California State Assembly

Agenda

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

Assemblymember Steve Bennett, Chair

Wednesday, March 20, 2024
9:30 A.M. – State Capitol, Room 447

Items To Be Presented

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.

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

3930 Department of Pesticide Regulation
3960 Department of Toxic Substances Control
3970 Department of Resources, Recycling, and Recovery (CalRecycle)

Issue 1: CalEPA Departments General Fund Solutions and Implementation Update

The 2021 and 2022 Budget Acts committed almost $500 million over five years in the climate package to departments under the California Environmental Protection Agency for community resilience, creating a circular economy, and sustainable agriculture. Outside the climate package, CalEPA departments also received funding for ensuring public health, environmental quality, and economic vitality to programs such as Brownfields cleanup and pest management.

The 2024-25 Budget proposes approximately $310 million in solutions, which include reductions, fund shifts, delays, and loans over budget years 2021-27. These numbers and the subsequent analysis do not include California Air Resources Board and California State Water Resources Control Board investments and solutions.

Reductions:

Department	Program	Reduction	Reduction Detail	Total Net Appropriation[1]	Percent Reduction
CalRecycle	Compost Permitting Pilot Program	$6.7 million	$6.7 million from 23-24	$8 million	84%
Department of Pesticide Regulation	Pest Notification	$2.6 million	$2.6 million from 23-24	$10 million	26%

Delays/Fund Shifts:

Department	Program	Fund Shift/Delay	Fund Shift/Delay Detail	Total Net Appropriation[2]	Percent Reduction
Department of Toxic Substances Control	Vulnerable Community Toxic Clean-Up	$175 million	$85 million delayed to 25-26, and $90 million delayed to 26-27, full $175 million shifted from GF to GGRF	$500 million	N/A, full amount retained

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

For the DTSC funding delay, the administration has also included trailer bill language to effectuate the proposed solution.

Loans:

Department	Amount	Loan from	Loan to
CalRecycle	$125 million[3]	Beverage Container Recycling Fund	General Fund

All new, one-time appropriations from budgets 2021-2023 to CalRecycle, DTSC, DPR, and the CalEPA Secretary

Past budgets provided a total of $468 million ($138 million from the General Fund and $330 million from various special funds) for a package of programs related to promoting recycling and waste reduction. Funding was provided from 2021-22 through 2023-24. Circular economy funding went to nine programs, all of which are administered by the California Department of Resources Recycling and Recovery (CalRecycle).

As noted in the reductions chart on page 3 and in the figure below, the Governor's budget proposes a $6.7 million reduction to the Compost Permitting Pilot Program.

Figure 14

Governor's Proposed Changes to Circular Economy Package

General Fund Unless Otherwise Noted (In Millions)

Program	Original Multiyear Total[a]	Revised Multiyear Total[b]	Proposed Reduction	Proposed Multiyear Total
SB 1383 implementation grants	$240[c]	$240[c]	—	$240[c]
Organic waste infrastructure	105[c]	105[c]	—	105[c]
RMDZ Loan Program	50	46	—	46
Co-digestion capacity	30[c]	30[c]	—	30[c]
Recycling feasibility grants	15	—	—	—
Quality incentive payments	10[d]	10[d]	—	10[d]
Compost Permitting Pilot Program	8	8	-$7	1
Edible food recovery	5	5	—	5
Community composting opportunities	5	—	—	—
Totals	**$468**	**$444**	**-$7**	**$437**

[a]Based on 2021-22 and 2022-23 budget agreements.

[b]Based on 2023-24 budget agreement.

[c]Includes funding from the Greenhouse Gas Reduction Fund.

[d]Includes funding from the Beverage Container Recycling Fund.

SB 1383 = Chapter 395 of 2016 (SB 1383, Lara) and RMDZ = Recycling Market Development Zone.

[3] The Administration originally requested at $125 million loan for 24-25, and a $25 million one-year payment deferral on an existing loan from BCRF to the General Fund. Since January 10, Department of Finance has paid back the previous $100 million loan from 23-24 and, therefore, no longer requests the $25 million one-year payment deferral.

The following one-time, discretionary appropriations in the list below were made in past years' budgets outside of the climate package. This excludes CARB-related appropriations.

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.

EPA Secretary

2022-23

- $474,000 for staff support for hazardous material and oil emergencies.

2023-24

- $605,000 to support information technology security.

Department of Toxic Substances Control

2021-22

- $31.4 million loan to finish cleaning up properties surrounding the former Exide Technologies (Exide) facility in Vernon, CA.
- $291 million loan ($100 million in 2021-22, $100 million in 2022-23, and $91 million in 2023-24) to clean up additional properties near Exide.
- $132 million loan to complete closure activities at Exide.
- $40.5 million to support the Hazardous Waste Control Account and the Toxic Substances Control Account as increased charges under the governance and fiscal reform package—Chapter 73 of 2021 (Committee on Budget and Fiscal Review, SB 158)—are implemented.
- $14 million to support cost recovery activities related to Exide.
- $3 million to support the new Board of Environmental Safety as increased charges under the governance and fiscal reform package—Chapter 73 of 2021 (Committee on Budget and Fiscal Review, SB 158)—are implemented.
- $1.4 million for the Argonaut Mine Dam Project.

2022-23

- $47 million to clean up lead-contaminated soil identified in Greenville, CA following the Dixie Fire.
- $5.5 million to permit and provide oversight of metal shredder facilities.

Department of Pesticide Regulation

2021-22

- $10.3 million in 2021-22 and $8.8 million in 2022-23 to support safer, sustainable pest management.

2022-23

- $1.6 million in both 2021-22 and 2022-23 to modernize licensing program.

Department of Resources Recycling and Recovery

2022-23

- $49.9 million for debris removal activities related to the Caldor and Dixie fires.

2023-24

- $15.4 million for debris removal activities related to the McKinney Fire.

Panel

- Karen Morrison, Chief Deputy Director, Department of Pesticide Regulation
- Diane Barclay, Acting Deputy Director, Site Mitigation and Restoration Program, Department of Toxic Substances Control
- Krystal Acierto, Acting Director, CalRecycle
- Mindy McIntyre, Chief Deputy Director, CalRecycle
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Brandon Merritt, Finance Budget Analyst, Department of Finance
- Julianne Rolf, Finance Budget Analyst, Department of Finance
- John Parsons, Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

Circular Economy Package:

LAO Comments: Proposal Targets Available Remaining Uncommitted Funds. The Governor's proposal largely captures the remaining uncommitted funds from the circular economy package. Based on available information, nearly all of the programs within this package have fully awarded funds to projects or are expected to make final awards in the coming months. The Governor's proposal incorporates the one notable exception, the Compost Permitting Pilot Program.

Other Recent Augmentations:

LAO Comments: Legislature Could Consider Alternative and/or Additional Reductions. To the extent the Legislature needs to find alternative and/or additional solutions to those chosen by the administration, it has some options among the non-package augmentations. First, the Legislature could consider reducing rather than delaying some or all of the funding the Governor proposes shifting to a future year. Second, the Legislature could look at uncommitted balances in other non-package augmentations that the Governor has not targeted for solutions. Below we provide examples within both categories.

Could Reduce, Rather Than Delay, Funding for Several Programs. The Legislature could reduce a portion or all of the funding proposed for delay in:

- DTSC's brownfield cleanups program: $175 million.

Staff Comments

The Subcommittee may wish to consider asking the following questions:

1. What is the implementation status of DPR's pest notification system?

2. What is the plan for paying for the ongoing costs of the pest notification system under the Department of Pesticide Regulation?

3. What reporting requirements are tied to the various grants as part of the Clean Up in Vulnerable Communities Initiative funding?

4. What would be the programmatic impact of cutting the $175 million to the Clean Up in Vulnerable Communities Initiative instead of delaying it (with the understanding that this funding can be restored in future budgets if the outlook improves)?

5. Can CalRecycle provide an update on the SB 1383 implementation grants?

    a. How many local agencies applied?
    b. What were the most common types of funding requests?
    c. For each round, what was the solicited funding request compared to the available amount of funding?
    d. How much of the combined General Fund and GGRF funding has been spent? What remains?

6. Can CalRecycle provide an update on the Organic Waste Infrastructure grant program?

    a. What was the average award amount for this program?
    b. When factoring in local contributions, what percentage of the total cost of a project is the state providing with this grant (on average)?
    c. Was there a local match requirement for this program?

d. Among applicants, what is the percentage breakdown of public versus private entities that applied for funding?

7. How are counties feeling about SB 1383 in light of the grants CalRecycle has awarded for 1383 implementation?

Staff Recommendation: Hold Open.

8570 California Department of Food and Agriculture

Issue 2: CDFA General Fund Solutions (including Sustainable Agriculture package) and Implementation Update

Recent budget agreements included $641 million to CDFA for sustainable agriculture in the 2021 and 2022 climate packages. CDFA also received $171 million across other sub-packages, such as water and drought resilience and extreme heat, within the 2021 and 2022 climate investments.

The 24-25 budget proposes $41 million of budget solutions for CDFA, including reductions, delays, and fund shifts to previous allocations in the climate package. The Governor proposes an additional $56 million in reductions to other CDFA programs outside of the climate package.

