

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
ON CLIMATE CRISIS, RESOURCES, ENERGY, AND TRANSPORTATION****ASSEMBLYMEMBER RICHARD BLOOM, CHAIR****WEDNESDAY, MARCH 23, 2022
9:30 A.M. – 1021 O STREET, ROOM 1100
(PLEASE NOTE ROOM CHANGE)****NON-PRESENTATION CALENDAR**

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Public Comment

The public may attend this hearing in person or participate by phone. Any member of the public attending this hearing is strongly encouraged to wear a mask at all times while in the building location. This hearing can be viewed via live stream on the Assembly’s website at <https://assembly.ca.gov/todaysevents>.

We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub3@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: **877-692-8957 / Access Code: 1850 1100.***

NON-PRESENTATION ITEMS

0555 SECRETARY FOR ENVIRONMENTAL PROTECTION

ISSUE 1: CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY BOND AND TECHNICAL ADJUSTMENTS

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

Dept.	Title	\$	Fund	Appropriation	Comment
CARB	Technical Adjustment: Two-year extension of liquidation for the University of California, Riverside	\$0	Fund 0044	3900-492	Two-year extension of liquidation for FY 19-20 from the Motor Vehicle Account (MVA) State Operation funds of \$550,000 that were allocated for Contract 19TTD002 with the University of California Riverside (UCR).
CARB	Technical Adjustment: Proposition 1B Extensions of Liquidation	\$0	Prop. 1B	3900-490	Adjustments to continue implementation of previously authorized programs and projects.
DTSC	Technical Adjustment: Board of Environmental Safety Ongoing Funding	\$3,000	Fund 0014 Fund 0557	3960-001-0014 3960-001-0557	Ongoing funding for the Board of Environmental Safety, evenly split between the Hazardous Waste Control Account and the Toxic Substances Control Account. The 2021 Budget Act only included one year of funding from the General Fund for the Board of Environmental Safety.
CalRecycle	Technical Adjustment: Greenhouse Gas Reduction Fund Reappropriation	\$0	N/A	3970-490	Reappropriates Greenhouse Gas Reduction Funds appropriated in 2018. Projects receiving these grant funds include anaerobic digester and compost facilities which require complex permitting and lengthened construction timelines.

State Water Resources Control Board Bond Reappropriations and Technical Adjustments:

Fund	Item	Enactment Year	2022-23 BY	Request Description
Prop 68	3940-101-6088	2019-20	Remaining balance	Reappropriation of the balance of appropriation except for amount previously reverted in prior fiscal years for clean drinking water and drought preparedness.
Prop 68	3940-101-6088	2019-20	Remaining balance	Reappropriation of the balance of appropriation except for amount previously reverted in prior fiscal years for grants to regional water supply projects within the San Joaquin River hydrologic unit.
Prop 68	3940-101-6088	2019-20	Remaining balance	Reappropriation of the balance of appropriation except for amount previously reverted in prior fiscal years for water recycling.
Prop 50	3940-101-6031	2019-20	Remaining Balance	Reappropriation of the balance of appropriation for safe drinking water improvements.
Prop 50	3940-101-6031	2019-20	Remaining Balance	Reappropriation of the balance of appropriation for clean water and water quality projects.
Prop 50	3940-101-6031	2019-20	Remaining Balance	Reappropriation of the balance of appropriation for urban and agricultural water conservation, recycling, and other water use efficiency projects.
Prop 50	3940-111-6031	2013-14	-4000	Requesting to revert up to \$4,000 of Local Assistance authority to prevent our bond allocation from being over-committed.
Prop 1	3940-001-6083	2022-23	-1007000	State Water Board is requesting a reduction of Proposition 1 state operations authority to reflect staff resource-needs among various funding sources in 2022-23.
Prop 1	3940-101-6083	2016-17	Remaining Balance	The State Water Board requests re-appropriation of the balance of the appropriation except for amount previously reverted in prior fiscal years. The remaining re-appropriations will be utilized for water recycling and advanced treatment technology projects.
Prop 1	3940-101-6083	2019-20	Remaining Balance	The State Water Board requests re-appropriation of the balance of the appropriation except for amount previously reverted in prior fiscal years. The remaining re-appropriations will be utilized for grants for wastewater treatment projects with a priority for disadvantaged and severely disadvantaged communities.
Prop 1	3940-101-6083	2019-20	Remaining Balance	The State Water Board requests re-appropriation of the balance of the appropriation except for amount previously reverted in prior fiscal years. The remaining re-appropriations will be utilized for multibenefit stormwater management projects.

