

AGENDA**ASSEMBLY BUDGET COMMITTEE No. 3 ON RESOURCES AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD BLOOM, CHAIR****WEDNESDAY, MARCH 20, 2019****9:30 A.M. - STATE CAPITOL, ROOM 447****VOTE-ONLY CALENDAR**

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VOTE-ONLY**0555 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY****VOTE-ONLY ISSUE 1: VARIOUS TECHNICAL ADJUSTMENTS**

The Governor's budget requests various technical adjustments, reappropriations, and baseline appropriation adjustments to continue implementation of previously authorized programs. This request includes net-zero technical adjustments to convert permanent positions within the temporary help blanket to permanent authorized positions.

Department	Title	Description
CalEPA	Environmental Justice Grants	Requests \$1.5 million for the Environmental Justice Small Grants Program. The funding will come from penalty revenue within the designated funds, which are each administered by boards and departments under CalEPA. Specifically, \$750,000 Air Pollution Control Fund, \$375,000 California Beverage Container Recycling Fund, and \$375,000 Waste Discharge Permit Fund.
ARB	Continued Funding for AB 617 Implementation	Requests \$4.158 million GGRF to support 22.0 existing positions and 3.0 new Human Resource positions to continue the implementation of AB 617.
ARB	Proposition 1B Grant Program	Requests to appropriate unspent balance of \$12.3 million Proposition 1B funds from previously reverted fiscal years with an extended encumbrance period through June 30, 2022.
ARB	Technical Adjustment: Freight Regulation Reporting System Development and Support	Requests 2.0 positions to continue the development, maintenance, and support of a replacement for the CARB Freight Regulations Reporting System. Request includes \$200,000 one-time from the MVA for hardware procurement to complete development of FRRS and \$100,000 annually from the MVA thereafter for ongoing licensing costs.
ARB	Continued Funding for Administrative Services Limited-Term Positions	Requests two years continued funding for 3.0 temporary Administrative positions in contracts, accounting, and business services that were approved on a one-year basis in 2018-19.
ARB	Technical Adjustment: SB 1 IT Contract	Requests \$300,000 from the MVA one-time for contract funding to complete the development of the Diesel Regulation Compliance Database system as required by SB 1.
SWRCB	Temporary Help Conversion(BL18-16)	Convert 55.0 positions in the temporary help blanket to permanent authorized positions per Budget Letter 18-16.

SWRCB	School District Account Technical Adjustment	Reappropriation of the unencumbered local assistance balance in the School District Account from 2009-10, 2010-11, and 2011-12. Extending the encumbrance period would provide the State Water Board with the ability to continue reimbursing claims on a priority basis to school districts that perform corrective action in response to an unauthorized release of petroleum from underground storage tanks (USTs). The State Water Board requests an encumbrance period of three (3) years and liquidation period of three (3) years to align all subaccounts within the UST Cleanup Fund.
DTSC	Illegal Drug Lab Cleanup Program	Requests \$749,000 General Fund to fund costs related to illegal drug lab cleanup in California. This proposal is a funding shift from the Drug Lab Cleanup Account to the General Fund.
DTSC	National Priorities List and State Orphan Sites	Requests a \$9.2 M one-time increase in TSCA authority to fully fund site remediation at National Priorities List sites and state orphan sites with Priority 1A, IB, and Priority 2 where work has already begun. This augmentation will provide a net total of \$18.8 million available for these activities.
CalRecycle	Reappropriation: Greenhouse Gas Reduction Fund	Requests a reappropriation of GGRF for grant funds originally awarded in fiscal year 2014-15, with an extended encumbrance date of June 30, 2022.
CalRecycle	Temporary Help Conversion(BL18-16)	Request to convert 15.0 positions in the temporary help blanket to permanent authorized positions per BL 18-16.
OEHHA	Compliance Assistance (Proposition 65)	Requests 1.0 permanent position funded with existing reimbursement authority for work performed on requests for Safe Use Determinations under Proposition 65.
OEHHA	Temporary Help Conversion(BL18-16)	Requests to convert 2.5 positions in the temporary help blanket to permanent authorized positions per BL 18-16.

STAFF COMMENTS

This Subcommittee is currently accessing the fiscal health of DTSC. This proposal includes shifting costs from the Drug Lab Cleanup Account to the General Fund. This maneuver makes it very difficult to track expenses from that Account, thereby decreasing transparency. Additionally, this proposal includes extending positions at CARB for AB 617 implementation. CARB has not yet provided adequate workload justification to extend the requested GGRF funding to support the 22 positions for AB 617 implementation.

Staff recommends deferring action on these two pieces until this Subcommittee receives additional information.

Staff Recommendation: Approve BCP except for the funding relating to the 22 positions at CARB and the Illegal Drug Lab Cleanup Program fund shift for DTSC.

3940 STATE WATER RESOURCES CONTROL BOARD**VOTE-ONLY ISSUE 2: BOND TECHNICAL ADJUSTMENTS**

The Governor's budget requests technical bond adjustments, including new appropriations, re-appropriations, reversions, and re-directions for various bond-funded programs.

Request	Request Type	Prop	Program	Fiscal Year	Requested Amount
Re-Appropriation	Local Assistance	1	Water Recycling - § 79765	2016-17	Balance of appropriation
Re-Appropriation	Local Assistance	84	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	2007-08	Balance of appropriation
Re-Appropriation	Local Assistance	84	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	2008-09	Balance of appropriation
Re-Appropriation	Local Assistance	84	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	2011-12	Balance of appropriation
Re-Appropriation	Local Assistance	84	Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	2014-15	Balance of appropriation
Appropriation	Local Assistance	1	Storm Water Management - § 79747	2019-20	\$86,000,000
Appropriation	Local Assistance	1	Small Community Wastewater - § 79723	2019-20	\$19,600,000
Appropriation	Local Assistance	13	Water Recycling Subaccount - § 79136	2019-20	\$2,210,000
Appropriation	Local Assistance	13	Watershed Protection - § 79075	2019-20	\$1,944,000
Appropriation	Local Assistance	13	Nonpoint Source Pollution Control - § 79112	2019-20	\$1,065,000
Appropriation	Local Assistance	13	Coastal Nonpoint Source Control - § 79148.4	2019-20	\$1,133,000
Appropriation	Local Assistance	40	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund of 2002	2019-20	\$2,886,000
Appropriation	Local Assistance	50	Water Security - §79530(a)	2019-20	\$1,600,000
Appropriation	Local Assistance	50	Safe Drinking Water - § 79530(a)(b)	2019-20	\$1,600,000
Appropriation	Local Assistance	50	Small Community Wastewater - §79540(a)	2019-20	\$1,257,000

Appropriation	Local Assistance	50	CALFED Water Recycling - § 79550(g)	2019-20	\$1,289,000
Appropriation	Local Assistance	84	Infrastructure Grants - § 75022	2019-20	\$12,812,000
Appropriation	Local Assistance	84	Prevent or Reduce Groundwater Contamination - § 75025	2019-20	\$32,000
Appropriation	State Operations	1	Water Quality, Supply, and Infrastructure Improvement Fund of 2014	2019-20	\$9,050,000
Appropriation	State Operations	40	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund of 2002	2019-20	\$300,000

Staff Recommendation: Approve as budgeted.

VOTE-ONLY ISSUE 3: LEAD EXPOSURE: CHILD DAY CARE FACILITIES (AB 2370)

The Governor's budget requests \$350,000 General Fund and one permanent full time position to implement AB 2370 (Holden, Chapter 676, Statutes of 2018). Specifically, the requested resources would be used to:

- Collaborate with the Department of Social Services in the development of lead regulations for day care facilities.
- Develop and implement guidance documents for day care facilities, parents and staff for sampling protocol.
- Create means for the electronic submittal of lead data and provide a response to lead level exceedances.
- Create a database for day care facilities, review facilities that have not reported lead levels to the Water Board database or that have elevated lead levels and convey said information to the Department of Social Services.
- Determine if missing data results from non-compliance with sampling requirements, data entry issues, or problems with reporting the data, or if sampling and reporting is scheduled by the end of the sampling period.
- Ensure certified laboratories are used to run lead analyses and data is electronically submitted to State Water Board database.
- Ensure compliance for all day care facilities and respond appropriately for facilities that exceed appropriate lead standards.

Staff Recommendation: Approve as budgeted.

VOTE-ONLY ISSUE 4: ORPHAN SITE CLEANUP FUND GRANTS

The Governor's budget requests \$10 million Petroleum Contamination Orphan Site Cleanup Fund one-time for orphan site cleanup grants. The funds are requested to be available for encumbrance until June 30, 2022, and liquidation of encumbrance until June 30, 2025.

Orphan Site Cleanup Fund (OSCF) was created to provide financial assistance for remediation of the harm caused by petroleum contamination from underground storage tanks where the financially responsible party has not been identified. The OSCA was established to make funding available to persons that did not cause the petroleum contamination but are willing to undertake the cleanup. Projects range from commercial development to affordable infill housing and contribute to creating more profitable and livable communities.

The OSCF has been very successful in facilitating the cleanup of orphan petroleum underground storage tank sites.

Staff Recommendation: Approve as budgeted.

VOTE-ONLY ISSUE 5: TIMBER REGULATION AND FOREST RESTORATION LOCAL ASSISTANCE PROGRAM

The Governor's budget requests spending authority of \$1 million from the Timber Regulation and Forest Restoration Fund one-time for local assistance grants to implement forest restoration as provided for in AB 1492 (Blumenfield, Chapter 289, Statutes of 2012). These funds are requested with a three-year encumbrance period.

AB 1492 established the Timber Regulation and Forest Restoration Program with goals that include creating a funding source for the restoration of the state's forested lands, promoting restoration of fisheries and wildlife habitat, improving water quality and promoting restoration and management of forested landscapes.

A one percent fee on lumber and other wood products sold in California generates revenue deposited into the Timber Regulation and Forest Restoration Fund and funds the activities of the program. SWRCB provides local assistance grants for forest restoration efforts – efforts that include water quality improvement projects.

Staff Recommendation: Approve as budgeted.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

VOTE-ONLY ISSUE 6: INFORMATION SECURITY OFFICE STAFFING

The Governor's budget requests \$304,000 various special funds and two permanent, full-time positions to respond to increasing state information security mandates and to address the increased workload of security audits. Specifically, the requested resources would be used to:

- Develop and manage information securing infrastructure, policies, and programs.
- Manage information security systems to block cyber intrusion attempts, reconfigure software in response to incidents, coordinate information security actions with sister agencies, and combat and remediate ongoing social engineering (phishing) and other cybersecurity attacks;
- Meet new state security-related oversight and workload requirements.
- Perform required testing and refinement of the department Technology Recovery Plan to ensure the ability of the CalRecycle to recover from an interruption to information technology services, whether caused by a cyber-attack, or other event.

Staff Recommendation: Approve as budgeted.

VOTE-ONLY ISSUE 7: ADMINISTRATIVE SUPPORT WORKLOAD

The Governor's budget requests \$241,000 various special funds and two permanent positions to meet increased Human Resource Program administration needs, specifically, outreach, hiring and recruitment. The requested resources will allow the Department to expand and administer the hiring and recruitment program for increased staffing needs and to ensure fair and equal hiring.

The Department has continued to grow over the last six years at an average of 2.6 percent annually without an associated increase in resources.

