# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES AND TRANSPORTATION

### ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

### WEDNESDAY, MAY 22, 2013
### 9:00 A.M. - STATE CAPITOL ROOM 447

**CONSENT CALENDAR**

**VOTE-ONLY CALENDAR**

## ITEMS TO BE HEARD

# CONSENT

| Org Code | Department | Summary |
|---|---|---|
| **3900** | **Air Resources Board** | Proposes to provide a new Budget Act item to separately identify resources for the Western Climate Initiative (WCI), Inc., to provide greater transparency regarding expenditures for access to WCI services. May Revision Proposal (MR) |
| **3540** | **Department of Forestry and Fire Protection** | Proposes an increase of $952,000 (General Fund) to fund a new contract for aviation logistics support, parts, and services for the Department of Forestry and Fire Protection's (CAL FIRE's) Aviation Management Unit. (MR) |
| **3540** | **Department of Forestry and Fire Protection** | Proposes an increase of $51 million (General Fund) for emergency wildfire suppression costs. (MR) |
| **3540** | **Department of Forestry and Fire Protection** | Proposes to reappropriate unexpended one-time funding from 2012-13 related to an ongoing lawsuit. (MR) |
| **3540** | **Department of Forestry and Fire Protection** | Capital Outlay Reappropriations. Consistent with its current strategic plan and past actions, the budget includes a reappropriation of funds for various phases of major capital outlay projects. These projects have previously been approved and are mainly for fire station and conservation camp construction projects. (May 1 Technical Letter) |

# ITEMS FOR VOTE ONLY

## 2660 CALTRANS

### VOTE-ONLY ISSUE 1: PROPOSITION 1B CAPITAL REQUESTS

The May Revision reflects an expected adjustment to the budget appropriation levels for Proposition 1B.

### BACKGROUND

The May Revision makes adjustments to the Governor's January Budget proposal based upon updates from the State and local entities on expected uses for next year. The May Revision increased the total amount of the Proposition 1B by $19.8 million. This will result in total request of $258.2 million in capital funding for projects in five categories within the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B).

The May Revision also includes Budget Bill Language to allow the remaining bond capacity to be used as bonds approach the point that they are fully expended.

While the appropriation and allocation of funds trigger projects to move forward, the Treasurer and the Department of Finance use actual expenditure expectations to guide the amount of bonds that are sold. This prevents the accumulation of excess cash balances of bond funds, which was a problem in recent years.

### STAFF COMMENT

The Subcommittee discussed this issue at its April 10, 2013 hearing and the proposed May Revision appropriation levels are consistent with the discussion at that hearing.

**Staff Recommendation: Adopt May Revision Proposal**

## VOTE-ONLY ISSUE 2: EXTENSION OF THE USE OF STATE HIGHWAY FUNDS FOR GENERAL OBLIGATION BOND INTEREST

The Subcommittee will act on the January Budget proposal to extend the use of State Highway Funds for General Obligation Bond Interest.

### BACKGROUND

The Governor's Budget proposes to continue to transfer $67.0 million in special fund revenue to offset transportation debt service costs on a permanent basis. The State Highway Account generates a portion of its revenue from sources other than excise taxes on gasoline, such as rental income and the sale of surplus property. Since 2010-11, this revenue source has been used to offset General Fund debt service costs on specified general obligation transportation bonds. This action was taken as part of the Fuel Tax Swap adopted in that year.

The Fuel Tax Swap provides for a combination of lowering the sales and use tax rate applicable to sales of motor vehicle fuel, excluding aviation gasoline, and simultaneously raising the state excise motor vehicle fuel tax, effective July 1, 2010. Additionally, the Fuel Tax Swap raises the sales tax rate applicable to sales of diesel fuel and simultaneously lowers the state excise tax on diesel fuel, effective July 1, 2011. The State Board of Equalization (BOE) is required to adjust the excise tax rates for both motor vehicle fuel and diesel fuel annually so that the total amount of tax revenue generated is equal to what would have been generated had the sales and use tax and excise tax rates remained unchanged.

### STAFF COMMENTS

The Subcommittee heard this issue on March 13, 2013 and held the issue open to allow for additional time for the public to respond to the proposal. Since that time, the Subcommittee has received no feedback on this important "reserve builder" solution.

**Staff Recommendation: Approve as Budgeted**

# 2665 HIGH-SPEED RAIL AUTHORITY

## VOTE-ONLY ISSUE 3: TRAILER BILL LANGUAGE ON UTILITY RELOCATION

In an April 1 Fiscal Letter the High-Speed Rail Authority (HSRA) requests statutory changes that address the process and rules for the relocation of utilities outside of the right-of-way for the high-speed rail project.

### BACKGROUND

The HSRA has the statutory authorization to relocate utilities in order to conduct construction on the high-speed rail project; however, no statutory framework exists for this process. Instead, the HSRA has relied upon reaching a mutual agreement with utility companies, but lacks the leverage to compel utility companies to negotiate.  The result can be that the project would be subject to delays if agreements are not in place when construction is ready to commence.

The proposed trailer bill language has been modeled after existing language used by Caltrans for the relocation of utilities in other transportation projects.  The HSRA indicates that without the trailer bill language, the project could experience delays or incur unnecessary costs.  The HSRA indicates in its request that utility companies are familiar with the proposal and accept the current procedures with respect to other transportation projects.

### STAFF COMMENTS

The Subcommittee heard this issue on April 10, 2013 and held the issue open because there had been limited time to review the proposal.  Since that time no objections to the language were received by the Subcommittee.

**Staff Recommendation:  Adopt Placeholder Trailer Bill Language**

## VOTE-ONLY ISSUE 4: BUDGET STATEMENT CONSOLIDATION

The HSRA has requested statutory changes that address the process and rules for the relocation of utilities outside of the right-of-way for the high-speed rail project.

### BACKGROUND

Under existing law, pursuant to SB 1029 (Chapter 152, Statutes of 2012) the HSRA budget for certain capital outlay components (environmental clearance and preliminary engineering) are differentiated by segment, as presented in items 2665-304 and 2665-305. That is, funds may be expended according to the schedule for each isolated segment of the project. The HSRA has suggested a budget consolidation approach, which would combine the segments and allow for increased budget flexibility. The proposal would enable the HSRA to better adapt to changing project conditions as planning continues. It would also simplify accounting and the process and payment of invoices, which can currently involve splitting costs among the various segments and items of appropriation.

