

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION****Assemblymember Ira Ruskin, Chair****WEDNESDAY, APRIL 11TH, 2007
STATE CAPITOL, ROOM 447
9:00 AM****Hearing Items**

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CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
3930	Department of Pesticide Regulation	\$255,000 (reimbursements) and one limited term position to evaluate chlorpyrifos and pyrethoid mitigation.
3930	Department of Pesticide Regulation	\$149,000 (DPR Fund) and 1.0 position to expand the Healthy Schools Act to Private Child Day Care Facilities.
3930	Department of Pesticide Regulation	\$472,000 (budget salary savings) and 6.2 temporary help authority.
3940	State Water Resources Control Board	\$384,000 (Waste Discharge Permit Fund) and three PYs to administer the Sanitary Sewer Overflow Reduction Program.
3940	State Water Resources Control Board	Reappropriation and technical adjustment for Local Assistance appropriation for Proposition 13 and 50 bond law.
3940	State Water Resources Control Board	\$12.9 (Underground Storage Clean Up) to accelerate distribution of cleanup funds for reimbursement of UST cleanup costs.
3940	State Water Resources Control Board	\$582,000 (General Fund) and 1.98 PYs for Leviathan Mine Pollution Abatement Project.
3940	State Water Resources Control Board	\$74,000 and .5 PYs to implement SB 729 that gives the State Board authority to conduct regional water quality investigations.
3980	Office of Environmental health hazard Assessment	\$203,000 (Special Funds) and 4.0 positions Proposition 65 and waste discharge Compliance Assistance.
3980	Office of Environmental health hazard Assessment	\$125,000 (Special Funds) and 1.0 Toxicologist to support the California Accidental release Prevention Program.

3930 – DEPARTMENT OF PESTICIDE REGULATION

The Department of Pesticide Regulation (DPR) protects public health and the environment by regulating all aspects of the sale and use of pesticides and by promoting reduced-risk pest management strategies. The department ensures compliance with pesticide laws and regulations through its oversight of County Agricultural Commissioners, who enforce pesticide laws at the local level.

ISSUE 1: PESTICIDE POLLUTION PREVENTION GRANT PROGRAM

The Governor's budget is proposing to provide a two-year augmentation of \$780,000 (DPR Fund) and 2.0 positions to conduct a limited-term Pesticide Pollution Prevention Grant Program. This program provides local assistance grants to implement integrated pest management practices that reduce or eliminate pollution and pesticide exposure in agricultural and urban environments.

Background. The Pesticide Pollution Prevention Grant Program was operated by the department for seven years prior to it being suspended in 2002-03 due to budget restraints. At its highest funding level, the program received \$1.4 million in annual funds.

Integrated pest management practices (IPM) are a long term, preventive approach to managing pests that combines biological, cultural, physical, and chemical control practices. IPM involves decision making processes that are based on pest detection, identification, monitoring, and knowledge of pest biology. Pest management techniques that are economically viable are selected and used in a manner that benefits consumers, workers, neighbors, the environment, and agriculture without heavy reliance on pesticides. Examples of IPM include use of cover crops, crop rotation, insect baits, exclusion of pest, natural enemies, and pheromone confusion.

Staff Comments. Staff concurs with the department in the importance of funding this program. The adoption of increased IPM use can potentially have significant statewide environmental benefits and help foster increased coordination between DPR, regulated parties and communities concerned with pesticide contamination.

Staff understands that at the end of the two-year funding period, DPR is planning on completing an assessment of appropriate program funding levels and availability of funds to establish an ongoing grant program. Because the Pesticide Pollution Prevention Grant Program is not a new program, staff feels that sufficient information should be presently available to assess what appropriate ongoing staffing levels should be for this program. As an ongoing issue, which is true for all DPR grant programs, the department will need to assess if adequate funding is available to support proposed levels of grant funding.

STAFF RECOMMENDATION: Approve two-year funding for grants but make positions ongoing.