Reductions:

Program	Reduction	Reduction Detail	Total Net Appropriation[4]	Percent Reduction
On-farm Water Use and Agriculture Technical Assistance (Water and Drought Resilience Packages)	$6.0 million	$6 million from 21-22	$15 million	40%
Relief for Small Farmers (Water and Drought Resilience Packages)	$12.9 million	$12.9 million from 21-22	$25 million	52%
Farm to Community Food Hubs Program (Sustainable Agriculture Package)	14.4 million	$14.4 million from 21-22	$15 million	96%
California Nutrition Incentive Program	$33.2 million	$33.2 million from 21-22	$35 million	95%
Healthy Refrigeration Grant Program (Sustainable Agriculture Package)	$8.5 million	$8.5 million from 22-23	$20 million	43%
Enteric Methane Incentives	$23.0 million	$23 million from 21-22	$25 million	92%

[4] This total includes reductions approved in the 23-24 budget

Delays/Fund Shifts:

Program	Fund Shift/Delay	Fund Shift/Delay Detail	Total Net Appropriation[5]	Percent Reduction
State Water Efficiency and Enhancement Program	$20.6 million	Delay: $10.6 million from 21-22 to 24-25, $10 million delay from 22-23 to 24-25 Fund Shift: GF to GGRF	$120 million	N/A, full amount retained
Livestock Methane Reduction	$24 million	Delay: $24 million from 22-23 to 24-25 Fund Shift: GF to GGRF	$80 million	N/A, full amount retained

[5] This total includes reductions approved in the 23-24 budget

All new, one-time appropriations from budgets 2021-2023 to CDFA

Figure 13
Governor's Proposed Changes to Sustainable Agriculture Package

General Fund Unless Otherwise Noted (In Millions)

Program	Department	Original Multiyear Total[a]	Revised Multiyear Total[b]	Proposed Reductions	Proposed Multiyear Total
Agricultural diesel engine replacement and upgrades	CARB	$363[c,d]	$363[c,d]	—	$363[c,d]
San Joaquin Valley agricultural burning alternatives	CARB	180	180	—	180
Healthy Soils Program	CDFA	170[c]	155[c]	—[e]	155[c]
Livestock methane reduction	CDFA	100[c]	100[c]	—	100[c]
Farm to School Incubator Grant Program	CDFA	90	90	—	90
Conservation Agriculture Planning Grants Program	CDFA	39	18	—	18
Fresno-Merced Future of Food Innovation Initiative	CDFA	30	30	—	30
Pollinator Habitat Program	CDFA	30	16	—	16
Climate Catalyst Fund	Go-Biz	25	—	—	—
California Nutrition Incentive Program	CDFA	20	20	—	20
Healthy Refrigeration Grant Program	CDFA	20	20	-$9	12
Transition to safer, sustainable pest management	CDFA	18	18	—	18
Farm to Community Food Hubs Program	CDFA	15	15	-14	1
Urban Agriculture Program	CDFA	12	12	—	12
Technical assistance for underserved farmers	CDFA	10	10	—	10
Farmer training and farm manager apprenticeships	CDFA	10	10	—	10
Methane reduction through cattle feed	CDFA	10[c]	10[c]	—	10[c]
Research in GHG reductions	CDFA	10	5	—	5
Invasive Species Council	CDFA	10	5	—	5
Sustainable California Grown Cannabis Pilot Program	CDFA	9	1	—	1
Assessment of regulatory requirements for agriculture	CDFA	6	6	—	6
Integrated pest management technical assistance	CDFA/DPR	5	5	—	5
Canine blood bank	CDFA	1	1	—	1
Senior Farmers Market Nutrition Program	CDFA	1	1	—	1
Totals		**$1,184**	**$1,090**	**-$23**	**$1,067**

[a] Based on 2021-22 and 2022-23 budget agreements.

[b] Based on 2023-24 budget agreement.

[c] Includes funding from the GGRF.

[d] Includes funding from the Air Pollution Control Fund.

[e] Governor proposes reducing General Fund by $24 million in 2022-23 and backfilling with an equal amount from GGRF in 2024-25.

Note: Totals may not add due to rounding.

CARB = California Air Resources Board; CDFA = California Department of Food and Agriculture; Go-Biz = Governor's Office of Business and Economic Development; GHG = greenhouse gas; DPR = Department of Pesticide Regulation; GGRF = Greenhouse Gas Reduction Fund.

The following one-time, discretionary appropriations were made in past years' budgets outside of the climate package to CDFA.

Members of this subcommittee may wish to consider asking questions regarding the implementation status of these appropriations and could consider cutting them to help address the deficit to the extent that funds remain.

California Department of Food and Agriculture

2021-22

- $150 million to support fairground and community resilience centers.
- $50 million to support the state's network of fairs.
- $2.1 million to support the Bee Safe Program.
- $2 million for deferred maintenance.

2022-23

- $11.3 million for biorepository upgrades.
- $11.1 million for a DNA library.
- $10 million to support a teaching and innovation farm in Allensworth, CA.
- $10 million for the Invasive Plants Management Program.
- $5 million to support organics transition.
- $2.3 million for programmatic environmental impact report litigation fees.

2023-24

- $5 million for California Underserved and Small Producer Program for drought and flood relief.
- $5 million for Organic Transition Pilot Program.
- $1.5 million for a licensing and payment portal information technology project.

Panel

- Arima Kozina, Deputy Secretary, Department of Food and Agriculture
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

LAO Comments: Proposal Captures Most—but Not All—Available General Fund Savings From Uncommitted Prior-Year Funds. Based on our review of program expenditure data, apart from the Governor's proposals, most remaining sustainable agriculture funds have already been fully awarded to projects or are expected to make final awards in the coming months. However, we have identified one additional option the Legislature could consider for seeking additional or alternative savings:

- ***Farm to School Incubator Grant Program ($50 million).*** This program provides funding to schools to purchase locally grown foods, coordinate educational opportunities, and further collaboration and coordination between schools and producers. Of the $90 million the program was provided from the General Fund, CDFA has not yet solicited grant applications or made awards for roughly $50 million. (The department plans to make grant awards from this funding later this spring.) Given that the program is still relatively new (it began in 2020-21) and has uncommitted funds, the Legislature could reduce this funding and allow the program to continue operating at a scaled-down level with fewer grants than originally intended. The Legislature may need to take early action to prevent the department from proceeding with its grant application and award process and eroding these potential savings.

Staff Comments

The Subcommittee may wish to ask the following questions:

1. Why did the administration choose to cut certain programs almost entirely and maintain full funding for others in circumstances where funds were uncommitted?

2. Despite having recent historic water years, small farmers experienced financial losses during 2018-2022 drought and are counting on the funds already provided, often to keep their business running.

    a. Why has the administration taken so long to get these funds out the door given the urgency?
    b. Has the administration verified the financial health of the small farmers that have asked for this relief and will not receive it?
    c. How many applications did the department receive for the first round of funding compared to how many were awarded?
    d. What has been the department's grant distribution schedule for awarding funding to small, underserved farmers?
    e. Why are the other programs that remain funded more important to the administration than protecting small farms from closing?

3. Given the investments in the State's Universal Meal Program, the State's Kitchen Infrastructure Grants program, and the Farm to Community Hubs program, what does the

funding for the Farm to Schools program accomplish that is not already provided under these three programs?

4. A coalition of legislators, including two on this subcommittee, sent a letter to Secretary Ross on October 3, 2023 requesting the $15 million for the Farm to Community Food Hubs Program allocated in the 2021-22 budget be expeditiously spent.

    a. Why has the administration not implemented this program yet when AB 1009 (Bloom) was signed into law in 2021?
    b. Why then is the administration proposing to cut 96% of funding allocated to this program?

5. Stakeholders have shared that the state has already lost access to a $15 million federal match to the California Nutrition Incentive Program (CNIP) in 2024 due to the proposed cuts in the Governor's budget given the timing of the Federal match program's RFA. Is that correct?

6. How many Californians use the market match program? How much savings does it provide them on their cost of food?

7. What amount of funding would the state need to provide to the California Nutrition Incentive Program to receive the maximum available federal match?

Staff Recommendation: Hold Open.

3930 California Department of Pesticide Regulation

Issue 3: Sustainable Funding for Pest Management at the Department of Pesticide Regulation BCP and trailer bill

The Governor's budget requests 117.4 positions and $33.3 million – $32.6 million DPR fund and $700,000 GGRF – phased in over three years to provide stable, sustainable funding for the Department of Pesticide Regulations (DPR). To support these positions, the budget requests raising the mill assessment, a tax levied on pesticides when first sold into or within the state. This proposal would also increase registration and licensing fees.

This would support the Department to carry out its mission to protect human health and the environment by regulating pesticide sales and use, and by foddering reduced-risk pest management.

This proposal includes trailer bill language related to the collection of the mill assessment, data review, and registration and enforcement.

Background:

This summary is excerpted from the LAO's Sustainable Funding for the Department of Pesticide Regulation Report. To read the full report visit, https://lao.ca.gov/Publications/Report/4873.

DPR Is Responsible for Regulating Pesticides. DPR is charged with protecting public health and the environment by regulating pesticides. The department is responsible for evaluating and registering pesticide products at the state level. This includes the continuous review of pesticides and, if needed, the formal reevaluation of products to identify actions needed to reduce or eliminate adverse impacts. DPR also is responsible for licensing individuals and businesses that sell, consult on, or apply pesticides. Additionally, the department tests pesticide residues on fresh produce and oversees local enforcement of pesticide use laws and regulations by County Agricultural Commissioners (CACs). DPR and CACs have the authority to discipline those who violate state pesticide laws and regulations, such as through levying administrative penalties. Finally, the department offers grants and conducts outreach activities to encourage the adoption of alternative pest management practices. Historically, about 90 percent of DPR's budget has been supported by the DPR Fund—discussed next—with the remaining amount coming from other special funds and federal funds.

