

California State Assembly



Agenda

Assembly Budget Subcommittee No. 4 on Climate Crisis, Resources, Energy, and Transportation

Assemblymember Steve Bennett, Chair

Wednesday, March 6, 2024
9:30 A.M. – State Capitol, Room 447

Items To Be Presented		
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Issue	4. Flood Protection Proposals <ul style="list-style-type: none">a. Central Valley Systemwide Flood Risk Reductionb. Urban Flood Risk Reductionc. Winter Storms Levee Repair Early Actiond. New Groundwater Recharge Permitting Unit	30
3940	State Water Resources Control Board	40
Issue	5. Resource Needs to Address Impacts on Project Permitting Resulting from Recent Supreme Court Decisions	40

Non-Presentation Items: Staff have suggested the following items do not receive a formal presentation from the Administration in order to focus time on the most substantial proposals. Members of the Subcommittee may ask questions or make comments on these proposals at the time designated by the Subchair or request a presentation by the Administration at the discretion of the Subchair. Members of the public are encouraged to provide public comment on these items at the designated time.

Non-Presentation Items		
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Public Comment will be taken in person after the completion of all panels and any discussion from the Members of the Subcommittee.

Items To Be Heard

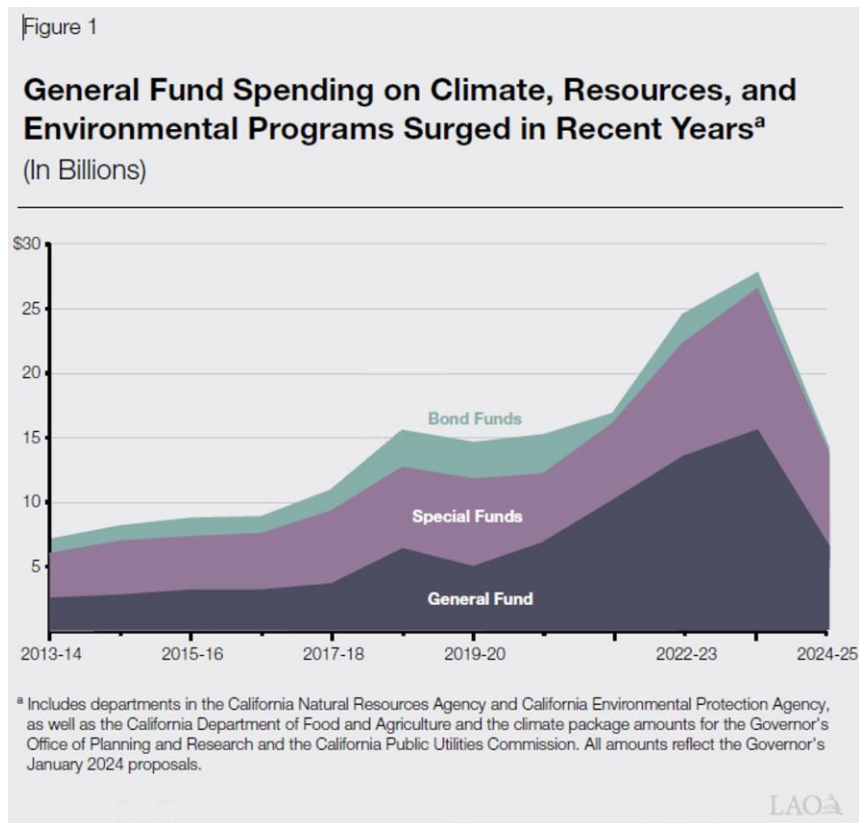
Various

Issue 1: Overview of 2024 Climate Budget

Combined, the 2021-22 and 2022-23 budgets included notable amounts of new spending for a variety of activities related to mitigating and responding to climate change and protecting and restoring natural resources and the environment. The 2021 and 2022 budgets invested \$54.3 billion into the State’s climate package including \$13.8 billion for transportation. The climate package does not include all one-time funding provided in the previous three budget years to departments; therefore, previous appropriations are actually larger. Additionally, there are roughly \$2 billion of appropriations in the climate package that are not within the jurisdiction of Subcommittee number 4.

Notably, programs that were provided unprecedented levels of General Fund in these two budget years historically were funded by special funds or bond funds (see graphic below).

Note* the graphic does not include transportation funding.



To address the General Fund shortfall that began to materialize last year, the 2023-24 budget made several reductions and delays to the climate package that were a part of the 2021 and 2022 budget deals. The 2023-24 budget included \$8.3 billion in budget solutions across previous

and future budget years – including reductions, fund shifts, and delays. A total of \$3.1 billion was cut from the \$54.3 billion climate package, resulting in \$51.2 billion remaining, or 94%.

Panel

- Yana Garcia Gonzalez, Secretary, California Environmental Protection Agency
- Wade Crowfoot, Secretary, California Natural Resources Agency
- Toks Omishakin, Secretary, California State Transportation Agency
- Karen Ross, Secretary, California Department of Food and Agriculture
- Stephen Benson, Assistant Program Budget Manager, Department of Finance
- Rachel Ehlers, Deputy Legislative Analyst, Legislative Analyst's Office

LAO Comments

Crafting Climate, Resources, and Environmental Budget Solutions

To read the full report, visit <https://lao.ca.gov/Publications/Report/4841>

Recent Budgets Included Significant General Fund Augmentations. Combined, the 2021-22 and 2022-23 budget agreements included notable amounts of new spending for a wide variety of activities related to mitigating and responding to climate change, as well as for protecting and restoring natural resources and the environment. In most cases, these augmentations represented unprecedented levels of General Fund for these types of programs, many of which historically have been supported primarily with special funds or bond funds.

These budget packages also included agreements to provide additional funding in future years for a six-year total of about \$39 billion (2020-21 through 2025-26). To help address the General Fund shortfall that began materializing last year, the 2023-24 spending plan made a number of revisions—including reductions, delays, and fund shifts—to the thematic packages agreed to in earlier budget deals. On net, the revised budget agreement intended to maintain \$36 billion from a combination of funding sources (93 percent of the original total) from 2020-21 through 2026-27 for these activities. (In some budget documents the administration cites higher climate spending amounts because it includes several large programs in its totals that we exclude from ours, such as related to transportation and housing).

Governor Proposes \$4.1 Billion in General Fund Solutions for 2024-25 Budget Problem.

Similar to last year, the Governor relies on three strategies to achieve additional General Fund savings from climate, resources, and environmental programs across the budget window (2022-23 through 2024-25)—\$2 billion from spending reductions, \$1.1 billion from delaying spending to a future year, and \$1 billion from reducing General Fund and backfilling with a different fund source (primarily using the Greenhouse Gas Reduction Fund, [GGRF]). The amount of multiyear savings proposed across the combined budget window and forecast period (2023-24 through 2027-28) is somewhat less— \$3.6 billion. This is the net result of some additional out-year reductions which are more than offset by the costs associated with the resumption of delayed expenditures.

Figure 2

Revised Recent and Planned Augmentations to Climate, Resources, and Environmental Programs

(In Millions)^a

Thematic Area	2021-22 ^b	2022-23	2023-24	2024-25	2025-26	2026-27	Total
Zero-Emission Vehicles	\$3,351	\$2,168	\$847	\$1,407	\$1,406	\$906	\$10,085
Drought and Water Resilience	5,244	1,145	587	584	554	17	8,131
Energy	2,245	2,193	1,333	539	621	51	6,982
Wildfire and Forest Resilience	1,478	620	669	—	—	—	2,767
Nature-Based Activities	106	1,016	286	1	—	—	1,409
Community Resilience	202	745	340	50	—	—	1,337
Coastal Resilience	19	431	653	10	—	—	1,112
Sustainable Agriculture	670	328	53	—	—	—	1,052
Circular Economy	198	245	—	—	—	—	443
Extreme Heat	80	128	197	—	—	—	404
Other ^c	579	127	295	675	875	—	2,551
Totals	\$14,172	\$9,146	\$5,260	\$3,266	\$3,456	\$974	\$36,273

^a Reflects 2023-24 budget agreement. Includes roughly \$28 billion from the General Fund and \$8.3 billion from other fund sources, including the Greenhouse Gas Reduction Fund and Proposition 98.

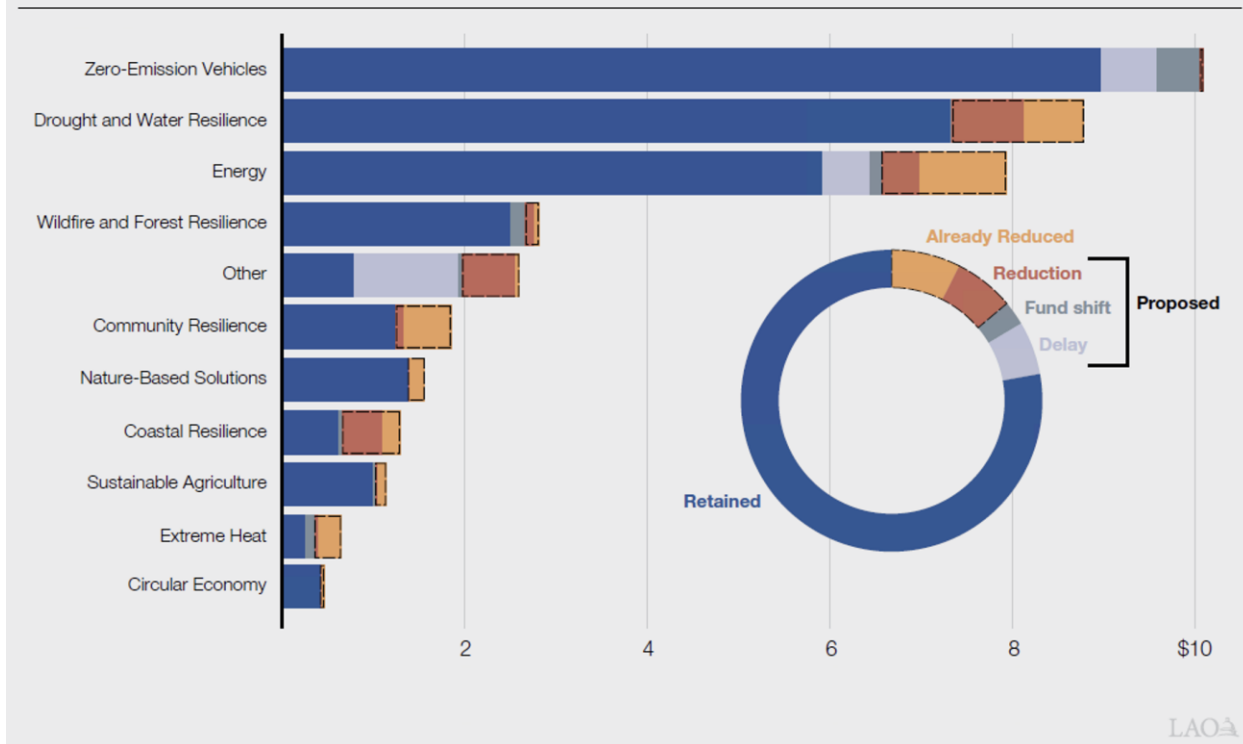
^b Also includes \$520 million provided in 2020-21, mostly for wildfire and forest resilience activities.

^c Includes funding for various environmental-related programs not incorporated in thematic packages, including to implement the Clean Energy Reliability Investment Plan, brownfields cleanup, and the Climate Innovation Program.

Figure 3

Governor's Proposal Would Retain Majority of Planned Multiyear Climate Funding

(In Billions)



Given State Budget Shortfall, Overall Proposed Approach Has Several Merits. The magnitude of the General Fund problem means that the Legislature faces difficult choices in developing its budget this year. Within this context, we find a number of redeeming qualities in the Governor's proposal. Specifically, it: (1) continues to fulfill most state objectives by sustaining the vast majority of planned multiyear funding and activities; (2) focuses reductions on recent one-time augmentations, which is less disruptive than reducing ongoing base programs; (3) does not reduce funding that has already been committed to specific projects or grantees; (4) utilizes GGRF to sustain numerous programs while also achieving General Fund savings; and (5) eliminates most unappropriated General Fund planned for the budget year and future.