ISSUE 2: PESTICIDE ENFORCEMENT AND COMPLIANCE IMPROVEMENTS

The Governor's budget is proposing \$667,000 (DPR Fund) and 6.0 positions to provide additional state oversight of field enforcement activities carried out by the county agricultural commissioners (CACs) and to establish a training program for conducting CAC hearings.

Background. The department is responsible for overseeing statewide enforcement of pesticide use which is conducted at the local level by local ag commissioners. Through the development of the Enforcement Response Policy (ERP) that creates violation classification system for pesticide violations, the department has found statewide inconsistencies in how pesticide laws are being enforced by CACs.

The positions and funding in this proposal would hire staff and provide training funds to train local agricultural commissioners on uniform pesticide enforcement practices.

Staff Comments. Staff concurs with the importance of the department's ability to provide proper levels of oversight of county pesticide enforcement. By bringing uniformity to the role of county ag commissioners in pesticide enforcement, this proposal may help bring more detail to the workload needs of CACs.

STAFF RECOMMENDATION: Approve as budgeted.

ISSUE 3: MITIGATION OF PESTICIDE IMPACTS

The Governor's Budget. The Governor's budget is proposing to augment the department by 5.0 positions and \$634,000 (DPR) fund to develop and evaluate mitigation measures for pesticides that have adverse effects on human health. As the department is responsible for conducting risk assessments of pesticides, this proposal will provide resources to mitigate environmental and health risks identified in those assessments. To do this, the department will proceed with the adoption of statewide rules, improved occupational outreach programs, and action on pesticide product registrations.

Background. DPR is charged with the orderly regulation of pesticides while protecting human health and the environment. Before a pesticide can be sold in California, it must be evaluated and registered by the department. Pesticide manufacturers must submit studies that evaluate the potential health and environmental effects of their products, and DPR scientists evaluate the data to confirm that the chemicals can be used safely in California. DPR then regulates pesticides in agricultural and urban environments.

Prior to certification of a pesticide, the department is responsible for identifying unacceptable pesticide exposures through the department's risk assessment process. Currently, DPR completes an average of six risk characterization documents (RCDs) per year with nearly half of those RCDs indicating the need for mitigation.

Staff Comments. Staff does not have any concerns with the resources requested in this proposal, however staff does raise the following issues:

Volatile Organic Compounds Regulations. Currently, pesticides rank among the largest contributors to California's notoriously poor air quality. In the San Joaquin Valley, pesticides rank as the fourth largest source of smog-forming volatile organic compound emissions. At the hearing, the department should be prepared to give the subcommittee a status report on adoption of regulations necessary to reduce volatile organic compound emissions from agricultural and commercial structural pesticides. Additionally, department should be prepared to comment on what monitoring programs it will use to ensure that VOC standards, once adopted, are complied with.

Cholinesterase Monitoring. Organophosphate (OP) and carbamate insecticides are widely used in California and are considered highly toxic -- approximately 5.4 million pounds applied in 2003. In 1974, California established the cholinesterase (ChE) monitoring program (CCR Title 3, §6728) to monitor exposure to these pesticides among those most exposed -- pesticide handlers and applicators. The intent of the ChE monitoring program was to prevent overexposure. At the hearing, the department should be prepared to comment on how the state monitors the exposure levels of those that regularly handle these pesticides and if there is a current program to measure the long term health impacts of ChE's on its handlers.

Fumigant Health Protection Regulations. Lastly, the department should be prepared to provide the committee with a summary of its current rules on the use of the fumigants methyl bromide, metam sodium, 1,3-D and chloropicrin, and whether new rules are currently being developed.

STAFF RECOMMENDATION: Approve as budgeted.

3940 – STATE WATER RESOURCES CONTROL BOARD

The State Water Resources Control Board (state board or SWRCB), in conjunction with nine semiautonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board’s oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

ISSUE 1: LAO ISSUE: DATA MANAGEMENT IT SYSTEMS

The LAO has raised concerns that the State Water Board with the manner that it has proceeded with their IT data management systems. On numerous occasions, the Legislature has stressed the fundamental role that management of data—including permitting, enforcement, and water quality—plays in assisting the board to carry out its mission. This is critical to informing the board’s decision making and the public-at-large and in effectively targeting resources to program areas most in need.