Staff Recommendation: Approve as budgeted.

ITEMS TO BE HEARD

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

ISSUE 1: ENVIRONMENTAL HEALTH SUPPORT FOR COMMUNITIES (AB 617)

The Governor's budget requests \$982,000 in Greenhouse Gas Reduction Fund (including \$350,000 for contracts) and four permanent positions to support the Air Resources Board, local air districts, and impacted communities to implement AB 617 (C. Garcia, Chapter 136, Statutes of 2017).

BACKGROUND

AB 617 was enacted to reduce exposures in mostly low-income communities that are impacted by air pollution. AB 617 is intended to mitigate impacts of toxic air contaminants (TACs) and criteria air pollutants in burdened communities through the development of effective emissions reduction strategies and enhanced monitoring. ARB is required to develop a monitoring plan to address availability and effectiveness of air monitoring technologies, including existing community monitoring systems, and the need for establishing additional monitoring systems in communities based on potential benefits. ARB is also required to select priority locations for the deployment of community monitoring systems by the local air districts. The initial locations were identified in September 2018, with additional locations to be identified by January 1, 2020, and annually thereafter. ARB adopted a statewide strategy to reduce emissions of air pollutants in communities with high cumulative exposure burdens in October 2018. The strategy includes criteria for development of community emission reduction programs in these locations and is required to be updated every five years thereafter.

AB 617 requires a plan to deploy community air monitoring systems and a strategy to reduce air contaminants. AB 617 requires ARB, in consultation with OEHHA and other specified entities, to prepare a plan for the deployment of community air monitoring systems in high priority locations throughout the state, and to develop a strategy to reduce emissions of air contaminants in burdened communities. The requested OEHHA staff and contract funds are intended to provide: (1) expertise in the interpretation of potential health effects that may result from exposures to air toxics observed through the air quality monitoring data, and the benefits in reducing emissions of those pollutants; (2) for the development of health guidance values needed to fully analyze the health effects and the benefits of reducing emissions of those pollutants; and, (3) for the design and implementation of targeted biomonitoring studies to track exposures in communities. The targeted biomonitoring studies will complement and validate air monitoring in select communities, and increase understanding of exposures and potential health risks faced by residents.

AB 617 identifies OEHHA as a consultant to ARB, for the development of both the community monitoring plan and the statewide emissions reduction strategy. OEHHA's core expertise is in evaluating the health impacts of environmental pollutant. OEHHA would need to provide advice to ARB on the health implications of air monitoring studies and the health benefits of alternative emissions reduction strategies and activities.

OEHHA is currently devoting existing resources to provide input to ARB in the development of its proposed community selection process, monitoring plan, and statewide strategy in 2017-18. OEHHA has primarily drawn on its experience in developing a statewide screening tool to identify cumulatively impacted communities (CalEnviroScreen) in providing advice regarding selection of priority locations. OEHHA has also supported ARB's public process by participating in regional workshops, and convening a meeting of Biomonitoring California's Scientific Guidance Panel to discuss ways to support AB 617 activities. ARB selected ten first-year communities in September 2018. The implementation of the air monitoring programs by the districts with selected communities is required to occur by July 1, 2019.

STAFF COMMENTS

OEHHA plays an important role in the implementation of AB 617. Successful implementation of the bill requires OEHHA to interpret potential health effects that may result from air toxic exposures, develop health guidance values in order to analyze the health effects, and design and implement targeted biomonitoring studies.

While staff does not necessarily have concerns with this proposal, this proposal would create an ongoing pressure in the Greenhouse Gas Reduction Fund (GGRF). Conversations on the GGRF expenditure plan is still ongoing. As such, staff recommends deferring action on this item until the Legislature gets a better sense on how to proceed with the various calls on the Fund and how to prioritize those needs.

Staff Recommendation: Hold Open.

3480 DEPARTMENT OF CONSERVATION

ISSUE 2: INFORMATION TECHNOLOGY MAINTENANCE

The Governor's budget requests \$2 million from the Strong Motion Instrumentation and Seismic Hazards Mapping Fund on a two-year limited-term basis and \$500,000 from the same fund in 2020-21. These funds will be used to perform preventive and corrective maintenance to information technology infrastructure and operations.

BACKGROUND

The California Geological Survey (CGS) provides important data used in decision making by various entities. CGS is 159 years old and is one of the oldest geological surveys in the US. CGS is regarded as the primary source of geological information used in decision-making by government agencies, businesses, and the public.

CGS runs the Strong Motion Instrumentation Program (SMIP), which was established in 1971 and is one of the most extensive seismic monitoring systems in the world. SMIP gathers vital data for the engineering and scientific communities through a statewide network of seismic sensor instruments. These devices are placed in structures such as dams, bridges, hospitals, skyscrapers, fire stations, industrial facilities, and on open land. There are more than 8,500 sensors at over 1,300 monitoring stations statewide. These instruments measure the vertical and horizontal motion of the ground and the response of structures to that ground movement during an earthquake.

SMIP data are used to aid emergency response personnel by pinpointing where the heaviest damage is likely to have occurred in an earthquake. Ultimately, the data collected by the sensors and delivered via the seismic network help improve building codes and assist local governments in their planning.

CGS is currently running SMIP on obsolete and unsupported hardware and software. The hardware and software that SMIP is running on is also out of compliance with required State IT policies. While compliance with State IT policy is important, the larger risk is of an unrecoverable IT failure, which could result in significant consequences.

If an outage were to occur in the SMIP environment during or before an earthquake event, over 65 percent of the State's earthquake sensors would be disabled. This could render emergency response effectively blind in terms of allocating scarce response resources. If such an event occurs, there is no third-party support available. There would be limited local knowledge for troubleshooting and there would be no replacement equipment available.

In addition to the infrastructure and hardware, 95 percent of software in use by SMIP is running on platforms that are long out of mainstream support. Terabytes of historical earthquake data are stored on unsupported media (e.g., hard disk drives, floppies), in a non-temperature-controlled facility, and is not backed-up, which could result in a massive historical data loss on the State's earthquakes.

STAFF COMMENTS

If an IT failure occurred right now, it would render the Strong Motion Instrumentation Program unable to provide critical emergency services before, during, and after an earthquake event. Providing DOC the requested resources would fortify the existing IT operational environment and ensure that there is a knowledgeable and skilled operational support system in place to eliminate the risk of an unrecoverable hardware and/or software failure that could disable SMIP's services.

Staff Recommendation: Approve as budgeted.

ISSUE 3: WELL STATEWIDE TRACKING AND REPORTING (WELLSTAR)

The Governor's budget requests \$5,545,000 in 2019-20, \$2,540,000 in 2020-21, and \$1,327,000 ongoing from the Oil, Gas, and Geothermal Administrative Fund. Funding would be used to continue the development and implementation of Well Statewide Tracking and Reporting (WellSTAR). WellSTAR is a centralized database system to help run operations.

BACKGROUND

Various enacted legislation imposes reporting requirements on DOGGR. Due to increasing concerns over public transparency and accountability of oil and gas operations in California, the Legislature enacted multiple pieces of legislation to require DOGGR to collect specified information in order to evaluate its impacts on the environment.

- SB 4 requires data collection on oil and gas wells. SB 4 (Pavley, Chapter 313, Statutes of 2013) provided a statutory framework for the comprehensive regulation of oil and gas production in California in order to provide greater transparency and accountability to the public regarding well stimulation treatments, its impacts on the environment and the disposal of well stimulation wastes. Regulations adopted on July 1, 2015 require the collection of large amounts of complex oil and gas data related to well stimulation jobs to be evaluated, permitted validated, inspected, and monitored. This data includes, but not limited to, directional surveys, geophysical well logs, well construction details, well completion details, drill stem tests, fracture stimulations and micro-seismic data, core logs, mud logs, pressure transient test data, and production and injection data.
- SB 1281 requires data collection on water produced during oil and natural gas drilling operations. SB 1281 (Pavley, Chapter 561, Statutes of 2013) requires DOGGR to collect information on water produced during oil and natural gas drilling operations in order to evaluate how industry practices affect groundwater. The data must be collected on a quarterly basis and annually report an inventory of all unlined oil and gas field sumps to the State Water Resources Control Board and Regional Water Quality Control Boards. SB 1281 also requires detailed reporting of water use by type, amount, and source, as well as additional reporting on produced water, water treatment and recycling efforts, and disposition of all water used or produced. This reporting must be done at both the individual well level, and the overall field level.
- SB 855 requires annual report on the Underground Injection Control Program. SB 855 (Committee on Budget and Fiscal Review, Chapter 718, Statutes of 2010) required DOGGR to provide an annual report to the Legislature on various features of the Class II Underground Injection Control Program.

Inadequate record keeping imperiled drinking water supplies. An audit conducted by the US EPA in 2011 revealed serious problems with the way DOGGR managed its Class II Underground Injection Control Program. Through this audit, DOGGR acknowledged that that nearly 2,500 wells have been permitted to inject oil and gas waste into protected aquifers, a clear violation of the Safe Drinking Water Act. DOGGR admitted that poor communication, inadequate record-keeping, inconsistent information, and general confusion among the

agencies responsible for overseeing the injection well program led to permits being issued that allowed drinking water supplies to potentially be poisoned by dangerous byproducts of oil and gas production.

Legislature approved several rounds of funding for WellSTAR. The Legislature approved 10 million in 2015-16, \$10 million in 2016-17, \$21 million in 2017-18 and \$15,012,000 in 2018-19 for the development of WellSTAR, an oil and gas data management system. DOGGR is collaborating with the Ground Water Protection Council (GWPC) to implement WellSTAR. WellSTAR will leverage the Risk Based Data Management System (RBDMS) from GWPC. RBDMS is a data information management system developed to track oil, gas, injection well, and source water protection that is currently used in 23 states. WellSTAR will be a modernized version of RBDMS to include newer technology as well as functionality unique to California resulting from enacted legislation. WellSTAR is designed to give DOGGR, other state agencies, industry, and the public an integrated information system that provides centralized information on oil and gas production operations. WellSTAR is also meant to address many of the systematic problems within DOGGR, including poor recordkeeping and the lack of modern data tools and systems.

WellSTAR project is on schedule and on budget. According to the December 2018 Independent Project Oversight Report (IPOR) prepared by California Department of Technology, the overall health of the WellSTAR project is “satisfactory,” meaning no corrective action is necessary at this time. For example, the project is operating: (1) on schedule; (2) within the approved budget; and, (3) within the approved scope. The project is also meeting other requirements for a satisfactory rating in seven other areas tracked on IPOR’s independent project oversight dashboard (such as having an approved staff management plan in place).

STAFF COMMENTS

A modern integrated information system would bring DOGGR in line with the digital age. Such a system would help increase transparency and strengthen the state’s oversight of oil and gas production by improving data collection and analysis, and streamlining operations and processes. This system is also necessary for implementation of the various requirements on DOGGR.

DOGGR has submitted a budget change proposal for the full project costs for the past two fiscal years. The Legislature has approved funding one year at a time to ensure additional opportunities to exercise oversight over this complex information technology project. Now that the most significant project costs have been funded, and the project continues to remain on-track and within budget, this BCP requests the balance of funding needed for WellSTAR development and implementation and continues to remain consistent with the original request.

Staff Recommendation: Approve as budgeted.