Governor's Proposal Reflects Administration's Priorities, Maintains Significant Amount of Unspent Funds. The administration's choices regarding which programs to preserve and which to reduce largely reflect the Governor's priorities. Specifically, many of the proposed cuts are to programs for which the Legislature advocated during budget negotiations, rather than those that were initially proposed by the Governor. To the extent the Legislature's priorities differ from the Governor's, we recommend it select a different mix of programs for funding reductions. Moreover, our review of expenditure data suggests the Governor's proposal maintains over \$1 billion in uncommitted prior- and current-year appropriated funds. The Legislature could reduce some of this funding and achieve General Fund savings as additions or alternatives to the Governor's proposals, in most cases without major disruptions to specific programs or projects. However, should it wish to capture these savings, we recommend the Legislature consider taking early action ahead of the June budget deadline as in many cases departments have plans to make additional grant awards this spring.

Proposed Delays and Out-Year Commitments Complicate Future Budget Situation. While the Governor eliminates most of the unappropriated planned General Fund, some of this funding is only temporarily reduced—\$1.7 billion in General Fund expenditures are delayed to future years. While these delays provide short-term savings and might preserve intended activities over the longer term, they also exacerbate future budget problems by increasing out-year General Fund spending commitments. The proposal also would maintain over \$900 million in General Fund spending that previous budget agreements planned for 2025-26. Building a multiyear spending plan that incorporates this funding sets expectations for potential projects and grantees that may be hard to keep given projected out-year budget deficits. Moreover, the Governor's proposal includes plans to dedicate a notable share of out-year discretionary GGRF revenues for specific purposes (primarily for spending related to zero-emission vehicles) rather than deferring those spending decisions to future budget negotiations. The Legislature might benefit from preserving additional flexibility around how it wants to use future GGRF resources. Overall, we recommend the Legislature minimize out-year commitments for both the General Fund and GGRF.

Recommend Legislature Identify Alternative and Additional Budget Solutions Depending on Its Priorities and the Evolving General Fund Condition. We think that generating at least the same magnitude of General Fund solutions from climate, resources, and environmental programs as the Governor will be important in solving the budget problem. Maximizing spending reductions from one-time funds will allow the Legislature to minimize the use of other budget tools—like reserves—that likely will be needed to address deficits in future years. To the degree

some of the Governor's proposed program reductions represent important efforts for the Legislature, however, it could opt to sustain that funding and instead find a like amount of savings by making alternative reductions, such as to programs with uncommitted funds. Besides alternative reductions, we recommend the Legislature also begin identifying options for potential *additional* budget solutions from these programs. Further reductions to this one-time spending could prove helpful in a number of potential scenarios, such as if (1) the budget condition worsens (current LAO revenue projections suggest this is likely), (2) the Legislature wants to reject some of the Governor's proposed General Fund budget solutions in other policy areas, (3) the Legislature wants to "make room" to fund some of its key priorities, and/or (4) the Legislature determines that some of the solutions included in the Governor's proposal may not yield anticipated savings. While this process will be challenging, taking the time to consider potential options over the spring will better prepare the Legislature to make decisions in June when it will not have much time to gather information before the budget deadline.

Transportation Budget Solutions

To read the full report, visit <https://lao.ca.gov/Publications/Report/4854>

Governor Proposes \$4.3 Billion in Budget Solutions From Transportation Programs. Using a variety of different approaches, the Governor proposes generating \$4.3 billion in General Fund solutions from transportation programs during the budget window (2022-23 through 2024-25). These proposals include (1) making \$2.8 billion in cash flow adjustments, which revert General Fund that has already been awarded to projects with the intent to restore the funding in a future year when it would be needed to cover expenditures; (2) delaying \$1 billion in program expenditures, which reduces costs in 2024-25 with the intent of restoring the funding in 2025-26; (3) shifting \$796 million in expenditures from the General Fund to the Greenhouse Gas Reduction Fund (GGRF); and (4) making \$296 million in program reductions. However, the Governor proposes to restore about \$3.3 billion of the postponed and delayed spending in future years, so the net General Fund savings across the multiyear forecast period totals only \$1.1 billion.

Recommend Legislature Adopt Most Proposed Solutions. Given the General Fund condition, we recommend the Legislature adopt the proposed cash flow adjustments, certain fund shifts, and reductions. These actions would reduce cost pressures on the General Fund in the near term with minimal impacts to existing programs and infrastructure projects. We note that the proposals do come with some trade-offs for the Legislature to consider. First, the cash flow adjustments add out-year cost pressures to the General Fund, which would complicate projected future deficits and necessitate additional General Fund solutions in the coming years. The Legislature has limited flexibility around ultimately providing these funds given the state has already committed them to specific projects. Second, the proposed reductions would result in fewer projects being funded for active transportation and the Port of Oakland. On balance, however, we find the General Fund benefits that the proposals would yield are sufficient to justify their adoption.

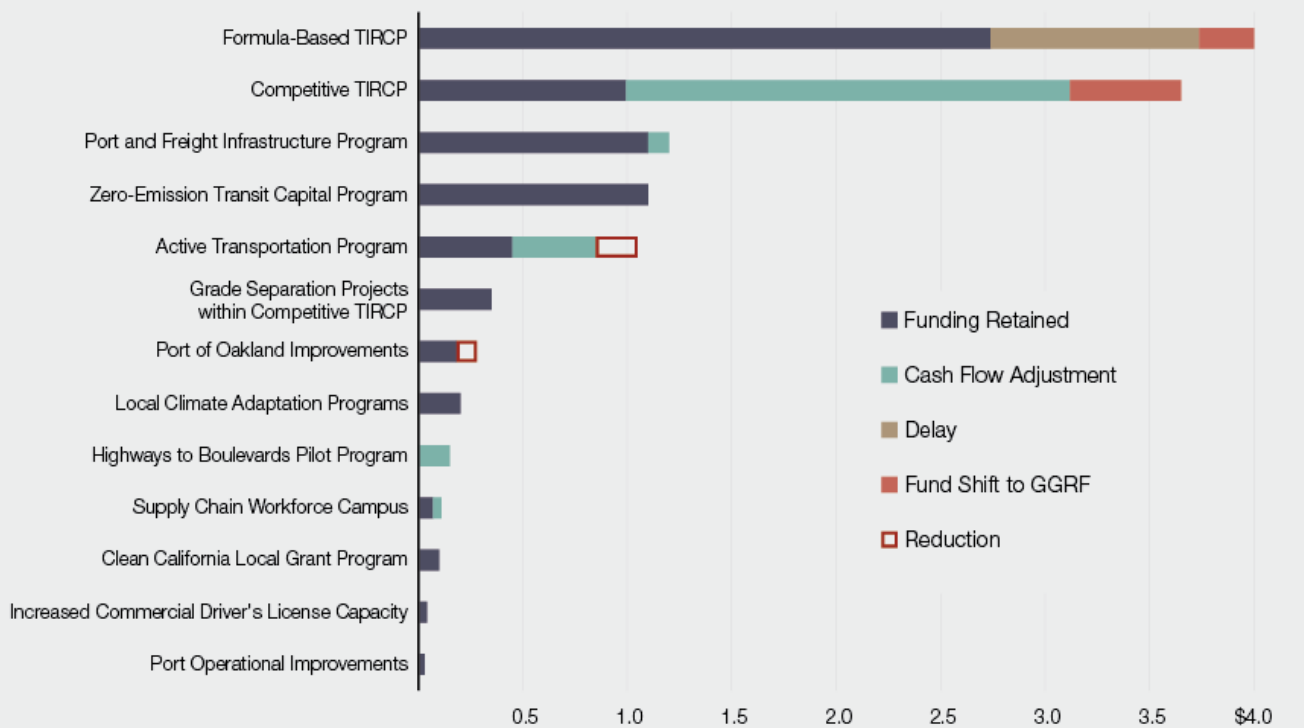
Recommend Identifying Additional Options in Case They Are Needed. The Legislature could need additional General Fund solutions if the budget problem worsens and/or if it wishes

to reject some of the Governor’s proposals. Some options the Legislature could consider to generate additional General Fund savings from transportation programs include reducing funding for the formula-based portion of the Transit and Intercity Rail Capital Program (TIRCP), using other transportation special funds to replace some one-time General Fund, and replacing General Fund for existing competitive TIRCP commitments with the program’s base funding that would otherwise support future projects. Finding additional savings will necessarily result in the trade-off of supporting fewer transportation activities overall compared to what was originally intended in prior budget agreements, whether that be for transit and rail projects or highway maintenance. While this process will be challenging, taking the time to research and select potential options over the spring will better prepare the Legislature to make decisions in May and June when it will not have much time to gather information and carefully consider program trade-offs before the budget deadline.

Figure 2

Governor's Proposed Transportation Budget Solutions

2021-22 Through 2027-28 (In Billions)



TIRCP = Transit and Intercity Rail Capital Program and GGRF = Greenhouse Gas Reduction Fund.

LAOA

Figure 3

Governor’s Proposed Changes to Transportation Funding

General Fund Unless Otherwise Noted (In Millions)

Program	Department	Total Augmentations	Proposed Changes ^a			New Amounts Proposed
			2023-24	2024-25	2025-26 Through 2027-28	
Transportation Infrastructure Package		\$9,500	-\$2,875	-\$420	\$3,095	\$9,300
Formula-based TIRCP	CalSTA	\$4,000	—	-\$1,000 ^a	\$1,000	\$4,000 ^b
Competitive TIRCP	CalSTA	3,650	-\$2,125	530 ^b	1,595	3,650 ^b
Active Transportation Program	Caltrans	1,050 ^c	-600	—	400	850 ^c
Grade separation projects within competitive TIRCP	CalSTA/Caltrans	350	—	—	—	350
Local climate adaptation programs	Caltrans	200 ^c	—	—	—	200 ^c
Highways to Boulevards Pilot Program	Caltrans	150	-150	50	100	150
Clean California Local Grant Program	Caltrans	100	—	—	—	100
Supply Chain Package		\$1,380	—	-\$140	\$140	\$1,380
Port and Freight Infrastructure Program	CalSTA	\$1,200 ^c	—	-\$100	\$100	\$1,200 ^c
Supply chain workforce campus	CWDB	110	—	-40	40	110
Port operational improvements	Go-Biz	30	—	—	—	30
Increased commercial driver’s license capacity	DMV	40	—	—	—	40

Other		\$1,380	-\$96	—	—	\$1,284
Zero-Emission Transit Capital Program	CalSTA	\$1,100 ^{b,e}	—	—	—	\$1,100 ^{b,e}
Port of Oakland improvements	CalSTA	280	-\$96	—	—	184
Totals		\$12,260	-\$2,971	-\$560	\$3,235	\$11,964

^aPositive values reflect new proposed spending in that year due to the resumption of cash-flow adjustments or delays.

^bIncludes funding from the Greenhouse Gas Reduction Fund (GGRF).

^cIncludes funding from the State Highway Account.

^dIncludes a \$1 billion delay and a \$261 million fund shift from the General Fund to GGRF.

^eIncludes funding from the Public Transportation Account.

TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; Caltrans = California Department of Transportation; CWDB = California Workforce Development Board; Go-Biz = Governor’s Office of Business and Economic Development; and DMV = Department of Motor Vehicles.

Staff Comments

Staff believes that the Governor's proposed budget includes \$10.93 billion in solutions within the jurisdiction of this subcommittee. This includes \$3.1 billion in cuts, \$5.6 billion in delays, \$1.87 billion in fund shifts (primarily to the Greenhouse Gas Reduction Fund), and \$350.6 million in borrowing from special funds.

The Governor's proposed budget also includes an additional \$159.1 million in new General Fund climate investments. Due to discrepancies in data from the Department of Finance and items in the climate package being subject to other subcommittee's jurisdiction, these numbers may vary between staff, the Department of Finance, and the Legislative Analyst's Office.

In 2022, the state budget projected multi-year windfall of unexpected revenues, with an almost \$100 billion surplus expected just that fiscal year. The 2022 budget allocated some of these new resources to build a \$54.3 billion comprehensive, varied, and ambitious multi-year climate roadmap to tackle pollution, water, wildfire, open space, and other environmental challenges faced by the State. The climate package was the largest use of the one-time funds in the 2022 budget.

We now know that the 2022 projections were far too optimistic. The Governor's 2024 budget reflects almost \$40 billion less in revenue for 2022 than was expected when the 2022 budget was adopted. This lower revenue number for that year cascades into future years, as the revenue expectations in 2023, 2024, and beyond are lower than when the climate package was designed.