LAO Comments. In their review, the LAO highlights the challenges facing the water boards in the area of IT and recommends steps that should be taken for improvement. In conducting their review, the LAO examined current and proposed IT projects at the water boards related to water quality. The LAO reviewed in depth one IT project—the California Integrated Water Quality System (CIWQS). Specifically, the LAO found that there are significant problems in the way SWRCB has informed the Legislature of its new IT projects and in the way new projects have been rolled out to the regional boards.

The LAO recommends the adoption of budget bill language (1) requiring the board to conduct a needs assessment of its information technology (IT) programs in order to update its IT strategic plan, (2) prohibiting expenditures for new IT projects until the plan is updated and submitted to the Legislature, and (3) requiring the board to submit an IT implementation plan as part of the submittal of the annual Governor’s budget. Further, the LAO recommends the Legislature withhold funding for future new projects until an updated IT strategic plan is in place.

Staff Comments. State Water Board has expressed that it is largely in agreement with the recommendations made by the LAO and staff recommends that this item be held open to give staff additional time to resolve outstanding issues.

STAFF RECOMMENDATION: Hold open.

ISSUE 2: BROWNFIELDS FUNDING INITIATIVE

The Governor's Budget. The Governor's budget is proposing to augment the State Board by 25 positions and \$3.1 million (State Water Quality Control Fund, Cleanup and Abatement Account) to expedite existing priority groundwater cleanups, address a large backlog of identified pollution cases and address new brownfield sites.

Background. The Porter-Cologne Water Quality Control Act mandates that the State Water Board and the nine regional boards to ensure that polluted groundwater is restored for beneficial uses, including drinking water. The Water Code requires that any person who has discharged waste to pay for the cleanup or abate the effects. This provides the Regional Water boards with the power to demand an investigation and cleanup, and to recover costs incurred overseeing the work.

In order to address the clean up of Brownfields - which are known to contain VOCs, chromium, solvents, acids and other substances - the department has the Spills, Leaks, Investigations and Cleanups (SLIC) Program that is funded through reimbursements from responsible parties. The program currently has 60 positions that are almost all dedicated to overseeing the clean up of the 1,716 active brownfield sites statewide.

The funding and positions in this proposal would serve to expedite the remediation of several active brownfield sites statewide.

Staff Comments. This proposal presented by the State Board will provide a much needed infusion of funding and positions into the departments SLIC program. Staff concurs with the present need for this augmentation and recommends that it be approved as budgeted.

STAFF RECOMMENDATION: Approve as budgeted.

ISSUE 3: REGULATING CONFINED ANIMAL FACILITIES

Governor's Budget. The Governor's budget is proposing an augmentation of \$1.1 million in waste discharge Permit Funds and the redirection of seven PYs to regulate Confined Animal Facilities in the San Joaquin Central Valley Region. Resources requested in this proposal will help the State Board study the effect that confined animal facilities have on groundwater.

Background. According to the State Board, a single 1,000 cow dairy produces the equivalent waste of a small city with a population of 20,000 residents. Most of the waste from these facilities is untreated and has the potential of polluting the groundwater and surface waters of the regions they inhabit.

In the Central Valley, there are 1,500 known dairy operations that until now have been operated mostly under programmatic waivers that relieved the dairy operators from regulation so long as they adhered to State Board Guidelines. In 1999, the ability of dairies to operate in the waiver program was eliminated through a phase out and the State Board expects the Regional Board to begin implementation of dairy regulations in 2007.

Staffing and resources proposed in this request will help the Central Valley Regional Board begin testing groundwater specifically for impacts of confined animal facilities.

