secretary is located in Sacramento and is responsible for overseeing and coordinating the environmental regulatory activities of the following boards, departments, and offices:

Air Resources Board	State Water Resources Control Board
Integrated Waste Management Board	Department of Toxic Substances Control
Department of Pesticide Regulation	Office of Environmental Health Hazard Assessment

The budget proposes total expenditures of $9.3 million ($2.3 million General Fund), an increase of $2.0 million (28.2 percent) from the current-year budget. The increase in funding is primarily the result of the new Local Environmental Enforcement, Training, and Grant Program ($2.0 million) and the Environmental Justice Small Grants Program ($250,000).

Secretary for Environmental Protection Program Expenditures

	(dollars in thousands)				
Program Expenditures	**2001-02**	**2002-03**	**2003-04**	**$ Change**	**% Change**
Environmental Protection Programs	$5,593	$5,198	$5,518	$320	6.2
Special Environmental Programs	3,548	2,035	3,758	1,723	84.7
Total	**$9,501**	**$7,233**	**$9,276**	**$2,043**	**28.2%**

Issues

Environmental Protection Indicators for California (EPIC)

Budget Proposal: The budget proposes to reduce all funding for EPIC in 2003-04. Current-year funding for EPIC was $83,000 for a staff position with the Office of Environmental Health Hazard Assessment.

Background: The administration created the EPIC Project in 2000-01 to establish and implement a process for developing environmental indicators. Broadly speaking, an environmental indicator is a scientifically based tool to track changes that are taking place in the environment. The EPIC Project has been a joint effort of the Secretaries for Environmental Protection and Resources, with most of the staff work being conducted by the Office of Environmental Health Hazard Assessment (OEHHA). The Project released its first report, containing data for a number of indicators, in April 2002. Since 2000-01, OEHHA's expenditures for the EPIC Project have been roughly $700,000 (General Fund).

LAO Recommendation: The LAO thinks that the EPIC Project's "results based" approach to environmental protection has merit. However, the LAO's review of similar initiatives in other states and countries finds that their effectiveness and value require that the Legislature be very much involved in the effort.

To accomplish this goal, the LAO recommends enacting legislation to set goals for EPIC's operation and guide the use of the project's information by the Legislature and the administration, including in the budget development process.

Staff Recommendation: Given the priority that the Secretary of the agency has placed in the EPIC program, the subcommittee may wish to ask why it has proposed to eliminate funding for the EPIC program?

3900 Air Resources Board

This Board is responsible for achieving and maintaining satisfactory air quality in California. This responsibility requires the Board to establish ambient air quality standards for certain pollutants, regulate vehicle emissions, identify and control toxic air pollutants, administer air pollution research studies, develop and oversee implementation plans for the attainment and maintenance of both state and federal air quality standards and oversee the regulation of sources of pollution by air pollution control districts.

The budget proposes total expenditures of $163.2 million ($10.4 million General Fund), an increase of $2.7 million (1.7 percent) from the current-year budget.

Air Resources Board Program Expenditures

	(dollars in thousands				
Program Expenditures	**2001-02**	**2002-03**	**2003-04**	**$ Change**	**% Change**
Mobile Source	$140,318	$109,750	$112,986	$3,236	2.9%
Stationary Source	45,942	40,685	39,613	(1,072)	-2.6%
Program Direction and Support	10,200	10,514	10,547	33	0.3%
Distributed Program Direction & Support	(10,200)	(10,514)	(10,547)	(33)	-0.3%
Subvention	15,111	10,111	10,637	526	4.9%
Total	**$201,371**	**$160,546**	**$163,236**	**$2,690**	**1.7%**

Issues

Funding the Stationary Source Program

Budget Proposal: The Administration proposes a stationary source fee increase of $10.0 million to backfill an equal reduction in General Fund support for this program under the polluter pays principle. The budget proposes the following mix of funding sources for the stationary source program:

- $14.9 million from the Air Pollution Control Fund (stationary source fees).
- $10.4 million from the General Fund.
- $9.8 million from federal funds
- $4.4 million from reimbursements and other funds.

Background: The stationary source program works with the local air pollution control districts to reduce emissions from stationary sources to comply with state and federal laws.

During the recent mid-year revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a stationary source fee increase to be appropriated by the Legislature through the budget process. AB 10X gives the authority to the ARB to establish a new fee structure for stationary source fee payers and another fee structure for the manufacturers of consumer products and manufacturers of architectural coatings. A statutory cap of $13 million in total fees collected was established for stationary source fee payers, while no cap was placed on fees for the manufacturers of consumer products and the manufacturers of architectural coatings. The bill also lowered the threshold of those fee payers subject to fee from 500 tons to 250 tons of emissions per year.

LAO Recommendation: The proposed shift of funding from the General Fund to fees is consistent with LAO's previous recommendation to increase fee-based support for the stationary source program along the polluter pays principle. However, the LAO believes the Governor's proposal does not go far enough and has identified an additional $4.4 million of the remaining $10.4 million of General Fund in the program that could be funded from the fee. The remaining $6 million funds the research division of the stationary source program which the LAO believes should remain in the General Fund.

Staff Recommendation: Given the status of the General Fund, it seems appropriate to increase the fee-based support of the program to encompass all program activities except the research division. Staff recommends the subcommittee approve the LAO proposal to shift an additional fee $4.4 million above the additional $10 million fee shift to fund the stationary source program.

Staff also recommends that the subcommittee adopt supplemental report language to have the ARB report to the Legislature by October 1, 2003 on the final fee structure adopted for the stationary source program.

Exemption for Agricultural Air Pollution Sources

Background: On May 14, 2002, the federal government signed a lawsuit settlement agreement which will require "major" agricultural emission sources in California to apply for federal air quality permits as required by Title V of the federal Clean Air Act. Currently, state law exempts such emission sources from air quality permitting requirements. "Major" sources in agricultural operations would include stationary diesel engines and certain confined feeding operations, among other sources.

Issue: The settlement agreement dictated a schedule for processing permits for this new category of permittees. Specifically, permit applications are due for agricultural sources that operate diesel engines by May 2003, and by October 2003 for all other major agricultural emission sources. Federal sanctions, including loss of federal transportation funding ($2.5 billion), would be imposed if the deadlines are not met.

LAO Recommendation: Given the severe nature of the federal sanctions, LAO recommends the enactment of legislation to amend state statute to remove all exemptions for agricultural air pollution permitting before May 2003.

Staff Comments: SB 700 (Florez/Sher) has been introduced in the Senate to address this issue.

Central Valley Air Quality

Background. In the past few years the problem of deteriorating air quality in the Sacramento/San Joaquin Valley has become an issue of statewide importance and concern. The federal government and the courts (rather than state or local decision making) have increasingly driven air quality policy in the region. In the past year, environmental groups forced the federal EPA to compel revisions to state law to establish permit requirements for agricultural sources of air pollution and to force the San Joaquin Valley air district to propose a comprehensive plan to reduce particulate matter air pollution.

Staff Recommendation. Given the severity of the air pollution problems in the valley, the subcommittee may wish to ask the board the following questions:

1. Does the board have any idea how much it spends on research, monitoring, and both regulatory and nonregulatory programs to reduce air pollution in the central valley?

2. Does the board think that more budgetary resources should be devoted to assessing and reducing air pollution in the valley?

Smog Check Report Overdue

Background. AB 2637 (Cardoza -- Chapter 1001, Statutes of 2002) established the requirement for enhanced inspection and maintenance of motor vehicles in the bay area. Related legislation contained a provision requiring the board and the Bureau of Automotive Repair to report to the Legislature on streamlining the smog check program implementation.

In a March 14, 2003 letter, the board informed the Legislature that the BAR/ARB joint report relating to the Smog Check program would not be submitted to the Legislature by the statutory deadline of January 1, 2003.

In a letter to the ARB in response, the Senate pro Tem expressed frustration that legislators were informed two-and-a-half months after the deadline of the board's inability to complete the report on time.

The pro Tem's letter states:

> *The timing of the proposed expansion of the program [to the bay area] was fortuitous in that implementation was concurrent with your agencies' work on program redesign. During the crafting of the [Cardoza] legislation, there was broad discussion about how the roll-out of the enhanced program in the Bay Area could include some of the redesign proposals expected in the January 1, 2003, report. Now that the report is delayed, this objective will be much more difficult to achieve.*
>
> *Given your implementation schedule for the Bay Area, please explain how you intend to incorporate program redesign recommendations into the "new" enhanced program. Surely you don't intend to implement the current program in the Bay Area, which involves compelling major investment of capital by private sector partners, only to change the program in the near future. That strikes me as unfair to all program participants (i.e., consumers, repair shop owners, test-only shop owners, and state agencies).*

The expansion of the Enhanced Smog Check program to the Bay Area is the largest expansion of the program since its inception. This occurrence provides a unique opportunity for the appropriate state oversight agencies to make important changes to Smog Check, changes that will ensure the program is fair to shop owners, convenient for consumers, and effective in achieving our shared goal of cleaner air.

Staff Recommendation: Given the above letter, the subcommittee may wish to ask the ARB when the report will be submitted and what it may contain in the way of recommendations relevant to the implementation of AB 2637.

3910 Integrated Waste Management Board

The mission of the Board is to promote source reduction, recycling, composting, and environmentally safe transformation (in that priority order) as alternatives to the disposal of solid waste at landfills. The Board also protects the public health and safety through the regulation of existing and new solid waste land disposal sites.

The budget proposes total expenditures of $115.5 million ($0 General Fund), a reduction of $11.8 million (9.3 percent) from the current-year budget.

Integrated Waste Management Board Program Expenditures

	(dollars in thousands)				
Program Expenditures	**2001-02**	**2002-03**	**2003-04**	**$ Change**	**% Change**
	$107,012	$132,542	$120,927	($11,615)	-8.8%
Solid Waste Disposal Site Cleanup Loan	(70)	(70)	(70)	0	0%
Recycling Market Development Loan	(4,145)	(4,784)	(4,864)	(80)	-1.7%
Integrated Waste Management Acct Loan	(100)	(192)	(192)	0	0%
Administration	8,008	9,199	9,230	31	0.3%
Distributed Administration	(8,008)	(9,119)	(9,230)	(31)	-0.3%
Total	**$102,695**	**$127,281**	**$115,478**	**($11,803)**	**9.3%**

Review of Waste Board Structure and Program Delivery

Background. The Integrated Waste Management Act was enacted in 1989 under AB 939 (Chapter 1046, Statutes of 1989). At the time, the state was in the midst of a solid waste "crisis" of sorts in which regional disposal capacity was limited, reduction and recycling programs existed in only a few jurisdictions, and the then-Solid Waste Management Board was a part-time nine-member board that did not appropriately reflect the diversity of interests involved in integrated waste management.

AB 939 established comprehensive requirements for development and implementation of locally adopted and state-approved integrated waste management plans, created a full-time integrated waste management board with public, industry, and environmental representatives, and gave the board explicit policy

direction to promote the integrated waste management hierarchy of source reduction, recycling, composting, environmentally safe transformation and landfilling. Perhaps most significantly, the act required local governments to divert 50% of solid waste from disposal by the year 2000.

In the 13 years since the act became law, the integrated waste management program has matured; today, most local governments have adopted and implemented programs to reduce, recycle, and compost solid waste. The board has reviewed and approved hundreds of local integrated waste management plans and implemented other related statutory provisions of the Act.

Staff Comments: The question has arisen over whether the structure and makeup of the board, as well as many key provisions of the act, should be updated and revisited based on maturation of the program. Moreover, and in a time of severe budget constraints, the question of efficiency of expenditures (regardless of whether they are from the General Fund or the Integrated Waste Management Account) should be explored.

Staff Recommendation: The subcommittee may wish to ask the following questions of the Secretary of the agency or of the board and, to the extent it determines it is appropriate, direct staff, the LAO and the agency to bring recommendations to the subcommittee for changes to the statute:

1) Are board members of the Integrated Waste management Board compensated at the same level as other board members in the Agency (i.e., Air Board, Water Board)?

2) Is the work of the board a full-time job? Do board members spend a full work week performing their duties? Since most integrated waste management plans have been reviewed and approved, has the board's workload diminished?

3) How do the personal staff allocations to waste board members (i.e., advisors, personal assistants) compare to those of other boards in the agency?

4) Is a six-member board the appropriate number, given that most other boards are five members?

Funding of Research for or Promotion of Tire Incineration

Background. The subcommittee has received several letters from environmental groups expressing concerns about the Board's five-year plan for the management of used tires which is intended to ensure that they do not pile up in landfills and become a hazard. These letters state opposition to the board's proposal to allow for the expenditure of tire funds collected from the public to fund the tire recycling program to research and promote the burning of tires in cement kilns.

Staff Recommendation. The subcommittee may wish to ask the following questions of the board:

1. Please explain the board's policies as the relate to funding for tire incineration research and promotion. Are there any statutory or regulatory limitations on the board's ability to spend public funds on tire burning projects?

2. What projects has the board funded in the past related to tire incineration? What were the results of the research projects the board has funded?

3930 Department of Pesticide Regulation

The department was created in 1991 as part of the California Environmental Protection Agency to protect the public health and the environment from unsafe exposures to pesticides. This function previously was carried out by the Department of Food and Agriculture. The department (1) evaluates the public health and environmental effects of pesticides, (2) regulates, monitors, and controls the use of pesticides in the state, (3) tests produce for pesticide residue levels, and (4) develops and promotes pest management practices that can reduce the problems associated with the use of pesticides. The department primarily is funded from taxes on the sale of pesticides in the state, various registration and licensing fees on persons who use or sell pesticides, and the General Fund.

The budget proposes total expenditures of $53.3 million ($49.8 million Department of Pesticide Regulation Fund), a decrease of $1.1 million (2.1 percent) from the current-year budget.

Department of Pesticide Regulation Sources of Funding

	(dollars in thousands)				
Sources of Funding	**2001-02**	**2002-03**	**2003-04**	**$ Change**	**% Change**
General Fund	$16,392	$12,795	$1	($12,794)	-99.9%
Department of Pesticide Regulation Fund	35,365	37,861	49,794	11,933	31.5%
Cal. Environmental License Plate Fund	496	496	457	(39)	-8.5%
Food Safety Account, DPR Fund	2,037	418	412	(6)	-1.4%
Structural Pest Control Device Fund	71	0	0	0	0%
Federal Trust Fund	2,292	2,383	2,160	(223)	-9.4%
Reimbursements	492	479	479	0	0%
Total	**$57,392**	**$54,432**	**$53,303**	**($1,129)**	**2.1%**

Issues

Funding the Department of Pesticide Regulation

Budget Proposal: The Governor's budget proposes to increase the pesticide mill assessment and pesticide licensing and examination fees to generate an additional $10.4 million in revenue. The increased revenue would allow DPR to shift nearly all General Fund support for the Department of Pesticide Regulation to the Department of Pesticide Regulation Fund (DPRF).

The budget proposes trailer bill language to increase the statutory cap of the mill assessment rate from 17.5 mills to 27 mills ($0.0175 to $0.027), while allowing the department to set the mill assessment rate annually depending on the departmental funding level approved by the Legislature through the budget process. For 2003-04, the proposed budget for DPR would require a 25 mill assessment rate to be set.

The budget also proposes to increase fees on pesticide licenses, examinations, and continuing education programs administered by the department. The budget calculates the new fee rates by applying a cost-of-living adjustment from the last times the fees were adjusted in the mid-1980s. The proposed trailer bill

language also grant authority to DPR to adjust fees to in future years to cover the licensing and examination program costs. However, pesticide registration fees are not proposed to be increased.

Background: In 2001, the Legislature sought a long-term stable funding solution for funding the Department of Pesticide Regulation by passing AB 780 (Thomson). The bill extended the current mill rate of 17.5 mills until 2004 and required the department to establishing a committee of stakeholders, department officials, and legislative representatives to address the long term funding issues of the pesticide program. That report was recently submitted to the Legislature for review.

The mill assessment is currently set at a rate of 17.5 mills (one mill is equivalent to $0.001 for each dollar of pesticide sold in the state). Six mills of the 17.5 are allocated to local County Agriculture Commissioners for pesticide regulatory activities and an additional ¾ of one mill on the agricultural portion of pesticide sells to the California Department of Food and Agriculture for pesticide consultation and analysis. Also, a smaller amount of funds are generated through fees on pesticide registration, licensing and examination of pesticide dealers and applicators. In the current year, the mill assessment and fees account for close to 70 percent of DPR's funding, with a majority of the remaining funding coming from the General Fund.

LAO Recommendation: The LAO finds the Governor's proposal to shift nearly all General Fund support in the department to fees is a step in the right direction. However, the LAO thinks the proposal should go further and therefore recommends the enactment of legislation shifting the funding for pesticide-related programs in other agencies to pesticide fees.

The LAO has identified pesticide-related programs in the Air Resources Board, Department of Fish and Game, Office of Health Hazard Assessment, State Water Resources Control Board, and the Department of Health Services that they propose funding through the mill assessment.

The LAO recommends increasing registration fees to cover the costs of the program. The LAO also recommends that the subcommittee enact a tiered registration fee structure to reflect the higher program costs associated with the registration of restricted materials. Restricted materials are those pesticides deemed to present special hazards to health or the environment if misused.

County Agriculture Commissioners: The County Agriculture Commissioners (CACs) currently serve as the local enforcement agents for federal and state pesticide laws and regulations. The CACs provide over 300 inspector staff years annually to enforce California's environmental laws relating to pesticides.

Currently, 6 mills of the 17.5 mills are allocated to the CACs for pesticide regulatory activities. The level of funding provided by the mill assessment is insufficient to cover pesticide regulatory activities at the CAC level. County's currently provide $16.1 million of county general funds toward pesticide regulatory activities.

Staff Recommendation: Staff recommends the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language addressing the appropriate mill assessment and pesticide registration fee levels necessary to fund the Department of Pesticide Regulation.

Pesticide Risk Assessment & Toxic Air Contaminant Activities

Background. In 1991, then Governor Pete Wilson sponsored Governor's Reorganization Plan #1 which created the California Environmental Protection Agency. GRP 1 transferred specified pesticide regulatory functions from the California Department of Food and Agriculture to a new Department of

Pesticide Regulation within CAL-EPA. Because of concerns expressed by the agricultural industry, pesticide risk assessment activities remained with DPR, despite concerns over the commingling of risk assessment with risk management. In a separate action, the development of toxic air contaminants for pesticides were left with DPR, while all other toxic air contaminants were transferred to Office of Environmental Health Hazard Assessment (OEHHA) which is the risk assessment arm of Cal EPA.

Staff Recommendation. The committee may wish to ask the following questions of the secretary of the agency and the director of DPR:

1. Is there any reason why pesticide risk assessment and toxic air contaminant development for pesticides should continue to be performed by DPR and not by OEHHA?

2. What actions has DPR taken to ensure functional separation between risk assessment and risk management activities at the department? Should these actions be codified to ensure that future departments abide by them?

Finance Letter

Surface Water Monitoring, Air and Enforcement Programs

Finance Letter Request: The department has submitted a Finance Letter requesting to restore $2,755,000 in funding for the Surface Water Monitoring, Air, and Enforcement programs. These programs provide data necessary for the accurate characterization of pesticide use in California and ensure the proper use of pesticides throughout the state.

Local Assistance for County Agricultural Commissioners

Finance Letter Request: The Finance Letter also requests restoration of $576,000 to restore support for the activities of county agricultural commissioners related to the permitting and use of restricted materials. The funding will ensure that the level of protection from pesticides posing increased risk to public health and the environment is maintained.

The department has identified increased resources in the Department of Pesticide Regulation Fund for the restoration of the above programs.

Staff Recommendation: Staff recommends approval of the Finance Letter.

3940 State Water Resources Control Board

The Board regulates water quality in the state and administers water rights. The Board carries out its water quality control responsibilities by (1) establishing wastewater discharge policies; (2) implementing programs to ensure that the waters of the state are not contaminated by surface impoundments, underground tanks, or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment facilities. Nine regional water quality control boards establish water discharge requirements and carry out water pollution control programs in accordance with state Board policies. The Board's water rights responsibilities involve issuing and reviewing permits and licenses to applicants who wish to appropriate water from the state's streams, rivers, and lakes.

The budget proposes total expenditures of $739.4 million ($44.6 million, General Fund), a decrease of $332.0 million (31.0 percent) from the current-year budget. A large majority of the reduction in spending is attributable to $304.8 million in bond fund reductions for the local assistance program.

Water Resources Control Board Program Expenditures

Program Expenditures	2001-02	2002-03	2003-04	$ Change	% Change
		(dollars in thousands)			
Water Quality	$718,944	$1,060,325	$730,652	($329,673)	-31.1%
Water Rights	11,705	11,105	8,731	(2,374)	-21.4%
Administration	14,991	17,119	14,468	2,651	-15.5%
Distributed Administration	(14,991)	(17,119)	(14,468)	(2,651)	15.5%
Total	$730,649	$1,071,430	$739,383	($332,047)	31.0%

Issues

Funding the Water Rights Program

Budget Proposal: The budget proposes $8.7 million for the water rights program, a 20 percent reduction in the funding from the current year. The reductions are accomplished by a proposed reduction of $3.3 million in General Funds and 15.5 PYs to the water rights program. The Legislature recently approved current-year reductions to the water rights program of $610,000.

Background: The SWRCB's water rights program is responsible for (1) issuing new water rights for water bodies that have not already been fully "allocated" to water rights holders, (2) approving changes to existing water rights, and (3) conducting ongoing enforcement and compliance monitoring of water rights.

The water rights permits issued specify the use, point of diversion, quantity, and other conditions that protect prior water rights holders, the public interest, and the environment. As part of the permit issuance process, the board publicly notices the permit application, allows for public comment, and conducts various environmental reviews as required by statute, including CEQA. Other state agencies, including the Department of Fish and Game, may also be involved in the environmental review process. After a water right has been approved, the project must be completed, inspected, and licensed. The board enforced the conditions of the permits and licenses through ongoing inspections and investigating complaints.

Currently, water rights applicants pay a one-time nominal application fee, which varies depending on the amount of the proposed diversion and/or storage. Applicants proposing large water diversions that are likely to have an impact on the environment pay for the preparation of any environmental documents required to comply with CEQA. The minimum application fee is $100 and was established in the mid-1980s. The current fee generates approximately $30,000 for the water rights program, or about 1 percent of program expenditures.

Workload Backlog: The LAO identified significant backlogs in the review and issuances of water rights by the board. Currently, the board receives about 170 applications a year, and at the current-year funding level processes around 150 applications per year. The board also issues approximately 125 licenses

annually on completed projects with over 1,000 permittees waiting. In addition, the board conducts about 120 inspections on current water rights holders, or less than 1 percent of water rights granted.

The Legislature over the last few years has generally sought to improve the process for issuance of water rights.

LAO Recommendation: The LAO believes the proposed reductions will only serve to exacerbate the current backlog in the program and that the program should be supported by water rights fees as there is a direct nexus between water rights holders and the application and compliance process.

The LAO recommends that the existing application fee be increased and a new annual compliance fee be created so that fee revenues replace General Fund support budget for the water rights program. These fees are to include water-rights-related costs incurred by other state departments. Finally, the LAO recommends consideration of the program funding requirements, especially in light of the current backlog and rate of production, when developing the legislation.

Board's Response: The Legislative Analyst has recommended that the Water Rights Program be converted from almost an exclusively General Fund program to an entirely fee supported effort in the budget year. While the Water Board has no position on this proposal, it notes the following implementation issues:

- Approximately 30 percent of the appropriated water in California is held by the federal government, which refuses to pay service fees.
- Of the total water beneficially used, 30 percent or more may be held by pre-1914 and riparian water right holders whose use is not routinely supervised by the Board. Nonetheless, such users receive benefits from the Water Rights Program in terms of complaint resolution, protection of existing rights, and on occasion, adjudication of present rights. Not all pre-1914 or riparian rights have been registered with the Board.
- The proposal does not account for the cost of fee program administration.
- It is not possible to develop and implement a full fee system in time to realize General Fund savings in the budget year.

Staff Recommendation: While the board does identify implementation issues, staff concurs with the LAO recommendation to fund the water rights program and help reduce the backlog by increasing water rights fees and establishing an annual compliance fee. In light of the status of the General Fund, staff recommends that the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language to partially fund the water rights program through fees.

Funding Water Quality Activities

Budget Proposal: The Governor's budget proposes a fund shift of $13.6 million from the General Fund to the Waste Discharge Permit Fund to fund the Core Regulatory Program. The shift would be accomplished by a proposed increase in the waste discharge permit fee and the storm water permit fee. This proposal would eliminate all General Fund support for Core Regulatory Program activities.

Despite these fee increases, the Governor's budget also proposes $11.3 million in General Fund reductions and 13.2 PYs to various water quality activities. These proposed reductions are following recently approved current year reductions to water quality activities of $2.5 million and 3.5 PYs.

	2002-03 (in thousands)		2003-04 (in thousands)	
Program Title	**Reduction**	**PYs**	**Reduction**	**PYs**
Data Management	-	-	$500	-
Salton Sea Restoration	$350	-	350	-
Regional Wetlands Management Plan	15	-	15	-
Spills, Leaks, Investigations, and Cleanup	25	-	290	-
Chromium 6	-	-	462	-
Monitoring & Assessment Programs	831	-	6,802	4.7
Agricultural Waste Management	450	-	1,124	5.0
Water Quality Planning	-	-	570	-
Underground Storage Tanks	-	-	682	-
Nonpoint Source	-	-	89	-
CALFED	365	3.5	365	3.5
Training	63	-	-	-
Equipment	67	-	-	-
Out-of-State Travel	11	-	24	-
TOTAL	**2,177**	**3.5**	**11,273**	**13.2**

Issue: The proposed reductions severely impact water quality monitoring activities. Water monitoring activities (particularly for groundwater quality) is a basic function of the Water Board, and is essential to permitting and enforcing water quality standards. The SWRCB has indicated that such reductions will substantially curtail its current water quality monitoring efforts, and thus its ability to effectively carry out its mission and mandates. Without proper monitoring abilities, the Water Board's permitting, investigation, enforcement, and cleanup activities will be significantly affected.

Staff Comments: During the recent mid-year revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a waste discharge permit fee increase to be appropriated by the Legislature through the budget process. The bill states that waste discharge permit fees should be appropriated to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

Specifically, the statute states:

> *Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying out these actions.*

Staff Recommendation: Given the importance of water monitoring activities in the state to the public health and environment, staff recommends the subcommittee direct staff, the LAO, and the department to develop a proposal to backfill proposed General Fund reductions to water quality activities through waste discharge permit fees.

3960 Department of Toxic Substances Control

The department's mission is to protect the public health and the environment from unsafe exposure to toxic substances. In so doing it (1) regulates hazardous waste management, (2) cleans up sites that have been contaminated by toxic substances, and (3) promotes methods to treat and safely dispose of hazardous wastes and reduce the amounts of hazardous wastes that are generated in the state. The department is primarily funded from fees and taxes assessed on persons that generate, store, treat, or dispose of hazardous wastes.

The budget proposes total expenditures of $159.0 million ($20.1 million, General Fund), a decrease of $4.5 million (2.8 percent) from the current-year budget. The majority of the reductions are from General Funded programs:

- $1.019 million reduction for the Casmalia litigation. The department's activities at Casmalia are changing from litigation to technical support and technical support activities are billable to responsible parties.
- $729,000 reduction and a $907,000 fund shift to the Toxic Substances Control Account for state and superfund orphan sites
- $985,000 reduction to some Clandestine Drub Lab Cleanup activities

Department of Toxic Substance Control Program Expenditures

	(dollars in thousands)				
Program Expenditures	**2001-02**	**2002-03**	**2003-04**	**$ Change**	**% Change**
Site Mitigation	$224,562	$97,639	$89,301	($8,338)	-8.5%
Hazardous Waste Management	44,844	49,884	58,416	8,532	17.1%
Statewide Support	3,573	3,968	0	(3,968)	-100%
Administration	27,676	30,506	37,871	7,365	24.1%
Distributed Administration	(27,676)	(30,506)	(37,871)	(7,365)	-24.1%
Science, Pollution Prevention & Technology	11,960	12,081	11,324	(757)	-6.3%
Total	$284,939	$163,572	$159,041	($4,531)	-2.8%

Budget Issues

Review of Electronic Waste Activities

Background. The subject of electronic waste, or "e-waste", has become of increasing importance as a policy matter in recent years. The Department of Toxic Substances Control has used its authority under

law to designate cathode ray tubes (CRTs) and other e-waste as universal hazardous wastes. At the same time, the department has articulated special and less stringent rules for the common handling of such wastes.

Staff Recommendation: Given that there are several bills currently pending in the Legislature on the subject of e-waste, the committee may wish to ask the director the following questions:

1. What is the process by which the department determines if a product is a universal hazardous waste? What types of e-waste has the department determined to be hazardous waste?

2. Does the department have sufficient statutory authority to regulate e-waste? Does it have sufficient budgetary resources to ensure that e-waste is properly regulated?

Finance Letters

Transfer Navy Military Base Oversight to Cost-Recovery Program

Finance Letter Request: The department has submitted a Finance Letter requesting an increase of $3,525,000 to the department's cost-recovery activities at naval bases and a reduction of $5,365,000 from its federal funding request to reflect a change in billing procedures requested by the Navy for consistent billing practices from regulatory agencies.

Cleanup Loans and Environmental Assistance to Neighborhood

Finance Letter Request: The department is also requesting in the Finance Letter a transfer of $424,000 from the Cleanup Loan and Environmental Assistance from Neighborhoods (CLEAN) Account to the Toxic Substances Account to provide for oversight activities at CLEAN loan sites. Funding in the CLEAN account is available due to the repayment of a CLEAN loan in January.

Board of Equalization Interagency Agreement

Finance Letter Request: The department is also requesting in the Finance Letter an increase of $380,000 in payments to the Board of Equalization for contract costs.

Staff Recommendation: Staff recommends approval of the Finance Letter.

3980 Office of Environmental Health Hazard Assessment

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

The budget proposes total expenditures of $10.8 million ($8.7 million General Fund), a decrease of $4.2 million (28.1 percent) below the current-year budget.

OEHHA Program Expenditures

Program Expenditures	2001-02	2002-03	2003-04	$ Change	% Change
		(dollars in thousands)			
General Fund	$12,963	$12,004	$8,707	($3,297)	-27.5%
Calif. Environmental License Plate Fund	808	775	800	25	3.2%
Federal Trust Fund	0	2	0	(2)	-100%
Reimbursements	1,471	2,277	1,339	(938)	-41.2%
Total	$15,242	$15,076	$10,846	($4,230)	-28.1%

Budget Issues

Finance Letter

Alternative Fund Sources to Proposed General Fund Reductions

Current Budget Proposal: The budget proposes a $3.6 million reduction in General Fund expenditures. The proposal calls for a reduction of 34 filled positions, 244,000 in contract funds, including the elimination of the Pesticide Worker Health and Safety Program and reducing various air quality standard reviews.

Reduction	Amount (in millions)
Air Toxicology and Epidemiology • Indoor Air Program • Criteria for Air Pollutant Program	$0.3
Pesticide and Environmental Toxicology Section • Pesticide Worker Health & Safety Program • Peer Review of Pesticide Registration Risk Assessments • Program Support	1.4
Reproductive and Cancer Hazard Assessment • Proposition 65 Safe Harbor Program • Fuels Program • Program Support	0.4
Integrated Risk Assessment • Emerging Challenges Program • Environmental Protection Indicators • California/Mexico Border Program • Alternative Fuels Program	0.8
Executive/Administration	0.7
TOTAL	$3.6

Finance Letter Request: The office has submitted a Finance Letter requesting to restore $3.523 million and 33 position that were proposed to be eliminated above. The proposal asks to restore funding and the associated activities through direct appropriations of special funds, increased General Fund and reimbursement authority, and the redirection of baseline General Fund dollars. The proposed funding in the Finance Letter is on a one-time basis for FY 2003-04.

The Finance Letter request restores all proposed reductions except the reductions to the Emerging Challenges Program ($95,000), the Environmental Protection Indicators of California program ($83,000), and the Scientific Peer Review of Pesticide Risk Assessments program ($309,000). The Finance Letter also requests funding for several new OEHHA activities including assisting the CIWMB with conversion technologies and waste tire fires hazards and assisting the SWRCB with the development of water quality standards for selected toxic pollutant discharges.

LAO Recommendation: Due to the recent nature of the Finance Letter, an LAO recommendation could not be completed in time for completion of the agenda. However, during pre-hearing meetings, the LAO had raised concerns regarding aspects of the Finance Letter.

Staff Comments: While the Finance Letter addresses critical reductions to OEHHA's budgets, it is important to note that the proposal is on a one-time basis for FY-2003-04. In recent years, the subcommittee has worked to address the long term funding needs for OEHHA.

Staff Recommendation: Staff recommends approval of the Finance Letter. In light of the one-time nature of the Finance Letter, staff also recommends the subcommittee adopt supplemental report language asking OEHHA to report on long-term baseline requirements of the office to fund OEHHA at a level that allows the office to adequately meet its statutory requirements.

Shift of Scientific Peer Review of Pesticide Risk Assessments

Budget Proposal: The budget proposes a General Fund reduction of $309,000 in OEHHA by shifting scientific peer review of pesticide risk assessments from OEHHA to the Secretary of Cal EPA. This reduction is part of the larger $1.4 million pesticide-related activities reduction shown above and was not restored by the above Finance Letter.

Background: Current law requires OEHHA to perform scientific peer review of pesticide studies, registration reviews, and risk assessments conducted by DPR. Another statute requires the Secretary for Cal EPA to coordinate peer review of policies, regulations, and guidelines proposed by Cal EPA departments, using a scientific peer review panel of independent scientists. The budget proposes to shift responsibility for the pesticide-related peer review from OEHHA to the Secretary's external scientific peer review panel.

LAO Recommendation: The LAO believes the shift will not weaken OEHHA's position as the state's environmental risk assessor, but also weaken the review process by shifting the review to an advisory panel that is not configured or funded to handle individual risk assessments or has the specialized technical background for pesticide review. The LAO recommends the subcommittee deny the Governor's proposal to shift responsibility for conducting scientific peer reviews of pesticide-related risk assessments from OEHHA to a the Secretary of Cal EPA. As stated before, the LAO recommends funding this pesticide-related activity through the Department of Pesticide Regulation Fund.

Staff Recommendation: Staff shares the concern of the LAO recommendation with the shift of scientific peer review of pesticide risk assessments. Staff recommends rejecting the proposed shift, however staff recommends restoring General Fund support for the program of $309,000.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, April 24, 2003
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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

5480 Commission on Correctional Peace Officers' Standards and Training

The objective of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of California's state correctional peace officers through the development of sound selection practices and effective, competency-based training programs.

CPOST is composed of six commissioners serving four-year terms. Two commissioners are appointed by, and represent, the management of the Department of Corrections, and one commissioner is appointed by, and represents, the management of the Department of the Youth Authority. Three Commissioners are appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Since of July 1, 2000, the CPOST has been separate from the Youth and Adult Correctional Agency, functioning as an independent entity within this agency.

Budget Request. The budget proposes total expenditures of $2.2 million from the General Fund and 18.5 positions to develop, approve, and monitor selection and training standards for California's correctional peace officers. This amount is an increase of $52,000, or 2.5 percent above current year expenditures.

Midyear Reductions.

- A reduction of $120,000 General Fund from operating expenses and equipment.
- A reduction of $59,000 General Fund and 1 vacant position pursuant to Control Section 31.6
-

Budget Year Reductions

- A reduction of $74,000 General Fund from operating expanses and equipment.

Academy Costs.

Staff Notes. Currently, approximately 1,930 cadets graduate from the training academy each year. One potential way to reduce overtime expenditures at the CDC may be to expand the number of cadets that go through the academy each year. Since the length of time that cadets train on-site at the academy has been shortened from 16 weeks to 12 weeks, it may be possible to expand the number of cadets that go through the academy in a fiscal year. The Subcommittee may wish to ask whether CCPOST would have any additional costs if the number of cadets going through the academy was increased.

No additional issues have been raised for CCPOST. Staff recommends approval as budgeted.

5240 DEPARTMENT OF CORRECTIONS

The Department of Corrections (CDC) is responsible for the control, care, and treatment of men and women who have been convicted of serious crimes and entrusted to the department's Institution and Community Correctional programs. In addition, the CDC maintains a Health Care Services Program to address inmate health care needs, and a civil narcotics treatment program for offenders with narcotic additions.