The Governor's 2024 budget maintains \$48 billion of the original \$54 billion 2022 climate package, attempting to keep 89 percent of the original plan moving forward despite the lower state revenues. But with a \$30 billion structural budget deficit projected in future years, and with current revenue collections underperforming, it will become inevitable that the state will need to revisit this investment plan. Without the large surplus, the state cannot afford a climate package of this size. And without certainty around future budgets, this multi-year effort is written in pencil, with no guarantee or certainty for future investments.

This uncertainty hinders the goals of the climate package, as many of the most ambitious investments in the climate space require years of planning, often with that work and cost being performed by stakeholders or local governments in anticipation of state funding. Without certainty, the risk that the funding for these projects may vanish will reduce the number of partners the state has, and slow progress towards the state's climate goals.

Thus the Subcommittee faces decisions about how to adjust this climate package to reflect the new state fiscal position, while also increasing certainty around key state climate priorities. Luckily, there are options to help: A climate bond has been discussed, which could provide a clear and dedicated funding source for some projects; the federal government's infrastructure package provides unanticipated funds for some of these projects; and the actual project timelines for the state's investments are much longer than projected in 2022, giving the state more time to finance them. It is likely that, as the state grapples with its budget problem, it will need to revisit and reduce its significant one-time General Fund investment. For the Subcommittee, this is not only a discussion of which reductions are the most acceptable, it is also important to think about how to increase certainty around core priorities that need to move forward, so the State of California can continue to lead in the climate space.

With this context, the Subcommittee may wish to ask the following questions:

1. How do we decide which climate change impacts deserve priority for funding? What criteria should we be using to make these decisions?
 - a. Urgency of needed action
 - b. Degree to which the state is the primary responsible party
 - c. Number of Californians that could be affected
 - d. How widespread potential fiscal and economic implications might be
 - e. Threat posed to public safety
 - f. Ability – or inability – of certain communities to adapt without state assistance
 - g. Seed money/ ability to leverage/ financial incentives
 - h. Demonstrated cost-effectiveness
2. What criteria did the Administration use to determine its proposed budget solutions?
3. In recent budgets, climate package investments were spread across multiple future budget years. With the current deficit, these investments are now being clawed back. How can the Legislature maintain confidence that the Administration will deliver on delayed investments in out-year budgets, especially when the outlook is uncertain and

getting worse? What is the purpose of including future budget year earmarks given the uncertainty of the budget outlook?

Staff Recommendation: Informational, no action needed.

Various

Issue 2: Drought and Water Resilience Update and General Fund Solutions

The 2021 and 2022 Budget Acts committed \$8.7 billion over five years to support drought, flood, and other water-related programs. The 2024-25 Budget proposes \$810.3 million in solutions (which include reductions, fund shifts, and delays) over budget years 2021-27. The Governor’s budget also includes \$159.1 million in new spending, primarily for flood protection and the Salton Sea Management Program.

Reductions:

Department	Program	Reduction	Reduction Detail	Total Net Appropriation ¹	Percent Reduction
DWR	Forecasted Informed Reservoir Operations/Snow Surveys	\$27 million	\$6.75 million annual reduction	\$85 million	31%
DWR	Dam Safety	\$50 million	\$50 million from 23-24	\$100 million	50%
DWR	Watershed Climate Resilience	\$126 million	\$18 million from 23-24, \$97 million from 24-25, \$11 million from 25-26	\$494.5 million	17%
Water Board	PFAS Clean Up	\$101.6 million	\$32.6 million from 22-23, \$39 million from 23-24, \$30 million from 24-25	\$155 million	46%
Water Board	Water Recycling	\$274.4 million **Note in table below the \$100 million delay	\$115.6 million from 21-22, \$158.8 million from 22-23	\$522 million	33%

Fund Shifts and Delays:

Department	Program	Fund Shift/ Delay	Fund Shift/ Delay Detail	Total Net Appropriation ²	Percent Reduction
Water Board	Water Recycling	\$100 million delay	\$100 million delay to 25-26	\$522 million	N/A

¹ This total includes reductions approved in the 23-24 budget

² This total includes reductions approved in the 23-24 budget

All new, one-time appropriations from budgets 2021-2023 to DWR and the State Water Board

Figure 7
Governor’s Proposed Changes to Water and Drought Resilience Package
 General Fund Unless Otherwise Noted^a (In Millions)

Program	Department	Original Multiyear Total ^b	Revised Multiyear Total ^c	Proposed Reductions	Proposed Multiyear Total
Drinking Water, Water Supply, Flood		\$4,025	\$3,732	-\$224	\$3,508
Drinking water, wastewater projects	SWRCB	\$1,700	\$1,700	—	\$1,700
Water recycling, groundwater cleanup	SWRCB	800	522	-\$174 ^d	348
Water conveyance, water storage	DWR	700	700	—	700
Flood management and planning	DWR	644	644	—	644 ^e
Dam safety	DWR	100	100	-50	50
Aqueduct solar panel pilot study	DWR	35	20	—	20
Watershed climate studies	DWR	25	25	—	25
Water storage tanks	DWR	21	21	—	21
Immediate Drought Response		\$1,439	\$1,409	-\$27	\$1,382
Community drought relief	DWR	\$800	\$800	—	\$800
Data, research, communications	Various	202	202	—	202
Water rights activities	SWRCB	113	113	—	113 ^e
Drought contingency control section	Various	96	96	—	96
Forecasting water supply/runoff	DWR	101	101	-\$27	74 ^f
Drinking water emergencies	SWRCB	62	62	—	62
Drought salinity barrier	DWR	27	3	—	3
Drought food assistance	DSS	23	23	—	23
Conservation technical assistance	DWR	10	10	—	10 ^e
Water refilling stations at schools	SWRCB	5	—	—	—
Habitat/Nature-Based Solutions		\$1,208	\$1,208	-\$438	\$770
Wildlife and habitat projects	CDFW, DWR	\$459	\$459	—	\$459
Watershed climate resilience	WCB	334	334	-\$312	22
Watershed climate resilience	DWR	161	161	-126	35
Aquatic/large-scale habitat projects	Various	149	149	—	149
Spending from various bonds	WCB, DWR	105	105	—	105
Water Quality and Ecosystem Restoration		\$1,191	\$1,027	-\$164	\$925
Water resilience projects	CNRA	\$445	\$445	—	\$445 ^e
Streamflow enhancement program	WCB	250	250	—	250
Salton Sea	DWR	220	101	—	101
PFA’s support	SWRCB	200	155	-\$102	53
Urban streams and border rivers	Various	70	70	—	70
Clear Lake	CNRA	6	6	—	6
Conservation/Agriculture		\$916	\$771	-\$145	\$752
SGMA implementation	DWR	\$356	\$296	—	\$296
Water conservation programs	DWR	180	180	—	180
SWEEP	CDFA	160	120	— ^g	120
Multibenefit land repurposing	DOC	110	90	—	90
Agricultural conservation	DWR, CDFA	70	45	—	45
Relief for small farmers	CDFA	25	25	-\$13	12
On-farm technical assistance	CDFA	15	15	-6	9
Totals		\$8,779	\$8,148	-\$631	\$7,917

^a In total, about \$450 million is from a variety of non-General Fund sources, including bond funds, federal funds, special funds, and reimbursements.
^b Based on 2021-22 and 2022-23 budget agreements.
^c Based on 2023-24 budget agreement.
^d Governor proposes delaying \$100 million from 2022-23 to 2025-26.
^e Includes funding from sources other than General Fund.
^f Original appropriation was \$16.75 million ongoing. Governor proposes reducing annual amount to \$10 million beginning in 2024-25.
^g Governor proposes delaying \$21 million until 2024-25 and shifting the fund source from General Fund to Greenhouse Gas Reduction Fund.

SWRCB = State Water Resources Control Board; DWR = Department of Water Resources; DSS = Department of Social Services; CDFW = California Department of Fish and Wildlife; WCB = Wildlife Conservation Board; CNRA = California Natural Resources Agency; PFAs = per- and polyfluoroalkyl substances; SGMA = Sustainable Groundwater Management Act; SWEEP = State Water Efficiency and Enhancement Program; CDFA = California Department of Food and Agriculture; and DOC = Department of Conservation.

The following one-time, discretionary appropriations were made in past years’ budgets outside of the drought/water resilience package. This excludes energy-related appropriations to the Department of Water Resources. Members of this subcommittee may wish to consider asking questions regarding implementation status and could consider cutting these appropriations to help address the deficit to the extent that funds remain.

Department of Water Resources

2021

- \$237 million for deferred maintenance.
- \$224.9 million over multiple years for the American River Commons Features project.

2022

- \$33 million to continue the construction work of the Smith Canal Gate.
- \$27.5 million to create an endowment for long-term maintenance of a habitat mitigation site in the expanded Yolo Bypass.

2023

- \$75 million General Fund for the Flood Control Subventions Program.
- \$17.02 million for high priority stream gages.
- \$13.2 million for ongoing Delta levee projects that reduce risk of levee failure and flooding, provide habitat benefits, and reduce the risk of saltwater intrusion contaminating water supplies.
- \$25 million for the Paradise Cut Multi-Benefit Project and Yolo Bypass Fix-In-Place Projects.
- \$135.5 million, including \$90 million to support state cost share of critical United States Army Corps of Engineers projects and Urban Flood Risk Reduction projects and \$10 million for State Operations, and \$35 million in 2024-25.
- \$36.91 million in the following fiscal years: \$4.41 million (\$3.998 million for DWR and \$0.412 million for Central Valley Flood Protection Board (CVFPB) for 2023-24, \$11 million in 2024-25, \$11.5 million in 2025-26, and \$10 million in 2026-27 for the 2027 Update to the Central Valley Flood Protection Plan and Conservation Strategy.
- \$3.35 million in one-time General Fund funding for the State cost-share of the US Army Corps of Engineers Yolo Bypass Comprehensive Study and continued development of the Yolo Bypass-Cache Slough Master Plan.
- \$4,773,000 for expenses related to the relocation of the state/federal Joint Operations Center from the current location on El Camino Avenue to a new facility.

State Water Resources Control Board

2021

- \$1,962,000 for Groundwater sustainability plan review.

2022

- \$5.6 million General Fund to clean up DDT (Dichlorodiphenyltrichloroethane) off the coast of Southern California.
- \$8 million for Water Rights from the Emergency Relief Fund.
- \$50 million for emergency interim or permanent solutions to drinking water emergencies from the Emergency Relief Fund.
- \$15 million for border rivers.

2023

- \$31.5 million one-time in 2023-24 (in addition to funding in previous years) to continue development of the Updating Water Rights Data for California Project to enhance California's water management capabilities.
- \$5,163,000 for the repair of critical infrastructure at Leviathan Mine.

Panel

- Joaquin Esquivel, Board Chair, State Water Resources Control Board
- Laura Hollender, Deputy Director, Division of Flood Management and Safety of Dams, Department of Water Resources
- Paul Gosselin, Deputy Director, Integrated Water Management Manager, Department of Water Resources
- Andrew Hull, Finance Budget Analyst, Department of Finance
- Sonja Petek, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments**Governor's Proposal**

LAO Comments: Legislature Could Consider Alternative and/or Additional Reductions.

In light of the state budget condition, the Legislature has several options for additional and/or alternative reductions from the water and drought resilience package.