ISSUE 4: SURFACE MINING AND RECLAMATION ACCOUNT: TECHNICAL AMENDMENT

The Governor's budget requests trailer bill language to require the amount to be deposited into the Surface Mining and Reclamation Account to include any statewide general administrative costs assess to the account for that fiscal year.

BACKGROUND

The Surface Mining and Reclamation Act of 1975 (SMARA). SMARA provides a comprehensive surface mining and reclamation policy with the regulation of surface mining operations to assure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. SMARA also encourages the production, conservation, and protection of the state's mineral resources.

The Surface Mining and Reclamation Account. The Surface Mining and Reclamation Account in the General Fund was created as a depository for the moneys from mining activities on federal lands disbursed by the federal government each fiscal year in an amount equal to the appropriation for the Surface Mining and Reclamation Act of 1975 contained in the Budget Act for that fiscal year. These moneys are used for expenditures as designated and upon appropriation by the Legislature.

Proposed amendment. The trailer bill would make the following change:

Public Resources Code. Section 2795. (a) Notwithstanding any other law, moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191) shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, in an amount equal to the appropriation for this chapter contained in the annual Budget Act for that fiscal **year year, plus any statewide general administrative costs assessed to the account for that fiscal year,** and may be expended, upon that appropriation by the Legislature, for the purposes of this chapter.

STAFF COMMENTS

The proposed language would require the amount deposited into the Surface Mining and Reclamation Account to include statewide general administrative costs assess to the account for that fiscal year.

Staff Recommendation: Approve as proposed.

3930 DEPARTMENT OF PESTICIDE REGULATION

ISSUE 5: PESTICIDES – SCHOOLSITES (AB 2816)

The Governor's budget requests \$136,000 Department of Pesticide Regulation Fund annually for two years and one permanent Environmental Scientist position to implement AB 2816 (Muratsuchi, Chapter 720, Statutes of 2018).

BACKGROUND

Pests such as insects, rodents, fungi, and weeds can affect the school environment and the people there. Common habitats for pests include cafeterias, classrooms, lockers, gyms, locker rooms, dumpsters, landscapes, and athletic fields. The Healthy Schools Act was enacted to promote the use of reduced-risk pest management practices at schools and childcare centers.

AB 2816 requires the Department of Pesticide Regulation to evaluate the implementation of the Healthy Schools Act and provide recommendations to improve the implementation and efficacy of the HSA. AB 2816 also requires the Department to submit a report to the Legislature by January 1, 2021.

STAFF COMMENTS

While there are no concerns with this proposal, the Department has indicated that there is a structural imbalance with the expenses and revenues covered by registration fees.

According to DPR, in 2015, DPR raised its application fee for the registration and renewal of pesticide products from \$750 to \$1,150. This fee increase restored the balance of expenditures from DPR's pesticide product registration program to account for increased salaries, wages, retirement benefits, and other expenses.

DPR states that at this time, the Department does not intend to change the pesticide product registration and renewal fee. As shown in the table below, the net total for registration fees is within five percent of its expenses. DPR states that this is consistent with the Department of Finance's recommendation for fund conditions to account for annual variability. DPR states that it will continue to monitor the status of this fee.

Expenses and Revenues Covered by Registration Fees

	Past Year (2017-18)	Current Year (2018-19)	Budget Year (2019-20)
Revenues	\$16,033,955	\$16,221,906	\$16,221,906
Expenses	\$15,882,000	\$16,604,000	\$17,040,000
Net	\$151,955	-\$382,094	-\$818,094

The fund condition statement for the DPR Fund is displayed in the chart below. This fund condition statement, which is 90 percent of the Department's budget, shows projected decreases in the fund balance/reserve for economic uncertainties in the current and budget years.

	2017-18*	2018-19*	2019-20*
0106 Department of Pesticide Regulation Fund⁵			
BEGINNING BALANCE	\$20,292	\$14,447	\$7,396
Adjusted Beginning Balance	\$20,292	\$14,447	\$7,396
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4121200 Delinquent Fees	235	425	425
4127400 Renewal Fees	16,062	16,175	16,363
4129200 Other Regulatory Fees	81,505	82,624	87,346
4129400 Other Regulatory Licenses and Permits	2,263	2,263	2,385
4140000 Document Sales	1	1	1
4143500 Miscellaneous Services to the Public	3	3	3
4163000 Investment Income - Surplus Money Investments	202	445	468
4170700 Civil and Criminal Violation Assessment	2,000	2,000	2,000
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	1	5	5
4172500 Miscellaneous Revenue	3	3	3
Total Revenues, Transfers, and Other Adjustments	\$102,275	\$103,944	\$108,999
Total Resources	\$122,567	\$118,391	\$116,395
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
Expenditures:			
0555 Secretary for Environmental Protection (State Operations)	998	1,023	1,023
3900 Air Resources Board (State Operations)	481	46	45
3930 Department of Pesticide Regulation (State Operations)	71,074	72,312	72,299
3930 Department of Pesticide Regulation (Local Assistance)	28,850	29,822	31,532
3960 Department of Toxic Substances Control (State Operations)	550	54	54
3970 Department of Resources Recycling and Recovery (State Operations)	79	196	127
3980 Office of Environmental Health Hazard Assessment (State Operations)	1,972	2,225	2,240
4265 Department of Public Health (State Operations)	320	328	328
8880 Financial Information System for California (State Operations)	92	8	-18
8885 Commission on State Mandates (Local Assistance)	50	65	65
9892 Supplemental Pension Payments (State Operations)	-	780	600
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	3,654	4,136	3,773
Total Expenditures and Expenditure Adjustments	\$108,120	\$110,995	\$112,068
FUND BALANCE	\$14,447	\$7,396	\$4,327
Reserve for economic uncertainties	14,447	7,396	4,327

It is unclear how these proposals impacts the overall fiscal health of the Department of Pesticide Regulation Fund. As such, staff recommends holding this item open at this time until the Subcommittee receives additional information from the Department on how it intends to maintain fiscal solvency.

Staff Recommendation: Hold Open.

ISSUE 6: INFORMATION SECURITY TEAM

The Governor's budget requests \$446,000 Department of Pesticide Regulation Fund and three positions in 2019-20 and \$646,000 for ongoing costs annually thereafter. These resources will support additional information technology security and administrative needs.

BACKGROUND

The 2018 Budget Act included an Information Security Officer position and funding for DPR to remediate deficiencies identified in various security survey and assessment reports. While information technology policies will be developed by DPR's new Information Security Officer, DPR is in need of a team to develop and document procedures to ensure appropriate implementation. DPR evaluated its IT security risks via the Nationwide Cyber Security Review and California State Auditor information security surveys, and determined that the Department is deficient in several areas due to lack of staff resources.

DPR implemented an enterprise security vulnerability scanner in 2018. Scans are performed on a monthly basis. In June 2018, the scanner identified over 49,000 vulnerabilities, including over 13,000 critical vulnerabilities. It requires significant effort to remediate these vulnerabilities.

STAFF COMMENTS

While there are no concerns with this proposal, the Department has indicated that there is a structural imbalance with the expenses and revenues covered by registration fees.

According to DPR, in 2015, DPR raised its application fee for the registration and renewal of pesticide products from \$750 to \$1,150. This fee increase restored the balance of expenditures from DPR's pesticide product registration program to account for increased salaries, wages, retirement benefits, and other expenses.

DPR states that at this time, the Department does not intend to change the pesticide product registration and renewal fee. As shown in the table below, the net total for registration fees is within five percent of its expenses. DPR states that this is consistent with the Department of Finance's recommendation for fund conditions to account for annual variability. DPR states that it will continue to monitor the status of this fee.

Expenses and Revenues Covered by Registration Fees

	Past Year (2017-18)	Current Year (2018-19)	Budget Year (2019-20)
Revenues	\$16,033,955	\$16,221,906	\$16,221,906
Expenses	\$15,882,000	\$16,604,000	\$17,040,000
Net	\$151,955	-\$382,094	-\$818,094

The fund condition statement for the DPR Fund is displayed in the chart below. This fund condition statement, which is 90 percent of the department's budget, shows projected decreases in the fund balance/reserve for economic uncertainties in the current and budget years.

	2017-18*	2018-19*	2019-20*
0106 Department of Pesticide Regulation Fund⁵			
BEGINNING BALANCE	\$20,292	\$14,447	\$7,396
Adjusted Beginning Balance	\$20,292	\$14,447	\$7,396
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS			
Revenues:			
4121200 Delinquent Fees	235	425	425
4127400 Renewal Fees	16,062	16,175	16,363
4129200 Other Regulatory Fees	81,505	82,624	87,346
4129400 Other Regulatory Licenses and Permits	2,263	2,263	2,385
4140000 Document Sales	1	1	1
4143500 Miscellaneous Services to the Public	3	3	3
4163000 Investment Income - Surplus Money Investments	202	445	468
4170700 Civil and Criminal Violation Assessment	2,000	2,000	2,000
4171400 Escheat - Unclaimed Checks, Warrants, Bonds, and Coupons	1	5	5
4172500 Miscellaneous Revenue	3	3	3
Total Revenues, Transfers, and Other Adjustments	\$102,275	\$103,944	\$108,999
Total Resources	\$122,567	\$118,391	\$116,395
EXPENDITURE AND EXPENDITURE ADJUSTMENTS			
Expenditures:			
0555 Secretary for Environmental Protection (State Operations)	998	1,023	1,023
3900 Air Resources Board (State Operations)	481	46	45
3930 Department of Pesticide Regulation (State Operations)	71,074	72,312	72,299
3930 Department of Pesticide Regulation (Local Assistance)	28,850	29,822	31,532
3960 Department of Toxic Substances Control (State Operations)	550	54	54
3970 Department of Resources Recycling and Recovery (State Operations)	79	196	127
3980 Office of Environmental Health Hazard Assessment (State Operations)	1,972	2,225	2,240
4265 Department of Public Health (State Operations)	320	328	328
8880 Financial Information System for California (State Operations)	92	8	-18
8885 Commission on State Mandates (Local Assistance)	50	65	65
9892 Supplemental Pension Payments (State Operations)	-	780	600
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	3,654	4,136	3,773
Total Expenditures and Expenditure Adjustments	\$108,120	\$110,995	\$112,068
FUND BALANCE	\$14,447	\$7,396	\$4,327
Reserve for economic uncertainties	14,447	7,396	4,327

It is unclear how these proposals impacts the overall fiscal health of the Department of Pesticide Regulation Fund. As such, staff recommends holding this item open at this time until the Subcommittee receives additional information from the Department on how it intends to maintain fiscal solvency.

Staff Recommendation: Hold Open.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL**ISSUE 7: EXIDE CLEAN-UP**

The Governor's budget requests a \$74.4 million dollar loan from the General Fund and trailer bill language clean-up activities relating to Exide. Specifically:

- **Acceleration of Additional Cleanup from Exide Technologies Facility** - A loan of \$50 million one-time General Fund to the Toxic Substances Control Account to accelerate the cleanup of additional properties within 1.7 miles of the Exide Technologies facility in Vernon by June 30, 2021.
- **Increased Exide Residential Cleanup Costs** - A loan of \$24.5 million from the General Fund to the Toxic Substances Control Account to complete cleanup activities at residences, schools, parks, day care centers, and child care facilities near the Exide Technologies, Inc. lead-acid battery recycling facility in the City of Vernon.
- **Trailer bill language** - specifies purposes for which the loan may be used, which includes cleanup and investigation of properties contaminated with lead, job training activities related to the cleanup and investigation, and actions to pursue all available remedies against potential responsible parties.