Groundwater Programs. Staff has been approached by many communities in the Central Valley with the concern that the Regional Boards do not have adequate groundwater monitoring programs to accomplish its statutory responsibilities under the Porter Cologne Clean Water Act. When the groundwater aquifer supplying their well(s) becomes contaminated, community members are often forced to purchase bottled water while they continue to pay water bills for unsafe drinking water. The only recourse these communities have is to try to find another section of the aquifer with less contamination and drill a new well. Some groups have found that these new wells are only lasting 5 to 7 years before becoming contaminated and starting the cycle again.

Staff Comments. Staff concurs with the State Board that the issue of providing safe drinking from surface or ground sources is a very important public health issue and recognizes that this proposal will do a great deal to begin the assessment of groundwater contamination and its causes in the Central Valley. Because of these concerns raised about a lack in groundwater regulatory programs, staff recommends that the subcommittee hold this item open to consider options to increase funding for more comprehensive monitoring and regulatory programs for groundwater.

At the hearing, the State Water Board should be prepared to provide the subcommittee with a review of their statewide groundwater programs with an emphasis on Central Valley and Central Coast programs.

STAFF RECOMMENDATION: Hold open budget proposal.

ISSUE 4: WASTEWATER REGULATORY PROGRAMS FUNDING

Governor's Budget. The Governor's budget is proposing \$1.3 million in General Funds and \$2.7 million from the Waste Discharge Permit Fund to continue funding current staffing levels in Wastewater Regulatory Programs that are necessary to comply with the mandates of the clean water act.

Background. This proposal is needed because \$4 million in Federal Funds that are available for this program are currently being allocated to the State Water Board's Surface Water Monitoring Program (SWAMP). Both the NPDES and SWAMP program are part of a required set of actions that the State Board has agreed to with the USEPA to address the most pressing water quality problems in the state.

Staff Comments. In last year's budget, the Governor proposed and the subcommittee supported using \$4 million increase to National Pollutant Discharge Elimination System (NPDES) permit fees provide for the costs of this proposal. In the final budget, this funding sources was substituted with general fund on a one time basis. In this proposal, the administration is proposing to maintain funding levels for this program and continue supporting staff from the general fund on an ongoing basis.

While staff generally agrees with the administration that these programs serve the overall public good and do merit general fund support, it is also appropriate that a percentage of the costs of monitoring discharged pollution be supported by those that discharge into public waterways. Staff suggests that the subcommittee look again at the feasibility of using fee revenue to support some if not all of these programmatic costs.

STAFF RECOMMENDATION: Hold Open.

ISSUE 5: REDUCTION OF THE WATER RIGHTS BACKLOG

Governor's Budget. The Governor's budget is requesting \$693,000 to support the permanent addition of 6.3 positions for water rights application and change petition processing. Funding for this proposal would come from the Water Rights fund and would require a fee increase to support the additional positions.

Background. Currently, the division has approximately 567 water rights applications pending and 630 petitions requesting approval to amend applications that have already been publicly noticed or to change the conditions of existing water right permits, or licenses, for a total backlog of 1197 projects with many of these applications have been pending processing for more than five years. This backlog is the result of long term deficiencies in staffing levels and in recent years, existing staff has been redirected to process other actions related to the water rights program.

Staff Comments. Last year, the Governor's budget proposed to use funding from the water rights application and change petition processing to support this proposal. If the proposal were to have been funded through this funding source it would have required a fee increase

to support the additional positions. This funding proposal was supported by the subcommittee but in the final budget proposed by the legislature and signed by the Governor, it was shifted to general fund. The Governor's budget proposal this year would make last year's commitment to use general funds for this proposal ongoing.

While staff agrees with the administration on reducing the water rights backlog, staff feels that the subcommittee may want to consider using non general fund sources, as was proposed last year, to support these costs.

STAFF RECOMMENDATION: Hold open.

ISSUE 6: AG WAIVER PROGRAM

Governor's Budget. The Governor's budget is requesting \$1.6 million (General Fund) to fully support the existing 22.3 positions that support the waste discharge requirements irrigated agricultural lands waiver (ag waiver) program.

