

AGENDA

ASSEMBLY BUDGET COMMITTEE NO. 3 RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

WEDNESDAY, MAY 7

9:00 A.M. - STATE CAPITOL ROOM 447

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VOTE-ONLY**8660 PUBLIC UTILITIES COMMISSION**

VOTE-ONLY ISSUE 1: EXTENSION OF LIQUIDATION PERIOD FOR OUTSIDE LEGAL COUNSEL FOR THE ENERGY CRISIS LITIGATION

The Governor's Budget proposes a one-year extension of the liquidation period for continued assistance by outside legal counsel and economic consultants, as well as expert witnesses in litigation by the CPUC before the Federal Energy Regulatory Commission, which seeks refunds of several billion dollars for overcharges during the 2000-01 energy crisis for California consumers.

VOTE-ONLY ISSUE 2: EXTENDED STAFFING SUPPORT FOR DEAF AND DISABLED TELECOMMUNICATIONS

The Governor's Budget requests five, one-year limited-term positions and \$455,000 (Deaf and Disabled Telecommunications Fund) to expand the DDTP Program to include speech-generating devices. The commission anticipates initiating a pilot program once rules are put in place to explore and evaluate options for cost control purposes and to gain hands-on experience in public and private health insurance programs.

VOTE-ONLY ISSUE 3: IMPLEMENTATION OF 2013 LEGISLATIVE PROPOSALS

During the 2013 legislative session, the following bills were passed that impact the CPUC Budget:

- AB 1299 (Bradford), Chapter 507, Statutes of 2013, requires the CPUC to establish the Broadband Public Housing Account in the California Advanced Services Fund, which will provide grants and loans to publicly-supported communities for projects deploying high quality advanced broadband and for programs designed to increase broadband adoption rates by residents in these communities.
- SB 740 (Padilla), Chapter 522, Statutes of 2013, supplements the existing \$200 million authorized for CASF broadband infrastructure grants with an additional \$90 million.

The Governor's Budget requests \$38.9 million (up to \$25 million in grants and loans), and 1.5 positions to implement AB 1299 and SB 740 related to the California Advanced Services Fund.

STAFF COMMENTS

These proposals implement recent statute and mirror legislative analysis of the bills.

Staff Recommendation: Approve as Budgeted.

3600 DEPARTMENT OF FISH AND WILDLIFE**VOTE-ONLY ISSUE 1: STATEWIDE OIL POLLUTION PROGRAM (MARINE AND INLAND)**

The Governor's Budget proposes statutory changes to maintain the Oil Spill Prevention Administrative Fund (OSPAF) fee at 6.5 cents per barrel on an ongoing basis, as well as expand the fee to all oil entering California refineries, including oil transported by rail and pipelines. The Administration projects that the proposed fee increase would increase revenues by \$6.6 million in 2014-15 (\$12.3 million annually when fully implemented) compared to current-year revenues. The Governor's budget for 2014-15 proposes to increase ongoing spending by \$8.7 million, as follows:

- \$6.2 million and 38 permanent positions to support the proposed expansion of the Office of Spill Prevention and Response's (OSPR) activities, to include inland prevention activities, as well as allow the office to respond to all inland spills. According to the Administration, the proposed expansion is necessary because the amount of oil transported over land (by rail or pipeline) is expected to significantly increase in coming years.
- \$2.5 million to support the Oiled Wildlife Care Network (OWCN) and change the program's fund source from the Oil Spill Response Trust Fund (OSRTF) to the OSPAF. The proposed amount reflects an increase of \$500,000 for the program relative to the current-year funding level.

STAFF COMMENTS

This issue was heard and held open by the Subcommittee on April 23, 2014, in order to consider the staff recommendation. The recommendation was based on a concern raised by the LAO that setting a specific fee of 6.5 cents per barrel fee may not appropriate to meet the needs of the program, especially as the state reacts to newly emerging issues with oil transportation by rail. Therefore, staff argued that it may be more appropriate to authorize the department to establish the fee in a similar way that the Department of Conservation determines its fees for its oil and gas regulatory responsibilities.

Staff Recommendation: Approve requested funding and positions. Approve expanding the Oil Spill Prevention Administrative Fund (OSPAF) fee to all oil entering California refineries. Deny proposed statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis and instead authorize the Department to charge the fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

3760 STATE COASTAL CONSERVANCY

VOTE-ONLY ISSUE 1: OFFICE MOVE AND RENT INCREASE

The Governor's Budget requests \$1,067,000 (General Fund) for the State Coastal Conservancy (SCC) support budget. The bulk of these funds, \$979,000, is requested to pay for one-time costs associated with moving the SCC into the Elihu Harris State Building in Oakland. The SCC is requesting \$88,000 (General Fund) to pay for increased rent costs (\$140,000 ongoing). Moving the SCC will result in a net savings to the overall state budget by filling currently vacant state office space, but will have very significant costs to the SCC. Because the SCC does not have renewable funding sources available, this move and increased rent is proposed to be funded from the General Fund.

