

**AGENDA****ASSEMBLY BUDGET SUBCOMMITTEE NO. 3  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION****Assemblymember Ira Ruskin, Chair****WEDNESDAY, MAY 6, 2009  
STATE CAPITOL, ROOM 447  
9:00A.M.**

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<b><u>Item</u></b>	<b><u>Description</u></b>	<b><u>Page</u></b>
	<b>Consent Calendar</b>	2
<b>3930</b>	<b>Department of Pesticide Regulations</b>	
Issue 1	Pesticide Risk Assessments	3
Issue 2	Volatile Organic Compounds Emissions Regulations	4
<b>3940</b>	<b>State Water Resources Control Board</b>	
Issue 1	Underground Storage Tank Program - Brownfields	5
Issue 2	April Finance Letter: Underground Storage Tank Program	6
Issue 3	American Recovery and Reinvestment Act Funding	7
Issue 4	Water Rights Reporting	8
Issue 5	LAO Proposal: Fully Funding Regulatory Programs From Fees	10
<b>3910</b>	<b>Integrated Waste Management Board</b>	
Issue 1	Used Oil Recycling Program	11
<b>3360</b>	<b>Energy Resources Conservation and Development Commission</b>	
Issue 1	Alternative and Renewable Fuel and Vehicle Technology Program	13
Issue 2	Siting Renewable Generation and Transmission	15
Issue 3	Energy Efficiency and Conservation Block Grants	17

## CONSENT CALENDAR

Dep.	Proposal
Toxic Substances Control Board	Align program expenditure authority of the Toxic Substances Control Account funding for pollution prevention programs by providing a fund shift of \$4.795 million from the Hazardouse Waste Control Account.
Water Resources Control Board	April Letter: Revert \$645,515 (Proposition 40) and \$26.5 million (Proposition 50) in unspent funds appropriated for completed or projects that did not proceed.
Integrated Waste Management Board	April Letter: \$25,800 augmentation in Federal Reimbursement authority in fiscal year 2009/10 for a federal grant project to continue work on disseminating and training teachers in using Environment Initiative Curriculum.
Integrated Waste Management Board	\$100,000 augmentation in Federal Authority for FY 2009/10 for Federal Grant projects that CIWMB conducts in partnership with CalEPA.
Energy Commission	\$703,000 (PIER Funds) in 2009/10 for 5 permanent positions to implement the West Coast Regional Carbon Sequestration Partnership. The CEC has received \$65.6 million in federal funds to support this program.

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## ITEMS TO BE HEARD

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### 3930 – DEPARTMENT OF PESTICIDE REGULATIONS

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#### ISSUE 1: PESTICIDE RISK ASSESSMENTS

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##### Background

The Department of Pesticide Regulations (DPR) is charged with the 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. Prior to certification of a pesticide, the department is responsible for identifying unacceptable pesticide exposures through the department's risk assessment process. Pesticide manufacturers must submit studies that evaluate the potential health and environmental effects of their products, and department scientists evaluate the data to confirm that the chemicals can be used safely in California. The department then regulates pesticides in agricultural and urban environments.

##### Staff Comments

People that work with or live around the application of pesticides in the state depend on the ability of the department to complete thorough assessments of both the health and environmental impacts that a specified chemical will have. These assessments direct how the department then sets regulations on how much and by what methods pesticides are applied in the field. In prior years, partially due to budget cuts, the department has had difficulties in completing timely risk assessments of the environmental and health impacts posed by pesticide use. In a 2005 report to the Legislature, the department reported that though it had begun the process of conducting risk assessments on seven active ingredients, they were only able to actually complete a full assessment for three. Subsequently, the Subcommittee approved funding augmentations to increase assessment completion. In the 2006-07 budget discussions, the department reported to the Subcommittee that their risk assessment completions had improved and they were completing an average of 6 assessments per year.

At the Hearing, the department should be prepared to provide the Subcommittee an update of their risk assessment program. In the update, the department should discuss:

How many risk assessments are currently in progress?

How many risk assessments have been completed annually for the last five years?

