AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
Assemblymember Ira Ruskin, Chair

WEDNESDAY, APRIL 28TH, 2010
STATE CAPITOL, ROOM 447
9:00 A.M.

Consent Calendar

California Energy Commission

1. **Distribution System Infrastructure Analysis to Support Integration and use of Low Carbon Resources:** $282,000 and 2 positions to convert two, 2-year limited term positions that were established in 2008-09 to permanent. These positions are responsible for providing analytical support towards meeting the Waste Heart and Carbon Emissions Reduction Act established in AB 1613 (Blakeslee).
2. **Implementing AB 758:** $1.8 million (Federal Funds), 10 positions, and contracting funds to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. This program is required to be comprised of a complimentary portfolio of techniques, applications, and practices that will achieve greater energy efficiency. This funding level is consistent with the fiscal analysis prepared at the time of the bill's approval.
3. **Implementation of SB 17 (Padilla):** $287,000 from the Energy Resources Program Account for two Electric Generation System Specialist positions to work with the Public Utilities Commission and The California Independent System Operator and other key stakeholders to develop standards and protocols for smart grid technologies that are consistent with state energy policies and goals, as well as, federal law.

Air Resources Board

The Governor's Budget

1. **General Fund Reduction:** The Governor's budget is proposing to eliminate the Board's General Fund Appropriation of $193,000 General Fund. This funding supports non vehicular air quality research contracts that the Board comments will be absorbed by other funds.

State Water Resources Control Board

1. **Expedite 401 Water Quality Certifications for FERC Hydroelectric Projects:** $603,000 (Water Rights Fund) to increase the program to evaluate 23 new and 11 existing hydroelectric projects that are undergoing Federal Energy Commission (FERC) re licensing.
2. **Basin Planning Program:** $745,000 and 8.5 positions in reimbursement authority to support ongoing workload in the Basin Planning and Water Quality Standards program. Funding for this proposal will voluntarily come from non-state stakeholders who want their water quality workload addressed.
3. **Waste Discharge Permit Fund Fee Collections:** $96,000 from the Waste Discharge Permit Fund to support one position to assume several collection functions previously performed by the Attorney General's Office that they can no longer perform due to budget cuts.
4. **Continuing Program Implementation for Propositions 13, 40, 50, and 84.** Various technical adjustments for local assistance appropriations, reappropriations, reversions, and state operations authority for Propositions 13, 40, 50, and 84.

5. **Implementation of SB 310 –Water Quality and Other Runoff – Watershed Improvement Plans:** $158,000 from the Waste Discharge Permit Fund and 1.0 two-year limited term positions to assess the level of workload necessary to work with cities, counties, and special districts subject to storm sewer system, NPDES and Watershed Improvement Permits as was required under SB 310 (Ducheney).

Department of Toxic Substances

1. **Imperial County Certified Unified Program Agency Overtime and Equipment:** $360,000 augmentations in expenditure authority in the budget year and $197,000 ongoing to fund an industrial hygienist services, health and safety equipment, sampling equipment, miscellaneous equipment and overtime funding to provide off hour field presence.
2. **SB 757 (Pavley) Implementation -- Lead Wheel Weight Prohibition:** $135,000 for equipment and one position to enforce regulations related to the Lead Wheel Weight Prohibition

Public Utilities Commission

1. **Electric Generation Infrastructure and Energy Procurement:** $85,000 and one Financial Examiner position to evaluate individual energy procurement transactions made by the investor-owned utilities. Currently, less than 1/2 of 1% of transactions are tested. This proposal will increase this percentage to 1%.
2. **Rail Transit Safety Oversight:** $312,000 and 3 new positions to augment the Rail Transit Safety Staff to it can organize and track corrective action plans and provide additional track inspection on California's 12 rail transit systems.
3. **Implementation of AB 920 (Huffman):** $242,000 and 2.3 positions from the PUC Utilities Reimbursement Account to implement the changes to Net Energy Metering that were enacted in the bill. This request is consistent with the fiscal analysis of the bill.
4. **State Electricity Regulators Assistance Project:** $745,000 for 4 limited term positions, temp help and contracting funds for the CPUC to implement an ARRA to improve the CPUC's ability to respond to the growing number of dockets and advice letters related to ARRA grants and to train existing staff on complex energy regulatory issues.
5. **State Broadband Data and Development Grant Program:** $1.06 million for 4 positions to fulfill an ARRA grant for broadband mapping and data gathering effort. The CPUC will be using these staff to manage contracts to map statewide broadband availability and needed infrastructure statewide. In total, this will be a 5-year effort in line with the expiration of the grant.

ITEMS TO BE HEARD

OVERSIGHT ISSUE: CALIFORNIA ENERGY COMMISSION AB 118 IMPLEMENTATION

ISSUE 1: ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY PROGRAM

California Energy Commission

Assembly Bill 118 (Núñez) Chapter 750 Statutes of 2007 created the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) and authorized the CEC to spend up to approximately $120 million per year over seven years to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. Funding for the program is collected from various vehicles, vessel, and other air quality-related fees that are projected to raise upwards of $150 million annually for each of the eight years. Under the program, the CEC is to develop and adopt an Investment Plan to determine priorities and opportunities for the program and provide an allocation of expenditures that will complement existing public and private investments, including existing state and federal programs to reach these goals.

Progress to Date

Roughly 1 year ago, the CEC adopted the first investment plan that laid out both a series of fuel specific benchmarks that the Program was to meet as well as a proposed allocation of funding between the different competing technologies. This investment plan was vetted through the AB 118 Advisory Group as well as being approved through a public process.

Along with the adoption of the investment plan, the CEC decided to attempt to use the AB 118 funds to leverage federal ARRA funds where possible. At that time, it was anticipated that they would be able to use roughly $170 million in existing AB 118 funds to leverage around $800 million in ARRA dollars. Ultimately, this effort was not as successful as hoped for and the CEC was able to leverage around $90 million from a $33 million investment. Because the CEC was unable to leverage Federal Funding, the timeline for the CEC to make solicitations for grants outlined in the investment plan was delayed considerably. Currently, the CEC reports that they have gone out with various solicitations and grant funds are beginning to be awarded.

