

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 RESOURCES AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD S. GORDON, CHAIR**

WEDNESDAY, APRIL 11, 2012
9:00 A.M. - STATE CAPITOL ROOM 447

INFORMATION ONLY ITEMS		
WORKFORCE CAP PLANS		
ITEM	DESCRIPTION	
0555	ENVIRONMENTAL PROTECTION AGENCY	3
3500	DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY	3
3930	DEPARTMENT OF PESTICIDE REGULATION	3
3940	STATE WATER RESOURCES CONTROL BOARD	3
3980	OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	3
8660	PUBLIC UTILITIES COMMISSION	3

VOTE ONLY CALENDAR		
ITEM	DESCRIPTION	
3500	DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY	4
ISSUE 1	CARPET STEWARDSHIP PROGRAM	4
ISSUE 2	ARCHITECTURAL PAINT RECOVERY PROGRAM	4
ISSUE 3	ELECTRONIC WASTE RECYCLING FRAUD CASE DEVELOPMENT AND PROSECUTION	4
ISSUE 4	OUT-OF-STATE BEVERAGE CONTAINER IMPORTATION MONITORING PROGRAM	4
3560	STATE LANDS COMMISSION	5
ISSUE 1	NEW ALTERNATIVE ENERGY PROJECTS WORKLOAD	5
ISSUE 2	LAND EXCHANGE FOR RENEWABLE ENERGY RELATED PROJECTS	5
ISSUE 3	OIL SPILL PREVENTION AND ADMINISTRATION FEE	5
3940	STATE WATER RESOURCES CONTROL BOARD	6
ISSUE 1	FUNDING FOR BILLABLE LEGAL SERVICES CONVERSION	6
ISSUE 2	GAMA PROGRAM FUND SHIFT	6
ISSUE 3	SERVICE REVOLVING FUND PROGRAM-SHIFT POSITION FUNDING	6
ISSUE 4	SMALL DISADVANTAGED COMMUNITY (SDAC) WASTEWATER PROJECTS PLANNING, DESIGN, AND CONSTRUCTION GRANTS	7
ISSUE 5	UNDERGROUND STORAGE TANK CLEANUP FUND ORPHAN SITE CLEANUP FUND RE-APPROPRIATION	7
ISSUE 6	BEACH WATER QUALITY MONITORING PROGRAM	7
ISSUE 7	BOND POSITION REDUCTION	7
ISSUE 8	WATERSHED MANAGEMENT INITIATIVE PROGRAM ELIMINATION	7
3980	OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	8
ISSUE 1	CUMULATIVE IMPACT ANALYSIS TO SUPPORT COMMUNITY REVITALIZATION	8

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	
0555	ENVIRONMENTAL PROTECTION AGENCY	9
ISSUE 1	ELIMINATION OF VARIOUS UNDERUTILIZED PROGRAMS WITHIN THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL (TRAILER BILL LANGUAGE [TBL])	9
ISSUE 2	REDUCTION OF THE NUMBER OF REGIONAL WATER BOARDS (TBL)	9
3500	DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY	11
ISSUE 1	BEVERAGE CONTAINER RECYCLING FUND SOLVENCY – LAO OVERVIEW	11
3560	STATE LANDS COMMISSION	12
ISSUE 1	ROYALTY RECOVERY AND LEASE COMPLIANCE	12
3930	DEPARTMENT OF PESTICIDE REGULATION	14
ISSUE 1	RESEARCH GRANTS FOR FUMIGANT ALTERNATIVES	14
8660	PUBLIC UTILITIES COMMISSION	17
ISSUE 1	ADDING SPEECH GENERATING DEVICES TO DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM (DDTP)	18
ISSUE 2	GLOBAL SAFETY AND ENFORCEMENT PROGRAMS	19
ISSUE 3	STATE ELECTRICITY REGULATORS ASSISTANCE PROJECT - ARRA	25
ISSUE 4	GAS PIPELINE EMERGENCY RESPONSE STANDARDS	26
ISSUE 5	NATURAL GAS SERVICE AND SAFETY	27
ISSUE 6	GAS CORPORATIONS COST RECOVERY, AUTOMATIC VALVES, TESTING AND REPORTING REQUIREMENTS	28
ISSUE 7	COMMUNITY CHOICE AGGREGATION	30

**INFORMATION ITEMS ONLY
WORKFORCE CAP PLANS**

Executive Order S-01-10 required Agency Secretaries and Department Directors to take steps to cap the State workforce by achieving an additional 5 percent salary savings by July 1, 2010, and maintain the additional salary savings ongoing. This savings was included in the Budget Act of 2010. The informational Budget Change Proposals (BCPs) listed below explain how the various departments achieved this "workforce cap" (WFC).

0555 ENVIRONMENTAL PROTECTION AGENCY

To minimize the impact on programs, the Office of the Secretary (OOS) implemented the WFC plan through a combination of increased salary savings, permanent and temporary help position reductions, and position reclassifications. The OOS 2011-12 budget reflects the ongoing reduction of \$341,000; the 2012-13 budget also will include an associated reduction of 3.0 positions.

3500 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

The Department has met its WFC target/savings by permanently eliminating 29 vacant positions and \$2,685,000 in associated personal services costs.

3930 DEPARTMENT OF PESTICIDE REGULATION

To minimize the impact on pesticide programs, DPR implemented its WFC through a combination of increased salary savings, permanent and temporary help position reductions, and position reclassifications. DPR's 2011-12 budget already reflects the full reduction of \$1,526,000 (various special funds), and 8.8 positions.

3940 STATE WATER RESOURCES CONTROL BOARD

The Board has met its WFC by reducing its budget appropriation by \$7.727 million from various program areas and funding. In addition, the Water Board will reduce a total of 54 positions.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

The Department has met its WFC target/savings by reducing 3.7 positions and its budget authority by \$627,000.

8660 PUBLIC UTILITIES COMMISSION

The Commission has met its WFC target by eliminating 13 positions and reducing its budget authority by \$4,402,000.

VOTE-ONLY**3500 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

ISSUE 1: CARPET STEWARDSHIP PROGRAM

The Governor's Budget proposes an increase of \$205,000 (Carpet Stewardship Account) to implement a new program. Under the Carpet Stewardship Program, carpet manufacturers and retailers will be responsible for collecting and managing used carpet.

ISSUE 2: ARCHITECTURAL PAINT RECOVERY PROGRAM

The Governor's Budget proposes an increase of \$205,000 (Architectural Paint Stewardship Account) to implement a new program. Under the Architectural Paint Recovery Program, paint manufacturers and retailers will be responsible for collecting and managing leftover paint.

ISSUE 3: ELECTRONIC WASTE RECYCLING FRAUD CASE DEVELOPMENT AND PROSECUTION

The Governor's Budget proposes a transfer of \$588,000 (Electronic Waste Recovery and Recycling Account) and 5 positions from the Department of Toxic Substances Control to CalRecycle to consolidate and strengthen financial fraud investigation and enforcement activities in the Electronic Waste Program.

ISSUE 4: OUT-OF-STATE BEVERAGE CONTAINER IMPORTATION MONITORING PROGRAM

The Governor's Budget proposes to redirect \$1.432 million (annually) of existing authority to fund an Interagency Agreement with California Department of Food and Agriculture, Border Protection Stations to combat Program fraud associated with illegal California Redemption Value (CRV) redemption of beverage containers imported into California from out of state.

Staff Recommendation: Approve as Budgeted Issues 1-4

3560 STATE LANDS COMMISSION

ISSUE 1: NEW ALTERNATIVE ENERGY PROJECTS WORKLOAD

The Governor's Budget proposes an increase of \$395,000 (Reimbursement Authority) and three positions to handle increased workload caused by alternative energy projects on lands within the jurisdiction of the Commission. With increased public interest in the development of renewable energy sources, interest has been focused on public lands for such uses. Consequently, the commission staff is currently experiencing an increase in workload from proposed energy projects such as onshore solar power, wind generation, exploration, and development of geothermal resources, and offshore wave and tidal energy. These positions will not require State funding as all costs are paid by project applicants and approved projects would substantially increase rents and royalties to the GF and State Teachers' Retirement Fund (STRS).