How many risk assessments are in the queue to be initiated?

If risk assessments are delayed, what are some of the causes?

How many risk assessments are anticipated to be completed in this budget year?

**Staff Recommendation: None, item is informational.**

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**ISSUE 2: VOLATILE ORGANIC COMPOUNDS REGULATIONS**

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**Volatile Organic Compounds.**

Pesticides emit volatile organic compounds (VOCs) that contribute to smog. In California's Central Valley, approximately six percent of the smog is caused by pesticides. VOCs contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards, including the standard for ozone. Nonattainment areas (NAAs) are regions in California that do not meet either federal or state ambient air quality standards. California has five nonattainment areas: San Joaquin Valley, Sacramento Metro, South Coast, Southeast Desert, and Ventura.

In 2006, a federal judge ruled that the DPR ignored clean air laws for pesticides. The lawsuit said DPR failed to apply clean air rules to pesticides, dating back to 1997. The judge ordered the department to write regulations that would cut pesticide emissions in the Central Valley by 20 percent from 1991 levels. The Ninth Circuit Court of Appeals in San Francisco overturned the findings of the federal judge in August 2008. As a result of the Appeals Court victory, the department is now finalizing new regulations that call for a smaller decrease - a 12 percent cut from 1990 levels – for the Central Valley.

**Past Budget Action**

In the *2008-09 Budget Act*, DPR received \$2.6 million and 11 positions to implement VOC regulations.

**Staff Comments.**

At the hearing, the department should be prepared to give the Subcommittee an overview of their program to develop and implement VOC regulations. When discussing the issues, the department should discuss why allowable emission levels for the Central Valley were reduced to 12 percent from 20 percent.

Additionally, at the hearing the department should address how regulations will be enforced at the local level and whether it is anticipated that revenues from mill fees on pesticides that support these positions are expected to remain at current levels.

**Staff Recommendation: None, item is informational.**

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## 3930 – WATER RESOURCES CONTROL BOARD

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### ISSUE 1: UNDERGROUND STORAGE TANK PROGRAM

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#### **Governor's budget**

The State Water Resources Control Board (SCWRB) is requesting approval for \$719,000 and 5 four-year limited term positions from the Underground Storage Tank (UST) Cleanup Fund Program (USTCF) to review 850 claims annually that have been active for more than five years in order to assess if they are appropriate for closure. In addition, these positions will be used to prepare approximately 10 cases for State Water Board hearings where there is a disagreement between State Water Board staff and regulatory agency staff on whether a given case should be closed.

#### **Background**

Federal and state laws require every owner and operator of a petroleum underground storage tank (UST) to maintain financial responsibility to pay for any damages arising from their tank operations. The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 was created by the California Legislature, and is administered by the California State Water Resources Control Board, to provide a means for petroleum UST owners and operators to meet the federal and state requirements. The fund also assists a large number of small businesses and individuals by providing reimbursement for unexpected and catastrophic expenses associated with the cleanup of leaking petroleum USTs.

Under the program, a quarterly fee of \$.014 is charged on UST owners for every gallon of petroleum that is stored underground in the state. This fee collects roughly \$250 million per year in revenues that are allocated through Regional Water Boards for UST related remediation. In order to get funding for remediation, an UST owner must get a letter of commitment from the State Water Board that remediation costs fronted by the UST owner will be reimbursed the program. Once a project is deemed complete and is closed, the Board is able to provide commitments to new claims that are in the pipeline.

#### **Staff Comments**

The Water Board faces a significant backlog in UST clean up projects statewide. Currently, the Water Board has received over 19,000 claims from UST owners for clean-up funding but has only been able to provide letters of commitment to about 11,000 claims to date (of which 6,700 are closed and 4,300 remain open). As presented by the Water Board, this proposal will address one aspect of the larger backlog problem by using staff resources to move projects through the queue. While staff agrees that this is an appropriate step to take, staff has broader concerns that delays in brownfield remediation pose threats to public health, delay urban development and potentially inflate clean-up costs as tanks continue to leak. At the hearing, staff recommends that the Subcommittee discuss raising the current fee from \$.014 per gallon stored underground, to \$.02. This fee increase would generate roughly \$107 million in revenue per year for the program, allowing payment of an additional 2,000 petroleum contaminated sites per year.