During the process of soliciting grant requests, the CEC reports that it has made changes to the proposed funding allocations in the original investment plan as a response to changes in need, commitment of resources or readiness of technology. The CEC has statutory authority under the Act to make necessary changes the investment plan in order to respond to changes in the market.

2010-11 Investment Plan

AB 118 (Núñez) envisioned that as this program moved forward, technologies would be evolving and there would be a corresponding need to update the investment plan every two years to adjust the program to those changes. The CEC has recently opened up a docket to begin the process of this review. Theoretically, changes in the market that have driven some of the changes to the original investment plan will be incorporated into the 2010-11 plan as well as emerging patterns in alternative fuels, changes in commitments from industry and readiness of technology

Governor's budget

The Governor's budget requested $2 million in baseline contracts for technical assistance, and an additional one-time increase of $5 million for program funding to implement the ARFVTP.

Staff Comments

This issue is being heard by the Subcommittee primarily to have the CEC and stakeholders provide the Subcommittee with a status report on the progress of the program. Approved in 2007, this program has been allocated a total of $175 million over two-budget cycles and due to issues mentioned above, has not been able to get most of the funding out on time. At the hearing, staff suggests that the Subcommittee discuss with the CEC and stakeholders why these delays have occurred and how they will be addressed in the 2010-11 investment plan that is being discussed currently.

As has been reported by the CEC, funding that was originally approved in the investment plan for various technologies have been moved from one sector to another to respond to changing market conditions. While the CEC is statutorily authorized to make these changes, staff has concerns with the transparency of these actions as there is not a clear method of reporting to make this information available to program stakeholders as well as to the Legislature.

At the hearing, the CEC should be prepared to report and distribute a handout outlining available information on current allocations levels and expected timelines for distribution of grant funds. Staff recommends that the Subcommittee discuss options for requiring the CEC to report to the Legislature either when individual changes are made to investment plan allocations or a combined quarterly or semiannual report to bring more transparency to the process.

Lastly, staff has no issues with requested funds for the budget year and recommends that they be approved as budgeted.

Staff Recommendation: Approve request as budgeted.

ISSUE 2: APRIL FINANCE LETTER: ENERGY FACILITY SITING WORKLOAD

The Energy Commission is requesting $6.2 million in new funding authority for 8 positions and consulting expertise to address increased workload associated with energy facility siting applications.

This proposal is being funded by the following proposed increases in the siting application fees: 1) Standard fee increased from $100,000 to $250,000; 2) Per-megawatt fee raised from $250 to $500; and 3) An increase in the cap for fees from $350,000 to $750,000.

Lastly, this Administration is requesting that a current exemption from application fees for renewable siting facilities be eliminated, making all energy generating facilities subject to siting fees.

Staff Comments

In prior years, the Subcommittee has discussed in depth the need for increased siting staff at the CEC to address increasing workload from both renewable and natural gas fired power plants. Currently, there is a significant backlog in getting projects on-line which will impact the state's ability to meet Renewable Portfolio Standards. Staff notes that the when the exemption from fees was originally put into statute for renewable facilities, it was done so to drive growth in the industry as there were not a lot of facilities applying for permits and there was not a drive to meet renewable generation targets as there is now. Staff agrees with the CEC that this augmentation is necessary address the backlog of projects that are waiting for their permits to be processed and approved. Additionally, since renewable facilities drive a majority of the workload growth of the division, this expansion of fee payers and fee levels will reinforce a reasonable beneficiary's pay approach.

Staff Recommendation: Approve as budgeted.

ISSUE 3: BIOSOLIDS RENEWABLE ENERGY PROJECT

Conversion of Biosolids to Energy

Biosolids are the end product of the processing of sewage and are often managed by transporting them to counties in and out of state that allow their use for landfill cover or soil amendment. Due to health and safety concerns, local ordinances have reduced the amount of counties and facilities that offer these management options, creating a statewide need to address biosolid management needs that will continue to increase with populations.

As options for land-based management of biosolids decline due to local restrictions, sanitation districts are looking for new options for sustainable management of biosolids. In the San Francisco Bay Area, a coalition of 16 sanitation districts have proposed to develop a facility that would process biosolids waste into a state that can be easily converted into energy through combustion. The goals of this project, called the San Francisco Bay Area Biosolids to Energy (BAB2E) Project, are to: 1) find a sustainable management practice for biosolids; 2) generate enough energy to run the sanitation operations in the 16 districts and supply excess energy to the grid; and, 3) design the project in a way that makes if flexible enough to accept other types of biomass feed-stock.

Public Interest Energy Research Program

The California Energy Commission's Public Interest Energy Research (PIER) Program supports energy research, development, and demonstration (RD&D) projects that will help improve the quality of life in California by bringing environmentally safe, affordable and reliable energy services and products to the marketplace.

The PIER Program annually awards up to $62 million to conduct the most promising public interest energy research by partnering with RD&D organizations including individuals, businesses, utilities, and public or private research institutions. Funding for this program is awareded via a stakeholder driven process.

Currently, research and development funding allocated to the development of biomass is allocated primarily to the following three biomass sectors: Landfill Gas To Energy; Anaerobic Digestion; and Ethanol/Electricity from Biomass. At the hearing, the CEC should be prepared to discuss with the Subcommittee how traditional biomass as well as biosolid biomass combustion fits into the Commission's renewable energy portfolio of research and development.

Staff Comments

Staff is aware that the coalition promoting BAB2E have been requesting $1 million in PIER funding for project development work, site selection studies, and final project design and construction for this demonstration project. This request is made under the notion that there is an increasing statewide need for sustainable biomass management and this project and this pilot could serve as a model for other regions. The Subcommittee may want to consider whether this is an appropriate allocation of PIER funds

Staff Recommendation: None at this time.

3900– AIR RESOURCES BOARD

ISSUE 1: AB 118 IMPLEMENTATION

The Air Quality Improvement Program (AQIP), established by AB 118 (Núñez) in 2007 is a voluntary incentive program administered by the Air Resources Board (ARB or Board) to fund clean vehicle and equipment projects, research on biofuels production and the air quality impacts of alternative fuels, and workforce training.