Budget Overview. The budget proposes $5.3 billion for the CDC, which is an increase of $40.2 million, or 0.8 percent, above the estimated current year budget. As the table below shows, General Fund expenditures are proposed to increase by $53.1 million, or 1 percent above current year expenditures. The increase is due primarily to cost factors related to the projected increase in inmate and parole populations, a projected workers compensation shortfall, and increased healthcare costs.

CDC – Source of Funding

	Expenditures *(dollars in thousands)*				***Percent***
Fund	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
General Fund	$4,934,700	$5,096,077	$5,149,208	$53,131	1.0%
Federal Trust Fund	1,652	2,350	2,386	36	1.5%
Inmate Welfare Fund	45,645	47,366	50,009	2,643	5.6%
Special Deposit Fund	1,516	155	1,010	855	552%
Reimbursements	103,122	90,559	74,045	-16,514	-18.2%
Totals, Programs	**$5,086,635**	**$5,236,507**	**$5,276,658**	**$40,151**	**0.8%**

Authorized Positions. Authorized positions for the department are proposed to increase by 817, or 1.8 percent, above the current year numbers to 46,174. The primary reason for the increase is due to increases in the estimated inmate and parole populations.

CDC – Summary of Program Expenditures

	Expenditures *(dollars in thousands)*				***Percent***
Program	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Institution Program	$3,818,807	$3,859,270	$3,854,241	-$5,029	-0.1%
Health Care Services Program	796,773	886,909	939,172	52,263	5.9%
Community Correctional Program	466,224	490,327	483,244	-7,083	-1.4%
Administration	141,519	146,966	144,345	-2,621	-1.8%
Distributed Administration	-141,519	-146,966	-144,345	-2,621	-1.8%
State Mandated Local Program	4,831	1	1	0	n/a
Total	**$5,086,635**	**$5,236,507**	**$5,276,658**	**$40,151**	**0.8%**
Total Authorized Positions	**43,704**	**45,358**	**46,174**	**817**	**1.8%**

Issues

1. Population Estimates.

Inmate Population Projections. At the time of the budget's introduction in January, the department's total inmate population was projected to increase from 160,661 on June 30, 2003, to 161.039 by June 30, 2004, an increase of 378 inmates, or 0.2 percent. The population is estimated to remain relatively flat through 2008, with an estimated institution population of 161,199 by June 30, 2008. The actual institution population on June 30, 2002 was 157,979, a decrease of 3,518 inmates from the previous year, and 2,682 below the projected June 30, 2003 population.

Parole Population Projections. At the time of the budget's introduction in January, the department's parole population was projected to decrease from 117,233 on June 30, 2003, to 115,387 by June 30, 2004, a decrease of 1,846 parolees, or 1.6 percent. The actual parole population on June 30, 2002 was 120,336, an increase of 700 parolees from the previous year, and 3,103 parolees below the projected June 30, 2003 parole population.

Issue. The CDC will issue updated population projections for spring 2003 that will form the basis for the department's May Revise proposal. The CDC and the BPT have indicated that some portion of the increase in the trend in the current year from previous estimates is due to inmate processing delays in the reception centers related to Proposition 36, and internal paperwork processing delays.

Analyst's Recommendation. The LAO withholds recommendation on CDC's caseload funding request pending the May Revision.

Staff Recommendation. Staff recommends holding this budget open pending the May Revision. Action.

2. CDC Structural Deficiency.

Background. The CDC has had General Fund deficiencies for several consecutive years, due largely to ongoing structural problems with the department's budget. The table below highlights the amounts received by the CDC in the last several years.

Deficiency Funding Received by CDC

	Fiscal Year *(dollars in millions)*				
	1997-98	**1998-99**	**1999-00**	**2000-01**	**2001-02**
Amount	**$6.2**	**$16.5**	**$53.1**	**$157.6**	**$178.6**

The budget shortfalls occurred as a result of a number of factors including, (1) higher than budgeted use of overtime, which is largely the result of vacancies in correctional officer positions and use of sick leave, (2) increased costs for pharmacy and contract medical services, (3) workers' compensation costs, and (4) utility costs.

The Subcommittee may wish to ask the CDC what factors have led to the deficiencies and what actions the CDC is taking to reduce deficiencies in the future.

Overtime Expenditures. The CDC indicates that last year overtime expenditures totaled $270 million. The Subcommittee may wish to inquire what policies the CDC is proposing to reduce overtime expenditures, and whether there limits for how much overtime individuals can work and how the process would work if a cap on overtime was implemented.

As noted in earlier in the agenda, approximately 1,930 cadets graduate from the training academy each year. One potential way to reduce overtime expenditures at the CDC may be to expand the number of cadets that go through the academy each year and authorize additional correctional officer positions. Since the length of time that cadets train on-site at the academy has been shortened from 16 weeks to 12 weeks, it may be possible to expand the number of cadets that go through the academy in a fiscal year. The Subcommittee may wish to ask whether CDC what the costs and the cost avoidance would be to increase the academy by 800 cadets and to approve an additional 800 positions.
Action.

3. Delano II.
Chapter 54, Statutes of 1999 (AB 1535, Florez) provided authority for $311.5 million in lease revenue bonds in order to construct a new 2,248 bed maximum security prison at Delano. Previously, the Subcommittee took an action to delay activation of the Delano II facility by 12 months (until the spring of 2005), for a savings of $1.5 million in the current year. The budget year savings for this action are estimated to be $8.7 million.

Staff Recommendation. Staff recommends that the Subcommittee re-affirm the earlier decision to delay Delano II by 12 months to score the savings in the budget year. This action would continue CDC's current policy of housing Level III inmates in gymnasiums.
Action.

4. Substance Abuse Treatment Expansion
Budget Request. The budget proposes $5.4 million and 9 positions for a 500 slot substance abuse treatment expansion. The proposed expansion would bring the total number of treatment slots from 8,501 to 9,001.

Staff Comments. AB 1535, Florez, required that the CDC increase the number of treatment slots to at least 9,000 before activation of Delano II.

Staff Recommendation. Should the Subcommittee delay Delano until the Spring 05, staff recommends also delaying this 500 slot expansion. Staff notes that this action is also one of CCPOA's recommended options, noted later in the agenda.
Action.

5. Workers' Compensation Request.
Budget Request. The budget proposes a base budget increase of $115.8 million to address a structural budgetary shortfall for workers' compensation.

The CDC indicates that it has experienced escalations averaging 14.8 percent over the last five years for workers' compensation costs. The CDC attributes the increase to increases in salaries and the number of budgeted positions, rising medical costs, and changes in legislation affecting workers' compensation.

CDC – Summary of Workers' Compensation Budget and Expenditures

	Expenditures *(dollars in thousands)*		
Fiscal Year	**Budget***	**Expenditures**	**Surplus/Deficit**
1995-96	$68,327	$68,916	($590)
1996-97	78,834	78,150	684
1997-98	84,859	86,989	(2,130)
1998-99	78,600	98,877	(20,188)
1999-00	89,115	122,517	(33,402)
2000-01	100,203	130,895	(30,691)
2001-02	134,387	154,829	(20,442)
2002-03 (estimated)	134,388	167,208	(32,820)
2003-04 (proposed)	69,864	185,635	(115,770)

* Budget is base budget for workers' compensation costs, with one-time allocations for workers' compensation costs.

The CDC indicates that the projected shortfall of $115.8 million does not include the fiscal impact of the Bargaining Unit 6 memorandum of understanding, part of which is a general salary increase which is likely to further increase workers' compensation costs in the future.

Between 1997-98 and 2000-01, the total claims filed as a percentage of total positions remained level at about 31 percent. In addition, CDC notes that according to data from the SCIF, the costs of CDC's claims as a percentage of total payroll is lower for CDC (4.9%) than the CHP (8.2%), DMH (7.3%), and CYA (5.2%).

Staff Notes. The Legislature provided funding for CDC to create a Workers' Compensation Fraud Program. In November 2001, the CDC implemented a Workers' Compensation Suspicious Activity Program (WCSAP). The program includes six special agent positions and redirected two analyst positions to address cost containment, similar to a program implemented by the CHP. As notes later in the agenda, these positions are recommended as options for deletion in the CCPOA proposal.

Staff Recommendation. The Subcommittee may wish to ask CDC whether it can draw any conclusions regarding the effectiveness of the WCSAP program. Staff recommends approval of the proposed increase for workers' compensation.
Action.

6. Fiscal Impact of the MOU with Bargaining Unit 6.
Budget Request. The CDC's recently MOU signed with Bargaining Unit 6 will be in effect until July, 2006. The budget proposes $6.7 million for the operational impact costs associated with the new contract. The future operational costs are estimated to be $12 million in 2004-05 and $15.7 million ongoing thereafter.

The major factor in these estimates is reductions to the Institution Vacancy Plans (IVP). Prior to the agreement, institutions bargained with local unions to leave certain post positions vacant. The MOU requires that 200 IVP holiday and vacation positions were activated within 60 days of ratification of the contract, an additional 100 on January 1, 2003, an additional 100 on January 1, 2004, and the remaining holiday and vacation positions (122) by January 1, 2005. The contract places a cap on the statewide average IVP of 5 percent.

Staff Recommendation. The Subcommittee may wish to ask what the impact of the IVP reductions is likely to have on overtime expenditures. The Subcommittee may also wish to ask whether the potential fiscal impacts related to changes in sick leave policies are included in these estimates. Staff recommends approval of the proposal.
Action.

7. Underbudgeted Sick Leave Funding
Budget Request. The budget proposes $14.7 million and 327 positions to begin to address the impact of sick leave usage for posted positions in Bargaining Unit 6. This funding would be provided to increase the sick leave relief factor for posted positions.

Background. The CDC indicates that the Bargaining Unit 6 MOU contained significant policy changes that has led to an increase in sick leave usage. The MOU eliminated the Extraordinary Use of Sick Leave (EUSL) program and decreed that the use of sick leave hours alone could not form the basis of employee discipline. The MOU also allows Permanent Intermittent Employees (PIE's) the ability to use sick leave when contacted to work but unable to report due to illness, eliminating the requirement that they be prescheduled to work in order to use sick leave.

Issue. The CDC has indicated that it has experienced a significant increase in sick leave usage by correctional officers, which requires additional resources to address.

Finance Letter Revision. The Administration has submitted a Finance Letter requesting an increase of $4,809,000 to correct the amount budgeted in the 2003-04 budget proposal for Sick Leave Relief. The original sick leave request was understated due to the use of an incorrect base allocation for sick leave.

Staff Recommendation. The Subcommittee may wish to ask CDC whether it has estimates for the impacts of these changes to sick leave policies, and whether there have been changes in the use of sick leave by correctional officers. The Subcommittee may wish to ask what policies it currently has in place to contain overtime expenditures from increased sick leave usage. Staff recommends holding this issue open at this time.
Action.

8. Education Reduction
Budget Request. The budget proposes a reduction of $46.2 million from the CDC education program.

Finance Letter Revision. The Finance Letter requests an increase of $11,310,000 to correct the reduction proposed for the Department's education budget. With this adjustment, the Department's education budget would be reduced by a total of $34.9 million. The DOF indicates that this level of reduction will bring the budget to a level commensurate with historical expenditures and not result in any teacher layoffs or reduced educational opportunities for inmates.

Staff Comments. In order to achieve this level of savings, CDC will have to (1) abolish all vacant funded positions (126 positions -- $8.2 million), (2) revert $15.2 million for 280 teacher positions that were eliminated 2 years ago, (3) eliminate 21 positions ($2.1 million) that would be funded through CDC population BCP, (4) revert operational expense funds equivalent to the amount unspent in the previous year ($4.9 million). In addition, the CDC may have to lay off teachers in the temporary help blanket and additional teacher positions to achieve the level of savings.

Staff Recommendation. The Subcommittee may wish to ask the CDC whether the education reductions will result in teacher layoffs, and whether the reduction will increase costs by impacting work credits. The Subcommittee may wish to ask whether CDC has any estimates on the impact on savings through work credits and reduced recidivism from filling existing vacant teacher positions rather than eliminating these positions. Staff recommends holding this issue open at this time.
Action.

9. Elimination of the Arts in Corrections Program
Budget Request. The budget proposes savings of $2.6 million in the budget year from elimination of the Arts in Corrections program and making statewide the Handicraft program.

Staff Comments. The Subcommittee may wish to ask whether this reduction will have an impact on the ability to place inmates in work or education programs.
Action.

10. Elderly Inmates.
Analyst's Recommendation. The LAO reports that there are approximately 6,400 inmates at the CDC over the age of 55. Given the cost of housing nonviolent elderly inmates, relatively low rates of re-offense by elderly inmates, and research showing high rates of parole success among older inmates, the LAO recommends that the Legislature adopt trailer bill language to release nonviolent inmates over 55 years of age to parole. The LAO notes that this would save approximately $9 million in the budget year, and would also potentially reduce prison health care costs.

Staff Notes. Staff notes that SB 278, Ducheny has a bill that was approved in Senate Public Safety that would release certain elderly and infirm inmates that are deemed to no longer pose a public safety threat.
Action.

11. Inmate Security Plan
Budget Request. The budget proposes $5.5 million from the General Fund and 75 positions to provide funding for additional costs incurred as a result of implementing a standardized staffing pattern for administrative segregation for all institutions, provide additional resources for a consultant to address standardized staffing for various missions, housing type, and physical plants, and to provide for three gang debriefing teams.

Staff Recommendation. Staff recommends approval as budgeted.
Action.

12. San Quentin Enhanced Security.
Budget Request. The budget proposes $604,000 and 9 positions to re-establish additional custody staffing at San Quentin to provide enhanced security coverage for condemned inmates with a high escape or violence potential.

Staff Recommendation. Staff recommends approval of the proposal as budgeted.
Action.

13. Other Budget Proposals
The following table highlights the other budget proposals in the institutions, administrative services, and information systems divisions.

Issue Title	Positions	Dollars (in thousands)
CMF Enhanced Outpatient Program Staffing	12	884
Disability Placement Program	9	674
Strategic Offender Management System	5	1,278
Respiratory Protection Program – Medical Evaluations Phase II	0	152
Utilities Costs	0	9,733
Inmate Restitution, Inmate Banking and Canteen System (Funding from the Special Deposit Fund and Inmate Welfare Fund)		3,310

Staff Recommendation. Staff Recommends approval of these proposals.
Action.

HEALTHCARE SERVICES

14. Healthcare Services Budget Proposals

The following table highlights the budget proposals in the health care services division.

Issue Title	Positions	Dollars (in thousands)
Mental Health Services Delivery System – Compliance with the *Coleman* Court Order	38	4,200
Inmate Medical Services Program – Tele-medicine Staffing	4	499
Minimum Nurse to Patient Staffing Ratio for licensure of the General Acute Care Hospitals at California Men's Colony and California Institution for Men.	29	1,381
Correctional Treatment Center Licensing at California Institute for Women and Central California Women's Facility.	21	1,489
Mandated Patient Information Management System Reappropriation.		4,000

Staff Recommendation. Staff Recommends approval of these proposals.
Action.

PAROLE SERVICES

15. Parole Services Budget Proposals

The following table highlights the budget proposals in the parole services division.

Issue Title	Positions	Dollars (in thousands)
Going Home Los Angeles Federal Grant	0	350
Transfer of Proposition 36 Implementation Plan from BPT to CDC	18	1,262

Staff Recommendation. Staff recommends approval of these proposals.
Action.

FINANCE LETTERS

16. DNA Ongoing PC 296 Collection.
Finance Letter Request. This Finance Letter proposes an increase of $1,735,000 and 21.5 positions to address the ongoing workload related to DNA and palm print collection as required by the Forensic Data Base and Data Bank Act of 1998.

Staff Recommendation. Staff Recommends approval of the Finance Letter.
Action.

17. Private Branch Exchange Systems Upgrades.
Finance Letter Request. This Finance Letter proposes an increase of $1,729,000 to provide upgrades to telecommunications hardware and software in eight institutions. These eight institutions are currently using discontinued hardware and software that is obsolete and not supported by the manufacturer.

Staff Recommendation. Staff Recommends approval of the Finance Letter.
Action.

18. Business Information System.
Finance Letter Request. This Finance Letter proposes an increase of $1,351,000 and 7 positions to continue the existing Business Information System project which will provide an automated, integrated system necessary to allow Headquarters and Institutional Administration to, among other things, more efficiently track expenditures and manage their program budgets.

Staff Recommendation. Staff Recommends approval of the Finance Letter.
Action.

19. Technical Adjustment to Inmate Medical Services.
Finance Letter Request. This Finance Letter proposes a decrease of $125,000 and 1.1 position to delete funding proposed in the 2003-04 Governor's Budget for telemedicine services at the Northern California Women's Facility (NCWF). Due to the closure of NCWF, the funding that was included in the Governor's Budget is unnecessary.

Staff Recommendation. Staff Recommends approval of the Finance Letter.
Action.

CDC Capital Outlay

20. Condemned Inmate Complex.

Budget Request. The budget proposes $220 million from lease revenue bonds for the design and construction of a Condemned Inmate Housing Complex at San Quentin to accommodate the male inmate population on death row. The complex will consist of approximately 1,000 maximum security cells, and will also include program and support space, a law library, visiting, religious space, exercise yards, a Correctional Treatment Center, and a lethal electric fence. The CDC expects that the construction would be completed by summer 2007. The complex would be based on the 180-degree design used for housing Level IV inmates.

Analyst's Recommendation. The LAO recommends deletion of the project because the project is lacking in detail, and does not provide a long-term solution. Specifically, the LAO notes that the cost per cell is higher than for the Delano II prison currently under construction, there is no plan to house more than 1,000 death row inmates, and additional details need to be developed to more accurately determine costs. The LAO also notes that the Legislature should consider whether condemned inmates should remain at San Quentin , or be relocated to another institution.

Staff Recommendation. Staff recommends holding this issue open.
Action.

21. Other Capital Outlay Proposals

The following table highlights the other capital outlay proposals.

Institution	Project Name	Amount	Project Phases*	Fund Source
SAC	Psychiatric Services Unit/Enhanced Outpatient Care Phase II	15,248,000	C	Lease Revenue Bonds
CMF	Mental Health Crisis Beds	18,645,000	P,W,C	Lease Revenue Bonds
CIM	Electrified Fence	466,000	P,W	General Fund
CIM	Cell Security Lighting	1,250,000	W,C	General Fund
CCI	Wastewater Treatment Plant Upgrade	15,743,000	C	Lease Revenue Bonds
DVI	New Well	551,000	C	G.O. Bonds
	Evaluate and Construct Mental Health Facilities (Statewide)	1,000,000	S	G.O. Bonds
RJD	Substance Abuse Program Modular Replacement	2,074,000	C	Lease Revenue Bonds
DVI	Infirmary Heating/Ventilation/Air Conditioning	1,060,000	C	General Fund
	Budget Packages/Advance Planning	1,000,000	S	G.O. Bonds
	Minor Capital Outlay	5,000,000	PWC	G.O. Bonds

*S= Study; P= Preliminary plans; W= Working drawings; C= Construction

Staff Recommendation. Staff recommends approval of these proposals.
Action.

Capital Outlay Finance Letters

22. NCWF Conversion.
This Finance letter requests a total of $10,831,000 in lease revenue bonds for preliminary plans ($1,115,000), working drawings ($634,000), and construction ($9,082,000) for the conversion of the Northern California Women's Facility to a reception center for the greater San Francisco Bay Area for male inmates who have violated the conditions of their parole.

This proposal requires Trailer Bill Language for implementation. Under current law, the NCWF facility can only be used to house female inmates. This facility was closed by CDC in the current year due to the decline in the female inmate population. The Subcommittee has been contacted by local officials who have concerns about using this facility as a male reception center.

Staff Recommendation. . Staff recommends not approving this Finance Letter request. Staff notes that there will be additional activation costs in budget year plus one related to conversion of this facility to a reception center. The Legislature may wish to consider alternative uses for this facility, as well as consider policies to reduce the revocation rates for parolees so that an additional reception center is not needed by CDC.

Action.

23. New Potable Water Source.
This Finance Letter request the following provisional language to Item 5240-301-0751:

> Notwithstanding any other provision of law, not more than $600,000 of the funds in schedule (1) may be used to complete construction of the New Potable Water Source project at the California Correctional Institution (Item 5240-301-0001 (2.3) in the Budget Act of 1998).

This provision saves the Department from requesting an augmentation for a major project with General Fund dollars.

Staff Recommendation. Staff recommends approval of this Finance Letter.
Action.

24. California Correctional Peace Officers' Association Options for Savings
Background. On March 26, the California Correctional Peace Officers' Association (CCPOA) provided the Legislature with some options for savings at CDC. The following table highlights the options presented.

CCPOA Proposal	Estimated Attainable GF Savings in

	2003-04 (in millions)
Defer San Quentin Condemned Housing (CCPOA Estimate: $220 million) CCPOA proposes that the expenditure of these bond funds for construction of a new facility could be delayed during the budget year. *Staff Notes*. Since this project would be funded with revenue bonds, there is no GF savings until this project is completed – potentially in 2007-08.	$0
Defer New CDC Headquarters (CCPOA estimate $160 million). In 1998, the Legislature authorized CDC to construct a new building for its headquarters, to be financed by lease revenue bonds. It is an active project at DGS, but little progress has been made on the project. *Staff Notes.* Since this project would be funded with revenue bonds, there is no GF savings until this project is completed.	$0
Expand Work Credits. (CCPOA Estimate: $50-$70 Million). One option includes expanded day for day work credits for less serious inmates in reception centers. This population would be for nonviolent, non-serious offenders – less serious offenders than were included in SB15x that the Governor vetoed.	$50 to $70
Delay Substance Abuse Treatment Beds. CCPOA proposes a delay in the expansion of these beds until Delano II is scheduled to open. Similar to issue raised previously in the agenda. Postponing the drug treatment bed expansion is consistent with a 12 month delay proposed by the Senate for the new prison.	$5.4
CalPERS – Golden Handshake Incentive. This option would authorize employees to trade accumulated leave balances (vacation, holiday, etc.) for service/age credits toward their retirement calculations. (CCPOA Estimate: $30 to $40 million*).* *Staff Notes.* While CDC would pay less- up front – for retiring employees who don't "Cash Out," there would be on-going costs related to higher pension benefits. The estimated savings are also based on assumptions that may be overstated -- CDC indicates that last year it paid less than $5 million to cash out benefits for retiring employees.	Unknown
Elimination of Positions at Regional Administrator Offices. This proposal would eliminate 26 positions, returning the offices to 2000-01 staffing levels. There are currently 31 positions in the regional offices (three per region). CDC indicates that it is looking at reductions in this area and that previously, these positions had been in the temporary help blanket.	$1.3
Elimination of 12 Personnel Years from the Workers' Compensation Suspicious Activities Unit. (CCPOA estimate $785,000). CCPOA believes that these positions are redundant with activities of the State Compensation Insurance Fund and an unnecessary expense. CDC indicates that there are only 6 personnel years funded for this unit. The CDC also reports that the number of new claims filed annually reduced from 7,574 to 7,337 in the first year of this unit.	$0.5
Elimination of 51 Personnel Years from the Office of Investigative Services (OIS). This proposal would shift Category II investigations back to local institutions or parole regions and indicates that it can demonstrate that the	$3.8

quality and timeliness of investigations had been greatly diminished since the formation of OIS. The CDC indicates that it is looking at the restructuring of OIS, but that the role and duties of OIS has changed significantly.	
Contract Medical Services for Inmates: Use Medi-Cal Fee Schedule. (CCPOA Estimate: $75 to 90 million). *Staff Notes.* CDC now spends over $208 million for contract medical expenses. For the proposal to work, CDC indicates that legislation would be required that mandates contract medical providers to serve inmates and accept the Medi-Cal rate.	Unknown
Eliminate 5 Community Correctional Facility (CCF) Contracts. (CCPOA Estimate: $5.1 million) *Staff Notes*. There are approximately 1,200 inmates currently held in these private CCFs. These contracts were originally proposed to be eliminated last year, but the Legislature approved renewal of the contracts. Based on the current overcrowding rate, CDC estimates that the savings from closure would be $1.9 million.	1.9
Elimination of 32 Correctional Sergeant Positions associated with 7K training. (CCPOA estimates $2.5 million). CDC notes that 7K training is effective until July 2004, so that these positions would be needed until that time. CDC estimates that costs or these positions are $2.3 million.	$2.3
Elimination of 152 Facility Captains at 32 Institutions. This proposal would distribute duties currently performed by these positions to existing Facility Lieutenants, Facility Correctional Counselor II, or Current Institutional Associate Wardens. The CDC indicates that these positions are critical for issues dealing with inmate due process rights.	$16.1
Elimination of 40 Facility Captain positions at CDC Headquarters. This proposal would eliminate the positions and allocate the duties to other classifications already staffed at headquarters. CDC indicates that it is examining its budget for reductions and is looking at appropriate reductions.	$4.3
Elimination of 72 Custody Captains. This proposal would eliminate these custody captain positions with the workload distributed amongst existing Correctional Lieutenant and Associate Warden positions.	$7.8
Exempt CCPOA Members from Jury Duty. (CCPOA Estimate: $1.7 million) This was proposed last year in AB 513 (Matthews), but was never heard in Senate Public Safety.	$1.7

5440 Board of Prison Terms

The Community Release Board was established in 1977 and renamed the Board of Prison Terms (BPT) in 1980. The board considers parole release and establishes the length and conditions of parole for all persons sentenced to prison under the Indeterminate Sentence Law, persons sentenced to prison for specified terms of less than life, and for persons serving a sentence for life with possibility of parole. The board is also responsible for parole revocation hearings and for reviewing applications for clemency. The board has nine commissioners appointed by the Governor and confirmed by the Senate.

Budget Overview. The budget proposes $28.8 million from the General Fund for the Board of Prison Terms. The proposal represents a decrease of $2.2 million, or 7.2 percent below current-year expenditures. Total authorized positions are proposed to be 221, which is a decrease of 10 positions from the current year.

Board of Prison Terms -- Program Expenditures

	Expenditures (dollars in thousands)				*Percent*
Program	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Board of Prison Terms	**$30,550**	**$31,039**	**$28,813**	**-$2,226**	**-7.2%**
Total Authorized Positions	**281**	**231**	**221**	**-10**	**-4.3%**

Midyear Reductions.

- A reduction of $388,000 General Fund and 2 positions related to reductions in personnel.
- A reduction of $365,000 General Fund to reflect reductions to operating expenses and equipment budget.
- A reduction of $869,000 General Fund and 12 positions pursuant to Control Section 31.6.

Budget Year Reductions

- A reduction of $5,000 General Fund for out-of-state travel.
- A reduction of $869,000 General Fund and 12 positions pursuant to Control Section 31.6.
- A reduction of $1 million and 5 positions to reflect a reduction in the in the number of hearings conducted by Deputy Commissioners.
- A reduction of $1.1 million and 13 positions to reflect the transfer of the Proposition 36 program to the Department of Corrections.

1. Hearings for Life-Term Inmates.
Background. Certain offenders in California prisons, particularly those punished for murder, are serving so-called indeterminate sentences in which the period of time to be served in prison before release to parole is not fixed in advance by the court. These indeterminately sentenced offenders are often called "lifers" even though most are eventually legally eligible for release. The BPT is the state agency primarily responsible under state law for deciding when those lifers who have served the minimum required prison time, and thus are now eligible for parole, will actually be released to the community.

In March 2001, the OIG issued a report that made note of the growing backlog of life-term cases. At hearings last year, BPT reported that the backlog was approximately 2,000 cases. Because of the backlog, most of the hearings were delinquent by more than six months.

The Legislature subsequently approved SB 778 as a temporary measure to assist the BPT in reducing the growing backlog of cases. The legislation allowed BPT to hold two-person panel hearings.

Last year, in a follow-up report on OIG's 2000 audit of BPT, OIG indicated that except for the implementation of SB 778, BPT's efforts to improve efficiency and increase hearing capacity had been minimal. Due to the fact that the two-person boards were a temporary measure, the OIG report had noted concerns that once they expire, the backlog may begin to grow again.

In budget hearings last year, the BPT indicated that the current backlog was then 739 cases and it would be reduced by the end of July 2002.

Staff Recommendation. The Subcommittee may wish to ask BPT for the status of the backlog for lifer hearings.

Informational issue.

2. Backlog of Appeals from Inmates and Parolees. In the OIG's follow-up audit on the BPT from last year, the OIG reported that the BPT's processes are not adequate to handle appeals in a timely manner. As a result there is a backlog of over 2,200 appeals from inmates and parolees.

The BPT has no time limits to respond to appeals, although inmates and parolees must submit an appeal within 90 days of receiving written confirmation of a board decision. The BPT indicates that it has set an internal goal for a response to an appeal in 120 days.

The OIG reports that the BPT's inability to process appeals in a timely manner has resulted in three court decisions mandating that the board meet fixed timelines for specific appeals. The BPT is required to meet 120 day timelines for appeals that originate from RJ Donovan Correctional Facility, and appeals filed by a specific inmate in San Quentin. Also, Armstrong v

Davis requires the BPT to complete any appeal related to ADA issues within 30 days. The OIG notes that the BPT was recently fined by the courts for failing to meet the court established timeline for a case filed from Donovan.

Staff Recommendation. The Subcommittee may wish to ask the BPT the status of the backlog of appeals for inmates and parolees.

Informational issue.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

PART 1

Thursday, May 1, 2003
Upon Adjournment of Session
Room 112

Item	Department	Page
0820	Department of Justice	1

Resources--Environmental Protection—Public Safety—Energy

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

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes $606.7 million for the Department of Justice, which is a decrease of $31.1 million, or 4.9 percent below current year expenditures. General Fund support would decrease by $14.4 million from the revised current year budget to $302 million.

DOJ Program Requirements

	(dollars in thousands)				Percent
Program	**2001-02**	**2002-03**	**2003-04**	**Change**	**Change**
Directorate and Administration	$23,565	$25,527	$23,935	-$1,592	-6.2%
Distributed Directorate and Administration	-23,565	-24,445	-23,935	-510	-2.1%
Legal Support and Technology	43,030	42,140	41,837	-303	-0.7%
Distributed Legal Support and Technology	-43,030	-42,140	-41,837	-303	-0.7%
Executive Programs	15,470	17,222	15,000	-2,222	-12.9%
Civil Law	99,588	107,174	105,357	-1,817	-1.7%
Criminal Law	99,691	107,879	96,632	-11,247	-10.4%
Public Rights	56,144	56,417	53,592	-2,825	-5.0%
Law Enforcement	156,344	164,895	151,959	-12,936	-7.8%
California Justice Information Services	155,134	157,040	152,546	2,602	137.8%
Gambling	11,555	14,745	14,140	-605	-4.1%
Firearms	7,447	11,356	14,465	3,109	27.4%
State-Mandated Local Programs	14,877	3	3	0	n/a
Less amount funded in the Political Reform Act	(216)	(216)			n/a
Total	**$616,250**	**$637,813**	**$606,694**	**-$31,119**	**-4.9%**

Executive and Directorate Programs. The Directorate Program consists of the Attorney General's Executive Office, the Equal Opportunity Employment Office, and the Opinion Unit. The Division of Executive Programs maintains internal and external department communications. It consists of the Office of Legislative Affairs, the Crime Violence Prevention Center, special programs, and various communication offices.

Civil Law, Criminal Law, and Public Rights Divisions. The Civil Law Division provides legal services to state agencies and Constitutional Officers in the areas of licensing, government law, health, education, welfare, regulation, and taxation. The Criminal Law Division represents the state in all criminal matters before the appellate and supreme courts and defends the state in actions filed by state inmates under the Federal Civil Rights Act. The Public Rights Division provides legal services to state agencies and Constitutional Officers in the areas of civil rights, natural resources, land law, consumer law, and child support enforcement.

Divisions of Law Enforcement and Gambling Control. The Division of Law Enforcement is organized into three bureaus, including Investigation, Narcotic Enforcement, and Forensic Services. The Division of Gambling Control will be developing regulations that will govern gaming establishments. Pursuant to

the provisions of Chapter 867, Statutes of 1997, the Board of Gambling Control was abolished on January 1, 1999 and replaced by the California Gambling Control Commission.

Criminal Justice Information Services Division. The Criminal Information Services Division was created in the current year to include three former Division of Law Enforcement bureaus (Bureau of Criminal Information and Analysis, Bureau of Information and Identification, and the Western States Information Network) with the Hawkins Data Center and establishing the Criminal Justice Information Services Division.

Budget Issues

CYA Class Action Lawsuit.

Background. In January 2002, a class action lawsuit—*Stevens v. Harper*—was filed in federal court against the Youth Authority challenging the department's policies and procedures and virtually every condition of a ward's confinement in Youth Authority facilities. In September, the federal district court issued orders dismissing some claims and limiting the plaintiff classes.

The federal case is limited to the following claims: (1) a claim of violations of the Americans with Disabilities Act, (2) a claim that CYA officials improperly interfered with attorney-client communications, (3) a claim about the unconstitutionality of mental health treatment, (4) a claim the CYA officials have not adequately protected wards' physical safety, (5) a claim of inadequate access to religious services, (6) a claim that CYA is not adequately providing education.

Budget Request. The budget requests $4.3 million for DOJ to defend the Youth Authority in this lawsuit. The funding request is for DOJ's projected costs of the case leading up to a possible trial. These costs include expenses related to the discovery process and contracting with subject area experts for defense testimony. In addition, the plaintiffs have filed a state lawsuit because the court significantly narrowed the scope of the federal suit.

Section Letter Denied. A similar request in a section letter for current year costs of $10.7 million was previously denied by the Legislature.

Analyst's Recommendation. The LAO recommends deletion of the request because the parties will probably reach settlement. The LAO further recommends adoption of the following budget bill language to allow DOJ to submit a funding request in the event that settlement is not reached.

> 0820-001-0001 Provision X. Notwithstanding section 27.00 of the *2003-04 Budget Act*, the Department of Finance may submit a deficiency request if *Stevens v. Harper* proceeds to trial in federal or state court, or if expert consultant costs are incurred from settlement negotiations in this case.

Finance Letter Request. In a Finance Letter request, the Administration is proposing the following budget bill language due to the uncertainty of costs in the budget year. The Finance Letter indicates that the administration will not know until at least May or June of 2003 whether the case will be settled, or, if it will go to trial.

> 0820-001-0001 Provision X. Of the amount included in Schedule (7) of this item, $4,263,000 is available for costs related to litigation in the matter of *Stevens v. Harper*. These funds are to be made available subject to the Department of Justice providing a detailed cost justification for expenditures related to this litigation and upon receiving approval from the Department of Finance.

Staff Recommendation. Staff recommends adopting the LAO recommendation. The LAO language allows, for additional oversight by the Legislature through the regular section letter process.

Action

Crime Lab Fees

Background. The Division of Law Enforcement operates 10 regional crime laboratories and 2 special DNA laboratories. The regional labs provide analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes. While DOJ labs provide services to state agencies, they primarily serve local law enforcement agencies in jurisdictions without their own crime labs. These local agencies are found in 43 counties representing 25 percent of the state's population. The remaining jurisdictions maintain their own forensic labs at their own expense. Since 1977, DOJ labs have been reimbursed by local law enforcement agencies for blood alcohol testing from fees paid from penalties collected for driving under the influence convictions. However, for the analysis of crime evidence, state labs receive no reimbursements from local agencies that use their services.

Budget Request. The budget proposes to charge local law enforcement agencies for forensic services provided by DOJ crime labs effective January 1, 2004. The proposal is estimated to generate $3.5 million in reimbursements from local law enforcement agencies and reduce General Fund spending by the same amount.

Analyst's Recommendation. The LAO notes that the proposal to charge local law enforcement agencies for forensic services provided by DOJ has merit. However, the LAO has identified a number of implementation issues which need to be addressed before the proposal is adopted. Therefore, the LAO recommends that DOJ and the Department of Finance provide the Legislature, prior to budget hearings, with the details of the proposal, including its plan to resolve the following issues.

Mitigating Unusually High Costs for Complex Investigations. Some cases processed by the labs involve significant amounts of physical evidence that require weeks of analysis and testing. This is particularly true of investigations involving firearms, blood, semen, hairs, fibers, and other trace evidence. If local agencies were to be billed for the costs associated with each case, the investigation of some serious crimes could create a fiscal hardship for smaller agencies to support. In order to ensure that such crimes continue to be investigated, some mechanism should be provided to mitigate these costs for smaller agencies.