DPR Fund Is Used to Support the Regulation of Pesticides. The DPR Fund is a repository of taxes and fees paid by pesticide retailers, wholesalers, and businesses. The state uses the fund to support state and local activities related to regulating pesticides. The majority of the fund's resources are provided to DPR to support its core functions and responsibilities. Roughly one-quarter of the DPR Fund's revenues are provided to CACs as partial reimbursement for their pesticide enforcement activities. Expenditures from the DPR Fund are expected to total roughly $138 million in 2023-24.

DPR Fund Is Made Up of Revenues From Tax on Pesticide Sales And Several Fees. The DPR Fund is primarily supported by three main funding sources: the mill assessment, registration fees, and licensing fees:

- ***Mill Assessment.*** The largest revenue source for the DPR Fund—about 80 percent—is the mill assessment, a tax levied on pesticides when first sold into or within the state.

- ***Registration Fees.*** Registration fees account for about 16 percent of the fund's total revenues.

- ***Licensing Fees.*** Licensing fees—which are paid biennially by pesticide professionals and businesses—account for about 4 percent of the fund's total revenues.

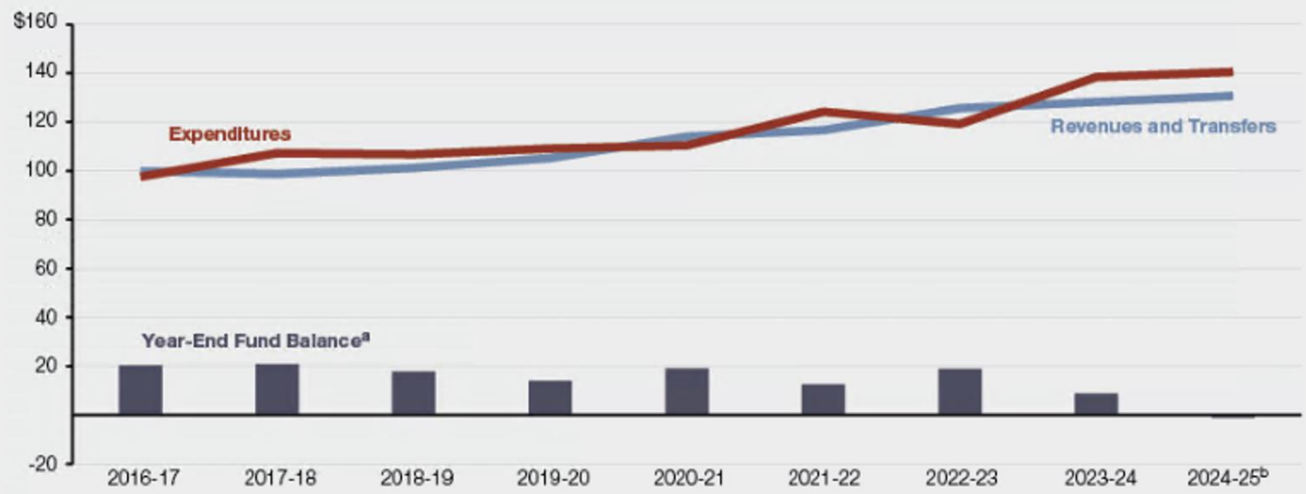
The state also levies an additional .75 mills on agricultural use pesticides.

In recent years, the growth in expenditures from the DPR Fund has outpaced growth in revenues, creating a structural deficit within the fund. As shown in Figure 1, the administration projects that the DPR Fund will be insolvent in the budget year—meaning it will not have sufficient revenues to cover projected expenditures.

Figure 1

DPR Fund Projected to Be Insolvent in the Budget Year

(In Millions)



[a] Includes prior-year adjustments.

[b] Excludes proposed revenue increase and expanded programmatic expenditures.

DPR = Department of Pesticide Regulation.

LAO

Proposal Details:

The Governor proposes several changes to increase revenues into the DPR Fund which would generate a total of $30.4 million of new revenues in 2024-25 (growing to $43.9 million in future years). Of this amount, $9.8 million would address the structural deficit and $17.8 million would be used to expand programs and activities (growing to $32.5 million). The increased revenues would be generated by:

1. Increasing the mill assessment ($22.1 million in 2024-25, growing to $33.8 million),

2. Increasing registration fees through regulations ($6.3 million in 2024-25, growing to $7.2 million); and

3. Increasing licensing fees through regulations ($2 million in 2024-25, growing to $2.9 million).

The proposal also would provide $717,000 from GGRF on an ongoing basis to support additional programmatic expansions for the department. We describe these proposals in more detail below.

Increases Mill Assessment Over a Three-Year Period, Authorizes DPR to Increase Further in Future, Sets New Statutory Caps. The Governor proposes budget trailer legislation that would increase the mill assessment over a three-year period from the current level of 21 mills to: (1) 26 mills in 2024-25; (2) 27.5 mills in 2025-26; and (3) 28.6 mills in 2026-27.
Beginning in 2027-28, the proposal would authorize DPR to further adjust the mill assessment as needed to align revenues with expenditures approved by the Legislature in the annual budget act, not to exceed a new statutory cap of 33.9 mills.

The proposal would maintain the structure of the assessment as a flat rate and would not authorize the department to charge differential rates, such as tiering based on the acute toxicity of pesticides (as had been proposed previously) or for priority pesticides. The administration estimates that its proposed increases would generate an additional $22.1 million in 2024-25, growing to $33.8 million in 2026-27 when the rate is set at 28.6 mills.

The Governor's proposal also would increase the statutory cap for the additional mill assessment levied on agricultural use pesticides. Specifically, the current cap of .75 mills would be raised to 1.04 mills. As under current law, CDFA would have the authority to increase this additional mill assessment in coordination with DPR to ensure that it is properly resourced to provide pesticide consultation services to DPR—as long as it does not exceed the cap. The administration indicates that CDFA does not anticipate raising this additional mill assessment in 2024-25 even if it is granted authority to do so.

Utilizes Additional Revenues to Address Structural Deficit and Support Additional Program Spending. In addition to addressing the structural deficit within the DPR Fund, the proposal would generate additional revenues to support various programmatic expansions for DPR. The proposal also would provide a small amount of ongoing GGRF to support additional programmatic expansions for the department, which we discuss in greater detail below. As shown in Figure 2, the proposal would provide DPR with an additional $18.5 million in 2024-25 beyond what is needed to address existing workload. This would cover 65 new positions in 2024-25, increasing to $33.2 million and 117 positions in 2026-27 and ongoing. (In addition to the ongoing amounts displayed in the figure, the proposal includes about $100,000 from the DPR Fund on a one-time basis in 2026-27 for travel support related to inspections.)

Figure 2

Governor's Proposed Spending Increases for DPR

(Dollars in Millions)

	2024-25		2025-26		2026-27 and Ongoing	
Activity	Funding	Positions	Funding	Positions	Funding	Positions
Process Improvements and Safer Alternatives	**$9.5**	**35**	**$15.7**	**58**	**$17.9**	**64**
Alternative pest management grants and support	$4.3	7	$6.7	11	$7.7	11
Administrative support	3.1	14	4.7	22	4.7	22
Pesticide registrations and reevaluations	1.1	7	1.7	10	2.2	12
Pesticide environmental evaluations	0.9	6	2.2	13	2.9	17
Pesticide human health evaluations	0.2	1	0.4	2	0.4	2
Statewide Service Improvements	**$5.5**	**18**	**$7.1**	**22**	**$9.1**	**33**
Pesticide monitoring and data evaluation	$3.2	7	$3.2	7	$3.9	11
Pesticide takeback events	0.6	1	1.1	1	1.1	1
Product compliance and mill auditing	0.6	5	0.6	5	1.0[a]	7
State pesticide enforcement actions	0.3	1	0.3	1	1.2	6
Fumigation tarp testing	0.3	—	0.3	—	0.3	—
Worker Health and Safety Program	0.3	2	0.4	3	0.4	3
Regulation development	0.3	2	0.3	2	0.3	2
Licensing and Certification Program	0.1	—	1.0	3	1.0	3
Support for CACs and Outreach	**$3.5**	**12**	**$5.6**	**19**	**$6.3**	**20**
Training and compliance support for CACs	$2.0	5	$2.5	5	$3.2	6
Local engagement and outreach	1.5	7	3.0	14	3.1	14
Totals	**$18.5**	**65**	**$28.3**	**99**	**$33.2**	**117**

[a] In addition to the ongoing amount, the proposal includes about $100,000 from the DPR Fund on a one-time basis for travel support related to inspections.

Note: Totals may not add due to rounding. All additional spending and positions are supported by the DPR Fund, except $717,000 from GGRF to support four positions and air monitoring activities.

DPR = Department of Pesticide Regulation; CACs = County Agricultural Commissioners; and GGRF = Greenhouse Gas Reduction Fund.

As shown in the figure, a significant portion of this funding would go towards alternative pest management grants and support activities. Other major new spending includes support for

(1) enforcement activities, such as investigating pesticide use violations and tracking pesticide residue levels on fresh produce; (2) pesticide registrations, such as reducing the time needed to complete registrations and expediting the approval of safer alternatives; and (3) pesticide evaluations and monitoring, such as identifying and reevaluating pesticides for which actions might be needed to reduce or eliminate adverse impacts.