ISSUE 2: LAND EXCHANGE FOR RENEWABLE ENERGY RELATED PROJECTS

The budget proposes an increase of \$686,000 from the School Land Bank Fund and 6 positions to execute land exchanges for renewable energy-related projects. AB 982 (Skinner), Chapter 485, Statutes of 2011, directs the Commission to negotiate land exchanges with the federal government to consolidate non-contiguous school parcels owned by the state to promote the development of large-scale renewable energy projects. These positions will not require state funding as all costs are being paid by project applicants. According to the Department, the approved projects could substantially increase rents and royalties to the General Fund (GF) and STRS.

ISSUE 3: OIL SPILL PREVENTION AND ADMINISTRATION FEE

The Governor requests \$300,000 (Oil Spill Prevention and Administration Fund) for contracting services with the Department of Finance (DOF) to perform required audits on the Oil Spill Prevention and Administration Fund related to AB 1112 (Huffman), Chapter 583, Statutes of 2011. This bill requires the Commission to contract for an analysis and report of the oil spill prevention program financial basis and effectiveness.

Staff Recommendation: Approve as Budgeted Issues 1-3

3940 STATE WATER RESOURCES CONTROL BOARD (SWRCB)**ISSUE 1: FUNDING FOR BILLABLE LEGAL SERVICES CONVERSION**

The Governor requests funding for SWRCB's special fund component of the billable legal services conversion initiated in the 2011 Budget Act by increasing Waste Discharge Permit Fund expenditure authority by \$600,000 and the Water Rights Fund expenditure authority by \$450,000. The Water Board has determined that this would cover the Department of Justice's (DOJ) average GF expenditures for activities billable to special funds.

The 2011 Budget Act created new legal services items for departments previously not billed for some DOJ GF workload. In order to streamline the billing of multi-funded departments, these items are being eliminated in 2012-13, the funds are being moved into each department's main item, and a new schedule is being created (titled DOJ Legal Services). This move is intended to provide greater transparency regarding the purchase of legal services by DOJ client agencies.

ISSUE 2: GAMA PROGRAM FUND SHIFT

The Governor's Budget requests a permanent funding shift of \$233,000 and 1.5 positions, and \$400,000 and 2.6 positions annually thereafter, from expiring bond funds (Prop 50) to fees paid into the Waste Discharge Permit Fund (WDPF) to support the Groundwater Ambient Monitoring and Assessment (GAMA) Program's Priority Basin Project (PBP).

Since its initiation eight years ago, the GAMA PBP has been the nation's premiere groundwater monitoring and assessment program. The State Water Board staff support for the GAMA PBP will end in 2012 if an alternative funding source is not in place. Staff would not be able to oversee ongoing contracts that continue through 2015. PBP is consistent with the use and purpose of the WDPF.

ISSUE 3: SERVICE REVOLVING FUND PROGRAM-SHIFT POSITION FUNDING

The Governor's Budget requests an increase of \$2.8 million in State Operations authority for the State Water Pollution Control Revolving Administration Fund (Administration Fund) to cover a shift of 18 positions, on an ongoing basis, from the American Recovery and Reinvestment Act 2009 (ARRA) to the Administration Fund for the State Water Pollution Control Revolving Fund Program (SRF). This request is not an increase in staff for the SRF program, only a shift in funding source.

The primary purpose of the SRF loan program is to implement the Federal Water Pollution Control Act by providing financial assistance for the construction of wastewater facilities. The Administration Fund was created for the purpose of having a stable funding source for administering the SRF program. By the end of 2011-12, all administrative allowances for ARRA funding will be exhausted. This proposal will allow the State Water Board to provide the level of customer service to all the applicants, particularly small, disadvantaged communities, to ensure that they have access to affordable financing for their infrastructure projects.

ISSUE 4: SMALL DISADVANTAGED COMMUNITY (SDAC) WASTEWATER PROJECTS PLANNING, DESIGN, AND CONSTRUCTION GRANTS

The Governor's Budget proposes an increase of \$11 million (State Water Pollution Control Revolving Fund Small Community Grant Fund) for grants to small and severely disadvantaged communities to address critical wastewater system needs. The grants will help SDACs achieve compliance with water quality regulations, protect surface and groundwater quality, and help eliminate threats to public health and safety.

ISSUE 5: UNDERGROUND STORAGE TANK CLEANUP FUND ORPHAN SITE CLEANUP FUND RE-APPROPRIATION

The Governor's Budget requests a one-time reappropriation of \$2.3 million local assistance authority (Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund) to help the SWRCB reduce groundwater pollution through the cleanup of petroleum-contaminated sites.

This proposal will allow the State Water Board to fully expend the \$30 million, as mandated by legislation AB 1906 (Lowenthal), Chapter 774, Statutes of 2004, and SB 1161 (Lowenthal), Chapter 616, Statutes of 2008, by providing funding to eligible orphan sites. The delay in utilizing the OSCF funds is due to the influx of ARRA grant funds.

ISSUE 6: SB 482 – BEACH WATER QUALITY MONITORING PROGRAM

The Governor's Budget proposes \$1 million (Waste Discharge Permit Fund) local assistance to support the Beach Monitoring Program (BMP). SB 482 (Kehoe), Chapter 592, Statutes of 2011, assigns the Water Board primary responsibility for determining monitoring protocols, site locations, and monitoring frequency for the BMP, administered by the Department of Public Health. The funding for this proposal would be provided through water quality fees assessed to dischargers and collected by the Water Board. These local assistance funds would be awarded to local health agencies for monitoring beach water quality. No additional positions are requested.

ISSUE 7: BOND POSITION REDUCTION

The Governor's Budget requests to eliminate 2 positions and \$212,000 from the State Revolving Fund Subaccount to align positions with available resources. As the availability of bond funds decreases, reductions must be made to ensure resources are aligned properly. This reduction is necessary to align the remaining resources in the Subaccount.

ISSUE 8: WATERSHED MANAGEMENT INITIATIVE PROGRAM ELIMINATION

The Governor's Budget requests to eliminate the Watershed Management Initiative (WMI) Program, which will result in a reduction of 6.8 positions and \$1.3 million from the Public Resources Account. The WMI Program was initially created to prepare Watershed Management Initiative Plans in each of the Regional Boards jurisdictions. The WMI Plans were mostly completed in 2003 and 2005, with some final revisions completed in 2007. This reduction will have minimal impact and achieve both operational efficiencies and cost savings.