**Staff Recommendation: Approve proposal as budgeted and raise the Underground Storage Tank fee from \$.014 to \$.02 per gallon.**

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**ISSUE 2: APRIL FINANCE LETTER: UNDERGROUND STORAGE TANK PROGRAMS**

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**April Finance Letter**

In an April Finance Letter, the Administration is requesting the following two transfers of funding from the Underground Storage Tank Cleanup Fund (USTCF) in order to implement pursuant to recent legislation:

- \$20 million from the USTCF to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund (OSCA), pursuant to SB 1121 (Lowenthal), to provide resources to remediate petroleum contamination at brownfield sites where no responsible party has been identified to pay for remediation activities.
- \$10 million from the USTCF to the School District Account to provide funding to reimbursements to school districts for on-site petroleum contamination clean up costs pursuant to AB 2729 (Ruskin).

**Background**

While the fees paid into the USTCF are primarily used to reimburse UST owners who pay into the fund for petroleum contamination remediation, the USTCF is also used to fund remediation at orphaned sites where there is no responsible party for the clean up of the contamination. *SB 1161 (Lowenthal), Chapter 616, Statutes of 2008*, established the transfers \$30 million per year for two years from the USTCF into the new OSCA fund to remediate orphan sites. Through a local grant program, these resources will be used to remediate petroleum contamination from underground storage tanks where there is no responsible party.

In order to address contamination on school grounds, *AB 2729 (Ruskin), Chapter 644, Statutes of 2008*, establishes the School District Account and provides \$10 million per year for three fiscal years to reimburse school districts for the costs associated with petroleum contamination cleanup at school district sites.

**Staff Comment**

Staff has no concerns with this proposal. In statute, contaminated school sites and orphan wells are lower in priority for funding than contamination from privately owned tanks. As discussed in the previous item, the Board is facing significant backlogs in brownfield clean up of privately owned tanks lands which places significant barriers in moving funding to these two areas that have impacts on sensitive populations and the urban economic development. In passing these two bills, the Legislature determined that it was a priority to ensure that remediation of petroleum contamination on school sites and orphaned brownfields would proceed in parallel with private UST sites.

**Staff recommendation: Approve as budgeted**

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**ISSUE 3: AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)**

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**Background**

The ARRA includes about \$283 million provided directly to the state in grant and loan funding (including for loan forgiveness and “negative–interest rate” loans) for wastewater infrastructure, through the existing Clean Water State Revolving fund (negative–interest rate loans have a zero interest rate and some degree of forgiveness of the loan principal, effectively making the interest rate negative). The funds will all be made available in FFY 2008–09. The SWRCB administers the program on behalf of the state in cooperation with the U.S. Environmental Protection Agency (U.S. EPA).

The ARRA required that the state change its existing program in two ways. First, the current state matching fund requirement is waived as a condition of receiving the federal economic stimulus monies. Second, the federal authorization expressly includes three forms of financial assistance—grants, loan forgiveness, and negative–interest rate loans—that are expressly prohibited under state law for the Clean Water SRF program.

*SB X3 27 (Negrete McLeod, Carter et al), Chapter 25 statutes of 2009-10*, made various changes to state law needed to expedite the expenditure of federal funds under the ARRA for water quality projects. While this bill was moving through the legislative process, the Water Board adopted guidelines for how it would expend the funds. Generally, the Board decided that it would provide grants for projects within disadvantaged communities while urban districts would be able to access very low or zero interest loans for their. Below are the allocations approved by the board to spend the \$283 million in ARRA funds:

- 1) \$70 million for grants for disadvantaged communities
- 2) \$70 million to restart stalled bond projects.
- 3) \$60 million for 0% interest loans for innovative projects (e.g. water recycling).
- 4) \$80 million for 1% interest loans for any agency.