### STAFF COMMENTS

This concept was discussed briefly at the April 10, 2013 Subcommittee hearing. The HSRA worked with DOF in constructing the proposed budget bill language and staff has reviewed the language.

On May 15, 2013, Senate Budget and Fiscal Review Subcommittee #4 adopted the proposed budget bill language.

**Staff Recommendation: Conform to Senate**

# 0521 SECRETARY FOR TRANSPORTATION

## VOTE-ONLY ISSUE 5: FUNDING FOR THE SECRETARY OF TRANSPORTATION

The Subcommittee will consider the funding plan for the Secretary of Transportation's staff.

### BACKGROUND

Effective July 1, 2013, the Governor's Reorganization Plan No. 2 of 2012 created the Secretary for Transportation. The 2013-14 transportation responsibilities of the Secretary for Business, Transportation, and Housing are merging into this Secretary. The 2011-12 and 2012-13 budget information for transportation responsibilities is displayed in the Secretary for Business, Transportation, and Housing (Organization Code 0520). In addition, the Office of Traffic Safety is merging with this Secretary.

The Transportation Agency develops and coordinates the policies and programs of the State's transportation entities to achieve the State's mobility, safety, and air quality objectives from its transportation system.

The 2013-14 Budget includes $101.5 million and 58 positions for the Secretary for Transportation. Most of these resources ($97.4 million and 32 positions) are associated with the activities that were previously performed by the Office of Traffic Safety.

### STAFF COMMENTS

At the March 13, 2013 hearing the Subcommittee considered the Transportation Agency's budget in an informational item. This action would formally approve the Agency's budget plan for 2013-14

**Staff Recommendation: Approve as Budgeted**

## 3340 CALIFORNIA CONSERVATION CORPS

### VOTE ONLY ISSUE 6: PROPOSITION 40 – FUELS MANAGEMENT

The Governor's May Revision proposes a 3-year, $5 million annual appropriation (Proposition 40) and 12.5 limited-term positions for fire prevention and fuel reduction activities to be performed by the California Conservation Corps (Corps) in sensitive watershed areas to protect water quality and reduce wildfire risk.

Proposition 40, approved by the voters in 2002, provides $300 million for projects that enhance beaches, watersheds, and water quality, including fuel management activities in watersheds. This proposal will fund Corpsmember crews to perform hazardous fuels reduction projects and/or post-fire watershed restoration activities within the State Responsibility Area.

The CCC maintains approximately 1450 full-time positions for young adults 18-25 years of age and recently returned veterans to age 28 from across California. Corpsmembers work on approximately 2000 work projects statewide each year. Currently, the CCC lacks funds to adequately support the transition of young adult members of the CCC to post-Corps employment, education, or training. Therefore, staff recommends additional funds be appropriated to pay for the career development planning, counseling and other related support to assist corpsmembers successfully navigate the transition following their term of service and leave the CCC with a plan for their next steps in life. This additional funding will augment the CCC's demanding program that combines public service conservation work, education, leadership development and volunteerism.

**Staff Recommendation: Approve May Revision proposal. Approve $1.5 million (General Fund) on-going to the CCC for corpsmember career development and transition support.**

## 3360 ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

### VOTE-ONLY ISSUE 7: IMPLEMENTATION OF THE ELECTRIC PROGRAM INVESTMENT CHARGE (EPIC)

The Governor's Budget requests baseline authority for 55.5 position, $575,000 in technical assistance funds and $159.3 million in project funds for the implementation and execution of the EPIC. The proposal includes an additional $25 million in EPIC Funds the CPUC may approve for the New Solar Homes Partnership Program. Proposed expenditures would roughly be broken out with $76 million for applied research, $62 million for demonstration and deployment, and $20 million for market facilitation. All funding for the program would be derived from utility ratepayers. The program would increase to $185 million in 2014-15. (This item was heard and held open on April 24, 2013.)

**Staff Recommendation: Approve as Budgeted contingent upon passage of legislation that authorizes EPIC. The legislation shall specify that the sole responsibility of the CPUC will be to ensure that the funds collected through EPIC are transferred to the California Energy Commission (CEC).**

## 3790 DEPARTMENT OF PARKS AND RECREATION

### VOTE-ONLY ISSUE 8: CONFORMING ACTION: MUSEUM OF TOLERANCE APPROPRIATION

The Senate Subcommittee No. 2 took action on May 9, 2013 to approve a $2 million local assistance grant (General Fund) for the Simon Wiesenthal Center's Museum of Tolerance for an Anne Frank exhibit.

**Staff Recommendation: Conform with the Senate**

## 3860 DEPARTMENT OF WATER RESOURCES

### VOTE-ONLY ISSUE 9: FISH PASSAGE IMPROVEMENT PROGRAM

The Governor's Budget requests reversions and a new appropriation of the unused balances of funds in Proposition 50. The proposal includes $349,000 to support 1.9 existing positions to continue management, administration, and implementation of the Fish Passage Improvement Program (FPIP). The FPIP is an element of the CALFED Ecosystem Restoration program.

### VOTE-ONLY ISSUE 10: WATER USE EFFICIENCY, WATER DESALINATION, AND WATER RECYCLING PROGRAMS

The Governor's Budget requests an appropriation of $13,856,000 (Proposition 50, 84, and 204) to fund new and existing water use efficiency grants and desalination of brackish and ocean water grants, water recycling projects, and administrative costs for water conservation programs.

**Staff Recommendation: Approve as Budgeted Issues 9 & 10**

## 3900 AIR RESOURCES BOARD

### VOTE-ONLY ISSUE 11: CONTROL SECTION 15.11 ELIMINATION

The Governor's May Revision proposes to eliminate Budget Control Section 15.11 to conform with the proposal above for a Cap and Trade Program one-time General Fund loan from the GHG Reduction Fund.