Background. The Central Coast, Los Angeles, and Central Valley Water boards have adopted conditional waivers for discharges from irrigated lands that require dischargers to monitor water quality and to take corrective actions if water quality impairments are found. Implementing this waiver will require the Regional Boards staff to review monitoring plans and reports, work with discharger groups, and make recommendations to the Regional Boards on how the conditional waiver may need to be modified, based on information found.

Staff Comments. In 2005, the Central Valley Regional Board adopted an increased fee schedule for the Ag Waiver program that was anticipated to raise \$1.9 million for this program. When the State Water Board implemented this fee schedule in 2005-06, it ran into problems such as confusion over what acreage is actually covered by the program and only was able to collect about \$570,000 in 2005-06. In last year's final budget, a general fund augmentation of \$1.6 million was allocated to the State Water Board to supplant increased fees in the Ag waiver program. This proposal would continue ongoing general fund support for the program.

STAFF RECOMMENDATION: Hold open.

ISSUE 7: PROPOSITION 84: LOCAL ASSISTANCE PROGRAMS

Governor's Budget. The Governor's Budget is proposing \$101.2 million from Proposition 84 for the following local assistance grant programs:

- **State Water Pollution Control Revolving Fund - \$73.2 million (\$80 million - total authorized).**
Funding provides match for federal capitalization grants that provide financial assistance in the form of low interest loans for the construction of publicly owned wastewater treatment facilities, stormwater pollution control projects, nonpoint source pollution control projects and estuary enhancement projects.
- **Agricultural Water Quality Grant Program - \$6 million (\$15 million – total authorized).**
Funding provides grants awarded to public agencies or nonprofit organizations for the purposes of improving agricultural water quality through demonstration projects, research, construction of agricultural drainage improvements, and for projects to reduce pollutants in agricultural drainage water through reuse, integrated management, or treatment.
- **Urban Stormwater Grant Program - \$14.0 million (\$90 million – total authorized).**
Funding provides grants to local public agencies for projects designed to implement stormwater runoff pollution reduction and prevention programs, including diversion of dry weather flows to publicly owned treatment works and acquisition and development of constructed wetlands.
- **Clean Beaches Grant Program - \$6.4 million (\$90 million – total authorized)
Santa Monica Bay Restoration Commission - \$1.6 million.**
Funding provides grants to public agencies for projects in coastal waters, estuaries, bay and near shore waters that are intended to improve coastal water quality at public beaches, upgrade existing sewer collection or septic systems, and implements stormwater pollution reduction programs and best management practices.

Staff Comments. The funding requested in this proposal would be the first year of a multi year expenditure plan for the State Water Board for funds authorized to them in Proposition 84. Since this funding would support ongoing ongoing programs staff does not have any issues with this proposal, however, consistent with prior actions staff recommends that this be held open due to proposition 84 funds.

STAFF RECOMMENDATION: Hold open.

ISSUE 8: PROPOSITION 84: WATERSHED BASIN PLANNING

Governor's Budget. The Governor's budget is proposing an augmentation of \$6.1 million (Proposition 84) in local assistance and contracts and 11.9 PYs for the following two purposes:

- **Watershed protection.** \$1.8 million to implement a pilot grant program for local agencies to update their general plans to incorporate watershed conservation strategies into land use policy in order to minimize water quality impacts of conventional land development on California's water resources.
- **Water Basin Plans.** \$3.2 million and 10.9 PYs to incorporate the State Water board's water quality basin plans into the next update of the California water plan. California's Water Basin Plans assess regional water quality and water supply and act as guiding documents for the expenditure of Regional Water Management funding. The State Water Board reports that many of California's regional Water Basin Plans are out of date with many standards not having been revised since their original development 35 years ago.

Staff Comments. The funding requested in this proposal would be allocated out of a \$90 million allocation from Chapter 9 of Proposition 84 for a wide variety of grants, loans, and incentives to encourage environmentally focused land use planning. This section of the bond is very broad and requires implementing legislation.

Staff agrees with the State Water board that the incorporation of Watershed and Basin Planning is an appropriate use of this section and key to the conservation and management of our regional ecosystems and water supplies. However, consistent with prior actions staff recommends that this be held open due to proposition 84 funds.