This issue was heard and held open by the Subcommittee on April 23, 2014, due to questions related to the cost of the proposal. Below is additional information provided by the Conservancy in support on the proposal

There is a Governor's executive order requiring state agencies to move into vacant space in state owned office buildings. The purpose of this executive order is to save money because the State has to pay for the costs of state owned office buildings even if they are vacant.

SCC rent at 1330 Broadway (private)

Annual Cost = \$406,000

SCC's rent at Elihu Harris Building

Annual Cost = \$546,000

The increased annual cost to the Conservancy is \$140,000 per year. The savings to the taxpayer is \$406,000 per year because that portion of the Conservancy's rent is being paid to DGS not a private entity. Even though the move will cost \$1 million, the State will start saving money after 2.5 years.

DGS sets the rent based on the costs of paying for the state building, so even if the space is vacant, the General Fund has to cover those costs. It is our understanding that the rent in the Elihu Harris Building will decrease over time as the bonds that paid for building construction are paid off.

STAFF COMMENTS

Staff has no concerns with this proposal.

Staff Recommendation: Approve as Budgeted

3790 DEPARTMENT OF PARKS AND RECREATION

VOTE-ONLY ISSUE 1: OCEANO DUNES LE GRANDE ACQUISITION - CAPITAL OUTLAY

The Governor's Budget requests \$5 million in one-time costs to purchase 584 acres of land in San Luis Obispo County (County). Currently, the parcels are leased from the county by the department and operated as part of Oceano Dunes SVRA. The land is used for off-highway vehicle (OHV) recreation as well as other beach and dune-related recreational uses. County-owned land represents 38-percent of the land open to motorized recreation within the park. A long-term lease expired in June 2008, and the current lease between the county and the Department is month-to-month.

STAFF COMMENTS

This issue was heard and held open by the Subcommittee on April 23, 2014, due to questions about whether the county local coastal plan (LCP) has been updated and certified to include the acquisition of the property with the intention to continue use of the land for OHV activities and local concerns regarding the entrances to the park, and alternatives provided to both public agencies.

Staff has learned that the Coastal Commission is planning to hold a hearing later this summer for the purpose of conducting a comprehensive overview of the permit, the LCP policies, the current use, and the new air pollution control district dust rule. Thus, staff recommends the Subcommittee hold off on approving this acquisition this year, to give all parties a chance to sort out this issue.

Staff Recommendation: Deny

3860 DEPARTMENT OF WATER RESOURCES

VOTE-ONLY ISSUE 1: WORKPLACE SAFETY PROGRAM

The Governor's Budget requests \$3.95 million from various funds to support 23 new positions for establishing a comprehensive Safety System to reduce accidents and injuries at all department locations throughout the state and ensure uniformity and compliance with federal, State, and local regulatory requirements.

STAFF COMMENTS

This issue was heard and held open by the Subcommittee on March 26, 2014, due to questions related to the number of positions requested in the proposal.

The 23 positions are spread over the Department's various Divisions. With the unique issues faced by the various divisions, some level of specialization is needed for the different divisions (eg: high-voltage issues are mostly linked to the State Water Project [SWP], inspection duties of the Division of Safety of Dams are unique to them). Additionally, with the geographic reach of the Department, it is important to have the safety positions co-located with the field divisions and regional offices.

Below is a distribution of the various requested positions:

- 5 positions will be housed at Headquarters
- 1 position with the Bay Delta Office
- 1 position with the Division of Flood Management
- 1 position with the Division of Environmental Services
- 4 positions with the Division of Engineering
- 1 position to work with the four regional offices of the Division of Integrated Water Management
- 9 positions will be distributed across the Departments five Field Divisions that support Operations and Maintenance of the SWP
- 1 position with the Division of Safety of Dams

Staff has no concerns with this proposal.

Staff Recommendation: Approve as Budgeted

ITEMS TO BE HEARD

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 \$1.332 billion (Special Funds) almost entirely financed by utility ratepayers and 1,063 positions for support of the Commission. The CPUC is requesting 35.5 new positions.

ISSUE 1: FINANCIAL AUDITS, ZERO BASED BUDGETING & SAFETY CULTURE UPDATE

Special Presentation of Fiscal Audit:

- **The Department of Finance (DOF), Office of State Audits and Evaluations (OSAE)**

Pursuant to the 2013-14 Budget Act, OSAE conducted a fiscal audit of the CPUC's funds. Specifically, OSAE audited the Public Utilities Commission Transportation Reimbursement Account and the Public Utilities Commission Utilities Reimbursement Account for fiscal years 2010-11 through 2012-13. OSAE released the report on April 1, 2014.