**Staff Recommendation: Approve May Revision Proposal**

### VOTE-ONLY ISSUE 12: CAP AND TRADE AUCTION – OVERSIGHT AND BUDGETARY ADMINISTRATION

The Governor's May Revision proposes to increase by $1,308,000 and two positions from the Cost of Implementation Account to enhance oversight of Cap and Trade auction activities and budgetary administration. This proposal includes $1 million for contracts to audit the Air Resources Board's internal processes, procedures, and security protocols, as well as external contractors conducting the Cap and Trade auctions and collecting the funds.

**Staff Recommendation: Approve May Revision Proposal**

## 3940 STATE WATER RESOURCES CONTROL BOARD

### VOTE-ONLY ISSUE 13: AUGMENTATION FOR BEACH WATER QUALITY MONITORING

An augmentation of $800,000 (Waste Discharge Permit Fund) is requested for Beach Water Quality Monitoring.

Current law allows the State Water Resources Control Board to direct permit fees (up to $1.8 million annually) towards the California's Beach Program. This is a key element in ensuring that beach monitoring continues in California. However, only $1 million of the $1.8 million was allocated in the Governor's Budget.

Earlier this month, the U.S. Environmental Protection Agency recommended the complete elimination of the Beaches Grant Program, a key initiative for protecting public health at our nation's beaches. In California, federal money accounts for approximately one-third of the total federal/state funding of these critical programs (approximately $436,000).

California has some of the most popular beaches in the country. Over 150 million day visits are generated by tourists and residents annually. Beach visitors spend over $10 billion each year in California. Beach water quality monitoring and strong pollution prevention measures are critical for protecting beach goers from waterborne diseases.

Without proper funding, there will likely be a reduction in the number of monitoring locations, less frequent monitoring and elimination of off-season water testing programs. In addition, it puts at serious risk the uniform monitoring protocols and submission of beach monitoring data to SWRCB – the cornerstones of this highly successful program. As many Californians recreate in coastal waters year-round, this is extremely concerning. Reduced monitoring could compromise not only public health protection but also the ability to track chronically polluted beaches. Failure to protect public health will also endanger the coastal tourism and recreation economies.

**Staff Recommendation: Approve an augmentation of $.8 million to the State Water Resources Control Board for Beach Water Quality Monitoring.**

## 3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### VOTE-ONLY ISSUE 14: HAZARDOUS WASTE FEE REFORM (SFL)

The Governor proposes to: modify the hazardous waste fees in the Hazardous Waste Control Account (HWCA) to simplify the hazardous waste fee system; align the fees with public policy and program objectives; assess the fees more fairly on those who generate wastes; and provide more stability to the funding source for Department of Toxic Substances Control's (DTSC) Hazardous Waste Management Program. Specifically the proposal:

- Eliminates four fees: Disposal Fee, flat rate Permitting Activity Fees, Environmental Protection Agency (EPA) Identification Verification Fee and the Manifest User Fee;

- Revises two fees: changes the current tiered Generator Fee to a per ton Generation and Handling Fee, revises the per ton fee rate from an average of $50 per ton to $25.70 per ton ($23.27 per ton for used oil), and expands the universe of businesses required to pay the fee; and makes minor changes to Facility Fees

**Staff Recommendation: Hold Open**

## 3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

### VOTE-ONLY ISSUE 15: SB 535 IMPLEMENTATION – FUND SHIFT

The Governor's January Budget included $577,000 for the Office of Environmental Health Hazard Assessment from the Greenhouse Gas Reduction Fund to identify disadvantaged communities in California, as required by SB 535 (De León), Chapter 830, Statutes of 2012. The Governor's May Revision proposes to shift funding for SB 535 implementation from the Greenhouse Gas Reduction Fund to the Cost of Implementation Account in Air Pollution Control Fund. This action is necessary to conform with the proposal above for a Cap and Trade Program one-time General Fund loan from the GHG Reduction Fund.

**Staff Recommendation: Approve May Revision Proposal**

## 8570 DEPARTMENT OF FOOD AND AGRICULTURE

### VOTE-ONLY ISSUE 16: MARKETING ENTITIES - SUPPLEMENTAL REPORTING LANGUAGE REQUEST

The California Marketing Act of 1937 has enabled approximately 55 marketing entities to be established. None of these are mandated by the federal government. Some commodities have more than one marketing entity that engage in promotional or research activities. The California Department of Food and Agriculture (CDFA) has administrative functions with respect to these entities including attending board meetings, reviewing budget and audit results, and monitoring compliance of applicable laws, regulations and CDFA policies. Marketing entities are responsible for covering the costs of CDFA's activities.

**Staff Recommendation: Adopt Supplemental Reporting Language requiring CDFA to submit the following to the Legislature by October 1, 2013: an overview of the administrative actions CDFA conducts by marketing entity for FY 2012 – 2013; an overview of the fiscal reporting obligations that marketing entities have to CDFA and recommendations for implementing a standard provision for all entities; and an analysis of current marketing entity actions and recommendations for future marketing entity operations.**

# ITEMS TO BE HEARD

## 2660 CALTRANS

### ISSUE 1: FAILURE OF BAY BRIDGE ANCHOR BOLTS

Anchor bolts that support the eastern span of Bay Bridge have failed due to hydrogen embrittlement. In addition, recent press accounts have discussed concerns regarding the corrosion of various bridge support structures. The Subcommittee will hear a briefing from Caltrans regarding how this happened, the options for fixing the problems, the likelihood that other bolts could fail, and how fixing the problem could impact the opening of the new span of the bridge.

### BACKGROUND

In March of 2013, Caltrans discovered that at least 30 of 96 anchor bolts cracked when they were tensed during the construction of the bridge. This resulted in a further testing, which uncovered that the bolts has been weakened by hydrogen embrittlement.

### STAFF COMMENT

The Department will provide a short presentation on the anchor bolt failure and respond to member questions.

**Staff Recommendation: Informational Item—No Action Required**

## ISSUE 2: MAY REVISION ADJUSTMENT TO CAPITAL OUTLAY SUPPORT

The Governor's May Revision proposes a reduction to Capital Outlay Support staffing.