**Staff Comments**

Some urban water agencies have objected to the Water Boards adopted regulations to allocate ARRA funds because they would limit grants to districts with disadvantaged communities in areas of low population density. One concern is that low income communities in urbanized areas would not have access to grants because they do not qualify as “disadvantaged communities” as defined by the regulations due to population levels. Additionally, urban districts are concerned that by funding infrastructure projects through loans rather than grants will ultimately increase rates for ratepayers as funds are needed to pay back loans. On April 16<sup>th</sup>, the Speaker of the Assembly and the Senate President pro Tempore sent a letter to the Board stating a shared concern that economically challenged communities in both rural and urban parts of the state will not have equal access to these funds under the adopted regulations. At the hearing, the Water Board should be prepared to discuss whether changes have been made to these regulations and what options the Legislature could consider that would address these concerns.

**Staff Recommendation: None, Item is informational.**

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**ISSUE 4: WATER RIGHTS REPORTING**

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**Background**

**Water Rights Based on Priorities.** Water rights are based on a priority system that is used to determine who can continue taking water when there is not enough water to supply all needs. Those with high priority rights know that they are likely to receive water. Those with low priority rights know that they may not receive water in all years and can plan accordingly.

**Riparian Water Rights.** A riparian water right is a right to use the natural flow of water on riparian land. Riparian land is land that touches a lake, river, stream, or creek. California is the only western state that continues to recognize riparian rights. The California Legislature has enacted very few laws regarding riparian rights. As a result, riparian rights have been frequently litigated. As a result of these lawsuits, the courts have clarified rules that apply to riparian rights. If there is not enough water available for competing riparian users, they must share the available supply according to their needs. Generally in this situation, water used for interior domestic purposes, such as drinking, cooking, and bathing, has the highest priority.

**Water Right Permits.** Water right permits include conditions to protect other water users and the environment. The State Water Resources Control Board (Water Board) has continuing authority over permits that it issues, and it can modify permits and licenses it previously issued to require more protective conditions. The Water Board must provide the permit or license holder with notice and opportunity for a hearing before making changes. If the permit holder disagrees with the Water Board's decision to modify the permit, it can ask the court to review the matter.

**Water Rights Administration.** Water rights law is administered by the Water Board. Within the Water Board, the Division of Water Rights acts on behalf of the Water Board for day to day administrative matters. The Water Board is the only agency with authority to administer water rights in California.

**Staff Comment**

In legislative policy hearings, the Water Board has testified that the total amount of water "guaranteed" by water rights exceeds the amount of actual water supply multiple times over. Additionally, state water agencies do not have capacity to report on which permits are active, how much water is being used, where it is being diverted from, and where it is being used. This lack of statewide capacity to track water rights leads to an inability by the board to enforce water allocations. Where the board does have information, they reported that the number of illegal diversions is over 40 percent of the total active permits and licenses.

The SWRCB's ability to enforce illegal diversions is further limited because of these management issues, size of the problem and funding limitations for enforcement staff. To increase statewide enforcement of water diversions, the California Coast Keepers Alliance, a coalition of California non-profit organizations focused on the protection of statewide water bodies, has identified a potential opportunity to use state Fish and Game Wardens as an integrated arm of water rights enforcement. Though they face staffing shortfalls as well, Fish and Game wardens patrol California water bodies and as peace officers are able to enforce illegal water diversions. Staff is unaware of a specific effort to integrate the enforcement



activities of both agencies and feels that this idea potentially could increase enforcement and give needed training and tools in order to broaden Fish Game Warden's expertise in environmental protection.