Ensuring That the Labs Are Financially Protected From Lags in Payment or Nonpayment of Fees. If the labs are to be funded by reimbursements, they must have a mechanism to ensure full and timely payment of these fees. As fee requirements are expanded, DOJ must either have the authority to refuse services to agencies that do not pay their fees, or to receive payment out of some other state allocation of funds to the local jurisdiction.

Establishing an Appropriate Fee Schedule for Charging Local Agencies. Determining the appropriate basis for allocating the costs of lab services can be challenging for some forensic services. For example, the costs of criminalistics analysis can vary widely depending on the case, such that a flat-fee schedule would probably be inappropriate. As a result, it will be necessary to undertake a review of the services provided by the labs and the costs associated with them in order to determine the appropriate fees.

Staff Recommendation. Staff recommends holding this open at this time.

Action

Forensic Lab Positions

Budget Request.**.** The budget proposes $1.5 million and 13 permanent criminalist positions to reduce a backlog of cases awaiting forensic analysis in state Department of Justice (DOJ) forensics labs. DOJ's Bureau of Forensic Services has 10 regional labs that provide forensic crime evidence analysis primarily to local law enforcement agencies, as well as to state and federal agencies, located throughout the state that do not have their own labs. Criminalists analyze physical evidence of criminal events and interpret their findings in courts of law.

Analyst's Recommendation. The LAO recommends deletion of the $1.5 million requested for 13 permanent criminalist positions. The LAO believes that vacancies in these positions have contributed to the backlog of cases and that filling current vacancies could help reduce the backlog. In addition, the Governor's proposal to charge local law enforcement agencies fees for forensic services provided by the labs will likely reduce demand for these services, which would also help reduce the backlog.

Action.

License Approval Process

Background. The Gambling Control Act makes the Gambling Control Commission (GCC) responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the GCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Last year, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there may be as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the GCC for findings of suitability. In addition to this number, there is an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the GCC in order to make findings of suitability.

At the Subcommittee hearing on March 6, the GCC reported that the Division of Gaming at the DOJ was currently processing about 1,200 applications and had forwarded a total of approximately 300 to the

GCC. The GCC has reviewed and forwarded approximately 300 findings of suitability to tribal gaming authorities.

Budget Request. Regarding suppliers of gaming equipment, individuals and entities that supply tribal gaming establishments with goods and services are required to pay a deposit in advance for the background investigation. The DOJ indicates that some of these investigations are estimated to be in the hundreds of thousands of dollars. The Administration has proposed budget bill language to increase the reimbursement authority to expend the funds deposited. The current reimbursement authority is $872,000. The following proposed language would increase the authority by $2.5 million.

> Notwithstanding Section 28.5 of this act, the Department of Finance may augment the reimbursement expenditure authority provided in this item by an aggregate of $2.5 million above the amount approved in this act for the Division of Gambling Control to cover the cost of background investigations where the individual or entity being investigated has deposited the costs of the investigation in advance and the corresponding expenditure has not been provided in this item. The Department of Finance shall notify the chairpersons of the budget committees, the Joint Legislative Budget Committee, and the Department of Justice within 15 days after the augmentation is made as to the amount and justification of the augmentation and the program that has been augmented.

Staff Comments. The Subcommittee may wish to ask the DOJ the status of performing background checks on "key" employees, and if there is a timeline for processing the outstanding applications. The Subcommittee also may wish to ask whether the proposed budget bill language is necessary given the ability to augment this item through the section letter process.

Staff Recommendation. Staff recommends deleting the proposed budget bill language.

Action.

Spousal Abusers' Prosecution Program

Background. The Spousal Abuser Prosecution Program was established in 1994 as part of the Battered Women's Protection Act. The program provides grant support to district attorney offices and victims support groups throughout the state for vertical prosecution of spousal abuse cases.

Budget Request. The budget proposes a reduction of $3.2 million in the DOJ budget through elimination of this program.

Staff Comments. The Subcommittee has received letters of support for restoring funding for this program from district attorneys and victims groups.

Action

Plata v. Davis

Budget Request. Last year, the Department of Corrections agreed to a settlement in the Plata v. Davis class action lawsuit regarding prison inmate medical care. The budget proposes a reduction of $1.6 million for external consultant funding related to the case.

Staff Comments. The Subcommittee may wish to ask DOJ how many positions and funding remains in the budget for DOJ related to this case, and what functions are continuing to be performed.

Action.

Public Rights Law Enforcement Special Fund

Budget Request. The budget proposes a reduction of $500,000 for the Public Rights Division from the General Fund and would appropriate $500,000 from the proposed Public Rights Law Enforcement Fund.

Trailer Bill Language. Existing law entitles the DOJ to recover from defendants named ion a charitable trust enforcement action all actual costs incurred in conducting action, as specified. The Administration has proposed trailer bill language that would entitle the DOJ to recover all reasonable attorneys fees and costs, and that whenever the DOJ prevails in a civil action to enforce specified public rights, the court shall award to the DOJ all costs of investigating and prosecuting the action, including expert fees, reasonable attorney fees and costs. The bill establishes the Public Rights Law Enforcement Special Fund. These funds collected pursuant to the bill would be deposited into the special fund, to be administered by the DOJ to support the investigation and prosecution of any matter within the authority of the Public Rights Division.

Action.

Other Requests.

The following list summarizes additional Budget Change Proposals submitted by the DOJ.

Issue Title	Positions	Dollars (in thousands)
Bureau of Medi-Cal Fraud and Elder Abuse Increase. Funding will make permanent 20 two-year limited term positions to investigate and prosecute elder abuse and neglect in Medi-Cal funded facilities. (General Fund and Federal Funds).	20	2,179
Dangerous Weapon Facility/Vehicle Inspections. Funding to meet the objectives of Chapter 910, Statutes of 2002 (AB 2580). (Special Funds).	1	165
Drug Pricing Litigation. Funding to enable the Bureau of Medi-Cal Fraud and Elder Abuse to prosecute national pharmaceutical manufacturers who have engaged in illegal drug pricing manipulation. (Special Fund and Federal Funds).	8	993

Williams vs. State of California. Funding to continue the defense in this case which challenges the K-12 educational system. (General Fund).	6	1,254
Automated Child Abuse System. Funding and positions to process on-going workload associated with the Child Protection Program. (General Fund).	5	282
Handgun Testing. Funding to met the objectives of Chapter 912, Statutes of 2002 (AB 2902). (Special Fund).	0	180
Lloyds of London Litigation. One year funding authority to continue defense of the case. (General Fund).	0	5,724
Capitol Crash Litigation. One-year funding authority to continue this case. (General Fund).	0	766
Hyatt vs. Franchise Tax Board. Funding and positions to continue pursuing this case. (General Fund).	3	2,523
CALFED Bay-Delta Program Representation. Reimbursement authority and 3 positions to provide continuing legal representation for the CALFED program.	3	315
Criminal Intelligence Bureau. Creation of a new bureau within the Division of Law Enforcement, by redirecting existing units, employees, and funding.	0	0
National Criminal History Improvement Program (NCHIP) – Funding for Year 8. (Federal Funds)	1	2,200
Western States Information Network (WSIN). Federal Grant Augmentation.	0	842
High Intensity Drug Trafficking Area (HIDTA). Permanent reimbursement authority for continued participation in the HIDTA program.	1	992
Juvenile Accountability Incentive Block Grant (JAIBAG). One-time reimbursement authority to purchase palm print hardware, software, and programming.	0	2,497
Department of Conservation – Recycling Fraud. Additional permanent reimbursement authority to supplement the existing investigative team with one additional investigative team using existing vacant positions.	0	974
Investigative Services Unit. Centralize the legal division's investigative resources in the Division of Law Enforcement. No new funding or staff.	0	0
Transfer of Child Support Program to the Department of Child Support Services. (General Fund and Reimbursement Authority).	-53	-3,480
Federal Criminal Offender Record Information (CORI) Checks. Funding to implement Chapter 918, Statutes of 2002 (AB 1694). (Special Fund).	0	1,455
Various Reductions. Reductions to the Justice Information Services Division ($1.95 million), Division of Law Enforcement ($8.8 million), Firearms Division ($114,000), Civil Law Programs ($1.8 million), Criminal Law ($4.8 million), Public Rights Division ($2.9 million), Executive Programs ($1.8 million), Administrative Services ($600,000), and the Division of Legal Support and Technology ($270,000). The reductions to the Division of Criminal Law and Executive Programs are discussed above. In addition to the General	-43	-18,493

Fund reduction, from these proposals, reimbursement authority is increased $3.5 million and special fund appropriations are increased by $901,000.		

Finance Letters

California Witness Protection Program.

Finance Letter Request. This Finance Letter requests an increased of $3 million for the California Witness Protection Program. This program offers protection to crime witnesses from retaliation, threats, and other intimidation. This program was funded in prior years by the Restitution Fund. Due to the fund reserve in the Restitution Fund, the budget did not propose to continue funding for the program. This request would restore full funding for the program.

Staff Recommendation. Staff recommends approval of the Finance Letter request.

Action

DNA Testing Fund Spending Authority.

Finance Letter Request. This Finance Letter requests an increase of $315,000 to reimburse local agencies for the costs of collecting databank blood specimens, saliva samples, and print impressions incurred pursuant to Penal Code Section 295(f)(3) requirements.

Staff Recommendation. Staff recommends approval of the Finance Letter request.

Action

Energy Litigation

Budget Request. The budget proposes $9.5 million and 36 positions for the Department of Justice (DOJ) to litigate energy cases as a result of California's energy crisis. The request is for two-year funding that would reauthorize 23 existing limited term positions, authorize 13 additional positions, and provide support for external consultant expenses. The main purpose of the request is to investigate and litigate actions that may have led to the manipulation of the electricity and natural gas markets in California.

Analyst's Recommendation. The LAO recommends deletion of the $9.5 million requested for DOJ to litigate cases related to the energy crisis because the request has not been adequately justified. The LAO further recommends that if DOJ submits a new funding request for this purpose that the Legislature require the department to submit the following information: (1) a reconciliation of recovered litigation costs and how they replace DOJ expenses related to energy litigation; (2) the number of cases that DOJ intends to litigate with the new funding request and the estimated workload from each of those cases; and (3) what portion of the workload from energy litigation will be provided by other state agencies.

Analyst Concerns. First, the LAO notes that the request indicates that DOJ will be litigating over 100 cases in state and federal courts. However, more recent information provided by the department indicates that several of these cases have been settled or dropped. Since there will be little or no workload

associated with these cases, the LAO believes that the funding request at the current level is no longer justified.

Second, the LAO has concerns about duplication and ill-coordinated efforts. DOJ, along with several other state agencies including the California Energy Commission, the Electricity Oversight Board, the Public Utilities Commission (PUC) and the Department of Water Resources have been involved in efforts to recover costs from utility companies that may have manipulated the energy and gas markets both before the Federal Energy Regulatory Commission (FERC) and in various state and federal court venues. Last year, the Legislature was concerned with duplication of efforts in the state's representation on energy issues before FERC. As a result, the agencies were required to provide reports to the Legislature on how these agencies planned to coordinate their representation before FERC. The reports were recently submitted to the Legislature and the LAO believes that some informal coordination exists, but the LAO recommends that the Legislature direct the agencies involved to enter a memorandum of understanding to better formalize the coordination of agencies. For example, the PUC has been appropriated $14.8 million in the current year to litigate one of the same cases that DOJ is requesting funds for. To the extent that other agencies are responsible for the workload, it would reduce the DOJ workload associated with this request.

Lastly, DOJ has indicated that approximately $5 million has been recovered from the litigation of these cases and that they expect to recover more of these costs through settlements. The recovery of these costs is intended to reimburse DOJ for attorney expenses related to the cases. The LAO indicates that DOJ was unable to provide information that demonstrated how these recovered monies relate to their current request for funding. The LAO believes that DOJ funds recovered from the successful prosecution of these cases could offset a portion of the current funding request.

Finance Letter. The Administration has proposed a Finance Letter to increase the amount requested by $4.9 million on a two-year limited term basis due to workload that has materialized since January. The Finance Letter also proposes the following budget bill language which would direct the Attorney General to petition the courts for recovery of costs and to deposit them in the general Fund to repay Energy Task Force costs.

> 0820-001-0001 Provision X. Upon settlement of cases in the above item by the Attorney General's Energy Task Force, the Attorney General shall secure an agreement or petition the courts for recovery of costs. Any recovery of costs shall be deposited in the General Fund to repay Energy Task Force costs appropriated in this item.

Action.

Oversight of Electricity Contract Settlement Funds

Background. The state has been actively renegotiating the long-term electricity contracts that the Department of Water Resources (DWR) entered into over the past two years to serve the customers of the state's three largest investor owned utilities. The majority of these contracts were signed at relatively high prices during the "energy crisis" in 2001. The Attorney General, the Governor's office, the Electricity Oversight Board (EOB), and the California Public Utilities Commission (CPUC) have all been involved at some level in renegotiating these contracts. Approximately 22 long-term contracts had been renegotiated resulting in an estimated $5.2 billion in savings over the life of the contracts. The majority of these savings are a result of shortening the term of the contracts and lowering contact prices for future

electricity deliveries. In addition, the state has also received some cash and assets (six electricity generation turbines) as part of the settlements.

In February, the Attorney General announced a $15.5 million settlement with El Paso Electric Company (EPE) that resolves allegations EPE colluded with Enron during California's energy crisis to manipulate the wholesale market and artificially inflate prices. The $15.5 million payment was directed to the state's Electric Power Fund, which is used to pay off bonds sold by the state to finance the Department of Water Resources' wholesale energy purchases.

Last November, the state announced a $417 million settlement of enforcement actions against Williams Energy Marketing & Trading that, among other things, requires Williams to furnish $90 million worth of generating assets to the communities of San Francisco and San Diego. Under the settlement, Williams also will pay $147 million in cash through 2010. Of that total, roughly $90 million will fund alternative energy and energy efficiency retrofitting of schools and other public buildings in California. Similar alternative energy provisions were included in settlements reached earlier this year with Constellation and Calpine.

Under current law, the Attorney General has the authority to direct the expenditure of settlement funds that are provided to the state, unless the Legislature provides other direction in statute. Since statute does not currently direct settlements resulting from the renegotiation of electricity contracts, the cash and assets resulting from the settlements are being deposited in the Attorney General's Litigation Fund, which is the default account if no other account is specified statutorily.

LAO Recommendation. In order for the Legislature to evaluate the proposed and future uses for settlement funds to the state resulting from renegotiated electricity contracts, the LAO recommends that the Legislature's hold hearings on the issue of the proper disbursement of these funds. However, in the interim, the LAO recommends the enactment of legislation to establish a fund for the deposit of any cash settlements to the state and make the funds available upon appropriation by the Legislature.

Staff Recommendation. The subcommittee may wish to consider the following options:

1.) Take no action on this issue and continue to let settlement funds be deposited into the Attorney General's Litigation Fund.

2.) Adopt supplemental reporting language directing the energy agencies and the Department of Justice to report on the statutes and procedures under which these settlements are entered into, how decisions are made over how settlement funds are spent, and priorities for expenditure of these funds.

3.) Adopt the LAO recommendation, and direct staff, the LAO, the Attorney General, and the energy agencies to develop trailer bill language to redirect electricity settlement funds to a fund to appropriated by the Legislature.

Action

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

PART 2 - ENERGY

Thursday, May 1, 2003
Upon Adjournment of Session
Room 112

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	Bill Ahern, Executive Director California Public Utilities Commission	
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Oversight Issue

Energy Agency Reorganization and the Energy Action Plan

Panel Discussion: Staff has invited the California Public Utilities Commission, the California Energy Commission, and the California Power Authority to participate in the discussion of this issue.

Background: California's energy policies are overseen by at least five different entities: The California Public Utilities Commission (CPUC), the California Energy Commission (CEC), the California Power Authority, the Department of Water Resources, California Energy Resources Scheduling (CERS), and the Electricity Oversight Board. (In addition, at least one state/FERC-jurisdictional entity, the Independent System Operator (ISO), and two other agencies, the Department of Justice and the Electricity Oversight Board, have involvement in the state's energy system).

In the aftermath of the 2001-02 energy crisis, little emphasis has been placed on ensuring that the state's energy apparatus is more efficient, better organized, and more thoroughly prepared to prevent the recurrence of the crisis in the future. Moreover, utility rates are high, energy conservation has tapered off since the public's perception of the crisis has diminished, many energy power plants are still inefficient and high polluting, and state agencies like the Public Utilities Commission often seemed vexed as to its role as regulator or deregulator.

Last year, the LAO complied an extensive analysis on the need for energy reorganization and made a number of suggestions on how to accomplish this goal. This year, draft proposals have been put forward in the Assembly to reorganize energy functions as part of the budget process. It is unclear if those proposals will move forward.

Energy Action Plan: This past March, California's principal energy agencies issued a draft "Energy Action Plan."

The goal of the Energy Action Plan is to:

> *Ensure that adequate, reliable, and reasonably priced electrical power and natural gas supplies, including prudent reserves, are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers.*
>
> *The energy agencies intend to achieve this through six specific means:*
>
> - *Meet California's energy growth needs while optimizing energy conservation and resource efficiency and reducing per capita electricity demand.*
> - *Ensure reliable, affordable, and high quality power supply for all who need it in all regions of the state by building sufficient new generation.*
> - *Accelerate the state's goal for renewable resources generation to 2010.*
> - *Upgrade and expand the electricity transmission and distribution infrastructure and reduce the time before needed facilities are brought on line.*
> - *Promote customer and utility owned distributed generation.*
> - *Ensure a reliable supply of reasonable priced natural gas.*

The plan stated that "These initiatives will send a signal to the market that California is a good place to do business and that investments in the more efficient use of energy and new electricity and natural gas infrastructure will be rewarded. Our approach recognizes that we currently have a hybrid energy market and that state policies can capture the best features of a vigorous, competitive wholesale energy market and renewed, positive regulation."

The draft "Energy Action Plan" is completed and will be subject to hearings in late April and early May by the three participating energy agencies.

The 2003-04 budget summary makes no explicit reference to the state's energy woes. In contrast, the 2002-03 budget summary contained a separate section devoted exclusively to "Achieving Energy Independence."

Staff Comments: In light of the fact that an energy agency reorganization may not be forthcoming, the Energy Action Plan becomes imperative to ensuring the 2001-02 energy crisis does not reoccur in the near future.

The CPUC, the CPA, and the CEC should be commended for this unprecedented endeavor in cooperation; however, it is imperative that the final Energy Action Plan contain specific goals and benchmarks, clearly defined departmental roles, and established timelines so that progress and accountability can be clearly measured by the Legislature.

Staff has asked the panel of departments contributing to this plan to present to the subcommittee on each agency's role in enacting the Energy Action Plan and the resulting future policy and budgetary implications to ensure the plan is enacted.

8665 California Consumer Power and Conservation Financing Authority

The responsibilities and powers of the CPA are detailed in Sections 3300 through 3384 of the Public Utilities Code. The code:

1. Authorizes the CPA to finance the following with revenue bonds:

    - The construction of generation facilities (Sections 3350 and 3351),

    - Loans for the purchase of equipment, improvements and appliances with energy efficiency or renewable energy characteristics (Sections 3365 through 3367.5).

2. Requires the CPA's operating budget be included in the annual Budget Act (Section 3345).

3. Requires the CPA to submit to the Budget Committee an annual report on its activities and expenditures (Section 3346). The report is due January 1.

4. Requires the CPA to report on its plan for financing resources investments when deemed appropriate by the Authority (Section 3369). An updated report, entitled ***Stabilizing California's Power Resources—Investing for Our Energy Security***, was submitted on January 17, 2003.

Table 1
California Consumer Power and Conservation Financing Authority
Expenditures by Program
(dollars in thousands)

	2001-02	2002-03	2003-04	Change Amount	Change Percent
Energy Acquisition	$2,606	$56,530	$226,685	170,155	300.9%
Planning and Policy Development	1,626	1,679	1,698	19	1.1%
Administration	698	1,028	1,068	40	3.7%
Distributed Administration	(698)	(1,028)	(1,068)	(40)	-3.7%
Totals	$4,232	$58,209	$228,383	$170,174	292.3%

Budget Proposal. The budget proposes a state operations budget of about $4.3 million (special funds), approximately the same as last year. Other major budget proposals include:

- Loaning $6.165 million from the Energy Resources Program Account (ERPA) for operational costs and a Renewable Resources Trust Fund (RRTF) loan repayment.
- Repaying a $3.3 million loan to the RRTF.
- Generating $1.15 million in origination fees revenue from a proposed $130 million in anticipated Revenue Bond Sales.

Background on the CPA's Activities. When created in 2001, the authority was financed with a $10 million General Fund loan. The loan was to have been repaid with the proceeds from the projects financed by the CPA. Last year, the Legislature, on a suggestion by the Legislative Analyst, switched the loan source from the General Fund to the Energy Commission's RRTF. In the budget year, the Authority is proposing to shift funding to ERPA.

Energy Settlement Funds. The Attorney General, with the assistance from several state agencies, renegotiated 22 long-term energy contracts, for a potential savings of over $5 billion. The Attorney General (AG) has sought cash and asset settlements from three companies worth $200 million. Apparently, under current law, once the AG settles, the settlement funds can be appropriated. Of this amount the AG has allocated about $90 million to CPA.

All settlement funds are passed through CPA to the CEC's Solar Schools program. The Solar Schools program provides rebates to public schools that purchase and install solar energy systems on their facilities. The CPA does not benefit from this revenue. In the current year, the CPA estimates receiving about $10.4 million in settlement funds to transfer to the CEC. In the budget year, the CPA budget anticipates receiving $8.65 million in settlement funds.

The AG also negotiated in a settlement with Williams Energy the possession of six gas turbine generators. The generators were allocated by the AG's office to the City and County of San Francisco and the Kings River Conservation District in the Central San Joaquin Valley. The Authority's role in the development of these projects is assistance with permitting and licensing.

Revenue Bond Sales. In the current year, the CPA has used its bond authority to finance $28 million for additional funding for the CEC's Energy Conservation Assistance Low-Interest Loan program. Since 1979, the program has made 646 loans for a combined $135 million to fund energy conservation improvements for schools, cities, counties, public/nonprofit hospitals, and public care institutions. The revenue bonds were backed by existing loans in the program and the creditworthiness of the loan program.

The Authority anticipates issuing $130 million in revenue bonds in the budget year. Of the $130 million, $100 million is anticipated for "Reliability Power Projects" and $30 million in Industrial Development Bonds. Reliability power projects refer to peaker facilities in key areas in the state in need of increased generation capacity. Industrial Development Bonds would be used to finance smaller electricity generation projects at industrial or manufacturing locations conducive to those projects.

Demand-Reserves Program. The Authority brokered and implemented the Demand-Reserves Program in July 2002. The program encourages businesses to agree to reduce power usage when supplies are low due to weather extremes, power plant outages, or transmission system bottlenecks, in exchange for compensation. The program anticipates providing an additional 200 MWs in electricity conservation during this summer and 500 MWs in the summer of 2004.

Investment Strategies. The CPA's strategies for 2003 will emphasize improving readiness to finance or own new power plants, improving progress and performance of the Demand-Reserve Program, increasing the "contribution of renewable energy resources, and continuing "investments in efficiency and distributed generation on public facilities."

Budget Requests

Staff Recommendation. No issues have been raised with respect to the CPA's budget. Staff recommends approval as budgeted.

8770 Electricity Oversight Board

The Electricity Oversight Board (EOB) is part of the regulatory oversight structure that was established by the legislation restructuring California's electricity industry in 1996. The board is charged with ensuring the reliability of the electricity transmission system and in the power market.

The budget proposes total expenditures of $3.7 million (special funds), an increase of $4,000 (0.1 percent) from the current-year budget.

Table 2
California Electricity Oversight Board
Sources of Funding
(dollars in thousands)

	2001-02	2002-03	2003-04	Change Amount	Change Percent
General Fund	$36	$231	$0	(231)	-100%
Public Utilities Reimb. Acct.	1,975	3,003	3,226	223	7.4%
Energy Resources Program Acct.	335	471	483	14	3.0%
Reimbursements	31	0	0	0	0%
Totals	$2,377	$3,705	$3,709	$4	0.1%

Workload and FERC Reports. Last year, the Legislature spent considerable time examining the role of the EOB and justifications for its current funding level. The subcommittee was critical of its near $4 million budget despite losing both of the board's original purposes of overseeing the now-defunct Power Exchange and overseeing the Independent System Operator. Due to FERC rulings and recent legislation, the board's remaining functions are to investigate wholesale electricity market activities and participate in FERC proceedings as one of the state's representatives.

The reports document in detail the dockets and legal efforts the board has before FERC as well as the market monitoring and oversight activities to support those efforts. While the report recognizes that its statutory duties are now limited to representation before FERC and energy market monitoring, the workload measures seem to justify the Board's $3.7 million proposed budget.

Elimination of the Board of the EOB. SB 920 (Bowen), currently pending in the Senate, proposes elimination of the statutes authorizing and governing the Electricity Oversight Board. It is unclear at this time if the bill would move forward. The primary issue is whether the EOB staff should be directed by a Board, which is appointed by the Governor, or whether a director answerable to the Governor is sufficient. While the role of the Board of the EOB is questionable after the elimination of its oversight abilities of the Power Exchange and the Independent System Operator, the work of the EOB staff in market monitoring and FERC representation is necessary and valuable to the state. If the Board of the EOB is eliminated, it would result in minimal budgetary savings of approximately $500 per year.

Issues

Coordinating State Agency Representation Before the Federal Energy Regulatory Commission

Background. Since deregulation of the state's electricity industry, the state's representation before the Federal Energy Regulatory Commission (FERC) has increased significantly. The state has several agencies that represent or have represented various state perspectives on state energy-related issues before FERC. These agencies include the Electricity Oversight Board (EOB), the California Energy Commission (CEC), the Department of Justice (DOJ), the California Public Utilities Commission (CPUC), and the Department of Water Resources, California Energy Resources Scheduling (CERS) Division.

The 1998 Budget Act required the EOB and the PUC to adopt a memorandum of understanding (MOU) to coordinate efforts with regard to FERC representation. The directive specified a number of areas in which one or the other agency should be the designated lead based on the core purview of each agency.

Last year, the Legislature, through supplemental report language, directed various state agencies to submit to the Legislature reports on the perspectives they represent before FERC. The Legislative Analyst's Office was directed to review these reports and present its findings and recommendations.

LAO Recommendation. The LAO found that a number of state agencies represent similar state energy-related issues before the FERC, but that informal efforts have been made to coordinate FERC representation resulting in reasonable coordination given the current organization of the state's energy agencies.

The LAO believes the best way to organize and coordinate the state's representation at FERC in future years will be dictated by decisions made regarding the structure of the electricity market, as changes to the market structure could result in changes to how the state's energy agencies are organized. For the interim, the LAO recommends the adoption of Budget Bill language and supplemental report language to direct the agencies representing state energy-related issues before FERC to establish a MOU to ensure continued coordination of their activities. The LAO also recommends designating a lead agency to coordinate the MOU among the agencies.

Staff Recommendation. In the LAO's findings and recommendations on this issue, it was stated that reasonable coordination between the agencies regarding FERC representation was identified and that FERC representation was reasonable given the current organization of the state's energy agencies. Staff believes that sufficient coordination occurs between the various agencies representing state interests before FERC and that the various agencies do represent different perspectives not to the state's detriment.

8660 Public Utilities Commission

The commission regulates privately owned utilities, such as gas, electric, telephone and railroad interests. It regulates some passenger and household goods carriers. The commission's primary objective is ensure adequate facilities and services for the public at equitable and reasonable rates.

Among the major adjustments to the 2003-04 budget, the commission proposes:

- $608,000 (special funds) for minor capital outlay.
- $223,000 (special funds) and three personnel-years for implementation of AB 2638 for the regulation of water corporations.
- $8 million (special funds) for consultant services associated with the PG&E bankruptcy.
- Make permanent limited-term positions. In 2001, the Legislature placed ORA's telecommunications staff on a two-year limited-term basis. The commission requests that these staff be made permanent.

Report on the Commission's Audit Program. The Legislature required the PUC to submit reports detailing performance on its completed audits and a plan for managing its audit backlog. The commission reported the following results of its recent audits:

- General Rate Cases and Affiliate Audits. Effectiveness is measured by the net change in rates as determined by the auditing activities. Last year, the commission completed two audits. One audit cost $100,000 and reduced the rate base by $2.6 million. Assuming a total fee rate on the base of 4.08 percent, the audit reduced revenues by $106,000. The second audit cost $3.2 million. It identified refunds of $350 million and $2 billion in under-reported income. Assuming a fee base of 4.08 percent, the audit generated revenue of $81.6 million to net against the refunds. When the refunds are combined with the additional revenue, the second audit reduced revenues by $268 million.
- Telephone Number Conservation. Effectiveness is measured by the number of unused telephone numbers returned to the California Number pool. The commission completed two audits at a cost of just over $7,000 each. One audit returned 1.6 million numbers. The other returned 100,000.
- Public Purpose Program/User Fee Audits. Effectiveness is measured by the net collection of user fee revenues. The commission completed five audits at a cost of just over $900,000. It generated net revenue of about $64 million, for a benefit cost ratio of about 70:1.

The commission plans to conduct up to five general rate audits, "various" telephone number cases, 23 audit public purpose audits and eight water utility audits.

Implementation of AB 140. AB 140 (Strom-Martin -- Chapter 903, Statutes of 2001) established a grant program to develop rural telecommunications infrastructure. The commission may distribute the grants to community-based groups, provided that the community is low-income and lacks telecommunications service. The commission has identified 35 rural communities which might qualify for a grant.

The budget requests an appropriation from the High Cost Fund-A for $79,000 for a new staff person (limited-term) and $10 million for grants. Last year, the commission made a similar request; however, the Legislature rejected this proposal as it was unlikely that the program would be developed in time to award grants in the fiscal year.

The commission plans to establish the application process over the rest of the year. If the commission follows the timeline identified, it could begin awarding grants next Spring.

Rate Changes in the Commission's Telephone Surcharge Rates. The PUC will adjust the telephone surcharge rates in 2003. The rate for the High Cost Fund-A will change on May 1, the rate for High Cost Fund-B will change on July 1, and the Universal Lifeline rate will change in September. Table 2 displays the rates effective on July 1, 2002 and the likely new rate for 2003, as reported by commission staff.

Table 2
Comparison of PUC Surcharges
Rates Effective July 1, 2002 and New 2003 Rate

	2002	New Rate in 2003
High Cost A	0.36	0.21
High Cost B	2.20	2.70
Universal Lifeline	1.45	1.20

Issues

Office of Economic Development

Background: The Commission, on its own initiative, has recently started the establishment of an Office of Economic Development (OED) within the PUC. The Commission did not submit a Budget Change Proposal for this office and has stated that this initiative for the budget year will be accomplished within existing resources.

Staff Recommendation: With the lack of a Budget Change Proposal and the lack of statutes enacted by the Legislature to provide direction for this office, staff cannot properly evaluate the proposed office. Staff recommends that staff ask the following questions:

1. What will be the exact role of the OED within the PUC?

2. Under what authority was the OED created?

3. If this office is being developed within existing resources, what current resources are being redirected for its development? What future resources will be needed for this office?

Staff also recommends that the Subcommittee direct staff, the LAO, and the PUC to develop trailer bill language authorizing OED and stating its purpose by the open issues hearing.

3360 Energy Resources Conservation and Development Commission

The commission, commonly referred to as the California Energy Commission (CEC), develops and implements California's energy policy. Specifically, the CEC's responsibilities include:

- Forecasting statewide energy supply and demand;
- Siting and licensing power plants;
- Promoting energy efficiency and conservation programs;
- Conducting energy-related research and development; and
- Developing renewable energy resources and alternative energy technologies.

The Commission's mission is to assess, advocate, and act through public-private partnerships to improve energy systems that promote a strong economy and a healthy environment.

Budget Proposal. As displayed in Table 1, the budget proposes expenditures of about $356 million, an increase of $31 million (9 percent) relative to the current year.

The commission also expects to receive loan repayments totaling $5.7 million, up from $4.8 million in the current year.

Table 1
California Energy Commission
Expenditures by Program
(dollars in thousands)

	2001-02	2002-03	2003-04	Change Amount	Change Percent
Regulatory and Planning	$28,001	$28,360	$25,918	-$2,442	-9%
Energy Resources Conservation	111,306	42,605	56,395	13,790	32%
Development	187,584	254,100	273,415	19,315	8%
Totals	$326,892	$325,065	$355,728	$30,663	9%

As displayed in Table 2, only special funds and reimbursements fund the commission. Specifically:

- Special funds account for about $349 million (98 percent) of the commission's budget.
- Reimbursements make up approximately $6 million (2 percent) of the total.
- The commission does not receive any General Fund revenue.

Table 2
California Energy Commission
Funding Sources
(dollars in thousands)

	Amount	Percent
General Fund	$0	0%
Renewable Resource Trust Fund	183,456	52%
Public Interest Research, Development & Demo. Program Fund	66,982	19%
Energy Resources Programs Account	46,388	13%
Other Special Funds/Loan Repayments	52,657	15%
Reimbursements	6,245	2%
Total	$355,728	100%

The California Power Authority will issue a $28 million revenue bond that will raise money for the State Energy Conservation and Assistance Account, a revolving fund that loans money to local public entities for energy efficiency projects. The bond will accelerate the availability of loan repayments in response to increased demand for energy conservation loans by local governments. The revenue is secured by existing loan receivables.

Issues

Energy Resources Programs Account

The Energy Resources Programs Account (ERPA) funds most of the commission's basic programs, general operations and staffing. Revenues from this account derive from a two-tenths of a mill ($0.0002) per kilowatt-hour charge on the consumption of electricity by California ratepayers. The commission expects ERPA revenues to total about $46 million, an increase of 2 percent over the current year. CEC's expenditures from this account also total approximately $46 million and represent slightly more than 13 percent of the commission's total proposed budget.

The commission anticipates maintaining a reserve of more than $3 million in its budget. This dollar amount represents over 7 percent of CEC's projected level of ERPA-funded spending. *The commission indicates* that a 5 percent reserve is sufficient to cover any unanticipated costs that may arise over the course of the year.

ERPA Surcharge Increase. Thanks to enacting legislation from last year (AB 3009, Committee on Budget), the commission may set the ERPA surcharge rate at a public meeting each November at a rate not to exceed $0.0003 per kilowatt-hour. In November 2002, the commission set the ERPA surcharge at its current level, $0.0002 per kilowatt-hour, and does not plan to adjust the surcharge at its November 2003 public meeting. If, before November 2003, unanticipated expenses arise or projected energy demand in the budget year decreases substantially, whether because of an increase in energy prices or

otherwise, then the commission may decide to increase the surcharge at its November 2003 meeting, to take effect on January 1, 2004.

Assuming the same 2 percent increase in demand that the Governor's Budget projected (the commission says that that demand assumption is still reasonable), an increase in the ERPA surcharge of $0.0001 per kilowatt-hour would generate $23 million over the course of a full year. Because of the quarterly payment schedule, only revenue from the first quarter of 2004 would be transmitted from investor-owned utilities to the commission before the end of the 2003-04 budget year.

Staff recommendation. Staff recommends transferring $5.75 million from ERPA to the General Fund. An increase in the ERPA surcharge at CEC's November 2003 meeting could backfill this transfer. In the 2004-05 budget year, the committee may wish to consider transferring the additional revenue from the increase in the ERPA surcharge to the General Fund or encourage the commission to provide rebates to ratepayers. The commission may reduce the surcharge to $0.0002 per kilowatt-hour at a public meeting in November 2004.

Power Plant Siting Program

Background. The CEC is responsible for siting large power plants throughout the state and currently funds its siting activities entirely with resources from ERPA. The budget proposes expenditures of approximately $17.4 million for the siting program, a reduction of $3.7 million from the current year, representing an 18 percent decrease. This reduction primarily reflects the sunset of 40 limited-term positions initially allocated to the siting program in 2000-01 to expedite the siting of power plants during the energy crisis. The commission anticipates 8-10 new applications for power plants in the budget year.

2002 Budget Act Supplemental Report. In response to supplemental report requirements in the 2002 Budget Act, the commission examined alternative fee structures for imposing fees on (1) developers seeking approval to site power plants and (2) generators for ongoing costs associated with compliance.