Staff Recommendation: Approve as Budgeted Issues 1-8

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (OEHHA)

ISSUE 1: CUMULATIVE IMPACT ANALYSIS TO SUPPORT COMMUNITY REVITALIZATION

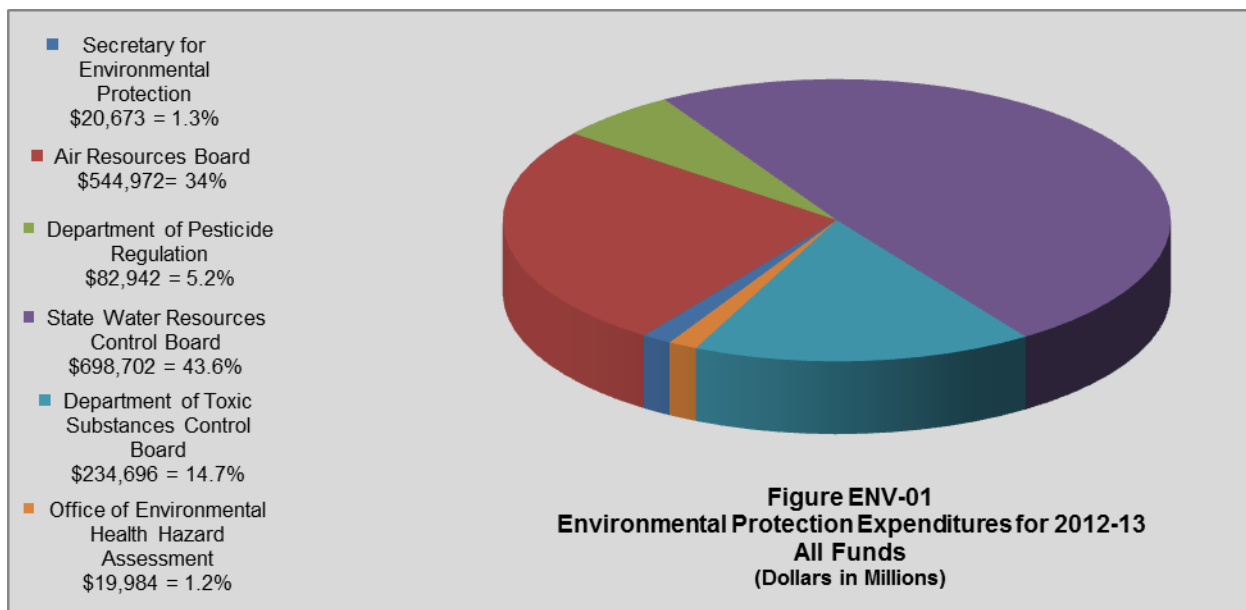
The Governor's Budget requests 1 position and \$131,000 (Reimbursements) from existing ARB funds for OEHHA to develop methods to assess the cumulative impacts of multiple environmental contaminants in communities across the State. This proposal will help enable ARB to meet its environmental justice obligations without placing pressure on the GF or requiring any new funding.

Staff Recommendation: Approve as Budgeted

ITEMS TO BE HEARD

0555 ENVIRONMENTAL PROTECTION AGENCY

California Environmental Protection Agency programs restore and protect environmental quality, and protect public health. The Secretary coordinates the state's environmental regulatory programs and ensures fair and consistent enforcement of environmental law, which safeguards the state's residents and promotes the state's economic vitality. The Budget proposes total funding of \$1.54 billion (\$43.1 million GF and \$1.5 billion other funds) and 4,294 positions for all programs included in this Agency. Total proposed state funds, excluding federal funds, certain non-governmental cost funds, and reimbursements equals \$1.3 billion. This represents approximately 1 percent of the State budget.



Presentation by Secretary Matt Rodriguez

Items Proposed for Discussion. The Governor's Budget proposes trailer bill language to eliminate or consolidate the following agencies under the Secretary for Cal/EPA:

1. **Elimination of Various Underutilized Programs within the Department of Toxic Substances Control.** The Governor's Budget proposes to eliminate the following programs because they have outlived their purposes, are underutilized, or have been superseded by other programs: Expedited Remedial Action Program, Private Site Management Program, California Land Environmental Restoration and Reuse Act Program, Hazardous Waste and Border Zone Property Designations, Abandoned Site Assessment Program, Registered Environmental Assessor Program.
2. **Reduction of the Number of Regional Water Boards.** The Budget proposes to reduce the number of Regional Water Boards by merging two of the smaller existing regional water boards. The proposal also reduces the number of members on the boards from nine to seven.

STAFF COMMENTS

Staff has reviewed the proposals and concur with the Administration's proposals to eliminate or consolidate activities. The Secretary should outline his vision for the Agency and how these eliminations and consolidations fit into the overall Cal/EPA structure and functions.

Staff Recommendation: Approve Governor's Proposals 1-3

3500 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

The Department of Resources Recycling and Recovery (CalRecycle) protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. The Department also promotes the following waste diversion practices: 1) source reduction; 2) recycling and composting; and, 3) reuse. The Budget includes \$1.4 billion and 678 positions for support of the Department. This represents roughly the same level of expenditures as the current year.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$0	\$0	\$0	0	0%
California Beverage Container Recycling Fund	1,231,216	1,157,368	1,161,490	4,122	0%
Other	296,424	282,235	274,867	(7,368)	(3%)
Total Expenditure	\$1,527,640	\$1,439,603	\$1,436,357	(\$3,246)	0%
Positions	613	670	678	8	1%

ISSUE 1: BEVERAGE CONTAINER RECYCLING FUND SOLVENCY

CalRecycle projects the Beverage Container Recycling Fund (BCRF) will become insolvent in 2014 absent corrective action. The Beverage Container Recycling Program expenses (including for administration, grant programs, and education and outreach) are entirely paid for out of the BCRF.

The BCRF is currently operating with a structural deficit (operating expenditures exceed revenues by around 13 percent), but remains solvent mainly due to repayments into the fund, scheduled through 2013-14, in respect of previous loans made from BCRF to the GF and other special funds. CalRecycle estimates that about \$90 million of the Program’s spending in each of 2012-13 and 2013-14 will be covered by these loan repayments. The BCRF’s reserves will ultimately be depleted, and the fund is projected to face insolvency in 2014-15, absent corrective action.

STAFF COMMENTS

LAO will present an overview of the BCRF and discuss options for long-term BCRF solvency.

Staff Recommendation: Informational Only

3560 STATE LANDS COMMISSION

The Commission manages and protects California's sovereign public trust lands and other lands. These lands total more than 4.5 million acres, plus 790,000 acres of reserved mineral interests. The Budget includes \$31.3 million and 216 positions for the Commission, which represents an overall increase of \$2.2 million and 17 positions. The increases in budget are largely due to added funding and positions to implement royalty recovery and lease compliance and land exchanges for renewable energy projects discussed below.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$8,053	\$9,484	\$9,661	\$177	2%
Oil Spill Prevention and Administration Fund	10,147	11,266	12,055	789	7%
Other	14,864	8,305	9,631	1,326	16%
Total Expenditure	\$33,064	\$29,055	\$31,347	\$2,292	8%
Positions	198	199	216	17	9%

ISSUE 1: ROYALTY RECOVERY AND LEASE COMPLIANCE

Royalty Recovery and Lease Compliance. The Governor's Budget proposes an increase of \$1 million GF and 9 positions for the Commission to increase financial audit activities related to management of oil, gas, and other mineral resources owned by the State, as well as to ensure compliance and prompt payment of rentals from surface leasing. The positions will focus on leases that have historically generated the most revenues and recoveries, as well as those that have had the most problems. With a potential 10:1 return for each Auditor position, these additional audits are expected to annually generate \$6.6 million in GF. This proposal addresses the findings of the recent audit by the Bureau of State Audits.

STAFF COMMENTS

Bureau of State Audits (BSA) Review in 2011. The BSA reviewed the Department as part of a requested audit and found that the Commission was not always managing its leases in the State's best interest. According to the audit, the Commission missed opportunities to generate millions of dollars in revenues for the State's GF—estimated to be as much as \$8.2 million for some of the leases in the audit sample. The Subcommittee held an oversight hearing on this issue in November 2011.

The Commission has responded to the audit with two requests for positions funding authority in order to begin to address the concerns of the audit. These two requests—Royalty Recovery and Revenue Assurance (\$470,000), and Lease Compliance and Revenue Enhancement (\$555,000)—address the findings of the audit by adding positions designed to provide more prompt monitoring of current leases, while also reviewing and correcting delinquent leases.

The proposed return on investment for each auditor position is 10 to one. The proposal is expected to generate \$6.6 million in GF and is responsive to the findings of the recent BSA audit. According to the Commission, the positions requested were approved on a limited-term basis in order to determine their effectiveness. In past years, however, limited-term positions were not converted to permanent regardless of their revenue generating capabilities.