Senate Subcommittee 2 staff has recommended that the Supplemental Report Language be adopted to require that the SWRCB submit a planning document for creating greater efficiency in administering and enforcing water rights in the state that includes a cost estimate for implementation of the plan. Staff supports this proposal but also recommends that the report direct the Water Board and the Department of Fish and Game to develop a plan for an integrated enforcement partnership between the State Water Board and the Department of Fish and Game

**Staff Recommendation: Approve the following supplemental reporting language:**

*On or before January 30, 2010, the State Water Resources (SWRCB) shall submit a report to the Joint Legislative Budget Committee (JLBC) and relevant policy committees a planning document for creating greater efficiency in administering and enforcing water rights in the state. This report shall include a plan to be developed with the Department of Fish and Game increase the enforcement illegal water diversion and misuse of existing water rights permits by DFG game wardens. This plan shall identify existing challenges that prevent DFG Wardens from enforcing illegal water diversions and options for better integrating the two agencies efforts. Finally, the report shall include a cost estimate for implementation of all aspects of the plan.*

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**ISSUE 5: LAO ISSUE: FULLY FUNDING CORE REGULATORY PROGRAMS FROM FEES**

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The SWRCB, in conjunction with nine semiautonomous regional boards, regulate water quality in the state. The state and regional boards issue and enforce permits that regulate the discharge of pollution into the state's waters. The state board also administers water rights in the state, by issuing and enforcing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes. The board's proposed budget for 2009–10 includes \$40.3 million from the General Fund, an increase of about \$1.6 million (4 percent) above current-year expenditures. The LAO is recommending applying the polluter pays funding principle more fully to the board's core water quality and water rights programs by expanding regulatory fees to fully fund water quality management programs.

**Recommend Fully Funding Core Regulatory Programs From Fees.** Core regulatory programs include water quality permitting activities (pollution discharge permitting program), the agricultural waiver program, THP reviews, and water rights activities. While these programs receive much of their funding from fees, the proposed budget includes about \$11.6 million for these core programs, of which \$4.7 million is for THP review.

As a general principle, the LAO recommends that the core regulatory programs at the water boards be fully funded by fees, based on the polluter pays funding principle. Shifting the funding of the balance of the water boards' core regulatory activities from the General Fund to fees (except for THP review) would save the General Fund \$6.9 million in the budget year. As a legislative policy review of the state's multiagency THP review process is pending, the LAO is withholding making a recommendation at this time on the board's THP funding component.

**Recommend Creation of New Water Quality Fee.** In their *2008–09 Analysis*, the LAO recommends that the bulk of the board's General Fund–supported programs outside of the core regulatory programs be funded by a new water quality fee. These are water quality management programs that assess the state's water quality and develop water quality plans and standards, which ultimately form the basis for the board's permitting and enforcement activities. These program activities—which include the Total Maximum Daily Load program, basin and groundwater planning, and non–point source pollution programs—are proposed to receive General Fund support of about \$21.6 million, a 10 percent increase over current-year expenditures.

Currently, there are about 20,000 entities that pay one or more of several categories of the board's water quality regulatory fees. The LAO recommends expanding this fee base to include, to the extent feasible and administratively efficient, a larger number of parties who, while impacting water quality and creating regulatory program workload on the state and regional boards, currently pay no, or minimal, fees to support these programs. There are a number of issues for the Legislature to consider in structuring such a fee. These include determining (1) who should pay the fee, (2) what the fee rates should be, and (3) how the fees might vary, based on factors such as differences in regional water quality problems and costs imposed on the water boards by pollution type, and accounting for whether or not the fee payer currently pays a water–quality related fee. Any legislative concerns about the impact of such a fee on economically disadvantaged communities could be addressed in the fee structure design, such as including exemptions from the fee.

**Staff Recommendation: Hold open**

## **3910 – INTEGRATED WASTE MANAGEMENT BOARD**

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### **ISSUE 1: USED OIL RECYCLING PROGRAM**

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#### **Governor's budget**

In the Governor's budget, the Administration reduced funding for used oil block grants within the used oil recycling program from \$10 million in 2008-09 to \$6 million in 2009-10. Current statute requires that the Used Oil Recycling Program provide \$10 million a year to Used Oil Block Grants. This proposal provides budget bill language that would allow the Waste Board flexibility to provide less funding due to reduced revenue going into the fund.

#### **Background**

The California Oil Recycling Enhancement Act was approved in 1991 and required the Board to administer a statewide used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. The funds for the program are derived from a \$.016 per gallon fee paid by oil manufacturers. Under the program, revenue collected from the fee is directed by statute to various recycling, enforcement, outreach and administrative functions.