BACKGROUND

Last year, after a number of fact-finding hearings, the Legislature took a series of actions to increase controls and oversight of the CPUC. The following is a brief recap of some of the Subcommittee hearings on the CPUC and the actions taken by the Legislature.

On March 6, 2013, the Subcommittee held an oversight hearing to discuss the Office of State Audits and Evaluations' (OSAE) audit of CPUC's budget process for developing the 2012-13 and the 2013-14 Governors' Budgets. The OSAE audit found "widespread weaknesses within CPUC's budget operations which compromise its ability to prepare and present reliable and accurate budget information." The audit revealed: ineffective management over budgeting functions; budget forecasting methodologies and monitoring needed improvement; fiscal management practices needed improvement; and non-compliance with statutory requirements specified to the Office of Ratepayer Advocates (ORA).

On April 17, 2013, the Subcommittee discussed a report, commissioned by the CPUC, that revealed significant cultural problems related to safety at the CPUC and strongly suggested that safety concerns are not a top priority at the Commission.

The serious breakdown of fiscal controls at the CPUC revealed at the hearing and at subsequent hearings plus concerns about CPUC's safety culture led to the following actions by the Legislature:

- OSAE was directed to conduct a further fiscal audit of the CPUC's Transportation Reimbursement Account and Utilities Reimbursement Account for fiscal years 2010-11 through 2012-13.
- The Bureau of State Audits (BSA) was directed to conduct an audit on the CPUC's oversight of the utility balancing accounts of entities it regulates.
- The CPUC was directed to conduct a zero-based budget for all of its programs by January 10, 2015 to allow the Legislature to reevaluate the base funding requirements of all CPUC program implementation. This exercise will enable the Legislature to better control the overall size and direction of the CPUC's programs, including how funds are being allocated and prioritized for particular programs and functions, as well as how the proposed expenditures will further ensure that safety is integrated into every aspect of the CPUC's activities.

Recent History of CPUC Audits

Year	Auditor	Findings	CPUC Response
2008	OSAE: Internal Control Review of Fiscal Office	-Weaknesses identified in control environment (i.e., "tone at the top") -Lack of established policies and procedures -Inadequate controls over transactions -Inadequate controls over information technology -Inadequate controls over financial reporting	Agreed with observations and agreed to implement corrective action
2012	DOF's Fiscal Systems & Consulting Unit	-Found variances greater than \$1 million for seven of the 14 special funds the CPUC administers	Agreed with observations
2013	OSAE: Performance Audit of Budget Process	-Ineffective management over budgeting functions -Budget forecasting methodologies need improvement -Budget monitoring needs improvement -Fiscal management practices need improvement -Appropriation adjustments may not be equitably allocated among funds -Non-compliance with statutory requirements specific to the Division of Ratepayer Advocates	Generally agreed with observations and agreed to implement corrective action
2014	BSA: Monitoring of Utility Balancing Accounts	-Commission lacks adequate processes for sufficient oversight of utility balancing accounts to protect ratepayers from unfair rate increases -Commission does not have a systematic process for selecting balancing accounts to review - Commission does not periodically audit the accounting records of the utilities it regulates according to a schedule prescribed in law	Generally agreed with observations and agreed to implement corrective action
2014	OSAE: Fiscal Audit of Funds	- Could not demonstrate how user fee rates were developed - Non-compliance with Public Utilities Code for annually determining user fees - Did not consistently pursue collections of delinquent user fees - Data reported in user fee invoice statements was not verified or reviewed for accuracy - Could not substantiate whether user fees collected were expended on related industry activities -Ineffective management practices exist	Generally agreed with observations and agreed to implement corrective action

As noted above, both the OSAE and BSA audits ordered by the Legislature last year have been completed.

OSAE Fiscal Audit. The OSAE audit found that the CPUC could not substantiate the user fee rate methodologies for most transportation and utility companies, nor could it ensure fees were properly assessed or collected. Further, CPUC could not demonstrate whether user fees collected were expended on related program activities. OSAE argued that these weaknesses significantly impair CPUC's ability to effectively develop appropriate user fee rates and manage the Public Utilities Commission Transportation Reimbursement Account and the Public Utilities Commission Utilities Reimbursement Account (PURA).

Although the CPUC has recently taken steps to enhance fiscal and programmatic accountability over user fees and agreed improvements to existing practices are necessary, OSAE stated that additional controls and procedures must be established and implemented.