BACKGROUND

Exide Technologies Facility Closed in 2015. Exide Technologies was a manufacturer of lead acid batteries and owned a battery recycling facility in Vernon, California. The facility began operations in 1922, with Exide beginning operations there in 2000 until its closure in 2015, recycling lead from used automotive batteries and other sources. The facility processed about 25,000 batteries a day, providing a source of lead for new batteries.

Lead Contamination from Exide Operations. Over the course of decades of operation, the facility polluted the soil beneath it with high levels of lead, arsenic, cadmium and other toxic metals. It also contaminated groundwater, released battery acid onto roads and contaminated homes and yards in surrounding communities with lead emissions. DTSC estimates properties up to 1.7 miles away from the facility may potentially be affected by Exide's lead contamination, which amounts to roughly 10,000 properties. Tests show more than 7,500 properties exceed California's Human Health Screening Level for lead of 80 parts per million (ppm). Under California's conservative screening level, properties below 80 ppm are considered safe, while those with levels greater than 80 ppm require further evaluation.

Exide Closure and Cleanup. In March 2013, the South Coast Air Quality Management District (SCAQMD) released a human health risk assessment that showed that arsenic emissions from the Exide facility created an elevated risk of cancer for as many as 110,000 people in an area, stretching from Boyle Heights to Huntington Park. In the spring of 2014, DTSC ordered Exide to suspend operations because Exide was violating hazardous waste laws and by posing a significant risk to the community with its emissions based upon the SCAQMD health risk assessment. In October of 2013, DTSC issued an enforcement order, directing Exide to resolve

its hazardous waste violations, develop a cleanup plan for approximately 219 residential properties near Exide and provide funds to Los Angeles County to provide free blood lead testing.

In November, 2014, DTSC issued an enforcement order requiring Exide to provide financial assurances in the amount of \$38.6 million that will be used by DTSC to safely close the Vernon facility, if Exide is unable or unwilling to do so, and required Exide to establish a trust fund of \$9 million to cover the costs of cleaning up the 219 residential properties near the facility, if Exide is unable or unwilling to do so. On January 30, 2015, DTSC ordered Exide to investigate the extent of contamination under the containment building, so that Exide could implement any necessary corrective actions at the facility. In addition to facility closure activities, DTSC ordered Exide to conduct sampling at nearest residences to the north and south of the Exide Facility in the communities of Boyle Heights/East Los Angeles and Maywood.

In March, 2015, Exide was required to cease operations and permanently close its Vernon facility pursuant to an enforcement order it agreed to with DTSC and a non-prosecution agreement it reached with the United States Department of Justice, that allowed the company to avoid federal criminal prosecution for violations of hazardous waste laws. As a result of this closure agreement, Exide is required to submit a closure plan to safely close the facility, investigate potential contamination in the industrial area near Exide and, by October 2019, submit a corrective measures study to DTSC to address the off-site impacts in the residential area affected by Exide's operations.

On December 8, 2016, DTSC released the Final Exide Closure Plan and Final Environmental Impact Report. The Final Exide Closure Plan describes how the hazardous waste management units at Exide will be decontaminated and removed in a manner that is protective of public health and the environment. The plan incorporates many of the recommendations submitted by the community during the public engagement process.

The Exide residential cleanup project constitutes the largest cleanup effort undertaken by California. Several factors contribute to its complexity, including the nature of the contamination, the concentration of people in a relatively small area, the high number of impacted property owners and residents, the comparatively short timeline to conduct the cleanup, and the keen interest in the project by members of the community and stakeholders.

Residential Cleanup near Exide. DTSC is the lead agency overseeing the investigation and cleanup of residential properties, schools, parks, daycare, and childcare centers within the approximately 1.7-mile radius of the former Exide facility. DTSC is working with communities within this proposed cleanup area, which includes the Cities of Bell, Commerce, Huntington Park, Los Angeles (Boyle Heights neighborhood), Maywood, and Vernon, and the County of Los Angeles (East Los Angeles).

On July 6, 2017, DTSC released its Cleanup Plan and Final Environmental Impact Report (EIR) for the cleanup of lead-impacted soil in neighborhoods around the former Exide facility. The Cleanup Plan held the goal of cleaning up all properties with lead sampling results that exceed the representative soil lead concentration of 80 ppm.

The funding made available for DTSC at the time allowed them to clean up approximately 2,500 of the highest priority properties within 1.7 miles of the former battery-recycling facility, over a two-year period. The highest priority properties were determined to be those with the highest levels of lead in soil and greatest risk of exposure. For each property sampled, the results were statistically analyzed to determine a representative, property-wide lead level that is more health protective than a simple average of results. Using these sampling and analysis criteria, the Cleanup Plan provides for the following categories of properties:

- Residential properties with a representative soil lead concentration of 400 ppm or higher.
- Residential properties with a representative soil lead concentration of less than 400 ppm, but where any soil sampling result of 1,000 ppm or higher is detected.
- Daycare and child care centers with a representative soil lead concentration of 80 ppm or higher that have not yet been cleaned up.
- All parks and schools that require cleanup will be cleaned up during this phase.

The additional funding in this proposal will allow for the cleanup of homes with a representative soil lead concentration of less than 400, but above the 80ppm cleanup goal.

Initial prioritization for this cleanup is based on properties sampled prior to June 30, 2017. DTSC may identify additional properties for cleanup if funding permits. The publicly owned stretches of land, known as parkways, are not included in the cleanup plan.

Exide, and any other responsible party, is legally responsible to clean up all of the properties that were contaminated by its operations.

Legislature has provided several rounds of funds for Exide Cleanup. In order to expedite the cleanup of contamination in the residential neighborhoods surrounding Exide to address the public health threat posed, the Legislature has provided the following funding for cleanup and enforcement activities:

- **Exide Enforcement Order (\$1.7 Million).** In 2015-16, the Legislature provided \$734,000 (Hazardous Waste Control Account) annually for two years, and in 2018-19, the Legislature provided an additional \$1 million from the Lead-Acid Battery Cleanup Fund (LABCF) annually for two years to continue overseeing the Exide enforcement order.
- **Emergency Funding (\$7 Million).** In 2015-16, the Legislature provided \$7 million (special funds) in emergency funding to: (1) sample up to 1,500 residential properties around the Exide facility; (2) develop a comprehensive cleanup plan; and, (3) begin cleanup of the 50 highest-priority properties based on the extent of lead contamination and the potential for exposure.
- **General Fund Loan to TSCA (\$176.6 Million).** Chapter 10 of 2016 (AB 118, Santiago) and Chapter 9 of 2016 (SB 93, de León) provided a one-time \$176.6 million General Fund loan to the TSCA for Exide-related cleanup of residential properties. DTSC has committed all of the \$176.6 million to cleanup activities and anticipates fully expending it by June 2021.

- **Third-Party Quality Assurance Contractor (\$1.4 Million).** In 2017-18, the Legislature provided \$1.4 million annually, for three years, from a loan from LABCF to the Hazardous Waste Control Account for a third-party quality contractor to monitor Exide cleanup activities.
- **Parkways Cleanup Funding (\$6.5 Million).** In 2018-19, the Legislature provided \$6.5 million (\$5 million General Fund and \$1.5 million California Environmental License Plate Fund) on a one-time basis to sample soil and clean up parkways in the communities around Exide.

Cleanup Activities are Underway. As of February 2019, lead removal has been completed at roughly 600 parcels. This includes 330 parcels that have been cleaned up based on initial work plans and orders. For example, DTSC ordered Exide to clean up 186 properties in the initial assessment areas between August 2014 and November 2015.

In addition, cleanup activities have been completed at an additional 275 parcels, consistent with DTSC's July 2017 cleanup plan and final environmental impact report for the cleanup of lead-impacted soil in neighborhoods around the Exide recycling facility. In total, the cleanup plan calls for removing lead contamination from approximately 2,500 properties within 1.7 miles of the former battery recycling facility—known as the preliminary investigation area (PIA)—over a two-year period.

Properties were initially prioritized for cleanup based on properties sampled prior to release of the cleanup plan, and DTSC has entered into contracts to conduct the cleanup activities. At that time, soil samples had been collected and analyzed for more than 8,200 parcels out of an estimated total of 10,173 in the PIA. DTSC had indicated that it might identify additional properties for cleanup if funding permits.

In 2018, DTSC awarded three contracts for the cleanup of up to 2,025 parcels prioritized under the Cleanup Plan. DTSC began implementation of the Cleanup Plan in May 2018. To date, DTSC has overseen the cleanup of 560 parcels within 1.7 miles of the facility with the highest lead levels and greatest exposure risk (including parcels addressed prior to and under the Cleanup Plan). DTSC has fully committed the \$176.6 million appropriation toward investigation and cleanup of lead-contaminated properties in the PIA. DTSC anticipates completing cleanup activities under the Cleanup Plan and fully expending funding by June 2021. The 2018 Budget Act includes \$6.5 million to sample and cleanup parkways around the former Exide facility. DTSC anticipates that sampling of the parkways within the PIA will begin in the spring of 2019.

Cost of Cleanup estimates. According to DTSC, cleaning each home costs around \$45,000. As part of the closure agreement, Exide was required by DTSC to deposit \$9 million into an account for residential cleanup and will provide another down payment of \$5 million by March 2020.

When DTSC prepared its cost estimate for undertaking the cleanup activities in 2016, it had limited information about the scope and nature of the contamination in the communities surrounding Exide and about the potential costs of the cleanup work. Since undertaking the cleanup effort, DTSC has concluded that its initial cost estimate did not include certain activities (i.e., quality assurance sampling contractor, sample storage, project labor agreement, and

performance and payment bonds). In addition, other activities have proven to be costlier than originally estimated. This has resulted in higher overall project costs than originally estimated.

LAO COMMENTS

State Has an Interest in Accelerating Exide Cleanup. Due to the public health risks from lead contamination, the state has a clear and immediate interest in cleaning up the residential parcels contaminated with lead by the Exide facility. As described earlier in this analysis, Exide may take up to ten years or more to pay for the cleanup after DTSC's approval of the Residential Corrective Measures Study and implementation of a cleanup plan. If the state waited for this process to unfold, residents within the PIA would potentially be exposed to unhealthy levels of lead contamination for up to a decade or more compared to the accelerated approach adopted by the state.

Uncertainty Remains About Total Cost of the Cleanup and When Loans Will Be Repaid. DTSC has not provided an estimate of the total cost for the Exide cleanup, or the time frame for completing the cleanup. Under the Governor's proposal, DTSC would be provided an additional \$74.5 million in one-time loans to complete the cleanup of 3,200 parcels out of about 10,173 parcels in the PIA. However, DTSC is still in the process of sampling some of the parcels in the PIA for lead contamination, and obtaining permission from property owners to sample other parcels. Therefore, it is uncertain how many parcels will ultimately need to be cleaned up and what the total cleanup cost may be.