### BACKGROUND

The May Revision proposes 10,149 full time equivalent (FTE) staff resources (8,738 state staff, 977 consultants, and 434 from overtime) and about $1.8 billion for the COS program at Caltrans. This represents a decrease of $36.3 million and 256 FTEs (184 state staff, 64 consultants, and 8 from overtime) from the January budget. The department indicates that the requested level of resources is needed to perform various stages of work on 2,446 highway projects statewide.

### LAO COMMENT

Over the last several years, questions have been raised about the staffing levels of the COS program and the information provided to support annual COS budget requests. Specifically, in our *Analysis of the 2010-11 Transportation Budget*, we found that the departments' annual COS budget request has not been justified and that the program is overstaffed. In response to these concerns, the Legislature required Caltrans to provide specific information about the COS program's workload in order to better substantiate the annual budget requests.

Regarding the 2013-14 budget request, we think the proposal is a step in the right direction by reducing the size of the program to better align with workload. However, our review of the budget request and the supplemental information provided to the Legislature finds that some problems remain.

We recommend that the Legislature approve the reductions to the COS program proposed in the Governor's May Revision to the budget, because these reductions are a step in the right direction. However, additional analysis is needed to determine the appropriate size of the COS program and to develop a budget model that justifies the annual budget request. Given the size and complexity of the COS program, a comprehensive "bottoms up" review of the program is likely needed in order to resolve the concerns we have identified. Such a review should be completed in time to be considered as part of the 2014-15 budget.

### STAFF COMMENT

Staff has not received any public feedback regarding this proposal beyond LAO's recommendation to adopt.

The Subcommittee could consider adopting reporting language regarding Capital Outlay Support staffing justification, as suggested by LAO.

**Staff Recommendation: Adopt May Revision Proposal**

## ISSUE 3: MAY REVISION PROPOSALS

The Governor's May Revision proposal includes three new proposals that appear uncontroversial.

### BACKGROUND

The May Revision includes three proposals that appear to be non-controversial.

1. Funding for Inter-City Rail. The May Revision increases special fund appropriations for the Pacific Surfliner AMTRAK line by $18.6 million to reflect that due to a change in federal law, the State is now required to cover the federal share of cost for this service.

2. Zero-Based Budgeting for Equipment Program. The DOF and Caltrans effort to zero-base budget the department's budget continues in the May Revision, this time with the Equipment program. The latest effort yields a reduction of $2.2 million and 41 staff, along with some other minor changes to the program.

3. Zero-Based Budgeting for Stormwater Program. The May Revision redirects 50 positions for Capital Outlay Support and Administration to the Stormwater program to address workload associated with the National Pollution Discharge Eliminate System Stormwater Permit.

### STAFF COMMENT

The Department of Finance has discovered minor technical errors in the May Revision letters that were submitted to the Legislature. The May Revision letter did not redirect $100,000 in Equipment program funding to the Traffic Operations, Maintenance, and COS program and incorrectly rebalance the overhead operational expenses from two of these fund transfers.

**Staff Recommendation: Adopt May Revision Proposals, adjusted to reflect technical changes.**

## ISSUE 4: ACTIVE TRANSPORTATION PROGRAM

The Governor's Budget includes a proposal for a new Active Transportation Program.

### BACKGROUND

The Governor's Budget proposes Trailer Bill Language to consolidate five categorical programs into a single "Active Transportation Program." Active transportation involves the traveler being physically active, such as by biking or walking to a destination. The Administration believes this change will promote and bring additional funding to bicycle and pedestrian projects that support SB 375 goals.

The proposed program would direct half of the funding by population to regions, and a large portion of these funds would be programmed at the regional level consistent with state and federal guidelines. The other half of funding would be statewide competitive grants to foster best-practices.

The five programs consolidated in the proposal are:

- Transportation Alternatives Program (TAP) - $72 million federal program that replaced the Transportation Enhancement Program, which has historically directed only about 54 percent of program funds to active transportation (proportionally about $39 million for active transportation). Of these amounts, about $5 million per year has been directed to "recreational trails" grants to local parks.

- Federal Safe Routes to Schools - $21 million including both capital and education grants.

- State Safe Routes to Schools - $24 million including only capital programs.

- Environmental Enhancement and Mitigation Program - $10 million that supports highway landscaping/urban forestry, roadside recreation, and resource lands.

- Bicycle Account Grants - $7.2 million for bicycle project grants.

The above list summarizes those funding programs that are primarily focused on active transportation - with historic federal Transportation Enhancement funding allocations and current federal funding, the total funding for all 5 programs would be about $101.2 million. However, many other state and federal programs may fund bike and pedestrian projects, such as the federal Congestion Mitigation and Air Quality program ($58 million in 2010-11). Road preservation and new capacity projects also are designed under Caltrans' "Complete Streets" policy to incorporate bike and pedestrian facilities as appropriate.

In addition, the budget proposes to reduce the number of staff at Caltrans who administer funds for active transportation projects from eight positions to five positions in 2013–14. Under the proposal, the number of positions would be further reduced to three positions in 2014–15.

**Active Transportation Program-related staff consolidation**

As noted, the proposal includes a reduction of three positions in 2013-14 and two positions in 2014-15 related to the proposed consolidation of five grant programs into a new ATP. According to the Administration, the reductions would result from the eventual consolidation of the duties of eight existing positions to three positions.

The existing positions proposed for consolidation include the following:

- Safe Routes to School (SR2S) Coordinator;
- Assistant SR2S Coordinator;
- Bicycle Facilities Program Manager;
- Bicycle Transportation Account Program Coordinator;
- Environmental Enhancement and Mitigation (EEM) Coordinator;
- Transportation Enhancement Coordinator; and,
- District Program Coordinators (two positions allocated across Caltrans' 12 districts).

The new positions proposed to be created include the following:

- ATP Coordinator;
- Assistant ATP Coordinator; and,
- District Program Coordinator.