BSA Audit of Balancing Accounts. The BSA audit concluded that the CPUC lacks adequate processes to provide sufficient oversight of utility balancing accounts to protect ratepayers from unfair rate increases. Currently, the CPUC only reviews some balancing accounts when a utility requests to incorporate the balance in that account into future rates as a surcharge or a credit. This practice does not ensure that the CPUC adequately reviews balancing accounts to protect ratepayers from unreasonable rates. Although the CPUC relies on the ORA—an independent office within the commission—to review energy utility balancing accounts, this reliance is misplaced because ORA is not required to review all energy utility balancing accounts. ORA primarily focuses on balancing accounts that energy utilities include in formal proceedings, which resulted in it reviewing only 58 percent of the value of large energy utilities' balancing accounts active during 2009 through 2011. It did not review other balancing accounts with a value of \$37.6 billion during this period.

Given that balancing accounts directly affect rates that a utility charges ratepayers and given the broad authority the CPUC has to inspect and audit utilities' books, accounts, and records, BSA argued that the CPUC should use a systematic process that ensures a review of all those balancing accounts that can have the most impact on ratepayers. However, according to the BSA, the CPUC lacks the necessary information, such as the size of a balancing account and the last time it was reviewed, to determine which balancing accounts it should review. In addition to not providing adequate oversight over balancing accounts, BSA stated that the CPUC has not always complied with a requirement to audit utilities' books and records according to the schedule prescribed by state law.

LAO COMMENTS

Based on the findings of BSA's audit, the CPUC has not been regularly inspecting balancing accounts, as would appear to be required under current law. Public Utility Code Section 314.5 requires the CPUC to regularly (every 3 or 5 years, depending on the size of utility's customer base) inspect the books and records of utilities, which we believe should include balancing accounts. The audit finds that under current practice "the commission has not reviewed many of the balancing accounts it has authorized over the past three years." Instead, the Commission relies on reviews completed by ORA. However, ORA is not required to complete such audits and, in fact, does not review all balancing accounts.

It is unclear to us that BSA's recommendations that CPUC's energy division coordinate its audits with ORA is consistent with state law. As described above, the current statutory requirement is for PUC, not ORA, to complete regular reviews of the books and records. Moreover, while ORA is part of PUC, the ORA is an independent office. While there might be some opportunities for coordination, it would be important to ensure that any such coordination was accomplished without jeopardizing the ORA's ability to make independent analyses and recommendations.

STAFF COMMENTS

Staff notes a pattern of fiscal mismanagement at the CPUC dating back to 2008. Repeatedly, audits have identified significant weaknesses to which the CPUC has agreed to implement corrective action. However, the same types of problems persist, namely a lack of attention and adherence to auditing, accounting and budgeting principles. Staff questions what it will take to turn the ship around at the CPUC. The magnitude and scope of the audit findings have seriously eroded confidence in the CPUC's ability to provide reliable and accurate information to the Legislature. It is important to note that Californians spend more than \$50 billion annually for services from industries regulated by the CPUC.

The core mission of the CPUC is to ensure "safe, reliable utility service and infrastructure at reasonable rates." If the CPUC is not on top of its fiscal and oversight responsibilities, staff questions how it can ensure safety. 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, California. 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. A report by the National Transportation Safety Board revealed that the CPUC lacked sufficient safety oversight of the utilities' operations.

In opening remarks, the CPUC should respond to the findings and recommendations made in the recent BSA and OSAE audits and discuss the corrective measures it is pursuing (e.g., actions taken, yet to be taken, and timeline to address deficiencies). The Commission should also provide the Subcommittee an update on steps taken to date to address timelines, staffing, and accountability for the safety improvement efforts outlined in the report provided to the Committee entitled "Safety Actions and Safety Culture Change: Status Report to the Legislature, April 24, 2013." Finally, the CPUC should report on the progress it has made with regard to its zero-based budgeting (ZBB) exercise.

RELATED BUDGET PROPOSALS

Below are a number of budget proposals that fund activities from the Public Utilities Commission Utilities Reimbursement Account (PURA). As mentioned above, the PURA is one of the CPUC funds that OSAE audited. While staff does not have specific concerns about most of these proposals, audit findings that the CPUC could not substantiate whether user fees collected were expended on related industry activities is concerning. According to OSAE, "inaccurate and unreliable accounting data prevents CPUC from effectively managing its user fee programs and ensuring the equitable collection and distribution of user fees." "These weaknesses significantly impair CPUC's ability to effectively develop appropriate user fee rates and manage the Public Utilities Commission Transportation Reimbursement Account...and the Public Utilities Commission Utilities Reimbursement Account."