There is also uncertainty about when Exide will begin to pay for cleanup costs in addition to the \$14 million it was already required to deposit into the Trust Fund. The administration has expressed its intent to recover all the cleanup costs the state incurs from Exide in keeping with the polluter pays principle that the responsible party should bear the costs of the cleanup. However, as discussed above, Exide is contesting DTSC's requirement to complete the study. Moreover, according to the Department, moneys deposited into the Trust Fund cannot be used to reimburse DTSC for costs it has incurred in implementing the interim residential cleanup work. According to DTSC, it is working with the Attorney General's Office to ensure that all necessary steps are taken to hold Exide responsible. Consequently, it is unclear how much of the cleanup costs the company ultimately will pay and when they will be received by the state.

Approve Additional General Fund Loans to Continue Cleanup Efforts. The LAO recommends the Legislature approve the Governor's proposals to provide a total of \$74.5 million in one-time General Fund loans to TSCA for the cleanup of residential parcels contaminated by the Exide facility. Due to the serious public health threat posed by lead contamination in the soil, we believe the state should move forward with the cleanup as expeditiously as possible.

Require DTSC to Report at Budget Hearings on Estimated Cleanup Cost and Time Line. The Legislature would benefit from additional information to assess anticipated time lines and costs for cleanup activities. This information would allow the Legislature to assess what additional costs the state is likely to incur for the Exide cleanup beyond what is requested in 2019-20, and also when Exide will begin to bear the costs of the cleanup. The LAO recommends the Legislature require DTSC to respond at budget hearings to the following questions:

- When does DTSC anticipate it will complete the sampling of the 10,173 parcels within the PIA and the cleanup of parcels contaminated by lead?
- How much does DTSC estimate it will cost to complete the sampling and cleanup of all of the parcels that require cleanup within the PIA? Should the Legislature expect to see additional requests for one-time General Fund loans in future budgets?
- When does DTSC estimate Exide will begin to repay the state for the cleanup costs it has incurred and how are these payments likely to be scheduled over time?
- What authority does DTSC have to ensure Exide will ultimately bear the costs of the cleanup?

STAFF COMMENTS

The Exide cleanup effort is a massive undertaking and is considered the largest-ever cleanup of lead-contaminated homes in California. Previous General Fund loans to DTSC provided for the cleanup of the highest priority 2,500 homes. However, over 7,500 homes in the PIA will need soil remediation. This proposal is intended to support the acceleration of soil testing and clean up for approximately 700 additional properties with the highest lead contamination levels and greatest potential for exposure within a 1.7 mile radius of the Exide facility, as well as complete cleanup activities at residences, schools, parks, day care centers, and child care facilities near the Exide. With this proposal, a total of approximately 3,200 homes in the PIA will be cleaned up in advance of the approval and implementation of Exide's Residential Corrective Measures Study.

Staff Recommendation: Approve as budgeted.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**ISSUE 8: FOOD SERVICE PACKAGING (SB 1335)**

The Governor's budget requests \$152,000 Integrated Waste Management Fund and one permanent full-time position to implement SB 1335 (Allen, Chapter 6, Statutes of 2018).

BACKGROUND

Ocean pollution is a persistent and growing problem. According to the Ocean Protection Council, ocean litter, also commonly referred to as “marine debris,” is a persistent and growing problem worldwide that significantly impacts the health and beauty of oceans and beaches.

According to the National Oceanic and Atmospheric Administration, approximately 80 percent of marine debris comes from land-based sources, with food and beverage packaging making up the largest component of that debris. These food and beverage containers can enter the marine environment in several ways: through inefficient or improper waste management, intentional or accidental littering, and through storm water runoff. Once in the marine environment, it can damage habitats, harm wildlife through entanglement and digestion, and have negative economic impacts on coastal communities. Scientific research shows that debris in oceans is increasing at an alarming rate.

SB 1335 created the Sustainable Packaging for the State of California Act of 2018 to take steps to phase out single-use food packaging at state facilities. SB 1335 requires CalRecycle to promulgate regulations and establish a process for determining whether food service packaging is reusable, recyclable, or compostable. SB 1335 also requires CalRecycle to conduct ongoing evaluations of food service packaging, which will include analysis of materials and products’ performance at end-of-life, assessment of recycling and composting infrastructure and markets, review of various records, technical standards and tests, and extensive consultation with stakeholders and state agencies. CalRecycle is required to publish a list of food service packaging products used by state-owned food facilities on its website.

CalRecycle anticipates conducting rulemaking every three to four years to update the list pursuant to the implementation of its evaluation process. SB 1335 requires CalRecycle to develop criteria via regulations to define reusability, recyclability, and compostability of food service packaging and to publish a list of acceptable food service packaging products used by state-owned food facilities on its website.

The State’s solid waste diversion goals. An estimated 35 million tons of waste are disposed of in California’s landfills annually. CalRecycle is tasked with diverting at least 75 percent of solid waste from landfills statewide by 2020. Local governments have been required to divert 50 percent of the waste generated within the jurisdiction from landfill disposal since 2000.

STAFF COMMENTS

Funding this request would further the state’s solid waste diversion goals. However, it is important to note the deep structural deficit within the Integrated Waste Management Fund. Though the requested amount is not an exorbitant amount, it would create additional pressures within the Fund.

Staff Recommendation: Approve as budgeted.

ISSUE 9: PHARMACEUTICAL AND SHARPS WASTE STEWARDSHIP PROGRAM

The Governor's budget requests \$1.4 million Pharmaceutical and Sharps Stewardship Fund and 10 positions, and \$1.2 million ongoing beginning in 2022-23 to implement SB 212 (Jackson, Chapter 1004, Statutes of 2018).

This proposal includes a loan of \$1.8 million from the Electronic Waste Recovery and Recycling Account to the Pharmaceutical and Sharps Stewardship Fund. This loan would provide adequate cash flow to support all direct appropriations charging to the fund until the administrative fee authorized by SB 212 can be collected by CalRecycle.

BACKGROUND

Environmental contamination from pharmaceuticals. There are two general sources of pharmaceutical contamination in the environment: human excretion and disposal. Estimates suggest that 3 to 50 percent of prescriptions become waste. US hospitals and long-term care facilities annually flush approximately 250 million pounds of unused pharmaceuticals down the drain.

A study conducted by the US Geological Survey (USGS) from 1999-2000 sampled 139 streams across 30 states and found that 80 percent had measurable concentrations of drugs, steroids, and reproductive hormones. Since the USGS released its report in 2002, a number of studies have demonstrated the low-level presence of pharmaceutical agents throughout the environment.

Medical sharps thrown in the trash. An estimated one million Californians inject medications outside traditional health care facilities, which generate approximately 936 million sharps each year that then need to be properly disposed. Home-generated sharps waste is required to be put into an approved sharps container before being transported out to an approved drop-off location or via mail-back program. While disposal of sharps in landfills is illegal, there is no statewide statutory program in place to require the management of sharps by manufacturers, pharmaceutical companies, pharmacies, or others. According to statistics from CalRecycle, 43 percent of all self-injectors throw needles in the trash.

SB 212 establishes a producer responsibility program. SB 212 requires pharmaceutical and sharps manufacturers, distributors licensed as wholesalers, repackagers, licensees of trademarks or brands, and importers to establish a pharmaceutical and sharps extended producer responsibility program. This private-sector approach would establish a Pharmaceutical and Sharps Program for the proper end-of-life management of covered drugs and home-generated sharps waste.

STAFF COMMENTS

Funding this request would provide CalRecycle the resources to oversee this industry-run and funded program and ensure we provide convenient locations for Californians to safely dispose of their unused prescriptions and other medical waste. This would help protect public health, the

environment, and water quality by curbing the improper disposal of pharmaceutical drugs and medical sharps.

Staff Recommendation: Approve as budgeted.

ISSUE 10: 2020 STATEWIDE WASTE CHARACTERIZATION STUDY

The Governor's budget requests \$985,000 Integrated Waste Management Account for a waste characterization study during calendar year 2020.

BACKGROUND

Waste characterization studies provide information on waste streams. Waste characterization studies provide fundamental information on California's waste stream. CalRecycle conducts these periodic studies to better understand the types and amounts of materials disposed in California, the different characteristics and quantities of waste generated by each source sector (residential, commercial, construction, etc.), and the flows and processing pathways used to handle California's solid waste. Waste characterization data routinely provides the foundation for legislation, policy decisions, and programmatic direction.

Previous waste characterization studies. CalRecycle conducted statewide studies in 1999, 2004, 2008, and 2014. CalRecycle, local governments, the solid waste industry, and other stakeholders utilize these essential periodic studies to provide accurate, current data to support data-driven, science-based decision-making. Conducting periodic waste characterization studies allows CalRecycle to track the changes in the waste stream, assess the impacts of the changes, and adjust policy and program directions accordingly. Changes in waste stream may be caused by factors like changes in management practices, recycling mandates and programs, markets for materials (international and local), and economic growth or decline. California's disposal has been increasing since 2012. Data collected in these periodic waste characterization studies are critical to inform policy and programs targeted at reversing this trend.

A 2018 waste characterization study is currently underway as a mid-course check on progress toward California's statutory recycling goals. The 2018 study is providing data to help CalRecycle and stakeholders target the right materials for diversion from disposal and implement effective recycling programs before the critical goal year of 2020. Additionally, the 2018 study is developing and testing new waste characterization methodologies to account for the continuing evolution of California's waste management system. The 2018 study will provide the scientific foundation for an accurate and effective study in 2020.

STAFF COMMENTS

2020 is a milestone year for several statutory mandates. The proposed 2020 waste characterization study will enable the State to measure whether we are successful in meeting the statutory target of a 50 percent reduction in disposed organic waste by 2020, and show whether we have met the target of a 75 percent statewide recycling rate. Additionally, CalRecycle will use the study data to determine whether the state met statutory thresholds that trigger program requirement changes for mandatory commercial recycling and mandatory commercial organics recycling.

Staff Recommendation: Approve as budgeted.

3940 STATE WATER RESOURCES CONTROL BOARD**ISSUE 11: INCREASED DRINKING WATER LABORATORY SERVICES**

The Governor's budget requests \$837,000 in 2019-20 and \$782,000 annually thereafter from the Safe Drinking Water Account to fund four positions and laboratory equipment under an interagency agreement with the California Department of Public Health to meet the primacy agreement with the United States Environmental Protection Agency and, in support of those activities, meet new laboratory standards.

DPH has a request for a corresponding increase in reimbursement authority and four permanent positions.

BACKGROUND

History of California's Drinking Water Program. California's drinking water program was created in 1915, when the Bureau of Sanitary Engineering was established by the State Board of Health. The bureau's primary duty at that time was to prevent and eliminate water-borne diseases. In 1974, the federal Safe Drinking Water Act was passed to protect public health by regulating the nation's public drinking water supply, which requires the United States Environmental Protection Agency (US EPA) to establish mandatory nationwide drinking water standards. It also required water systems to monitor public water supplies to ensure drinking water standards are met and report to consumers if the standards are not met.

Two years after the federal act was passed, California adopted its own Safe Drinking Water Act. The state's act has two main goals: to continue the state's drinking water program, and to be the delegated authority (referred to as the "primacy") by the US EPA for enforcement of the federal act. And, as required by the federal act, the state's drinking water program must set drinking water standards that are at least as stringent as the US EPA's standards. Each community water system also monitor for a specified list of contaminants, and the findings must be reported to SWRCB.

The Drinking Water Program was transferred from the Department of Public Health to the State Water Resources Control board. On July 1, 2014, the Division of Drinking Water, and its authority to enforce the Safe Drinking Water Act, was transferred from DPH to SWRCB. US EPA granted primacy to SWRCB for enforcement of the Safe Drinking Water Act in California through a primacy agreement.