The AQIP funds projects that do not fit within the statutory framework of existing incentive programs such as the Carl Moyer Air Quality Standards Attainment Program (Carl Moyer Program), Goods Movement Emission Reduction Program, and Lower-Emission School Bus Program. These existing programs focus on near-term reductions to reduce ozone and particulate matter pollution and cut exposure to toxics. Statute provides much broader flexibility for implementing the AQIP.

Each year, the Board will approve a funding plan that serves as the blueprint for expending the AQIP funds that are appropriated each year to ARB in the state budget. The funding plan establishes ARB's priorities for the funding cycle, describes the projects ARB intends to fund, and sets funding targets for each project. The funding plan is paired with regulatory guidelines that direct ARB's implementation of the AQIP.

Staff Comments

This issue is on the agenda to give the Air Resources Board and Stakeholders an opportunity to update the Subcommittee on the prior year roll-out of AQIP. The ARB has reported that while AB 118 originally envisioned the program would provide $50 million in annual grants, only $29 million will be available in the current year due to declining revenues. Of that funding, the ARB reports that roughly 90 percent has been allocated in grants to the various sections of the program. At the hearing, the ARB should be prepared to walk the Subcommittee through last year's roll-out of the program, identify whether funding goals identified in the spending plan have adjusted, and discuss the process that is beginning to update the spending plan in the current year.

Staff Recommendation: No action, item is informational.

ISSUE 2: IMPLEMENTATION OF ADDITIONAL RULEMAKING REQUIREMENTS

Governor's Budget Proposal

The Governor's Budget is requesting $559,000 ongoing from the Motor Vehicle Account and Air Pollution Control Fund and 4 positions to support additional ARB rulemaking responsibilities imposed by AB 1085 (Mendoza). AB 1058 requires the Board to distribute to the public any technical, theoretical or empirical study, report, or similar document related to but not limited to air remissions, public health impacts and economic impacts relied by ARB in proposing a regulation.

The ARB is requesting the following 4 positions to implement the bill:

- 3 Air Pollution Specialists -- $258,000; and,
- 1 Associate Governmental Program Analyst -- $58,000.

Staff Comments

According to the Author, the bill was created because during the development of the Private Fleet Rule and On-Road Green House Gas (GHG) reduction measures stakeholders were unable to gain access to underlying technical information for the regulations until shortly before the regulation was released.

Staff notes that the fiscal analysis for this bill, when it was passed, reported that there would be less than $100,000 in cost for the ARB to implement the bill. At the hearing, the ARB should justify the discrepancy between the fiscal analysis and this proposal.

Staff Recommendation: Approve $100,000 and 2 AGPA positions.

ISSUE 3: RENEWABLE PORTFOLIO STANDARD IMPLEMENTATION (LAO ISSUE)

LAO Comments

The adoption of renewable energy procurement requirements raises a number of important and complex policy issues. The Legislature has clearly demonstrated its intention to set state policy in this area in statute. The LAOs review finds, however, that the Administration is currently spending state funds, and proposing further expenditures, to develop new renewable energy procurement requirements that circumvent current legislative policy as reflected in state law. The LAO finds that such action is (1) premature until and unless the Legislature adopts a new RPS statute; and, (2) leading to inefficient duplication of efforts by state agencies and wasteful spending.

Analyst's Recommendations. Given that the Administration's spending plans are both premature and an inefficient and duplicative use of resources, the LAO recommends that the Legislature take the following actions to remedy this situation. Specifically, the LAO recommends that the Legislature:

- Reduce ARB's Air Pollution Control Fund appropriation (Item 3900–001–0115) by $750,000—the amount the board anticipates spending from its base budget to develop a renewable energy standard regulation in the budget year;
- At budget hearings, specifically direct CPUC and ARB to immediately cease spending funds for the purpose of developing a new renewable energy standard or similar requirements absent the enactment of legislation that authorizes such activities;
- Deny CPUC's budget request for an additional $2.8 million (from PUCURA) for RPS–related activity in the budget year; and,
- Reduce CPUC's PUCURA appropriation (Item 8660–001–0462) by an additional $423,000—the amount the commission anticipates spending from its base budget to implement a 33 percent RPS in the budget year.

Staff Comments

Staff concurs with the analysis and recommendations made by the LAO. Staff recommends that the Legislature adopt their recommendations.

Staff Recommendation: Approve LAO Recommendations for the ARB.

3930– DEPARTMENT OF PESTICIDE REGULATIONS

ISSUE 1: TRANSFER OF SPCB FROM CONSUMER AFFAIRS TO DEPARTMENT OF PESTICIDE REGULATION

Governor's Budget Proposal

The Governor's budget is proposing the transfer of all existing staff and resources of the Structural Pest Control Board from the Department of Consumer Affairs (DCA) to the Department of Pesticides Regulation (DPR) as was required under AB 4X 20. The total amount of staff and resources transferred under this proposal are 34 positions and $4.6 million (Multiple Special Funds).

Additionally, DPR is proposing trailer bill language that authorizes the SPCB to establish by regulation administrative penalties for unlicensed activity.

Staff Comments

Funding and positions that are being transferred to DPR are consistent with the requirements of the legislation. Staff also recognizes the need for the Board to have administrative authority to enforce penalties for unlicensed activities as it streamlines their enforcement processes and reduces the need for board level action. Staff has no issues with this proposal and recommends that it be adopted. The Subcommittee may want to take this up in two separate actions.

Staff Recommendation: Approve as budgeted.

3940– STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: VARIOUS PERMIT FEE INCREASES

Governor's Budget Proposal

The Governor's budget proposes to eliminate General Fund Support for multiple programs at the Water Board and replace it with increased fee revenue. In total, these proposals create $6.4 million in savings and shift these programs to a 100 percent polluter pays model. The following proposed actions would result in various fee increases:

BCP #1: National Pollutant Discharge Elimination System (NPDES) Wastewater Program Fund Change. $1.4 million and 7.8 positions from the General Fund to the Waste Discharge Permit Fund. According to State Water Board staff, based on current NPDES fee schedules, a proposed 9.3 percent fee increase would be needed to fund this request.