- 1) **Augment Fiscal Office Accounts Receivable.** The Governor's Budget requests \$120,000 and two positions from various special funds to provide services related to the timely input of user fees and the assurance of sufficient cash flow within the CPUC Utilities Reimbursement Account (PURA).
- 2) **Variable Air Volume Controller Repair Renovations.** The Governor's Budget requests a one-time budget augmentation of \$2.8 million (PURA) to complete the repair/replacement of the heating, ventilation and air conditioning (HVAC) control system at the CPUC headquarters in San Francisco.
- 3) **Community Choice Aggregation.** The Governor's Budget proposes \$363,000 and three positions (PURA) to implement SB 790 (Leno), Chapter 599, Statutes of 2011, which requires the CPUC to develop a number of new provisions to facilitate the formation and operation of Community Choice Aggregation programs.
- 4) **Net Energy Metering.** The Governor's Budget proposes 11 positions and \$1.5 million (PURA), including \$130,000 in consultant costs, to implement AB 327. AB 327 (Perea), Chapter 611, Statutes of 2013, proposed changes to CPUC rate design, grid distribution, net energy metering, and renewable portfolio standard programs. Staff notes that because no detailed workload analysis was provided for this proposal and because the CPUC is undergoing a ZBB exercise, if the Subcommittee decides to approve this proposal, it may wish to consider approving the positions on a limited-term basis.

Staff Recommendation: Hold Open

ISSUE 2: RAILROAD SAFETY: OIL TRANSPORT (SFL)

The Governor requests seven rail safety inspectors and \$1,081,000 from (PUC Transportation Reimbursement Account) to address new rail safety risks and mandates: two Associate Railroad Track Inspectors for railroad bridge inspections; two Associate Transportation Operations Supervisors for hazardous materials inspections of 1) crude oil trains and 2) containers trains at California's ports; two Associate Railroad Track Inspectors to address the increased wear on tracks and supporting structures; and one Associate Railroad Equipment Inspector to focus on the heavy and high-use tank car trains.

BACKGROUND

Crude oil trains, railroad bridges, and hazardous materials present significant population exposure to catastrophic incidents in heavily populated areas. Crude oil railcar explosions have been in the news nationally, and the projected 25-fold increase in such train traffic in CA represents significant increased risk. Railroad bridges are not currently inspected effectively under federal standards. Additional inspectors are needed to keep up with these new risks. The CPUC is the sole state agency authorized to conduct these proactive inspections to mitigate these risks.

The Office of Rail Safety inspectors enforce both State and Federal rail safety regulations. If rail carriers fail to correct non-compliance, penalties are assessed. All penalty payments for federal violations are deposited into the US Treasury, and penalty payments for state violations are deposited into the General Fund.

Crude oil trains. The CPUC, as well as the National Transportation Safety Board (NTSB) and the Federal Railroad Administration (FRA), has identified crude-oil train shipments carrying Bakken crude as presenting a surprisingly increased risk of explosion and harm. The Lac-Mégantic train explosion and fire that killed 47 residents last July was only the first of at least five crude-oil train derailments and tank car explosions since that time. Per the California Energy Commission's projections, California is projected to receive up to a 25-fold increase in crude-oil-by-rail shipments, with the result of between five and ten additional crude-oil trains per day by 2016. Both the NTSB and the FRA have issued safety advisories and/or emergency orders to address this risk. U.S. Department of Transportation (USDOT) Secretary Anthony Foxx held an unprecedented "Call to Action" meeting with the nation's railroads and petroleum shippers to get agreements from those interests to address crude oil train risks.

The FRA convened an emergency rulemaking proceeding through its Railroad Safety Advisory Committee. The Safety and Enforcement Division's Deputy Director for the rail safety programs is the only state representative on that committee, and fills the voting seat of the Association of State Railroad Managers.

To handle the increased Bakken oil-train traffic, and its inherent risks, this proposal requests two (2.0) track inspectors to address the increased track wear, one (1.0) equipment inspector to address the high-use tank cars, and two (2.0) hazardous material inspectors to inspect crude-oil shipments as well as the huge volume of containers at the ports to inspect shipments of hazardous materials, such as hydrochloric acid, anhydrous ammonia, and poisonous liquids, and petroleum.

Bridges. California's railroad bridges pose a rail safety risk. Most of California's railroad bridges are old steel and timber structures, some over a hundred years old. Often these bridges reside on properties owned by smaller, short line railroads that may not fully understand the needs for maintenance and inspection or may be unable to afford such activity. Railroad bridges are not inspected by any entity in the California state government, even though they carry thousands of rail cars containing hazardous materials and thousands of passengers daily. By comparison, the California Department of Transportation (Caltrans) ensures the structural integrity and safety of highway bridges in California, employing 120 inspectors and 80 subspecialty personnel for inspecting highway bridges, along with three Federal Highway Authority (FHWA) inspectors at the U.S. government level.