- *Water Storage Projects (\$500 Million in 2025-26).* The administration's original proposal for this funding noted that it would build on the \$2.7 billion provided by Proposition 1 (2014) for water storage projects, yet specific details on how the funds would be used have not been provided. Given this funding has not yet been appropriated, eliminating it likely would be less disruptive compared to certain other options before the Legislature.
- *Drinking Water/Wastewater Project Grants (\$200 Million).* While these programs are important, the state currently has an unprecedented amount of federal funding available for these purposes through the federal SRFs. In addition, state statute requires an annual GGRF appropriation of \$130 million (through 2030) to SWRCB for the same types of drinking water projects. As such, the state could continue to pursue its goals and focus on the drinking water needs of disadvantaged communities even with a reduction in General Fund support.
- *Water Recycling (Reduce Rather Than Delay \$100 Million).* Although eliminating this funding—rather than delaying it, as proposed by the Governor—would reduce the number of projects SWRCB could support with state funding (which is more flexible than federal funding), other funding sources are available for these projects. Specifically, SWRCB can use federal funds provided through the SRF for water recycling projects.
- *Revert Unspent Funding Provided in Earlier Budgets.* Of the \$6.5 billion General Fund already appropriated for water and drought resilience packages across 2021-22, 2022-23, and 2023-24, the Governor proposes reducing about \$524 million of uncommitted funds (as discussed above). Based on our review of other uncommitted

funds, the Legislature could consider additional reductions of close to \$775 million. For example, SWRCB has about \$300 million in uncommitted funds for drinking water/wastewater programs. SWRCB expects to commit a good portion of this funding between April and June, with an estimated \$65 million remaining by the end of the 2023-24 fiscal year. Consequently, depending on how much of this funding the Legislature wished to pull back, it may have to act quickly to capture the potential savings that currently are available. While these programs remain important, particularly among disadvantaged communities, SWRCB could partially offset reductions with federal SRF funding and its annual GGRF appropriation. Additionally, the California Natural Resources Agency (CNRA) has approximately \$228 million in uncommitted funds for water resilience grants. The administration indicates it will select awardees in the March/April time frame, meaning the Legislature would have a short window to act and reduce these funds to solve the budget problem. Other examples include \$50 million for dam safety (given the Governor already proposes a reduction of the other \$50 million, an additional reduction would eliminate the pilot program) and \$104 million for WCB's streamflow enhancement program.

Staff Comments

Why do these investments and cuts matter?

Although a natural feature of California's Mediterranean climate, drought conditions have become more frequent and intense. From 2000-2021, the Western United States experienced its driest period in at least 1,200 years, according to the journal *Nature Climate Change*. Simultaneously, our wet years have become more intense. At the start of 2023, a succession of atmospheric rivers followed our year-over-year drought. In 24 days, 34 trillion gallons of water fell across California. By April 1, the San Joaquin region recorded its wettest October-March in the observed record since 1896. The Southern Sierra Nevada recorded its largest snowpack for April 1 since 1950. These shifts between two opposing weather conditions are colloquially known as "weather whiplash." Climate change is expected to increase the frequency and severity of weather whiplash events, having serious impacts on California residents, the state's natural lands, and the built environment.

Droughts put pressure on the state's water supply in multiple ways. Reduced precipitation means there is less water available to replenish reservoirs and groundwater supplies. Drought conditions also lead to a reliance on groundwater. Over-extraction of groundwater during droughts can cause land subsidence and permanent loss of groundwater storage capacity. Finally, droughts create dry conditions, making forests and grasslands more susceptible to wildfires. Wildfires not only consume water directly but also damage watersheds, making the water supply more vulnerable to pollution and sedimentation.

In regards to floods, more volatility and warming make flash floods more intense due to the increasing share of precipitation that falls as rain rather than snow. This increases flood risks and, in terms of water supply management, makes it difficult to capture water in existing infrastructure that is not built for heavy rainfall. Storms can also cause erosion, stability, and

seepage damage to Sacramento and San Joaquin River Basins, and put levees in these river basins at risk of failure.

Through the state's myriad of conveyance systems, watersheds, and local/ state management agencies, most Californians can turn on their faucet and access safe and affordable drinking water. However, this is not the case for everyone. Since 2017, the State Water Board has been tracking community water systems and K-12 schools that meet the State Water Board's Failing criteria. Altogether, just over 1.2 million Californians were served by a failing water system at some point during 2022, but at any one time, the number was lower, fluctuating throughout the year as systems were removed or added to the Failing list. The Failing list from January 1, 2023, had 388 water systems, serving a population of approximately 938,000 people.

The Subcommittee may want to ask the following questions:

1. For each of the proposed reductions, delays, and fund shifts, can you explain why the Administration offered those solutions to the chosen programs?
2. How will cuts to water recycling impact our ability to reach our water supply goals as outlined in the Administration's water supply strategy (create storage space for up to 4 million acre feet of water, recycle and reuse at least 800,000 acre-feet of water per year by 2030, conserve 500,000 acre-feet of water)?
3. Why did the Administration choose to cut water recycling when the Water Board just adopted regulations to expand the use of water recycling to include drinking water?
4. How do the programs the Administration selected to maintain ensure that we are responding to weather whiplash and a future with less rain?
5. Why did the Administration choose to cut dam safety investments to a paltry \$50 million over multiple years despite the State Auditor repeatedly calling out there are 89 hazard dams in the State?
6. Are there any other programs that water districts can seek funding to remove PFAS from their water since that funding has been significantly reduced?
7. What federal funding opportunities have the Departments applied for/received that are similar to what is proposed for reductions?
8. In what ways are we prioritizing investments that support California's most vulnerable communities from the impacts of climate change (examples: Low-income Californians, those disproportionately impacted by flood or drought)?
9. How did the Administration take the cost of non-action into account when deciding what programs to cut?

a. For example, what is the financial risk to the state by reducing funding for dam safety?

10. For the alternative reductions the LAO shared in their comments, can you explain why those programs were not chosen for proposed reductions?

Staff Recommendation: Hold Open.

0540 Secretary for the California Natural Resources Agency
3600 Department of Fish and Wildlife
3860 Department of Water Resources

Issue 3: Salton Sea Management Program Project Delivery and Operational Needs

The Governor's budget requests \$65.2 million General Fund and 18 permanent positions starting in 2024-25 (plus ongoing state operations and capital outlay funding), \$3.3 million General Fund in 2025-26, and \$3.3 million Salton Sea Lithium Fund in 2026-27 and ongoing across agencies for the Salton Sea Management Program Project, a habitat and dust suppression restoration project at the Salton Sea.

Background:

Although the Salton Sea (Sea) is a lake located in an area of Southern California with a relatively sparse population, changing conditions in and around the Sea have statewide importance. This is due both to the potential for significant negative impacts to public health and the environment, as well as to the fiscal and programmatic commitments the state has made to try to prevent such impacts. Effectively responding to conditions at the Salton Sea represents a considerable and costly challenge for the state in the coming years.

The Salton Sea is California's largest lake by surface area, stretching about 35 miles long and up to 15 miles wide, with a water surface of approximately 360 square miles—almost twice the surface area of Lake Tahoe. It is located in the desert of Southern California and stretches from Imperial County to Riverside County. The Salton Sea watershed is part of the Colorado River basin, and encompasses roughly 8,000 square miles. The Sea is large in area but shallow, with an average depth of less than 30 feet and a surface lying 240 feet below sea level. Runoff and agricultural drainage flow into the Sea from farm-rich Imperial County, in addition to Riverside, San Bernardino, and San Diego Counties, as well as the northern portion of Mexico's Mexicali Valley.

Over the past millennia, the meandering Colorado River periodically filled the Salton Basin, creating ancestral freshwater lakes that eventually evaporated. Today's Sea was formed in 1905 when massive flooding caused the Colorado River to break through an irrigation canal and flowed uncontrolled into the Salton Basin for 18 months. After the breach in the irrigation canal was fixed, the Salton Sea has been primarily sustained by agricultural drain water, approximately 80 percent of which flows from the farming-heavy Imperial Valley to the south. However, inflow into the Sea has declined over the past several decades, causing the water level to recede. This has led to increased salinity and concentrated nutrients from farm runoff, both of which create inhospitable conditions for animal life. The Sea is currently more than twice as salty as the ocean, and nutrient pollution has caused an overgrowth of algae which are depleting oxygen levels. Many species depend on the Salton Sea ecosystem: it is home to many species of fish and is a critical stop on the Pacific Flyway for migrating birds, including several threatened and endangered species.

Further, receding water levels create public health risks for nearby residents due to air pollution from dust particles released from the previously submerged lakebed. With no natural outlet, decades of agricultural and wastewater accumulation are embedded in the Sea’s now-exposed soils. As the Sea continues to shrink, more of this particulate matter that contains dangerous pollutants will be released into the air.

Governor Newsom signed Senate Bill 125 in June 2022, which created an excise tax on lithium extraction beginning in January 2023. The bill directs 80 percent of the tax revenue to Imperial County and 20 percent to maintenance and development of Salton Sea restoration projects and grants for community engagement or community-benefit projects at or around the Salton Sea; however, no commercial lithium extraction has occurred to date.

Approximately \$590 million has been authorized for state management activities of the Salton Sea since 2000.

Figure 3
Funding for the Salton Sea Management Program

As of September 20, 2023 (In Millions)

Source	Authorized	Unspent	Use
State	\$448.0	\$2.1	
Proposition 12 (2000)	\$4.8 ^a	—	Species Conservation Habitat (SCH) project construction.
Proposition 50 (2002)	32.9 ^a	\$0.1	Environmental Impact Report and related studies and planning activities; SCH project construction.
Proposition 84 (2006)	44.2 ^a	2.0	SCH project planning and design, support for projects (Red Hill Bay, Seawater Marine Habitat Pilot, and Torres-Martinez Wetlands), and staffing and planning activities.
Proposition 1 (2014)	80.0 ^a	—	Staffing and project design and SCH project construction.
Proposition 68 (2018)	185.0 ^a	—	SCH project construction, habitat and dust suppression projects, North Lake Demonstration Project, and staffing.
Revive the Salton Sea Fund (tax check-off box from 2017-2019)	0.2	—	Restoration projects and/or maintenance and public awareness and education programs.
General Fund	101.0	—	SCH project construction, vegetation enhancement projects, project design, and staffing.
Federal	\$71.8	—	
Bureau of Reclamation	\$1.8	—	State planning activities and implementation of dust suppression projects.
Bureau of Reclamation	70.0	—	Construction and project management of initial SCH Expansion project.
Local	\$68.5	—	
Salton Sea Restoration Fund	\$68.5	— ^b	CDFW staffing, wildlife surveys, monitoring, CEQA review, and permit issuance.
Totals	\$588.2^c	\$2.1	

^aAuthorized bond funds do not include state debt service costs for interest.

^b\$68.5 million is the total amount that IID, CVWD, and SDCWA will provide by 2047 (through annual payments of approximately \$1.58 million).

^cDoes not include annual General Fund allocations of \$425,000 and annual reimbursements from DWR of \$316,000 to support positions at CNRA and CDFW.

CDFW = California Department of Fish and Wildlife; CEQA = California Environmental Quality Act; IID = Imperial Irrigation District; CVWD = Coachella Valley Water District; SDCWA = San Diego County Water Authority; DWR = Department of Water Resources; and CNRA = California Natural Resources Agency.

Proposal Details:

This proposal would provide the multi-agency Salton Sea Management Program with the following:

- \$60 million General Fund for capital costs in 2024-25 for new vegetation enhancement projects and aquatic projects to the Department of Water Resources (details below)
- \$4.3 million General Fund in 2024-25, and \$1.3 million 2025-26 for nine permanent positions with the Department of Water Resources to be phased in over the next two fiscal years (administration states these position costs will shift to the Salton Sea Lithium Fund in 2026-27)
- \$718,000 General Fund in 2024-25, and \$1.7 million General Fund in 2025-26 for 8 permanent positions in the Department of Fish and Wildlife (shifted to Salton Sea Lithium Fund in 2026-27)
- \$185,000 General Fund in 2024-25 and 2025-26 to the California Natural Resources Agency for one permanent position

The \$60 million requested for restoration projects would be used for the following:

Title	Description/Use	Timeline	Acreage of Project	Cost
North Lake Project	<ul style="list-style-type: none"> • Develop project design • Secure land access. 	Design completion by the end of 2025.	1,600 acres	\$3 million
Species Conservation Habitat Project Expansion	<ul style="list-style-type: none"> • finalize land access • produce a preliminary design 	Project completion is expected at the end of 2027	Planned to be expanded by up to 5,000 acres	\$8 million
Wister Bird Unit Marsh Bird Habitat Project	<ul style="list-style-type: none"> • site preparation and construction 	Project completion expected June 2026	160-acre restoration project	\$500,000
SCH Vegetation Enhancement Project	<ul style="list-style-type: none"> • develop water and land use agreements • develop preliminary design • Secure permits • Secure contractor 	Preliminary design and water and land use agreements are planned to be completed by March 2026	535-acre dust suppression/vegetation management	\$11.5 million
IID Clubhouse Vegetation Enhancement Project	<ul style="list-style-type: none"> • Planning, design, and construction 	This phase will be completed by June 2025	210-acre dust suppression/vegetation management	\$7 million