Most of the programmatic expansions from the DPR Fund would be supported by the additional revenues generated from increasing the mill assessment, while a smaller amount would come from new revenues associated with DPR increasing registration and licensing fees and from GGRF (discussed below). In cases where projected revenues exceed proposed expenditures, DPR would use the remaining funding to address the structural deficit and build sufficient reserves within the DPR Fund.

DPR Would Increase Registration and Licensing Fees to Align With Additional Expenditure Authority. In several cases, the proposal would provide additional expenditure authority from the DPR Fund to augment the department's Registration Program and Licensing and Certification Program. As mentioned earlier, both programs are directly supported by their respective regulatory fees. The proposal would continue with this practice by having these augmentations be supported by fees instead of the mill assessment. However, in order to fully support these proposed expansions, DPR would need to use its existing authority to increase both registration and licensing fees through the regulation process. The department indicates the exact fee increases it would implement still are uncertain and that it would plan to hold public workshops in 2024 to discuss potential changes. Despite this uncertainty, the administration estimates that the forthcoming increases would generate an additional $8.3 million in 2024-25 ($6.3 million from registration fees and $2 million from licensing fees), growing to $10.1 million by 2026-27 and thereafter ($7.2 million from registration fees and $2.9 million from licensing fees).

Provides Some New Funding From GGRF for Air Quality Monitoring and Outreach Activities. The proposal also would provide $717,000 from GGRF and four positions in 2024-25 and ongoing to support pesticide air monitoring and data evaluations and stakeholder engagement. The department indicates that this work is related to the community air pollution monitoring and reduction program established by Chapter 136 of 2017 (AB 617, C. Garcia).
Includes Several Policy Changes. The Governor proposes budget trailer legislation that would make several changes, including the following:

- ***Changes Mill Assessment Payer Responsibility.*** The proposal would require the mill assessment to be paid by the entity that first *sells* a pesticide into the state. This contrasts with current law, under which it is paid by the entity who has *registered* the pesticide. DPR indicates that this change would address payment responsibility issues related to online retail and align the mill assessment with how the state collects other fees and taxes.

- ***Extends Statute of Limitations for Mill Assessment Payment Violations Found in Audits.*** The proposal would extend the current statute of limitations for DPR to take enforcement actions when audits reveal mill assessment payment violations. Currently, the department must bring enforcement actions within four years of the *occurrence of the* *violation*. The proposal would allow DPR to bring enforcement actions on violations that have occurred within four years of the *audit's commencement*, but no later than two years after the audit's completion. DPR indicates that this extended time line would better reflect the period it needs to complete audits and take corresponding enforcement actions.

- ***Extends Statute of Limitations for Pesticide Use Violations.*** Currently, enforcement actions on pesticide use violations must be brought by DPR or CACs within two years of the occurrence of the violation. The proposal would extend this time line to three years. The department indicates that this change would better reflect the time needed to investigate and bring enforcement actions for pesticide use violations.

- ***Authorizes DPR to Enforce California's Laws on Out-of-State Pesticide Dealers.*** The proposal would authorize DPR to levy administrative penalties of up to $15,000 on violations related to pesticide dealers, such as when entities act in this role without a license. Currently, the authority to levy administrative penalties related to pesticide dealers resides solely with CACs. DPR indicates taking enforcement actions on out-of-state pesticide dealers would be a more appropriate role to assign to the state, since the primary role of CACs is to be the main enforcement authorities within their jurisdictions.

- ***Exempts Emergency Pesticide Use Authorizations From California Environmental Quality Act (CEQA) Review.*** CEQA requires state and local agencies to consider the potential environmental impacts associated with potential public or private projects or activities. Federal law authorizes the U.S. Environmental Protection Agency to allow federal and state agencies (such as DPR) to permit the unregistered use of a pesticide to address emergency conditions. For example, this might occur when no other registered pesticides are available to control a serious pest problem that would result in significant economic losses or cause adverse environmental impacts. These emergency authorizations are only permitted for a limited time within a defined geographical area and usually involve pesticides that have been registered for other uses (such as for different crops). The proposal would exempt such emergency pesticide use authorizations from requiring a CEQA review.

Panel

- Julie Henderson, Director, Department of Pesticide Regulation
- Karen Morrison, Chief Deputy Director, Department of Pesticide Regulation
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Julianne Rolf, Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

Assessment

Increasing Mill Assessment Is Justified. Overall, we find two key justifications for the state to increase the mill assessment. First, it has not been increased since 2004. Given the considerable amount of time since its last adjustment, an increase is warranted to ensure that it both aligns with current department expenditures and is able to support new state priorities related to pesticides going forward. Second, increasing the mill assessment to support these activities aligns with the "polluter pays" principle, whereby those who produce or otherwise contribute to pollution (such as environmental impacts from pesticides) should bear the associated regulatory costs of managing and preventing damage to public health and the environment.

Flat Increase to the Mill Assessment Represents Reasonable Approach. We find that a flat increase to the mill assessment, as the Governor has proposed, is a reasonable approach. This structure has several benefits. For instance, a single tax rate is easier for the state to administer and offers a more predictable revenue stream. It also is simpler and more predictable for the entities that pay the tax. A flat increase also aligns with the recommendations in the independent contractor's report. The report analyzed various ways in which the state could tier the mill assessment, but ultimately found that a flat increase was the most appropriate structure until the department has begun identifying priority pesticides. Given the department still is in the beginning stages of identifying priority pesticides—with much of this work dependent on the expanded staffing the Governor proposes—adopting plans to implement a tiered mill assessment structure now would be premature.

Proposal Would Solve Structural Deficit Within the DPR Fund and Allow for Future Growth in DPR and CDFA Activities. The Governor's proposal would address the structural imbalance within the DPR Fund on an ongoing basis. Specifically, the proposed increases to the mill assessment would provide sufficient new revenues for the DPR Fund to address its current structural deficit and cover DPR's existing workload on an ongoing basis. Furthermore, raising the statutory cap and providing DPR with authority to make future increases to the mill assessment also would add to the ongoing stability of the fund by establishing a way for revenues to keep pace with the expenditure levels the Legislature sets through the annual budget act. Authorizing this "room" for revenues to grow also can provide the Legislature with greater confidence that it will be able to assign necessary responsibilities to the department in the future without placing excessive pressure on the DPR Fund. Similarly, the proposed increase in the statutory cap for the mill assessment on agricultural use pesticides would create a mechanism to ensure CDFA remains sufficiently resourced to provide consultant services to DPR. The inclusion of the statutory caps also aligns with the recommendations in the independent contractor's report. We find the specific new caps the Governor proposes for the two mill assessments—33.9 mills for all pesticides and the additional 1.04 mills specifically for agricultural use pesticides—to be reasonable. However, moderately lower or higher statutory caps also could be justifiable.

Increasing Mill Assessment to Support Programmatic Expansions Would Help DPR Pursue State Goals. As noted, the Governor proposes increasing the mill assessment beyond what is needed to address the DPR Fund's existing operating imbalance and generating additional funding to expand DPR's activities. Overall, we find the proposed programmatic augmentations supported by the mill assessment increases to be reasonable given that they are targeted at: (1) enhancing the enforcement of pesticide laws and regulations; (2) increasing the number of pesticide reevaluations the department can administer; and (3) encouraging the use and development of safer alternatives and practices. None of the proposed activities seem beyond the scope of the department's responsibilities or extraneous to meeting its core mission. Furthermore, the proposed augmentations largely align with the funding needs identified in the independent contractor's report.

Supporting Certain Programmatic Expansions With Fee Increases Also Is Appropriate. The Governor's proposal would augment the department's registration and licensing activities by having DPR use its existing regulatory authority to increase the fees that directly support these programs. Overall, we find the proposed programmatic expansions to be reasonable given that they would be used to: (1) improve the department's registration process, which has experienced an increase in average processing times in recent years; and (2) provide the department with additional resources to certify and educate individuals and businesses applying for pesticide licenses. We also find that the proposed augmentations largely align with the funding needs identified in the independent contractor's report. Furthermore, supporting these activities with fee increases is an appropriate approach given that it tasks those who are regulated by these programs with paying the costs for the provided services.

However, Legislative Priorities Should Also Be Incorporated. While we find the administration's proposed programmatic augmentations to be reasonable, they do not represent the only options for expanding DPR's activities. The Legislature has an important opportunity now to determine: (1) the scope of activities it wants DPR to conduct; (2) the associated level of resources required; and (3) the corresponding level at which the mill assessment should be set. This could involve removing or refining activities proposed by the Governor or adding activities that are legislative priorities. Ensuring that legislative priorities are reflected is particularly important given the opportunity that adjusting taxes and fees provides in setting the state's overall goals for pesticide regulation and ensuring they are well supported. Depending on the actions taken, modifying planned programmatic augmentations could result in higher or lower increases to the mill assessment and registration and licensing fees than proposed by the Governor. Potential categories of modifications the Legislature could consider include:

- ***Funding for SPM Roadmap Activities.*** The Governor's proposal would use funding to support activities outlined in the department's SPM Roadmap—such as identifying priority pesticides and expediting the registration of reduced-risk pesticides. While these activities could provide some benefits, we note that the SPM Roadmap is an administration-led initiative. The Legislature may wish to consider whether it agrees that these are worthwhile activities for DPR to undertake and whether any statutory guidance might be needed to further align the proposed actions with its own priorities.