Some of the positions proposed for consolidation have existing duties beyond those directly associated with project administration. For example, the Bicycle Program Manager serves as the liaison to the California Bicycle Advisory Committee, a stakeholder group comprised of local officials and advocates. Additionally, federal law requires every state to fund a Bicycle-Pedestrian Coordinator responsible for promoting increased use of non-motorized facilities, as well as public education and safety. Finally, the Department's SR2S Coordinator serves as the liaison to its Safe Routes Advisory Committee, as well as coordinating with entities responsible for technical assistance and research involving best practices for safe routes projects. The Administration indicates that the streamlining efforts associated with the ATP justify the resource reductions and that no adverse impacts have been identified, although duties will be reduced from current levels. It indicates that the Department will continue to assign a person or persons as the bicycle and pedestrian coordinators, but acknowledges that the duties of these positions may be consolidated and include other activities such as ATP coordination. With respect to the SR2S Coordinator, the Administration notes that this position is no longer required under federal law and that, while existing SR2S projects will continue to be supported, the non-ATP related duties of that position will no longer be supported after the proposed consolidation.

## STAFF COMMENT

The Administration, advocates, and other stakeholders engaged in productive conversations regarding strategies to improve the Active Transportation Program proposal. However, these conversations did not progress far enough for a concrete compromise to be reached before 2013-14 budget deliberations must end. However, there is still time for discussion and work before the end of the Legislative Session for the parties to find common ground.

Therefore, staff recommends the Subcommittee deny the Active Transportation Program proposal without prejudice, which leaves open the possibility that a compromise could be reached over the summer. To that end, staff further recommends the Subcommittee adopt placeholder trailer bill language to create a stakeholder group that will focus on finding a workable compromise.

**Staff Recommendation: Deny, without prejudice, the Administration's Active Transportation proposal.**

**Restore local assistance positions associated with the Active Transportation Program (This clarifies the Subcommittee's previous action regarding these positions).**

**Adopt Placeholder Trailer Bill Language to require the Secretary of Transportation to convene a stakeholder group to discuss active transportation compromise options by August 1, 2013.**

## 3360 CALIFORNIA ENERGY COMMISSION
## 6110 DEPARTMENT OF EDUCATION

### ISSUE 1: GOVERNOR'S PROPOSITION 39 PROPOSAL

The Governor's 2013–14 Budget includes a plan to implement the provisions of Proposition 39 (Prop. 39), which increases state corporate tax (CT) revenues and requires that half of these revenues for a five–year period be used for energy efficiency and alternative energy projects. The Governor proposes to count all associated revenues toward the Proposition 98 (Prop. 98) minimum guarantee for schools and community colleges. The Governor also proposes to designate all energy–related Prop. 39 funds to schools ($400.5 million) and community colleges ($49.5 million) in 2013–14 and for the following four years. The proposal provides this funding to the California Department of Education (CDE) and the California Community Colleges (CCC) Chancellor's Office to distribute on a per–student basis.

On March 19, 2013, the Assembly Budget Subcommittee No. 2 considered the treatment of Prop. 39 revenues in calculating the Prop. 98 minimum guarantee. On April 24, 2013, this Subcommittee examined the Governor's plan to allocate Prop. 39 revenue for energy efficiency, and alternative energy projects.

### STAFF COMMENTS

Based on numerous policy and budget committee hearings, staff recommends approving place-holder trailer bill language that does the following:

- Counts all associated Prop. 39 revenues toward the Prop. 98 minimum guarantee for schools and community colleges;
- Distributes revenue based regional ADA calculation rather than on a per-student allocation to districts;
- Awards 75% of revenues as Prop. 39 School Grants:
  - Proportional splits same as Governor's proposal:
    - 89% to K-12 (administered by CDE)
    - 11% to Community Colleges (administered by Chancellor's office);
  - Provides that CEC assists in evaluating proposals, criteria based
- Awards 25% of revenues as Prop. 39 Loans and Loan Guarantees
  - Administered by CEC through existing Energy Conservation Assistance Account program
- Provides Prop. 39 Workforce Development Through Workforce Investment Board; and,
- Provides standardized accountability measurements

**Staff Recommendation: Approve place-holder trailer bill language outlined above.**

## ISSUE 2: PROP 39 – TECHNICAL ASSISTANCE PROGRAM FOR SCHOOL DISTRICTS

The Governor's May Revision proposes an increase of $4 million and 8 positions to provide guidance to all school districts and technical assistance to small local education agencies to facilitate the implementation of Proposition 39.

### STAFF COMMENTS

While the May Revision has merit, staff is concerned that since the proposed augmentation is only for assistance to very small schools it may not be enough given the expanded role of the CEC envisioned in the above mentioned proposed trailer bill. Therefore, staff recommends denying this proposal without prejudice.

**Staff Recommendation: Deny without Prejudice**

## 3900 AIR RESOURCES BOARD

### ISSUE 1: CAP AND TRADE PROGRAM – LOAN TO THE GENERAL FUND

The Governor's May Revision proposes to loan the projected $500 million from the Greenhouse Gas (GHG) Reduction Fund (Cap and Trade auction revenues) to the General Fund.

### STAFF COMMENT

The Subcommittee heard this issue on May 15, 2013.

Based on numerous policy and budget committee hearings and fiscal consideration, staff recommends reducing the proposed loan of Greenhouse Gas (GHG) Reduction Fund (Cap and Trade auction revenues) by $100 million and replacing that amount with a different special fund loan, to be determined at a later time. Therefore, staff recommends approving a $400 million loan to the General Fund, leaving the remaining $100 million unappropriated and subject to legislation. Further, staff recommends repayment of the General Fund loan to begin in 2014-15 at $100 per year. Finally, adopt a new special fund loan of $100 million to replace the lost funding.

**Staff Recommendation: Approve $400 million loan to the General Fund, leaving $100 million unappropriated and subject to legislation. Approve a repayment schedule starting in 2014-15 at $100 million per year. Approve a $100 million special fund loan from other special funds to replace the Governor's solution.**

## 3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION

### ISSUE 1: FIRE SEVERITY, TREATMENT, EDUCATION, PREVENTION, AND PLANNING (STEPP)

The Governor's Budget requests $11.7 million (State Responsibility Area [SRA] Fee) and 65.1 positions to address fire severity, treatment, education, prevention, and planning. The request is proposed to implement the provisions of SB 1241 (Kehoe), Chapter 311, Statutes of 2012 related to fire severity and planning. This proposal also includes fuel treatment through the Vegetation Management Program and education of homeowners on ways to prevent the ignition and spread of unwanted human-caused fires by hiring dedicated, seasonal Defensible Space Forestry Aid inspectors.