When the program was established in 1991, allocations of the funding were fixed with no revenue growth for inflation built in. Overtime, administration costs for the program have increased from the statutorily required amount of \$3 million to \$5 million, creating a need for budget bill language to provide the Waste Board with the flexibility to request higher appropriations for administration costs.

Currently, the Waste Board is experiencing declining funds due to the slowing of the economy and the fact that people generally are waiting longer to change their oil. At the same time, oil recycling rates have increased causing increasing pressures on the fund due to more payments going out in recycling incentives. The Waste Board's proposal would attempt to balance the fund by only reducing block grants that go out to statewide local organizations to fund oil recycling programs.

#### **Staff Comments**

Staff has concerns that because expenditures and fee levels were set in statute without inflationary increases when this program was developed in 1991, that currently there is not enough revenue to support the current program. Costs in general have increased over the last eighteen years while revenues have dramatically fallen. This lack of alignment between statutory expenditures and current revenues have resulted in a proposal to temporarily waive statutorily guarantees for block grants funding and reduce them from \$10 million per year to \$6 million.

Staff understands that when local organizations are provided block grants on an annual basis to fund local oil recycling programs, some organizations do not expend appropriations in the year that they are provided, holding on to those funds for future use. In some cases, staff understands that reserves held by local organizations are sufficient to sustain operations for multiple years at current levels of operation. As proposed, this proposal would not take into account how much each local organization is holding in reserves and would distribute the \$4 million cut proportionally among all of the 250 statewide block grants.

As a result, this proposal will have an unequal impact on those organizations that have reserves from prior year grants and those that do not. As a short term solution to minimize the impacts of these funding shortfalls on those organizations that do not have reserved block grant funds, staff recommends that the Subcommittee adopt trailer bill language that would require the board to prioritize block grants to those recipients that do not have reserves. Staff recommends that this language sunset after two years to provide adequate time for policy bills currently in the process to better align program revenues with expenditures. Under this proposal, the board would not be directly reverting any funding that a local agency holds from prior year block grants.

Additionally, under statute, the program currently directs the Waste Board to place up-to \$1 million in a reserve account within their program expenditures that would cover any contingencies or emergencies such as supply contaminations or spills. While some public information makes it appear that this reserve is in addition to the projected fund balance of \$1.09 million in the budget year, the Waste Board has clarified that these two numbers are the same. Because revenues for the fund are on a downward trend, staff does not recommend using funding from the fund balance to support replace proposed cuts to block grants.

**Staff Recommendation:** Staff recommends that the Subcommittee adopt trailer bill language in concept that would direct the Waste Board for two years to allocate block grant funding in a manner that distributes reductions equitably among all grantee operations.

**In order to minimize impacts on local grantees, this allocation method shall consider the amounts of prior year block grants that local organizations are holding in reserves as available resources for grantees to use in their operations during 2009/10 and 2010/11.**

## 3360 –ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

### ISSUE 1: ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY PROGRAM

#### Governor's budget

The Governor's budget requested 3 permanent positions, \$1 million in baseline contracts and an annual baseline project funding authority of \$100 million to implement the Alternative and Renewable Fuel and Vehicle Technology Program (Program) investment plan. This proposal follows a 2008/09 budget action to provide the California Energy Commission (CEC) with \$75.8 million in expenditure authority for Program implementation. With the 2008/09 action, the Legislature required the CEC to submit their Investment Plan for the program for approval by the Joint Legislative Budget Committee (JLBC) prior to expenditure. On April 29<sup>th</sup>, the JLBC received a letter from the CEC requesting approval of their plan.

#### Background

*Assembly Bill 118 (Núñez) Chapter 750 Statutes of 2007* created the Program 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 vehicle, vessel, and other air quality-related fees that are projected to raise upwards of \$150 million annually for each of 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.