- ***Funding for CACs.*** A central component of the proposal is to ensure that sufficient state resources are provided to uphold pesticide laws and regulations. While the Governor's proposal includes additional enforcement funding for DPR, it does not augment funding for CACs' enforcement activities. This diverges from the recommendation made in the independent contractor's report, which identified a $10.2 million funding need for CACs. We also note that the last time the state raised the mill assessment, the portion provided to CACs was also increased. While current allotments could be sufficient, this is an important opportunity for the Legislature to ensure that CACs are properly resourced to effectively complete their statutorily required enforcement activities.

- ***Recently Chaptered Legislation.*** The proposal does not provide resources to implement recently chaptered legislation—such as for Chapter 662 of 2023 (AB 652, Lee), which requires DPR to convene an environmental justice committee. This omission is consistent with the administration's overall approach in the Governor's budget, which mostly excludes augmentations related to implementing recently chaptered legislation. (The administration indicates it will consider including such resources as part of the May Revision depending on the overall budget condition.) However, given the important opportunity the Legislature has right now to set DPR's scope of work and corresponding funding needs, it is a key juncture for considering whether all of its desired activities are included—particularly those already enacted into law by the Legislature and Governor.

If Community Air Pollution Workload Is a Core Department Activity, Funding It From the DPR Fund—Rather Than GGRF—Is Appropriate. One of the primary purposes of reconsidering the mill assessment is to provide sufficient resources for DPR's core programs so the department is better equipped to meet its mission and statutory authorities. Historically, the department's core functions and programs have been supported by the DPR Fund. The Governor's proposal continues this approach with one notable exception—the proposal to instead fund the ongoing activities related to AB 617 with GGRF. The ongoing nature of these augmentations suggests that the administration views this workload as a core department function. Moreover, DPR indicates that these activities—working with local communities on air pollution impacts caused by pesticides—are needed even in areas that do not currently participate in the AB 617 program. Accordingly, we find the DPR Fund to be a more appropriate ongoing fund source than GGRF to support these activities.

Policy Changes Appear to Be Reasonable. Overall, we find that the Governor's proposed statutory changes align with the overall intent of the budget proposal and would support the department in further meeting its mission and statutory responsibilities. As noted above, these include changing the mill assessment payer responsibility, extending the statute of limitations for pesticide use and mill assessment payment violations, authorizing DPR to enforce state laws and regulations on out-of-state pesticide dealers, and exempting emergency pesticide use authorizations from CEQA. We find that these changes could: (1) improve the collection of the mill assessment; (2) strengthen the enforcement of pesticide laws and regulations; and (3) facilitate the authorized use of pesticides in emergency situations.

Incorporating Accountability Measures Could Help Legislature Assess Effectiveness of Proposed Changes. The amount of funding DPR would receive under this proposal would represent a significant augmentation for the department. The proposal (including the proposed GGRF spending) would increase the department's ongoing base spending levels by about

25 percent. While we find the proposed augmentations to be reasonable, the Legislature would benefit from conducting oversight of how the funding is being used and the degree to which it is helping DPR meet its core objectives. Monitoring the department's progress in meeting state objectives—such as improving the registration and reevaluation of pesticides—would inform the Legislature on DPR's successes and challenges in implementing the funding augmentations and, in turn, help inform whether future programmatic modifications might be needed.

Recommendations

Approve Some Level of Flat Mill Assessment Increase With Statutory Caps… We recommend the Legislature approve a flat increase to the mill assessment to address the structural deficit within the DPR Fund and to support high-priority programmatic expansions. The mill assessment has not been adjusted in 20 years and an increase would ensure that the DPR Fund can accommodate current department expenditures and is able to support new state priorities for pesticides going forward. Furthermore, structuring the change as a flat increase—rather than tiered—is a reasonable approach given that it is easier to administer, offers a more predictable charge and revenue stream, and DPR has not yet identified a list of priority pesticides that could be used to form tiers for differential charges. We also recommend the Legislature incorporate statutory caps for both the mill assessment applied to all pesticides and the additional mill assessment levied on agricultural use pesticides—either at the levels proposed by the Governor or something close. This would allow revenues within the DPR Fund to keep pace with expenditure levels set by the Legislature and provide confidence that the department can be tasked with future responsibilities without placing excessive cost pressures on the fund.

…But Consider Modifications to Ensure DPR Has Sufficient Resources to Accomplish Legislative Priorities. Given the opportunity that revising the mill assessment provides in setting the state's overall goals related to pesticides, we recommend the Legislature ensure that its spending priorities are reflected in the scope of work and associated level of funding that the final budget deal provides. This could include modifying or adding to the Governor's proposed programmatic augmentations. Depending on the actions taken, this may require the Legislature to implement higher or lower increases to the mill assessment and registration and licensing fees than proposed by the Governor.

Support DPR's Community Air Pollution Workload With DPR Fund. We recommend the Legislature reject the Governor's proposal to fund DPR's community air pollution workload with GGRF and instead support these activities with the DPR Fund. The ongoing nature of this augmentation suggests that this workload is a core department function, and the department indicates the needs for this community engagement exist beyond just AB 617 program participants. Accordingly, we find it reasonable to support these activities with the department's primary funding source. This would mean ensuring the mill assessment is set at a level to generate revenues that can cover the associated costs ($717,000 to support four positions and air monitoring activities), along with whatever other modifications the Legislature makes to the Governor's proposal. This would also align with our overall recommendation that the Legislature minimize out-year GGRF commitments in order to maintain legislative flexibility over the use of these funds in upcoming years, particularly given the forecasted deficits. (Please see our recent report, *The 2024-25 Budget: Cap-and-Trade Expenditure Plan*, for more detail on our GGRF-related recommendations.)

Approve Various Policy Changes. We recommend the Legislature approve the Governor's proposed policy changes. These include changing the mill assessment payer responsibility, extending the statute of limitations for pesticide use and mill assessment payment violations, authorizing DPR to enforce state laws and regulations on out-of-state pesticide dealers, and exempting emergency pesticide use authorizations from CEQA. These changes align with the overall intent of the budget proposal and would support the department in further meeting its mission and statutory responsibilities. We find that these changes could: (1) improve the collection of the mill assessment; (2) strengthen the enforcement of pesticide laws and regulations; and (3) facilitate the authorized use of pesticides in emergency situations.

Consider Adding Accountability Measures. We recommend the Legislature consider adding accountability measures as a way to conduct oversight of programmatic expansions and to ensure that funding is helping DPR meet its core objectives. Monitoring the degree to which the department is meeting these objectives—such as improving the registration and reevaluation of pesticides—also would inform the Legislature on the successes and challenges of implementing the augmentations and, in turn, guide potential future programmatic modifications. Specifically, the Legislature could require DPR to complete a report that discusses how the funding augmentations are being utilized and what outcomes are being achieved. The Legislature could require the report to include specific metrics that it believes are important to track, such as average processing times for pesticide registrations, the number of pesticide reevaluations being undertaken each year, and updates on the department's progress in identifying priority pesticides.

Staff Comments

Staff concurs with the LAO that raising the mill assessment is justified.

The mill assessment has not been raised since 2004. While the mill assessment is tied to the sale of pesticides and, therefore, has been increasing as the price of pesticides has increased over time, inflation and the sale of pesticides are not in alignment and do not function the same way as a cost of living adjustment. Second, the Department's statutory responsibilities have increased over the past twenty years, while the Department's funding has not. Examples of recent unfunded statutory requirements that have increased DPR's responsibilities include those for increased community engagement to reduce risks of pesticide exposure, conducting reevaluations of specific active ingredients, and expanded collaboration with other agencies or departments on risk mitigation recommendations. Last year, alone, the Governor signed AB 1016 (Jones-Sawyer), AB 363 (Bauer-Kahan), AB 652 (Lee), AB 1322 (Friedman), all of which impact the Department's responsibilities.

The Legislature has taken temporary measures in previous budgets to address DPR's structural deficit. In 2021-22, the Legislature provided $10.3 million General Fund, and in 2022-23 the Legislature provided $8.8 million to close DPR's funding gap. However, this is a stopgap solution, and a long-term, sustainable alternative is necessary, especially in light of the current budget deficit the state faces.

That being said, robust discussion and negotiation are needed to ensure that the final proposal on the mill assessment reflects the priorities of the Assembly. Assemblymember Garcia has introduced AB 2113 this year which includes the same trailer bill language proposed by the administration to implement the mill assessment increase. AB 2113 is currently in the Assembly Committee on Environmental Safety and Toxic Materials. This subcommittee's presentation of the mill assessment is on a parallel track with AB 2113. The public hearing process for AB 2113 is integral to ensuring all voices are included in shaping the policy elements of this proposal.

The Subcommittee may wish to ask the following questions:

1. Why does the Department propose to increase the mill to 28.6 mills in 2026-27 versus what was proposed in the Crowe study, 33.9 mills?

2. What accountability measures does this proposal include for the registration and reevaluation of pesticides in the Budget Change Proposal (BCP) or trailer bill?

3. Are there repercussions if the Department does not meet the registration and reevaluation timelines included in the proposal?

4. How does the BCP increase transparency for communities impacted by pesticides and fee payers?

5. Why did the administration not include resources dedicated to implementing recently signed legislation impacting the Department (for example, AB 652 (Lee))?

6. If this subcommittee decides not to adopt this proposal (or otherwise address the structural deficit), what additional steps will the administration take to reduce staff, responsibilities, or expenditures?