The audit also recommended adding positions in port-areas to improve the Commission's ability to process applications for business development in these areas. While this would not have a direct GF revenue impact, the proposal has merit. The Subcommittee may wish to direct the Commission to return with a proposal that would partner with ports to address this audit finding.

Staff Recommendation: Approve as Budgeted; Conform with Senate by Approving Supplemental reporting language (in concept) to require the Commission to report on the effectiveness of the limited-term positions in two years' time and make recommendations for permanent staffing levels.

3930 DEPARTMENT OF PESTICIDE REGULATION

The Department of Pesticide Regulation protects public health and the environment by regulating all aspects of the sale and use of pesticides and by promoting reduced-risk pest management strategies. The Department ensures compliance with pesticide laws and regulations through its oversight of County Agricultural Commissioners, who enforce pesticide laws at the local level. The Governor's Budget proposes \$82.9 million and 400 positions for support of the Department.

Increases in funding are largely due to increased Local Assistance estimates. DPR's largest source of revenue is the mill assessment fee. Per statute, County Agricultural Commissioner's receive a set portion of this fee as Local Assistance to fund local enforcement of pesticide laws and regulations. Based on estimated revenues, the 2012-13 Local Assistance is estimated to increase by \$943,000 over current year.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$0	\$0	\$0	0	0
Department of Pesticide Regulation Fund	66,950	73,440	75,491	2,051	3%
Other	6,726	7,297	7,451	154	2%
Total Expenditure	\$73,676	\$80,737	\$82,942	2,205	3%
Positions	384.3	398.8	400.7	2	0%

ISSUE 1: RESEARCH GRANTS FOR FUMIGANT ALTERNATIVES

The Governor's Budget proposes an increase of \$713,000 Department of Pesticide Regulation Fund and 2 positions to provide funding for applied research grants for fumigant alternatives research projects. These grants will encourage and support development of alternative techniques, procedures, and processes for pest control, reducing the need for high-risk pesticides use and ensuring compliance with Federal Clean Air Act requirements for specialty crop pesticide use.

STAFF COMMENTS

This BCP reflects the Administration's support for developing more environmentally friendly farming practices by providing a \$713,000 annual increase for DPR to support research for fumigant alternatives. The research project and grants are subsidized with special funds generated by fees on pesticide sales. This project also advances DPR's mission to foster reduced-risk pest management in both agricultural and urban settings through research, grants, and recognition.

On March 21, 2012, the Department of Pesticide Regulation (DPR) cancelled all products containing the fumigant, methyl iodide, at the request of the registrant. After more than a year of litigation and unrelenting environmental opposition, manufacturer Arysta LifeScience announced its intention to suspend sales of the product in the United States. According to Arysta, the decision to abandon U.S. production and marketing of the fumigant was financial. It will continue to market the chemical outside the U.S.

Methyl iodide was registered by U.S. EPA in 2007 to replace methyl bromide, an ozone-depleting fumigant being phased out by an international treaty in 2015. DPR registered it for sale and use in California in December 2010. However, despite significant use restrictions, some scientists argued against its registration in California due to its potential to cause cancer, brain damage, and miscarriages among workers and contaminate ground water.

California strawberry growers, which produce 90 percent of the nation's strawberries, have relied heavily on the fumigant methyl bromide for crop protection. In 2011, only a single strawberry farmer used methyl iodide in California as a small test on one portion of a remotely located field.

Since the phase-out of methyl bromide in 1999, strawberry growers have invested \$13 million in researching methyl bromide alternatives. The California Strawberry Commission has also petitioned for and received critical use exemptions for the past nine years because no viable alternatives to methyl bromide were commercially available. At this time, U.S. EPA has phased-out 98 percent of methyl bromide use. For 2012, U.S. EPA and the Montreal Protocol determined that "technically and economically" acceptable alternatives have not been found for: food facilities such as flour mills and smoked ham and crop use including; dates, dried fruit, cucurbits, eggplant, tree, vine, and ornamental nursery stock, orchard replant, tomatoes, peppers, and strawberries. As a result, they approved "Critical Use Exemptions" to allow limited amounts of methyl bromide to be used for these purposes through 2014. A worldwide ban of methyl bromide takes effect in 2015. Thus, the need for finding an alternative is of heightened importance.

Earlier this month the Department and the California Strawberry Commission announced a research partnership looking for alternatives to fumigant pesticides. The \$500,000, three-year project is exploring ways to grow strawberries in substances other than soil, reducing the need for fumigants. According to the Department:

"This project shows our commitment to encourage and support development of effective and environmentally friendly ways to control pests. Fumigant pesticides are an important tool farmers use to control a wide variety of pests and diseases. The objective of this project is to provide even more tools to safely and economically grow crops in our state."

Fumigants are gaseous pesticides injected into the soil of agricultural fields prior to planting. Mounting and costly fumigation restrictions, including buffer zones around fields being treated to protect the public from potential exposure, underscore the urgency to find a replacement.

DPR's partnership with the California Strawberry Commission and the proposed fumigant alternatives research grants are in addition to its Pest Management Alliance Grants. Since 1998, DPR has awarded approximately \$6 million to more than 60 projects that use integrated pest management (IPM) strategies to reduce pesticide use. IPM combines natural and preventive strategies that focus on long-term pest prevention and pose a low risk to people and the environment.

Staff Recommendation: Approve as Budgeted

8660 PUBLIC UTILITIES COMMISSION

The California Public Utilities Commission (CPUC) regulates critical and essential services such as privately owned telecommunications, electric, natural gas, and water companies, in addition to overseeing railroad/rail transit and moving and transportation companies. The CPUC is the only agency in the state charged with protecting private utility consumers. As such, the CPUC is responsible for ensuring that customers have safe, reliable utility service at reasonable rates, protecting against fraud, and promoting the health of California's economy, which depends on the infrastructure the utilities and the CPUC provide. The Governor's Budget proposes \$1.4 billion from special funds, almost entirely financed by utility ratepayers, and 1,037 positions for support of the Commission.

Increases in funding and positions for the Commission are largely due to implementing new statutes and strengthening safety oversight and enforcement over gas, electric, communications and rail public utilities discussed below.

Fund Source	2010-11 Actual	2011-12 Projected	2012-13 Proposed	BY to CY Change	% Change
General Fund	\$0	\$0	\$0	0	0%
Universal Lifeline Telephone Service Trust Administrative Committee Fund	207,331	367,097	354,985	(12,112)	(3%)
Gas Consumption Surcharge Fund	566,793	584,763	584,944	181	0%
Other	341,293	471,413	501,229	29,816	6%
Total Expenditure	\$1,115,417	\$1,423,273	\$1,441,158	\$17,885	1%
Positions	968	998.6	1,037.40	39	4%

ISSUE 1: ADDING SPEECH GENERATING DEVICES TO DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM (DDTP)

The Governor's Budget proposes \$6,150,000 (DDTP Administrative Fund) for 4.5 limited-term positions, a consultant contract of \$259,000, and speech generating devices (SGD) equipment costs of \$5,500,000. This BCP implements AB 136 (Beall), Chapter 404, Statutes of 2011, which requires the CPUC to expand the DDTP to include SGD for eligible subscribers.

STAFF COMMENT

DDTP is a program of the CPUC providing Californians who are deaf and disabled with equipment and relay services through the California Telephone Access Program (CTAP) and the California Relay Service (CRS) respectively. Any subscriber who is certified as deaf or disabled by an authorized certifying agent (such as a licensed doctor, optometrist or audiologist among others) may receive equipment through CTAP.

Recently enacted AB 136 requires the addition of SGDs to the DDTP. AB 136 provides that "certain speech generating devices are classified by the United States Department of Health and Human Services guidelines as durable medical equipment. The Commission shall ensure that speech-generating devices, accessories, and mounting systems, and specialized telecommunications equipment, including infrared telephones, speaker phones, and telephone interface devices, are funded through the program." AB 136 also stated its intent that "public and private health insurance programs continue to be the provider of first resort for speech-generating devices that are classified as durable medical equipment and that the CPUC only provide access to those devices when funding from traditional public and private health insurance policies and programs is unavailable."