On April 22<sup>nd</sup>, the CEC adopted an investment plan in order to meet the following objectives, goals and milestones for the Program:

#### Chart 1

Objectives	Goals and Milestones
GHG Reduction	Reduce GHG emissions to 1990 levels by 2020 and 80% below 1990 levels by 2050
Petroleum Reduction	Reduce petroleum fuel use to 15% below 2003 levels by 2020
Alternative Fuel Use	Increase alternative fuel use to 20% of on-road fuel demand by 2020 and 30% by 2030
In-State Biofuels Use	Increase biofuel use to 1 billion gge* by 2010, 1.6 billion gge by 2020, and 2 billion gge by 2050
In State Biofuels Production	Produce in California 20% of biofuels used in state by 2010, 40% by 2020, and 75% by 2050

\*gge refers to gasoline gallons equivalent

As proposed by the commission, and displayed on the following page in Chart 2, the Investment Plan intends to meet stated objectives by expending \$176 million over a four year period through separate competitive grant programs for seven different technologies.

**Chart 2**

<b>Category (Funding)</b>	<b>Investments</b>
Electric Drive (\$45 million)	<ul style="list-style-type: none"> <li>• Convert hybrid electric vehicles to plug-in hybrid vehicles</li> <li>• Electrify operations at the state’s major ports and truck stops</li> <li>• Develop and demonstrate advanced hybrid electric technologies for medium- and heavy-duty trucks</li> <li>• Increase the number of electric charging stations</li> <li>• Provide incentives to locate manufacturing facilities for electric vehicles and components in the state</li> </ul>
Hydrogen (\$40 million)	<ul style="list-style-type: none"> <li>• Increase the number of hydrogen fueling stations</li> </ul>
Ethanol (\$12 million)	<ul style="list-style-type: none"> <li>• Develop fuel production facilities that use waste material as feed stocks</li> <li>• Increase the number of E-85 fueling stations</li> </ul>
Renewable Diesel/Biodiese (\$6 million)	<ul style="list-style-type: none"> <li>• Develop fuel production facilities that use waste material as feed stocks</li> <li>• Construct blending and storage terminal facilities</li> </ul>
Natural Gas (\$43 million)	<ul style="list-style-type: none"> <li>• Purchase medium- and heavy-duty vehicles for ports, school districts, and public fleets</li> <li>• Purchase light-duty vehicles for public fleets</li> <li>• Increase the number of fueling stations</li> <li>• Develop biomethane production plants</li> </ul>
Propane (\$2 million)	<ul style="list-style-type: none"> <li>• Purchase school buses and light-duty vehicles for public fleets</li> </ul>
Non-GHG (\$27 million)	<ul style="list-style-type: none"> <li>• Establish workforce training programs</li> <li>• Continue research into sustainability issues</li> <li>• Conduct a public outreach and education</li> <li>• Provide program technical assistance</li> <li>• Conduct environmental/market/technology assessments</li> <li>• Develop standards and certifications</li> </ul>
<b>Total: \$176 million</b>	

**Staff Comments**

Staff has concerns that the CEC has over allocated funding in the Investment Plan to hydrogen infrastructure. As raised by the LAO and discussed in prior subcommittee hearings, the state has invested over \$19 million in hydrogen grant programs at the Air Resources Board (ARB) and received few tangible increases in hydrogen fueling stations or vehicles numbers. In their 2008/09 Analysis, the LAO found that while the state had appropriated funding for 23 hydrogen fueling stations, no hydrogen fueling stations were completed by the time of the analysis. At the hearing, the CEC should report the Subcommittee on how many stations it anticipates will be completed with the proposed \$40 million. Additionally, the Department of Finance should report to the subcommittee on the amount of funding that remains at the ARB from prior-year appropriations for hydrogen fueling stations and how many stations have been completed from funding appropriated to date.

**Staff Recommendation. Hold Open**

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**ISSUE 2: SITING RENEWABLE GENERATION AND TRANSMISSION**

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**Governor's budget**

The Governor's budget requested \$2.58 million (ERPA) in 2009/10 for 10 ongoing positions and \$1.2 million in baseline contracting funds to accelerate siting for renewable generation and transmission. This proposal would provide resources to conduct workload required by the Governor's Executive Order to increase the Renewable Portfolio Standard from 20 percent in 2017 to 33 percent in 2020. Specifically, staffing and contracting resources would do the following: work with the DFG to develop a Natural Community Conservation Plan for the Mojave and Colorado deserts that will facilitate the development of renewable resources and to identify sites for solar development in the California desert; 2) assist the Bureau of Land Management in the development of a Solar Programmatic Environmental Impact Statement which will result in identifying appropriate areas for solar development on federal lands in California; and 3) develop Best Management Practices for solar development while minimizing environmental impacts.