Staff Recommendation: Hold Open.

3960 California Department of Toxic Substances Control

Issue 4: Update on the Hazardous Waste Control Account

This summary is excerpted from the LAO's Report on Insolvency Risks for Environmental and Transportation Special Funds.

To read the full report visit, https://lao.ca.gov/Publications/Report/4858.

The Hazardous Waste Control Account (HWCA) primarily supports activities the Department of Toxic Substances Control (DTSC) conducts related to regulating the generation, storage, transportation, and disposal of hazardous waste through permitting, compliance monitoring, and enforcement of noncompliance.

Budget trailer legislation adopted as part of the 2021-22 budget package, Chapter 73 of 2021 (SB 158, Committee on Budget and Fiscal Review), restructured and increased the charges that support DTSC's two major fund sources: HWCA and the Toxic Substances Control Account (TSCA). The resulting revenues were intended to:

1. Solve longstanding structural deficits in HWCA and TSCA,
2. Support a new Board of Environmental Safety (BES) (discussed below)
3. Support programmatic expansions that would better enable DTSC to protect people and the environment from toxic substances; and
4. Build sufficient reserves in both accounts.

For HWCA specifically, SB 158 replaced several prior fees with a new generation and handling fee and also increased existing facility fees. While the legislation was enacted as part of the 2021-22 budget package, the state did not begin to receive additional revenues until 2022-23 due to the timing of how charges for both accounts are collected.

Senate Bill 158 also established BES within the department. Besides hearing permit appeals for hazardous waste facilities and providing strategic guidance to the department, beginning in 2023-24 the five-member board is responsible for setting charge levels for HWCA and TSCA. Specifically, the board is responsible for setting charges annually to align revenues from both accounts with the amount of expenditures authorized by the Legislature through the annual budget act.

HWCA Revenues Primarily Come From Two Major Regulatory Fees. Funding for HWCA primarily comes from the generation and handling fee (established in SB 158) and facility fees. The generation and handling fee is charged on a per-ton basis to all entities that generate five or more tons of hazardous waste in a calendar year, while facility fees are annual charges levied on permitted facilities that treat, store, or dispose of hazardous waste. Senate Bill 158 set rates for both fees for 2022-23, but authorized BES to adjust rates each year starting in 2023-24.

Lower-Than-Projected Generation and Handling Fee Revenues Reestablished HWCA Deficit in 2022-23. During the enactment of SB 158, the new generation and handling fee was set at $49.25 per ton and was projected to generate approximately $81 million in total revenues in 2022-23. However, in the middle of 2022-23, DTSC indicated that these revenues were coming in significantly below what had been anticipated and would only generate about $40 million that year. The lower-than-projected revenues reestablished the structural deficit within HWCA in 2022-23 and set the fund on a path to insolvency in 2023-24. The department's preliminary analysis of the issue indicated the shortfalls were attributable to a combination of three primary factors: (1) a reduction in the amount of hazardous waste generated; (2) a higher utilization of government fee exemptions, such as related to a government entity removing or remediating hazardous waste caused by another entity; and (3) nonpayment or low payment of fee amounts owed.

2023-24 Budget Package Authorized Special Fund Loans for HWCA. To address the revenue shortfall, the 2023-24 budget provided $55 million in special fund loans—$15 million from TSCA and $40 million from the Beverage Container Recycling Fund—to support HWCA. (Budget bill language currently requires DTSC to repay both loans by June 30, 2026.) The loans were intended to allow HWCA to cover its planned expenditures in both 2022-23 and 2023-24. The loans also avoided the need for BES to increase the generation and handling fee in 2023-24. This approach was adopted to provide DTSC with additional time to conduct a more in-depth analysis of the revenue shortfalls and to identify a potential solution. The department was authorized to use a small portion of the loans to support this analysis and to improve fee administration and data collection.

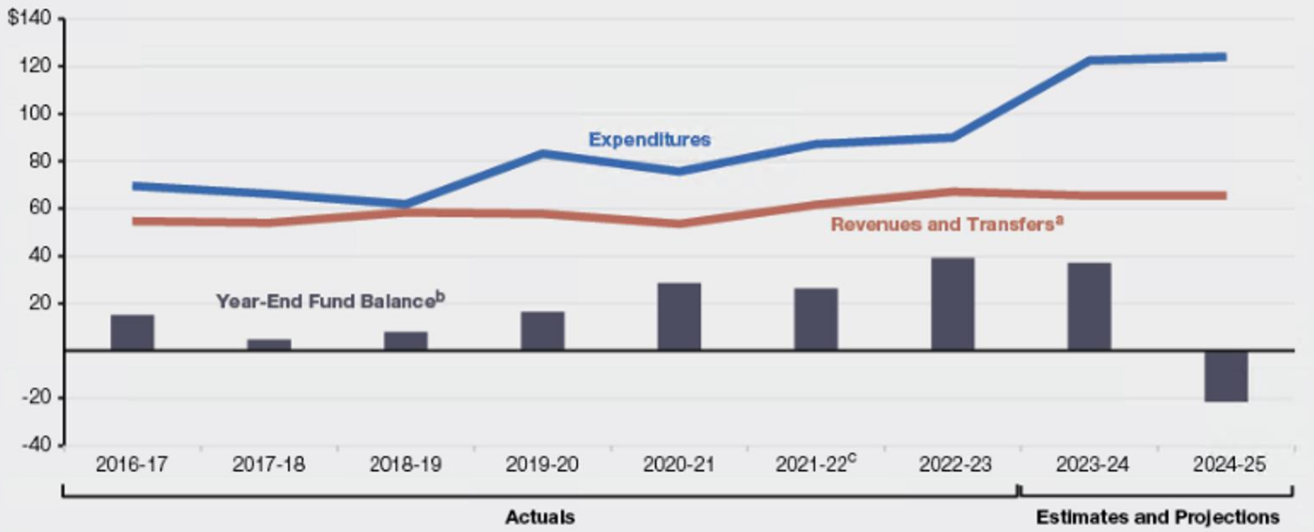
Insolvency Projected in 2024-25

HWCA Projected to Be Insolvent in the Budget Year. As shown in Figure 2, HWCA has experienced a longstanding structural deficit between its ongoing revenues and expenditures. The state has responded by providing a series of one-time General Fund backfills to keep the fund solvent, which is primarily how the fund balance has remained positive. The reform package was intended to address the structural deficit and generate additional ongoing revenues for HWCA to support both existing services and programmatic expansions. However, the lower-than-projected generation and handling fee revenues have prevented this from being accomplished. Under the administration's estimates, HWCA is projected to become insolvent in the budget year, absent any corrective action. We note that the department is in the process of gathering revenue data from generation and handling fees that are currently being collected, which could change this projection—potentially for the better or for the worse. Accordingly, uncertainty still exists around the exact magnitude of shortfall that the state will need to address both in the budget year and on an ongoing basis. For instance, higher-than-expected revenues and/or lower-than-expected spending levels in the current year could shrink the anticipated deficit and reduce the magnitude of solutions needed in the budget year.

Figure 2

HWCA Projected to Be Insolvent in the Budget Year

(In Millions)



[a] Reflects ongoing revenues and transfers to and from the fund. Excludes one-time General Fund backfills ($28 million in 2019-20, $20 million in 2020-21, and $29 million in 2021-22) and one-time special fund loans ($55 million in 2023-24).

[b] Includes one-time backfills and loans and prior-year adjustments.

[c] Chapter 73 of 2021 (SB 158, Committee on Budget and Fiscal Review) was enacted as part of 2021-22 budget, but the additional revenues and increases in expenditure authority to support programmatic expansions began in 2022-23.

HWCA = Hazardous Waste Control Account.

Administration Indicates Proposal Forthcoming at May Revision. DTSC indicates that it still is in the process of completing its analysis of the causes of the HWCA revenue shortfall, along with collecting updated revenue information. The department has stated that it will use this analysis as the basis for a proposal to address the 2024-25 revenue gap that will be included as part of the May Revision.

Panel

- Brian Brown, Chief Financial Officer, Department of Toxic Substances Control
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

LAO Comments

Reducing HWCA Expenditures Could Have Negative Implications for Health and Safety. As discussed earlier, generally the Legislature has two key categories of ongoing options for addressing structural fund imbalances: increase revenues (including by raising charges or through loans and transfers) or reduce expenditures. In the case of HWCA, the latter option could raise some concerns. In addition to addressing the structural deficits within HWCA and TSCA, a central component of the recent governance and fiscal reform package the Legislature enacted was to ensure that funding levels in both accounts were sufficient to support DTSC in better delivering on its mission and statutory authorities. For activities supported by HWCA, this included improving hazardous waste generator inspections and enhancing criminal enforcement investigations. Given that the Legislature recently identified the department's current HWCA expenditure levels as being essential to protecting the public and environment from hazardous waste, this suggests that reducing them could result in a resumption of the safety concerns that initially led to the reform. This does not mean that opportunities for some savings do not exist. For example, the Legislature potentially could direct the department to implement program efficiencies that reduce cost pressures on HWCA and still allow for important services and protections. However, the Legislature likely will want to proceed with caution in considering any reductions to the activities supported by HWCA and ensure they do not result in increased hazards for Californians. Moreover, identifying enough efficiencies to fully address the fund's structural deficit *and* maintain essential activities is highly unlikely.