### BACKGROUND

To provide fire protection in the SRA, the Department of Forestry and Fire Protection (CAL FIRE) engages in various activities to address fire severity, treatment, education, prevention, and planning (STEPP). For example, CAL FIRE's vegetation management program is a cost–sharing program between CAL FIRE and local landowners that reduces the fuel that can potentially start fires by clearing brush, creating fuel breaks, and prescribed burns. The department also enforces defensible space requirements for structures within the SRA to reduce structural fire risks.

SB 1241 (Kehoe), requires local agencies to address fire risks in SRAs and very high fire hazard severity zones (VHFHSZ) in the safety element of their general plan by identifying available fire protection and suppression services. About 10 percent of the VHFHSZ are located in local responsibility areas, in which local agencies are responsible for fire prevention and protection. The remaining zones are located in SRAs.

**Trailer Bill Language**. Under the Governor’s plan, some of the requested funding and positions would be used to support activities outside of the SRA—specifically, lands adjacent to the SRA. As a result, the Governor also proposes budget trailer legislation to allow this type of activity.

### STAFF COMMENTS

On the whole this proposal has merit, where the actions take place within the SRA. The proposal to support activities that are outside the SRA but impacting lands and structures within the SRA is also a laudable goal. However, staff have concerns about the use of the SRA Fund in any area outside the SRA. After a thorough briefing, Legislative Counsel has advised caution when applying the beneficiary pays principle, and Proposition 26 principles, to this proposal. Therefore, staff will recommend the funding and positions, but not the trailer bill language. This effectively requires CAL FIRE to keep its activities within the SRA and adheres to advice from the Legislature’s Counsel on this proposal.

**Staff Recommendation: Approve Funding and positions. Reject Trailer Bill Language.**

## ISSUE 2: CIVIL COST RECOVERY PROGRAM

The Governor's Budget requests permanent position authority for the ten positions initially provided in 2011–12 for the civil cost recovery program. The Governor proposes $1.7 million from the SRA Fire Fund to support these positions.

### BACKGROUND

The civil cost recovery program within CAL FIRE seeks to recover the costs of state fire suppression activities and related costs from anyone who starts a fire through negligent or unlawful actions. The program has been in place for many years and has resulted in net recoveries to the state's General Fund in the millions of dollars annually. As part of the 2011–12 budget, CAL FIRE received an additional ten positions on a two–year limited–term basis to increase the amount of civil costs recovered. Historically, activities related to the civil cost recovery program, including the additional ten limited–term positions, have been funded from the General Fund.

**LAO Analysis**. The civil cost recovery program has been successful and has resulted in returning millions of dollars to the state's General Fund. The LAO recommends the Legislature approve the ten positions requested on a permanent basis to further these efforts. However, based on an opinion from Legislative Counsel, using SRA Fire Funds for this purpose is not legally permissible unless legislation is passed to change the SRA fee into a tax. This is because civil cost recovery–related activities are not specified in Chapter 8 as a permissible use. While the civil cost recovery program's existence may deter future negligent behavior, thus reducing some fire risk, the program is not directly related to fire prevention and it is not limited to recovery within the SRA. Therefore, unless legislation is enacted changing the nature of the SRA charge, we recommend the Legislature fund these positions from the General Fund.

### STAFF COMMENTS

Legislative Counsel has stated their concern about using SRA funds for Civil Cost Recovery. It was the understanding of most legislative staff that the proposals (including one last year) were to be funded by the General Fund. Therefore, staff recommends the proposal be approved with General Fund.

**Staff Recommendation: Approve funding and positions with General Fund.**

## ISSUE 3: FIREWORKS DISPOSAL MANAGEMENT

The Governor's May Revision requests $500,000 General Fund ongoing for the Office of the State Fire Marshal (OSFM) Fireworks Disposal Program under the Fire Engineering Division. Funding would enable the OSFM to provide service in the statewide fireworks enforcement and disposal process. This augmentation is intended to resolve an issue related to seized illegal and dangerous fireworks stockpiled throughout the state. As part of this proposal, the state would be allowed to sell stockpiled fireworks back to licensed retailers or export them.

### BACKGROUND

The OSFM is responsibility for the destruction of dangerous and illegal fireworks once they are seized by local fire departments or law enforcement agencies. The State Fire Marshal Fireworks Enforcement and Disposal Fund (Fireworks Fund) was created to collect moneys from increased finds and penalties from the seizure of illegal fireworks. Monies deposited into the fund are available, upon appropriation, to the OSFM for exclusive use in statewide programs for the enforcement, prosecution related to, disposal, and management of seized dangerous fireworks, and for the education of public safety agencies in the proper handling and management of dangerous fireworks. In addition to the revenue received from fines and penalties, the Fireworks Fund received funds from a one-time US Environmental Protection Agency agreement and a Department of Toxic Substances Control enforcement settlement action.

According to the Administration, the funding source has not been adequate because local jurisdictions often opt to assess an administrative fine that is kept at the local level rather than remitted to the state. Because of concerns about open burning of fireworks, which has been the long-time method of destroying the fireworks, seized materials need to be gathered and shipped to a destruction facility approved by DTSC. This has increased the cost of fireworks disposal.

**LAO Comments**. *We find that the Governor's proposal has merit and that the proposed additional funding would allow the program to operate as intended. However, rather than using limited General Fund dollars to support this program, we recommend the Legislature direct OSFM to fund this proposal by increasing the fireworks licensing fee, as is allowed by Chapter 563. This fee was created to support the activities outlined in this proposal and is therefore a more appropriate fund source than the General Fund.*

### STAFF COMMENTS

The budget proposes to increase General Fund expenditures by $500,000 per year indefinitely as part of a compromise with stakeholders. The budget proposal also outlines two additional alternatives. The first would increase the already authorized licensing fee on fireworks importers and exporters, wholesalers and retailers. The second would change existing statute to remove the responsibility of OSFM for the disposal of seized fireworks.