San Felipe Fan Project	<ul style="list-style-type: none"> • Continue hydrological modeling and conceptual designs • Secure land use agreements • Produce construction bid package • Award construction contract 	Project completion expected end of 2027	660-acres dust suppression project	\$30 million
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Panel

- Samantha Arthur, Assistant Secretary for Salton Sea Policy, California Natural Resources Agency
- Chuck Bonham, Director, California Department of Fish and Wildlife
- Evon Willhoff, Lead Manager, Salton Sea Restoration Office, Department of Water Resources
- Lizzie Urie, Finance Budget Analyst, Department of Finance
- Andrew Hull, Finance Budget Analyst, Department of Finance
- Sonja Petek, Principal Fiscal & Policy Analyst, Legislative Analyst’s Office

LAO Comments

To view the LAO’s full report on the Salton Sea Management Program 2024-25 proposal visit, <https://www.lao.ca.gov/Publications/Report/4859>:

General Fund Condition Requires Tough Choices and a Higher Bar for Approving New Spending. The Governor’s Salton Sea proposals would commit the state to General Fund expenditures of \$65.2 million in 2024-25 and \$3.3 million in 2025-26. Importantly, the current deficit means that General Fund revenues already are insufficient to fund existing baseline commitments. In this context, every dollar of new spending in the budget year comes at the expense of a previously identified priority and requires finding a commensurate level of solution somewhere within the budget. The Governor “makes room” for proposed new spending on Salton Sea projects and staffing by making reductions to funds committed for other programs, including many in the climate and natural resources areas. However, our office estimates that the administration’s revenue projections are overly optimistic and the budget deficit likely will exceed the level of solutions included in the Governor’s proposal, requiring the Legislature and Governor to identify additional actions to balance the budget. Given the serious budget challenges this year, we suggest the Legislature apply a high bar to its review of new spending proposals, be very selective in approving any of them, and recognize that they will require finding additional General Fund solutions from existing commitments.

Maintaining Progress Toward Acreage Goals Represents State Responsibility and Is Important to Avoid Serious Public Health and Environmental Risks... Mitigating the deleterious public health impacts of toxic dust and the environmental implications of deteriorating bird habitat at the Salton Sea remain important—and required—state responsibilities. The SWRCB stipulated order requires at least 29,800 acres of projects be completed by the end of

2028, just under five years from now. While the state does not have primary financial responsibility for mitigating the impact of a declining Sea on the local economy, it also has an interest in supporting the well-being of residents and businesses in the region.

...Yet Administration Has Sent Mixed Messages on Funding Urgency. The Governor's May 2023 proposal to reduce \$169 million from previously committed and planned General Fund for Salton Sea projects signaled to the Legislature that funding was not urgently needed to accomplish state goals in the region. (As noted earlier, the Legislature modified this proposal in the final budget action to include a smaller yet still significant reduction of \$119 million.) Now—as the state budget condition has gotten even worse—the administration proposes to partially reverse this action by providing \$65 million in new resources. These mixed messages from the administration make it difficult for the Legislature to gauge the true urgency of providing funding this year. The administration has not provided a compelling explanation for the turnaround between its contention that the SSMP could accommodate such a significant reduction in funding last year and now, less than a year later, its argument that a new augmentation is critical.

Proposal Raises Several Key Questions for Legislative Consideration. The proposed request for \$60 million to initiate six Salton Sea projects raises a number of questions the Legislature might wish to consider as it weighs this request against its other budget priorities.

- **Is SSMP on Track to Meet Annual Acreage Targets, Even if It Receives Requested Funding?** The program and associated projects were very slow to get started—the QSA was signed in 2003 and the first projects were completed about 20 years later. Since the SWRCB stipulated order was issued in 2017, SSMP has missed required annual acreage targets in each of the first five years. Although the program has some momentum currently—nearing completion on its first large-scale project and with numerous projects underway or in planning—what will happen after these existing projects are complete still is unclear. In previous years, the program had plenty of funding yet still made slow progress—that is, money-on-hand does not appear to have been the key barrier or enabler to project success. For example, finalizing land access agreements with the various landowners around the Sea can be challenging. The administration seemingly resolved—at least temporarily—some of the difficult issues that create significant project delays (land access issues, permitting with a variety of federal and state entities, and uncertainties about the changing environment)—to make recent progress on the SCH project and several smaller projects. However, has the administration been able to resolve or make headway on those issues more generally for upcoming and future projects? What assurances does the Legislature have that if it gives precedence to providing this funding for the SSMP over other state priorities, the program can spend the requested funds promptly and complete the specified activities?
- **Is the Full \$60 Million Truly Needed This Year?** Although the requested \$60 million would be spread across six projects and support various planning, design, permitting—and in one case construction—activities, why this specific amount of funding is required this year is unclear. What specifically does the program plan to accomplish in 2024-25 and is the full \$60 million needed immediately? What are the potential trade-offs and implications of providing a lesser amount?

- **What Is the Longer-Term Plan for Completing the Proposed Projects?** The proposed funding would support the initial stages of five projects as well as design and construction of one small project. Yet the administration has not provided information regarding how subsequent phases of these six projects would be funded. Given the expected General Fund condition over the next several years, the Legislature will want to consider the wisdom of providing funding in 2024-25 to begin projects that the state might be unable to continue supporting to completion. The Governor's proposal represents a larger multiyear commitment that might be fiscally unfeasible to sustain in the future without taking other measures, such as reducing funding for core ongoing programs to free up General Fund or asking voters to approve a bond measure. As such, the Governor's approach runs the risk of spending funds to start projects, but having to stop the work before they are complete without achieving the actual objectives.

State Cost Share on Feasibility Study Could Help Secure Future Federal Funding. In 2022, the state entered into a cost-sharing agreement with the federal government for the USACE feasibility study and \$3 million is needed for the current required state payment (the total state cost share is \$8 million; the state already paid \$1.5 million and will be required to pay another \$3.5 million in the future). Depending on what the study finds, it could lead to federal project support in the future. Spending a relatively modest amount of state funding for the chance to undertake long-term restoration with federal support seems a compelling justification for this proposed expenditure, despite the General Fund condition.

Supporting Maintenance and Operations of Completed Projects Would Preserve State's Investments and Objectives... As shown in Figure 5, the Governor proposes a total of 18 new positions for the state's work at the Salton Sea. Of these, eight new positions—four at DWR and four at CDFW—would be to maintain and operate (1) the SCH project as it reaches completion and (2) three vegetation enhancement projects that are nearing completion. (Five positions would be authorized starting in 2024-25 and an additional three beginning in 2025-26.) These positions have an associated General Fund cost of about \$700,000 in 2024-25 growing to about \$1.2 million in 2025-26 and ongoing. (The proposal plans to shift support for these positions to the Salton Sea Lithium Fund beginning in 2026-27.) The state has already expended significant time and resources to plan, design, and construct these projects. As such, a strong rationale exists for providing a modest amount of ongoing funding to preserve the value of those investments and ensure that the projects achieve their intended goals. Ongoing maintenance and operations activities would include upkeep of the infrastructure associated with these projects (for example, utility equipment such as backhoes, trucks, and dozers; radial gates; weirs; levees; pipelines; and aqueducts) as well preservation of habitats (for example, invasive species control, cleaning drainages, maintaining equipment, and conducting surveys).

...But Urgent Need for Other Positions Less Clear. The remaining ten positions proposed by the Governor would no doubt be helpful in supporting state activities at the Salton Sea. For example, proposed new staff would provide legal support, including on land access agreements; conduct outreach and engagement activities in local communities; provide environmental science expertise, including data collection and species surveys; provide administrative support; and manage budgets. However, in the context of the General Fund

condition and resulting trade-offs, we are not certain whether these positions are absolutely vital to begin conducting these activities immediately. The Legislature could consider waiting to fund these positions until other revenue sources—such as lithium tax revenues—become available.

Delaying Some Activities Could Provide Opportunity to Use Other Funding Sources. A couple of other funding sources could become available to support some of the Governor’s proposed activities in the next few years. As such, the Legislature may want to consider waiting to see if such funds materialize in lieu of providing General Fund for these activities now. First, part of the current request—\$8 million—is for the SCH Expansion project. The administration indicates this funding is intended to serve as a bridge until additional federal funds are received. However, the administration already received \$70 million in December 2023 from Reclamation for this project and anticipates an additional \$175 million in federal funds may be forthcoming. Moreover, Reclamation does not require a state cost share to draw down these federal funds. Consequently, the Legislature could consider waiting for additional federal funding for the SCH Expansion project activities rather than providing General Fund now. Second, lithium tax revenues provide another possible source of funding for Salton Sea projects. The administration estimates the lithium tax could generate about \$9 million for SSMP in 2026-27 and up to \$35 million by 2028-29. The Legislature could defer supporting some of the proposed funding for positions and projects until lithium revenues become available. While such steps could help the General Fund now, a clear trade-off of waiting to see if other funding sources materialize is delaying project initiation. Postponing progress on the proposed projects could in turn lead to delays in meeting SWRCB’s acreage targets and, more importantly, in mitigating the negative impacts of a shrinking Sea.

Meeting the State’s Ongoing Responsibilities at the Salton Sea Will Require Longer-Term Funding Commitment. The Governor’s 2024-25 proposals represent just one set of projects needed for the state to meet its 2028 restoration target at the Salton Sea. Given the significant public health and environmental risks at the Sea, as well as the state’s legal responsibilities, the Legislature will need to grapple with how to fund these particular projects, additional (and as-yet undetermined) activities to meet Phase 1: 10-Year Plan acreage goals, and future projects in subsequent phases as the Sea continues to shrink. If the state cannot afford to support these costs on a pay-as-you-go basis with General Fund, it could consider using general obligation bond financing (which is also paid for with General Fund, but over a longer period). While that comes with the cost of debt service (including additional costs for paying interest on the debt), the annual cost is lower than paying up front. Another consideration is the timing of when the funds would be available to support projects. Even if the Legislature were to pursue a bond containing funding for Salton Sea projects, it would have to wait for a statewide election, the proposal would have to be approved by voters, and the resulting funds would not be available until after the election. (As such, bond funds could not be available at the beginning of the 2024-25 fiscal year to implement the Governor’s proposals.) In addition, all projects will require ongoing maintenance activities to preserve their intended functions once construction is complete. While bond funds can be helpful to support capital construction, they are not an ongoing solution for maintenance and operations costs. Lithium tax revenues may provide a source of funding upon which the state can depend in the future—however, the degree to which those will materialize (and when) still is uncertain. The Legislature also could consider the use of other special funds, such as, for example, the Greenhouse Gas Reduction Fund (GGRF), for

Salton Sea projects. (While these projects would not directly reduce greenhouse gas emissions, they would reduce air pollution in the region and provide benefits to a largely socioeconomically disadvantaged population, which could make GGRF an appropriate fund source to consider. The trade-off of this approach would be less GGRF available for other activities.)

Recommendations

Approve Request That Could Lead to Federal Funding. We recommend that the Legislature approve \$3 million for the state's share of cost for the USACE feasibility study, as the state already committed to providing these funds and this relatively modest state investment could yield potentially significant future federal funds to help meet the state's goals.

Approve Positions for Maintenance and Operations of Completed Projects. We recommend the Legislature approve funding and positions to support the ongoing maintenance and operations of projects the state has nearly completed at the Salton Sea, including the large-scale SCH project. This staffing would protect the state's previous investments in these projects and help ensure the projects achieve intended goals. Specifically, we recommend approving (1) approximately \$700,000 and five ongoing positions (four at DWR and one at CDFW) beginning in 2024-25 and (2) a total of \$1.2 million and three additional positions (at CDFW) beginning in 2025-26 and on an ongoing basis. Once the Salton Sea Lithium Fund contains sufficient resources to support these costs in the coming years, the Legislature can shift them off of General Fund support.

Weigh Trade-Offs of Funding the Governor's Other Proposals—Perhaps at a Partial Level—Against Other Budget Priorities. We find that the proposed SSMP projects have merit and remain important for addressing public health and environmental risks at the Salton Sea. Similarly, the other ten positions the Governor requests could help pursue the state's goals in the region. However, providing the full amount of General Fund the Governor proposes in 2024-25 would mean having to find additional budget solutions. Given the worsening budget condition, this could mean cutting into core ongoing programs. As such, we recommend the Legislature carefully consider how these activities rank alongside its other General Fund priorities. If supporting Salton Sea projects and staffing are important 2024-25 priorities for the Legislature even in constrained budget conditions, it has a couple of options for how it could proceed if it wanted to modify the Governor's proposal.