BCP #2: Irrigated Land Regulatory Program Fund Change. $1.8 million and 12.5 PYs from the General Fund to the Waste Discharge Permit Fund. According to State Water Board staff, based on revenue estimates for the current agricultural waiver fee schedule, this proposal would require the current 12 cents per acre charge to be increased to approximately 42 cents per acre.

BCP#4: Fund Shift to Support the Water Rights Program. $3.2 million from the General Fund to the Water Rights Fund for the Water Rights Program.

Staff Comments

Staff recommends that these proposals be approved because of their benefit to the General Fund.

Staff Recommendation: Approve as budgeted.

ISSUE 2: LAND DISPOSAL PROGRAM FUND SHIFT

Governor's Budget Proposal

The Governor's budget proposes to shift $2 million in authority from the Integrated Waste Management Account (IWMA) to the Waste Discharge Permit Fund. This proposal is part of a larger package of actions proposed to reduce IWMA expenditures by $13.2 million.

Background

IWMA Funds are used to support source reduction, recycling and composting, and the safe transformation and disposal of waste, and also the protection of public health and safety through regulation of solid waste facilities. Funds are expended for the support of the Secretary of Environmental Protection, to offset the cost of fee collection for the State Board of Equalization, and for the regulation of solid waste facilities by the State Water Resources Control Board.

The IWMA is currently out of balance due to an approximate 30 percent reduction in tipping fee revenue and an annual expenditure level since 2002 that has exceeded revenues. In order to address revenue shortfalls, the Administration has assembled $13.2 million in IWMA reductions that span proportionally across departments that expend IWMA funds.

Staff Comments.

The Water Board is responsible for ensuring landfills do not adversely impact groundwater supplies. Currently, landfills that are still in operation fund this workload at the Water Board through tipping fee revenues which are deposited into the IWMA. Closed facilities, on the other hand, no longer collect tipping fees and fund this workload with Waste Discharge Permit Fees (WDPF). This proposal would shift all of the proposed Water Board's workload to the WDPF. Because these activities are required under law and there is already an established nexus between the fees that are being charged and the activities that they are supporting, staff feels that this is a reasonable proposal.

Staff Recommendation: Approve as budgeted.

ISSUE 3: WATER SUPPLY RELIABILITY

Governor's Budget Proposal

The Governor's budget is requesting $1 million in expenditure authority to allow the Water Board to directly fund the workload of consultants working on water rights applications for the purpose of expediting their approval.

Background

The State Water Board must comply with the California Environmental Quality Act (CEQA) when it approves a water right permit or a petition for change of an existing water right. As the CEQA lead agency, the Water Board directs water right applicants and petitioners to enter into a Memorandum of Understanding for payment and completion of CEQA activities and documentation. The applicant/petitioner, State Water Board staff, and the CEQA consultants are all signatory to the memorandum. The current practice is for the applicant/petitioner to select a consultant, but the consultant works under the direction of the Water Board staff. The applicant/petitioner is responsible for payment of the consultant's work. Current law provides authority for the Lead Agency to charge and collect reasonable fees for the cost of CEQA but the State Board does not have the budget authority to make direct payment to the CEQA consultant and recover those costs.

Under current MOU procedures, the Water Board staff has experienced difficulties directing the CEQA consultants when the applicant/petitioner is paying for the work. Consultants have stopped work on CEQA activities over work disagreements or when applicant/petitioner has stopped payments. These issues have created delays in the program.

Staff Comments

The Subcommittee has discussed at length the need to address backlogs in the water rights program. While in the past staffing resources have been augmented for the scientific and administrative workload related to processing applications, this proposal would address one part of the process where permits are stalled. By allowing the Water Board to direct CEQA work, the final work products should be in line with Water Board requirements and will not be delayed as they currently are due to funding.

As State Water Board staff note, most CEQA documentation for water right approvals is for modifications to existing projects where applicants are operating under less restrictive conditions and, therefore, may not necessarily want to make the changes required under new CEQA documents. Similarly, three-quarters of all applications for new water right permits are for appropriations initiated illegally (without first obtaining a license) where the applicant will continue to illegally divert throughout the application process. In each case, it is unclear what incentive the applicant/petitioner has (or obligation they are under) to pay for CEQA documentation, the contents of which they may not like.

Staff supports the Water Boards' proposal to initiate this effort to accelerate CEQA for water rights holders.

Staff Recommendation: Approve as budgeted.

ISSUE 4: CLIMATE CHANGE

Governor's Budget Proposal

The Governor's budget is proposing to augment the State Water Board's budget by a total of $535,000 from the Air Pollution Control Fund for 2.0 positions and $300,000 in contract resources to implement 2 of the 6 measures -- Water Recycling and Urban Water Reuse -- affecting water sector for which the State Water Board has been designated as the lead agency. This proposal will be funded by revenue collected from new AB 32 administrative fees.

Background

Water Recycling: As lead agency, the State Water Board will be responsible for revising its recycled water and wastewater treatment policies and regulations to ensure that any barriers to expansion of water recycling are addressed and the required plans are developed and implemented. In 2010-11, proposed activities include revision of permits requiring Wastewater Treatment Plants to prepare and implement Recycled Water Plans, review of water quality standards and beneficial uses of recycled water, the evaluation of infrastructure requirements to deliver recycled water and review and revision of polices for recycled water and landscape irrigation.

Urban Water Reuse: Regional Water Boards regulate the discharge of storm water to surface waters in urban areas. The State Water Board will be required under the plan to develop actions to augment local water supplies through the capture and infiltration or storage of storm water and the development of regional and neighborhood infiltration facilities. The Water Board will use staff and contracted resources to implement these tasks. Contracted resources will be used specifically to design a system to report on the water-energy benefits achieved to measure progress towards the targeted GHG reduction for these measures.