**April Finance Letter**

In an April Finance Letter, the CEC is requesting an additional \$2.25 million in ERPA funds to support 18.5 positions in the Energy Siting Division. Currently the CEC is budgeted for approximately 6 projects per year. It is anticipated that this will increase to 11 projects per year in ongoing years.

**Background**

The CEC is responsible for permitting new power plants and changes to existing plants in the state. Currently, the siting workload is approximately four times above that experienced during most of the 1980s and 1990s. While five to six applications were worked on annually through the 1980s and 1990s, there are 25 applications under review in March of 2009. In order to fund some of the costs associated with siting power plants, the CEC was given authority in 2003 to charge a fee for siting permits. Currently, this fee is set at a base of \$250,000 per permit with incremental increases for capacity capped at \$350,000. Annually, this fee generates roughly \$2 million per year and is used for siting workload.

**Staff Comments**

Staff does not have any issues with the level of resources requested in this proposal as ongoing workload for the Department has increased significantly due to a race to meet the new Renewable Portfolio Standard of 33 percent by 2020. The funding source, however, does raise some concern as ERPA funds come from fees placed on all California ratepayers and the Department does have an existing fee mechanism that was intended to cover costs of the siting program. However, because a large percentage the CEC's increased workload is a result of the volume of renewable energy production projects being proposed for the state's desert regions, and since statute prohibits the CEC from collecting fees from these projects, staff feels it is appropriate to then fund the requested staffing and contracts through ERPA funds.

At the hearing, the CEC should be prepared to discuss with the Subcommittee how much of the existing and projected increases in workload will be attributable to renewable and non renewable sources. Additionally, the CEC should discuss how much of the workload attributable to non renewable is currently being covered by the siting fee.

**Staff Recommendation: Approve both the Governor's Budget proposal and April Letter as proposed.**



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**ISSUE 3: ENERGY EFFICIENCY CONSERVATION BLOCK GRANT**

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**Governor's budget**

The Governor's budget is requesting 5 permanent positions and \$34 million in Federal expenditure authority to administer the Energy Efficiency and Conservation Block Grant Program that was authorized as section 541-548 of the Energy Independence and Security Act of 2007 and as further directed by *AB 2176 (Caballero), Chapter 229 Statutes of 2008*. This proposal will be funded by federal block grant that is intended for eligible entities to implement energy efficiency and conservation strategies.

**Background**

In 2007, the Energy Independence and Security Act of 2007 was signed into law to address various energy sectors in the economy. One section allocated \$2 billion per year for a five year period to be used as grants to implement a variety of projects that would reduce energy costs, greenhouse gas and criteria pollutant emissions, total energy use, and improve energy efficiency in building and other appropriate sectors.

AB 2176 (Caballero) required that not less than 60 percent of the funds received from these block grants be used to provide cost-effective energy efficiency and conservation grants to cities with a population of less than 35,000 and counties with a population of less than 200,000, and be prioritized based on cost-effective energy efficiency. The bill also states that remaining funds be used to provided cost effective energy efficiency and conservation grants to eligible entities consistent with the EISA, and that these funds be prioritized base on cost effective energy efficiency and conservation.

**Staff Comments**

Staff has no issues with this proposal as these are federal funds and allocation formulas have been approved by the Legislature and signed by the Governor. Staff understands, however, that \$15.6 million in new funding has been made available for this program through the American Recovery and Reinvestment Act (ARRA). At the hearing, the Department of Finance should report to the Subcommittee about this.

**Staff Recommendation: Approve proposal with an amendment to increase expenditure authority to \$49.6 million to account for new funding made available in the ARRA.**