California railroad bridges are rarely reviewed, and are not thoroughly inspected in those cases, by any government inspectors. While the federal government, the Federal Railroad Administration (FRA), has new broadly based bridge regulations (49 CFR Part 237), they employ only five bridge specialists for the entire United States and only perform bridge "observations" - for approximately 80,000 bridges in the nation. One federal inspector is currently assigned to cover California, along with 10 other states in the West, and cannot possibly provide adequate oversight for the approximate 5,100-7,000 bridges in California. One dedicated inspector would be able to inspect approximately 225 - 250 bridges annually, but that is at most only about five percent of California's railroad bridges alone, not including the bridges in the 10 other states.

The 2.0 new Associate Railroad Track Inspectors for bridges would create a Railroad Bridge Oversight Plan that would combine the talents of our professional engineers of the Risk Assessment team, with the expertise of experienced railroad inspectors. The Associate Railroad Track Inspectors would actually inspect the bridges to determine whether the railroad-employed engineers, as well as our own risk-assessment engineers, have developed correct evaluations, concerns, and assumptions regarding the integrity, load capacity, maintenance and inspection practices on all bridges especially taking into consideration the ages of bridges and the increased volume of traffic expected from the increase in crude oil transportation by rail.

LAO RECOMMENDATION

We recommend approval of the proposal with the addition of supplemental report language (SRL) requiring the department to report on the implementation of this proposal. We find that there are increased environmental and public safety risks associated with the projected increase in rail traffic in coming years, and there is currently limited oversight of rail bridge safety. Our concern is that this is a new responsibility for the commission, and certain implementation details still need to be developed. In particular, the commission had not completed its plan for how it will prioritize which bridges to inspect, and it is unclear what additional training the commission will seek for its inspectors who will specialize in rail bridge safety.

STAFF COMMENTS

Staff concurs with the LAO analysis. However, staff notes that this proposal funds activities from Public Utilities Commission Transportation Reimbursement Account, one of the CPUC funds that OSAE audited (discussed above).

Staff Recommendation: Hold Open

ISSUE 3: IMPLEMENT GHG REVENUE RETURN TO ENERGY-INTENSIVE, TRADE EXPOSED INDUSTRIES

The Governor's Budget requests an increase of \$1 million (reimbursable authority) in 2014-15 and \$500,000 per year from 2015-16 through 2021-2022 to enable the CPUC to implement the return of GHG revenue to EITE industries. The funding is proposed to allow CPUC to ensure that sensitive and confidential business information is not compromised, and to complete the study of EITE industry leakage. In the proposal, the CPUC asserts that because the state has not yet conducted a comprehensive study of industries put at risk due to cap and trade, the CPUC would like to engage researchers at the University of California to conduct a "far-ranging study" of other industries that might need financial assistance.

Implementing Legislation. SB 1018 states:

748.5. (a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.

(b) Not later than January 1, 2013, the commission shall require the adoption and implementation of a customer outreach plan for each electrical corporation, including, but not limited to, such measures as notices in bills and through media outlets, for purposes of obtaining the maximum feasible public awareness of the crediting of greenhouse gas allowance revenues. Costs associated with the implementation of this plan are subject to recovery in rates pursuant to Section 454.

BACKGROUND

As part of its implementation of the state's Cap and Trade program for greenhouse gas (GHG) reduction, the Air Resources Board (ARB) issues GHG allowances, which are permits to emit GHGs into the atmosphere. In order to protect electric ratepayers from price increases, the ARB allocates free allowances to the state's electric utilities and requires them to sell those allowances, returning the revenue to ratepayers. Senate Bill 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2011, required this revenue to be provided directly to residential customers, small businesses, and companies in emission intensive, trade-exposed (EITE) industries. The allocation to EITE companies is intended to ensure that industrial production currently occurring in California does not move outside the state as a result of cap and trade, thus causing emissions to "leak" out of the state.

The CPUC has been developing a program to address the mitigation leakage risk, including specific formulas to determine how much allowance revenue each EITE company should receive, and to base the allocation primarily on product output. The CPUC has stated that this calculation is problematic because it has a challenging time calculating the price of output, and that it is not aware of all companies at risk of "leakage."

STAFF COMMENTS

The Senate Subcommittee No. 2 agenda on March 6, 2014 notes:

"At the time of the passage of SB 1018, it was not contemplated that the return of cap and trade funds to residential, commercial and industrial entities would require over \$1 million to implement the program. In addition, the idea that the CPUC must contract to conduct a far-ranging study on the impacts of cap and trade on industry was not discussed. This activity is beyond the scope of the CPUC and more in the purview of the ARB, as part of its broader discussion of "leakage" within the Cap and Trade program."

"Because this proposal has raised questions of the intent of legislation, staff recommends this item be held open until the Legislature can provide guidance on the need for such a program."

Staff concurs with the Senate agenda.