Staff Comments

Staff feels that the positions and contracting resources requested are reasonable considering the workload that is required under these activities. Staff recommends, however, that this item be held open with other AB 32 implementation BCPs to give the Subcommittee the opportunity to evaluate the proposals as a package.

Staff Recommendation: Hold Open.

ISSUE 5: MANDATORY MINIMUM PENALTY DATA ENTRY AND ENFORCEMENT

Governor's Budget Proposal

The Governor's budget is requesting $384,000 and 4 positions to increase the State Water Board's enforcement of Mandatory Minimum Penalty (MMP) violations of water quality requirements.

Background

The Clean Water Enforcement and Pollution Prevention Act of 1999 required MMP's for specified effluent violations of National Pollutant Discharge Elimination Systems permits that reached or threatened surface waters of the US. In 2003, Assembly Bill 1541 expanded MMP's to include the failure of filing discharge monitoring reports.

In 2008, the Water Boards commenced a statewide enforcement initiative to address MMP violations that have accumulated between January 1, 2000 and December 31, 2007. As a result of the initiative, more than 12,000 of the 23,000 backlogged violations were identified and addressed. As of March 31, 2009, the initiative had generated more than $15 million in assessed liabilities and had commenced enforcement activity that could result in an additional $26 million in potential liabilities. In order to pursue these actions, the water board diverted resources away from other activities.

Staff Comments

The State Water Board indicates that 25 staff has been redirected to address a backlog of more than 12,000 violations that occurred prior to December 31, 2007. While that work is progressing and the backlog will soon be eliminated, the State Water Board expects a new backlog to begin mounting if additional staff is not added to handle the approximately 2,000 new MMP violations that occur annually. Staff notes that, according to the State Water Board, a minimum of $6 million in penalties would be generated annually if the requested staff is able to process the anticipated 2,000 MMP violations (each assessed a statutorily mandated $3,000). Staff has no issues with this proposal as it continues an effort that was encouraged by the Subcommittee in 2008 with support from the Legislative Analyst's Office.

Staff Recommendation: Approve as budgeted.

ISSUE 6: IMPLEMENTATION OF LEGISLATIVE WATER PACKAGE

Governor's Budget Proposal

The Governor's budget proposes a total of $1.66 million for 8 positions and contracting funds to implement various elements of the Legislative Water Package.

BCP #15: Water Conservation Measure -- $155,000 from Proposition 84 reimbursements and 1 position to perform an advisory role to the implementation of the various activities required under SB 7X 7 related to water conservation.

BCP #16: Delta Water Master Program -- $1.26 million ($590,000 from Proposition 84 and $673,000 from the Water Rights Fund for 4.5 positions and contracting funds for the Delta Watermaster program and the development of Delta flow criteria in 2010-11.

BCP #17: Improve Diversion and Use Reporting -- $253,000 from the Water Rights Fund and 2.5 positions to improve water diversions and use reporting information as specified in the bill. According to the State Water Board, the fact that SBX7 8 deletes various exemptions for diverters, and establishes consequences for failure to file Statements or supplemental Statements will result in a near-term increase in workload justifying the requested resources.

Staff Comments

The resources requested in these proposals appear reasonable to staff and as such staff does not have any concerns. Staff does recommend, however, that these proposals remain open with other components of the implementation of the Legislative Water Package.

Staff Recommendation: Hold open at this time.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

ISSUE 1: IMPLEMENTATION OF MERCURY THERMOSTAT RECYCLING PROGRAM - INFORMATIONAL

In 2008, AB 2347 (Ruskin) established the Mercury Thermostat Collection Act which requires manufacturers of mercury-added thermostats to establish and maintain a collection, transportation, recycling, and disposal program for out-of-service mercury-added thermostats.

Pursuant to the bill, the department is required to adopt regulations on or before January 1, 2012 that establish performance requirements that specify collection rates and a methodology for the calculation of the numbers of out-of-service mercury-added thermostats becoming waste annually. The department would be authorized to order a manufacturer, or a group of manufacturers, to revise its collection and recycling program or to undertake actions to comply with the act. Lastly, AB 2347 (Ruskin) required the department to provide a notice on its website listing manufacturers that are not in compliance with the act on July 1, 2009, and on January 1 and July 1 annually thereafter.

Staff Comments

At the hearing, the Department should report to the subcommittee on its progress in implementing AB 2347 (Ruskin). Staff is aware of concern from stakeholders that implementation is not meeting expected timelines.

Staff Recommendation: No action necessary item is informational.

ISSUE 2: ENFORCEMENT OF POLLUTER PAYS AND FISCAL INTEGRITY

Background

The Governor's Budget requests to convert one position and $103,000 (special funds) from limited-term to permanent in order to continue working down an ongoing backlog of outstanding accounts receivable, and maintain increased delinquent account collections for the DTSC's site cleanup program.

Staff Comments

The position in question was provided on a two-year limited-term basis beginning in FY 2008-09 to address what was then an approximately $50 million backlog of accounts receivable that were 365 days or older. Subsequent to addition of the position, efforts by the new staff person confirmed that accounts receivable actually totaled $55 million. While efforts of the position, over the past year and a half, have reduced accounts receivables to $40.7 (including collections of $7.2 million), a backlog still exists. In addition to continuing to work down the backlog, the DTSC proposes to use the requested position to carry out various ongoing work activities to improve its collections program and boost revenue. Staff has no concerns with this request given that the anticipated revenues more than make up for the costs.

At the hearing, the Department should be prepared to elaborate for the subcommittee how it determines that a claim is uncollectible and how many of the accounts receivables are anticipated to be written off because they cannot be collected.

Staff Recommendation: Approve as budgeted.

ISSUE 3: IMPLEMENTATION OF SB 546 (LOWENTHAL)

Governor's Budget

The Governor's Budget is requesting $128,000 from reimbursements to support one position and out of state travel funds to enforce recycled oil standards on out-of-state oil recycling facilities that sell recycled oil in-state.

Staff Comments

Among other changes it made to the used oil recycling program, SB 546 (Lowenthal) required that out of state oil recycling facilities that sell recycled oil in California meet the same testing, reporting and permitting standards as California recyclers. This mandate was important to level the playing field for California based business since out-of-state standards are not as high was California's. While the costs proposed here were not specifically highlighted in the fiscal analysis, staff agrees that there is a justifiable workload for this request.