Adding SGDs to DDTP is an expansion of the DDTP. The CPUC does not currently have the staff to administer this program expansion, does not have the expertise in specialized medical equipment, which SGDs are, and has no experience in public or private health insurance programs.

To implement AB 136, the Commission will initiate a pilot program to explore and evaluate options for cost control purposes and to gain hands-on experience in public and private health insurance programs. The Commission will also open a new rulemaking proceeding to consider rules and procedures for the administration of the program and implement the program by January 1, 2014. The CPUC will also need a consultant to assist the CPUC about the area of SGD, assessing access needs of Californians with functional limitations and assessing as an ongoing effort the efficiency and quality of SGDs. The annual cost of this consultant contract is estimated at \$259,000.

The CPUC estimates the equipment cost will be \$5,500,000 in FY 2012-13 and will ramp up to \$11,000,000 per year starting FY 2013-14 when the program is fully implemented. This is based on an average SGD cost of \$11,000 per unit. The CPUC is required by AB 136 to expand the December 31 annual report to the Legislature to include assessment of additional SGDs consistent with evolving telecommunications technology, options for controlling the SGD program costs, and any barriers by eligible subscribers to participate in the program.

Staff Recommendation: Approve as Budgeted

ISSUE: 2 GLOBAL SAFETY AND ENFORCEMENT PROGRAMS

The Governor's Budget proposes 41 positions and \$5,896,000 (\$3,561,000 PUC Utilities Reimbursement Account, \$153,000 State Highway Account, STF, \$934,000 Public Transportation Account, STF, \$787,000 PUC Transportation Reimbursement Account, \$320,000 Reimbursements, \$140,000 Federal Trust Fund) to strengthen safety oversight and enforcement over gas, electric, communications and rail public utilities. The 41 requested positions would conduct safety field work, and to enhance risk assessment and enforcement functions as follows: 18 positions in Gas, Electric and Communications Safety; 12 positions in Rail Safety for four targeted areas (rail crossings, rail transit systems, railroads, and rail safety risk management); and, 11 positions in Safety Enforcement.

CPUC states that approving these new positions does not require an increase in the CPUC surcharge, and therefore does not impact ratepayers. However, the cost of the railroad safety positions for 2 new signal and train control inspectors for a specialized positive train control unit would be borne by the rail industry. The Commission deposits into the GF any fines or penalties collected from a provider through an enforcement action.

BACKGROUND

On September 9, 2010, a natural gas transmission pipeline owned and operated by Pacific Gas and Electric (PG&E) ruptured in a residential area in the city of San Bruno. The accident killed eight people, injured many more, and caused significant property damage. The released natural gas ignited sometime after the rupture and the resulting fire destroyed 37 homes and damaged 18 others.

Prior to the San Bruno explosion, the CPUC's safety staffing levels reflected its expectation that utilities inherently recognize public safety as their top priority. Thus, the CPUC focused on fulfilling its own state and federal mandates, primarily through audits, inspections, and after-the-fact investigations, conducted within industry-specific programs. The CPUC states, San Bruno "was a game-changer in terms of how the Commission intends to conduct critical safety oversight going forward. Recommendations from gas safety experts, the Independent Review Panel (IRP or Panel) and the National Transportation Safety Board (NTSB), as well as our own lessons learned, apply across all industries under our jurisdiction."

California's energy and transportation systems are antiquated, overloaded, prone to accidents, and need closer scrutiny. The majority of the electrical system was installed in the 1950s and 1960s, which means such facilities are nearing the end of their useful lives. Generators, poles, wires, pipelines, and tracks constructed in lightly populated areas in the 1950s, are now surrounded by homes, parks and schools. For example, PG&E installed the San Bruno gas transmission line in 1956, well before housing development in that area.

Similarly, the San Francisco Municipal Transportation Agency (SFMTA) and Bay Area Rapid Transit District opened for service in 1912 and 1970, respectively. A recent federal assessment of rail transit systems highlighted the condition of the rail on the SFMTA system as a prime example of deterioration. The configuration and capacity of many railroad crossings, sufficient when designed, are now incapable of managing the volume and characteristics of modern vehicle and pedestrian traffic, which leads to vehicle-train collisions.

Gas Safety

The CPUC regulates the safety of both large and small natural gas transmission and distribution facilities, natural gas storage facilities, propane gas systems and mobile home park master-metered gas systems. California's gas system serves 11 million customers via 100,000 miles of gas distribution mains and 10,000 miles of gas transmission pipelines. More than 2,300 miles of transmission pipelines are located in high-consequence areas – areas adjacent to significant population or frequently used by the public. Some of these pipeline systems were built as early as the 1920s.

The San Bruno explosion brought considerable national attention, criticism and calls for change to California's regulatory approach to safety. Post-San Bruno, the CPUC, federal regulators, the Legislature and Congress have undertaken a comprehensive relook at natural gas pipeline safety, which has already resulted in new laws, rules and regulatory regime for all California pipeline operators, not just PG&E.

Immediately after the San Bruno event, the CPUC authorized the formation of an IRP of experts. The Panel's subsequent report identifies gaps in the CPUC's Gas Safety Program, and recommends the CPUC take multiple actions to reduce the likelihood of future incidents. Similarly, the NTSB and the Pipeline and Hazardous Materials Safety Administration (PHMSA) opened an investigation into the San Bruno explosion, and issued an investigation report on August 30, 2011. The NTSB identified the need for additional activities and resources at both the State and Federal level to ensure safe operation and support comprehensive safety program reform.

The Independent Review Panel recommends that the CPUC improve several aspects of its gas safety program. Such recommendations include creating Integrity Management Specialists, taking more enforcement action, and developing a state-of-the-art risk analysis group. The NTSB recommendations include working with PHMSA to conduct a comprehensive audit of all aspects of PG&E's gas system operations and correcting all the deficiencies in PG&E's system that were identified in the NTSB report.

Currently, the Gas Safety Section consists of 22.5 staff. This includes the original 9 Utility Engineers (UEs) as of September 9, 2010, four PYs received mid-year, and 5.5 received on July 1, 2011. In addition, the CPUC hired four Senior UE-Specialists to form the new Risk Assessment Unit (approved in the 2011-2012 BCP).

The CPUC is seeking seven new PYs for the Gas Section: two for Integrity Management; two to support Risk Assessment activities and three for a dedicated, permanent Gas Enforcement Unit. Additionally, CPUC requests \$300,000 to populate the database with gas safety data.

Electric and Communication Safety

The CPUC oversees the safety of all electric and communications systems in the state, which includes over 300,000 miles of electric distribution and transmission lines, 4 million utility poles, 2,000 substations, and 500,000 underground electrical structures.

Overhead Line Safety. Over 50 communication infrastructure operators provide landline, wireless, and cable television service in California. Over 600,000 miles of communication lines serve multiple regions and/or districts and a vast service territory. Approximately 90% of such facilities attach to poles or towers that host electric facilities. Joint use of facilities by electric and communications providers is economically and environmentally beneficial to California, but presents safety and reliability concerns to utility staff and the public. Communication providers fail to maintain existing facilities, yet install thousands of new miles of communication lines to severely overloaded poles to meet the increasing public demand for bandwidth.

Substation Safety. In 2005, the CPUC began to investigate a series of preventable fires at PG&E's Mission substation. Among other outcomes, the CPUC concluded that it must develop and enforce specific standards for utility substation construction and operation, and tasked the Electric Safety staff to develop a new general order and substation inspection program. In 2010, the CPUC opened a formal proceeding to consider the draft rules and expects to adopt the new General Order by early 2012. The inspection program will apply not only to substations owned and operated by investor- and publicly-owned utilities, but also to those associated with electric generators and light rail systems.