CEC recommends *that the existing funding structure for the siting program (ERPA support) remain in place* to maintain the public's perception that the commission is objective and independent. Furthermore, because of the uncertainty and volatility associated with the submittal of applications, reliance on siting fee revenue to fund the program could lead to budgetary imbalances, jeopardizing the commission's ability to process applications in a timely manner. CEC admits, however, that power plant developers are direct beneficiaries of the siting program's work and as such, could reasonably be expected to pay for part of the cost of the program.

Despite its recommendation to maintain the status quo, CEC evaluated four different siting fee structures based on several different criteria, as directed by the supplemental report language:

- *Developer pays 100 percent of actual costs:* The developer would pay for the actual hours charged by CEC staff for siting a power plant.
- *Developer pays 100 percent of average review costs:* The developer would pay 100 percent of CEC's average cost to review a power plant application (currently around $665,000).
- *Developer pays 50 percent of actual review costs:* The developer would pay 50 percent of actual costs for application review.
- *Developer pays flat fee based on size:* The developer would pay $100,000, plus $250 per MW of generating capacity up to $350,000 (about half of the average cost to review an application).

The commission found the flat fee structure, based on size to be the most favorable alternative, primarily because of its ease of administration. In addition, CEC suggested imposing an additional $15,000 annual fee on power plant owners to cover ongoing compliance activities. This dollar amount represents the average annual cost to monitor power plant compliance.

LAO Recommendation. LAO recommends enacting fee legislation to establish a siting application fee on power plant developers and annual compliance fees on generators. LAO maintains that these fees are appropriate for several reasons:

- In the deregulated energy market structure, *investor-owned utilities (IOUs) do not necessarily sell power to California ratepayers* who fund the siting program through ERPA.
- *Fees are not likely to deter investment* in new plants because the marginal cost of the fee is small.
- *Other states assess siting fees.* In most states, developer/generator fees, combined with another revenue source, support their siting programs.
- *California's state and local programs typically assess fees on parties they permit and regulate.*

Staff Recommendation. Staff recommends enacting legislation to institute a flat fee based on size, plus an additional annual fee on power plant owners to cover ongoing compliance activities, as proposed by the commission and supported by LAO.

Renewables Resources: Customer Credit Program

Background. In 1997, SB 90 (Sher -- Chapter 905, Statutes of 1997) established the Renewable Resource Trust Fund and directed the commission to distribute funds, collected from a ratepayer surcharge, through several distinct accounts and subaccounts, including the Customer Credit Subaccount. This subaccount funded the customer credit program, which was designed to reduce the premium customers paid for renewable energy, thereby stimulating market demand. From 1998-2001, SB 90 allocated approximately $76 million to the program.

In September 2000, the Legislature authorized the commission to continue to collect $135 million annually from ratepayers, to fund the Renewable Energy Program for the following five years. SB 1038 (Sher -- Chapter 515, Statutes of 2002) earmarked 10 percent of that amount ($13.5 million) annually, for the customer credit program. That statute also required the commission to report to the Legislature by March 31, 2003 on "how to most effectively utilize the funds for customer credits, including whether, and under what conditions, the program should be continued."

The commission's report listed three factors that have called into question the effectiveness of and need for the customer credit program. These factors include:

- The volatility and murky outlook of California's direct access energy market;
- The adoption of the Renewable Portfolio Standard (RPS), which requires renewable energy to comprise 20 percent of the energy portfolio by the end of 2017 and represents an obligation to procure renewable energy, replacing the choice to do so, encouraged by the customer credit program; and
- The growing trend of trading renewable energy attributes.

CEC Recommendation. First, the commission recommends discontinuing the customer credit program due to the uncertainty of the direct access market and customer choice. Further, the intent of the program's funding would be to foster a growing market for renewable power above and beyond RPS requirements. Second, CEC recommends paying credits for renewable energy purchased between January 1, 2002 and April 1, 2003 with $6.7 million in remaining SB 90 funds. Last, the commission suggests reallocating its annual funding as follows:

- 10 percent ($1.35 million) to the Renewable Resources Consumer Education Account specifically to support scoping, design and development efforts for the required RPS/Renewable Energy Program generation tracking, verification and accounting system, consistent with SB 1078 and SB 1038 requirements.
- 45 percent ($6.08 million) to the Emerging Renewable Resources Account.
- 45 percent ($6.08 million) to the New Renewable Resources Account.

Statute prohibits the commission from reallocating funds to the Existing Renewable Resources Account.

Staff Recommendation. Staff recommends that the committee ask the commission about the reallocation of customer credit program funds and determine whether or not CEC should reallocate these funds in a different manner to maximize their effectiveness.

California Climate Action Registry

Background. Chapter 1018, Statutes of 2000, established the California Climate Action Registry as a public benefit nonprofit corporation that records and registers voluntary greenhouse gas emission reductions made by California entities after 1990 and performs several other related functions. The Registry's statutory responsibilities include: adopting standards for verifying emissions reductions, establishing emissions reduction goals, designing and implementing efficiency improvement plans and maintaining a record of emissions baselines and reductions.

The statute also assigned various related responsibilities to the CEC. Specifically, the law requires the CEC, by July 1, 2003 to recommend to Registry procedure for defining and measuring transportation-based emissions associated with Registry participants' activities, including shipping of products and materials, employee commuting and purchased air travel.

New Statutory Responsibilities For the Registry. Last year, the Legislature passed landmark legislation which required the state Air Resources Board (ARB) to reduce greenhouse gas emissions from vehicular sources and increased the Registry's emission credit responsibilities related to vehicular sources. Chapter 200, Statutes of 2002 (AB 1493), required the registry, in consultation with the state ARB, to adopt procedures and protocols for the reporting and certification of reductions in greenhouse gas emissions from mobile sources for use by the state board in granting the emission reduction credits.

In addition, the Legislature also enacted Chapter 423, Statutes of 2002 (SB 812), which required the registry to develop a forestry protocol for carbon sequestration emissions.

This year, the Registry has written to the subcommittee requesting $200,000 in funding from non-General Fund sources to support several of the ongoing programs of the California Climate Action Registry,

stating that "is key to ensuring the continuing work of the Registry." The Registry states that the funding would help implement the legislation referenced above.

Details of the funding request are as follows:

$60,000 Registry software maintenance, upgrading and hosting, to allow ongoing on-line inventory, reporting and certification of greenhouse gas inventories of entities operating in California

$40,000 Development of the forest management and sequestration protocols required in SB 812

$75,000 Ongoing recruitment of potential Registry members to secure a larger cross-section of business sector representation in the Registry.

$25,000 Working with CARB and other relevant agencies to formulate alternative compliance scenarios for implementation of the upcoming automotive greenhouse gas emissions regulation

Staff Recommendation. The subcommittee may wish to direct staff to review the funding request and determine if there are funds available for the request.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

OPEN ISSUES AND FINANCE LETTERS

Thursday, May 8, 2002
Upon Adjournment of Senate Floor Session
Room 112

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Proposed Consent Calendar

The following table contains various finance letters and open issues that are recommended for approval. No issues have been raised with these proposals. Following this table are selected issues for the subcommittee to discuss prior to taking an official action.

Upon completion of this hearing, the subcommittee will have additional "open issues" to consider at the May revision hearing on May 22, 2003. The majority of these items deal with additional revenue enhancements, reductions, and/or departments that receive significant General Fund support.

Item	Department	Issue	Amount (dollars in thousands)
1	Secretary for Resources	**Finance Letter:** Transfers statewide accounting services for Proposition 50 to the Department of Fish and Game. Staff recommends the subcommittee approve the finance letter.	-388
2	Secretary for Resources	**Finance Letter:** Extend liquidation period for projects in the Coastal Grant Program. Staff recommends the subcommittee approve the finance letter.	N/A
3	Special Resources Program	**Support Budget:** Approve as budgeted.	4,395
4	Tahoe Conservancy	**Finance Letter:** Increase Proposition 12 bond funds for capital outlay projects to support the Environmental Improvement Program (EIP). Staff recommends the subcommittee approve the finance letter.	4,000
5	Tahoe Conservancy	**Support Budget and Capital Outlay:** Approve the Conservancy's budget as proposed.	15,609
6	Conservation Corps	**Finance Letter:** Increases funding for the Sequoia Center Construction Project ($2.3 million) and the Tahoe Base Center acquisition ($1.2 million). Staff recommends the subcommittee approve the Finance Letter.	3,463
7	Colorado River Board	**Support Budget:** Approve the board's budget as proposed.	1,067
8	Department of Conservation	**Finance Letter:** Increase funding for the SMARA program. Funds would be allocated from the Surfance Mining and Reclamation Account ($283,000), and the Mineral Resources Account ($188,000). This proposal would also augment the SMARA program with 5 additional positions. Staff recommends the subcommittee approve the finance letter.	471
9	Department of	**Finance Letter:** Increase funding for the Oil and	486

	Conservation	Gas Tracking System. Staff recommends the subcommittee approve the finance letter.	
10	Department of Conservation	**Finance Letter:** Increase funding for the California Farmland Conservancy Program (Proposition 40 bond funds). Staff recommends the subcommittee approve the finance letter and the following budget bill language to extend the liquidation period of these funds through 2005-2006.	10,000
11	Department of Forestry and Fire Protection	**Finance Letter:** Reappropriates funds for capital outlay projects approved in previous budget acts. Staff recommends the subcommittee approve the finance letter.	N/A
12	Department of Forestry and Fire Protection	**Finance Letter:** Increases funding for various capital outlay projects by $3.7 million. Staff recommends the subcommittee approve the finance letter.	3,664
13	Department of Fish and Game	**Finance Letter:** Transfer statewide accounting services for Proposition 50 from the Secretary for Resources to the Department of Fish and Game. Staff recommends the subcommittee approve the finance letter.	388
14	Department of Fish and Game	**Finance Letter:** Reappropriates funds for capital outlay projects approved in previous budget acts. Staff recommends the subcommittee approve the finance letter.	N/A
15	Wildlife Conservation Board	**Finance Letter:** Decrease funding for the San Joaquin River Parkway to reflect the proposed expenditure plan for 2003-2004. Staff recommends the subcommittee approve the finance letter.	-8,000
16	Department of Boating and Waterways	**Support Budget and Capital Outlay.** Staff recommends the subcommittee approve the department's budget as proposed.	78,562
17	Department of Boating and Waterways	**Finance Letter:** Reappropriates funds for capital outlay projects approved in previous budget acts. Staff recommends the subcommittee approve the finance letter.	N/A
18	Coastal Commission	**Support Budget:** Staff recommends the subcommittee approve the commission's support budget as proposed.	15,825
19	State Coastal Conservancy	**Finance Letter:** Reestablish 3 positions that were inadvertently omitted from the Governor's Budget. Staff recommends the subcommittee approve the finance letter.	N/A
20	State Coastal Conservancy	**Finance Letter:** Increase funding for the Public Access Program (Special Funds). Staff recommends the subcommittee approve the finance letter.	1,700
21	Department of	**Finance Letter:** Increase funding for security,	200

	Parks and Recreation	maintenance, and staff at the Stanford Mansion State Park (General Fund). The department estimates that the Stanford Mansion will partially be restored by December, 2003. Staff recommends the subcommittee approve the finance letter.	
22	Department of Parks and Recreation	**Finance Letter:** Increase funding for additional security and traffic control at SNO-PARK facilities (Special Fund). Staff recommends the subcommittee approve the finance letter.	50
23	Department of Parks and Recreation	**Finance Letter:** Increase funding for various capital outlay projects, including $156,000 (thousand) for Big Basin Redwoods State Park and $986,000 (thousand) for the Stanford Mansion State Park (Proposition 40 bond funds). Staff recommends the subcommittee approve the finance letter.	1,142
24	Department of Parks and Recreation	**Finance Letter:** Reappropriates funds for capital outlay projects approved in previous budget acts. Staff recommends the subcommittee approve the finance letter.	N/A
25	Department of Parks and Recreation	**Finance Letter:** Concession contract for Old Town San Diego. Staff recommends the subcommittee approve the finance letter.	N/A
26	Santa Monica Mountains Conservancy	**Finance Letter:** Technical change to accurately fund Proposition 50 project administration. Staff recommends the subcommittee approve the finance letter.	N/A
27	Santa Monica Mountains Conservancy	**Support Budget and Capital Outlay:** Staff recommends the subcommittee approve the conservancy's budget as proposed.	22,253
28	SF Bay Conservation and Development Commission	**Support Budget:** Staff recommends the subcommittee approve the commission's budget as proposed.	4,240
29	San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	**Support Budget and Capital Outlay:** Staff recommends the subcommittee approve the conservancy's budget as proposed.	17,697
30	San Joaquin River Conservancy	**Support Budget and Capital Outlay:** Staff recommends the subcommittee approve the conservancy's budget as proposed.	1,355
31	Baldwin Hills Conservancy	**Support Budget and Capital Outlay:** Staff recommends the subcommittee approve the conservancy's budget as proposed.	8,567
32	Delta Protection Commission	**Support Budget:** Staff recommends the subcommittee approve the commission's budget as proposed.	307
33	San Diego River	**Support Budget:** Staff recommends the	265

	Conservancy	subcommittee approve the conservancy's budget as proposed.	
34	Coachella Valley Mountains Conservancy	**Support Budget and Capital Outlay.** Staff recommends the subcommittee approve the conservancy's budget as proposed.	9,380
35	Department of Water Resources	**Finance Letter:** Increases funding for audits and evaluation of Proposition 13 expenditures. Staff recommends the subcommittee approve the finance letter.	651
36	Department of Water Resources	**Finance Letter:** Increases funding for the Yuba Feather Flood Protection project (Proposition 13). Staff recommends the subcommittee approve the finance letter.	2,000
37	Department of Water Resources	**Finance Letter:** Reappropriates funds for various flood control projects approved in previous budget acts. Staff recommends the subcommittee approve the finance letter.	N/A
38	Department of Water Resources	**Finance Letter:** Two finance letters that reappropriate Proposition 13 and 204 bond funds and extend the liquidation periods for previous Prop 13 and 204 appropriations. Staff recommends the subcommittee approve the finance letters.	N/A
39	Department of Water Resources	**Finance Letter:** Increases reimbursements with the Department of Health Services for services associated with the Drinking Water Quality Program. Staff recommends the subcommittee approve the finance letter.	175
40	Department of Water Resources	**Finance Letter:** Increases funding for urban streams projects. Staff recommends the subcommittee approve the finance letter.	290
41	Department of Water Resources	**Finance Letter:** Increases funding to Mojave Water Agency to complete construction of a groundwater recharge project. Staff recommends the subcommittee approve the finance letter.	1,018
42	CALFED Bay-Delta Authority	**Finance Letter:** Decreases funding from Proposition 50 for the Drinking Water Quality Program to conform with the provisions of SB 1473.	-2,500
43	Gambling Control Commission	**Compliance, Licensing, and Administration Increase**. Funding and 6 positions (4 auditors and 2 administrative staff) for workload increases. ($541,000 - Special funds)	
	State Public Defender	**Support Budget.** No issues have been raised.	
	Control Section 5.25	**Control Section 5.25 – Payments for Litigation.** Identical language from previous years. No issues have been raised.	
	Homicide Trials	**Budget Request.** The budget proposes $5 million for this item. No issues have been raised.	

	Victim and Claim Board	**Special Election Reimbursements.** The budget proposes savings of $1 million and trailer bill language. Staff recommends approval of the savings but rejecting the trailer bill language.	
	Equity Claims	**Budget Bill Language.** The budget proposes no General Fund appropriation and identical budget bill language from the current year.	
	OCJP	**Finance Letter: Domestic Violence Shelter Program.** This Finance letter withdraws proposal to shift domestic violence shelter program from OCJP to DHS.	
	DOJ	**Finance Letter: California Witness Protection Program**. This Finance Letter requests an increase of $3 million from the General Fund to continue this program which offers	3,000
	DOJ	**Finance Letter: DNA Testing Fund Authority.** This Finance Letter requests additional expenditure authority from the DNA Testing Fund.	315
	DOJ	**Finance Letter: Reappropriation.** Request to reappropriate the Santa Barbara Replacement Laboratory. Due to bid overruns on another laboratory project, additional time is being taken to analyze project estimates for this lab.	
	CDC	**Underbudgeted Sick Leave.** The budget proposes $14.7 million and 327 positions to increase the sick leave relief factor for posted positions.	
	CDC	**Inmate Security Plan.** The budget proposes $5.5 million to implement a standardized staffing pattern for administrative segregation for all institutions.	
	CDC	**Finance Letter: DNA Collection**. The request proposes $1.7 million and 21.5 positions to address ongoing workload related to DNA and palm print collection, as required by the Forensic Database and Databank Act.	1,735
	CDC	**Finance Letter: Private Branch Exchange Systems**. The request proposes $1.7 million to provide upgrades to telecommunications hardware and software at 8 institutions.	1,729
	CDC	**Finance Letter: Business Information System.** The request proposes funding and 7 positions to continue the existing Business Information System project, which will provide an automated, integrated system necessary to allow for more efficient tracking of expenditures to help manage program budgets.	1,351
	CDC	**Finance Letter: Technical Adjustment to Inmate Medical Services.** The request proposes	-125

		a decrease of funding and 1.1 positions due to closure of the NCWF facility.	
	CDC	**Finance Letter: Potable Water Source Project.** Request to add the following budget bill language: Notwithstanding any other provision of law, not more than $600,000 of the funds in schedule (1) may be used to complete construction of the New Potable Water Source project at the California Correctional Institution (Item 5240-301-0001 (2.3) in the Budget Act of 1998). This provision saves the Department from requesting an augmentation for a major project with General Fund dollars.	
	CDC	**Finance Letter: Various Reappropriations.** This Finance Letter requests reappropriations for 12 CDC projects due to delays for the projects. The reappropriations are for the following projects: 1. CRC: Potable Water System Improvements – Construction. 2. CRC: Patten State Hospital Double Perimeter Fence – Working Drawings. 3. SVSP: Water Treatment Plant – Construction. 4. SCC: Effluent Disposal Pipeline – Working Drawing and Construction. 5. CCC: Replace Antelope Camp Dorms, Phase I – Construction. 6. CMF: Unit V Modular Housing Replacement – Construction. 7. CMF: Ambulatory Care Clinic – Construction. 8. CMC: D-Quad Mental Health Services Building – Construction. 9. DVI: New Well – Working Drawings. 10. RJD: Substance Abuse Program Modular Unit Replacement – Working Drawings. 11. CVSP: Heating, Ventilation, Air conditioning System – Preliminary Plans. 12. SQ: CTC Phase II – Preliminary Plans.	
	CDC	**Finance Letter: Statewide Habitat Conservation Plan.** This letter requests reappropriation to implement the CDC's Habitat Conservation Plan for the following projects. These funds were originally appropriated in the 1998 Budget Act and reappropriated in 1999, 2000, 2001, and 2002 Budget Acts: 1. Humbodlt Bay National Wildlife Refuge – Acquisition and Construction. 2. Allensworth Ecological Reserve – Acquisition and Construction.	

		3. Mayacama Mountains Sanctuary – Construction. 4. Kern River Preserve – Acquisition and Construction. 5. California City Desert Tortoise Natural Area – Acquisition. 6. Cowbird Trapping Program. 7. Program Management. 8. Starr Ranch Santuary – Acquisition and Construction. 9. Paul Wattis Sanctuary – Acquisition and Construction. 10. Burrowing Owl Habitat Enhancement – Acquisition and Construction. 11. Stanislaus River parks – Acquisition and Construction.	
	CYA	**Facility Condition Survey.** Due to CYA's aging infrastructure, the LAO recommends adoption of supplemental report language directing the department to prepare and submit a facility condition survey by November 1, 2003.	
	CYA	**Mental Health Treatment Facilities.** The LAO recommends adoption of supplemental report language directing the CYA to provide a mental health treatment program plan which identifies cost estimates for any facility impacts by November 1, 2003.	
	CYA	**Finance Letter: Reappropriation: Fred C. Nelles Youth Correctional Facility, Replace Taft Adjustment Center—Construction.** The Department's consolidation plan denotes this institution is subject to possible closure. As a result of the consolidation plan, this project is being delayed until the long-term status of the institution is known.	
	CYA	**Finance Letter: Reappropriation: Fred C. Nelles Youth Correctional Facility, Construct New Kitchen—Construction.** The Department's consolidation plan denotes this institution is subject to possible closure. As a result of the consolidation plan, this project is being delayed until the long-term status of the institution is known.	
	CYA	**Finance Letter: Reappropriation: Southern Youth Correctional Reception Center and Clinic, Specialized Counseling Program Beds—**	

		Working Drawings and Construction. The project was delayed pending the adoption of departmental design standards. This delay has resulted in the need to reappropriate the working drawings and construction funds.	
	CYA	**Finance Letter: Reappropriation: Ventura Youth Correctional Facility, Special Education Assessment Center—Construction.** The Department's consolidation plan denotes this institution is subject to possible closure. As a result of the consolidation plan, this project is being delayed until the long-term status of the institution is known.	
	CYA	**Finance Letter: Add provisional language to Item 5460-490 as follows:** Notwithstanding any other provision of law, the reappropriation in Schedule (1.5) for the Taft Adjustment Center project at Fred C. Nelles will be available for encumbrance until June 30, 2008, to be consistent with the appropriation for this project which was contained in Chapter 3, Statutes of 2002, Third Extraordinary Session. Clinic.	
	CYA	**Finance Letter: Add provisional language to Item 5460-490 as follows:** Notwithstanding any other provision of law, the Department of the Youth Authority may utilize in-house staff and ward labor to complete the working drawings and construct the project for which funds are appropriated in Schedule (3) for the Specialized Counseling Program Beds project at Southern Youth Correctional Reception Center and	
	CPOST	**Support Budget.** No issues have been raised.	
	Office of Emergency Services	**Proposed Budget.** No issues have been raised**.** (General Fund, Special Funds, and Federal Funds).	651,936
	California Horse Racing Board	**Proposed Budget.** No issues have been raised**.** (Special Funds).	8,484
	Native American Heritage Commission	**Finance Letter.** Due to legal issues with the Governor's proposed budget of funding the NAHC through the Tribal Gaming Compact Special Distribution Fund, this letter would revert funding to the General Fund. This is the entire support budget for the NAHC. (General Fund).	341
	Secretary for Cal	**Support Budget.** No issues have been raised**.**	9,276

	EPA	(General Fund and Special Funds).	
	Department of Toxic Substances Control	**Finance Letter. Transfer Navy Military Base Oversight to Cost-Recovery Program.** Due to a request by the Navy for consistent billing practices from regulatory agencies, The department requests an increase of $3.525 million to the department's cost-recovery activities at naval bases and a reduction of $5.365 million to its federal funding request. (Special Funds and Federal Funds).	-1,840
	Department of Toxic Substances Control	**Finance Letter. CLEAN Program.** Due to the repayment of a CLEAN loan in January the department is requesting in the Finance Letter a transfer of $424,000 from the Cleanup Loan and Environmental Assistance from Neighborhoods (CLEAN) Account to the Toxic Substances Account to provide for oversight activities at CLEAN loan sites. (Special Funds).	424
	Department of Toxic Substances Control	**Finance Letter. Board of Equalization Interagency Agreement.** The department is requesting an increase of $380,000 in payments to the Board of Equalization for contract costs on collection activities. (Special Funds).	380
	Department of Toxic Substances Control	**Finance Letter. Stringfellow Pretreatment Plant Site Procurement – Acquisition.** The property under consideration required a full environmental site assessment. This phase of the procurement was delayed, therefore likely delaying the time of procurement to after June 30, 2003.	900
	California Department of Food & Agriculture	**Finance Letter. Animal Emergency Response and Surveillance.** The department is requesting an increase in federal funding authority to enhance surveillance and preparedness to detect, diagnose, and respond to agricultural threats, including bio-terrorism.	510
	California Department of Food & Agriculture	**Finance Letter. San Francisco County Trapping.** The County of Sac Francisco has declined to participate in the statewide exotic pest detection trapping and eradication programs. The department requests shifting funding from local assistance to state operations to reflect this change in responsibility.	0
	California Department of Food & Agriculture	**Finance Letter. Dorris Agricultural Inspection Station – Working Drawings.** Complications with the City of Dorris are likely to cancel the highway relocation project. The department requests deleting the funding for the construction phase of this project.	-6,585
	California	**Finance Letter. Yermo Agricultural Inspection**	0

	Department of Food & Agriculture	**Station – Working Drawings and Construction.** The department is requesting reappropriation of funding for the Working Drawings and the Construction phases due to project delays with the Bureau of Land Management in processing environmental documents.	
	Public Utilities Commission	**Finance Letter. Reestablish Administrative Law Judge Division Support Positions.** The commission requests reestablishment of 4 PYs to provide support services to the commission's decision making process.	197

3640 Wildlife Conservation Board

The board acquires property to protect and preserve wildlife and provides fishing, hunting, and recreational access facilities. The board is composed of the Directors of the Departments of Fish and Game and Finance, and the Chairman of the Fish and Game Commission. In addition, three members of the Senate and three members of the Assembly serve in an advisory capacity to the board.

Issue-Spring Finance Letter

Background: The Administration proposes $32.5 million from Proposition 50 for the Colorado River Regulatory Program. The Administration also proposes budget-bill language to approve these funds upon execution of the settlement agreement pursuant to SB 482 (Kuehl).

Proposition 50 allocates $50 million to WCB for the acquisition, protection, and restoration of land and water resources that help satisfy the state's limit on Colorado River water. Senate Bill 482 established conditions for the expenditure of the $50 million, including the execution of a settlement agreement among various water agencies relating to Colorado River water entitlements by December 31, 2002.

LAO Recommendation: The LAO argues that the finance letter makes the funding for the Colorado River available after the QSA is signed, however the finance letter does not tie the funding to the terms of the settlement. The LAO believes the WCB could spend these funds upon the signing of the QSA rather than wait for the terms of the settlement to be determined.

Staff Recommendation: Staff recommends the subcommittee deny the proposed finance letter and alternatively consider allocating these funds in stand alone legislation.

Action:

3790 Department of Parks and Recreation

The Department of Parks and Recreation (DPR) acquires, develops, preserves, interprets, and manages the natural, cultural, and recreational resources in the state park system and in the State Vehicular Recreation Area and Trail System (SVRATS). In addition, the department administers state and federal grants to cities, counties, and special districts that help provide parks and open-space areas throughout the state. The state park system consists of 273 units, 31 of which are administered by local and regional park agencies. The system contains approximately 1.4 million acres of land, with 285 miles of coastline and 822 miles of lake, reservoir, and river frontage.

Issue-Cultural and Historical Grant Funds

Background: The budget proposes $98 million from Proposition 40 for a new historical and cultural grants program.

Issue. The LAO argues that the budget proposal for the cultural and historical grant program lacks key information necessary to evaluate this initiative. The Analyst states that the proposal does not set out criteria or priorities for awarding grants, making it difficult for the Legislature to assess what the program might achieve in terms of protection and restoration of cultural and historical resources. The Legislature passed AB 716 (Firebaugh) to establish a cultural and historical grant program. Since Proposition 40 did not specify nor establish a process for administering these funds, AB 716 was intended to create a structure and process for awarding historical and cultural grants and loans. AB 716 also establishes the Cultural and Historical Endowment to administer these funds and include participation from stakeholders and the public to identify priorities.

AB 716 authorized $128 million to the endowment to begin the cultural and historical grant program. However, the Governor vetoed the appropriation for the following reasons:

1. Given the state's fiscal condition, now is not the time to establish a new, permanent bureaucratic entity with broad new duties.
2. The duties of the Endowment as proposed in this measure extend well beyond competitive grant-making responsibilities and would create significant general fund cost pressure.
3. The proposed endowment appears to be "significantly redundant and unnecessary given the duties and expertise of the Department of Parks and Recreation, the Office of Historic Preservation (OHP) and the State Historic Resources Commission." The veto massage further states: "In particular, by directing the Endowment to conduct competitive grant-making for historical preservation purposes, the bill undermines the successful efforts of the OHP and the Commission in disbursing Proposition 12 historical preservation monies. Failure to take advantage of such expertise will lead to unnecessary costs and delays in implementation. of competitive grants."

Staff Recommendation: Staff recommends the subcommittee delete all funds for Cultural and Historical Grant program proposed by the Administration and dedicate these funds to the Cultural and Historical Endowment created under AB 716 (Firebaugh). The intent of this action is to allocate the remaining Cultural and Historical from Proposition 40 to the endowment. All budget proposals from the administration that utilize these funds should reflect this action.

Action:

3860 Department of Water Resources

The Department of Water Resources (DWR) is responsible for developing and managing California's water through the implementation of the State Water Resources Development System, including the State Water Project. The Department also maintains the public safety and prevents damage through flood control operations, supervision of dams, and safe drinking water projects.

Note: Please addendum for issues to be discussed in committee.

5240 Department of Corrections

The Department of Corrections (CDC) is responsible for the control, care, and treatment of men and women who have been convicted of serious crimes and entrusted to the department's Institution and Community Correctional programs. In addition, the CDC maintains a Health Care Services Program to address inmate health care needs, and a civil narcotics treatment program for offenders with narcotic additions.

Finance Letters: Ironwood State Prison, Central Infirmary.

The Administration has proposed two finance letters regarding the construction of a central health infirmary at Ironwood State Prison. The administration indicates that additional funds are needed for this project so that it complies with current correctional treatment center (CTC) licensing requirements. The first letter would revert the current appropriation of $2.9 million for this project. The second letter would appropriate $3.8 million for this project.

LAO Recommendation: The LAO has raised concerns about these Finance Letters and the scope change for the CTC requirements.

Action:

8830 California Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes statutory elimination of the California Law Revision Commission. The CLRC's current-year budget is $660,000 ($645,000 General Fund and $15,000 Reimbursements) supporting five positions.

Elimination of the CLRC

Issue: The CLRC is proposed to be statutorily eliminated.

Background: The CLRC was formed in 1953 as a successor to the Code Commission and was charged with reviewing California Law, studying it to remove obsolete sections and to recommend reforms. Some major projects over the history of the commission including drafting California's Evidence Code, recodifying the California's Probate Code, drafting California's Family Code, and continuing to examine code for California's trial court unification. Over the history of the CLRC, 350 recommendations have been delivered to the Legislature, with more than 320 enacted.

Current Commission Work-plan: The CLRC plans to submit to the Legislature for the 2003 session recommendations for comprehensive revision of criminal and civil procedure statutes that are obsolete or need revision in the wake of trial court unification, improvements to the code governing alternative dispute resolution in Common Interest Developments, reorganization of the code governing civil discovery, potential code improvements from the Uniform Unincorporated Nonprofit Association Act, comparisons of California and federal evidence codes, potential code improvements from the Uniform Trust Code, and a study of arbitration procedure improvements. During 2003, the CLRC is currently working on a comprehensive review of financial privacy laws, a comprehensive review of Common Interest Development Law, and continued work on revision of code from trial court reunification.

Staff Recommendation: The limited General Fund savings provided by the elimination of the CLRC does not seem to justify this budget proposal. Staff recommends rejecting this proposal and adopting a reduced budget of $550,000 for the 2003-04 Budget Year. CLRC and staff have identified this 15 percent reduction in CLRC's budget as a reasonable alternative, while still allowing the CLRC to be productive.

Action:

8840 Commission on Uniform State Laws

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of six members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request: The budget proposes statutory elimination of the Commission on Uniform State Laws. The CUSL current year's budget is $138,000 General Fund and is staffed by Legislative Counsel.

Elimination of the CUSL

Issue: The CUSL is proposed to be statutorily eliminated during the FY 2003-04.

Background: Since 1987, the CUSL has sponsored legislation for over 30 uniform code proposals on a wide array of issues to provide uniformity in laws across states where it is beneficial to all states. Many uniform laws have been adopted to benefit California such as:

- The Uniform Commercial Code, allowing more efficient and better regulated business transactions;
- The Uniform Electronic Transfer Act and the Uniform Fraudulent Transfer Act, allowing more consistent regulation of electronic transfers;
- The Uniform Family Support Act, the Uniform Interstate Family Support Act, and the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, all of which enhance family support and protection mechanisms in California and across state boundaries.

Staff Recommendation: Staff recommends rejecting elimination of the Commission on Uniform State Laws as it provides significant benefit to the Legislature. Staff has identified a reduced CUSL budget of $122,000 as a reasonable alternative, while still allowing the CUSL to be productive.

Action:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

PART I

Thursday, May 22, 2003
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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

Proposed Consent Items

Staff Recommendation: Staff recommends the Subcommittee approve the following issues and finance letters. No issues or objections have been raised with these proposals.

0552 Office of the Inspector General.

1. May Revise: Annuitant Health and Dental Benefits

Finance Letter Request. This Finance Letter proposes to decreased the OIG budget by $13,000 to offset increased annuitant health and dental benefit costs resulting from employees retiring under the Early Retirement Program. A corresponding increase to Item 9650-001-0001 will be made.

0820 Department of Justice

2. License 2000 Database System

It is requested that Item 0820-491 be added to the Budget Bill to provide a reappropriation for funding authorized by the 2002 Budget Act. This item would reappropriate $1,052,000 Indian Gaming Special Distribution Fund and $263,000 Gambling Control Fines and Penalties Account to allow the Department of Justice (DOJ), along with the GCC, to develop and implement the License 2000 Database System.

3. Forensic Services Costs to Local Agencies

It is requested that this item be increased by $3,500,000, with a corresponding decrease in Reimbursement authority. This proposal would restore the funding to support the costs of forensic services provided to local governments and eliminate the need to charge them for these services.

4. "Do Not Call" Program

It is requested that this item be increased by $261,000 to provide State-level resources to assist in complaint monitoring, enforcement, and database management for the federal "Do Not Call" program. This funding would provide support to assist California consumers with complaints and enforcement of the federal program.

5. Spousal Abuse Prosecution Program

It is requested that the budget be increased by $3,183,000 to restore funding for local assistance, and program staffing and management of local assistance grants that assist counties in the prosecution of domestic violence cases.

6. Appeals, Writs, and Trials Workload

It is also requested that this item be increased by $3,669,000. This augmentation would provide funding and staffing for DOJ to address increased criminal case workload in the Appeals, Writs and Trials Section of the Criminal Law Division.

7. Mandates Language

It is requested that language be added to Item 0820-295-0001 to suspend the Misdemeanors: Booking/Fingerprinting mandate.

8. Energy Litigation
Finance Letter. The Administration has proposed a Finance Letter to increase the amount requested by $4.9 million on a two-year limited term basis due to workload that has materialized since January. The Finance Letter also proposes budget bill language which would direct the Attorney General to petition the courts for recovery of costs and to deposit them in the general Fund to repay Energy Task Force costs.

0855 Gambling Control Commission

9. May Revise: Reappropriation for the License 2000 Database System.
It is requested that Item 0855-491 be added to the Budget Bill to provide a reappropriation for funding authorized by the 2002 Budget Act. This item would reappropriate $58,000 Indian Gaming Special Distribution Fund and $15,000 Gambling Control Fund to the CGCC to allow the Commission, along with the Department of Justice, to develop and implement the License 2000 Database System.

5240 Department of Corrections

10. Sick Leave Relief Factor Shortfall
Finance Letter proposing an increase of $4,809,000 to correct the amount budgeted in the 2003-04 Governor's Budget for Sick Leave Relief. The original sick leave request was understated due to the use of an incorrect base allocation for sick leave.

11. Education Reduction Revision
An increase of $11,310,000 is requested to correct the reduction proposed for the Department's education budget. With this adjustment, the Department's education budget will be reduced by a total of $34.9 million, which will bring the budget to a level commensurate with historical expenditures and not result in any teacher layoffs or reduced educational opportunities for inmates.

12. Reappropriations
The addition of Item 5240-493 is proposed to reflect the reappropriation of $11,695,000 for repair and replacement of electromechanical doors, $1,564,000 for upgrade of the Distributed Data Processing System, $772,000 for upgrade of the Interim Parolee Tracking System, and $638,000 for the Health Insurance Portability and Accountability Act.

13. Delay Implementation of Delano II
A decrease of $8,760,000 General Fund and 127.9 positions is proposed to reflect a 12 month delay in the activation of Delano II. In addition, Budget Bill Language that specifies an activation date of no later than April 30, 2005 is proposed.