Staff Recommendation: Approve as budgeted.

8660 – PUBLIC UTILITIES COMMISSION

ISSUE 1: OVERVIEW OF THE PUBLIC UTILITIES COMMISSION

The California Public Utilities Commission (PUC) 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 PUC is the only agency in the state charged with protecting private utility consumers. As such, the PUC 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 PUC provide. The following details the PUC's role in each sector:

Energy: The California Public Utilities Commission (CPUC) regulates investor-owned electric and natural gas utilities operating in California, including Pacific Gas and Electric Company, Southern California Edison, San Diego Gas and Electric Company, and Southern California Gas Company. Collectively, the first three companies serve over two-thirds of the total electricity demand throughout California. Through its oversight over these utilities, the CPUC has played a key role in making California a national and international leader on a number of energy-related initiatives designed to benefit consumers, the environment, and the economy.

Transportation: The Commission has regulatory and safety oversight over railroads, light rail transit agencies, rail crossings, moving companies and for-hire passenger carriers (limousines, airport shuttles, charter and scheduled bus operators). Authority over intrastate air carriers, for-hire vessel carriers, interstate passenger and household goods carriers, and intrastate private carriers of passengers, is limited to registration of operations and filing evidence of liability insurance. The CPUC also regulates the services and rates of vessel common carriers. These are privately owned companies that transport passengers or property by vessel between California points. The majority of the approximately 20 licensed operators conducts ferry services on San Francisco Bay or provides cross-channel transportation between Southern California mainland points and Santa Catalina Island.

Telecommunications: The CPUC develops and implements policies for the telecommunications industry, including ensuring fair, affordable universal access to necessary services; developing clear rules of the game and regulatory tools to allow flexibility without compromising due process; removing barriers that prevent a fully competitive market; and reducing or eliminating burdensome regulation.

Water: The PUC investigates water and sewer system service quality issues and analyzes and processes utility rate change requests. The PUC works directly with utility management to track and certify compliance with PUC requirements. The Commission's objectives in regulating water utilities rest on four key principles: 1) Safe, high quality water; 2) Highly reliable water supplies; 3) Efficient use of water, and; 4) Reasonable rates and viable utilities.

Department of the Ratepayer Advocate: Our statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. In fulfilling this goal, DRA also advocates for customer and environmental protections.

Staff Comments

The PUC was recently transferred the Subcommittee and as such the membership may not have experience with the different programs that they manage. At the hearing the PUC should be prepared to give a brief overview of the PUC's responsibilities and major programs.

Staff Recommendation: None needed informational item.

ISSUE 2: INFORMATIONAL ISSUE: THE FCC BROADBAND PLAN AND THE FCC

Background

At the direction of Congress the Federal Communications Commission (FCC) has developed and transmitted a comprehensive National Broadband Strategy to advance US broadband capability, availability and utilization. The National Broadband Strategy will drive developments in communications industries for the next decade.

The FCC has projected an aggressive timetable for implementation. Some important issues revolve around funding the upgraded broadband infrastructure, which are a combination of (1) redeployment of existing funding sources ($10 billion in federal telephone surcharge-supported programs); (2) re-pricing existing services and programs (reforming inter carrier compensation systems); (3) redeploying and auctioning spectrum (including reclaiming it from existing users); and, (4) incentivizing new private sector investment. The FCC will begin the process as early as next week at its April 21 meeting, where it will consider "…reforms to the existing high cost support mechanisms to identify funds that can be refocused toward broadband…"

Staff Comments

California has a significant stake in successful implementation of high speed broadband infrastructure. California's high tech economy -- particularly the content providers in the software development, gaming, video/film and internet industries – is very responsive to expansion of availability and utilization of high speed broadband infrastructure. Historically the CPUC has participated actively at the FCC. As the FCC moves forward, the CPUC should be fully provisioned on a timely basis, given the FCC's aggressive schedule, to participate at the FCC to advance California's broad interests and resources should be provided to support an expanded level of activity.

More narrowly, the CPUC's budget includes over $1 billion in telephone public purpose program surcharge funds which will be impacted by changes in the corresponding federal program funds. These include high cost funds (federal universal service funds); Moore Act universal service funds (low income affordability, federal Lifeline and Link-up); teleconnect funds (schools and libraries, federal E-Rate). These programs assure affordability and utilization of voice communication; they need to be defended and improved as the nation moves from "voice service" to "broadband service including voice." In addition, California has significant funding access for persons with disability including the hearing impaired; these programs will be affected by the considered shift from voice to broad including voice.

At the hearing, the PUC should report to the subcommittee on its activities to assess how to coordinate state and federal programs in these areas, and to assure that Californians are fully capable of utilizing the enhanced broadband service projected by the FCC.

Staff Recommendation: None, item is informational.

ISSUE 3: RENEWABLE PORTFOLIO STANDARD

Governor's Budget

The Public Utilities Commission is requesting $2.8 million from the Public Utilities Reimbursement Account for an additional 7 positions to implement the statutorily required 20 percent Renewable Portfolio Standard as well as the Governor's more aggressive 33 percent RPS by 2020.

LAO Comments

The adoption of renewable energy procurement requirements raises a number of important and complex policy issues. The Legislature has clearly demonstrated its intention to set state policy in this area in statute. Our review finds, however, that the Administration is currently spending state funds, and proposing further such expenditures, to develop new renewable energy procurement requirements that circumvent current legislative policy as reflected in state law. We find that such action is (1) premature until and unless the Legislature adopts a new RPS statute and (2) leading to inefficient duplication of efforts by state agencies and wasteful spending.