STAFF RECOMMENDATION: Hold open.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency (Cal-EPA) and to other state and local agencies.

ISSUE 1: BIOMONITORING

The Governor's budget is requesting 3.0 positions and \$167,000 for the initial planning and implementation of SB 1379 (Perata) that established the California Environmental Contaminant Biomonitoring Program. This proposal is part of a larger \$1.5 million coordinated effort with the Department of Public Health, the Department of Toxic Substances, and OEHHA.

Under the Biomonitoring Program, OEHHA will be responsible for assisting with the development of a proposed list of candidate chemicals for the program, looking at sources of chemicals and developing technical material to support the list.

Background. Scientific studies have identified a multitude of environmental chemicals as toxic to humans, but with a few exceptions, relatively little is known about the presence of these chemicals inside people's bodies. Recent reports indicate that even infants are born with chemicals in their blood. Increases in breast and brain cancer, infertility, asthma, autism, and other developmental diseases have heightened public concern about potential effects of environmental exposures. Some chronic diseases have been linked with exposures to synthetic chemicals, including a variety of common chemicals that can mimic or block the actions of hormones necessary for growth and maintenance of health.

With the passage of the Act, California became the first state to support the creation of a statewide Biomonitoring program. The program will be designed to systematically collect, analyze, and archive blood and other human biological specimens from a statistically valid representative sample of California's general population. It will also provide an opportunity to gather information about potential routes chemical exposure for Californians and help measure the effectiveness of efforts to reduce chemical exposure.

Staff Comments. Staff does not have any issues with this proposal and recommends approval as budgeted.

STAFF RECOMMENDATION: Approve as budgeted.

ISSUE 2: LAO ISSUE: PUBLIC HEALTH GOALS

LAO Comments. The Office of Environmental Health Hazard Assessment (OEHHA) develops and periodically updates scientifically derived, health-based public health goals (PHGs) for drinking water contaminants regulated by the Department of Public Health. The General Fund has funded the entirety of OEHHA's PHG-related work since the program's inception. The LAO recommends shifting support for the PHG program - \$1.8 million - from the General Fund to the fee-funded Safe Drinking Water Account. As OEHHA has consistently lagged statutory deadlines to develop and update PHGs, the LAO further recommends that OEHHA report to the budget subcommittees prior to budget hearings on the required resources to complete its statutorily defined responsibilities in a timelier manner.

Background. Roles of OEHHA and Department of Public Health (DPH). In California, two state entities—OEHHA and the newly constituted DPH, formerly part of the Department of Health Services—are responsible for assuring that the state's drinking water is safe, pure, and potable. The OEHHA scientifically assesses the risks to human health posed by contaminants that may be found in the state's public drinking water systems and are regulated or proposed to be regulated under DPH's safe drinking water regulatory program (discussed below). Based on that scientific assessment, OEHHA adopts contaminant-specific goals, known as PHGs that specify based solely on public health considerations, the maximum levels of concentration at which various contaminants can be found in drinking water without adversely affecting human health. Statute specifies that OEHHA is to set each PHG at a level that protects the public from both acute adverse health effects and chronic disease. Statute further directs OEHHA to consider possible combined and interactive effects of exposure to two or more contaminants, as well as the effect of contaminants upon specified subgroups, including infants, children, pregnant women, and elderly persons, and persons suffering from serious illness.

Unlike most other regulatory-related programs within the California Environmental Protection Agency, OEHHA's PHG program receives no funding from regulatory fees. Rather, the program has been funded entirely from the General Fund since its inception in 1997-98, at which time the program's budget was \$835,000. For 2007-08, the budget proposes \$1.84 million from the General Fund for OEHHA's PHG program.

Staff Comments. By shifting programmatic support from the general fund to fee supported services, this proposal will provide a \$1.8 million benefit to the General Fund. The Department of Finance has raised concern that this proposal will increase the likelihood that regulatory fees on public drinking water systems will need to be raised to support this proposed fund shift.

STAFF RECOMMENDATION: Hold open.