14. Delay of 500 Substance Abuse Beds
A decrease of $5,432,000 General Fund and 9 positions is proposed to reflect a delay of the activation of 500 Substance Abuse Treatment Beds for 12 months.

15. Regional Administrators' Offices
A decrease of $625,000 General Fund and 9 positions is proposed to reflect a reduction in the administration of the Regional Offices.

16. Reduction of Internal Affairs
A decrease of $956,000 General Fund and 16 positions is proposed to reflect a deactivation of the Office of Investigative Services, Internal Affairs-Southern Region Office, and the transfer of some staff to the Northern and Central Region Offices.

17. Elimination of 7k Correctional Sergeants
A decrease of $2,311,000 General Fund and 32 positions is proposed to reflect the elimination of Correctional Sergeants associated with the existing 7k training program.

18. Reduction of Management Positions
A decrease of $2,320,000 General Fund and 50 positions is proposed to reflect the reduction of management positions at institutions statewide.

19. Span of Control for Parole Administrators
A decrease of $1,347,000 and 13.5 positions is proposed to reflect an increase in the span of control for Parole Administrators from supervision of five parole offices to eight parole offices.

20. Various Health Care Services Program Reductions
A decrease of $12,995,000 General Fund is proposed to reflect improved pharmacy prescription protocols, reduced referrals to outside emergency/urgent care facilities, and reduced disease category requests for service.

21. Salinas Valley Psychiatric Program Activation Delay—A decrease of $1,000,000 General Fund is proposed to reflect the revised activation schedule for the Salinas Valley Psychiatric Program.

22. Shift Funding from General Fund to General Obligation Bonds
This Finance Letter requests to add Item 5240-302-0747 for a total of $2.776 million to reflect a fund shift from General Fund, Item 5240-301-0001 to General Obligation Bonds for the three following projects:

1. Increase $1.06 million for Construction, for the Duel Vocational Institution, Tracy: Infirmary Heating, Ventilation and Air Conditioning project.
2. Increase $1.25 million for Working Drawings ($155,000) and Construction ($1.095 million) for the California Institution for Men, Chino: Cell Security Lighting project at the Reception Center Central Facility.
3. Increase $466,000 for Preliminary Plans ($211,000) and Working Drawings ($255,000), for the California Institution for Men-East, Chino: Electrified Fence project.

23. Delano II Reversion.
This Finance Letter proposes to add Item 5240-496 to reflect the reversion of $2.815 million in construction funds from Item 5240-301-0747, Budget Act of 2002 for the construction at California State Prison, Kern County at Delano II. These funds were originally intended to pay down interim financing bonds to avoid issuing lease-revenue bonds prior to a significant level of construction being complete. Upon further discussions with State bond counsel, it has been determined that this funding is not necessary.

24. Condemned Inmate Complex.
Budget Request. The budget proposes $220 million from lease revenue bonds for the design and construction of a Condemned Inmate Housing Complex at San Quentin to accommodate the male inmate population on death row. The complex will consist of approximately 1,000 maximum security cells, and will also include program and support space, a law library, visiting, religious space, exercise yards, a Correctional Treatment Center, and a lethal electric fence. The CDC expects that the construction would be completed by summer 2007. The complex would be based on the 180-degree design used for housing Level IV inmates.

5440 Board of Prison Terms

25. May Revise: Workload Projections

It is requested that Item 5440-001-0001 be decreased by $3,513,000 and 25.5 positions to address revised hearing workload projections. This proposed adjustment reflects a decrease in the projected level of parole revocation and mentally disordered offender hearing workload, as well as a decrease in the projected level of inmate parole consideration hearing workload. Also, the proposed adjustment reflects a revision to the number of annual work hours available for staff to conduct hearings and reviews.
As part of the request, the letter proposes the following budget bill language related to a workload analysis:

> 1. The Board of Prison Terms shall complete a workload analysis for the purposes of determining the appropriate workload standards to be utilized in their Hearing Workload Budget Change Proposal. The analysis shall include the amount of time necessary to complete each hearing or review and the number of hours and days per year available for hearing staff to complete hearings and reviews.

26. May Revise: Mentally Disordered Offender Process

This Finance Letter requests the withdrawal of the trailer bill language that proposed to revise the Mentally Disordered Offender process included in the 2003-04 Governor's Budget and restoration of $384,000 associated with the Mentally Disordered Offender independent evaluations. However, to fully offset the restoration, we propose to reduce the Board's budget by $384,000 and 2.4 Deputy Commissioner positions. This adjustment does not affect the total funding level in this item.

5450 Youthful Offender Parole Board.

27. May Revise: Consolidation of YOPB

It is requested that Item 5450-001-0001 be decreased by $1,643,000 to reflect the reduction of half-year funding for the Youthful Offender Parole Board, associated with the implementation of Chapter 4, Statutes of 2003 (Senate Bill 459). Effective January 1, 2004, Chapter 4, Statutes of 2003 eliminates the functions of the Board and instead consolidates the function of the Board within the Youth Authority.
Add provisional language to Item 5450-001-0001 as follows:

> No later than February 28, 2004, the Controller shall transfer any unencumbered funds in Item 5450-001-0001 as of February 1, 2004, to and in augmentation of Item 5460-001-0001. Any obligation incurred after January 1, 2004, shall be charged to Item 5460-001-0001.

5460 Youth Authority

28. Senior Youth Correctional Counselor/Sergeant Relief

An increase of $1,496,000 General Fund and 23 positions to provide Youth Correctional Counselor/Sergeant regular day off relief on open dorm living units, in accordance with the Memorandum of Understanding between the State of California and the California Correctional Peace Officers Association.

29. Sick Leave Relief

An increase of $1,089,000 General Fund is proposed to address the increased cost of sick leave coverage for posted positions.

30. Physicians Call-Back Pay Costs
An increase of $73,000 General Fund is proposed to cover the increased cost of providing seven-day a week on-call coverage for physicians.

31. Northern California Youth Correctional Center Laundry Costs
An increase of $24,000 General Fund is proposed for costs associated with transporting laundry to the nearest Prison Industry Authority facility at Mule Creek State Prison in Ione.

32. 5460-495, Proposition 98 Reversion
It is requested that $615,000 be reverted from Item 5460-011-0001 into the Proposition 98 Reversion Account.

33. English Learner Program
Budget Request. The budget proposes a total of $723,000 for this program in the budget year. In addition, the administration proposes $1.1 million for a three-year plan to certify all Youth Authority teachers meet the needs of English Language Learners.

8120 POST

34. Suspend Training Mandates.
It is requested that language be added to Item 8120-295-0001 to suspend the Elder Abuse, Law Enforcement Training and Law Enforcement Sexual Harassment Training mandates.

35. Reinstate Local Training Reimbursement
It is requested that Item 8120-101-0268 be added in the amount of $25.5 million and that Control Section 24.10 be amended to reflect a $14 million transfer from the Drivers' Training Penalty Assessment Fund to the Peace Officer Training Fund. These changes would restore funds for local law enforcement agency reimbursement costs associated with peace officer training. It is also requested that Budget Bill language be included in Item 8120-101-0268 that specifies the use of these funds and is consistent with language included in previous budget acts. The proposed language is provided on Attachment A. The proposed amendments to Control Section 24.10 are reflected in Attachment B.

8700 Victim Compensation and Government Claims Board

36. Annuitant Health and Dental Benefits.
It is requested that Item 8700-001-0214 be decreased by $81,000 and that Item 8700-001-0001 be amended to reflect this change for the purpose of offsetting increased annuitant health and dental benefit costs resulting from employees retiring under the Early Retirement Program. A corresponding increase to Item 9650-001-0001 is also being requested.

37. Technical Correction to Achieve Savings Reflected in the 2002 Budget Act
It is requested that trailer bill language be adopted that would authorize the Department of Transportation to deny tort claims valued at less than $5,000, as specified. This revision provides a technical correction to language enacted in AB 3000 (Chapter 1124, Statutes of 2002), and would enable the Board to achieve the General Fund savings reflected in the 2002 Budget Act.

<u>Action.</u>

0552 Office of the Inspector General

Issue

1. Proposed Reductions.

Budget Request. The budget proposes to reduce a total 19 positions and 1.8 million by the budget year.

Proposed Trailer Bill Language. As part of the reduction proposal, the administration is proposing trailer bill language that would have the effect of reducing workload for the OIG. Under current law, the OIG is required to conduct management audit reviews of CDC wardens and CYA superintendents who have held their positions for more than four years, or upon the confirmation or appointment of a new warden or superintendent. The proposed trailer bill language removes these requirements and provides that the OIG may conduct management audit reviews. With respect to retaliation investigations, current law requires the OIG to commence an investigation within 30 days upon receiving a complaint of retaliation from an employee. The proposed trailer bill language removes the 30 day requirement and provides that the OIG may commence retaliation investigations.

Staff Comments. The Subcommittee has received a letter from Senator Karnette regarding the trailer bill language for the OIG. Specifically, the letter notes concerns with the secretive nature of OIG investigations and audits, and indicates that greater disclosure would only serve to further the interests of the public and Legislature since these are publicly funded agencies.

Under current law, audits may only be disclosed in confidence to the Governor, a member of the Legislature, the appropriate director or chair of a department and the Secretary of the Youth and Adult Correctional Agency. Including the following language would give the public, including the employees of the audited entity access to the audits:

> Any Member of the Legislature or the public may request and shall be provided with a copy of any audit by the Inspector General, including a management review audit or a special audit or review. An audit that involves potential criminal investigations or prosecution, or security practices and procedures, shall be considered confidential, and its disclosure shall not be required pursuant to the authority of this subdivision.

The Inspector General's investigations are subject to even greater restriction. The results may not be disclosed, in confidence, to anyone except the Governor, the appropriate director or chair of a department an the Secretary of YACA. As a result, the person who requested the investigation (even if it was a member of the Legislature), the subject of the investigation, and any other member of the Legislature cannot know the results of the investigation. The following language would make a summary of the findings available to these people:

> Upon completion of any investigation, the Inspector General shall prepare a written report, which shall be held as confidential and disclosed, in confidence, only to the secretary of the Youth and Adult Correctional Agency, the Governor, the appropriate director or chair, or a law enforcement agency in furtherance of its duties. A summary of the report's findings and conclusions shall be made available, upon request, to the following: (1) the person that requested the investigation, (2) the person or persons that were subjects of the investigation, and (3) to any Member of the Legislature.

Finally, while giving the public and Legislature greater access to this information is important, some confidentially is important. Appropriate levels of confidentiality can be maintained by including language such as the following:

> Nothing in this section shall preclude the office of the Inspector General from following all applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act, and the provisions of Section 832.7 relating to the disposition notification for complaints against peace officers.

Staff Recommendation. Staff recommends approval of the proposed reductions, with the preceding language added to the proposed trailer bill language for the department.
Action

0550 Secretary for Youth & Adult Correctional Agency

Budget Overview - The total proposed budget for the Youth and Adult Correctional Agency is $1.2 million, which is a decrease of $53,000, or 4.2 percent, from estimated current year expenditures.

1. CYA PROP 98 Funding Report.

Supplemental Report Language. Last year, the Legislature adopted Supplemental Report Language directing the California Youth Authority to report on the methodology for determining the level of education funding in its caseload adjustments. The report, due November 1, 2002, has not be received by the Legislature.

Staff Comments. The language was adopted because serious questions have been raised about the quality of education services provided in CYA. The staffing ratios for teachers have not changed in at least the last 20 years. For purposes of assumptions for special education needs, the proposal assumes 23 percent of the wards at CYA have identifiable special education needs. This assumption has also not changed recently, and may not accurately reflect the CYA's current population.

Staff Recommendation. Staff recommends deleting the budget for YACA pending receipt and review of the CYA Prop 98 report due to the Legislature last November.
Action.

0820 Department of Justice

Issues

1. CYA Class Action Lawsuit.

Budget Request. The budget requests $4.3 million for DOJ to defend the Youth Authority in this lawsuit. The funding request is for DOJ's projected costs of the case leading up to a possible trial. These costs include expenses related to the discovery process and contracting with subject area experts for defense testimony. In addition, the plaintiffs have filed a state lawsuit because the court significantly narrowed the scope of the federal suit.

Section Letter Denied. A similar request in a section letter for current year costs of $10.7 million was previously denied by the Legislature.

Analyst's Recommendation. The LAO recommends deletion of the request because the parties will probably reach settlement. The LAO further recommends adoption of the following budget bill language to allow DOJ to submit a funding request in the event that settlement is not reached.

> 0820-001-0001 Provision X. Notwithstanding section 27.00 of the *2003-04 Budget Act*, the Department of Finance may submit a deficiency request if *Stevens v. Harper* proceeds to trial in federal or state court, or if expert consultant costs are incurred from settlement negotiations in this case.

Finance Letter Request. In a Finance Letter request, the Administration is proposing the following budget bill language due to the uncertainty of costs in the budget year. The Finance Letter indicates that the administration will not know until at least May or June of 2003 whether the case will be settled, or, if

> 0820-001-0001 Provision X. Of the amount included in Schedule (7) of this item, $4,263,000 is available for costs related to litigation in the matter of *Stevens v. Harper*. These funds are to be made available subject to the Department of Justice providing a detailed cost justification for expenditures related to this litigation and upon receiving approval from the Department of Finance.

it will go to trial.

Staff Recommendation. Staff recommends adopting the LAO recommendation. The LAO language allows, for additional oversight by the Legislature through the regular section letter process.
Action

2. Forensic Lab Positions

Budget Request.**.** The budget proposes $1.5 million and 13 permanent criminalist positions to reduce a backlog of cases awaiting forensic analysis in state Department of Justice (DOJ) forensics labs. DOJ's Bureau of Forensic Services has 10 regional labs that provide forensic crime evidence analysis primarily to local law enforcement agencies, as well as to state and federal agencies, located throughout the state that do not have their own labs. Criminalists analyze physical evidence of criminal events and interpret their findings in courts of law.

Analyst's Recommendation. The LAO recommends deletion of the $1.5 million requested for 13 permanent criminalist positions. The LAO believes that vacancies in these positions have contributed to the backlog of cases and that filling current vacancies could help reduce the backlog.

Staff Recommendation. Staff recommends adopting the LAO recommendation for a savings of $1.5 million.
Action.

3. Public Rights Law Enforcement Special Fund

Budget Request. The budget proposes a reduction of $500,000 for the Public Rights Division from the General Fund and would appropriate $500,000 from the proposed Public Rights Law Enforcement Fund.

Trailer Bill Language. Existing law entitles the DOJ to recover from defendants named ion a charitable trust enforcement action all actual costs incurred in conducting action, as specified. The Administration has proposed trailer bill language that would entitle the DOJ to recover all reasonable attorneys fees and costs, and that whenever the DOJ prevails in a civil action to enforce specified public rights, the court shall award to the DOJ all costs of investigating and prosecuting the action, including expert fees, reasonable attorney fees and costs. The bill establishes the Public Rights Law Enforcement Special Fund. These funds collected pursuant to the bill would be deposited into the special fund, to be administered by the DOJ to support the investigation and prosecution of any matter within the authority of the Public Rights Division.

Staff Recommendation. Staff recommends approval of the request and the proposed trailer bill language.
Action.

4. Medi-Cal Fraud

The Select Committee on Government Oversight has presented a recommendations to the Subcommittee that DOJ's Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) work more closely with the Fraud Prevention Bureau of the Department of Health Services (DHS), and recommends that DOJ make use of the state grand jury provision provided through Chapter 22, Statutes of 2000 (AB 1089, Romero). The DOJ has sent a letter responding to the recommendations to the Subcommittee.

May Revise Proposes an Increase to Medi-Cal Fraud in DHS. The May revise proposes to add 315 positions in Fraud Prevention Bureau of DHS, more than doubling the number of investigators. There was no increase at the DOJ for prosecution of the additional cases that are likely to be produced.

Staff Comments. The BMFEA receives an annual grant from the US Department of Health Services to fund its operational costs. The amount of the grant is 300 percent of the amount appropriated by the state –a funding ratio of 1:3.

Staff Recommendation. Staff recommends the use of False Claims Act funds to provide additional funding for the BMFEA. Staff recommends an augmentation of $500,000 from the False Claims Act Fund, and a resulting $1.5 from federal funds for a total of $2 million and 13 positions for the BMFEA to investigate and prosecute Medi-Cal fraud. In addition, in order to increase the coordination between the BMFEA and DHS, staff also recommends the following budget bill language.

Of the funds appropriated for this item for the Bureau of Medi-Cal Fraud and Elder Abuse and the funds in the item for DHS, the two agencies shall assign a portion of those resources to develop a strike team task force which they shall use to promptly identify, investigate, and prosecute Medi-Cal fraudulent providers. This Task Force shall be constructed in a manner that fully complies with federal statutes and regulations governing their activities.

Action

5. Oversight of Electricity Contract Settlement Funds

LAO Recommendation. In order for the Legislature to evaluate the proposed and future uses for settlement funds to the state resulting from renegotiated electricity contracts, the LAO recommends that the Legislature's hold hearings on the issue of the proper disbursement of these funds. However, in the interim, the LAO recommends the enactment of legislation to establish a fund for the deposit of any cash settlements to the state and make the funds available upon appropriation by the Legislature.

Staff Recommendation. The subcommittee may wish to consider the following options:

1.) Take no action on this issue and continue to let settlement funds be deposited into the Attorney General's Litigation Fund.

2.) Adopt supplemental reporting language directing the energy agencies and the Department of Justice to report on the statutes and procedures under which these settlements are entered into, how decisions are made over how settlement funds are spent, and priorities for expenditure of these funds.

3.) Adopt the LAO recommendation, and direct staff, the LAO, the Attorney General, and the energy agencies to develop trailer bill language to redirect electricity settlement funds to a fund to appropriated by the Legislature.

Action

5430 BOARD OF CORRECTION

1. May Revise: Administration of Juvenile Justice Crime Prevention Act Funds

Finance Letter Request. This Finance Letter proposes trailer bill language to amend Government Code Section 30061 in order to provide the Board of Corrections (BOC) the necessary funding to administer the Juvenile Justice Crime Prevention Act (JJCPA), created pursuant to Chapter 353, Statutes of 2001. Specifically, the proposed amendment would authorize the Department of Finance to allocate up to $275,000 of the funds appropriated for the JJCPA to the BOC for the purpose of administering the program, including providing technical assistance to local Juvenile Justice Coordinating Councils, reviewing and approving modified plans to ensure consistency with statutory requirements, and maintaining and updating various reporting systems. This level of funding is consistent with funding provided to the Board in previous budgets, however funding was provided as a direct General Fund

appropriation to the Board. This proposal would allocate funding to the BOC from the $116.3 million General Fund proposed in the 2003-04 Governor's Budget.

Staff Recommendation. Staff recommends adoption of the trailer bill language with modification noted below in issue # 2.
Action.

2. Local Juvenile Detention Facility Inspection Program.

Budget Request. The budget proposes a reduction of $176,000 and two positions related to the Local Juvenile Detention Facility Inspection Program. To implement the reduction, the administration proposes budget trailer bill language to amend Welfare and Institutions Code Section 209 in order to delete the power of the board in enforcing local juvenile facility standards.

Issue. The proposal would remove the board's power to enforce its own Juvenile Facility Standards affecting county juvenile halls and jails holding minors. More than 100,000 California children each year are booked into these facilities.. The board's standards affect staffing ratios, health services, food quality, environmental safety and other factors related to the welfare of all of these confined juveniles.

Staff Recommendation. Given the potential liabilities that local jurisdictions could face if the facilities do not meet standards, staff recommends rejecting the reduction and the proposed trailer bill language. Instead, staff recommends adding language to the Administration of Juvenile Justice Crime Prevention Act trailer bill (item #1 above) to authorize up to $176,000 of the administration money for juvenile facility inspections.
Action.

3. Elimination of the Corrections Training Reimbursements

Budget Request. The budget proposes a reduction of $16.2 million from the Corrections Training Fund and elimination of the program that reimburses the cost of training of local correctional officers.

The program reimburses local law enforcement agencies for travel, per diem, cost of replacement officers, and some tuition costs associated with sending correctional officers to training. In 2001-02 the board reimbursed local agencies a total of $16.7 million, and is estimated at $17.2 million in the current year. The BOC indicates that the program funds approximately one-third of the total costs associated with the training.

May Revise Finance Letter Request. It is requested that Item 5430-002-0170 be amended to reflect a $558,000 reduction in the amount transferred to the General Fund due to lower revenue estimates from the Penalty Assessment Fund. The revised transfer amount would be $9,606,000.

Staff Recommendation. Due to the condition of the General Fund, staff recommends approval of this proposal with the Finance Letter change.
Action.

5460 Department of the Youth Authority

Issues

1. Sliding Scale Adjustment.

Budget Request. The budget proposes an increase of $7.1 million in reimbursements from counties and a corresponding savings in General Fund to adjust for inflation the County Sliding Scale Fee assessed to counties for commitments to the CYA. The administration proposes trailer bill language to implement this change.

The trailer bill legislation would adjust the monthly fee for category I – IV commitments from $150 to $176, category V from $1,300 to $1,521, category V from $1,950 to $2,281, and category VII from $2,600 to $3,042 to account for inflation.

May Revise Letter: Adjust Sliding Scale Reimbursements. An increase of $1,074,000 General Fund and a decrease of $1,074,000 to Reimbursements are proposed to reflect the effect of revised population estimates that project fewer juvenile commitments than initially projected in the Governor's Budget. This revision is necessary to adjust the proposal in the Governor's Budget, which reduced General Fund and increased Reimbursements to reflect a 17 percent increase to the fees charged to the counties for commitments to the Youth Authority.

LAO Recommendation.. The LAO indicates that there was a minor error in how the $1,074,000 was calculated. The population number assumed by Finance in the calculation was slightly lower than what the actual population should be. The corrected amount of reimbursements should be a decrease of $872,508 and a commensurate increase in the General Fund of $872,508.

Staff Recommendation. Staff recommends approval of the proposal and the LAO's recommended adjustment to the May Revise Finance Letter.
Action.

2. Proposition 98 Funding

Background. Unlike other school districts, the CYA is ineligible for most categorical sources of Proposition 98 funding and must rely on the funding it receives based on a ratio formula to cover almost all of the expenses for operating its accredited schools. The current student-teacher staffing ratios at CYA are:
Non-special education teachers -- 15:1
Special education resource specialists -- 28:1
Special education teaching assistants -- 35:1
Emotionally Learning Handicapped Teacher – 12:1
Emotionally Learning Handicapped Teacher Assistants – 35:1
Language, Speech and Hearing Specialist -- 55:1

These staffing ratios have not changed in at least the last 20 years. For purposes of assumptions for special education needs, the proposal assumes 23 percent of the wards at CYA have identifiable special education needs. This assumption has also not changed recently, and may not accurately reflect the CYA's current population.

Serious questions have been raised about the quality of education services provided in CYA. For example, the Inspector General in a January 2001 audit of the Nelles facility found a shortage of teachers and qualified substitutes who are willing to work inside the facility. The teacher shortage is especially severe in special education. In addition, the audit found that the special education services were severely compromised, with only between 38 and 77 percent of wards receiving adequate special education services. Similar findings resulted from the Inspector General's October 2000 audit of the Stark facility.

Supplemental Report Language. Last year, the Legislature adopted Supplemental Report Language directing the CYA to report on the methodology for determining the level of education funding in its caseload adjustments. The report, due November 1, 2002, has not be received by the Legislature.

Staff Recommendation. Pending receipt and review of the supplemental report on Proposition 98 formulas within , staff recommends not reducing Proposition 98 funds in the next issue – related to the May Revise ward population assumptions.
Action.

3. Ward Population Adjustment.

A net reduction of $2,358,000 and 31.1 positions is proposed for the budget year to reflect revisions to the projected changes in ward and parole populations. This overall reduction is composed of an increase to Item 5460-001-0001 of $4,232,000, a decrease of $5,132,000 in Reimbursements and a reduction to Item 5460-011-0001 of $1,458,000 (Proposition 98).

The revised institutional population for the budget year is projected to be 4,555 which are 540 fewer than anticipated in the Governor's Budget. The Youth Authority (YA) projects a year-end parole population of 4,040, an increase of 210 from the level assumed in the Governor's Budget.

Staff Recommendation. Staff recommends approval of the General Fund augmentation and the decrease in Reimbursement proposed in the Finance Letter, but staff recommends not approving the $1.5 million Proposition 98 reduction.
Action.

4. May Revise: Consolidation of the Youthful Offender Parole Board

Finance Letter Request. An increase of $1,518,000 General Fund and 14.2 positions to implement the requirements of Chapter 4, Statutes of 2003 (Senate Bill 459), which consolidates the functions of the Youthful Offender Parole Board into the Youth Authority, effective January 1, 2004.

Staff Comments. The May Revise includes a proposal to reduce the YOPB budget by $1.6 million, which would be a $100,000 savings for a half year by consolidation.

Staff Recommendation. Staff recommends that the increase at YA be reduced to $1.3 million to achieve half year savings of $300,000 from the consolidation.
Action

5. Facility Closure Plan

Issue. In the last seven years, the CYA has experienced dramatic reductions in its caseload, from more than 10,000 wards in 1996 to an estimated ward population of 4,555 by the end of the budget year. While CYA's population has declined by nearly 50 percent since 1996, that department's expenditures have failed to decline at a comparable pace. Expenditures have dropped by about 26 percent in inflation adjusted dollars over this period. As CYA's ward population has downsized, many fixed costs remain intact. As of November 2002, 24 living units were closed at CYA facilities. This policy prevents CYA from gaining any potentially significant savings associated with consolidation and forces the department to continue supporting its full infrastructure and overhead with a smaller budget. As CYA's ward population continues to drop, the average institution cost per ward (adjusted for inflation) has steadily risen from $43,500 in 1996 to nearly $66,000 by December 2002.

May Revise Finance Letter: Consolidation Plan. The Finance Letter proposes a decrease of $3,025,000 General Fund and $793,000 Proposition 98 General Fund due to the closure of the Karl Holton Youth Correctional Facility at the Youth Authority's Stockton complex to accommodate the continuing decline in the Department's juvenile offender population.

Staff Comments. Last year, the Legislature directed DOF to develop a closure plan include the closure of at least 3 facilities by June 2005. The completed plan included the closure of the Holton facility and the male portion of the Ventura facility by the end of the budget year.

Ventura Facility. The Ventura facility was chosen in the report due the needs of the female population, including separation from the males. The OIG has found that efforts to keep male and female wards physically separate causes services to be duplicated, delayed, or otherwise hampered; prevents the institution from providing equal services to males and females; and results in wards at Ventura not receiving services provided to wards at other institutions.

Staff Recommendation. Staff recommends approving the Finance Letter to achieve savings of $3 million General Fund and $793,000 for Proposition 98 funds. In addition, staff recommends approving the closure of the male portion of Ventura by March 1, 2004 for a savings of $621,000 General Fund in the budget year. The full year savings in 2004-05 from these actions are estimated to by $3.6 million for the Holton facility, and $5.3 million for the Ventura facility.
Action.

6. Treatment Programs

Analyst's Recommendation. The LAO recommends that the Subcommittee adopt the following Supplemental Report Language regarding the CYA's treatment programs:

The California Youth Authority shall annually submit a report to the Legislature on or before January 10 on their treatment programs. The report shall include the following: (1) a list and description of the treatment programs and their availability at each institution; (2) placement criteria for each program that describes the criteria used to assign wards to treatment programs and the testing instrument that determines placement; and (3) a plan to evaluate their treatment programs that includes program goals and performance measures, a timeline for an evaluation of each of their programs, and whether the evaluation will be conducted within existing resources or will require additional funding.
In addition, the Department of Finance, in consultation with the Legislative Analyst's Office, shall develop a detailed budget display for treatment programs that includes the annual funding levels for the Youth Authority's mental health, sex offender, and drug treatment programs. The budget display shall be included in the Governor's January 10, 2004 budget document and annually thereafter.
Action.

8120 Commission on Peace Officer Standards and Training (POST)

California Freedom of Access to Clinic and Church Entrances Act

Proposal. The Subcommittee has received a request from Senator Ortiz and the Anti-Defamation League to adopt Supplemental Report Language that will assist with the implementation of SB 780, known as the California Freedom of Access to Clinic and Church Entrances Act (Chapter 899, Statues of 2001). The Supplemental Report Language will assist in further pursuing what is outlined in the intent of the measure, which is to require the Commission on Peace Officer Standards and Training to include in its guidelines, course of instruction, and training on "hate crimes" the information it developed pursuant to SB 780 that focused on the overlap between hate crimes, antigovernment extremist crimes, and anti-reproductive-rights crimes of violence.

In recognition of the fact that these crimes are often perpetrated by the same persons or groups, section 1(d)(2) of California FACCEA requires that law enforcement instruction and training courses on antigovernment extremist crimes and hate crimes also include information on anti-reproductive-rights crimes of violence. The proposed Supplemental Report Language will implement this section, directing the Commission on Peace Officer Standards and Training to carry out that training mandate. The proposed language further requires the Commission to consult ADL and other subject-matter experts on the training course guidelines and materials:

> The Commission shall carry out the legislative intent of the second sentence of Section 1(d)(2) of Chapter 899, Statutes of 2001, and shall consult subject-matter experts including but not limited to the Anti-Defamation League (ADL) in San Diego, California Anti-Terrorism Information Center in the Department of Justice, California Council of Churches, Center for the Study of Hate and Extremism at the California State University in San Bernardino (CSUSB), Feminist Majority Foundation, National Abortion Federation, Planned Parenthood Federation of America, Sacramento Human Relations and Fair Housing Commission, Senate Office of Research, Sociology Department of the University of West Florida in Pensacola, Southern Poverty Law Center, and U.S. Attorney for the Eastern District of California.

Staff Recommendation. Staff recommends adoption of the Supplemental Report Language. Action.

Control Section 24.10 – Driver Training Fund Transfers

May Revise: Transfer to the Corrections Training Fund.

The May Revise proposed language to transfer $14 million to the Peace Officers Training Fund (POTF) pursuant to Control Section 24.10 or order to provide sufficient resources in the POTF to continue funding the local law enforcement training program. The Finance Letter reinstating the program was included on the consent calendar at the front of the agenda.

In addition, the Assembly Budget Committee has also funded the $3 million for the Witness Protection Program through a transfer in Control Section 24.10. At its hearing on May 8, the Subcommittee approved a Finance Letter to fund the Witness Protection Program from the General Fund. Should the Subcommittee wish to take the same action to have this issue avoid conference, staff recommends adoption of the following language in Control Section 24.10 and rescinding the prior action on the DOJ Finance Letter.

> SEC. 24.10 (a) Notwithstanding Section 1464 of the Penal Code or Section 41304 of the Education Code, the first one million one hundred six thousand dollars ($1,106,000) received by the Driver Training Penalty Assessment Fund for the 2003-04 fiscal year shall be available for the purposes of Item 6110-001-0178 of Section 2.00 of this act. The amount retained by the Driver Training Penalty Assessment Fund for the purposes of Item 6110-001-0178 may be adjusted by the Department of Finance for actions pursuant to any control section of this act.
> (b) After moneys are retained by the Driver Training Penalty Assessment Fund pursuant to subdivision (a), the Controller shall transfer any remaining balances as follows: $4,121,000 to the Victim Witness Assistance Fund, <u>$3,000,000 to the General Fund for the amount appropriated in Item 0820-001-0001 Schedule (9) and Item 0820-101-0001 Schedule (2) to support the Witness Protection Program,</u> <u>and $14,000,000 to the Peace Officers' Training Fund</u>. Any remaining unallocated moneys in the Driver Training Penalty Assessment Fund shall be transferred to the General Fund.

Staff Recommendation. Staff recommends adoption of the revised budget bill language to include a transfer of $3 million through Control Section 24.10 to the Witness Protection Program, and a conforming action to rescind the prior action to provide a direct General Fund appropriation for the program. Action.

8700 California Victim Compensation and Government Claims Board

1. May Revise: General Fund Loan to the Restitution Fund

Request. This Finance Letter requests that language be added to Item 8700-001-0214 to authorize a loan from the General Fund in 2003-04 to meet the cash flow needs of the Victim Compensation Program, resulting from the delay in receipt of federal fund reimbursements from the Victims of Crime Act. The proposed budget bill language for the loan requires that it be paid by May 30.

2. The Director of Finance may authorize a loan from the General Fund to the Restitution Fund in an amount not to exceed the amount appropriated in this item, provided that:
   (a) The loan is to meet cash needs resulting from the delay in receipt of federal funds to support the Victim Compensation Program.
   (b) The loan is short-term, and shall be repaid by May 30 of the fiscal year in which the loan is authorized.
   (c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.
   (d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.

Staff Recommendation. Staff recommends approval of the budget bill language authorizing a short-term loan.
Action.

2. May Revise: Restitution Fund

As discussed at the March 6 hearing, the Restitution Fund will have a negative balance in the budget year without additional actions to decrease expenditures and increase revenues. As part of the original budget submission, the department proposed a number of trailer bill provisions. At the hearing on March 6, the Subcommittee advised the department to seek some of the proposed trailer bill provisions through introducing a bill that would go through the regular policy process.

As part of the May Revision, the administration has withdrawn the previous trailer bill request and is requesting trailer bill that would include the following:

- Provisions limiting the aggregate award available to victims and derivative victims to $70,000 per victimization.
- Provisions that increase the minimum mandatory restitution fines for misdemeanor convictions from $100 to $250 and for felony convictions from $250 to $500.
- An increase to the limits on restitution diversion fees. The $100 minimum restitution diversion fee would be increased to $250 for a person charged with a misdemeanor and $500 for a person charged with a felony. The $1,000 maximum restitution diversion fee would be increased to $3,000.
- A provision that would authorize the Board to reduce reimbursements to service providers by a percentage that would be determined annually, based on an analysis of revenue projections. The providers would agree in advance to accept this percentage as payment in full.

Staff Recommendation. Staff recommends adoption of the administration's proposed TBL with the addition of a 2 Year Sunset on new fees, and trailer bill language to allow the court to consider the defendants ability to pay.

In addition, staff recommends adoption of place holder TBL to direct Judicial Council to establish workgroup of stakeholders to evaluate the cumulative and marginal impact of statutorily imposed restitution fines on collections and offender's actual ability to pay, and make recommendation to the Legislature by Feb. 2004.
Action.

5480 Commission on Correctional Peace Officers' Standards and Training

CPOST is composed of six commissioners serving four-year terms. Two commissioners are appointed by, and represent, the management of the Department of Corrections, and one commissioner is appointed by, and represents, the management of the Department of the Youth Authority. Three Commissioners are appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Since of July 1, 2000, the CPOST has been separate from the Youth and Adult Correctional Agency, functioning as an independent entity within this agency.

Budget Request. The budget proposes total expenditures of $2.2 million from the General Fund and 18.5 positions to develop, approve, and monitor selection and training standards for California's correctional peace officers. This amount is an increase of $52,000, or 2.5 percent above current year expenditures.

Staff Comments. The Program oversees the correctional peace officer apprenticeship program and monitors selection and training standards for correctional peace officers in CDC and CYA..

Staff Recommendation. Prior to changes made in 2000-01, the budget for this department was $628,000 and 3 positions. In 1998 legislation was enacted to further define the responsibilities of the CPOST to include development, approval and monitoring of training standards in the CDC and CYA training programs. The initial reviews, which involve the most intensive workload, should be largely completed. Therefore less staff resources should be necessary to update and monitor curriculum that has already been approved. In light of the budget shortfall, this may be an area which can be reduced. Staff recommends a reduction of $1.1 million, or 50 percent to this department.

Action

5240 DEPARTMENT OF CORRECTIONS

1. May Revise Population Estimates.
A net increase of $58,467,000 and 698 positions is proposed to reflect revisions in the projected growth of inmate and parole populations. This increase is composed of an increase of $58,987,000 General Fund, and a decrease of $520,000 from the Inmate Welfare Fund.

Adjusted for recent population trends, the June 30, 2004 population is projected to be 161,287, which is 248 more than anticipated in the 2003-04 Governor's Budget, and represents an increase of 755 to the revised June 30, 2003 estimated inmate population.

The projected parolee population for June 30, 2004, when adjusted for recent population trends, is 115,467. This amount is 80 more than was anticipated in the 2003-04 Governor's Budget and represents a decrease of 1,082 to the revised parolee population level estimated for June 30, 2003.