Currently, the Electric and Communications Safety Section consists of 12 staff. The CPUC seeks an increase of 5 positions to staff a new substation and underground enclosure inspection program and 5 positions to staff an overhead line inspection program.

Power Plant Safety. The Electric Generator Performance Program oversees the safe and reliable operation of most of California's major power plants, primarily through comprehensive audits, inspections, investigations, and data analysis. The program focuses on the state's 50 largest fossil fuel power plants and between 10-15 "peaking" plants (critical units that operate during times of peak electricity demand). Collectively, those plants provide over 58 gigawatts of the state's generating capacity.

According to the CPUC, electric generators demonstrate a strong incentive to maximize profits by reducing or deferring maintenance, training, and safety programs. Staff fieldwork proactively identify systemic issues that jeopardize power production and safe operation. The CPUC staff repeatedly identifies severe corrosion, faulty welds, electrical arc flashes, and careless handling of hazardous chemicals, all of which put worker and public safety at risk. Many plants demonstrate that unless CPUC staff brings the plant's attention to violations and seeks corrective action, the plant is unlikely to voluntarily spend profits in those areas.

The program has yet to initiate or litigate a case against a power plant owner for failure to correct serious violations. As a result, serious infractions go uncorrected which leads to recurring incidents. Currently, the program consists of 12 staff. The CPUC seeks 1 position to prepare testimony and provide technical support to bring formal enforcement cases before the CPUC.

Rail Safety

The CPUC is charged with ensuring the safety of freight railroads, inter-city and commuter railroads, rail transit systems, and highway-railroad crossings in the State of California.

Rail Crossing Safety. The CPUC's jurisdiction over the safety of crossings of highways and railroad tracks includes the power to determine crossing design, location, terms of installation, operation, maintenance, use, and warning devices.

Accurate data analysis is necessary to identify accident, incident, and near-miss trends at crossings, and ensure that locations with the highest risk receive top priority for targeted improvements. The CPUC is responsible for assessing risk at crossings either nominated for grade separation, or selected for safety improvements through federal funding. With limited resources, the accuracy of risk-prioritization of these crossings is critical in order to reduce the most risk with allocated monies. Unfortunately, the risk-prediction data for California's crossings has become out-of-date, and suffers serious accuracy problems. This request is for resources to capture and validate all crossing data with federal funding that would otherwise be left unspent.

California receives approximately \$16 million annual from the Federal Highway Administration (FHWA) to improve the safety of highway-rail crossings. Caltrans administers the funds, named "Section 130 funds" after the US Code section that authorizes and governs the disbursement. Section 130 allows Caltrans to allocate up to 2 percent of these funds for data acquisition and analysis. The CPUC proposes, and Caltrans concurs, that if the BCP is approved, the two agencies would enter a Memorandum of Understanding to disburse funds to the CPUC for that purpose. The Commission would engage a contractor to survey and collect comprehensive data for all highway-rail crossings, for a maximum of 2 percent of Section 130 funds (currently \$320,000) per year until the work is completed (estimated to be three to five years). Any unused funds will roll over to the subsequent year.

Rail Transit Safety. The Rail Transit Safety Section (RTSS) reviews and certifies the Rail Transit Agencies (RTA's) Triennial Systems Safety and Security Plans for compliance with Federal and State requirements.

The growing workload attributable to growth in the number and size of rail transit systems in California and to recent changes in federal law means that the CPUC must now complete two to three major system audits and three to four smaller system audits annually to meet the requirement of auditing all rail transit agencies once every three years. Such audits must review and assess formal System Safety Program Plans and System Security Plans, as required of the states and as audited by the Federal Transit Administration (FTA). If the CPUC audits, timeline, and oversight practices do not comply with the FTA's requirements, California could lose five (5) percent of federal funding for transit systems.

The CPUC's rail transit safety section is currently undergoing a formal FTA audit. Unfortunately, the CPUC has begun to fall behind in its audits of California's rail transit systems. Since the CPUC must audit each RTA every three years, and there currently are 13 RTAs, the staff must complete at least four audits per year. An earlier audit was delayed and an audit that was scheduled for this year for the San Francisco Municipal Railway's light-rail and cable car system was delayed until March. Additionally, as discussed below, the FTA's initial compliance audit briefing revealed several issues that need to be addressed.

Currently, RTSS consists of 23 staff. The CPUC seeks 6 positions to expand the rail safety certification and inspection unit.

Railroad Safety. All railroad operations in the state currently rely on human performance for collision avoidance. Federal legislations require a collision-avoidance system, termed Positive Train Control (PTC), to be installed by the end of 2015 on U.S. railroad lines with passenger and toxic inhalant traffic. PTC utilizes Global Positioning Satellite (GPS) and state-of-the art computing technology to locate and stop trains before they collide, thus removing the possibility and consequence of human error.

Currently, one Signal and Train Control inspector is accomplishing the development and initial testing tasks. The CPUC is requesting 2 new Signal and Train Control inspectors for a specialized PTC Unit. California will be the first such system in the nation.

Rail Risk Assessment. A 2011-2012 BCP provided funding for four new positions to form a new Risk Assessment Unit for gas safety. Similar to recent changes to energy safety regulation, the CPUC must change its approach to rail safety from reactive to predictive and proactive, in part by scaling up our risk assessment capabilities. While inspections and system safety plans are essential, it is also important that the CPUC's rail safety programs gain expertise in risk analysis and risk management, identify and assess public safety risks posed by rail operations and assess the quality of the rail agencies' own risk management programs.

Additionally, the Legislature has often promoted and often required risk analyses be performed, although these were discrete tasks that were performed with ad-hoc groups. No permanent risk management functions were established or staffed, and currently, there is no comprehensive Risk Assessment Function for any of the three rail programs.

The CPUC requests 4 positions for a Rail Safety Risk Assessment Unit for the three rail safety programs: Railroad, Rail Transit, and Rail Crossings.

Legal Staff

Currently, the Legal Division has 66 attorney positions. The CPUC requests 8 new legal staff positions dedicated to support Consumer Protection Safety Division's (CPSD) increased efforts in safety. These legal positions are necessary to represent CPSD in safety rulemakings, help CPSD overcome utility resistance of discovery during the informal investigations, prosecute or enforce the safety requirements in the additional formal CPUC enforcement actions, conduct settlement discussions and advise and defend the CPUC in court challenges, or seek injunctive relief when necessary.

Administrative Law Judges (ALJs)

The CPUC requests 3 ALJ positions to handle the increased level of enforcement cases. ALJ workload is based on open proceedings. There are currently 334 open cases, of which 15 are enforcement cases. 210 cases are applications filed by regulated entities requesting some form of relief, 70 cases are complaints filed by individuals or competitors alleging utility violation of tariffs or rules, 36 are CPUC initiated policy rulemakings, with the remaining being petitions for rulemakings. The only cases that the CPUC is in a position to limit are those it initiates, enforcement proceedings or policy rulemakings. In addition, current statutes require the CPUC to complete cases in a timely manner, with specific timing being legislated.

The ALJs requested would also handle appeals of citations, which, with the expansion of citation capability and higher dollar fine amounts, are expected to occur more frequently.

LAO Comments. In response to the above reports, as well as recent legislation that directs the CPUC to take certain actions regarding pipeline safety, the Governor's budget for 2012-13 includes various requests that in total would provide the CPUC with \$6.5 million in increased funding to support 46 additional positions in its Consumer Safety Division.

Proposals Raise Concerns. The Governor's proposal raises some concerns. First, our analysis indicates that the Consumer Safety Division currently has 31 vacant positions (out of a total of 217 positions). Moreover, we note that the CPUC, as a whole, currently has a total of 135 vacant positions. At the time of this analysis, the commission has not provided a plan on how it will address its vacancies. Given the CPUC's current vacancy rates, the requested funding may not be spent as proposed in the budget year to the extent that the requested positions for the Consumer Safety Division are not filled. In addition, the CPUC has not provided adequate information to justify the requested 46 positions on a workload basis.