Staff Recommendation: Hold Open

CALIFORNIA COASTAL COMMISSION

ISSUE 1: LOCAL COASTAL PROGRAMS (SFL)

The Governor proposes a two-year pilot program (FY 2014-15 and FY 2015-16) of \$3 million (General Fund carryover, Coastal Act Services Fund and the Environmental License Plate Fund) per year of state operations in the California Coastal Commission budget to work in partnership with local governments to accelerate the completion and updates of Local Coastal Programs. This funding level supports 167 positions (25 positions above the 142 authorized positions in FY 2012-13).

This Local Coastal Program (LCP) work will include critical climate change adaptation planning and methods to address projected accelerated sea level rise consistent with the objectives in the Administrations draft Safeguarding California Plan.

BACKGROUND

The CCC is the primary state agency responsible for administering the 1976 Coastal Act. The CCC, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include (among other things) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a coastal permit from either the Coastal Commission or the local government.

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

STAFF COMMENTS

The CCC has maintained a steady budget over the past several years but has struggled to make progress in updating LCPs. 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, in order to determine how to preserve life and property along the California coast.

The 2013-14 Budget approved \$4 million (General Fund) to the Coastal Commission to work in partnership with local governments to accelerate the completion and updates of LCPs (\$3 million for state operations [one time] and \$1 million local assistance for two years). On March 20, 2014, prior to the release of the Spring Finance proposal, the Senate Subcommittee No. 2 voted to approve a General Fund appropriation of \$3 million per year to the Coastal Commission for five years for this work.

In order to ensure this program is fully funded for five years, staff suggests approving the Spring Finance proposal and additionally approving \$3 million (state operations) for two years and \$1 million (local assistance) for three years.

Staff Recommendation: Approve Spring Finance proposal. In addition, approve \$3 million (Environmental License Plate Fund) for state operations (2016-17 and 2017-18) and \$1 million (General Fund) for local assistance (2015-16 through 2017-18).

**3720 CALIFORNIA COASTAL COMMISSION
3760 STATE COASTAL CONSERVANCY
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION**

ISSUE 1: CALIFORNIA CLIMATE RESILIENCE ACCOUNT

BACKGROUND

Climate change in California during the next century is projected to accelerate sea level rise as well as shift precipitation patterns and increase temperatures. The National Research Council found in their 2012 report that the average sea level rise projections for California are an additional 6 inches by 2030, 12 inches by 2050, and 36 inches by 2100. In fact, sea level rise is already occurring. The country's longest continuously operating gauge of sea level, at Fort Point in San Francisco Bay, recorded a seven-inch rise in sea level over the 20th century. As has been seen throughout the country with Superstorm Sandy and recent king tides, California's coastal areas are susceptible to the impacts of sea level rise and extreme events.

The Assembly Select Committee on Sea Level Rise and the California Economy was established in 2013 to review the challenges ahead in addressing the expected impacts of sea level rise on the state and its economy. Over the course of a year, the Select Committee held four hearings throughout the state to examine sea level rise's effect on various sectors and industries. Topics at the four hearings included expected impacts on: coastal agriculture, fishing and aquaculture industry, tourism, ports, airports, roads and bridges, water and power infrastructure, as well as the examination of existing authority granted to state agencies in regards to the preparedness and response to anticipated sea level rise. When the Select Committee asked what would incentivize planning and adaptation at each of the four hearings, additional funding was the predominate answer. Panelists at each of the hearings stressed the need for funding to encourage preparing and adapting to California's changing climate.

The Coastal Conservancy was one such entity that testified before the Select Committee and described the need for funding through their experience with their Climate Ready Grants. The Coastal Conservancy stated that the purpose of the Climate Ready program is to encourage local governments and non-governmental organizations to prepare for a changing climate by advancing planning and implementation of on-the-ground actions that reduce greenhouse gas emissions and lessen the impacts of climate change on California's coastal communities and natural resources. Originally, a total of \$1.5 million was available for awards through this competitive grant program. However, 76 project proposals were submitted by the August 28, 2013 submission deadline, requesting over \$13.3 million in Conservancy funding. As a result, the Coastal Conservancy Board approved funding of up to \$3,078,623 for 20 projects at its January 23, 2014 meeting.

In addition, the California Coastal Commission, in their testimony before the Select Committee, pointed out that more local assistance funds will be needed to support local government. On January 8, 2014, the Coastal Commission awarded \$1 million in Local Coastal Program Planning Assistance grants to 11 local jurisdictions. However, 28 applications requesting \$5.2 million had been submitted, illustrating the clear need for additional planning resources.

Investing in climate resilience has also been discussed at the federal level. President Obama announced that his 2015 Budget will include a new \$1 billion Climate Resilience Fund during a

meeting with farmers and ranchers in California who have been severely affected by the drought. Through this Fund, the Obama Administration proposes to:

- Invest in research and unlock data and information to better understand the projected impacts of climate change and how we can better prepare our communities and infrastructure;
- Help communities in planning and preparation for the impacts of climate change and encourage local measures to reduce future risk; and
- Fund breakthrough technologies and resilient infrastructure that will make us more resilient in the face of changing climate.