Among other requirements, the primacy agreement requires SWRCB to have the ability to analyze every contaminant listed under the Safe Drinking Water Act and have access to a reference laboratory as necessary. DPH serves as SWRCB's Principal Laboratory in accordance with requirements of the primacy delegation agreement for the drinking water regulatory program from the US EPA.

STAFF COMMENTS

Providing SWRCB access to a full range of laboratory analytical services would enable them to meet an expanded range of water quality analyses and the development of new analytical methods for regulatory standards and method validation.

Staff Recommendation: Approve as budgeted.

ISSUE 12: DRINKING WATER SYSTEM SANITARY SURVEY

The Governor's budget requests six additional permanent positions and \$1.1 million from the Safe Drinking Water Account to increase staffing in the Northern and Southern California Field Operations Branches to resolve the backlog of sanitary surveys (i.e. water system inspections).

BACKGROUND

Sanitation surveys are a crucial part of Safe Drinking Water Act implementation. SWRCB, as the federally designated primacy agency for the drinking water regulatory program in California, is responsible for the implementation of the federal Safe Drinking Water Act (SDWA). Part of the SDWA required workload involves water system inspections, also known as sanitary surveys. A sanitary survey is a review of a public water system to assess their capability to supply safe drinking water. SWRCB currently has 132 technical staff performing sanitary surveys.

Sanitary surveys also provide SWRCB an opportunity to visit the water system and educate the operator about proper monitoring and sampling procedures and to provide technical assistance. Sanitary surveys are a proactive public health measure and an important component of the SDWA public water system supervision program.

Sanitation surveys include reviewing of the water source, identifying existing or potential sanitary risks, reviewing the design, operation, maintenance and management of distribution systems and storage facilities, determining water system conformance with regulatory requirements, and evaluating water system performance in terms of management and operation.

Sanitation surveys are backlogged. There are 269 public water systems serving a population of approximately 352,631 people. These systems are mostly located in disadvantaged communities that are in violation of one or more primary maximum contaminant levels.

The Budget Act of 2016 created 10 additional field positions for DDW to address the federally mandated drinking water program inspections workload. The result over the last two years was that the sanitary survey rate was increased from 75 percent to 88 percent. Sanitary surveys completed in calendar year 2016 (860) compared to calendar year 2017 (1152) shows an increase of 292 sanitary surveys.

As of January 2018, SWRCB determined that there were 455 backlogged sanitary surveys of public water systems. The US EPA has communicated a number of concerns with the backlog, and that given this backlog, SWRCB could be subject to US EPA sanctions, including the possible loss or withholding of federal funds.

STAFF COMMENTS

Continued failure to meet the federally required frequencies of sanitary surveys could result in a Corrective Action Plan letter requiring California to address the problem within a specified timeframe.

The Division of Drinking Water continues to have a backlog in federally mandated water system sanitary surveys, including small water systems in severely disadvantaged communities despite improving its rate of sanitary survey completion. These six positions would help increase the number of federally mandated sanitary surveys completed annually.

Staff Recommendation: Approve as budgeted.

ISSUE 13: MICROPLASTICS IN DRINKING WATER: TESTING IN DRINKING WATER (SB 1422)

The Governor's budget requests \$1.1 million one-time from the Environmental License Plate Fund and \$175,000 Safe Drinking Water Account annually for three years to implement SB 1422 (Portantino, Chapter 902, Statutes of 2018).

BACKGROUND

Microplastics found in tap water. Microplastics is an emerging contaminant of concern. Researchers at the State University of New York and the University of Minnesota tested 159 drinking water samples from cities and towns across five continents. 83 percent of those samples worldwide contained microplastics. In the United States, 94 percent of the samples contained microplastics, including a sample collected from the US EPA headquarters. People, therefore are ingesting microplastics when they drink and eat foods prepared by using tap water.

Developing a definition is a process that requires a cross section of experts consisting of analytical chemists, health professionals, and engineers, as well as individuals from the plastics manufacturing industry. SWRCB does not have this type of expertise in-house and must draft a contract to bring such a group together. Also, SWRCB does not have in-house laboratory services and must contract with DPH's DWRL to develop the analytical method.

The Administration states that both requirements must be performed using contract services and will require \$1.075 million for the actual services along with funding to write the contracts and manage their outcome.

SB 1422 requires SWRCB to develop testing protocol for microplastics in drinking water. Specifically, SB 1422 requires the SWRCB to do the following:

- By July 1, 2020, adopt a definition for microplastics in drinking water.
- By July 1, 2021, develop an analytical method for testing microplastics in water.
- Develop a procedure to accredit laboratories performing the developed analytical method.
- Adopt testing requirements for microplastics in drinking water.
- If appropriate, develop notification levels and/or guidance that adequately protect public health for consumers that have microplastics in the potable water.

STAFF COMMENTS

SWRCB is not resourced to implement the provisions SB 1422 and the new requirements related to microplastics. The requested resources would enable the SWRCB to acquire the scientific and statistical expertise to define microplastics and develop an analytical method for determining its concentration. The funding would also allow the SWRCB to accredit laboratories under the Environmental Laboratory and Accreditation Program, develop the microplastic testing protocol, and ensure public water systems conduct testing of their water supply for microplastics and move forward with public notification and/or consumer guidance regarding microplastics in water.

Staff Recommendation: Approve as budgeted.

ISSUE 14: NONPOTABLE REUSE WATER SYSTEMS (SB 966)

The Governor's budget requests \$924,000 General Fund (\$500,000 one-time and \$424,000 ongoing) to implement SB 966 (Wiener, Chapter 890, Statutes of 2018).

BACKGROUND

Recycled Water. Recycled water, also known as reclamation or reuse, is an umbrella term encompassing the process of treating wastewater and storing, distributing, and using recycled water. Recycled water means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.

SB 966 requires SWRCB to regulate and permit recycled water used onsite for non-drinking purposes. SB 966 requires a local jurisdiction that elects to establish a program for onsite treated nonpotable water systems to, among other things, adopt, through ordinance, a local program that includes the risk-based water quality standards established by SWRCB. SB 966 prohibits an onsite treated nonpotable water system from being installed except under a program established by a local jurisdiction in compliance with SWRCB regulations.

SWRCB does not have staff available with the expertise, experience, and training needed to fulfill the requirements of SB 966. As a result, SWRCB will convene an expert panel to assist in developing the risk-based framework. The requested resources would be used as follows:

- \$500,000 one-time from the General Fund in contracting costs to form an expert panel to develop risk-based log reduction targets for removal of pathogens to protect public health.
- \$424,000 ongoing to fund one Senior Water Resources Control Engineer (WRCE) position and one WRCE position to do the following: administer and supervise the expert panel, consult with other agencies and states on a technical risk-based framework development, develop and adopt detailed regulations required per SB 966, develop and implement the new program statewide, and provide technical assistance to local jurisdictions across the state. After the program is developed, the two positions are intended to review monitoring reports, assist local jurisdictions with highly technical issues, and conduct enforcement actions needed statewide.

STAFF COMMENTS

Funding this request would further the State's goal of increasing the use of recycled water of over 2002 levels by at least one million acre-feet per year by 2020.

Staff Recommendation: Approve as budgeted.

ISSUE 15: SEWER SERVICE PROVISION FOR DISADVANTAGED COMMUNITIES (SB 1215)

The Governor's budget requests \$525,000 Waste Discharge Permit Fund one-time and three permanent positions in 2019-20, six additional permanent positions and \$1.612 million Waste Discharge Permit Fund spending authority ongoing to implement SB 1215 (Hertzberg, Chapter 982, Statutes of 2018).

BACKGROUND

Improperly maintained septic tanks are a key source of bacterial and nitrate contamination of water. In 2012, the State Water Board adopted the Onsite Wastewater Treatment System Policy to address this significant threat to existing surface and groundwater sources. This policy addresses the threat of untreated sewage from septic tanks as a point source of nitrogen, harmful bacteria, and pathogens that impair drinking water-related beneficial uses and threaten public health.

However, surface water bodies continue to be listed under the Clean Water Act as impaired due to contaminants traced to leaking septic tanks in the surrounding area. Additionally, leaking septic tanks continue to be identified as the source of groundwater degradation and contamination, impacting the provision of safe and reliable drinking water to Californians. In many cases, septic tanks serve rural disadvantaged areas with property owners that have no realistic alternative to manage their sewage.

SB 1215 requires existing sewer systems to provide sewer services to adjacent disadvantaged communities with inadequate septic tanks. SB 1215 authorized the Regional Water Quality Control Boards (RWQCBs) to order a city, county or special districts with a collection system and/or wastewater treatment system to provide sewer services to disadvantaged communities with inadequate septic tank systems, for protection of public health, and prevention of potential impacts to sources of drinking water.

SB 1215 is intended to address the need to encourage, and as necessary, mandate local agencies with existing sewer systems to provide sewer services to adjacent disadvantaged communities with inadequate septic tanks. SB 1215 also requires SWRCB and RWQCBs to take certain actions before ordering a local agency to extend its sewer services, similar to required actions for the consolidation or extension of drinking water systems.

STAFF COMMENTS

Inadequate and failing septic systems are releasing untreated sewage into sources of drinking water. SWRCB estimates that approximately 30 disadvantaged communities are in proximity of existing sewer services and should be evaluated for connection feasibility. Approving these resources would enable the SWRCB to implement SB 1215.

Staff Recommendation: Approve as budgeted.

ISSUE 16: ADMINISTRATIVE HEARING OFFICE (AB 747)

The Governor's budget requests \$2.2 million ongoing (\$1.7 million Water Rights Fund and \$572,000 General Fund) to support nine permanent positions to implement AB 747 (Caballero, Chapter 668, Statutes of 2018).

BACKGROUND

Hearings for water right enforcement actions. Hearings in enforcement actions for water right violations are currently conducted administratively before the State Water Board, with one or more board members acting as hearing officers, assisted by staff from the State Water Board's Office of Chief Counsel and Division of Water Rights. The State Water Board's administrative adjudication procedures are consistent with modern administrative practices, and the State Water Board's procedures and proceedings, including the separation of the administrative and adjudicative functions, have been upheld by the California Supreme Court as meeting due process requirements.

Calls for independent hearing officers. There are multiple reasons supporting the call for independent hearing officers. For one, there exists a perception of unfairness and inefficiency of the current administrative hearings in water right enforcement actions.

Further, there is a backlog on processing hearing requests. There can be long delays, sometimes for years, between a request for a hearing and when a hearing is scheduled, and between the completion of the hearing and the release of a proposed decision.

In addition, the State Water Board anticipates prosecuting more water right enforcement actions due to its new cannabis enforcement authority, and expects implementation of the Drinking Water Program and the Sustainable Groundwater Management Act to result in more hearing requests in the coming years. As more hearings are requested, this will further exacerbate the hearing request backlog.

AB 747 creates an Administrative Hearing Office within SWRCB. AB 747 takes effect on July 1, 2019 and would create an Administrative Hearing Office that would provide qualified, impartial hearing officers, to ensure that water rights matters, including water-related cannabis enforcement matters, are resolved in a timely manner, and to provide the board flexibility to assign hearing officers to other matters, such as those involving water right change petitions and matters concerning water right permits and licenses.