Staff have concerns that this proposal is not a long-term solution to the problem at hand. The proposal simply allocates money for "an ever-increasing volume of illegal and dangerous fireworks." Allowing the state to either sell these seized fireworks back within the state or export them doesn't seem like a good idea.

The alternative proposals have merit. This problem seems to need a statutory solution. Staff recommends a reduced appropriation for two years to deal with the immediate problem of disposing the large stockpile of seized illegal and dangerous fireworks. However, staff suggests the Department and stakeholders continue to work on a longer-term solution to this problem. Such a proposal would best be brought before the Legislature as a statutory change in the policy committees.

**Staff Recommendation: Approve $200,000 General Fund allocation for two years and Reject the Trailer Bill Language**

## 3720 CALIFORNIA COASTAL COMMISSION

The California Coastal Commission, following its initial creation in 1972 by a voter initiative, was permanently established by the State Coastal Act of 1976. In general, the act seeks to protect the state's natural and scenic resources along California's coast, and protect public access to and along the shoreline. It also delineates a "coastal zone" running the length of California's coast, extending seaward to the state's territorial limit of three miles, and extending inland a varying width from 1,000 yards to several miles. The Commission's primary responsibility is to implement the act's provisions, including regulation of development in the coastal zone. Additionally, the Commission serves as the state's planning and management agency for the coastal zone. The Commission's jurisdiction does not include the San Francisco Bay Area, where development is regulated by the San Francisco Bay Conservation and Development Commission.

**Governor's Budget.** The Governor's Budget includes $17.8 million for the operation of the Coastal Commission. This is a reduction of $300,000, mostly reflected in the completion of a significant data project at the Commission.

### ISSUE 1: ADAPTING TO CLIMATE CHANGE—COMMISSION RESPONSIBILITIES

The Senate Subcommittee No. 2 took action on April 25, 2013 to direct up to $4 million from Tidelands Oil Revenue in 2013-14 and 2014-15 to the Coastal Commission to update LCPs. The action specified that priority shall be Local Coastal Programs (LCPs) that have not been certified in order to remove the day to day permitting functions of those areas from the Coastal Commission. The Subcommittee further specified that funding should be split $1 million for local assistance grant programs and $3 million for Coastal Commission staffing.

### BACKGROUND

According to the Senate Subcommittee agenda:

> ***Background—Land Use Planning in the Coastal Zone.*** *Land use planning in the coastal zone, as in the rest of the state, is the primary responsibility of local governments. However, the Coastal Act imposes a number of requirements on land use in the coastal zone. Most significantly, the act requires local governments to adopt Local Coastal Programs (LCPs) to govern development of land in their jurisdictions that lie within the coastal zone.*
>
> *In preparing to develop LCPs, many local governments have chosen to divide their coastal zone territory into several segments. This is done when a local government's coastal jurisdiction encompasses several distinct regions with different land use issues. A separate LCP is developed for each coastal segment. There are currently 128 coastal segments within the 76 coastal cities and counties.*
>
> *An LCP must contain (1) a land use plan and (2) zoning ordinances to implement the land use plan. In general, LCPs must be designed to ensure maximum public access*

*to the coast, provide recreational facilities, protect the marine environment, and otherwise promote the goals and objectives of the Coastal Act.*
*The Coastal Commission reviews and certifies LCPs for conformity with the act. As originally passed, the act required all local governments in the coastal zone to have submitted LCPs to the commission by January 1, 1980. However, this deadline has been extended several times, and today some jurisdictions still have not submitted LCPs to the commission.*

*The Commission's status of LCP review includes:*

- *92 LCP segments are certified.*
- *79 of 92 certified LCP segments (86 percent) were certified more than 20 years ago.*
- *24 of 92 certified LCP have been comprehensively updated.*

***Sea Level Rise Adds Complexity.*** *As has been seen throughout the country with Hurricane Sandy, as well as the recent "king tides" (very high tides) in Southern California, much of the developed California coast is susceptible to the impacts of sea level rise. In recent events, high tides inundated parts of the Pacific Coast Highway, Huntington Beach and other low-lying areas of Southern California. Parts of the San Francisco Bay Area also experienced flooding, including portions of Highway One in Marin County. These very high tides are considered a good indicator of the possible impacts of sea level rise and create challenges for local planners and developers in low lying areas.*

*Many of the areas without certified LCPs are at sea level, with significant development. These include most of the City of Los Angeles, including the airport, as well as parts of San Pedro and Venice. Also among the non-certified LCPs are the Santa Ana River, San Diego's Mission Bay and the City of Santa Monica.*

***Staff Comments.*** *The Coastal Commission has maintained a steady budget over the past several years but has struggled to make progress in updating LCPs. There are many reasons for this including (1) funding has not been available to assist local jurisdictions in updating their coastal plans; (2) some locals are reluctant to take back coastal permitting and prefer to have the state provide this service; and, (3) recent local funding issues have, as with other areas of government, reduced their ability to do forward thinking planning.*

*Sea level rise has added urgency to the issue of outdated, incomplete and uncertified LCPs. Local planning and preparation are critical if the State is to maintain its coastal development zones and prepare for possible inundations. Creating a local plan is part of every coastal jurisdiction's responsibility to determine how to preserve life and property along the California coast.*

**Staff Recommendation: Conform with Senate action (detailed above) to direct up to $4 million from Tidelands Oil Revenue in 2013-14 and 2014-15 to the Coastal Commission to update LCPs.**

## 3790 DEPARTMENT OF PARKS AND RECREATION

### ISSUE 1: REVERSIONS AND REAPPROPRIATIONS—CAPITAL OUTLAY

The department annually includes in the budget a request for reversions, reappropriations and appropriations anew for projects that are currently underway. This year's proposal includes various projects including the California Indian Heritage Center, California Indian Museum, Leo Carrillo State Park, Eastshore State Park, Fort Ord Dunes State Park, and Silverwood Lake State Recreation Area. Each project is underway and will continue with reappropriations.

**Off-Highway Vehicle Park Acquisitions**. The budget requests reappropriation of capital outlay funds from the Off-Highway Vehicle Trust Fund for two projects: (1) Southern California Opportunity Purchase; and, (2) Carnegie State Vehicular Recreation Area (SVRA). As with any acquisition, these acquisitions and construction are subject to a high level of scrutiny. Off-Highway areas are often contentious in local areas with as many supporters as opponents. Funding is available specifically for the purpose of enhancing these SVRAs and for acquisitions that add to the off-highway park system.