First, it could consider providing a lower amount of funding to support fewer projects and/or fewer staff. This could allow the state to continue to make some progress on its goals at the Sea albeit at a slower pace. The Legislature could use one or more criteria to guide its decisions about which projects to support. For example: Which projects would be the most straightforward to complete (such as because they lack complex land access issues or would require fewer permitting hurdles)? Which would mitigate the public health impacts of toxic dust most effectively? Which would result in the most restoration acres completed? Which might leverage federal support? Which staff activities are most essential to conduct in the near term?

Second, the Legislature could consider providing the full amount requested, but to support fewer projects all the way through completion. This would address the concern that funding constraints

might stall progress on the subsequent activities needed to finish the projects. For example, rather than funding the initial stages of all six projects displayed in Figure 4, the Legislature could instead provide \$60 million to support the full project implementation costs for four of the six projects: San Felipe Fan (\$35 million), SCH Vegetation Enhancement (\$13.4 million), IID Clubhouse Expansion (\$8.4 million), and Wister Bird Unit Marsh Bird Habitat Project (\$600,000).

Exercise Caution in Initiating Projects Without Plan for Next Steps. The Governor's proposed approach of starting six projects without having identified a funding plan for their completion raises concerns. To avoid that outcome, we recommend the Legislature either ask the administration to come back in May with a funding plan to complete the six projects or consider one of several options itself in light of these out-year uncertainties. For example, it could consider scaling down the proposal and only funding a select number of projects but supporting them through their completion, as described above. As an alternative, it could plan for a bond or build General Fund into its multiyear spending plan (as discussed next). Another option would be waiting until SSMP has more certainty about potential future federal funds and lithium tax revenues before initiating new projects. Whatever level of projects the Legislature chooses to support, we suggest it only do so if a plan is in place for how to fund these projects through completion to avoid stranded assets and wasted expenditures.

Consider How to Fund the State's Longer-Term Commitment at the Salton Sea. Salton Sea management is a state responsibility and, left unmitigated, conditions at the Sea pose serious health and environmental risks. However, addressing this commitment far exceeds a one-time \$60 million appropriation. We recommend the Legislature consider some combination of the following approaches for crafting a longer-term funding plan at the Sea:

- **Bond Financing.** The Legislature could ask voters to approve a general obligation bond containing funding to complete all Phase 1 projects.
- **Lithium Tax Revenues.** Once more is known about the new lithium extraction industry in the region, the Legislature could develop a multiyear plan to support certain projects and/or activities based on the amount of revenues expected to be available each year.
- **General Fund.** The Legislature could identify a certain amount of annual funding to dedicate to meeting its obligations at the Sea and build it into its baseline multiyear budget plans. This could include support for both operations and maintenance as well as modest annual allotments to make progress on capital projects.
- **Special Funds.** The Legislature could explore dedicating a certain amount from GGRF or other appropriate special funds for Salton Sea projects and activities.

Staff Comments

The Subcommittee may wish to ask the Departments the following questions:

1. What is the Quantification Settlement Agreement?

- a. What is the State’s role in maintaining the Salton Sea and how did this come about?
 - b. How does the Salton Sea relate to larger conversations about the Colorado River?
2. The 2023-24 budget reduced funding for Salton Sea projects by \$119 million (and the Governor had proposed reducing it by even more: \$169 million). What is the rationale for making reductions in 23-24 and then requesting additional funding in 24-25? Why is funding needed more vitally now?
3. How close is the state to collecting lithium extraction taxes?
 - a. How confident are you that the tax revenues will be available to support the current request starting in 2026-27?
4. Given the state’s budget problem, could the \$60 million for proposed new vegetation enhancement and aquatic projects be put on hold?
 - a. What stage are these projects in?
 - b. What are the trade-offs of pausing the projects until budget conditions improve?
 - c. Are there certain projects that require funding more urgently?
5. What are the potential ramifications of missing the 2028 requirement to have completed 29,800 acres?
6. What is the long-term plan for completing the proposed projects?

Staff Recommendation: Hold Open.

3860 California Department of Water Resources

Issue 4: Various Flood Protection Proposals

The Governor’s budget includes \$93.9 million one-time General Fund to support flood safety efforts, including:

- \$31.3 million General Fund to support the continuation of existing multi-benefit flood risk reduction projects in the Central Valley.
- \$33 million General Fund to support the state cost share of continuing U.S. Army Corps of Engineers projects and Urban Flood Risk Reduction projects that address flood risk reduction, as well as the associated state operations costs to implement the projects.
- \$29.6 million General Fund to address storm damage at State Plan of Flood Control facilities.

For non-General Fund and ongoing costs, the Governor’s budget requests \$1.2 million in ongoing from the Water Rights Fund to support 5.0 positions to help expedite groundwater recharge permits. The proposed positions – 4.0 within the Division of Water Rights and 1.0 within the Administrative Hearings Office – would review recharge applications, implement new recharge reporting requirements established in the Public Resources Code, coordinate with applicants and the Department of Water Resources on future recharge projects, help address the water rights permitting backlog, and support hearings for protest resolution.

Central Valley Systemwide Flood Risk Reduction

The Governor’s budget requests \$31.3 million of General Fund Capital Outlay (CO) to implement continuing large-scale multi-benefit flood risk reduction projects in the Central Valley - \$22.5 million for projects in the Sacramento Valley and \$8.8 million for a project in the San Joaquin Valley. The Sacramento Valley projects include \$11 million for the completion of Yolo Bypass Fix-in-Place projects and \$11.5 million for Upper Sacramento River Basin Projects including the Kopta Slough project. The San Joaquin Valley project funding is for the Crows Landing Floodplain Restoration.

Project Name	Total Cost \$M	Fed Cost Share	Local Cost Share	State Cost Share	State \$ allocated	'24-'25 request	Remaining State Share	Timeline to complete	Funding Sources
Yolo Bypass Fix-in-Place	\$51M	\$0	\$0	\$11M	\$40M	\$11M	\$11M	3 Years	GF, Prop 1, Prop 68
Upper Sac River Kopta Slough	\$21.5M	\$10M pending	\$0	\$11.5M	\$0	\$11.5M	\$11.5M	2 Years	n/a
Crow’s Landing	\$9.1M	\$0	\$0	\$8.8M	\$0.3M	\$8.8M	\$8.8M	3 Years	Prop 68

Central Valley Systemwide Flood Risk Reduction – Sacramento Valley

\$11 million for Yolo Bypass fix-in-place, construction phase: This funding will fully fund levee repairs identified by locals in the Yolo Bypass where other projects are not planned.

\$11.5 million for Upper Sacramento River Basin Projects including the Kopta Slough project, construction phase: This funding will fund construction of this project to reduce the risk of flooding by sustainably maintaining the Sacramento River channel with associated habitat improvements.

Central Valley Systemwide Flood Risk Reduction – San Joaquin Valley

\$8.8 million for Crows Landing Floodplain Restoration, construction phase: This funding will be used to construct restoration in the San Joaquin River floodplain. Through the restoration of the floodplain, the project will deliver a reduction in flood risks by providing a wider area for flood flow to spread out in an area that will be regularly maintained.

Urban Flood Risk Reduction

The Governor’s budget requests \$33 million in General Fund, including \$23 million for Capital Outlay to support state cost-share of United States Army Corps of Engineers (USACE) projects and Urban Flood Risk Reduction (UFRR) projects and \$10 million for State Operations to support and manage USACE and UFRR projects during FY 2024-25. The governor’s budget also includes a five-year extended encumbrance and a two-year liquidation period for the \$23 million Capital Outlay project funds.

Name of Project	Total Project Cost	Federal Cost Share	Local Cost Share	State Cost Share	State \$ Allocated to Date	FY24-25 Request	Remaining State Cost-share	Current Project Phase	Year of Initial Funding	Completion Estimate	Funding Sources (not including FY24-25)
USACE Projects											
Folsom Dam Raise ²	\$476M	\$394M	\$61.5M	\$20.5M	\$20M	\$0.5M	\$0M	Construction	FY 10/11	2028	P1E \$20M
Natomas Project	\$1.23B	\$798M	\$131M	\$300.6M	\$240M	\$1M	\$59.6M	Construction	FY 09/10	2027	P84 \$39M; P1E \$141M; GF \$60M
West Sacramento Project	\$1.14B	\$733M	\$120.6M	\$276.4M	\$206.3M	\$6M	\$64.1M	Design and Construction	FY 09/10	2034	P1E \$158M; GF \$48.3M

Lower Cache Creek Project (Woodland)	\$323M	\$210M	\$33.9M	\$79.1M	\$2M	\$0.5M	\$76.6M	Design	FY 10/11	2036	GF \$2M
Lower San Joaquin Project (Stockton)	\$1.4B	\$910M	\$147M	\$343M	\$167.8M	\$12M	\$163M	Design and Construction	FY 08/09	2038	P1E \$111M; P68 \$3M; GF \$53.8M
Marysville Ring Levee Project ¹	\$214M	\$139.1M	\$22.5M	\$52.4M	\$37.8M	\$1M	\$13M	Construction	FY 08/09	2029	P1E \$37.8M
USACE Studies											
Yolo Bypass Comp Study	\$8M	\$4M	\$2M	\$2M	\$1M	\$0.5M	\$0.5M	Study	FY23/24	2040	GF \$1M
Lathrop Manteca Feasibility Study	\$8M	\$4M	\$2M	\$2M	\$1M	\$1M	\$0M	Study	FY 08/09	2038	GF \$1M
UFRR Projects											
Smith Canal Gate Project ²	\$93.8M	\$0	\$35.5M	\$58.3M	\$56.3M	\$0.5M	\$1.5M	Construction	FY 18/19	2024	P1E \$32.8; P68 \$3M, GF \$20.5M
Total	\$4.8B	\$3.1B	\$556M	\$1.1B	\$807M	\$23M	\$378M				

Winter Storm Levee Repair Early Action

The Governor’s budget requests the following in response to 2023 winter storm damage:

- \$13.522 million including \$12.845 million in local assistance and \$677,000 in State Operations to address critical levee repairs to protect DWR-owned lands and infrastructure in the Sacramento and San Joaquin Delta.
- \$3 million to DWR for the State’s cost share of United States Army Corps of Engineers sites for Land, Easements, Rights-Of-Way, Relocations, and Disposal Areas (LERRDS) construction payments.
- \$13.1 million to CDFW to repair infrastructure at the 11,800-acre Mendota Wildlife Area in Fresno County.

During the winter of 2023 California was hit by 19 atmospheric rivers which resulted in a statewide snowpack that was 237% of average on 1 April 2023. Excessive precipitation resulting from the storms led to States of Emergency being declared in 54 out of 58 California counties due to flooding. These storms caused erosion, stability and seepage damages to Sacramento and San Joaquin River Basins, resulting in 248 damaged sites on State Plan of Flood Control Levees. The Department of Water Resources (DWR) has taken immediate action on 13 damaged sites for flood contingency repair to stabilize the sites before permanent repair can be initiated. As a result of the flooding, the US Army Corps of Engineers (USACE) opened PL84-99 Rehabilitation Assistance to address the 2023 storm damages and \$52 million was allocated to DWR to begin State Plan of Flood Control repair work under the 2023 Storm Damage Emergency Repairs Program to cover PL 84-99 obligations, temporary contingency repairs, and planning design and permitting for permanent repairs.

The extent and severity of damage from these storms has resulted in the need for additional current year funding to repair damage and protect public health and safety. Funding authorized in the current year will allow the DWR and the Department of Fish and Wildlife (CDFW) to begin the contracting process and perform work during the spring and summer of 2024. A delay in funding could result in departments missing this window and having to wait until spring 2025 to begin the process.

New Groundwater Recharge Permitting Unit

The Board's Division of Water Rights (Division) is responsible for permitting potential projects, licensing completed projects, approving changes to projects, and ensuring compliance with and enforcing the water rights priority system. The wet winter of 2022-2023 resulted in a record number of 11 groundwater recharge permits and requests, and the Division processed groundwater recharge permits and petitions totaling over 1.2 million acre-feet in potential storage in under five months.