Having hearings held by qualified hearing officers, whose focus is to apply their specialized knowledge to presiding at hearings and preparing proposed decisions, as authorized by AB 747, is intended to help address the aforementioned problems.

STAFF COMMENTS

The requested resources to implement AB 747 is consistent with the fiscal analysis of the bill when it was being considered in the Legislature.

Staff Recommendation: Approve as budgeted.

ISSUE 17: STATE ADMINISTRATORS CONSOLIDATION (AB 2501)

The Governor's budget requests \$730,000 General Fund to support four permanent positions to implement AB 2501 (Chu, Chapter 871, Statutes of 2018).

BACKGROUND

Many small, rural and disadvantaged communities are being served by failing public water systems. The SWRCB regulates approximately 7,500 public water systems in California. About one-third of these systems have between 15 and 200 service connections. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown, but estimated to be in the thousands. Many of these systems, primarily in rural areas serving disadvantaged communities, lack the size, expertise, and financial capacity to maintain and operate their drinking water infrastructure systems. This lack of capacity and resources results in thousands of customers being served drinking water that does not meet public health standards.

AB 2501 requires the consolidation of small drinking water systems that consistently fail to deliver safe drinking water. AB 2501 authorizes the SWRCB to order consolidation with a receiving water system when a disadvantaged community is reliant on a domestic well that consistently fails to provide an adequate supply of safe drinking water. AB 2501 also authorizes the DDW to appoint administrators to provide administrative and managerial services to struggling water systems that fail to deliver an adequate and affordable supply of safe drinking water, particularly if consolidation is not a viable option.

STAFF COMMENTS

SWRCB anticipates an expanded number of potential consolidation cases will occur as a result of AB 2501. The requested resources would support additional staff to conduct necessary review and casework for each new consolidation or administrator appointment, and for the Office of Public Participation to coordinate associated public outreach efforts.

Staff Recommendation: Approve as budgeted.

**3940 STATE WATER RESOURCES CONTROL BOARD
8570 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE****ISSUE 18: SAFE AND AFFORDABLE DRINKING WATER**

The Governor's budget requests for a number of resources to implement the safe and affordable drinking water proposal. Specifically:

- I. \$4.8 million General Fund one-time for the following purposes:
 - a. \$3.4 million to SWRCB for 23 positions to: (1) map high-risk aquifers and process water quality data from small water systems; (2) develop an assessment of the total annual funding needed to assist water systems in the state to deliver safe drinking water; (3) develop an implementation plan that includes funding priorities and guidelines; and, (4) process fees that will be deposited into a new fund and perform accounting work.
 - b. \$1.4 million to CDFA for seven positions to: (1) establish a new registration and fee collection system for dairies, farms, and ranches; and, (2) administer the fertilizer materials mill assessments augmentation.
- II. Trailer bill language (which is substantially similar to the Governor Brown's proposal last year and SB 623 (Monning), as amended August 21, 2017) to:
 - a. Establish four charges, including:
 - i. A safe drinking water fee for confined animal facilities excluding dairies (Amount generated not estimated).
 - ii. A fertilizer safe drinking water fee (\$14 million to \$17 million).
 - iii. A dairy safe drinking water fee (\$5 million).
 - iv. A SADW fee for community water system customers (\$100 million to \$110 million).
 - b. Establish the SADW Fund to provide a source of funding to assist communities in paying for costs of obtaining access to SADW, such as operations and maintenance costs and capital costs associated with water system consolidation and service extensions.
 - c. Require SWRCB to administer a new SADW Program.
 - d. Require SWRCB to conduct a public review and assessment of the Safe Drinking Water Fund at least every 10 years.
 - e. Require SWRCB to prepare a report of expenditures annually, as specified.

- f. Require SWRCB to make available a map of aquifers that are high risk of containing contaminants and that exceed primary federal and state drinking water standards.
- g. Exempt an agricultural operation from enforcement action for causing, contributing, creating, or threatening to create a condition of pollution or nuisance for nitrates in groundwater if the operation meets specified criteria.

BACKGROUND

Sources of drinking water. According to the State Water Resources Control Board (SWRCB), the majority of public water systems (PWSs) in California use groundwater as their primary source of supply. PWSs that use both groundwater sources and surface water sources are categorized as surface water systems by convention. Although over 80 percent of PWSs use only groundwater as their primary source of water, these systems serve less than 20 percent of the population. Almost 80 percent of the population served by PWSs are served treated surface water in whole or part.

Federal, state, and local entities regulate drinking water. The federal Safe Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The United States Environmental Protection Agency (US EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted “primacy” by the US EPA, giving them authority to implement and enforce the federal SDWA at the state level.

SWRCB’s Division of Drinking Water (DDW) regulates PWSs that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year. DDW also oversees water recycling projects, permits water treatment devices, supports and promotes water system security and works closely with SWRCB’s Division of Financial Assistance (DFA) on funding for PWSs. DDW regulates approximately 7,500 water systems, of which about one-third of these systems have between 15 and 200 service connections.

The state does not regulate water systems with less than 15 connections. Instead, county health officers oversee these smaller systems. The number of smaller systems—specifically, those with 14 or fewer connections—is unknown but estimated to be in the thousands.

At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as Local Primacy Agencies (LPAs)—by the SWRCB to regulate small water systems with between 15 and 200 connections within their jurisdiction to ensure that these systems deliver adequate and safe drinking water.

For investor-owned public water utilities under the jurisdiction of the California Public Utilities Commission (CPUC), the CPUC shares water quality regulatory authority (including compliance with the Safe Drinking Water Act) with the DDW or LPAs.

Safe and affordable drinking water is a human right. In response to concerns about the prevalence of unsafe drinking water in California, the Legislature and the Governor enacted AB 685 (Eng, Chapter 524, Statutes of 2012). This law declares the state's policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Under AB 685, state agencies are required to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria. AB 685 stated that it did not expand any obligation of the state to provide water or to require the expenditure of additional resources to develop water infrastructure.

California's Safe Drinking Water Act. The California Safe Drinking Water Act requires SWRCB to regulate drinking water to protect public health, and requires SWRCB to ensure that PWSs are operated in compliance with the Act. If a PWS within a disadvantaged community (DAC) consistently fails to provide an adequate supply of safe drinking water, SWRCB may order the water system to consolidate with a receiving water system. SWRCB may also contract with an administrator to provide administrative and managerial services to a designated PWS to assist with the provision of an adequate and affordable supply of safe drinking water.

There are multiple causes of unsafe drinking water. The causes of unsafe drinking water generally can be separated into two categories: (1) contamination caused by human action; and, (2) naturally occurring contaminants. In some areas, there are both human caused and natural contaminants in the drinking water.

Three of the most commonly detected pollutants in contaminated water are arsenic, perchlorate, and nitrates. While arsenic is naturally occurring, perchlorate contamination is generally a result of military and industrial uses. High concentrations of nitrates in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrates in groundwater, although other sources can be important in certain areas.

Public water system violations. According to SWRCB, violations data for 2017 shows that 93.8 percent of public water systems, serving 98.4 percent of people in the state, complied with maximum contaminant levels (MCLs) and treatment techniques (TTs) contained in the federal rules established under SDWA.

In 2017, the Drinking Water Program issued approximately 2,220 enforcement actions to PWSs for failing to comply with regulations. The board's records show that 459 PWSs had one or more violations in 2017. In all, about 592,000 people were affected by these violations. That number does not include people who rely on private wells or "state small" water systems with fewer than 15 connections. Overall, 24 percent of PWSs subject to enforcement actions had returned to compliance for an MCL or TT violation incurred in 2017.

In some cases, unsafe contamination levels may persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low-

income of the customers, and the small number of customers among whom the costs would be spread.

The Office of Sustainable Water Solutions (OSWS). AB 92 (Committee on Budget, Chapter 2, Statutes of 2015) established the OSWS, which is in SWRCB's Division of Financial Assistance (DFA). The purpose of OSWS is to promote permanent and sustainable drinking water and wastewater treatment solutions ensuring effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

OSWS provides grants, principal forgiveness and low interest loans for planning and construction projects utilizing state and federal funds. In addition, OSWS provides pre-planning assistance for projects seeking funding and technical, managerial and financial assistance through its technical assistance program.

OSWS staff manage over 330 drinking water projects in 290 communities and over 250 wastewater projects in 150 communities. The 580 active drinking water and wastewater projects currently span approximately 56 of the 58 counties in California. Since January 2018, OSWS has received, and is working on processing, 220 new applications for drinking water and wastewater projects (121 and 99, respectively).

OSWS: Accomplishments since 2014. Since DDW was established at SWRCB in July 2014, DFA has been able to help approximately 7.2 million people in 220 communities receive safe and reliable drinking water. Approximately 1.15 million of the people reside in 200 small disadvantaged (approximately 40 percent of the 200) or small severely disadvantaged communities (approximately 60 percent of the 200).

OSWS: Technical Assistance. In calendar year 2018, technical assistance was provided to approximately 174 small disadvantaged communities, benefitting more than 175,000 people, to develop projects to provide safe drinking water and wastewater solutions. Approximately 120 of the communities that received technical assistance were small disadvantaged or small severely disadvantaged drinking water systems. The scope of technical assistance provided to the drinking water systems included: (1) assisting the water system to improve their compliance and develop their technical, managerial, and financial capacity; and, (2) assisting the communities that do not currently have access to safe and adequate drinking water to be connected to sustainable water suppliers.

SWRCB administers several Programs addressing safe and affordable drinking water issues. DFA administers multiple funding programs to assist water systems to achieve and maintain compliance with safe drinking water standards. These programs use federal funds and state funds to address the highest priorities of infrastructure need and include the following:

Drinking Water State Revolving Fund (DWSRF). The largest drinking water funding program that SWRCB administers is DWSRF. US EPA provides DWSRF funds to states, including California, in the form of annual capitalization grants. States, in turn, provide low-interest loans and other assistance to PWSs for infrastructure improvements. Total funding provided to PWSs in executed loans and grants to date is over \$1.3 billion.

American Recovery and Reinvestment Act (ARRA). On February 17, 2009, President Obama signed ARRA, which allocated \$2 billion nationally for safe drinking water infrastructure improvements. California’s share of these funds was \$159 million, and was administered by the California Department of Public Health through the DWSRF program prior to the transfer of the drinking water program to SWRCB. ARRA funds were a one-time opportunity for the state and did not require matching funds from the state. Funding agreements were issued, totaling \$149 million, to 51 projects statewide and among 47 community drinking water systems.

Proposition 50. The Water Security, Clean Drinking Water, Coastal, and Beach Protection Act of 2002 (Proposition 50) was voter-approved in 2002. Proposition 50 allocated \$485 million to drinking water quality issues.

Proposition 84. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006 (Proposition 84) was voter-approved in 2006. Proposition 84 allocated \$300 million to address drinking water and other water quality issues.

Proposition 1. The Water Quality, Supply and Infrastructure Improvement Act of 2014 (Proposition 1) was voter-approved in 2014 and authorized \$7.12 billion in general obligation bonds. Proposition 1 authorized \$520 million for projects that improve water quality or help provide clean, safe, and reliable drinking water.

Proposition 68. The Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2017 (Proposition 68) was voter-approved in 2018. Proposition 68 allocated a total of \$4.1 billion – \$4 billion of which was new bond authority and the remaining \$100 million of which was redirected from unsold bonds previously approved as part of Propositions 1, 40, and 84. Proposition 68 dedicated \$250 million specifically to safe drinking water.