Staff Comments. The DOF indicates that while the changes in population are relatively minor, the Department has incurred costs to realign its bed availability with the type and level of inmates it houses. In addition, there are costs resulting from various other adjustments, as well as the budget year component of estimated savings that did not materialize in 2002-03.

Staff Recommendation. The Subcommittee may wish to ask the CDC or DOF to explain what is meant by realigning bed availability. Staff recommends approval of the Finance Letter.
Action

2. Overtime Use
After discussions of overtime at the hearing on April 24, the CDC provided the Subcommittee with additional information on overtime use at the department. In a six month period between October 2002 and March 2003, an average of 392 correctional officers worked over 80 hours of overtime in a month.

For safety reasons, in order to reduce that amount of excessive overtime the Subcommittee may wish to adopt the following trailer bill language:

> The Department of Corrections shall establish a standardized monthly overtime cap for correctional officers not to exceed 80 hours per month. This cap shall not conflict with any existing provisions of the Bargaining Unit 6 Memorandum of Understanding.

Staff Recommendation. Staff recommends adoption of the trailer bill language.
Action.

3. DMH Bed Utilization
Analyst's Recommendation. The CDC contracts with the Department of Mental Health (DMH) for beds in state hospitals for CDC inmates. Because CDC continues to use fewer beds (as of early May, the number was 146) than the number budgeted (180), however, the LAO recommends that the

subcommittees with jurisdiction over the CDC budget reduce that budget by about $2.7 million from the General Fund to reflect the ongoing usage of 146 beds. If this action were taken, a conforming $2.7 million reduction in reimbursements in the DMH budget would be appropriate.

The LAO notes that budget bill language remains in the CDC budget item allowing the department to obtain additional funding later in the fiscal year were its usage of state hospital beds to increase above the level initially budgeted. This language is intended to ensure CDC has no problem complying with federal court requirements in cases relating to CDC's care of mentally ill inmates.

Staff Recommendation. Staff recommends approving the LAO recommendation to reduce the CDC budget by $2.7 million.
Action

4. Administrative Time Off

On May 8, 2003 The Select Committee on the California Correctional System and the Select Committee on Government Oversight held a joint hearing regarding the CDC's practices related to long-term administrative time-off (ATO) cases.

Staff Recommendation. Staff recommends that the Subcommittee request the CDC to detail the actions it has taken and will take to resolve the identified length and cost issues associated with long-term ATO cases. The Subcommittee may also wish to have the CDC provide a written progress update to this Subcommittee in 30 days.
Action

5. Local Assistance Expenditures

The CDC is appropriated local assistance through the Institutions Program. Through this program, the CDC distributes funding, on a reimbursement basis, to counties for three activities: (1) Transportation of prisoners, (2) Return of Fugitives, and (3) County Charges for holding inmates in jails and Court Costs. The proposed budget for CDC local assistance is $31 million. In the current year, there was a one time-augmentation of $9 million for local assistance.

The Department of Corrections has submitted a deficiency request of $62.3 million for local assistance to the Department of Finance. The deficiency requests that were forwarded by the DOF at the time of the May Revise do not include any request for local assistance funding. Without additional funding, the CDC will expend its total local assistance appropriation for the budget year on July 1, to pay off less than half of the estimated costs incurred in the current year and will have no funding to pay for local assistance incurred in the budget year.

The CDC indicates that one reason for the increased local assistance has been due to the *Armstrong* and *Valdivia* court cases which have increased the time it takes to process inmates at reception centers.

Staff Comments. The Subcommittee may wish to ask CDC what likely impact not funding the local assistance deficiency in the current year will have on its operations in the budget year.

Informational Issue

CDC Reforms & Efficiencies

	Net GF Savings ($in millions) 2003-04	2004-05
Institutions		
Reject Activation of NCWF as Reception Center. *The Administration proposes to convert the Northern California Women's Facility (NCWF) into a reception center. This additional capacity will not be needed if parole reforms (see parole section) are adopted. Also reject $10.8 million revenue bonds for facility.*	0	28.4
Restructure Education and Vocational Training Programs. Under current law, eligible inmates in education and vocational training programs may receive day-for-day credits. However, many inmates are unable to participate because there are not enough programs available to meet the need. This increases custody time and state costs. Failing to provide education and training also reduces an inmate's potential for successful reintegration in the community upon release. *This proposal restores $10.9 million to avoid the elimination of existing education and art program staff. It also would provide an additional $10 million to establish education programs in reception centers. Education programs would be restructured, subject to collective bargaining, to maximize state savings, estimated at $54.8 million, and reduce inmate recidivism.*	27.5	51.5
Eliminate CCF Contracts for 3 Facilities. CDC now contracts with five Community Correctional Facilities (CCF) to house low level offenders. These facilities are marginally more expensive than incarcerating these inmates in state prison. *CDC indicates that a $400,000 could be achieved in 2003-04 by eliminating the contract at the following CCF institutions: McFarland, Mesa Verde, and Eagle Mountain.*	0.4	0.9
Increase Academy Slots by 640 cadets per year to reduce Overtime. This year's "mid-year reduction package" accelerated the academy program to reduce costs, but it did not increase the number of cadets who could enroll. *By increasing the number of academy graduates and establishing more correctional officer positions, CDC can reduce its deficiency for overtime costs. It costs $8.6 million to fund the Academy costs.*	4.5	7.8

Drug Treatment Furlough. Current law (Penal Code Section 6258.1) allows non violent inmates to be placed in a community treatment program for the last 120 days before release. This approach would reduce costs and improve the effectiveness of CDC's existing drug treatment program, which includes a residential aftercare component for 50% of the inmates who parole from the program. The Department now contracts for approximately 2,900 residential aftercare beds. *Under the proposal inmates would receive drug treatment in a supervised, community residential program for the final 120 days of the inmate's sentence. The estimated net savings reflects a reduction in institution population and an increase in parole supervision costs.*	20.1	61.0
Medical Parole. In an effort to reduce CDC's escalating health care costs, SB 278 by Senator Ducheny, has been introduced to authorize the medical parole of severely ill inmates who are not a threat to public safety. CDC now houses approximately 120 inmates in long term care facilities. *These potentially expensive inmates would be placed in an appropriate medical facility and would be eligible for SSI and Medi-Cal. This would allow the federal government to pay half of the health care costs for inmates. In addition, the state would save custody and medical transportation costs.*	5	5

Parole		
Mentally Ill Parolees. With initial funding provided by the Legislature in 1999, this existing program provides pre-release planning and enhanced community treatment services for mentally ill parolees. This program has demonstrated impressive results by reducing recidivism 59.7% to 16.5%. *This proposal would authorize the program to expand in order to provide services to an additional 5,250 mentally ill parolees in 2003-04. The program currently has 28.5 PY vacancies and another unestablished 26 PY's. In addition, funding would allow the program to provide appropriate medication for parolees for 90 days after release from prison.*	10.3	20.6
Reduce Recidivism Through Pre-Release Planning & Re-Entry Programs. The CDC revokes approximately 74,000 parolees annually. A 5% reduction in these recidivism rate would result in a savings of $28.7 million. To achieve this reduction, CDC would be directed to develop an integrated parole program that would (1) prepare inmates for community re-integration through pre-release planning; (2) develop a new risk assessment tool to ensure that parole supervision is targeted in a consistent and effective manner; and (3) expand the existing PACT program so that parolees have access to available community services upon release. *When fully phased in, annual costs are estimated at $12.9 million for parole staff and contracts with community based organizations.*	7.9	15.8
Substance Abuse Treatment & Control Units (SATCU) & Community Detention Approximately, 32,000 low level parolees (no underlying violent or serious commitment offense and no violent or serious priors) become parole violators annually and spend an average of 153 days in custody – 72 days in jail pending revocation ($59 a day) and another 81 days in prison – most likely a reception center – ($43 a day). The custody cost for these low level parole violators is $247.4 million. Further, no programs are available to help reduce the high recidivism risk – particularly related to substance abuse -- for these parole violators. *Under this proposal, Parole would implement policies that would employ appropriate sanctions for parole violations based on the offense and underlying public safety risk of the parolees. In addition, existing programs would be expanded to provide Parole with placement alternatives:*	50.4	100.8

• *Substance Abuse Treatment Control Units (SATCU).* *The expanded SATCU program would target parole violators who are not eligible for Prop 36. The SATCU would include 30 day "dry-out" in jails combined with intensive drug treatment followed by supervised outpatient programming for additional 90 days. Assumes 16,000 parole violators would be placed in SATCU's. The program cost is estimated at $63.6 million. Net Annual Savings: $60.5 million.* • *Community Detention.* *Short-term (45 day) sanctions could include placement in an existing Community Correctional Re-Entry Centers (CCRC's), home detention, and electronic monitoring. Parolees would be able to maintain their jobs or school programs, but would be required to return home under a curfew. Assumes about 8,000 violators would be placed into community detention. Program cost estimated at $21.5 million. Net Annual Savings: $40.3 million.*		
Other		
Felony Drug Court Expansion. Based on an evaluation that demonstrated significant prison bed savings, the 2002-03 Budget restructured the Drug Court Partnership Program to prioritize services on felons. The first quarter data of the new program is already showing impressive results indicating that for every $1 invested in the program, the state saves $1.60 in avoided prison costs. The Senate Budget Subcommittee #3 has adopted a proposal to expand this program administered by the Department of Alcohol and Drug Programs (DADP) and the Administrative Office of the Court. *Based on the Sub#3 action, it is estimated that this will result in a reduction to CDC's inmate populaltion and result in a savings of $17.4 million. The net savings to the general fund is $12.1 million.*	12.1	12.1
Total	**138.2**	**303.9**

8100 Office of Criminal Justice Planning

1. Hearing of the Select Committee on Governmental Oversight

At a hearing on March 4, the Senate Select Committee on Governmental Oversight reviewed operations at OCJP. At the hearing, the committee discussed a broad range of topics, including the BSA audit, the LAO consolidation recommendation, as well as issues related to the efficiency and effectiveness of OCJP.

Recommendations of the Select Committee on Government Oversight. The Select Committee recommends elimination of 24 management positions for a savings of an estimated $3.5 million. The Committee notes that while the Governor has proposed putting the OCJP under the new Office of Homeland Security, giving OCJP a new home does not erase the fact that this program is heavily bloated with management personnel. The committee found that OCJP's span of control of 3.3 employees per manager appears to be the most overdone in state government and has indicated that there is simply no justification for staffing nine exempt managers and twenty-five other managers in an agency with only 111 administrative staff. The Committee further notes that the Governor's budget proposed deleting 6.4 positions, none of them management or supervisory cuts. The Legislative Analyst has proposed eliminating 17 management positions. The Committee recommends that the Legislature should go further by fully eliminating 24 high-end management position.

In addition, upon review of OCJP's audit functions, the Committee noted that OCJP has a $300,000 contract with Department of Finance to perform audits of individual OCJP programs. The agency provided no justification for this contract which should be voided. The Committee also recommends that this funding be deleted from OCJP's budget.

Staff Recommendation. Staff recommends eliminating 24 management positions at OCJP and deleting the $300,000 audit contract with DOF from OCJP's budget.
Action.

2. Vertical Prosecution Block Grants

Background. The following are five Vertical Prosecution Programs funded through OCJP.

Vertical Prosecution Programs	
Elder Abuse Vertical Prosecution. Established in 1999, program enhances or creates specialized vertical prosecution units in DA's offices. Grantees: Alameda, Amador, Butte, Fresno, Lake, Los Angeles, Placer, Riverside, Sacramento, San Diego, San Francisco, San Joaquin, Shasta, Tulare, Ventura, Yolo, Yuba.	2,218
Child Abuser Vertical Prosecution. Established in 1985, program enhances or creates specialized vertical prosecution units in DA's offices. Grantees: Alameda, Placer, Orange, Monterey, San Joaquin, Santa Clara, Santa Cruz, Trinity, Tulare, and Yuba County	1,304
Vertical Prosecution of Statutory Rape Program. Established in 1995, program enhances or creates specialized vertical prosecution units in DA's offices. Funds programs in 54 counties.	6,770
Major Narcotic Vendors Prosecution Program. Established in 1984, program enhances or creates specialized vertical prosecution units in DA's offices. Grantees: Alameda, Contra Costs, Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernadino, San Diego, San Francisco, San Joaquin, Santa Barbara, Santa Clara,	2,641

Shasta, Sonoma, Stanislaus, and Tulare.	
California Career Criminal Prosecution Program. Established in 1977, program enhances or creates specialized vertical prosecution units in DA's offices. Grantees: Alameda, Contra Costa, Kern, Los Angeles, Merced, Monterrey, Orange, Riverside, Sacramento, San Bernadino, San Diego, San Francisco, San Joaquin, Solano, Sonoma, Stanislaus, and Tulare.	3,637

1. In order to achieve administrative savings, consolidating the existing vertical prosecution programs into a single block grant would streamline the program and facilitate additional local flexibility.

2. Last year, the Subcommittee approved a Finance Letter that reducing these and other OCJP grants by 50 percent. Only the vertical prosecution funds were ultimately restored.

Staff Recommendation. Staff recommends (1) consolidation of these grants into a single block grant with an allocation formula to be determined, and (2) a 50 percent reduction in the total amount for a savings of $8.3 million.
Action

Homeless Youth Project and the Youth Telephone Emergency Referral

The Youth Crisis Hotline provides 24-hour crisis counseling and referral services for runaway and homeless youth. Last year the funding for this program was cut in half to less than $600,000 and then was further reduced in the mid-year revisions and the budget by another $45,000. The California Coalition for Youth has contacted the Subcommittee to request the following budget bill language to ensure that these programs do not receive additional cuts in the budget year.

Budget Control Language for section 8100-101-001:

> 3. The Office of Criminal Justice Planning shall at minimum, maintain all matching federal discretionary funds for the Homeless Youth Project and the Youth Telephone Emergency Referral for at least this budget year to allow the contracting agencies to secure other stable funding sources and the Office shall work cooperatively to sustain these programs at or above current levels.

Staff Recommendation. Staff recommends adoption of the proposed budget bill language.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2 Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Thursday, May 22, 2002
1:30 PM
Room 112

Part 2

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Proposed Consent Calendar

Staff Recommendation: Staff recommends the subcommittee approve the following consent calendar items. No opposition or issues have been raised with the proposals. (A brief description of these items can be found under the respective agencies, departments, etc.)

Energy Resources Conservation and Development Commission
Finance Letter - Energy Technologies Research, Development and Demonstration Account
Finance Letter - Reversion of Unencumbered Energy Project Funding

Public Utilities Commission
Finance Letter - Expert Witnesses Related to PG&E Energy Procurement Cost Lawsuit
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Finance Letter - Analytical Chemistry Laboratory
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Finance Letter - Animal Adoption Mandate

Integrated Waste Management Board
Finance Letter - Federal Grant Expenditure Authority

Department of Toxic Substances Control
Finance Letter - Restoration of Funding for Eliminated Positions

Action:

3360 Energy Resources Conservation and Development Commission

The California Energy Commission (CEC) develops and implements California's energy policy. Specifically, the Commission (1) maintains historical energy data and forecasts future statewide energy needs; (2) sites and licenses thermal power plants; (3) promotes energy efficiency and energy conservation programs and regulations; (4) develops renewable energy resources and alternative energy technologies; and (5) plans for and directs state response to energy emergencies. The Commission's mission is to assess, advocate and act through public-private partnerships to improve energy systems that promote a strong economy and a healthy environment.

Items on the Proposed Consent Calendar

Energy Technologies Research, Development and Demonstration Account (ETAP)
The May Revision proposes to transfer $1.288 million from ETAP to the General Fund. This account was established with funds from the Energy Resources Programs Account (ERPA) to provide grants and loans to public and private entities for energy conservation and efficiency-related research and development projects. The commission's Public Interest Research (PIER) Program supports substantially similar research and development, but on a much larger scale than that of ETAP.

Reversion of Unencumbered Energy Project Funding
The May Revision proposes to revert a total of $4.943 million, appropriated to the CEC by energy crisis legislation, to the General Fund. Specifically, the May Revision proposes to revert $4.683 million appropriated by SB 5X (Sher) of 2001 and $260,000 appropriated by AB 970 (Ducheny) of 2000. This funding was earmarked for various energy conservation projects and programs. These funds are currently unencumbered and uncommitted.

Issues

Public Interest Research, Development and Demonstration Fund

Issue 1: The May Revision proposes to decrease the commission's expenditure authority from this fund by $20 million and to loan that amount from the PIER Program to the General Fund. This proposal does not include any repayment terms for the loan. The PIER Program provides grants to public and private entities for energy research and development projects, such as energy efficiency, renewable energy, and energy systems integration. Because most PIER projects are long-term and financed with funds encumbered in prior years, the proposed loan will address the General Fund shortfall without causing serious damage to the PIER Program.

Staff Recommendation. Staff recommends approving the May Revision Finance Letter, which loans $20 million from the Public Interest Research, Development and Demonstration Fund to the General Fund. Staff further recommends that the committee require the loan to be repaid to the PIER Program by June 30, 2005.

Action:

Issue 2: At the Subcommittee's May 1, 2003 hearing, the California Climate Action Registry requested $200,000 to finance various aspects of its work and to address additional statutory responsibilities. Specifically, the Registry would use the requested funding in the following ways:

- $60,000 for software maintenance and hosting;
- $40,000 for the development of forest management and sequestration protocols, required by SB 812 (Sher), 2002;
- $75,000 for outreach to increase Registry participation; and
- $25,000 for working on alternative compliance scenarios for greenhouse gas emissions.

The committee directed staff to evaluate the commission's budget to determine whether funds were available to transfer this funding to the Registry.

Staff Recommendation. Staff recommends transferring $200,000 from Public Interest Research, Development and Demonstration Account to the California Climate Action Registry to fund its request.

Action:

Energy Resources Program Account (ERPA)

Background: The ERPA account funds most of the commission's basic programs, general operations and staffing. Revenues from this account derive from a two-tenths of a mill ($0.0002) per kilowatt-hour charge on the consumption of electricity by California ratepayers. The commission expects ERPA revenues to total about $46 million, an increase of 2 percent over the current year. CEC's expenditures from this account also total approximately $46 million and represent slightly more than 13 percent of the commission's total proposed budget.

Issue 1: The commission's budget incorporates an ERPA reserve of over $3 million. The May Revision proposes to transfer $975,000 of that amount to the General Fund. The proposed transfer maintains a reserve of greater than five percent.

Staff Recommendation. Staff recommends approving a transfer of $2 million from ERPA to the General Fund. This action would maintain an ERPA reserve of over $1 million.

Action:

***Issue 2*:** The commission may set the ERPA surcharge rate at a public meeting each November at a rate not to exceed $0.0003 per kilowatt-hour. In November 2002, the commission set the ERPA surcharge at its current level, $0.0002 per kilowatt-hour, and does not plan to adjust the surcharge at its November 2003 public meeting. If, before November 2003, unanticipated expenses arise or projected energy demand in the budget year decreases substantially, whether because of an increase in energy prices or otherwise, then the commission may decide to increase the surcharge at its November 2003 meeting, to take effect on January 1, 2004.

Assuming the same 2 percent increase in demand that the Governor's Budget projected (the commission says that that demand assumption is still reasonable), an increase in the ERPA surcharge of $0.0001 per kilowatt-hour would generate $23 million over the course of a full year. Because of the quarterly payment schedule, only revenue from the first quarter of 2004 would be transmitted from investor-owned utilities to the commission before the end of the 2003-04 budget year.

Staff recommendation. Staff recommends transferring an additional $5.75 million from ERPA to the General Fund.

Action:

Power Plant Siting Program

Background. Supplemental report language in the 2002 Budget Act, the commission examined alternative fee structures for imposing fees on (1) developers seeking approval to site power plants and (2) generators for ongoing costs associated with compliance. In its report, the commission recommended that the Legislature not require the commission to collect developer fees to maintain the siting program's public perception of independence from the developers it evaluates.

Despite its recommendation, the commission evaluated various fee alternatives and rated them according to specified criteria. As the most favorable alternative, the commission identified a fee structure in which a developer would pay $100,000, plus $250 per MW of generating capacity up to $350,000 (about half of the average cost to review an application). In addition, the commission suggests imposing a $15,000 annual fee on power plant owners to cover ongoing compliance activities. This dollar amount represents the average annual cost to monitor power plant compliance.

The Legislative Analyst's Office (LAO) recommended that developers should pay a siting fee because they benefit from the siting program's activities and that this fee should not compromise the integrity of the siting program's work. Further, other states charge developers a siting fee and the additional project cost is minimal. In addition, the LAO recommended the $15,000 annual compliance fee for power plant generators. LAO suggests that these fees could result in a minimum of $990,000 in revenue in the budget year. Any fee revenues received in the budget year would result in corresponding savings in ERPA funds.

Staff recommendation. Staff recommends that the committee:

1) Approve a siting fee for developers of power plants in the amount of $100,000, plus $250 per MW of generating capacity up to $350,000;
2) Approve the assessment of a $15,000 annual fee on power plant owners to cover ongoing compliance activities;
3) Approve a transfer of $990,000 from ERPA to the General Fund to account for the savings created by the fee.

Action:

Renewable Resources: Customer Credit Program

Background: In September 2000, the Legislature authorized the commission to continue to collect $135 million annually from ratepayers, to fund the Renewable Energy Program for the following five years. SB 1038 (Sher -- Chapter 515, Statutes of 2002) earmarked 10 percent of that amount ($13.5 million) annually, for the customer credit program. That statute also required the commission to report to the Legislature by March 31, 2003 on "how to most effectively utilize the funds for customer credits, including whether, and under what conditions, the program should be continued." In April 2003, the committee reported its recommendation to discontinue the customer credit program due to 1) the uncertainty of the direct access market and customer choice and 2) the Legislature's adoption of the Renewable Portfolio Standard.

The commission has the authority to reallocate these resources among the other sub-accounts within the Renewable Resources Trust Fund, with the exception of the Existing Renewable Resources Account. It would need additional statutory authority to transfer funds to the existing account for other uses.

Staff recommendation. In an earlier hearing, the committee reviewed the need for additional funds to help reduce Central Valley air pollution through the provision of incentives to clean burning biomass plants that use agricultural waste that would otherwise be burned in open fields. Staff recommends approving a one-time reallocation of $6 million from the customer credit program to the Existing Renewable Resources Account for this purpose, notwithstanding current law.

Action:

Local Government Geothermal Resources Development Acct.

Staff recommends the transfer of a total of $1,594,000 from the Local Government Geothermal Resources Development Account (LGGRDA) to the General Fund. This total includes a transfer of $1.014 million, proposed by the May Revision, and a further transfer of $580,000 that the CEC expects to carry over from the current year. The account funds the Geothermal Program, which offers grants and loans to local jurisdictions and private entities for geothermal-related research and development projects. Federal geothermal royalty payments support the program, and the payments may be used for any purpose.

Staff recommendation. Staff recommends approving the transfer of $1,594,000 from the LGGRDA to the General Fund to support higher priority programs.

Action:

8660 Public Utilities Commission

The commission regulates privately owned utilities, such as gas, electric, telephone and railroad interests. It regulates some passenger and household goods carriers. The commission's primary objective is ensure adequate facilities and services for the public at equitable and reasonable rates.

Items on the Proposed Consent Calendar

Finance Letter - Expert Witnesses Related to PG&E Energy Procurement Cost Lawsuit
It is requested that Item 8660-001-0462 be increased by $1,920,000 for expert witnesses to assist PUC with defense of a lawsuit filed by Pacific Gas and Electric Company (PG&E) that, if won by PG&E, could allow the utility to raise electricity rates to collect between $3.0 billion and $8.0 billion from ratepayers.

Finance Letter – Contracted Legal Services Related to the PG&E Bankruptcy
It is requested that there be a one-time increase of $8,030,000 in external consultant services to provide expert technical advice on bankruptcy law and to continue to represent the Commission in PG&E bankruptcy proceedings/

Issues

Energy Action Plan – Legislative Oversight and Accountability

Background: California's energy policies are overseen by at least five different entities: The California Public Utilities Commission (CPUC), the California Energy Commission (CEC), the California Power Authority, the Department of Water Resources, California Energy Resources Scheduling (CERS), and the Electricity Oversight Board. (In addition, at least one state/FERC-jurisdictional entity, the Independent System Operator (ISO), and two other agencies, the Department of Justice and the Electricity Oversight Board, have involvement in the state's energy system).

In the aftermath of the 2001-02 energy crisis, little emphasis has been placed on ensuring that the state's energy apparatus is more efficient, better organized, and more thoroughly prepared to prevent the recurrence of the crisis in the future. Moreover, utility rates are high, energy conservation has tapered off since the public's perception of the crisis has diminished, many energy power plants are still inefficient and high polluting, and state agencies like the Public Utilities Commission often seemed vexed as to its role as regulator or deregulator.

Energy Action Plan: This past March, California's principal energy agencies issued a draft "Energy Action Plan."

The goal of the Energy Action Plan is to:

> *Ensure that adequate, reliable, and reasonably priced electrical power and natural gas supplies, including prudent reserves, are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers.*

The plan stated that "These initiatives will send a signal to the market that California is a good place to do business and that investments in the more efficient use of energy and new electricity and natural gas infrastructure will be rewarded. Our approach recognizes that we currently have a hybrid energy market and that state policies can capture the best features of a vigorous, competitive wholesale energy market and renewed, positive regulation."

The 2003-04 budget summary makes no explicit reference to the state's energy woes. In contrast, the 2002-03 budget summary contained a separate section devoted exclusively to "Achieving Energy Independence."

Staff Comments: The subcommittee reviewed the Energy Action Plan at its earlier hearing on these agencies' budgets. The plan appears to be the primary process the Administration has undertaken to ensure the 2001-02 energy crisis does not reoccur. It is imperative that the final Energy Action Plan contain specific goals and benchmarks, clearly defined departmental roles, and established timelines so that progress and accountability can be clearly measured by the Legislature.

Staff Recommendation. Staff recommends that the subcommittee direct it, in consultation with the LAO and the appropriate agencies, to develop supplemental reporting language to ensure that the agencies follow through on their commitments for increased energy conservation and renewable energy and that they keep the Legislature apprised of their progress.

Action:

Office of Economic Development

Background: In his January State of the State Address, the Governor stated that he would "ask the Public Utilities Commission to create an Office of Economic Development to review all major proceedings before the PUC to determine their benefit to the economy, infrastructure and job creation."

While no budget proposal has been made by the Administration, the Commission, on its own initiative, has recently established the office, designated an interim executive director and solicited for other positions in the office. The Commission states that this initiative for the budget year will be accomplished within existing resources.

Staff Recommendation: There in no policy or fiscal authority in law for the commission to undertake the creation of the office. The staff recommends that the committee adopt budget trailer bill language establishing the office and setting forth procedures and criteria for its operation.

Action:

Audit Backlog Report

Background: In a recent supplemental report to the Legislature, the PUC documented a significant backlog in its audits. The Public Utilities Code requires the PUC to conduct audits of public utilities every

three years pursuant to Sections 582 and 797. The mandated audit are generally financial and operation in nature and typically result in Commission decision or orders, often including enforcement actions, that benefit the ratepayer.

The report identified significant backlog of audits with all the major energy utilities in California. In the telecommunications division, the Commission identified 12 audits in backlog with large telecommunication carriers (over 1000 customers) and has not conducted an audit of small telecommunication carriers for over 10 years. The Commission also identified a backlog of 98 audits of the small water utilities under its jurisdiction.

Staff Comments: The PUC has stated that these backlogs are the result of a chronic shortage of auditors to maintain the 3-year audit requirement of the Public Utilities Code. The shortage is a result of lack of funding in the audit program and increasing vacancies resulting from the current hiring freeze. The PUC has stated that additional contracting authority of $2.321 million to hire contracted auditors would allow the Commission to address its backlog and maintain its ability to meet the 3-year audit requirement.

Staff Recommendation: Staff recommends the subcommittee augment the PUC's budget by $2,321,000 for additional contracting authority for outside consultants to address the audit backlog.
Action:

Finance Letter - Consumer Affairs Branch Bilingual Services

Finance Letter Request: It is requested that Item 8660-001-0462 be increased by $389,000 and eight positions to provide limited English-speaking utility customers with service and product information and to assist these customers with service or billing complaints. The Public Utilities Commission (PUC) will use these resources to meet the growing number of complaints and questions filed by limited English-speaking customers.

LAO Recommendation: The LAO believes that the new multilingual customer service positions are not justified. The LAO finds that the customer service division's current staff of 30 persons is sufficient to handle the volume of calls currently received by the commission. Based on the workload data provided by the commission the customer service division on average can accommodate up to 225 calls from limited English proficient customers per hour. However, the commission is currently handling only around 200 calls from all types of customers per hour.

The LAO also find that the commission's proposal is a less cost effective alternative for meeting the needs of limited English proficient customers calling the commission. The commission currently has three customer service staff that speaks Spanish and contract for translation assistance for other limited English proficient customers calling the commission. This external contract for translation assistance has cost the commission an average of $34,000 annually over the past three years. It would be significantly less expensive to continue contracting for external translation assistance rather than hiring eight new positions at this time.

Staff Recommendation: In light of the LAO's findings, staff recommends denying the Finance Letter.

Action:

Finance Letter –Teleconnect Fund Loan to the General Fund

Finance Letter Request: The Governor's May revision proposes a $136.0 million loan from the California Teleconnect Fund Administrative Committee Fund to the General Fund. The California Teleconnect Fund Program offers discounts on telecommunications services, such as business lines and broadband services, to qualifying schools, libraries, hospitals and community-based organizations. However, the program has been underutilized, due in part, to a competing federal program that offers similar discounts on telecommunications services. As a result, $136.0 million could be loaned to the General Fund, leaving approximately $70 million, with no programmatic impact.

Background: The commission has had numerous problems in administering this program and in recent years has accumulated a large surplus balance in the Teleconnect Fund. This has led to a recent decision by the commission to suspend collection of the surcharge that supports the Teleconnect Program until the balance is reduced.

LAO Recommendation: The LAO found significant weaknesses with the PUC's California Teleconnect Program. Specifically:

- ***Program Has Not Met Projected Goals*** - The commission has only paid out approximately $84,000 in the current year, far below the $159 million estimated for expenditure.
- ***Application Process Overly Complex -*** The application process is a time-consuming and frustrating process that is exacerbated by inconsistent management of the program.
- ***Subsidy Does Not Always Reach Those Most In Need. -*** The federal program provides its subsidies based on the number of students eligible for the National Free Lunch Program. However, the state program provides a flat discount without regard to the financial needs.
- ***Program Accountability Inadequate.*** – The LAO have found that the commission's current oversight of the program is inadequate.

Therefore, the LAO recommends:

1. Reducing the appropriations to the Teleconnect Program in the budget year to $10 million so that they are consistent with actual historical expenditures. This would result in an additional $60 million that could be loaned or transferred to the General Fund in the budget year.
2. The LAO also recommends the subcommittee loan an additional $60 million to the General Fund along with the $136 million proposed by the Governor's May Revision.
3. The LAO also recommends the subcommittee adopt supplemental report language that requires the commission to develop a plan and budget proposal for the Teleconnect Program that addresses ways to solve the current shortcomings of the program.

Staff Comments: Staff agrees with the LAO proposal, however there is concern that should claims exceed the Teleconnect Fund, the PUC would raise the ratepayer surcharge to augment the fund.

Government Code Section 16320 governs loans made in the budget year. The statute allows the Director of Finance, with Legislative notification, to repay a all or a portion of the loan should there be a deficiency in the fund.

Staff Recommendation: Staff recommends the subcommittee adopt the LAO recommendation to reduce the Teleconnect Fund appropriation to $10 million, loan an additional $60 million for a total of $196 million loan, and adopt supplemental report language to address the identified issues. Staff also recommends the subcommittee adopt trailer bill language that would prohibit the increasing of ratepayer

rates should claims exceed the fund balance because of this loan and direct the PUC to to go through the Government Code 16320 to provide the necessary funds for the program while the loan is in place.

Action:

8665 California Consumer Power and Conservation Financing Authority

The responsibilities and powers of the California Power Authority (CPA) are detailed in Sections 3300 through 3384 of the Public Utilities Code. The code authorizes the CPA to finance the following with revenue bonds:

- The construction of generation facilities (Sections 3350 and 3351),
- Loans for the purchase of equipment, improvements and appliances with energy efficiency or renewable energy characteristics (Sections 3365 through 3367.5).

Issues

Request for Contract Consultant Flexibility

Background: The CPA has requested that the subcommittee adopt trailer bill language that would provide it with the flexibility to hire several contract consultants without being subject to Department of Personnel Administration constraints. The CPA

The requested language is as follows:

> Section 3340 of the Public Utilities Code is amended as follows:
>
> 3340. The authority is authorized and empowered to do any of the following:
> (a) Adopt an official seal;
> (b) Sue and be sued in its own name;
> (c) Employ or contract with officers and employees to administer the authority. The authority may contract for the services of a chief executive officer, who shall serve at the pleasure of the board. If the chief executive officer contracts for the services of other persons as needed to effectuate the purposes of this division, the contract shall be subject to the approval of the board. ***Contracts for the services of the chief executive officer and other professionals, not to exceed three in number, shall not be subject to any otherwise applicable provisions of the Government Code and Public Contract Code.***

Staff Recommendation. The subcommittee may wish to approve the CPA-proposed trailer bill language if it deems the request necessary to the future goal of the CPA becoming financially self-sufficient.

Action:

8770 Electricity Oversight Board

The Electricity Oversight Board (EOB) is part of the regulatory oversight structure that was established by the legislation restructuring California's electricity industry in 1996. The board is charged with ensuring the reliability of the electricity transmission system and in the power market.

Elimination of the Electricity Oversight Board

Background: Originally, the Electricity Oversight Board (EOB) was supposed to serve as an appellate body for decisions of the Independent System Operator (ISO) and Power Exchange (PX) governing boards. The Federal Energy Regulatory Commission (FERC) exception to these provisions and, in 1998, ordered the ISO to change its bylaws to eliminate the EOB's appointment function, as well as the EOB's authority to approve ISO bylaws and hear appeals of ISO governing board decisions. Along with the demise of the PX, the EOB's remaining functions are to investigate wholesale electricity market activities and participate in FERC proceedings as one of the state's representatives.

This bill repeals the provisions of law establishing, and granting powers to, EOB. This bill also repeals the requirement for ISO to adopt inspection, maintenance, repair and replacement standards for transmission facilities and repeals other, obsolete provisions related to the ISO and the PX.

Staff Comments: According to the EOB's web site, EOB staff report directly to the Governor's office. Over the past few years, the board itself has provided little policy guidance, has met sporadically, has taken no significant formal actions, and has been marked by high turnover and vacancies. While the work performed by EOB staff has continuing value, it could likely be conducted in much the same manner under the auspices of the Governor's office without the formal board structure.

SB 920 (Bowen), currently pending in the Senate, proposes elimination of the statutes authorizing and governing the Electricity Oversight Board. This bill simply repeals the statutes establishing the EOB, without providing a successor. Although the original oversight function may be obsolete, there is a certain amount of "equity" associated with the Board of the EOB, such as outstanding legal claims on behalf of the state in EOB's name, which may need to be assigned to another agency to preserve the state's rights if the EOB is abolished.

If the Board of the EOB is eliminated and staff functions transferred to the Governor's Office, it would result in minimal budgetary savings of approximately $500 annually.

Staff Recommendation: Staff recommends the subcommittee adopt trailer bill language that eliminates the 5-member board of the Electricity Oversight Board and associated statutory responsibilities; and transfer staff and oversight to a new office under the Governor's Office.

Action:

0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. OES provides leadership assistance and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private resources in emergencies. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then call for assistance from its neighbors.

Issues

Finance Letter – Disaster Service Workers' Volunteer Program

Finance Letter: It is requested that Item 0690-115-0001 be added in the amount of $663,000 to restore the Disaster Service Workers' Volunteer Program (DSWVP) which was initially proposed for reduction in the January Governor's Budget. The DSWVP provides workers' compensation coverage to registered disaster service worker (DSW) volunteers who are injured while performing disaster-related activities. State and local governments rely on the 20,000 registered DSW volunteers in California who dedicate their time and expertise during and after a disaster or local emergency. This proposal includes related amendments to current trailer bill language that was proposed in the Governor's Budget. It is also requested that Budget Bill language be added to specify the use of the funds as follows:

> 0690-115-0001—For local assistance, Office of Emergency
> Services, for volunteer disaster service worker's compensation…… .....…… 663,000
> Provisions:
> 1. The funds appropriated in this item shall be used to pay approved volunteer disaster service worker's compensation claims and administrative expenditures related to the payment of such claims by the State Compensation Insurance Fund.
> 2. The Office of Emergency Services shall evaluate alternatives for the administration and funding of this program in future fiscal years, including consideration of a cost sharing relationship between the State and local government entities who use volunteers.