Legislature Has Several Options to Provide Support for HWCA. Given concerns about reducing DTSC's expenditures and activities, the Legislature might instead want to consider: (1) increasing HWCA revenues; and/or, (2) identifying other fund sources to backfill HWCA. Two primary pathways exist for increasing revenues. First, the Legislature could defer to BES to use its statutory authority to raise the generation and handling fee and align revenues with the amount of 2024-25 expenditures authorized for HWCA. Second, the Legislature could begin to develop its own proposal to increase the amount of revenues collected from the generation and handling fee. For instance, one factor leading to the shortfalls is a higher utilization of government fee exemptions. The Legislature could reduce these exemptions and thereby apply the fee to more payers and generate additional revenues. In addition to raising revenues, the Legislature could identify other fund sources to backfill HWCA, similar to the approach it took in the 2023-24 budget. We note that utilizing this option may be more difficult given the overall budget problem with which the state is grappling. Furthermore, the Governor's budget already proposes using special fund loans—such as from the Beverage Container Recycling Fund—to support the General Fund, which limits the ability to utilize such sources to support HWCA.

Recommendation

Use Spring Budget Process to Consider Options. The administration plans to propose a solution for HWCA as part of the Governor's May Revision. While a solution is needed, this schedule limits the time the Legislature has to: (1) weigh the benefits and trade-offs of the administration's proposal; and (2) develop a proposal that aligns with its own priorities. Given these constraints, we recommend the Legislature begin this spring to weigh the various options it has for addressing the HWCA revenue shortfall. Considering the merits and trade-offs associated with these options now would put the Legislature in a better position to evaluate the Governor's proposal and alternative solutions in May when the budget deadline and need for action are more pressing.

Staff Comments

The Subcommittee may wish to ask the following questions:

1. What is the current process for fee collection?

2. Does the way fees are collected cause potential non-payment or underpayment?

3. Does the Department have an update on why fees came in lower than estimated?

4. Of the preliminary reasons the Department shared for lower estimates on fee revenue (reduction in hazardous waste generated, higher use of the government fee exemption, non-payment or underpayment of fee amounts owed), does the Department know which of these is impacting revenue the most?

5. Has the Department identified other reasons fee estimates were higher than actuals?

6. What exemptions currently exist for the HWCA fee?

7. What is the status of the $40 million loan to HWCA from the Beverage Container Recycling Fund (BCRF)?

8. What is the Department doing to improve the fee collection process?

Staff Recommendation: Informational, no action necessary**.**

3970 California Department of Resources, Recycling, and Recovery

Issue 5: Beverage Container Recycling Grants Program Staffing

The Governor's budget requests position authority for 6 new permanent ongoing positions in 2024-25 to implement and manage the grant programs under SB 1013 (Ch. 610, Statutes of 2022) and AB 179 (Ch. 249, Statutes of 2022).

Background:

In 2022, the Legislature passed SB 1013 (Atkins) and AB 179 (Ting), both of which created multiple new grant programs under CalRecycle. SB 1013 adds wine and distilled spirits to the State's bottle bill program and includes an ongoing $9 million for three grant programs. AB 179 provides $220 million to various programs to support California's circular economy, including recycling centers, mobile recycling, and reverse vending machines.

The 2023 Budget included 5 positions for SB 1013 grant implementation; however, this has proven inadequate for staffing the new grant programs established under SB 1013 and AB 179. Between the funding provided in both of these bills, staff will be responsible for managing over $200 million in grants over the coming years. Based on the projected workload associated with these new programs, CalRecycle estimates that they will need a minimum of 18 additional staff to stand up, administer, and complete these new grant programs.

CalRecycle conducted an analysis of existing, vacant positions, and is reclassifying 7 positions to increase workload. This leaves the 6 positions to meet the full 18 necessary to stand up these new grant programs, hence the requested 6 positions in this Budget Change Proposal.

Per Assembly Bill 179, no more than five percent of the original $233 million appropriation may be used for administrative cost. CalRecycle requested five percent of $233,333,000, which amounts to approximately $11.67 million for state operations and staff as well as contracts that support program development and implementation. In addition, the 2023 budget also provided approximately $6 million for state operations, which will be used to fund staff salaries. Therefore, the Governor's budget requests only the authority to establish and fill positions, as they will be paid for by these existing funds.

Panel

- Krystal Acierto, Acting Director, CalRecycle
- Mindy McIntyre, Chief Deputy Director, CalRecycle
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

Staff Comments

The Subcommittee may wish to ask the following questions:

1. Can the Department provide an implementation update on the three grant programs established under SB 1013?

    a. The Recycled Glass Processing Incentive Grant
    b. The Increased Recycling of Empty Glass Beverage Containers Grant Program
    c. Empty Glass Beverage Transportation Grant Program

2. Can the Department provide an implementation update on the grant programs as part of AB 179?

    a. $73.3 million for recycling centers, mobile recycling, reverse vending machines or bag drop programs
    b. $50 million for the Quality Incentive Payment Program
    c. $30 million for startup loans for processors and recyclers
    d. $5 million for workforce development
    e. $10 million for plastic market development payments
    f. $25 million for deposit-return systems for reusable containers

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.

8570 California Department of Food and Agriculture

Issue 6: Blythe Border Protection Station Replacement

The Governor’s budget requests $99,250,000 Public Buildings Construction Fund to begin the construction phase for the Blythe Border Protection Station Replacement Project.

Background

CDFA maintains a system of 16 border patrol stations on the major roadways into California to prevent invasive species from entering the state.

Invasive species threaten the safety of California's food supply; kill urban and forest trees; reduce natural biodiversity by out-competing native species; clog waterways and water delivery systems; render rangeland, recreational areas and other public and private lands unusable; result in trade restrictions; and increase pesticide and herbicide use. Invasive species are economically and environmentally devastating to California agriculture and natural habitats.

According to CDFA, approximately 95 percent of all established invasive species in California have been introduced as hitchhikers on materials brought by people driving into California in private vehicles. Invasions of the Glassy-winged Sharpshooter, Red Imported Fire Ant, and Mediterranean Fruit Fly serve as examples of invasive species that have economic and ecological effects. Studies show that on a national level, every dollar spent on the exclusion and early detection of exotic and invasive species saves an average of $17 in future expenses.

The existing Blythe Border Protection Station is located on Interstate 10, approximately 4 miles east of Blythe, CA in Riverside County. The proposed project will include:

- Five vehicle inspection lanes,
- A vehicle office building (approximately 4,200 gross square feet), that includes support spaces for visiting cooperative agencies and California Highway Patrol.
- Four truck inspection lanes
- Truck office building (approximately 2,900 gross square feet).
- Bypass lanes for the north and south sides of the vehicle inspection stations for oversized loads.

Supporting site improvements for the Blythe Border Protection Station Replacement Project will include:

- Transitioning lanes to the new nine lane border patrol station from westbound Interstate 10 and then again back to Interstate 10.
- Frontage road improvements
- A new Hobsonway ramp

The Blythe Border Protection Station was built in 1958 and, according to CDFA, is inadequate for modern traffic levels. The Blythe border patrol station was designed to accommodate 600,000 vehicles annually. In the first full year of operation, 1959, total traffic was measured at 747,250 vehicles. Traffic measured 4,045,232 in 2021, almost seven times the traffic volume the station was designed to accommodate.

Total project costs are estimated at $113,505,000, including acquisition phase ($9,348,000), preliminary plans phase ($2,148,000), working drawings ($2,759,000), and construction ($99,250,000). The construction amount includes $87,325,000 for the construction contract, $4,366,000 for contingency, $2,408,000 for architectural and engineering services, and $5,151,000 for other project costs.

Panel

- Arima Kozina, Deputy Secretary, Department of Food and Agriculture
- Christian Beltran, Principal Finance Budget Analyst, Department of Finance
- Frank Jimenez, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

Staff Comments

The Subcommittee may wish to ask the following questions:

1. What has been the timeline for the development of this project leading up to construction?

2. Other than the $2.8 million general fund provided in last year's budget, has the state provided any other funding for the project?

3. How does funding capital outlay projects such as the Blythe Border Protection Station work?

4. Does the current budget deficit impact our ability to issue bonds to cover the construction costs of projects?

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.

0555 California Environmental Protection Agency

Issue 7: CalEPA Bond and Technical Adjustments

The Governor's budget includes requests for various bond appropriations, reappropriations, and reversions; technical adjustments; reappropriations; and baseline adjustments to continue implementation of previously authorized programs.

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: California Environmental Reporting System Project

The Governor's budget requests $ 3,171,000 from the Unified Program Account in 2024-25 to implement a technology refresh on the California Environmental Reporting System (CERS). This includes continued funding for five (5.0) permanent positions previously approved in the 2022 Budget Act. The project will update the technical platform, improve data quality and the processes supporting data quality, and will modernize a critical public-facing system that enables more than 160,000 businesses and 104 local regulators to meet their legal reporting obligation.

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 9: CalEPA Environmental Complaint System: Enhancing Transparency and Accountability

The Governor's budget requests requests $676,000 increase in reimbursement authority (includes a one-time request for $230,000) and 2 permanent positions in 2024-25 to stabilize the CalEPA Environmental Complaint System and ensure that CalEPA is responsive, transparent, and accountable in addressing community complaints about environmental problems.

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.

3930 California Department of Pesticide Regulation

Issue 10: California Pesticide Electronic Submission Tracking (CalPEST) Project

The Governor's budget requests $4.4 million DPR Fund for 2024-25: $4.1 million in one-time funding with a two-year encumbrance period, and $318,000 ongoing funding to provide ongoing support for the system.