A summary of small DAC drinking water projects funded by funding source between July 2010 and January 2019 is as follows:

- DWSRF: \$440,232,198 (63 percent)
- Proposition 1: \$213,231,560 (31 percent)
- Proposition 84: \$ 41,693,201 (6 percent)
- Proposition 50: \$ 814,877 (<1 percent)

A summary of small DAC projects funded by type of assistance between July 2010 and January 2019 is as follows:

Type of Assistance	Number of Projects	Amount
Planning	138	\$ 62,081,772
Construction	99	603,502,578
Technical Assistance	13	29,184,796
LEFA	11	1,202,690
TOTAL Funding for small DAC projects between July 2010 and January 2019		\$696,691,836

Funding provided for interim emergency drinking water needs. Below is a table reflecting interim/emergency drinking water funding between April 2010 and January 2019. These funding sources fund emergency needs, such as well rehabilitation or replacement, emergency interties, extension of service, treatment systems, including point of use treatment, and interim water supplies, such as bottled or hauled water.

Interim/Emergency Drinking Water Funding Summary: April 2010 through January 2019*

Funding Source	Number of Projects	Funding Approved
Proposition 84, Chapter 2 Safe Drinking Water Projects, Section 75021 Emergency Funding (\$10 million)*	129	\$7,827,904
Public Water System Drought Emergency Response (PWSDER) - SB 103 (Committee on Budget and Fiscal Review), Chapter 2, Statutes of 2014 (\$15 million)*	85	\$14,894,973
Interim Emergency Drinking Water Program - Allocation from Cleanup and Abatement Account (CAA) per SB 103 (\$4 million)	14	\$3,438,300
Interim Replacement Emergency Drinking Water Program - Allocation from CAA per SWRCB Resolution No. 2014-0028, June 17, 2014 (\$2.125 million)	25	\$2,042,789
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 (Committee on Budget), Chapter 1, Statutes of 2015 (\$4 million)	30	\$3,580,068
Interim Emergency Drinking Water Program - Allocation from CAA per AB 91 (\$15 million)**	21	\$9,300,043
Interim Emergency Drinking Water Program - Allocation from CAA per SB 826 (Leno), Chapter 23, Statutes of 2016 (\$15 million)	13	\$4,715,196
Set-Aside for Contamination Related Projects - Allocation from CAA per SWRCB Resolution No. 2016-0039, July 19, 2016 (\$4 million)	56	\$3,813,890
CAA for Urgent Drinking Water Needs - Continuous Authority per AB 339 (Mathis), Chapter 439, Statutes of 2017	22	\$1,649,184
Household Well Replacement Program - SB 108 (Committee on Budget and Fiscal Review), Chapter 54, Statutes of 2017 (\$8 million)**	2	\$5,000,000
Drinking Water for Schools Grant Program - SB 828 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2016 (\$9.5 million) (project totals here include water quality impairment only, not access)	6	\$643,787
TOTAL PROJECTS	401	\$51,906,134
TOTAL COMMUNITIES SERVED***	265	
ESTIMATED TOTAL CONNECTIONS	139,209	
ESTIMATED TOTAL POPULATION	427,882	

Source: SWRCB.

**The drinking water program was transitioned from the Department of Public Health to SWRCB on July 1, 2014. Prior to that date, approximately 84 projects (\$6,683,866) and 11 projects (\$2,556,182) were funded by the Proposition 84 and PWSDER allocations, respectively. The remaining 306 projects were funded after the transition.*

***Of the \$15 million allocation in 2015, \$5 million was awarded to three non-profits to provide well replacements for households impacted by the drought. An additional \$5 million was awarded from the \$8 million allocation in 2017, and the remaining \$3 million of that 2017 allocation will likely be awarded for the same purpose. Households benefitting under these agreements are not included in the above estimates of connections and population served.*

****Recipient Median Household Income (MHI) data was not historically tracked throughout this entire time period. However, based on available information, it can be concluded that the overwhelming majority of these funds went to disadvantaged communities.*

The 2018-19 Budget. Last year, the Administration proposed, but the Legislature did not adopt, a SADW proposal, which would have done the following: (1) established the SADW Fund; (2) created a SADW fee for all water customers statewide and three other fees for confined animal facilities, fertilizer, and dairy to address nitrates in groundwater; and, (3) given liability relief for agricultural operations from unlawful discharges of nitrate to groundwater and exempted them from nitrate-related enforcement actions, as specified.

Instead, the 2018-19 Budget Act provided \$23.5 million General Fund for allocation to safe drinking water actions, as follows:

- \$3.5 million for emergency water tanks for homes.
- \$10 million for emergency relief grants to household to fund well replacement, septic system replacement, permanent connections to public systems, well or septic abandonment, point-of-use and point-of-entry systems, and debt relief for households that have financed well replacement as a result of drought emergency. Of that amount, \$750,000 was to create a pilot program to provide grants for wells and septic replacements in households affected by wildfire and not covered by insurance.
- \$6.8 million for Safe Drinking Water for Schools grant program, which included up to \$1 million for technical assistance.
- \$200,000 for the implementation of AB 1577 (Gipson), Chapter 859, Statutes of 2018, to authorize SWRCB to order the Sativa Water District to accept full management and control by an administrator selected by SWRCB.
- \$3 million to conduct a needs assessment.

Last year, the Administration's trailer bill language was substantially similar to SB 623 (Monning), as amended August 21, 2017. That version of SB 623 was not heard in a policy committee and died in the Assembly Rules Committee.

LAO COMMENTS

Uncertain extent to which proposed revenues will fully address problems. The Administration has not completed an estimate of the total cost associated with bringing drinking water systems that are currently unable to meet water quality standards into compliance on an ongoing basis. SWRCB is currently conducting a study, pursuant to SB 862 (Committee on Budget and Fiscal Review, Chapter 449, Statutes of 2018), that is not expected to be completed until the fall of 2020. However, a private consulting firm estimated the total annual cost to address contaminated drinking water at roughly \$140 million (30 million for nitrate treatment and \$110 million for other contaminants). However, that estimate is highly uncertain given the lack of data, especially regarding the number of smaller water systems and domestic wells that fail to provide safe drinking water. It is possible that actual costs could be significantly higher or lower.

Most charged payers would not be beneficiaries of the program. The main beneficiaries of the program would be people in disadvantaged communities and those served by smaller water systems. These water customers should get access to clean drinking water at lower cost to them than would otherwise be available to them without this program. The largest share of program costs, however, would be paid by water system ratepayers across the state (with certain exceptions for low-income persons and customers of systems with less than 200 connections). The majority of these ratepayers are served by systems that already provide SADW. Therefore, ratepayers of these systems are unlikely to benefit from the proposed program.

Most charged payers would not be at fault for the contamination being mitigated. The vast majority of nitrate contamination is caused by agricultural activities such as fertilizer applications and animal operations such as dairies. The Administration's proposal to have agricultural entities pay charges to address the effects of nitrate contamination creates a link between operations that are the main source of the nitrate contamination and the entities that would pay charges to mitigate it. However, it is worth noting that some of the current nitrate contaminants in groundwater are not from current agricultural operations. Instead, some of these nitrates are legacy contamination that could be from as much as decades ago.

In addition, CDFA estimates the charges on dairies, fertilizer, and confined animal operations combined would total about \$19 million per year when fully implemented. (At the time the LAO analysis was prepared, the Administration had not completed a revenue estimate for the charge on confined animals.) Consequently, if the costs to mitigate nitrate-related contamination in drinking water exceeds the revenues generated by charges on agricultural entities, then nitrate-related contamination in drinking water could be addressed from revenues generated by the charge on water system customers rather than from agricultural entities.

Alternative sources of funding are limited. Generally, alternative funding sources to pay for the Governor's SADW proposal are limited. The SADW program will require a steady ongoing funding stream to meet the state's commitment to provide long-term support for operations and maintenance for water systems. General Fund is an alternative funding source for the program. However, SADW would have to compete with other programs for funding from a limited amount of General Fund. To the extent that there are any reductions in General Fund support for the program, it could result in potentially serious threats to public health if the water systems

benefiting from the program fall out of compliance with drinking water standards due to neglect. In contrast, the Governor's proposal would provide a dedicated revenue source for the program.

In addition, the LAO finds that bond funding would not be appropriate for this program because bonds provide a one-time fund source and should not be relied on as an ongoing fund source. Moreover, general obligation bonds are repaid from the General Fund with interest and, therefore, would cause this approach to be somewhat more expensive than direct appropriations from the General Fund. The LAO also notes that it has not identified any existing special funds that would be appropriate to support this program and would have sufficient available funds.

Safe harbor provisions would affect enforcement authority. The proposal's safe harbor provisions involve some policy trade-offs compared to the state's current enforcement approach. On the one hand, the proposal is structured to better ensure that significant funding is available for water quality mitigation throughout the state rather than to limited areas in the state. This is because the state's current enforcement approach generally relies on targeting individual or groups of polluters in a limited geographic area, and these enforcement actions can be administratively difficult to complete. For example, the state rarely issues a cleanup and abatement order for nitrate contamination (though it has reached settlements in two regions). On the other hand, under the proposal, the state would relinquish its authority to take certain enforcement actions – such as cleanup and abatement orders – against polluters if they are otherwise complying with their applicable permits and waivers. This would limit SWRCB's authority.

STAFF COMMENTS

A significant number of California communities, especially disadvantaged communities, rely on a contaminated groundwater source for their drinking water supply. Contaminants include nitrate, arsenic, and disinfectant byproducts. Water treatment systems are the key to providing safe drinking water to these communities, but the installation, operation and maintenance of such systems are often very costly. There are funds, such as Proposition 1 and the Safe Drinking Water Revolving Fund, which provide financial assistance for the construction cost of the treatment systems. However, there is no sustainable funding source to provide funding for long-term operations and maintenance costs.

Many have argued for the use of General Fund dollars to address this issue. While this makes perfect logical sense, it is not a viable option for a problem that has ongoing needs. For one, the General Fund is a volatile funding source. Many departments within the Natural Resources Agency and the Environmental Protection Agency experienced deep General Fund cuts during the economic down turn and are still struggling to recover. Further, there are constitutional funding guarantees such as Proposition 98 and other calls on the General Fund that further limits the available amount for additional ongoing expenditures. The water challenges that the State faces requires a funding stream that is ongoing and sustainable.

The proposal before this Subcommittee seeks to address the funding gap by imposing a fee on water users and fees on various agricultural operations. The funds would provide necessary upgrades to water infrastructure and provide financial assistance for operations and maintenance of drinking water systems in disadvantaged areas, in order to clean up contaminated groundwater and improve inadequate water systems and wells.

The goal of this proposal is very much needed and principled. However, there are additional policy considerations needed. For example, by indemnifying various agricultural operations as long as they meet certain mitigation requirements assumes that nitrate contamination is mostly a legacy problem. Further, the fees imposed on the various agricultural operations only cover a portion of the funding needed to address nitrate contamination. Lastly, this proposal does not include a requirement for agricultural operation to pay the fertilizer fee/dairy fee in a timely fashion to enjoy the enforcement immunity. As we deliberate this proposal, there should be thoughtful consideration on how to deal with ongoing issues with contamination.

Staff Recommendation: Hold Open.

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