Analyst's Recommendations. Given that the administration's spending plans are both premature and an inefficient and duplicative use of resources, we recommend that the Legislature take the following actions to remedy this situation. Specifically, we recommend that the Legislature:

- Deny CPUC's budget request for an additional $2.8 million (from PUCURA) for RPS–related activity in the budget year;
- Reduce CPUC's PUCURA appropriation (Item 8660–001–0462) by an additional $423,000—the amount the commission anticipates spending from its base budget to implement a 33 percent RPS in the budget year;
- Reduce ARB's Air Pollution Control Fund appropriation (Item 3900–001–0115) by $750,000—the amount the board anticipates spending from its base budget to develop a renewable energy standard regulation in the budget year; and,
- At budget hearings, specifically direct CPUC and ARB to immediately cease spending funds for the purpose of developing a new renewable energy standard or similar requirement absent the enactment of legislation that authorizes such activities.

Staff Comments

Staff concurs with the analysis and recommendations made by the LAO. Staff recommends that the Legislature adopt their recommendations.

Staff Recommendation: Approve LAO Recommendations for the PUC.

ISSUE 4: ADVANCED ENERGY STORAGE: ENABLING RENEWABLES, GREENHOUSE GAS REDUCTIONS, AND ELECTRIC RELIABILITY

Governor's Budget Proposal

The Governor's Budget is requesting $310,000 and 3.0 positions from the PUC Utilities Reimbursement Account to study and evaluate the cost effective procurement of Advanced Energy Storage (AES) as an electricity resources. This staffing would specifically be responsible for the following:

Policy Development – administer a CPUC rulemaking, to develop policies and promote efficient investment in appropriate AES technologies, including incentives for customer-side AES.

Procurement Oversight – analyzes utility AES procurement activities and evaluates initiatives in demonstration and deployment of AES technologies.

Interagency Coordination – facilitate coordination with California Independent System Operator and California Energy Commission on Ancillary Services rules, demonstration projects, renewables integration studies, and other related issues.

Staff Comments

Many renewable resources available to California provide intermittent electricity -- often during off-peak hours – that is difficult to manage in order to fulfill the needs of statewide ratepayers. The hope is that the IOUs can use AES technologies to store energy generated by renewables in order to allow efficient managed use of that energy to alleviate some of the need for non-renewable generation to meet peak-hour consumption.

The request before the Subcommittee is to have the PUC move forward with the examination of how this technology should be deployed by investor owned utilities. The PUC indicates that this process will begin with a rulemaking process by the PUC and continue with the examination of procurement and demonstration projects.

Staff has concerns that this proposal may be premature since AES technology appears to still be in the research phase and isn't ready for practical deployment. Currently, the CEC is funding research into AES and this proposal includes a position for interagency coordination with the CEC and others. Staff feels that while AES is in the research phase, it is more appropriate that deployment examinations and rulemaking should be held so that procedures are in line with deployable technology.

At the hearing, the PUC should comment on how advanced this technology is, current IOU demand to deploy AES, and the anticipated timeline and scale of deployment.

Staff Recommendation: Reject, proposal is premature.

ISSUE 5: ENERGY EFFICIENCY PROGRAM EVALUATION AND PLANNING

Governor's Budget Proposal

The Governor's budget is requesting $40 million in ratepayer funds to enable the PUC to control the contracts for oversight of billions in energy efficiency expenditures made by the IOUs in accordance with the PUC's Energy Efficiency Program. Specifically, these oversight contracts are responsible for verifying that the energy savings reported by the IOUs are actually achieved. In prior years, this oversight contract was controlled directly by the IOUs that were making the expenditures. This proposal would shift that oversight function to the PUC.

Background

As the state entity responsible for regulating investor owned utilities, the CPUC is responsible for ensuring that ratepayer funds are spent appropriately for energy generation and transmission, as well as public interest activities such as ratepayer relief and energy efficiency. With their Statewide Energy Efficiency Strategic Plan, the CPUC directs how publicly owned utilities manage their energy efficiency programs so that maximum efficiencies are achieved in both the short and long term; benefiting the ratepayer through increased supply and reduced air quality and GHG emissions from power generators.

Under their Energy Efficiency Program, the PUC directs IOUs to make expenditures from funds generated by public goods charges on energy bills for the purpose of reducing ratepayer energy consumption. Expenditures to be made under this program are divided between demand side management coordination and integration; workforce education and training; marketing/education/outreach; research and technology; and local governments.

On September 24, the CPUC approved funding and programs for the 2010-2012 energy efficiency program cycle. The Commission authorized $3.1 billion in funding for energy efficiency programs that are projected to save 7000GWh, 3460MW, and 150 MMTherms. The funding is 42% higher than the prior three-year cycle and will support programs designed to produce deeper and more comprehensive savings that the Commission believes California's utilities can and will achieve. These programs and related energy savings are a key component of California's broader energy policies and greenhouse gas mitigation strategies.

Staff Comments

The PUC reports that these oversight contracts currently total $40 million but are managed by the IOUs who are making the energy efficiency expenditures. Staff feels that this proposal has merit as it is important that the oversight of IOU energy efficiency expenditures be moved from the IOUs, who are making the expenditures, to the PUC who has a statutory responsibility for oversight.

Staff Recommendation: Approve as budgeted.

ISSUE 6: PILOT TEST AND SURVEY OF LIMITED ENGLISH PROFICIENCY COMMUNICATIONS CUSTOMERS

Governor's Budget Proposal

The Governor's budget is requesting $2.3 million from ratepayer funds for consulting services to conduct a customer satisfaction survey of Limited English Proficient (LEP) customers of California communications utilities relative to English proficient populations.

The survey is anticipated to be administered over a two year period from a sample size of approximately 15,000 LEP customers.

Background

The PUC ruled in October, 2008 that there was a need to do a statewide survey of LEP customers after there concerns were raised to the Commission that customers with limited English proficiency faced increasing instances of fraud, were not being adequately served by their telecom, and their complaints were not being adequately tracked and reported to the PUC.

Staff Comments

The cost of this contracted survey is consistent with other multi-lingual surveys conducted by the PUC. Staff has no issues with this proposal since the PUC proceeding confirmed a need for this survey in order to ensure that LEP ratepayers are being served by telecoms.

Staff Recommendation: Approve as budgeted.