It is also requested that Item 0690-001-0029 be increased by $1,000 and that Item 0690-001-0001 be amended to reflect this change, and Item 0690-101-0029 be increased by $2,000 to provide the remainder of the consumer price index (CPI) increase that is statutorily given to this fund. This increase will align the CPI adjustment that was made in the fall with the actual CPI for the 2002 calendar year.

LAO Recommendation: The LAO not have any issues with the restoration of the Disaster Service Workers' Volunteer Program or proposed increases of $1,000 and $2,000 due to the consumer price index. However the LAO does recommend that Provision 2 of the proposed budget bill language be changed to provide additional legislative oversight. The proposed change is as follows (changes in italics):

> 2. *On or before April 1, 2004, the Office of Emergency Services shall provide to the chairs of the budget subcommittees, in each house and the Chair of the Joint Legislative Budget Committee an evaluation of the alternatives* for the administration and funding of this program in future fiscal

years, including consideration of cost sharing relationship between the state and local government entities who use volunteers.

Staff Recommendation. Staff recommends adopting the Finance Letter with the LAO proposed amendments.

Action:

3780 Native American Heritage Commission

The nine-member Native American Heritage Commission (NAHC) preserves and protects California Native American cultures. The commission's powers and duties include: identifying, cataloging, and preserving geographic sites of importance to Native Americans; helping Native Americans obtain access to these sites when necessary; protecting Native American burial and sacred sites; and ensuring that remains are treated appropriately when burial sites are discovered.

Items on the Proposed Consent Calendar

Finance Letter - Budget Augmentation
It is requested that Item 3780-001-0001 be increased by $247,000 and three positions be added to review the timber harvest plans, Negative Declarations, and Environmental Impact reports. The increase resources are necessary to preserve and protect Native American traditional cultural sites and to identify mitigation measures as is necessary.

8690 Seismic Safety Commission

The Seismic Safety Commission was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Issues

Seismic Safety Fee

Background: The Administration proposes shifting the funding source for the Commission from the General Fund to a newly created Seismic Safety Account within the Insurance Fund. The Seismic Safety Account would be funded through a proposed $1 fee on all earthquake policies within the state.

Issue: Staff identified several issues with the Administration's proposal, specifically that the fee would generate approximately $1.3 million, while the Commission's budget would only allocate $884,000 from the account. The Department of Insurance also identified issues with the collection mechanism, among other concerns with the proposal.

Staff Comments: Staff has worked with the Commission and the Department of Insurance in development of the following proposed trailer bill budget language:

- An assessment would be assessed on insurers, not the insured, as a prorated percentage of premiums earned on earthquake insurance policies for both commercial and residential exposures relative to the aggregate premiums earned on said policies by all insurers.
- The insurers can recover this assessment cost from the insured.
- The amount assessed would be the appropriated allocation for the Commission from the Seismic Safety Account by the Legislature.

Staff Recommendation: Staff recommends the subcommittee approve the proposed trailer bill language.

Action:

8570 Department of Food and Agriculture

The department mission is to promote and regulate the state's agricultural industry. In specific, the department promotes and regulates the department through (1) eradication and control of harmful plant and animal pests and diseases, (2) marketing, exporting, and other related assistance for various agricultural commodities, (3) assurance of true weights and measures in commerce, and (4) financial and administrative assistance to the state's 80 district, county, and citrus fairs.

Items on the Proposed Consent Calendar

Finance Letter - Analytical Chemistry Laboratory
During the November Revision, the Department of Pesticide Regulation (DPR) identified General Fund reductions for the CDFA programs that provide chemistry assistance to the DPR related to pesticide residuals in food products. The CDFA's budget was reduced accordingly. The DPR now proposes to offset the General Fund reductions with an increase in the mill assessment for the budget year. Therefore, it is requested that Item 8570-001-0001 be amended by increasing Reimbursements by $1,489,000 to provide CDFA with the necessary authority to continue the analytical chemistry services for the DPR.

Finance Letter - Exotic Newcastle Disease
It is requested that Item 8570-001-0890 be increased by $34,610,806 to provide the California Department of Food and Agriculture with the necessary authority to accept and expend federal funds

upon approval of the United States Department of Agriculture to detect, contain, and eradicate the Exotic Newcastle Disease. This is a highly contagious disease that affects poultry food production and infects most bird species. This disease has the ability to spread rapidly and has a high fatality rate. It is also requested that Item 8570-001-0001 be amended to reflect this change.

Finance Letter - Animal Adoption Mandate
It is requested that Item 8570-295-0001 be added to suspend the Animal Adoption mandate enacted under Chapter 752, Statutes of 1998. Local government animal control agencies care for stray and surrendered animal in California communities. Prior law had dictated that all animals impounded could be euthanized after three days. In 1998, SB 1785 (Hayden) extended the time minimum time for which an animal shelter or a public pound could be euthanized from three business days to four to six business days. This proposal requires budget bill language.

Issues

Medfly Preventive Release Program

Background: The budget proposes $8.9 million from the General Fund and 138 positions to provide for Mediterranean Fruit Fly (Medfly) preventative control efforts on an ongoing basis.

Issue: It has been the intention of the subcommittee over the last two years to partially or wholly shift the state portion of this program from the General Fund to the Agriculture Fund. This year CDFA reported to the Legislature on several possible options on how the Medfly Preventive Release Program (PRP) could be shifted in whole, or in part from the General Fund to the Agriculture Fund.

Staff Comments: Staff has worked with CDFA on evaluating the various proposals identified in the report. Staff believes "Option 6, an Assessment on International Travel and Commerce" in the report has the strongest potential for providing a mechanism to shift this program to fee support. However, significant programmatic and legal details still need to be evaluated prior to adoption of this proposal.

Staff Recommendation: Staff recommends the subcommittee approve $8.9 million (General Fund) for the Medfly PRP , for one year only. Staff also recommends directing CDFA to submit a report containing a detailed proposal to for an assessment on incoming travel and commerce.

> Proposed Supplemental Report Language
>
> The department shall, by December 31, 2003, submit to the Legislature, including the budget and fiscal committees of both houses, a report detailing a fee or assessment proposal on inspections of incoming agricultural products into the state to fund pest exclusion and eradication efforts.

Action:

Reductions to Weed & Vertebrate/Biological Controls Programs

Background: The Weed and Vertebrate Program and the Biological Control Program are CDFA's primary ongoing programs to respond, mitigate, and eradicate invasive exotic weeds and pests in California.

Issue: The subcommittee directed staff to analyze a proposed $1.5 million reduction ($915,230 from the Weed and Vertebrate Program and $584,770 from the Biological Control Program) to the aforementioned programs. The proposed reductions would require a reductions in control and eradication efforts. Specifically, the programs will have to:

- Suspend eradication activities on 11 of 50 previously targeted species of noxious weeds;
- Reduction of 15.5 PYs, a reduction of approximately half the staff positions in these programs;
- Eliminated $75,000 in support funds to county agricultural commissioners for priority noxious weed control and eradication activities in California's most highly invaded counties; and
- Discontinuing development of 8 biological control projects for weed eradication.

Staff Comments: Despite these reductions at the state level, significant noxious weed eradication efforts will continue at the local level through the efforts of the County Agricultural Commissioners and Weed Management Areas.

Staff Recommendation: Staff believes the above reductions are reasonable given the status of the General Fund and the continuing weed eradication efforts at the local level. Staff recommends approval as budgeted.

Action:

3930 Department of Pesticide Regulation

The department was created in 1991 as part of the California Environmental Protection Agency to protect the public health and the environment from unsafe exposures to pesticides. This function previously was carried out by the Department of Food and Agriculture. The department (1) evaluates the public health and environmental effects of pesticides, (2) regulates, monitors, and controls the use of pesticides in the state, (3) tests produce for pesticide residue levels, and (4) develops and promotes pest management practices that can reduce the problems associated with the use of pesticides. The department primarily is funded from taxes on the sale of pesticides in the state, various registration and licensing fees on persons who use or sell pesticides, and the General Fund.

Mill Assessment

Budget Proposal: The Governor's budget proposed an increase in the mill assessment and various*s pesticide licensing fees to fully fund shift the Department of Pesticide Regulation's (DPR) General Funds to the DPR Fund. The Governor's proposal would allow the Director of the DPR to set the mill assessment at a rate to fully fund the department within a cap of 27 mills. Under the Governor's proposal, including Finance Letters, DPR's budget would be funded at the mill assessment rate of 27 in the budget year.

Staff Recommendation: In consultation with the LAO, the department, and other interested parties, staff has developed the following mill assessment proposal.

PROPOSED ALLOCATION OF MILL ASSESSMENT

Governor's Budget	**Mill**	**Amount**
Adopt Govenor's Budget and Finance Letters for DPR	27	$53,925,000

Staff Proposed Changes	**Additional Mills**	**Amount**
Allocation for Farmworker Outreach, Education & Training	2	$3,600,000
Additional revenue from increasing Pesticide Registration Fees	-3 ½	($6,600,000)
Partially Fund CAC's pesticide-regulatory activities	4 ½	$8,000,000
Differential Mill Assessment level for Restricted Use Pesticides	-3	($5,994,000)
TOTAL	0	($994,000)*

* Proposal would result in a small reserve for the DPR Fund

The proposal does the following:

- Keep the mill assessment cap of 27 mills; and
- Establish a differential mill assessment of 45 mills for restricted use pesticides; and
- Increase pesticide registration fees to fully fund the registration program ($6.6 million); and
- Allocate 2 mills ($3.6 million) to farm worker outreach, training, and education on pesticide worker safety issues; and
- Allocate an additional $8 million for the County Agricultural Commissioners (CAC's) for pesticide-related activities at the local level. This is accomplished by increasing the CAC's allocation of the standard mill from 6 to 7 ½ mills and allocating all additional revenue generated from the higher restricted use pesticides mill assessment to the CAC's.

FURTHER DETAILS OF MILL ASSESSMENT PROPOSAL:

PROPOSAL (in thousands)	**AMOUNT**	**MILL**
DPR BUDGET: The Governor's budget proposed an increase in the mill assessment and various pesticide licensing fees to fully fund shift the Department of Pesticide Regulation.	**$48,794**	**25**
FINANCE LETTERS: In April, the Governor proposed through a Finance Letter to a restoration of various program reductions at the DPR and the Office of Environmental Health Hazard Assessment from the DPR Fund. Personal Services Deficiency $943,000 Restricted Materials Use Permits – CACs $576,000 Resotration of various DPR programs $1,166,000 Fund Shift to OEHHA for funding pesticide related activities $800,000	**$4,131**	**2**
FARMWORKER TRAINING: Sen. Romero's SB 533, currently in the Senate, proposed several changes to the mill assessment. One proposal, would allocate 2 mills to farmworker outreach, education, and training efforts regarding pesticide usage, exposure, and illness. Staff recommends allocating 2 mills to farmworker outreach.	**$3,600**	**2**

COUNTY AGRICULTURAL COMMISSIONER PROPOSAL: The County Agriculture Commissioners (CACs) currently serve as the local enforcement agents for federal and state pesticide laws and regulations. The CACs provide over 300 inspector staff years annually to enforce California's environmental laws relating to pesticides. Currently, 6 mills of proposed 25 mills would be allocated to the CAC's for local pesticide regulatory activities. The level of funding provided by the mill assessment is insufficient to cover pesticide regulatory activities at the CAC level. County's currently provide $16.1 million of county general funds toward pesticide regulatory activities in addition to the mill assessment allocation they currently receive. Staff recommends approval.	**$8,000**	**4 ½**
INCREASE PESTICIDE REGISTRATION FEES : The LAO identified in Governor's budget that while the mill assessment and licensing fees are proposed to be increased to cover their related program costs, the pesticide registration fee was not increased to cover the pesticide registration program. The LAO recommended that registration fees be increased from $200 to $750 per registration to cover the costs of the program. This proposal would generate an additional $6.6 million in revenue to the DPR Fund. Staff recommends approval	**$6,600**	**3 ½**
ADDITIONAL MILL ASSESSMENT FOR RESTRICTED USE PESTICIDES: Restricted Use Pesticides (RUPs) are those pesticides deemed such a threat to the environment and public health, that additional permitting and oversight of its use is required. Currently, a large portion of the CAC's pesticide-related activities are the result of additional permitting and oversight requirements of RUPs. Therefore, staff recommends an additional 18 RUPs mill assessment be assessed on top of the regular mill assessment of 27 mill, for a total of 45 mills. Staff also recommends that since the most additional workload from RUPs occur at the local level, that all additional revenue generated from this higher mill be allocated to the CACs.	**$5,994**	**3**

Staff Recommendation: Staff recommends the subcommittee adopt the mill assessment proposal.

Action:

3900 Air Resources Board

This Board is responsible for achieving and maintaining satisfactory air quality in California. This responsibility requires the Board to establish ambient air quality standards for certain pollutants, regulate vehicle emissions, identify and control toxic air pollutants, administer air pollution research studies, develop and oversee implementation plans for the attainment and maintenance of both state and federal air quality standards and oversee the regulation of sources of pollution by air pollution control districts.

Issues

Funding the Stationary Source Program

Background: The Administration proposes a stationary source fee increase of $10.0 million to backfill an equal reduction in General Fund support for this program under the polluter pays principle.

The stationary source program works with the local air pollution control districts to reduce emissions from stationary sources to comply with state and federal laws. During the mid-year budget revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a stationary source fee increase to be appropriated by the Legislature through the budget process.

LAO Recommendation: The LAO believes the Governor's proposal does not go far enough and has identified an additional $4.4 million of the remaining $10.4 million of General Fund in the program that could be funded from the fee. The remaining $6 million funds the research division of the stationary source program which the LAO believes should remain in the General Fund.

Staff Recommendation: Staff recommends the subcommittee approve the LAO proposal to shift an additional fee $4.4 million above the additional $10 million fee shift to fund the stationary source program. Staff also recommends that the subcommittee adopt supplemental report language to have the ARB report to the Legislature by October 1, 2003 on the final fee structure adopted for the stationary source program.

Action:

Power Plant Emission Control Systems

Background: The 2001-02 Budget Act authorized the State Air Resources Board to establish a program for the granting of emission reduction credits to sources of air pollution that are powerplants in order to ensure that those plants could operate during the state energy crisis without increasing air pollution. In addition, Chapter 12 Statutes of 2001 directed the state Air Resources Board by July 1st of last year, in consultation with air districts and other agencies to establish a schedule for the retrofit of existing fossil fueled electricity powerplants to reduce air emissions from those facilities. The law also directed the California Energy Commission and the state board to ensure that new powerplants complied with state of the art emissions controls.

Since the legislation were enacted, several new emission reduction technologies have been developed that purport to reduce emissions without some of the ancillary and detrimental environmental effects (e.g. the use of ammonia and other toxic materials that must be stored on site or trucked onto plants). It is unclear if these technologies meet the ARB's requirements for Best Area Control Technology (BACT) while reducing other adverse environmental effects.

Staff Recommendation: Staff recommends that the subcommittee adopt the following supplemental reporting language requesting the board to evaluate these technologies and report to the Legislature on their effectiveness and environmental benefits.

> **Proposed Supplemental Report Language**
> ***Power Plant Emission Control Systems:*** On or before March 1, 2004, the state Air Resources Board shall report to the Legislature and the Governor on the benefits, detriments, and advisability of using technologies that reduce or eliminate NOx emissions from gas-fired power plants and that do not use or produce toxic or hazardous materials or create other significant adverse environmental impacts.

This report shall be prepared in consultation with the appropriate policy and fiscal committees of the Legislature, air districts, and the public.

Action:

3910 Integrated Waste Management Board

The mission of the Board is to promote source reduction, recycling, composting, and environmentally safe transformation (in that priority order) as alternatives to the disposal of solid waste at landfills. The Board also protects the public health and safety through the regulation of existing and new solid waste land disposal sites.

Items on the Proposed Consent Calendar

Finance Letter - Federal Grant Expenditure Authority
It is requested that Item 3910-001-0890 be increased by $50,000 to provide federal expenditure authority for two new federal grants. These one-time grants would provide a total of $50,000 per year over a two-year period to: (1) develop model containing business and marketing data for recycling and composting businesses, and (2) develop training materials to educate State agency travel coordinators regarding the State's Environmentally Preferable Purchasing efforts. It is also requested that Item 3910-001-0387 be amended to reflect this action.

Issues

Funding of Research for or Promotion of Tire Incineration

Background. The subcommittee has received several letters from environmental groups expressing concerns about the Board's five-year plan for the management of used tires which is intended to ensure that they do not pile up in landfills and become a hazard. These letters state opposition to the board's proposal to allow for the expenditure of tire funds collected from the public to fund the tire recycling program to research and promote the burning of tires in cement kilns.

Staff Recommendation. The subcommittee may wish to adopt budget bill or trailer bill language prohibiting the board from subsidizing tire incineration with public funds.

Action:

Restructuring of the Integrated Waste Management Board

Background. The Integrated Waste Management Act was enacted in 1989 under AB 939 (Chapter 1046, Statutes of 1989). At the time, the state was in the midst of a solid waste "crisis" of sorts in which regional disposal capacity was limited, reduction and recycling programs existed in only a few jurisdictions, and the then-Solid Waste Management Board was a part-time nine-member board that did not appropriately reflect the diversity of interests involved in integrated waste management.

AB 939 established comprehensive requirements for development and implementation of locally adopted and state-approved integrated waste management plans, created a full-time integrated waste management board with public, industry, and environmental representatives, and gave the board explicit policy direction to promote the integrated waste management hierarchy of source reduction, recycling, composting, environmentally safe transformation and landfilling. Perhaps most significantly, the act required local governments to divert 50% of solid waste from disposal by the year 2000.
In the 13 years since the act became law, the integrated waste management program has matured; today, most local governments have adopted and implemented programs to reduce, recycle, and compost solid waste. The board has reviewed and approved hundreds of local integrated waste management plans and implemented other related statutory provisions of the Act.

Staff Comments: The question has arisen over whether the structure and makeup of the board, as well as many key provisions of the act, should be updated and revisited based on maturation of the program. Moreover, and in a time of severe budget constraints, the question of efficiency of expenditures (regardless of whether they are from the General Fund or the Integrated Waste Management Account) should be explored.

Table 1 displays the current structure and salaries of the various boards and their staff under the Secretary for Environmental Protection. A structure similar to the Air Resources Board may be more appropriate in light of the maturity of the integrated waste management program.

TABLE 1 – Cal EPA Board and Staff Structures

INTEGRATED WASTE MANAGEMENT BOARD		
Board		
1 Chair	Full-time	$117,818 Annually
5 Members	Full-time	$117,818 Annually
Staff		
6 Advisors	Full-time	$7,105-7,684 Monthly
6 Committee Analysts	Full-time	$3,271-5,748 Monthly
6 Executive Assistants	Full-time	$2,926-3,556 Monthly
1 Administrative Asst	Full-time	$3,255-4,140 Monthly
1 Office Technician	Full-time	$2,390-2,905 Monthly
AIR RESOURCES BOARD		
Board		
1 Chair	Full-time	$117,816 Annually
5 Members	Part-time	$ 36,252 Annually
Staff		
1 Advisor (Chair)	Full-time	$8,201-8,870 Monthly
2 Administrative Asst II	Full-time	$3,915-4,759 Monthly
1 Administrative Asst I	Full-time	$3,255-4,140 Monthly
1 Executive Secretary	Full-time	$2,688-3,268 Monthly
WATER BOARD		
Board		
1 Chair	Full-time	$117,818 Annually
4 Members	Full-time	$114,191 Annually
Staff		
5 Executive Assistants	Full-time	$2,926-3,556 Monthly
1 Assoc Govtl Prog Analyst	Full-time	$3,915-4,759 Monthly

Staff Recommendation: Staff recommends the subcommittee adopt trailer bill language which restructures the waste board, reduces costs associated with board members and staff, consolidates programs as needed, and provides budgetary savings.

Action:

3940 State Water Resources Control Board

The Board regulates water quality in the state and administers water rights. The Board carries out its water quality control responsibilities by (1) establishing wastewater discharge policies; (2) implementing programs to ensure that the waters of the state are not contaminated by surface impoundments, underground tanks, or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment facilities. Nine regional water quality control boards establish water discharge requirements and carry out water pollution control programs in accordance with state Board policies. The Board's water rights responsibilities involve issuing and reviewing permits and licenses to applicants who wish to appropriate water from the state's streams, rivers, and lakes.

Water Rights Fees

Budget Proposal: The budget proposes $8.7 million for the water rights program, a 20 percent reduction in the funding from the current year. The reductions are accomplished by a proposed reduction of $3.3 million in General Funds and 15.5 PYs to the water rights program. The Legislature recently approved current-year reductions to the water rights program of $610,000.

Background: The SWRCB's water rights program is responsible for (1) issuing new water rights for water bodies that have not already been fully "allocated" to water rights holders, (2) approving changes to existing water rights, and (3) conducting ongoing enforcement and compliance monitoring of water rights.

Issue: Currently, water rights applicants pay a one-time nominal application fee, which varies depending on the amount of the proposed diversion and/or storage. Applicants proposing large water diversions that are likely to have an impact on the environment pay for the preparation of any environmental documents required to comply with CEQA. The minimum application fee is $100 and was established in the mid-1980s. The current fee generates approximately $30,000 for the water rights program, or about 1 percent of program expenditures.

Workload Backlog: The LAO identified significant backlogs in the review and issuances of water rights by the board. Currently, the board receives about 170 applications a year, and at the current-year funding level processes around 150 applications per year. The board also issues approximately 125 licenses annually on completed projects with over 1,000 permittees waiting. In addition, the board conducts about 120 inspections on current water rights holders, or less than 1 percent of water rights granted.

LAO Recommendation: The LAO recommends that the existing application fee be increased and a new annual compliance fee be created so that fee revenues replace General Fund support budget ($7.2 million) for the water rights program. The LAO further recommends the enactment of legislation to establish a special fund for the deposit of the revenues generated by the water rights fees.

Staff Recommendation: In light of the identified backlog, ***s***taff recommends the subcommittee adopt trailer bill language to increase the water rights application fee and establish an annual compliance fee to shift $7.2 million in General Fund and restore $3.3 million in proposed reductions to fees.

Action:

General Fund Reductions and Waste Discharge Permit Fees

Budget Proposal: The Governor's budget proposes a fund shift of $13.6 million from the General Fund to the Waste Discharge Permit Fund to fund the Core Regulatory Program. The shift would be accomplished by a proposed increase in the waste discharge permit fee and the storm water permit fee. This proposal would eliminate all General Fund support for Core Regulatory Program activities.

Issue: Despite these fee increases, the Governor's budget also proposes $11.3 million in General Fund reductions and 13.2 PYs to various water quality activities. The proposed reductions specifically impact water quality monitoring activities with a proposed reduction of $6.8 million, over 60% of the total reduction. Water monitoring activities (particularly for groundwater quality) is a basic function of the Water Board, and is essential to permitting and enforcing water quality standards. The Board has indicated that such reductions will substantially curtail its current water quality monitoring efforts, and thus its ability to effectively carry out its mission and mandates.

Staff Comments: During the recent mid-year revision process, the Legislature adopted and the Governor signed AB 10X (Oropeza) authorizing a waste discharge permit fee increase to be appropriated by the Legislature through the budget process. The bill states that waste discharge permit fees should be appropriated to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

Staff Recommendation: Given the severe impact of these reductions to water quality monitoring activities in the state, staff recommends the subcommittee backfill the $6.8 million reduction to water monitoring and assessment programs from the waste discharge permit fund by a further increase in the waste discharge permit fee.

Action:

Prop. 50 – Ocean Observing System

Background: Last year the Legislature allocated $7 million to begin the development of an ocean current mapping project to provide data on the movement of contaminants through coastal waters. This data is needed to prioritize investments in coastal pollution control infrastructure and to identify and track sources of major threats to human health and sensitive marine resources.

Issue: Environmental groups have notified the subcommittee that the program is in need of an additional $14 million for monitoring equipment statewide. The Coastal Conservancy has funds available for half of the costs, however funds have yet to be identified for the remaining portion.

Staff Recommendation: Staff recommends the subcommittee allocate $7 million to SWRCB from Prop 50 (Section 79543 – Clean Beaches) for this program to match funds from the Coastal Conservancy for equipment needs related to the expansion of the Ocean Observing System.

Prop. 50 - Assisting Agriculture in Complying with Water Quality Requirements

Background. Proposition 50 makes funds available for water quality improvement. One area where funds are needed is to assist agriculture in complying with new water quality permitting and waste reduction requirements.

Staff Recommendation. Staff recommends that the subcommittee adopt the following budget bill language to assist agriculture in water quality compliance:

> 3940-101-6031--For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 . . . 122,488,000
>
> Provisions:
>
> 1. Notwithstanding any other provision of law, the amounts appropriated in this item shall be available for expenditure during the 2003-04 fiscal year to provide grants for projects to reduce or eliminate the discharge of agricultural pollutants pursuant to Public Resources Code Section 30935(d) and 30940.
>
> 2. Funds shall be available for grants to reduce agricultural discharges to surface or groundwater. Grants shall be given to projects with the greatest potential to reduce pollutants and protect water quality and that use qualified impartial experts to document and verify results through water quality monitoring or other means.

3960 Department of Toxic Substances Control

The department's mission is to protect the public health and the environment from unsafe exposure to toxic substances. In so doing it (1) regulates hazardous waste management, (2) cleans up sites that have been contaminated by toxic substances, and (3) promotes methods to treat and safely dispose of hazardous wastes and reduce the amounts of hazardous wastes that are generated in the state. The department is primarily funded from fees and taxes assessed on persons that generate, store, treat, or dispose of hazardous wastes.

Items on the Proposed Consent Calendar

Restoration of Funding for Eliminated Positions
It is requested that Item 3960-001-0014 be increased by $163,000. Section 31.60 directed the Director of Finance to eliminate 6,000 vacant positions and the associated funding. Section 31.70 authorized the Director of Finance to restore a portion of the funding eliminated pursuant to Section 31.60 to ensure that

departments have an adequate level of funding. The Director of Finance approved a restoration of $163,000 from the Hazardous Waste Control Account pursuant to Section 31.70 in the current year for the Department of Toxic Substances Control. The restoration will allow the Department to continue enforcement actions against hazardous waste control law violators, which will result in additional fines and penalties. It is proposed that this restoration be ongoing.

3980 Office of Environmental Health Hazard Assessment

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

Issues

Finance Letter – Restoration of Funding for the Office of Environmental Health Hazard Assessment

Background: The Jan. 10 budget proposed a $3.6 million reduction in General Fund expenditures. The proposal calls for a reduction of 34 filled positions, 244,000 in contract funds, including the elimination of the Pesticide Worker Health and Safety Program and reducing various air quality standard reviews.

Finance Letter Request: The office has submitted a Finance Letter requesting to restore $3.523 million and 33 position that were proposed to be eliminated above. The proposal asks to restore funding and the associated activities through direct appropriations of special funds, increased General Fund and reimbursement authority, and the redirection of baseline General Fund dollars. The proposed funding in the Finance Letter is on a one-time basis for FY 2003-04.

The Finance Letter request restores all proposed reductions except the reductions to the Emerging Challenges Program ($95,000), the Environmental Protection Indicators of California program ($83,000), and the Scientific Peer Review of Pesticide Risk Assessments program ($309,000). The Finance Letter also requests funding for several new OEHHA activities including assisting the CIWMB with conversion technologies and assisting the SWRCB with the development of water quality standards for selected toxic pollutant discharges.

LAO Recommendation: The LAO states that the $1 million proposed to be fund shifted from the ARB to OEHHA is being transferred from the $6 million (research funding) in remaining General Fund from the stationary source program. The LAO recommends that the $1 million be generated by an additional increase in the stationary source fees.

The LAO also recommends the adoption of supplemental report language for OEHHA to report on the long-term budgetary needs for OEHHA to meet its statutory requirements.

Staff Recommendation: Staff recommends approval of the Finance Letter. In light of the one-time nature of the Finance Letter, staff also recommends the subcommittee adopt supplemental report language asking OEHHA to report on long-term baseline requirements of the office to fund OEHHA at a level that allows the office to adequately meet its statutory requirements.

> Proposed Supplemental Report Language
>
> The department shall, by December 31, 2003, submit to the Legislature, including the budget and fiscal committees of both houses, a report on the long-term baseline requirements of the office to fund OEHHA at a level that allows the office to adequately meet its statutory requirements.

Action:

Shift of Scientific Peer Review of Pesticide Risk Assessments

Budget Proposal: The budget proposes a General Fund reduction of $309,000 in OEHHA by shifting scientific peer review of pesticide risk assessments from OEHHA to the Secretary of Cal EPA. This reduction is part of the larger $1.4 million pesticide-related activities reduction shown above and was not restored by the above Finance Letter.

Background: Current law requires OEHHA to perform scientific peer review of pesticide studies, registration reviews, and risk assessments conducted by DPR. Another statute requires the Secretary for Cal EPA to coordinate peer review of policies, regulations, and guidelines proposed by Cal EPA departments, using a scientific peer review panel of independent scientists. The budget proposes to shift responsibility for the pesticide-related peer review from OEHHA to the Secretary's external scientific peer review panel.

LAO Recommendation: The LAO believes the shift will not weaken OEHHA's position as the state's environmental risk assessor, but also weaken the review process by shifting the review to an advisory panel that is not configured or funded to handle individual risk assessments or has the specialized technical background for pesticide review. The LAO recommends the subcommittee deny the Governor's proposal to shift responsibility for conducting scientific peer reviews of pesticide-related risk assessments from OEHHA to a the Secretary of Cal EPA. As stated before, the LAO recommends funding this pesticide-related activity through the Department of Pesticide Regulation Fund.

Staff Recommendation: Staff shares the concern of the LAO recommendation with the shift of scientific peer review of pesticide risk assessments. Staff recommends rejecting the proposed shift, however staff recommends restoring General Fund support for the program of $309,000.

Action:

Natural Resources Proposed Consent Items

Staff Recommendation: Staff recommends the subcommittee approve the following items as proposed.

1. **Department of Forestry and Fire Protection:** It is requested that Item 3540-001-0001 be increased by $795,000. This action would restore funding for the Porterville and Ukiah air attack bases that was proposed for elimination in the Governor's Budget. Subsequently, the federal government has announced that it will be pulling four air tankers out of California, including the one based in Porterville. With this action and the continued stress on the state's forests, restoration of this funding will help protect the public and the state's natural resources.
2. **Wildlife Conservation Board: Transfer to the Habitat Conservation Fund—Proposition 50:** It is requested that Item 3640-311-6031 be added in the amount of $21.0 million to transfer Proposition 50 bond funds to the Habitat Conservation Fund. Proposition 117, which created the Habitat Conservation Fund, requires $30.0 million be transferred annually from various sources to the Habitat Conservation Fund. If these funding sources cannot fully fund this transfer, the General Fund must provide the balance of funds. The proposed transfers would meet Proposition 117 transfer requirements without the use of General Fund and would consist of the following: $7.823 million Proposition 99 Unallocated Account within the Cigarette and Tobacco Products Surtax Fund (Proposition 99 Unallocated Account); $1.177 million Proposition 50 bond funds allocated to the Wildlife Conservation Board (WCB) (see State Coastal Conservancy May Revision Finance Letter, Item 3760-311-6031); $21.0 million Proposition 50 bond funds allocated to the Coastal Conservancy.
3. **Wildlife Conservation Board: Suspension of the Natural Heritage Preservation Tax Credit.** It is requested that trailer bill language be proposed to amend Section 37022 of the Public Resources Code to suspend the issuance of tax credits by the WCB for the 2003-04 fiscal year related to the Natural Heritage Preservation Tax Credit Act of 2000. This program allows for the donation of property to the State, local agencies, or nonprofit entities in exchange for a tax credit equal to 55 percent of the assessed fair market value of the property. If the approved tax credit exceeds the donor's net tax due for any given year, the donor may carry forward the balance until all of the credit is exhausted. However, no credit may be carried beyond eight years. Based on Franchise Tax Board and Department of Finance estimates, the temporary suspension of this tax credit is estimated to generate $8.7 million in General Fund revenue for 2003-04. The actual revenue effect beyond the budget year cannot be accurately estimated since the suspension may cause a greater loss in donated properties.
4. **Department of Boating and Waterways.** It is requested that Item 3680-001-0890 be increased by $1.5 million and that Item 3680-001-0516 be amended to reflect this change for the Coastal Data Information Program. This request would increase federal funding for five years to identify beach and cliff erosions along the Southern California coast and measure storm-generated waves off Pacific Islands.
5. **State Coastal Conservancy: Transfer to the Habitat Conservation Fund (Proposition 50).** It is requested that Item 3640-311-6031 be added in the amount of $1.177 million to transfer Proposition 50 bond funds to the Habitat Conservation Fund. Budget Bill language is also proposed and is provided on Attachment 1. Proposition 117, which created the Habitat Conservation Fund, requires $30.0 million be transferred annually from various sources to the Habitat Conservation Fund. If these funding sources cannot fully fund this transfer, the General Fund must provide the balance of funds.
6. **State Coastal Conservancy: Reappropriation language.** Approve the following budget bill language for the Hatton Canyon project and extend the liquidation period through fiscal-year 2006-2007. *3760-491—Reappropriation, State Coastal Conservancy. Notwithstanding any other provision of law, the balance of the appropriation provided in the following citation is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriation: Clean Air, and Coastal Protection Bond Fund (1) Item 3760-302-0005 (2) (Z), Budget Act of 2000 (ch. 52, Stats 2002) State Coastal Conservancy: Santa Cruz Depot Project and Tai Property, and (2) Item 3760-302-0005 (2) (BX) State Coastal*

Conservancy: Hatton Canyon—Purchase from CALTRANS, and for both items for other projects consistent with Division 21 of the Public Resources Code in Santa Cruz or Monterey counties

7. **Department of Parks and Recreation Item 3790-301-6029.** The Administration has proposed a May revision proposal to decrease item 3790-301-6029 by a total of $10.7 million. This proposal deals with capital outlay projects that are funded with Proposition 40 bond funds.
8. **Department of Parks and Recreation: Stanford Mansion State Park.** The Administration proposes to increase reimbursements by $1.0 million (General Fund) for the Stanford Mansion State Park.
9. **Department of Water Resources: Shift unliquidated CALFED projects to Proposition 50.** The Administration proposes to shift $5.5 million of unliquidated General Fund monies to Proposition 50 bond funds. The finance letter also proposes to extend the liquidation period for a General Fund appropriation that was made in the 2000 budget act.
10. **Department of Water Resources: Revert Flood Control Subvention Funds.** The Administration proposes to revert $1.97 million of unliquidated flood control subvention funds to the General Fund.
11. **Department of Water Resources: Shift Federal Royalty Payments to the General Fund**. The Administration proposes to shift $652,000 (thousand) from the Renewable Resources Investment Fund to the General Fund.
12. **Department of Water Resources: Proposition 50.** The Administration proposes to increase reimbursements by $175,000 (thousand) with the Department of Health Services for the Drinking Water Quality Program.
13. **CALFED Bay-Delta Authority: Watershed Program.** The Administration proposes to shift $20.3 million (Proposition 50) from the Bay-Delta Authority to the Water Resources Control Board. The Water Board will now serve as the lead agency for the CALFED Watershed Program. (This item also conforms to the Water Board's May revise proposal to increase it budget by $20.3 million)
14. **Secretary for Resources and Department of Parks and Recreation: Proposition 50 Accounting Services.** This proposal would shift statewide accounting services from the Secretary's office to the Department of Parks and Recreation. These two finance letters should be modified to reflect this action.

0540 Secretary for Resources

Staff Recommendation: Staff recommends the subcommittee delete all funding for the Secretary's office, including the Proposition 50 proposal for River Parkways.