LAO Recommendation. In view of the above concerns, we recommend that the Legislature reject the Governor's 2012-13 budget proposals that would provide the CPUC with a total of 46 additional positions, as well as appropriate \$6.5 million to support these positions. We further recommend that the Legislature require the CPUC to provide a plan this spring on how it plans to fill its current vacancies.

STAFF COMMENT

CPUC admits that policy objectives took priority over safety prior to the San Bruno explosion. CPUC's reactive safety strategy, premised on the assumption that utilities recognized public safety as their top priority, was inherently misguided. Both the NTSB recommendations and the IRP report validate the need for a comprehensive relook at natural gas pipeline safety and additional activities and resources at both the State and Federal level to ensure safe operation and support comprehensive safety program reform. Further, California's electric and transportation systems are also antiquated, overloaded, prone to accidents, and need closer scrutiny.

While the CPUC's BCP demonstrates a need for its new predictive and proactive approach to safety, as well as additional activities and resources, it is unclear whether it needs new position authority. In March, the CPUC reported 135 vacant positions, 31 of which are in the Consumer Protection Division, the same Division where 30 of the new positions are being requested. Additionally, as the San Bruno case winds down, four Senior Utilities Engineers will return to their posts to tackle the backlog of audits, inspections, and investigations.

Staff Recommendation: HOLD OPEN. Direct LAO, DOF, CPUC, and Budget staff to investigate why there are so many vacancies at the Commission and the potential to redirect the vacant positions to the urgent and vital safety workload identified in the BCP.

ISSUE 3: STATE ELECTRICITY REGULATORS ASSISTANCE PROJECT - ARRA

The Governor's Budget requests an extension of spending and personal services authority for 4.0 limited-term analyst positions and temporary help positions to be funded beyond July 1, 2012 to December 31, 2014. This is the second year of a five-year Federal American Recovery and Reinvestment Act (ARRA) Grant that fully reimburses these personnel costs as well as other grant related expenditures. As of June 30, 2011, \$144,350 of the total grant of \$1,686,869 has been spent. The Commission has authority to extend the Period of Performance until December 31, 2014, which is the ending date of the federal grant.

BACKGROUND

According to the CPUC, the purpose of the extension is to help with the following objectives:

- to address the growing number of dockets and advice letters related to ARRA electricity topical areas;
- to facilitate timely consideration of electricity dockets and advice letters including implementation and program activities related to ARRA topical areas; and,
- to create additional Analyst and Intern positions and better train existing staff to address complex energy regulatory issues.

The CPUC's Energy Division provides advice to Commissioners and Administrative Law Judges on topics related to the Federal ARRA Initiatives, such as energy efficiency, smart grid, demand response, renewable energy, alternative fuel vehicles, and transmission upgrades. There are currently approximately 50 open proceedings and more than 100 related advice letters (informal compliance filings) in these areas.

The intent of the funds is to supplement, not supplant, normal state appropriations for CPUC staffing, expressly for the purpose of addressing the significant increase in CPUC workload created by Recovery Act electricity-related initiatives. The Federal Department of Energy (DOE) approved the ARRA Grant to California in December 2009. According to the CPUC, "California must accept the significant increase in CPUC workload created by Recovery Act electricity-related initiatives because of Federal pre-emption authority over state law and additional compliance with new Federal initiatives. Many states have accepted ARRA Federal Grant money to do exactly what the CPUC is doing with its share of DOE ARRA Grant money." There are no other funding sources that could be used for this purpose.

STAFF COMMENT

Since only \$144,350 of the total grant of \$1,686,869 has been spent to date, the Committee should ask the Commission to address how it plans to ensure that all ARRA funds will be spent before the federal grant deadline of December 31, 2014.

Staff Recommendation: Hold Open. Direct the Commission to return with a plan for spending the ARRA funds by the federal grant deadline.

ISSUE 4: GAS PIPELINE EMERGENCY RESPONSE STANDARDS

The Governor's Budget proposes 2 positions (Utilities Engineers or UEs) and \$217,000 (\$117,000 PUC Utilities Reimbursement Account and \$100,000 Federal Trust Fund) to implement SB 44 (Corbett), Chapter 520, Statutes of 2011, which directs the Commission to establish emergency response standards that owners of gas pipeline facilities would be required to follow.

The UEs will conduct fieldwork and audit emergency response plans for over 3,200 mobile home parks and propane systems, as well as five large transmission and distribution pipeline operators. The UEs will work with the California Office of Emergency Services (OES) and local first responders located across the state, as required by SB 44. The UEs will then review the emergency response plans of each gas pipeline operator to ensure compliance with the CPUC's new standards. The CPUC must begin the proceeding by July 1, 2012. And finally, the UEs will compile a progress report to the Legislature by January 1, 2013, which describes the CPUC's actions to comply with SB 44.

STAFF COMMENT

The Commission regulates the safety of both large and small natural gas transmission and distribution facilities, natural gas storage facilities, propane gas systems and mobile home park master-metered gas systems. California's gas system serves 11 million customers via 100,000 miles of gas distribution mains and 10,000 miles of gas transmission pipelines. More than 2,300 miles of transmission pipelines are located in high-consequence areas (HCA) – areas adjacent to significant population or frequently used by the public. Some of these pipeline systems were built as early as the 1920s.

The CPUC also works as an agent of the Federal Government to enforce gas safety in California. After the gas pipeline explosions in Rancho Cordova and San Bruno, federal regulators, the Legislature and Congress have undertaken a comprehensive relook at natural gas pipeline safety. The 2011-12 Legislative Session resulted in four new state laws (AB 56, SB 705, SB 44, and SB 216) that require the CPUC to establish more stringent safety programs, rules and standards for California pipeline operators. Collectively, the statutory mandates simultaneously give the CPUC greater authority over gas safety.

The CPUC's gas safety section currently consists of 17.5 UEs, 1 Senior UE Specialist, 2 Senior UE Supervisors, and 1 Program and Project Supervisor. This includes the original 9 UEs as of September 9, 2010, four PYs received mid-year, and 5.5 received on July 1, 2011. In addition, the CPUC hired four SUE-Specialists to form the new Risk Assessment Unit (approved in the 2011-2012 BCP).

Staff Recommendation: HOLD OPEN per staff recommendation on Global Safety BCP.

ISSUE 5: NATURAL GAS SERVICE AND SAFETY

The Governor's Budget proposes 1 position and \$102,000 (\$51,000 PUC Utilities Reimbursement Account and \$51,000 Federal Trust Fund) to implement SB 705 (Leno), Chapter 522, Statutes of 2011, which directs the Commission to review and approve gas utilities' plans for the safe and reliable operation of gas pipeline facilities.

STAFF COMMENT

SB 705 requires each gas utility to develop and implement a service and safety plan for the safe and reliable operation of all pipeline facilities (both transmission and distribution). The plans must reflect and implement the state's policy that the PUC and each gas utility are to place safety as the top priority. The CPUC must approve the utilities' initial plans by December 31, 2012. Thereafter, the PUC must review and approve periodic updates or modifications to the plans.

As mentioned in the previous agenda item, after the gas pipeline explosions in Rancho Cordova and San Bruno, federal regulators, the Legislature and Congress have undertaken a comprehensive relook at natural gas pipeline safety. The 2011-12 Legislative Session resulted in four new state laws that require the CPUC to establish discrete safety programs, rules, and standards for California pipeline operators, to more closely monitor the operators' implementation of such standards and to correct infractions much more quickly than in the past.