ISSUE 7: DIVISION OF RATEPAYER ADVOCATES – VARIOUS AUGMENTATIONS

Governor's Budget Proposal

The Division of Ratepayer Advocates DRA is requesting a total of $192,000 and two positions to address increasing workload in energy efficiency and low income programs. Specifically, the DRA is requesting:

BCP #7 Energy Efficiency Programs and Activities – $96,000 and one position (PURA Funds) for DRA to accommodate expanding workload of providing technical analysis and advocacy on behalf of the California Rate payer with on PUC Energy Efficiency Programs. Ad discussed earlier in the agenda, Energy Efficiency Program expenditures will total $3.1 billion in 2011-12 which represents a 61 percent increase in the ratepayer investment. Currently, the DRA has two positions dedicated to this workload.

BCP #8 Energy Low Income Assistance Programs and Activities - $96,000 and one position (PURA Funds) for DRA to accommodate expanding workload on energy low income assistance programs and activities. These programs include the California Energy Alternative Rates for Energy (CARE) and the Low Income Energy Efficiency (LIEE) programs which combined spend about over a billion on discounts for electricity bills and weatherization programs for low income customers. It is anticipated that nearly 5 million of California Energy customers are expected to be low income by 2012, currently the DRA has one positions dedicated to this workload.

Staff Comments

The DRA is responsible for acting on behalf of the ratepayer to ensure that they are being charged the lowest reasonable rate for their services while receiving the maximum individual and public benefit. Staff feels that this augmentation of 2 positions is warranted considering their current staffing levels are not adequate to support the significant growth in expenditures and ratepayer impact of both programs.

Staff Recommendation: Approve as budgeted.

ISSUE 8: CENTRALIZED FINES AND RESTITUTION COLLECTIONS

Governor's Budget Proposal

The Governor's budget is proposing to make permanent 3.0 positions and $162,000 in PURA funds to collect fines and penalties for deposit into the General Fund. Consolidation of fines and restitution collection process was recommended by a State Controller's Office audit report and since the implementation, the Commission has collected over $30 million in fines and penalties for the General Fund.

Background

The CPUC is responsible for regulating privately owned telecommunications, electric, natural gas, water, railroad, household goods carriers and passenger transportation companies. CPUC reviews and investigates complaints and allegations of wrongdoing to ensure that companies are operating in the public interest. When warranted, CPUC will levy fines and restitution against regulated companies if investigative efforts determine that the companies failed to comply with laws or engaged inappropriate practices. Per statute, fines levied by CPUC area transferred to the General Fund upon collection.

An audit by the State Controller's office concluded that the existing tracking system for fines was not sufficient to ensure that the fines and restitutions were properly recorded in the accounting records. In addition, responsibility for collection of fines was fragmented among the different divisions of the PUC. In last year's budget, 3 positions were approved on a temporary basis to consolidate this function as was recommended by the audit.

Staff Comments

At the hearing, the PUC should report to the Subcommittee on the implementation of the recommendations of the audit and what improvements have been made in tracking fines and restitutions. Staff has no issues with the proposal to make these positions permanent considering their demonstrated benefit to the General Fund.

Staff Recommendation: Approve as budgeted.

ISSUE 9: INFRASTRUCTURE IMPROVEMENTS AND REPAIRS

Governor's Budget Proposal

The Governor's budget is requesting a one-time augmentation of $2.2 million (Transportation Rate, Transportation Reimbursement, and Public Utilities Reimbursement Accounts) to overhaul the building's 6 passenger elevators and 1 freight elevator. This repair is consistent with the Department of General Services' Five Year Plan for Special Repairs for the PUC Headquarters.

Background

The existing elevators and their components were installed in 1986 and are close to the end of their useful life of 30 years. DGS reports that the elevators in operation have become very sporadic and unreliable in the last 2 years and have been failing with increased frequency and have required emergency repairs in order to keep them in service. The funding requested in their proposal would modernize and upgrade the infrastructure of all 7 elevators in order to prevent eventual failure of the elevators.

Staff Comments

Staff agrees with the CPUC that there is a need to replace the building elevators. Staff has concern, however, that since the building in San Francisco is currently being proposed for sale under the Governor's plan to sell state properties, the responsibility of this repair may fall on the purchaser of the building – which may occur within the month -- rather than the state. Staff recommends that this issue remain open until more information is available regarding the sale of the property.

Staff Recommendation: Hold open until there is more information on the sale of this building.

ISSUE 10: IMPLEMENTATION OF AB 758 (SKINNER)

Governor's Budget Proposal

The Governor's Budget is requesting $112,000 (PURA) in the budget year and $104,000 ongoing for one staff to implement AB 758 (Skinner).

Background

AB 758 (Skinner) requires the California Energy Commission (CEC) to develop and implement a comprehensive program to achieve greater energy savings in existing residential and nonresidential building stock, including energy assessments, cost-effective energy efficiency improvements, financing options, public outreach, and education efforts. The PUC will be responsible for coordinating with the CEC, assisting with the proceeding, and overseeing the audit program-and consulting contracts to evaluate the utilities' audit programs.

State energy policy prioritizes energy efficiency to reduce energy usage, which decreases the need for new power plants and transmission lines. Energy efficiency measures are an inexpensive alternative to investment in infrastructure, and reduce the proliferation of greenhouse gas emissions.

To reduce energy usage in existing buildings, CEC and most of the utilities provide information on energy-efficiency do-it-yourself audits. CEC issued a booklet directed at homebuyers that provides information about home energy audits and rating programs and markets this information through home warranty company internet web sites. Many of the recommendations require nominal expenses that render large savings. Some low-cost examples include replacing incandescent light bulbs with compact fluorescent ones, using motion sensor controls for exterior lighting, and caulking, sealing, or applying weather strip to seams, cracks, and openings to the outside around windows and doors.

Staff Comments

When this bill was approved, it was anticipated that the PUC would incur one-time costs of about $100,000 for the proceeding and ongoing costs of about $314,000 for one analyst to coordinate with CEC, assist with the proceeding, and oversee the audit program and consulting contracts to evaluate the utilities' audit programs. This proposal is consistent with their analysis and as such staff recommends that it be approved.

Staff Recommendation: Approve as budgeted.