Groundwater recharge generally requires a water right permit, but many agencies lack the understanding or capacity to apply for such permits, and obtaining a water right permit has been noted as a major obstacle by potential applicants.

Local agencies are proposing 340 recharge projects over the next seven years. While local agencies have proposed more than 340 new recharge projects, some of these projects will likely rely on the same sources of unappropriated water. Others may involve fully appropriated stream systems, where the State Water Board is not accepting new applications. Timely processing of permit applications in these situations will help ground truth where supplies are limited so that local agencies can focus on other approaches for resiliency and Sustainable Groundwater Management Act (SGMA) compliance and identify other supplies that may become available as hydrology changes due to climate change.

California's Water Supply Strategy published by the Administration in August 2022 has identified groundwater recharge as one of the fastest, most economical, and widely available ways to develop new water supplies and help cope with dry years. It also helps to halt or prevent land surface collapse due to over-pumping, which can damage roads, canals, and bridges. For many local agencies, groundwater recharge is a key component of meeting their obligations under the

SGMA. If built, the more than 340 new recharge projects proposed by local agencies could result in as much as 2.2 million acre-feet of additional stored water in a single wet year by 2030. By the end of this year, the State cumulatively will have invested \$350 million in local assistance for recharge projects.

Panel

- James Newcomb, Deputy Director, Integrated Water Management Division, Department of Water Resources
- Laura Hollender, Deputy Director, Division of Flood Management and Safety of Dams, Department of Water Resources
- Chuck Bonham, Director, California Department of Fish and Wildlife
- Joaquin Esquivel, Board Chair, State Water Resources Control Board
- Andrew Hull, Finance Budget Analyst, Department of Finance
- Sonja Petek, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

To read the LAO's full report on the 2024-25 Flood Management Proposals, visit <https://www.lao.ca.gov/Publications/Report/4856>:

Higher Bar for Considering Approval of New Proposals Given General Fund Condition. The Governor's new flood-related proposals would commit the state to General Fund expenditures of \$94 million in 2024-25. Importantly, the state currently is experiencing a significant budget problem, where General Fund revenues already are insufficient to fund existing commitments. In this context, every dollar of new spending in the budget year comes at the expense of a previously identified priority and requires finding a commensurate level of solution somewhere within the budget. The Governor "makes room" for proposed new spending on flood projects by making reductions to funds committed for other programs, including many in the climate and natural resources areas. However, our office estimates that the administration's revenue projections are overly optimistic and the budget deficit likely will exceed the level of solutions included in the Governor's proposal, requiring the Legislature and Governor to identify additional actions to balance the budget. Given the serious budget challenges this year, we suggest the Legislature apply a high bar to its review of new spending proposals and be very selective in approving any of them.

Early Action Repairs Meet That Higher Bar. In our view, the Governor's early action requests meets this high threshold for justifying new spending for three key reasons. First, the state is financially responsible for repairing damage on state-owned land—in the Delta and in the Mendota Wildlife Area—and is liable for levee failure. In addition, the repair to Delta levees provides flood protection to state-owned land and infrastructure. The costs associated with repairs at Mendota Wildlife Area may eventually be reimbursable by FEMA. Second, the state must provide its share of costs to draw down federal levee rehabilitation program support. An additional \$3 million is needed for this purpose. Neglecting to provide this funding likely ultimately would result in even higher costs for the state—either to undertake the repairs on its

own without federal support or to pay for the damage and recovery costs that might occur if the repairs are not made. Third, approving funding early will allow the repairs to be finished in the spring and summer, ahead of the next rainy season. Waiting to consider these proposals in the regular budget process could delay construction until spring of 2025, increasing risks during the fall and winter.

Urban Flood Risk Reduction Projects Also Meet That Higher Bar. In our view, the urban flood risk reduction projects (including the state operations activities required to support them) also meet this high threshold for justifying new spending for the reasons described below.

- **Part of State’s Core Responsibilities in Central Valley.** The funding would support projects that are part of the SPFC, which the state has the responsibility—and associated liability—to maintain.
- **Provide Critical Public Health and Safety Benefits.** These projects provide flood protection to people, properties, and infrastructure in urban areas, defined as areas with more than 10,000 residents. Given the significant population and assets located in these regions, the fiscal and safety risks of failing to adequately protect against flood damage and levee failures are considerable.
- **Leverage Significant Federal Funding.** Because these projects are conducted in collaboration with USACE, they help to draw down significant federal funding—USACE covers up to 65 percent of a project’s cost. If the state fails to provide its cost share this year, USACE would halt the projects due to nonperformance and redirect funding to projects in other states. The administration indicates that, were this to occur, reinstating the projects with USACE would be difficult to impossible.
- **Not Acting Now Would Lead to Higher Costs and Complications Later.** USACE supports high-priority projects for which flood protection benefits outweigh associated costs. (Under federal law, confirming a positive cost-benefit evaluation is a prerequisite for USACE to undertake any flood protection project.) That is, USACE has estimated that the economic toll to recover from flooding in these areas would be more costly than paying for these flood protection projects now. Because of its special responsibility for SPFC facilities in the Central Valley, the state could be liable for resulting repair and recovery costs should the levees fail.
- **Pausing Projects Already Underway Would Be Highly Disruptive.** Nearly all of the proposed funding supports projects that already are underway. Stopping midstream would be disruptive; almost certainly would increase overall project costs; and, given USACE requirements, likely would compromise the ability to finish the projects.

Several Compelling Reasons for Proceeding With Central Valley Systemwide Projects... Although the three projects in the Central Valley systemwide request are located in more rural areas and the direct flood risk to people and property therefore is lower as compared to the urban projects, we also find some compelling reasons for proceeding with these projects.

- **Support Disadvantaged Areas That May Not Otherwise Be Protected.** The three projects are located in economically disadvantaged areas that likely do not have sufficient local revenues (such as from property assessments) to be able to pursue this work without state assistance.
- **All Three Projects Are in Their Final Stages; Pausing Would Cause Disruption and Increase Costs.** The state already has provided funding for the initial stages of these projects and completing them expeditiously therefore would maximize previous state investments. Additionally, one of the projects—Kopta Slough—likely will leverage \$10 million in federal funding that the state could have to forgo if it fails to proceed with the project.
- **Reduce Flooding Risk in the Delta.** The Yolo Bypass Fix-in-Place project includes two levee improvement projects located in the Delta. One of the locations has been assigned a risk-based assessment of “very high priority” (the highest level) by the Delta Stewardship Council, with the other rated as “high priority” (the council’s middle ranking).
- **Provide Notable Ecosystem and Habitat Benefits.** Each project is designed to provide both flood protection as well as ecosystem and habitat benefits. For example, the Kopta Slough project would restore a river channel and remove rock revetment, ultimately leading to restoration of 170 acres of salmon rearing habitat on the Sacramento River. Similarly, the Crow’s Landing project would restore a floodplain and provide 270 acres of salmon habitat in the San Joaquin River basin. These types of projects are key components of the state’s strategy to meet its public trust responsibilities of protecting fish and wildlife—which is particularly important given the serious risk of extinction that California’s native salmon populations currently face.

...However, the General Fund Condition Complicates This Decision. Despite these potential benefits, the Legislature will need to weigh the trade-offs associated with adding new spending for these Central Valley systemwide projects against its other budget commitments. If the Legislature believes these projects are a top priority and chooses to fund them, it likely will need to make additional reductions to other planned expenditures given the worsening budget picture.

Funding State’s Responsibility for Flood Management Activities Will Be a Recurring Issue. Given the state’s responsibility for maintaining levees in the Central Valley and the rising flood risks resulting from climate change, the state will continue to face notable recurring costs associated with flood management—and, likely, recovery—in the years to come. As such, the Legislature will need to grapple with how to make room for these types of regular expenditures within its annual budgets. In years when the General Fund is not in a position to support these costs on a pay-as-you-go basis, the Legislature could consider returning to the historical practice of relying on general obligation bond financing. Although such bonds must be repaid (with interest) from the General Fund—increasing the overall cost of completing the project—in the near term, the annual cost of debt service is lower than paying up front for the projects. Another consideration is the timing of when the funds would be available to support projects. Even if the Legislature were to pursue a bond containing flood funding, it would have to wait for a statewide election, the proposal would have to be approved by voters, and the resulting funds would not

be available until after the election. (As such, bond funds could not be available at the beginning of the 2024-25 fiscal year to implement the Governor's proposals.)

SWRCB Groundwater Permitting Unit Would Expedite Floodwater Recharge Projects. We find that the proposal to increase staffing at SWRCB has merit. Adding these positions would speed up the permitting process for groundwater recharge projects, which could both improve flood protection and increase water supplies. Because the cost of these staff would be covered by permit application fees through the Water Rights Fund, approving this proposal would not worsen the General Fund condition.

Recommendations

Approve \$29.6 Million for Early Action Repairs. We recommend the Legislature approve via early action the three proposals for storm recovery and repairs. This funding would support repairs to levees and other infrastructure on state-owned land, for which the state is responsible. The funding also would enable the state to draw down additional support from USACE. Some of the costs might be recoverable through FEMA reimbursements. Approving the funding early would allow the repairs to be made this spring and summer ahead of next fall's rainy season.

Approve \$33 Million for Urban Flood Risk Reduction Projects and Associated State Operations. We recommend the Legislature approve the proposed funding for these nine projects. This funding would support important activities that help protect public health and safety by lowering risks to flood-prone urban areas. These projects are part of the SPFC, making them a core state responsibility. In addition, funding the projects would allow the state to leverage significant federal funding and avoid incurring additional costs and complications.

Weigh Central Valley Systemwide Projects Against Other General Fund Priorities. While we find that these three projects also have merit and provide both flood protection and habitat benefits, given the General Fund condition, we recommend the Legislature weigh these benefits against its other budget priorities. If the Legislature chooses to provide \$31.3 million for these projects in 2024-25, it likely will need to identify commensurate reductions in other areas to accommodate the spending.

Approve Funding and Staffing for Groundwater Recharge Permitting. We recommend the Legislature approve the request to provide \$1.2 million from the Water Rights Fund and five new positions at SWRCB. Approval of this request would have no impact on the General Fund and should result in improved permitting efficiencies at SWRCB, which in turn could lead to increased flood protection as well as groundwater recharge and water supply benefits.

Develop Longer-Term Approach for Funding Recurring Flood Management Activities. Given the state's role in flood management, the significant public safety and economic risks associated with floods, and the state's liability for Central Valley flood facilities that are part of the SPFC, we recommend the Legislature develop a longer-term approach for how to fund recurring flood-related state costs. For example, the Legislature could build some General Fund for these activities into its multiyear plans and baseline budgets. Alternatively—or additionally—the Legislature could consider asking voters to approve a general obligation

bond that might support several years of flood projects. While the former approach would have lower costs over time (as there would be no added interest charges), the availability of General Fund resources likely will be subject to revenue fluctuations and such expenditure plans could create budget pressures in certain years. In contrast, the latter approach would cost more overall, would not provide ongoing funding on a long-term basis, would be subject to voter approval, and would not make funding available immediately—however it would provide a source of funding over a shorter-term period that is less affected by downturns in state revenues and has less impact on the near-term General Fund condition.

Staff Comments

The Subcommittee may wish to ask the following questions:

1. Are storms the state is currently experiencing affecting the timeline or cost of projects proposed to receive funding?
2. Given the expiration of existing bond funds and potential future out-year deficits, are there concerns about the state's ability to complete projects that still have significant remaining state costs?
3. For the Central Valley Systemwide Flood Risk Reduction proposal, can you share why local Reclamation districts or other local agencies cannot fund these projects?
4. If the Legislature were to reject this urban flood risk proposal, how much Federal funding is the state at risk of losing this year?

For Groundwater Recharge Permitting positions:

1. This Subcommittee recently held a joint oversight hearing on the implementation of the Sustainable Groundwater Management Act, where the Department of Water Resources emphasized the importance of groundwater recharge projects in achieving long-term sustainability for local groundwater sustainability agencies.
 - a. Can you offer more detail about how this proposal supports SGMA implementation?
2. Where do groundwater recharge projects fall on the spectrum of cost-effectiveness when it comes to water storage strategies?
3. Are any of the 340 new recharge projects proposed by local agencies duplicative of one another?
 - a. Is the Water Board facilitating coordination among local agencies to ensure project delivery is efficient?

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends these items be approved as budgeted when the Subcommittee takes action.