Following the San Bruno incident, the Independent Panel Report and the NTSB Report each included several recommendations for program improvements that the CPUC has committed to implement. The reports emphasized the need for the CPUC and PG&E to institute and maintain a culture of safety within the respective organizations. SB 705 gives the PUC explicit authority to require all jurisdictional gas corporations to do the same.

The statute imposes an aggressive timeline to establish safety and service plans for each gas corporation. SB 705 requires the CPUC to place safety of the public and gas corporation employees as the highest priority, and ensure that the safety plans demonstrate how each gas corporation intends to implement that policy. The statute directs the CPUC to ensure that the safety and service plans address each of 11 specific safety risks, hazards and/or mitigation measures. The processes adopted and implemented by the CPUC must provide opportunities for gas corporation staff to participate in plan development and implementation. The bill also requires gas corporations to spend all revenues authorized by the CPUC to implement the service and safety plans pursuant to SB 705. And finally, the CPUC must hold a hearing, review the plans, and accept, modify or reject the initial plans by December 31, 2012.

In the short term, to meet the December 31, 2012 deadline to approve the utilities' plans, the CPUC has temporarily redeployed an existing resource from gas inspections, audits and investigations to plan and facilitate the series of meetings and/or workshops required by SB 705 to provide gas workers and other stakeholders an opportunity to participate in plan development and implementation. Once the new PY is hired, the redeployed resource will be return to normal duties.

Staff Recommendation: HOLD OPEN per staff recommendation on Global Safety BCP.

ISSUE 6: GAS CORPORATIONS COST RECOVERY, AUTOMATIC VALVES, TESTING AND REPORTING REQUIREMENTS

The Governor's Budget proposes 2 positions and \$322,000 (\$162,000 CPUC Utilities Reimbursement Account and \$160,000 Federal Trust Fund) to implement AB 56 (Hill), Chapter 519, Statutes of 2011, which directs the CPUC to fast-track rule development and implementation gas safety provisions.

STAFF COMMENT

AB 56 directs the CPUC to: open a formal proceeding to adopt and enforce new safety standards to require automatic or remote-control shutoff valves for certain intrastate gas transmission lines; adopt new procedures associated with assessments and reporting of natural gas transmission pipeline operations; incorporate specific requirements to its ratemaking procedures and restrict cost recovery by gas corporations; and monitor gas corporations on a continuous and ongoing basis to ensure compliance with the statute. AB 56 directs the CPUC to complete the work "as soon as reasonably practicable." SB 216 requires the CPUC to undertake similar activity regarding automatic shutoff valves.

Existing state and federal gas regulations do not require operators of gas transmission pipelines to install automatic safety valves, capable of shutting off gas flow immediately, when necessary. When PG&E's gas pipeline exploded in San Bruno, utility personnel were unable to shut off the manual valve for 90 minutes, which allowed high-pressure gas to continue to flow into the neighborhood. Gas industry experts believe that one or more automatic shut off valves could have minimized the resulting property damage and loss of life in San Bruno.

AB 56 and SB 216 create a number of new responsibilities and verification activities for the CPUC that require more stringent standards, labor-intensive quality control and verification activities:

- a) Develop, adopt, and enforce new safety standards that require mandatory installation of automatic or remote shutoff valves for gas transmission pipelines, including a schedule, prioritization criteria and ongoing procedures to monitor a gas corporation's progress to comply with AB 56 and SB 216 requirements.
- b) Develop criteria for comprehensive pressure testing implementation plans for all intrastate transmission operators, and subsequently review and critique the plan submittals (AB 56).
- c) Review and critique twice-yearly reports submitted by each gas company to the CPUC under new AB 56 reporting requirements. AB 56 requires the CPUC to:
 - Assess whether the operators carry out projects and activities identified as "high risk."
 - Track whether gas corporations spend allocated funds on storage and pipeline safety, reliability and integrity management projects previously approved by the CPUC.
 - Evaluate the strategic planning and decision-making approach by which a gas corporation determines and ranks gas storage projects; transmission line safety, integrity and reliability; operation and maintenance activities; and, pipeline inspection.

- Prepare an evaluation report for each operator's report, and advise the PUC of any deficiencies in the operators' report related to project prioritization and administration, as well as maintenance and operations activities.
- d) Require all operators of gas transmission and distribution systems to meet with local fire departments at least once each calendar year to review contingencies plans for gas emergencies within the local fire department's jurisdiction. This particular provision is similar to a provision in SB 44, which requires the CPUC to establish emergency response standards, and oversee coordination efforts between the pipeline operators and local emergency responders. The CPUC intends to implement the two provisions within one proceeding, and thus will seek new positions for this particular responsibility in a separate BCP for SB 44.

Each of these tasks is incremental to the workload that was described to support the positions that were requested and granted in mid-year and on July 1, 2011, and in the 2012-2013 BCP. The new tasks required by AB 56 and SB 216 join a host of recommendations from the federal government, the Legislature, and gas industry experts. In combination, such mandates and recommendations form the nucleus of the PUC's new direction and approach to safety regulation, which the CPUC plans to extend to all industries within its jurisdiction. Some of the new mandates emphasize the need for new specific safety programs, while others require the CPUC to strengthen existing efforts.

Staff Recommendation: HOLD OPEN per staff recommendation on Global Safety BCP.

ISSUE 7: COMMUNITY CHOICE AGGREGATION

The Governor's Budget requests 4, two-year limited-term positions and \$421,000 (Public Utilities Commission Utilities Reimbursement Account [PUCURA]) to implement SB 790 (Leno), Chapter 599, Statutes of 2011, which makes various statutory changes regarding the formation and administration of Community Choice Aggregation (CCA) programs. The PUCURA receives revenue from a flat fee that is established annually and levied on the ratepayers of IOUs under the jurisdiction of the CPUC. Section 431 of the Public Utilities Code requires that the total revenues collected from these fees can be no greater than the annual CPUC budget for regulating IOUs, as authorized by the Legislature.

STAFF COMMENT

In 2002, the Legislature established in statute CCA programs, which provide local governments the authority to procure electricity on behalf of their residents and businesses. Under such arrangements, the area's investor-owned utility (IOU) would continue to provide distribution, transmission and billing services. Such programs are intended to provide residents more choice about their electricity provider. Currently, there is only one CCA in operation in the state—the Marin Energy Authority.

SB 790 requires the CPUC to develop and implement a number of new provisions to facilitate the formation and operation of CCA programs by local governments to procure power for customers enrolled in the CCA program. It requires the Commission to open a rulemaking to adopt a code of conduct, associated rules, and enforcement procedures that would govern the conduct of IOUs with respect to the consideration, formation, and implementation of CCA programs. SB 790 also states that the implementation of a CCA program should not result in a shifting of costs between the customers of the CCA and the customers of an IOU. In other words, existing statute indicates that IOU ratepayers should not be required to pay the cost of CCA programs. In addition, SB 790 states that all reasonable transaction-based costs of services provided to a CCA or its customers should be recovered from the CCA or its customers on terms and at rates approved by the CPUC.

LAO Comments. SB 790 states that the cost of activities that support CCAs should be recovered from the CCAs and their customers and not from IOU rate payers. Specifically, SB 790 directs the CPUC to establish a means by which to recover from CCAs and their customers the costs of activities, which support CCAs. However, under the Governor's proposal, the requested positions to support the activities of CCAs would be funded from the PUCURA, which consists entirely of revenues from fees paid for by IOU ratepayers. Currently, CCAs and their customers are not charged the flat fee that supports the PUCURA.

LAO Recommendation. In view of the above, we recommend that the Legislature reject the Governor's proposal to fund the requested positions from the PUCURA. Rather, we recommend that the Legislature direct the CPUC to provide an alternative funding plan in May that specifies how it will recover the costs of the additional positions from CCAs.

Staff Recommendation: Hold Open. Direct the CPUC to return to the Committee and provide an alternative funding plan per LAO recommendation.