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.

3960 Department of Toxic Substances Control

Issue 11: Board of Environmental Safety (BES): Baseline Level of Service Increase

The Governor's budget requests $331,000 in 2024-25 and ongoing, split between the Hazardous Waste Control Account (HWCA) and Toxic Substances Control Account (TSCA), to increase baseline funding to recategorize certain BES staffing positions.

Background:

In response to a backlog of expired hazardous waste facility permits, delayed cleanups in vulnerable communities, and inconsistent engagement with the communities it serves, the Legislature and Governor enacted SB 158 (2021), which restructured and increased the funding for DTSC and created BES to provide greater public access, accountability, oversight, transparency, and reform on DTSC. Once BES assumed its operations, board members recognized that some of the staff positions established in the initial organizational plan were not classified at suitable levels to provide effective support for board members sufficient to carry out the functions of BES.

In Fiscal Year 2022-23, BES completed updates of 4 staff position as follows:

- Administrative Assistant II to Associate Government Program Analyst (AGPA)
- Senior Environmental Scientist to Environmental Program Manager I
- Attorney III to Attorney IV
- Associate Governmental Program Analyst to Staff Services Manager I

In 2024-25, BES plans to upgrade another 2 positions, including:

- Staff Services Analyst to Environmental Scientist
- AGPA to Senior Environmental Scientist

Funding for the upgrading of these 6 positions will give board members greater support from subject matter experts and allow BES to provide higher service levels in response to public demands for greater accountability and improved oversight of DTSC.

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: Climate Change Resiliency at Toxic Waste Sites

The Governor's budget requests 5.0 permanent positions in 2024-25 with funding of $1.6 million in 2024-25, and $1.2 million ongoing from the Toxic Substances Control Account (TSCA). DTSC also requests reimbursement authority in 2024-25 of $385,000 and $199,000 in 2025-26. These resources will allow DTSC to focus efforts and expertise to ensure actions are taken to confront the threat of climate change to human health and the environment at former, current, and future cleanups at toxic waste sites located throughout California.

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 13: Meeting public demand for timely site cleanup in the Bay Area

The Governor's budget requests $1.7 million from the Toxic Substances Control Account (TSCA) in 2024-25 and ongoing, $800,000 in reimbursement authority in 2024-25 and ongoing, and 9.0 permanent positions to enable the timely cleanup of contaminated sites in the Bay Area. The work performed by the additional site mitigation staff will yield reimbursements of at least 50 percent of the costs through standard voluntary agreements and orders as part of DTSC's cleanup and brownfields redevelopment work.

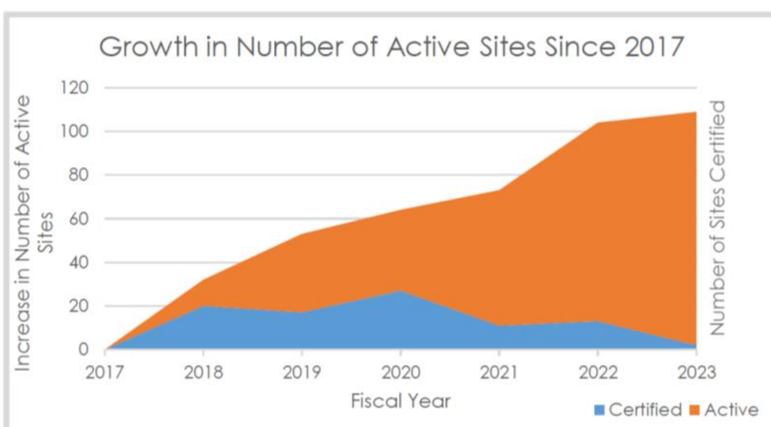


Figure 1. The increase in the number of active (not certified) sites since the start of fiscal year 2017-18 is shown in orange. The number of certifications per year are shown in blue. During fiscal year 2017-18, 32 agreements were executed and 20 sites were certified, so the number of active sites increased by 12. In 2018, the number of active sites increased by 24 more, resulting in an increase of 36 sites since 2017. By the end of fiscal year 2022, there were 107 more active sites than at the start of fiscal year 2017.

In total, the Berkeley branch has executed 197 agreements and certified 90 sites since 2017, resulting in net 107 additional active sites to manage, on top of previously existing sites. Meanwhile, the Berkeley branch staffing level has only grown by 3 positions since 2017.

The Berkeley branch received two project management positions in a Budget Change Proposal submitted in 2022-23. These positions were successfully filled in 2022-23. However, a wave of retirements from the Berkeley branch in 2022 and 2023 has led to 10 positions being vacant (as of August 2023), which has delayed the gains anticipated from two additional positions.

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 14: National Priorities List and State Orphan Sites

The Governor's budget requests a transfer of $20.5 million from the Toxic Substances Control Account to the Site Remediation Account and $20.5 million expenditure authority from the Site Remediation Account in 2024-25 to fund the state's National Priorities List obligations and state orphan sites with Priorities 1A, 1B, 2, and 3, and statewide service contracts.

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 15: SB 1215 – Universal Waste Electronic Devices Reporting System Modernization

The Governor's budget requests 1.0 permanent position, $808,000 in 2024-25 and $508,000 ongoing from the Electronic Waste Recovery and Recycling Account (EWRRA) to implement Senate Bill (SB) 1215, Chapter 370, that expands the scope of the Electronic Waste Recycling Act to include additional device categories.

Background:

DTSC uses the Universal Waste Electronic Device Reporting System to track waste notifications and reporting from all e-waste handlers in the state. Currently, there are over 15,000 notified facilities operating in California. Both DTSC and CalRecycle utilize the data available in reporting system to ensure that e-waste handlers comply with all universal waste-handling requirements. DTSC is requesting funding for the development of a new Universal Waste Electronic Device Reporting System and an Information Technology Specialist II for implementing SB 1215, which adds covered battery-embedded products to the list of products covered under the Electronic Waste Recycling Act of 2003.

The one-time $808,000 request includes $600,000 to develop the new reporting system and $208,000 for the permanent IT SPEC II position. The annual $508,000 request includes the $300,000 annual licensing cost for the new reporting system and $208,000 for the permanent ITS II who will provide IT support during and after the implementation contract of the new reporting system.

This proposal will enable DTSC to support the implementation of SB 1215 requirements, address the operational needs of DTSC, minimize security and failure risks posed by the existing system, and provide a modernized reporting system with enhanced features to increase data reliability and compliance, helping to better protect communities and the environment.

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.

3970 Department of Resources, Recycling, and Recovery (CalRecycle)

Issue 16: CalRecycle Integrated Information System (CRIIS)

The Governor's budget requests $13.1 million in 2024-25 from the California Beverage Container Recycling Fund (CBCRF) for continuing work on CalRecycle's Integrated Information System (CRIIS).

CRIIS is an extensive ongoing initiative to migrate the California Beverage Container Recycling Program's (BCRP) current application called the Division of Recycling Integrated Information System (DORIIS) into a modern, stable, cloud-based platform. The new solution will achieve the goal of consolidating all CalRecycle program applications into an enterprise solution.

CalRecycle's DORIIS is the primary automated system used by beverage container manufacturers, distributors, recyclers, processors, and over 250 internal staff associated with the BCRP. DORIIS is an automated system that was completed in July 2010 with a total cost of $21 million and the system operates within an Oracle ERP E-Business Suite technical environment, which is specialized and not broadly supported by the vendor community.

DORIIS is an aging, high-profile system that only serves one division within CalRecycle. The system is under constant audit by regulatory bodies and subject to public scrutiny. Since it went live in 2010, DORIIS has cost CalRecycle a total of $36 million to operate, but it only supports the BCRP, which is just one of CalRecycle's many programs. At an average of $3 million annually, DORIIS is proving to be cost-prohibitive to sustain.

In accordance with the California Department of Technology's Project Approval Lifetime, the CRIIS received approval of the Stage 2 Alternative Analysis from the Department of Technology in March 2023. Approval of the requested funds will allow for the next phase of funding toward the project's overall goal to consolidate all recycled materials into a single enterprise solution for the Department.

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 17: Covered Electronic Waste Recycling Fee Subaccount Abolishment – Trailer Bill Language

The Governor's budget proposes to include trailer bill language with a technical amendment to abolish the Covered Electronic Waste Recycling Fee Subaccount (Fund 3417), leaving the Electronic Waste Recovery and Recycling Account (Fund 3065) as the fund in which all covered electronic waste recycling fees collected from sales of covered electronic devices, are deposited.

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.

8570 California Department of Food and Agriculture

Issue 18: Flood Damage Repair for the California Animal Health and Food Safety South Valley Laboratory

The Governor's budget requests $22.7 million General Fund in 2023-24 to repair the damage to the California Animal Health and Food Safety South Valley Laboratory caused by severe flooding in Tulare County in March 2023. This includes an extended encumbrance and expenditure deadline of June 30, 2026.

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 19: Emergency Exotic Pest Response Early Action

The Governor's budget requests $22.1 million General Fund in 2023-24 to respond to numerous unanticipated emergencies related to infestations of exotic fruit flies. Due to the unprecedented numbers of exotic fruit fly activities statewide, additional resources are required to offset the personnel and operational costs associated with the required regulatory responses associated with each of the exotic fruit fly infestations. Additionally, CDFA requests provisional language allowing for an augmentation of up to 20 percent of the amount appropriated in this request to be available in the event the infestations continue to expand.

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 Christine Miyashiro.