3940 State Water Resources Control Board

Issue 5: Resources Needs to Address Impacts on Project Permitting Resulting from Recent Supreme Court Decisions

Background:

On May 25, 2023, the U.S. Supreme Court issued its ruling in *Sackett v. EPA* (Sackett Ruling), holding that the Clean Water Act covers only adjoining wetlands, a reading that excludes wetlands separated from jurisdictional waters by man-made dikes or barriers, natural river berms, and beach dunes that had previously been protected.

The Sackett Ruling will have significant and widespread consequences for the Clean Water Act and the scope of federal protections over the nation's waters. The jurisdiction of federal agencies is limited to those waters that qualify as waters of the United States. ***Thus, the Sackett Ruling, in reducing the number of waters that qualify as waters of the United States, also significantly limits the reach of the federal agencies, leaving many state waters unprotected at the federal level and reliant on state regulation.***

With the substantive reinterpretation of the Clean Water Act outlined in the Sackett Ruling, the Water Board and the nine Regional Water Boards will need to restructure their programs to reflect the new bounds on federal jurisdiction. Together, the regional and state water boards administer and enforce various Clean Water Act programs in California, including the Clean Water Act Section 401 Water Quality Certification Program (401 Certification Program), Section 402 National Pollutant Discharge Elimination System (NPDES) Permitting Program, and Section 303 Water Quality Standards Program.

The Water Boards also administer and enforce water quality protection requirements for "waters of the state" under the Porter-Cologne Water Quality Control Act (Porter-Cologne), including the issuance of state permits or Waste Discharge Requirements (WDRs) for all discharges of waste that can affect the quality of waters of the state.

The Water Boards expect, that going forward, there will be a greater reliance on state regulation of discharges outlined in state permits and a need to restructure existing enforcement programs to rely on authorities applicable to non-federal water of the state found in Porter-Cologne. This will require a heavier state workload and a respective need for increased staff resources and training.

In 2019, the Water Boards adopted Dredge or Fill Procedures that were developed to leverage existing federal programs to minimize regulatory duplication and improve efficiency. Historically, the United States Army Corps of Engineers reviewed and verified delineations as part of its Clean Water Act Section 404 permitting process. The 2019 Dredge or Fill Procedures recognized this by requiring deferral to the Corps delineation decisions. However, the Sackett Ruling greatly reduces federal jurisdiction, and as a result, the Water Boards will assume the responsibility of reviewing and approving delineations for additional waters, especially waters within the Central Valley, which include large numbers of isolated vernal pool wetlands, and Southern California, which has a prevalence of ephemeral or disconnected water.

The recent reinterpretation through the Sackett Ruling of what qualifies as waters of the United States significantly narrows the scope of federal jurisdiction, and the Water Boards will need to restructure their programs to replace lost federal services and provide state protection where federal protections no longer apply.

Panel

- Joaquin Esquivel, Board Chair, State Water Resources Control Board
- Jonathan Bishop, Chief Deputy Director, State Water Resources Control Board
- Karen Mogus, Deputy Director, State Water Resources Control Board
- Andrew Hull, Finance Budget Analyst, Department of Finance
- Sonja Petek, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

LAO Bottom Line: *In light of the many uncertainties about the impact of the recent U.S. Supreme Court decision (Sackett v. EPA), the Legislature could consider scaling back the proposal for funding and positions at SWRCB and requiring the administration to report back in January 2025 with more information about the effect of the decision on SWRCB programs, how many additional positions are needed, and what statutory changes should be considered.*

Proposal. The Governor proposes new funding and positions for SWRCB to address increased workload due to a recent U.S. Supreme Court decision. That decision, *Sackett v. EPA*, reduces the number of wetlands over which the federal government has jurisdiction. Specifically, the proposal includes \$6.1 million and 26 positions in 2024-25, increasing to \$7.1 million and 38 positions in 2025-26 and ongoing (all from the Waste Discharge Permit Fund). The positions would support a variety of water quality permitting and enforcement work that previously was handled directly by the federal government or under federal authorities. In addition to staffing support, the 2024-25 amount also includes \$1.1 million in contracting funds to begin design of an electronic application and management IT system to support this work.

LAO Comments. SWRCB will necessarily have additional workload to regulate wetlands that are no longer under federal jurisdiction. The current challenge, however, is understanding the extent to which the Sackett decision will change the scope of SWRCB's responsibilities, require restructuring of its current programs, increase its amount of work, and challenge the boundaries of current statute. While the Governor's proposal seems reasonable in a number of ways (for example, it requests one position in each of the three regions that will be most affected by reduced federal services as well as associated training), it may be premature to approve ongoing funding and all 38 permanent positions until more is known about the full impact of the Sackett decision. In addition, the current proposal appears to be based in large part on the estimated workload under current state statute. Yet the administration already has identified a number of limitations in statute that likely will create inefficiencies in the permitting process and constrain SWRCB's authority to conduct enforcement activities. SWRCB indicates it will be reviewing current statute to better understand what changes might be needed. When and how the

administration will suggest such changes remains unclear. Consequently, the current proposal for ongoing funding and positions might not accurately reflect SWRCB's increased workload once state policies are better aligned with program needs.

Recommendations. We have three suggestions for the Legislature regarding the various components of this proposal.

First, regarding the requested staffing: in light of the many unknowns, the Legislature may want to consider scaling back the current proposal. It could do so in a number of ways. For example, it could approve the proposed funding and positions but only for one year, it could approve fewer positions and less funding in the first year, or it could approve a set number of positions and funding but on a limited-term basis for a few years.

Second, regardless of whether the Legislature approves the request as proposed or adopts a modified approach, we recommend it require the administration to report back to the Legislature in January 2025 (and/or in subsequent years) about what it has learned since the May 2023 decision in terms of workload, processes, legal challenges, statutory limitations, and any other pertinent issues. In addition, we recommend this reporting should include preliminary suggestions for how statute could be changed to ensure SWRCB has the appropriate tools and processes at its disposal to protect water quality in wetlands that no longer fall under federal jurisdiction. This information would help the Legislature understand what level of resources SWRCB requires on an ongoing basis to meet state objectives.

Third, regarding the request for \$1.1 million to begin developing an IT solution to replace a largely paper-based process, we find this to be well justified and recommend approving this component of the proposal.

Staff Comments

The Subcommittee may wish to ask the following questions:

1. Can you please explain how you expect the Water Board's workload to increase given the Sackett Decision?
2. How much will fees need to increase to cover these costs and when will proposed fee increases be proposed?
3. Are any other fee increases also being considered at this time, or is this the only reason that fees would increase right now?
4. Are these fee increases subject to legislative review and approval or do you have administrative authority to increase fees?

Staff Recommendation: Hold Open.

Non-Presentation Items

Staff have suggested the following items do not receive a formal presentation from the Administration in order to focus time on the most substantial proposals. Members of the Subcommittee may ask questions or make comments on these proposals at the time designated by the Subchair or request a presentation by the Administration at the discretion of the Subchair. Members of the public are encouraged to provide public comment on these items at the designated time.

3860 California Department of Water Resources

Issue 6: Central Valley Flood Protection Board Encroachment Inspections for Middle Mile Broadband Network

The Governor's budget requests \$1,566,000 in reimbursable authority for three years to address increased inspection needs for the California Department of Technology's Middle Mile Broadband Network construction activities, initiated through Executive Order N-73-20.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

Issue 7: Genetic Monitoring Program Support

The Governor's budget requests \$200,000 for two permanent positions in the Genetic Monitoring Program to be funded by the State Water Project funds. Increased staffing will enable the Genetic Monitoring program to fulfill existing State Water Project mandates and use the best available science to support species recovery, conduct adaptive management decision-making, raise community awareness about the status of state and federally listed endangered species, and increase collaborative science opportunities in disadvantaged communities.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

Issue 8: State Water Project Regulatory Compliance Positions

The Governor's budget requests \$178,000 State Water Project funds and authority to replace three temporary (Permanent Intermittent) positions in the North Central Region Office with three full-time positions in North Central Region for real-time surface water quality monitoring and analysis.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

3940 California State Water Resources Control Board

Issue 9: Enforcement Support for Permanent and Sustainable Drinking Water Solutions

The Governor's budget requests 1.0 permanent position and \$250,000 ongoing resources from the Safe Drinking Water Account to support the Division of Drinking Water's (DDW) efforts to implement solutions for communities lacking safe drinking water and enforce the Safe Drinking Water Act. The Office of Enforcement will provide dedicated enforcement resources to help expedite DDW's efforts to address systems on the Human Right to Water list and provide consistency in structure and performance between the Division of Drinking Water's enforcement program and other State Board program areas. This position would be a dedicated Attorney position within the Office of Enforcement to support the Division of Drinking Water's enforcement efforts.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

Issue 10: Establishment and Implementation of Instream Flow Objectives in the Scott River and Shasta River Watersheds

The Governor's budget requests \$711,000 in ongoing funding from the Water Rights Fund for 2.0 permanent positions to support establishing and implementing long-term instream flow objectives in the Scott River and Shasta River Watersheds.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

Issue 11: Gualala River TMDL Stipulated Settlement Agreement

The Governor's budget requests \$1.706 million Water Discharge Permit Fund (WDPF) in 2024-25 and 3.0 permanent positions in response to a lawsuit and required actions outlined in a court-approved Stipulated Settlement Agreement that resolved the litigation. This request includes \$1 million in contract funding each year over the next five fiscal years then \$706,000 annually thereafter. The proposal will support the North Coast Water Board's efforts to: (1) satisfy the terms of a Stipulated Settlement Agreement; (2) comply with the Porter-Cologne Water Quality Control Act; and, (3) fulfill the agency's obligations under the federal Clean Water Act to protect and restore the Gualala River watershed from its sediment impairment.

Background:

On July 14, 2021, the Friends of the Gualala River (FOGR) filed a lawsuit alleging the North Coast Water Board abused its discretion when it enrolled the Gualala Redwood Timber Company's timber harvest plan (THP No. 1-20-00150, "Far North THP") under its regulatory permit for timber harvest, the General Waste Discharge Requirements for Discharges Related to Timber Harvest Activities on Non-Federal Lands in the North Coast Region, because the enrollment of the Far North THP in the Timber GWDR did not implement the Gualala River Total Maximum Daily Load (TMDL) – a calculation of sediment pollution sources across watersheds. Additionally, FOGR alleged that the North Coast Water Board was not meeting federal requirements to incorporate the Gualala River TMDL into its Basin Plan.

On April 6, 2023, following a year and a half of negotiations, FOGR, the State Water Resources Control Board (SWRCB), and the North Coast Water Board finalized a Stipulated Settlement Agreement in Mendocino County Superior Court. The Settlement Agreement obligates the North Coast Water Board to create a new regulatory program to address road-related sediment discharges on private lands, an obligation that the agency does not have resources to manage and the impetus for this funding request.

The Settlement Agreement obligates new responsibilities upon the North Coast Water Board, including the creation of a new regulatory program to address road-related sediment discharges on private lands in the Gualala watershed. Funding will allow the North Coast Water Board to meet its obligations to protect, restore, and enhance the aquatic habitat conditions within the Gualala River watershed, implement the Gualala River TMDL to address its sediment impairment, and satisfy the requirements of the Stipulated Settlement Agreement and the State Water Resources Control Board.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

Issue 12: Information Security and Privacy Office Staffing

The Governor's budget requests \$629,000 ongoing from various funds (Waste Discharge Permit Fund; Safe Drinking Water Account; Integrated Waste Management Account, Integrated Waste Management Fund; Underground Storage Tank Clean Up Fund; Oil, Gas, and Geothermal Administrative Fund; Water Rights Fund; Timber Regulation and Forest Restoration Fund; and the State Water Pollution Control Revolving Fund Administrative Fund) to enhance the Information Security Office (ISO) staffing capabilities and establish a new Privacy Office. The Governor's budget requests 4.0 permanent positions to provide staffing needs in the areas of Privacy, Technical Security, and Informational Security Compliance.

Staff Recommendation: Absent member questions or input from the public at this hearing, staff recommends this item be approved as budgeted when the Subcommittee takes action.

This agenda and other publications are available on the Assembly Budget Committee's website at: [Sub 4 Hearing Agendas | California State Assembly](#). You may contact the Committee at (916) 319-2099. This agenda was prepared by Shy Forbes / Christine Miyashiro.