Action:

3340 California Conservation Corps

Proposal to Deny the Corps' Reductions

Staff Recommendation: Staff recommends the subcommittee restore $5.05 million (General Fund) for the following purposes:

- Health benefits for corps members: $2.3 million
- Operate two fire centers (Butte and La Cima): $1.9 million
- Local corps contracts: $846,000

Action:

Capital Outlay-Tahoe Base Center

Staff Recommendation: Staff recommends the following budget bill language:
Provisions:

(8) Funds appropriated in Schedule (2) of this Item shall only be available for expenditure if a related Department of Developmental Services capital outlay project in Schedule (2) of Item 4300-301-0660 is approved by the Legislature.

(9) Site acquisition funds appropriated in Schedule (1) shall be used to acquire a site for the Tahoe Base Center in the Meyers/South Lake Tahoe area.

(10) The Department of Finance shall provide written notification to the Joint Legislative Budget Committee, within ten days of receipt, of any requests for an augmentation of project costs, change in project scope, and any related change in project schedule, for projects identified in Schedules (1) and (2).

Action:

3480 Department of Conservation

Fee increases

Issue: At a previous subcommittee hearing, SB 649 (Kuehl) was proposed as a trailer bill.
Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to increase to existing fees for mining operations to $4,000 annually, and cap the fees collected for this program at $3.5 million.
Action:

Finance Letter-Loans from the BCRF and Processing Fee Account

Issue: The Administration proposes the following loans to General Fund:
1. $70 million from the Beverage Container Recycling Fund
2. $84 million from Processing Fee Accounts.

Staff Recommendation: Staff recommends the subcommittee approve the finance letter and the following budget bill language for both loans:

Upon written approval of the Director of Finance, funds may be transferred from the Beverage Container Recycling Fund to the General Fund. The transfer made by this item is a loan to the General Fund and shall be fully repaid by June 30, 2009. This loan shall be repaid with interest at the rate earned by the Pooled Money Investment Account at the time of the transfer. The Controller shall, within 15 working days of receipt of written notification from the Director of Finance, transfer from the General Fund to the Beverage Container Recycling Fund the full amount of the loan or increments thereof as requested by the Director of Finance. It is the intent of the Legislature that the repayment is made so as to ensure that the pro-grams supported by this fund are not adversely affected by the loan.

Upon written approval of the Director of Finance, funds from this loan shall be transferred back to the Beverage Container Recycling Fund in an amount necessary to provide operating funds for support of the Beverage Container Recycling Pro-gram. Once the monthly cash-flow needs of the California Beverage Container Recycling Pro-gram are met, any excess General Fund moneys transferred to the California Beverage Container Recycling Fund during the 2003–04 fiscal year shall revert to the General Fund by June 30, 2004
Action:

Strong-Motion Instrument and Seismic Hazards Mapping Fund

Background: The Strong Motion Instrumentation Fund and the Seismic Hazards Mapping Fund each receive monies from building fees. Under existing law, 70% of the building fees are deposited in the Strong Motion fund and 30% are deposited in the Seismic Hazards Mapping fund.

Issue: As originally conceived, the Seismic Hazards fund was supposed to receive money from the Residential Earthquake Recovery fund and with that money, both strong motion instrumentation and seismic hazards mapping would have been equally funded. The Residential Earthquake Recovery Fund has dissolved.

Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to merge the Seismic Hazards Mapping fund and the Strong Motion Instrumentation fund to allow the Administration and the Legislature to equitably fund these two seismic hazard identification programs. The Assembly budget subcommittee has already approved this proposal.
Action:

3540 Department of Forestry and Fire Protection

Fire Protection Fees

Issue: The budget proposes approximately $341 million from the General Fund for support of the fire protection program. The LAO recommends the Legislature approve legislation to fund one-half of the proposed General Fund budget for fire protection on state responsibility areas by imposing fees on property owners who benefit from these services. This would result in a savings of about $170 million to the General Fund. The LAO also recommends the enactment of legislation to establish a new special fund for the deposit of the fees.

Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to establish new fees to pay for a portion of the fire protection program. The trailer bill language should also include authorization for the department to secure loans from other funds sources if the fee revenues do materialize in the budget-year. For purposes of sending this issue to conference committee the subcommittee should also approve a $50 million General Fund reduction to the fire protection program.
Action:

Funding Timber Harvest Plan Review and other Departmental Programs

Issue: The budget proposes $23.5 million for timber harvest plan review and enforcement (among various departments). Of this amount, $13.8 million is allocated to the CDF. Over the past few years the subcommittee has made numerous attempts to improve the overall review and enforcement of timber harvest plans. Due to limited resources, the state currently reviews approximately 12 percent of all timber harvest plans.

Staff Recommendation: Staff recommends the subcommittee approve trailer bill language to establish a 4 percent timber yield fee. For purposes of sending this issue to conference committee, staff recommends the subcommittee approve a $10 million General Fund reduction to the department's THP enforcement and review.
Action:

Timber Products Fee

Background: Senate Bill 557 (Kuehl) is structured (1) as an alternative to imposing a timber harvest review fee directly on applicants; (2) to replace the $21 million current General Fund outlay for all departmental reviews of timber harvest plans; (3) to provide funding to increase and improve the reviews of timber harvest plans by all relevant departments; and (4) to provide a revenue stream for the life of the legislation for a variety of restoration and forestry-related projects that would otherwise not be funded.
The revenue source that the bill would generate is imposed by a user fee collected at retail. The fee would be a penny per board foot for dimensional lumber, and a penny a square foot for materials customarily sold as sheeting, such as plywoods. The Department of Forestry estimates that Californians purchase 10-11 billion board feet of lumber each year. Thus, the penny/board foot has the potential to generate $100 million annually.

Staff Recommendation: SB 557 is currently moving through the Legislative process. The subcommittee may wish to consider approving SB 557 as a trailer bill.
Action:

Computer Aided Dispatch System

Background: In the 2001-02 Budget-Act, the Legislature approved $10.4 million (General Fund) to the department for the development and implementation of the CAD system. The department originally estimated this project would be implemented over a 5-year period. The budget proposes $2.6 million from the State Emergency Telephone Number (911) Account to continue the implementation of the CAD system.

Staff Recommendation: Subcommittee 4 has already approved the Administration's proposal to raise the 911 surcharge account to pay for this item. Staff recommends the subcommittee approve the CAD system as proposed.
Action:

Additional Budget Bill Language

Staff Recommendation: Staff recommends the subcommittee approve the following budget bill language:
Item 3540-001-0928
"Notwithstanding any other provision of law, no moneys in this item may be expended for the purpose of preparing or implementing a timber harvesting plan for the Jackson State Demonstration Forest that authorizes clearcutting or other harvest methods that result in the removal in one operation of more than 70% of the average conifer basal area per acre of the dominant or co-dominant trees, as defined in 14 CCR 895.1, within the harvest area."
Action:

3600 Department of Fish and Game

Reduction for Timber Harvest Plan Review

Staff Recommendation: Staff recommends the subcommittee deny the Administration's proposal to reduce $425,000 (thousand) for timber harvest plan review.
Action:

Fee Increases Proposed for the Department

Staff Recommendation: The budget proposes various fee increases to support the department's budget. Staff recommends the subcommittee approve the Administration's proposed fees and the following changes. Subcommittee staff these additional fees, separate from those proposed by the Administration, will generate an additional $186,000.

Proposed Additions for DFG License & Permit Fee Budget Trailer Bill

	Current Fee	***Proposed*** *Fee*
Fish Importer License	$400	$549
Fish Processor License	400	549
Fish Receiver License	400	549
Marine Aquaria Receivers License	1,000	1,373
Fish Business License	1,000	1,373
Fish Wholesaler License	270	371
Fishermen's Retailer	50	69
Aquaculture Registration		
Initial	400	549
Renewal	200	275
Surcharge**	300	412

Action:

Additional Budget Bill Language

Staff Recommendation: Staff recommends the subcommittee approve the following budget-bill language:

Item 3600-001-200

Except for permits issued to a university, college, governmental research agency or other bona fide scientific institution pursuant to Section 671.1 of Title 14 of the California Code of Regulations, the department shall not authorize the importation of any live transgenic aquatic animal, as defined by Section 1.92 of Title 14 of the California Code of Regulations, nor permit the registration of, or conduct of aquaculture operations to culture such aquatic animals, unless and until all of the following conditions have been met:

(a) The United States Food and Drug Administration explicitly authorizes the use of transgenic aquatic animals for human consumption and other commercial purposes.

(b) The department completes an environmental impact report (EIR) that fulfills the requirements of the California Environmental Quality Act (Division 13 [commencing with Section 21000] of the Public Resources Code), regarding the effects on the native fish and wildlife resources of the state that could result from legalizing commercial importation, transportation, or rearing of, transgenic aquatic animals.

(c) Following the completion of the EIR, the Fish and Game Commission adopts regulations under Section 15005 of the Fish and Game Code, specifying the terms and conditions under which transgenic aquatic animals may be registered and cultured for commercial purposes. At a minimum, such regulations shall include all those terms and conditions contained in Section 671.1 of Title 14 of the California Code of Regulations.

3600-001-0001

Provisions:

No moneys in this item may be expended for support of a recovery strategy pilot program for coho salmon unless both of the following statutory requirements are met: (a) the petitioners for listing coho salmon under the California Endangered Species Act affirmatively concur pursuant to Section 2106 of the Fish and Game Code; and (b) funds have been explicitly appropriated by the Legislature for support of this pilot program in compliance with Section 2115 of the Fish and Game Code.

Action:

Request to Delete Budget Bill Language

Issue: The subcommittee has received a request on behalf of the United Anglers of Southern California to delete Provision 2, under item 3600-001-0200. This language authorizes the department to utilize fee revenues for other purposes not authorized in existing statute.

Staff Recommendation: Staff recommends the department explain why this language is included in the budget. The subcommittee may also wish to withhold action on this item.

Action:

Wetlands Project Proposal

Staff Recommendation: The subcommittee has received a request to augment the Comprehensive Wetlands Program by $200,000 and allow the department to contract with the Central Valley Habitat Joint Venture to develop projects.

Staff Recommendation: The subcommittee may wish to consider approving this item if there are available revenues in the Environmental License Plate Fund. If there is not a sufficient fund balance in the ELPF, the subcommittee may wish to approve funding from the General Fund.
Action:

Increase for Marine Resource Protection

Background. The subcommittee has received a letter from the Resources Legacy Fund Foundation and from several environmental groups requesting a General Fund augmentation of $800,000 to fund the Marine Life Preservation Act, a program to promote marine life protection in California coastal and ocean areas.

Staff Recommendation. If the subcommittee believes this program is a priority and should receive General Support, the subcommittee may wish to consider the following budget bill language:
1. Of the funds appropriated $800,000 shall be available to match private funds for expenditure for activities in support of protection and management of marine resources including: (a) Facilitated regional workshops to identify potential sites for marine reserves, parks and other candidate protected areas, (b) Ecological and socioeconomic studies and data compilation pursuant to the Marine Life Protection Act, and (c) Research, Monitoring and planning efforts necessary to meet the goals of the Marine Life Protection Program.
Action:

3640 Wildlife Conservation Board

May Revise: Transfer to the Natural Resources Infrastructure Fund (NRIF)

The Administration proposes a $7.9 million transfer from the General Fund to the NRIF to liquidate appropriations made in 2001-02 for the Department of Parks and Recreation and the Air Resources Board.

Tidelands oil revenues are expected to increase by $34.9 million in 2002-03 and $24.9 million in 2003-04 over currently budgeted amounts. If these revenues were realized in prior years, these departments would have had the revenue and authority needed to retire these prior obligations. However, since existing statute governing the distribution of these funds was suspended in July 2002, and will sunset in June 2003, this transfer from expected budget year revenues becomes necessary for purposes of liquidation.

The subcommittee has received a letter from the Pacific Coast Federation of Fishermen's Associations (PCFFA), Cal-Trout, American Rivers, and the Northern California Association of River Guides, requesting the Legislature deny the proposed early sunset of tidelands oil revenue allocations governed by SB 271 (Thompson, 1997) on June 30, 2003, instead of 2006. These groups have also requested that the subcommittee add to the 2003 Budget Bill an $8 million appropriation from these revenues for salmon restoration projects authorized by SB 271. However, subcommittee staff is advised that there is expected to be an unexpended balance of $4.0 - $4.5 million remaining from a 2000 Budget Act appropriation from Prop. 13 salmon restoration funds that will revert on June 30 this year.

Staff Recommendation: Staff recommends the subcommittee approve the finance letter with the following changes:

- Delete NRIF/General Fund support for the Department of Parks and Recreation expenditure and substitute with Proposition 40 bonds funds.
- Approve the following reappropriation language to make the unexpended balance of Prop. 13 funds available for expenditure by the Department of Fish and Game for salmon restoration projects:

3600-490-Reappropriation, Department of Fish and Game. Notwithstanding any other provision of law, the balance of the amount appropriated in the following citation is hereby reappropriated for the purposes and subject to the limitations, except as otherwise specified, provided for in that appropriation, and shall be available for expenditure until June 30, 2005:

Provisions:
1. A portion of the funds appropriated by this item may be expended for projects that protect, restore and enhance salmon and steelhead trout fisheries affected by reduced river flows and water quality in the Klamath Basin, including, but not limited to, cooperative projects within the watersheds of the Shasta and Scott Rivers, provided such expenditures are consistent with Section 6217.1 of the Public Resources Code.

Action:

May Revise: Colorado River Regulatory Program

The Administration proposes to add budget bill language directing the allocation of $10.0 million from Proposition 50 bond funds to the Department of Water Resources for feasibility studies and related expenses to guide the restoration and permanent protection of the wildlife habitat of the Salton Sea. This item currently contains $32.5 million for the acquisition, protection and restoration of land and water resources, pursuant to state obligations related to California's allocation from the Colorado River.

Staff Recommendation: Staff Recommends the subcommittee deny the finance letter and approve the following budget bill language:
3640-301-6031
Provisions:

1. The funds authorized in this item for appropriation shall only be available for encumbrance following the execution of the Quantification Settlement Agreement, as specified in Chapter 617, Statutes of 2002, and as specified in SB 317 (Kuehl) and SB 411 (Ducheny).
2. Of the funds appropriated in this item, $10,000,000 shall be reimbursement to the Department of Water Resources for feasibility studies and related expenses to guide the restoration and permanent protection of the wildlife habitat of the Salton Sea that shall be appropriated to effectuate SB 317 (Kuehl) and SB 411 (Ducheny).

Action:

3680 Department of Boating and Waterways

Senate Bill 976

Issue: The subcommittee has been asked to hear SB 976 (Ducheny) and make a recommendation to the full committee for next week's hearing. SB 976 transfers $5.713 million from the Harbors and Watercraft Fund to the Public Beach Restoration Fund.

Staff Recommendation: Although there are policy issues that need to be resolved, staff recommends the subcommittee approve SB 976 and have the full Budget Committee re-refer the bill to Rules Committee.
Action:

3720 Coastal Commission

May Revise Proposal

Issue: The Administration is proposing to reduce the commission's budget by $380,000. The 2003-04 Governor's Budget includes a payment of $380,000 of federal funds to the Statewide Cost Allocation Plan (SWCAP). The SWCAP funds represent General Fund recoveries of statewide general administrative costs. A federal grant restriction prohibits this SWCAP payment. Therefore, it is necessary to reduce the Commission's General Fund budget by $380,000 to compensate for the loss of the SWCAP payment. This reduction will not affect the Commission's baseline funding in the 2003-04 Governor's Budget.

Staff Recommendation: Staff recommends the subcommittee reject the Administration's finance letter. The Coastal Commission would also like the subcommittee to approve the following budget bill language:

Consistent with historic practice and to implement California's federally approved coastal management program (CCMP) in a manner that is responsive to recent critical federal evaluations of the CCMP and to ensure that California does not jeopardize its federal consistency review authority and future federal grant funds, the California Coastal Commission shall, without regard to fiscal year, not be subject to the Statewide Cost Allocation Plan.
Action:

3790 Department of Parks and Recreation

May Revise Proposal-Cultural and Historical Endowment

Issue: Consistent with the subcommittee's action from a prior hearing, the Administration has proposed to rescind all funding for the Cultural and Historical Grant Program, and allocate these funds to the Cultural and Historical Endowment. In total $128.4 million from Proposition 40 will be sent to the Endowment.

Staff Recommendation: Staff recommends the subcommittee approve the finance letter for purposes of being consistent with the Assembly Budget subcommittee's action on this item. However, staff also recommends the subcommittee deny the proposed reduction for artifact conservation (Issue 104, Item 3790-001-6029). The Administration informs staff that this item was inadvertently included in the cultural and historical reduction proposal.

Action:

May Revise Proposal-Riverside Off Highway Vehicle Park

Issue: The Administration proposes $27 million (Off Highway Vehicle Fund) for the acquisition and development of the Riverside Off Highway Vehicle Park. This proposal would allow the department to purchase up to 7100 acres of mitigation lands to obtain permitting rights to develop the OHV park. The subcommittee has received a request to utilize an additional $22 million from the OHV fund to acquire SVRAs and buffer zones as approved by the OHV commission.

Staff Recommendation: Staff recommends the subcommittee approve the finance letter and approve $22 million for additional SVRAs and buffer zones.

Action:

Urban Parks Cost Share Waiver

Staff Recommendation: Staff recommends the subcommittee approve budget bill language to waive the 30 percent non-state match requirement for the Roberti-Z'berg-Harris Urban Park Program and the Murray Hayden Grant Program. This language will allow locals to draw down funds that are already available for appropriation.

Action:

Request to Accelerate State Parks Projects

Issue: The subcommittee has received a request to accelerate the delivery of various state parks projects. The proposal would effect the following projects:

1. MacKerricher Pudding Creek Trestle
2. Railroad Technology Museum Rehabilitation and Facilities Plan
3. Donner Memorial New Visitor Center
4. Morro Bay Sewer System
5. Calaveras Big Trees New Visitor Center
6. Chino Hills Entrance Road
7. Sepulveda Adobe

Staff Comments: The subcommittee should have the LAO and the Department of Finance comment on this proposal. The subcommittee should also ask the following questions:

- From what fund source are each of these projects funded?
- What is the status of these projects and why is there a need to accelerate the delivery of the projects?
- How would this proposal effect the Public Works Board process? Specifically would this proposal violate the requirement that Public Works Board review all working plans and drawings before authorizing funds for construction?

Staff Recommendation: Subcommittee staff have no recommendation for this item.
Action:

Sugar Pine Point Park

Staff Recommendation: Staff recommends the subcommittee rename Sugar Pine Point Park to "Ed Z'berg-Sugar Pine Point Park.
Action:

3860 Department of Water Resources

May Revise- Dam Safety Fees

Issue: The Administration proposes to reduce General Fund support for the Dam Safety Program and authorize the department to raise the existing dam safety fees. The Administration estimates that this proposal will save the General Fund $4.7 million. The Administration also proposes to exempt owners of smaller dams on farms and ranches from this fee increase.

Staff Recommendation: Staff recommends the subcommittee approve the finance letter as proposed.
Action:

Proposition 50 Open Issues

Issues: The subcommittee has identified various issues that need to be resolved before approving the Proposition 50 expenditure plan. The subcommittee has yet to act on the following items:

- The overall implementation language needed to establish certain programs within Proposition 50, most notably the Integrated Regional Water Management Program.
- The River Parkways Program (the subcommittee has deleted all funding for the Secretary for Resources), including implementation language to add structure and definition to this program.
- Statewide costs, including the Administration's proposals for a public web site and coordination and audit expenses.
- The LAO's recommendations for oversight and Legislative review, including the application of Control Section 9.45 for all Prop 50 expenditures.
- The Administration's proposal to utilize desalination grant funds.

Staff Recommendation: If the subcommittee believes it is ready to act on any or all of these items, staff recommends the following:

1. Approve trailer bill language to implement various programs within Prop 50.
2. Shift all funding for the River Parkways program to the Wildlife Conservation Board and approve the LAO recommendation to pass trailer bill language that establishes the grant criteria for this program.
3. Shift all funding for the Sierra Nevada-Cascade Mountain program to the Wildlife Conservation board and approve trailer bill language to establish criteria for the program.
4. Withhold approval for the web-site proposal.
5. Approve the LAO recommendation to apply Control Section 9.45 to all WCB expenditures.
6. Approve the Administration's proposal to allocate $15 million to DWR for desalination projects and staff.

Action:

General Fund Reversion

Background. Chapter 813, Statutes of 1998 appropriated $235 million from the General Fund to the Colorado River Management Account. Of the amount appropriated $200 million was earmarked for the lining of the Coachella Branch of the All American Canal. The remaining $35 million was appropriated to finance and arrange for the installation of recharge, extraction, and distribution facilities for a groundwater conjunctive use program that is not going to be completed.

Staff Recommendation. The subcommittee should ask the Department of Finance about the status of this project. The subcommittee may also wish revert $35 million from this item to the General Fund.

Action:

3870 CALFED Bay-Delta Authority

May Revise-CALFED User Fee

Issue: The Administration proposes budget bill language that requires the Bay-Delta Authority to establish a broad-based user fee proposal for inclusion in the 2004-05 budget.

The Administration argues that the Record of Decision (ROD) require the adoption of a user fee by 2003. This proposal would require water users to pay a user to finance a portion of the CALFED program.

Staff Recommendation: Although there are policy questions that eventually need to be addressed, staff recommends the subcommittee approve the budget bill language to allow the Bay-Delta Authority to develop a user fee proposal.

Action:

Senate Committee
on Budget and Fiscal Review
SUBCOMMITTEE 2

MAJOR ACTION REPORT

May 28, 2003

Senate Bill 53
2003-04 Budget Bill

Members
Byron Sher, Chair
Sheila Kuehl
Bruce McPherson

Consultants
Jon Barnato
Alex MacBain
Frank Vega

Senate Fellow
Gabe Meyer

SUBCOMMITTEE NO. 2

RESOURCES, ENVIRONMENTAL PROTECTION,
PUBLIC SAFETY, AND ENERGY

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NATURAL RESOURCES

3340 CALIFORNIA CONSERVATION CORPS

- Restored funding for corps member health benefits ($2.3 million), operation of fire centers ($1.9 million), and for local corps contracts ($846,000)

3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION

- Reduced $50 million from the Fire Protection Program and approved per-acre fees for landowners on state responsibility areas (SRAs).
- Reduced $10 million from the Timber Harvest Plan review and enforcement program and approved a 4 percent timber yield fee.

Trailer Bill Language

1. Establishes a one penny per board foot feet on all timber products purchased by retailers, and uses the revenues generated from this fee for various CDF programs.

3600 DEPARTMENT OF FISH AND GAME

- Rejected the Governor's proposal to reduce funding for the department's Timber Harvest Plan (THP) review.
- Approved the Governor's proposal to raise fees for various hunting and fishing licenses.

3640 WILDLIFE CONSERVATION BOARD (WCB)

- Redirected Proposition 50 bond funds for River Parkways and the Sierra Nevada-Cascade Mountain program to the WCB, and approved trailer bill language to establish grant criteria for each program.
- Approved $32.5 million from Proposition 50 for the Colorado River Regulatory Program.

Trailer Bill Language

1. Requires the WCB to provide pertinent information on major land acquisitions.

Budget Bill Language

1. Requires the Department of Finance to provide notification to the Joint Legislative Budget Committee for all projects that will receive Proposition 50 bond funds.

3790 DEPARTMENT OF PARKS AND RECREATION

- Redirected all Proposition 40 Cultural and Historical funds to the Cultural and Historical Endowment created under AB 716 (Firebaugh).
- Approved $49 million (Off Highway Vehicle funds) to purchase additional land and buffer zones for State Vehicular Recreation Areas (SVRAs).

Budget Bill Language

1. Waives the 30 percent non-state match requirement for the Roberti-Z'Berg-Harris Urban Park and Murray-Hayden Grant Program.

3860 DEPARTMENT OF WATER RESOURCES

- Approved $38 million reversion of unencumbered funds from the Colorado River Management Account. These funds were originally appropriated in 1998 for the lining of the Coachella Branch of the All American Canal.

Trailer Bill Language

1. Establishes the Governor's proposal to raise existing fees for the Dam Safety program. These fees will generate approximately $4.7 million in the budget-year.
2. Implement various programs within Proposition 50.

3870 CALFED BAY-DELTA AUTHORITY

- Approved the Governor's proposal to develop a broad based user fee for water users. This proposal is consistent with the CALFED Record of Decision (ROD).

ENVIRONMENTAL PROTECTION

0555 SECRETARY FOR ENVIRONMENTAL PROTECTION

- Approved as budgeted.

3780 NATIVE AMERICAN HERITAGE COMMISSION

- Approved the May Revision proposal to augment budget by $247,000 and three positions for Timber Harvest Plan review.

3900 AIR RESOURCES BOARD

- Approved an additional $4.4 million increase in stationary source fees above the Governor's proposed $10 million increase for the Stationary Source Program to provide a total of $14.4 million in GF savings.

Supplemental Report Language

1. Requires the Board to report on benefits and detriments on new power plant emission control technology.
2. Requires the Board to report on the final stationary source fee structure adopted by the Board.

3910 INTEGRATED WASTE MANAGEMENT BOARD

- Approved as budgeted with the following trailer bills.

Trailer Bill Language

2. Restructures the six-member board and the number of their support staff to provide budgetary savings.
3. Prohibits the board from subsidizing tire incineration research or promotion with public funds.

3930 DEPARTMENT OF PESTICIDE REGULATION

- Approved an additional $3.6 million for farmworker outreach activities and $8 million for increased support for County Agriculture Commissioners' pesticide-related activities above the Governor's proposed budget for the department of $53.9 million (including adopted May Revision proposals). The subcommittee approved trailer bill language to adopt the above changes and fund the changes through an increase in pesticide registration fees and an additional mill assessment on restricted use pesticides.

Trailer Bill Language

1. Amends the Food and Agriculture code to establish a mill assessment cap on non-restricted use pesticides of 27 mills. Establishes an additional 18 mill assessment above the 27 mills (for a total of 45 mills) on restricted use pesticides and dedicates that revenue to the County Agriculture Commissioners. Increases pesticide licensing fees and pesticide registration fees (from $250 to $750 per product) to fully fund those respective programs. Increases the allocation of the mill assessment directed to the County Agriculture Commissioners from 6 mills to 7 ½ mills. Establishes an allocation of 2 mills toward farmworker outreach activities at the department.

3940 STATE WATER RESOURCES CONTROL BOARD

- Reduced $3.6 million GF from the board's Water Rights Program. The subcommittee also approved trailer bill language to increase water rights fees to offset the reduction.
- Approved the Governor's proposal to shift $13.6 million GF support to special funds for the board's core regulatory program through an corresponding increase in the waste discharge permit fee.
- Restored a proposed $6.8 million GF reduction in water quality monitoring and assessment activities through an additional increase in the waste discharge permit fee.
- Allocated $7 million in Prop. 50 (Clean Beaches) funds to match $7 million from the Coastal Conservancy for coastal contaminants monitoring equipment in the California Ocean Data Observing System.
- Allocated $10 million in Prop. 50 funds for a grant program to reduce agricultural discharges to surface or groundwater.
- Rejected the elimination of the Chromium 6 Program.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

- Approved as budgeted.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

- Approved the May Revision proposal to restore $3.5 million of a proposed $3.6 million GF reduction to various programs through special funds and redirected GF at the office.

PUBLIC SAFETY AND CRIMINAL JUSTICE

0550 YOUTH AND ADULT CORRECTIONAL AGENCY

- Eliminated funding for the Agency pending receipt and review of the Youth Authority education report due November 2002.

0552 OFFICE OF THE INSPECTOR GENERAL

- Approved trailer bill language related to $1.7 million in proposed reductions.

0820 DEPARTMENT OF JUSTICE

- Approved an increase of $3.2 million GF to restore funding for the Spousal Abuser Prosecution Program.
- Rejected the proposed $4.3 million GF for the Youth Authority class action suit and approved budget bill language to allow DOJ to receive funding through the Section 27 process should current negotiations not result in a settlement of the case.
- Approved an increase of $3.5 million GF to prevent charging local law enforcement user fees for the state's forensic labs.
- Approved an increase of $2 million (False Claims Act and federal funds) for investigation and prosecution of Medi-Cal Fraud.
- Approved trailer bill language to provide additional Legislative oversight for energy settlement funds.

5240 DEPARTMENT OF CORRECTIONS

- Rejected Finance Letter requesting $10.8 million in lease revenue bonds to convert NCWF to a male reception center.
- Approved $3.6 million GF to change the Basic Correctional Officer Academy from 16 weeks to 12 weeks at the Academy and 4 weeks on-the-job.
- Approved $58.5 million due to increased projections for the inmate and parole populations.

- Approved funding from lease revenue bonds for a death row facility at San Quentin State Prison.
- Approved a reduction of $5.4 million to delay activation of 500 substance abuse beds.
- Approved a reduction of $8.8 million to delay activation of Delano II until April 2005.
- Approved a reduction of $13 million for various healthcare services programs to reflect improved pharmacy protocols and reduced referrals to outside emergency care facilities.
- Approved a reduction of $2.3 million and 50 positions to reflect a reduction of management positions at institutions statewide.
- Approved a reduction of $1.3 million and 13.5 positions to increase the span of control for Parole Administrators from supervision of five parole offices to eight offices.
- Approved a reduction of $2.3 million and 32 positions through the elimination of Correctional Sergeant positions associated with the 7k training program.
- Approved a net reduction of $27.5 million from the expansion and restructuring of education, vocational education, and arts programs to maximize state savings. This action includes restoring $10.9 million for education programs and the arts-in-corrections from the proposed $37.4 million reduction for these programs, and expanding education programs by $10 million in reception centers.
- Approved savings of $400,000 from the elimination of three Community Correctional Facilities.
- Approved a net reduction of $4.5 million from increasing the number of correctional academy graduates by 640 and establishing more correctional officer positions.
- Approved a reduction of $20.1 million through a drug treatment furlough program which would place inmates in the program into a supervised, community residential drug treatment program for the final 120 days of the inmate's sentence.
- Approved a reduction of $5 million from placing severely ill inmates who are no longer a threat to public safety on medical parole. These potentially expensive inmates would be placed in an appropriate medical facility and would be eligible for SSI and Medi-Cal.
- Approved a net reduction of $10.3 million from fully funding the existing program that provides pre-release planning and enhanced community services for mentally ill parolees.
- Approved a net reduction of $7.9 million from reduced recidivism through (1) improved pre-release planning, (2) development of a new risk assessment tool to ensure parole supervision is effectively targeted, and (3) expansion of the PACT (Police and Corrections Teams) program.
- Approved a net reduction of $50.4 million from implementing policies that would employ appropriate sanctions for low level parole violators, based on the offense and the underlying public safety risk of the parolees.
- Approved a reduction of $17.4 million from the expansion of Felony Drug Courts.

5430 BOARD OF CORRECTIONS

- Approved the elimination of the program that reimburses local correctional agencies for partial costs for training and approved a transfer of $9.6 million from the Corrections Training Fund to the GF.

5440 BOARD OF PRISON TERMS

- Approved a reduction of $3.5 million from revised workload projections.

5460 DEPARTMENT OF THE YOUTH AUTHORITY (YA)

- Approved an increase of $1.3 million in the YA due to the consolidation of the duties of the Youthful Offender Parole Board (YOPB) the YA as of January 2004. The budget for YOPB was reduced by $1.6 million.
- Approved a reduction of $$3.6 million from savings due to closure of the Holton facility and closure of the male portion of the Ventura facility.
- Approved a reduction of $6.1 million from adjusting for inflation the sliding scale fee charged to counties.

5480 COMMISSION ON CORRECTIONAL PEACE OFFICERS STANDARDS AND TRAINING

- Approved a reduction of $1.1 million, or 50 percent of the budget.

8100 OFFICE OF CRIMINAL JUSTICE PLANNING

- Eliminated 24 management positions for a savings of an estimated $3.5 million GF and federal funds. Savings from the federal funds were directed to local assistance grants.
- Approved consolidation of the Elder Abuse Vertical Prosecution, Child Abuser Vertical Prosecution, Vertical Prosecution of Statutory Rape, Major Narcotic Vendor Vertical Prosecution, and the Career Criminal Vertical Prosecution programs into a vertical prosecution block grant, and approved a 50 percent reduction in the total amount for a savings of $8.2 million.

- Deleted funding ($15 million GF) for the War on Methamphetamine program.
- Approved restoration of the Domestic Violence Shelter Grant Program within OCJP.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

- Approved a Finance Letter to restore $25.5 million in funding for the program that reimburses local law enforcement agencies for the costs of training. These funds were originally proposed to be transferred to the GF.

8700 VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

- Approved budget bill language authorizing a short term loan from the GF to meet the cash flow needs of the Restitution Fund.
- Approved trailer bill language with a two year sunset that would limit certain awards to victims, and would increase the minimum mandatory fines for misdemeanor convictions and increase the limits on restitution diversion fees. The trailer bill language also establishes a workgroup of stakeholders to develop recommendations

CONTROL SECTION 24.10

- Approved budget bill language that would transfer $14 million form the Driver Training Penalty Assessment Fund to the Peace Officer Training Fund, and would transfer $3 million from the Driver Training Penalty Assessment Fund to the Witness Protection Program.

ENERGY

3360 ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

- Approved a $20 million loan, with a repayment date of June 30, 2005, from the Public Interest Research, Development and Demonstration Fund to the GF.
- Reverted $4.943 million of unencumbered, uncommitted funds that the Legislature appropriated to the commission through energy crisis legislation.
- Transferred a total of $8.740 million from the Energy Resources Programs Account to the GF.

Trailer Bill Language

1. Assesses 1) a siting fee on developers of large power plants in the amount of $100,000, plus $250 per MW of generating capacity up to $350,000, and 2) a $15,000 annual compliance fee on power plant owners to cover the commission's ongoing compliance activities.

8660 PUBLIC UTILITIES COMMISSION

- Approved a May Revision proposal to increase the Commission's expenditure authority by $9.9 million (special funds) for Pacific Gas and Electric related legal activities.
- Augmented the Commission's expenditure authority by $2.3 million for increased contracting authority to hire auditors to address the continued backlog of required audits at the Commission.
- Approved a May Revision proposal to loan $136 million from the Commission's Teleconnect Fund to the GF. The subcommittee also adopted trailer bill language requiring partial or whole repayment of the loan if the fund were to become deficient because of the loan.
- Amended a May Revision proposal for increased bilingual services in the Commission's Consumer Affairs Branch from 8 positions to 2 positions.

Trailer Bill Language

1. Codifies the Commission's newly proposed Office of Economic Development, defining its procedures and purpose.
2. Prohibits the Commission from raising the surcharge rate for the Teleconnect Fund due to deficiencies in the fund resulting from the above-mentioned loan. Also requires the partial or whole repayment of that loan from the GF should the fund become deficient.

Supplemental Report Language

1. Requires the Commission, the Energy Commission, and the Power Authority to report on their progress in reaching goals stated in the Energy Action Plan.
2. Requires the Commission to report on the programmatic problems associated with the Teleconnect Fund program and possible solutions to address those issues.

8665 CALIFORNIA POWER AUTHORITY

- Approved as budgeted.

8690 SEISMIC SAFETY COMMISSION

- Shifts $884,000 in funding for the Commission from the GF to a new Seismic Safety Account which would be funded through a fee on insurers.

Trailer Bill Language

1. Establishes an assessment on insurers as a prorated percentage of premiums earned on commercial and residential earthquake policies in the state for the Commission's activities.

8770 ELECTRICITY OVERSIGHT BOARD

Trailer Bill Language

1. Eliminates the Electricity Oversight Board and transfers staff services and management to a new office under the Governor's Office by the end of the year.

GENERAL GOVERNMENT

0690 OFFICE OF EMERGENCY SERVICES

- Approved the May Revision proposal to restore $663,000 to the Disaster Service Worker's Volunteer Program.

8550 CALIFORNIA HORSE RACING BOARD

- Approved as budgeted.

8570 DEPARTMENT OF FOOD AND AGRICULTURE

- Rejected a May Revision proposal to suspend the Animal Adoption Mandate.

Supplemental Report Language

1. Requires the department to develop a proposal for an inspection fee on incoming trade and commerce to fund pest exclusion and eradication activities.

8830 CALIFORNIA LAW REVISION COMMISSION

- Rejected the elimination of the Commission and adopted a reduced budget of $550,000 GF.

8840 COMMISSION ON UNIFORM STATE LAWS

- Rejected the elimination of the Commission and adopted a reduced budget of $122,000 GF.