STAFF COMMENT

The Subcommittee may wish to establish the California Climate Resilience Account to provide additional funding to specifically address the risks and impacts of climate change, sea level rise, and associated extreme events. Currently, there is the cap-and-trade program which provides funding to reduce greenhouse gas (GHG) emissions. However, there is planning and adaptation work related to sea level rise and other climate change impacts that do not reduce GHG emissions and therefore, are not eligible for this funding source.

When appropriate funding is identified, the California Climate Resilience Account would allow those funds to be used by the state's coastal zone management agencies for planning and implementation activities to address the risks and impacts of climate change, sea level rise, and associated extreme events to coastal and bay communities and natural resources. The funds in the California Climate Resilience Account would be expended by the State Coastal Conservancy, the California Coastal Commission, and the San Francisco Bay Conservation and Development Commission. Funds that may be deposited into the California Climate Resilience Account may include, but is not limited to, appropriations and grants, funds from the federal government, regional planning agencies, and local governments, fees, litigation settlements, permits, mitigation requirements, and private donations. Of the funds deposited in the account during each fiscal year, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission would each receive 20 percent and the State Coastal Conservancy would receive 60 percent. The purpose of the California Climate Resilience Account would be to support project implementation, capital outlay, and local assistance grants and only up to a maximum of 10 percent of the funds would be available for administrative costs.

As demonstrated by the number of applications for both the Climate Ready grants and the Local Coastal Program Planning Assistance grants, it would appear that there is a need and desire to address the impacts of climate change. The Obama Administration has recognized barriers (including lack of funding) to beginning and completing these types of projects and is therefore proposing to appropriate \$1 billion to prepare for climate change. In addition, it would seem appropriate that the funds in the California Climate Resilience Account would be spent by the three coastal zone management agencies: the State Coastal Conservancy, the California Coastal Commission, and the San Francisco Bay Conservation and Development Commission.

The California Climate Resilience Account would create a new account into which future funds could be deposited. No funds would be appropriated in the trailer bill language and no existing funding that has already been set aside for a specific purpose would go into the account. Only after the California Climate Resilience Account is created could funds be deposited or appropriated.

Staff Recommendation: Approve trailer bill language that establishes the California Climate Resilience Account in the Coastal Trust Fund.

3860 DEPARTMENT OF WATER RESOURCES

ISSUE 1: DELTA HABITAT CONSERVATION AND CONVEYANCE PROGRAM IMPLEMENTATION (SFL)

The Governor proposes to convert 38 limited-term positions to permanent full-time. No funding is being requested through this proposal as the positions will be supported by the continuously-appropriated State Water Resources Development System Fund. The positions were originally authorized in the Budget Act of 2012 on a two-year limited term basis and will expire on June 30, 2014.

BACKGROUND

The Delta plays a major role in the State's prosperity by providing a portion of the drinking water for 25 million Californians, fueling a \$32 billion agricultural industry, and serving as important habitat to more than 750 animal and plant species. However, the Delta's future sustainability is threatened by changing hydrology, decreasing snow pack, flood and seismic risks, native fish species declines and other environmental concerns. The future management of the Delta must include improvements to Delta ecosystem health and to Delta water conveyance in order to protect drinking water quality, improve water supply reliability, restore ecosystem health, and preserve agricultural and recreational values in the Delta.

In 2012, the Governor's Budget requested authority for 117 new positions and that 18 limited-term positions be converted to permanent full-time positions (\$25,415,000 total) to support the preliminary design phase activities within components of the Delta Habitat Conservation and Conveyance Program (DHCCP). The DHCCP is the unit within DWR carrying out the Bay Delta Conservation Plan (BDCCP) planning activities. After a series of meeting and negotiations with the Department, the Legislature approved 37 permanent positions and 38 limited-term positions.

This project has suffered multiple delays. Currently, the BDCCP environmental impact statement/environmental impact report (EIS/EIR) documents are still out for public review, after which time they could potentially require recirculation. Moreover, the Implementing Agreements, which are supposed to be circulated for a 60-day public review before approval have not been released.

STAFF COMMENTS

Given the complexity and scope of this project and its multiple delays, it seems that Alternative 2 in the budget proposal, which calls for approving the extension of the 38 limited term positions for two or three years is preferable. This would temporarily provide the Department with additional resources needed to move forward with planning activities.

Because it is still not clear there will be a project and no funding plan has yet been developed, approving the extension of the 38 limited-term positions for two years makes the most sense.

Staff Recommendation: Approve the extension of the 38 limited term positions for two years.