### STAFF COMMENTS

Concerns have been raised regarding the construction and acquisition related to Carnegie SVRA including plans to expand the park to increase user experiences. The concept of construction and acquisition is well within the scope and mission of the Off-Highway division at State Parks. However, it is unclear whether the department is doing all it can to ensure that all impacts of the parks are mitigated fully prior to approval of a proposal. With funding available, this should not be an issue for these parks.

Staff recognizes the need to enhance existing SVRAs and to provide funding for opportunity acquisitions in the Off-Highway division within the mission of the overall State Park system. However, there seems to be no reason that the Director of the State Parks should not be able to certify to the Legislature that these projects meet all mitigation requirements under law and ensure compliance with the California Environmental Quality Act. Staff recommends the following Trailer Bill Language:

> *Prior to final approval of any new Off-Highway Vehicle land acquisitions or State Vehicular Area acquisitions, the Director of Parks and Recreation shall make a written finding that the acquisition cost includes adequate funding to fully mitigate all impacts of the acquisition and the operations of the park.*
>
> *The Department of Parks and Recreation shall complete a full review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) of all Off-Highway Vehicle land or State Vehicular Area acquisitions.*

**Staff Recommendation: Approve as proposed with Trailer Bill Language.**

## 3860 DEPARTMENT OF WATER RESOURCES

### ISSUE 1: FISH SCREENS

It is requested that $5 million be appropriated (Proposition 40) for the installation of a fish screen for anadromous fish protection and enhancement at the water intake project on the Sacramento River.

### BACKGROUND

In September, 2009, the Cities of Woodland and Davis established the Woodland-Davis Clean Water Agency (WDCWA), a joint powers authority, to implement and oversee a regional surface water supply project. The regional project will replace deteriorating groundwater supplies with safe, more reliable surface water supplies from the Sacramento River. Once complete, the project will serve more than two-thirds of the urban population of Yolo County. It will also serve UC Davis, a project partner.

Project plans include a jointly-owned and operated intake on the Sacramento River, raw water pipelines connecting the intake to a new regional water treatment plant, and separate pipelines delivering treated water to Woodland, Davis and UC Davis. Improvements to existing water supply systems will vary for Woodland and Davis and will include facilities such as distribution pipelines, water storage tanks and booster pump stations.

Local elected officials from the cites of Woodland and Davis and Yolo County turned to the federal government for funding necessary to help pay for the replacement of what is the largest unscreened surface water intake facility on the Sacramento River. Ultimately, the local officials successfully secured from the federal government $8.3 million for 2012-13 and $16.7 million for the joint water intake facility overall. These federal dollars, which are under the control of the U.S. Bureau of Reclamation, require a non-federal match. The Bureau had made it abundantly clear that, because of Sequestration, the federal government will "sweep up" these federal dollars by the end of August unless the state comes up its own funds to provide state match.

### STAFF COMMENTS

Staff recommends funding this project with available and appropriate Proposition 40 bond funds to secure a substantial portion of the state match necessary to prevent losing the federal funds and to keep moving this project forward.

**Staff Recommendation: Approve $5 million appropriation (Prop. 40) for the installation of a fish screen for anadromous fish protection and enhancement at the water intake project on the Sacramento River.**

## 8660 CALIFORNIA PUBLIC UTILITIES COMMISSION

### ISSUE 1: ENERGY CRISIS LITIGATION – EXTENSION OF LIQUIDATION PERIOD

The Governor's May Revision proposes to extend the liquidation period for continued assistance by outside legal counsel and economic consultants as well as expert witnesses in litigation by the California Public Utilities Commission (CPUC) before the Federal Energy Regulatory Commission (FERC), which seeks refunds of several billion dollars for overcharges during the 2000-01 energy crisis for California consumers.

The CPUC is the sole state agency seeking energy crisis relief on behalf of California consumers. The CPUC is challenging the unlawful rates, terms, and conditions of 57 long-term electricity contacts entered into by the Department of Water Resources during the 2000-01 energy crisis. The 2009 Budget Act authorized $2.5 million for the assistance of outside legal counsel as well as expert economic consultants to enable the CPUC to represent the interests of consumers. Because of legal delays, the cases have not been resolved. The extension of the liquidation period will allow the CPUC to continue to retain its current outside legal counsel and economic consultants who have been working on these cases since their inception.

### STAFF COMMENTS

While staff supports the May Revision request to extend the liquidation period for continued assistance by outside legal counsel to pursue refunds owed to California consumers, it seems prudent to require that the CPUC receive Legislative approval before it can distribute or expend the proceeds of any settlements of claims.

With regard to the CPUC's proposal to penalize PG&E for the San Bruno pipeline explosion, staff suggests requiring all monies, in the form of a fine or penalty, that the CPUC orders PG&E to pay be deposited into the General Fund which is declaratory of existing law.

**Staff Recommendation: 1) Approve May Revision proposal; 2) All fines or penalties that the CPUC orders PG&E to pay, surrender or transfer as a result of PG&Es actions or inactions that caused and or contributed to the pipe explosion and subsequent fire, damage, injuries, and death, on September 9, 2010 in San Bruno, California shall be deposited into state coffers pursuant to existing law; and, 3) The distribution or expending of proceeds of any settlements of claims by the CPUC may occur not sooner that 60-days after the Director of Finance provides written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate Assembly and Senate Budget Subcommittees. This applies to cases where there is no court ordered settlement of funds that specifies the use of the funds.**

## 8570 DEPARTMENT OF FOOD AND AGRICULTURE

### ISSUE 1: CITRUS PEST AND DISEASE PREVENTION PROGRAM

The Governor's May Revision includes an increase of $2.5 million (Food and Agriculture Fund) in 2013-14 and 2014-15 to help prevent the spread of the Asian Citrus Psyllid and Huanglongbing disease.

### STAFF COMMENTS

Question: Should approval of this proposal be contingent on a funding match from the agricultural industry?

**Staff Recommendation:**