Prop 84	3940-101-6051	2019-20	Remaining Balance	SWRCB is requesting reappropriation of Item 3940-101-6051/19 to extend encumbrance availability to 6/30/25 and liquidation to 6/30/27 for local assistance projects for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards.
Prop 84	3940-101-6051	2019-20	Remaining Balance	SWRCB is requesting reappropriation of Item 3940-101-6051/19 to extend encumbrance availability to 6/30/25 and liquidation to 6/30/27 for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 2: CALIFORNIA ENVIRONMENTAL REPORTING SYSTEM PROJECT

The Governor's budget requests \$1,967,000 Unified Program Account and 1.0 permanent position in 2022-23 to continue the planning work necessary to update the California Environmental Reporting System. This also includes an additional year of funding for the 4.0 permanent positions approved in Fiscal Year 2021-22. The project will update the technical platform, improve data quality and the processes supporting data quality, address inefficient input and interactions, and make identified enhancements to CERS.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 3: CALIFORNIA HAZARDOUS MATERIAL AND OIL EMERGENCY SUPPORT

The Governor's budget requests \$474,000 General Fund and 3.0 positions in Fiscal Year 2022-23 and ongoing to support CalEPA's role as the lead Agency for the California Hazardous Material and Oil Emergency Support Function (CA ESF-10). These additional resources will allow CalEPA to support ongoing disaster planning, response, and recovery efforts without diverting staff away from other aspects of the Agency's mission.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

ISSUE 4: ADVANCING RACIAL EQUITY AND ENVIRONMENTAL JUSTICE IN OEHHA'S SCIENTIFIC ACTIVITIES

The Governor's budget requests \$565,000 General Fund and 2.0 positions (including \$90,000 in contracts) in Fiscal Year 2022-23 and ongoing to create a new racial equity and environmental justice program. The program would formulate strategies and policies to advance racial equity in all of OEHHA's scientific activities, including quantitative risk-assessment methods.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 5: AIR QUALITY (AB 619)

The Governor's budget requests \$137,000 General Fund in Fiscal Year 2022-23 and ongoing and 0.5 Public Health Medical Officer position to support the implementation of Chapter 412, Statutes of 2021 (AB 619). This bill requires the California Department of Public Health, in consultation with OEHHA and other specified entities, to prepare a plan with recommendations and guidelines for counties in the event of a wildfire or other significant air quality event. The requested position will: (i) contribute to the development of CDPH's significant air quality events plan for counties; (ii) establish respiratory protection guidance; and, (iii) communicate risks to the public.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 6: BIOMONITORING IN COMMUNITY AIR PROTECTION PROGRAM (AB 617) COMMUNITIES

The Governor's budget requests \$350,000 Greenhouse Gas Reduction Fund (GGRF) in Fiscal Year 2022-23 and ongoing for targeted biomonitoring studies in Community Air Protection Program (AB 617) communities. Limited-term contract funding was originally approved in Fiscal Year 2019-20 for a period of three years, but ongoing contract funding is needed for OEHHA to serve the large number of communities disproportionately impacted by air pollution, measure their exposures over time, and increase understanding of the potential health risks community members face. Results from the biomonitoring studies will generate essential data to support these communities in developing and implementing effective strategies to reduce harmful air pollution exposures.

BACKGROUND

Limited-term contract funding was originally approved in FY 2019-20 for a period of three years, but ongoing contract funding is needed for OEHHA to serve the large number of communities disproportionately impacted by air pollution, apply biomonitoring to directly measure exposures in community members over time, and increase understanding of the potential health risks they face. The contract funding will support academic and local partners who are critical in carrying out community-based biomonitoring studies. This funding will also support specialized laboratory analyses not available within the state laboratory system. Results from the biomonitoring studies will generate essential data needed by these disproportionately impacted communities to develop and implement effective strategies to reduce their harmful air pollution exposures. This work will also advance the California Environmental Protection Agency's (CalEPA) strategic goals in the areas of environmental justice (EJ), community engagement, and reducing pollution burdens.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 7: EVALUATING UNASSESSED CHEMICALS USING PRECISION PREVENTION METHODOLOGIES

The Governor's budget requests \$6.034 million General Fund in Fiscal Year 2022-23, including \$1,034,000 and 5.0 positions in Fiscal Year 2022-23 and ongoing and \$5 million one-time in Fiscal Year 2022-23 to develop and implement rapid computational and molecular toxicology approaches for identifying toxic chemicals and safer alternatives. The \$5 million will be used for interagency contracts with the University of California to develop these approaches, while the 5.0 positions will apply UC research to advance scientific assessments of currently unevaluated chemicals that support California Environmental Protection Agency's regulatory programs.

These resources will support regulatory programs within CalEPA and other state agencies by providing essential information on the hazards and risks posed by chemicals in the environment and consumer products, as well as new scientifically valid approaches for understanding chemical hazards. Types of chemicals covered include those used in the petroleum industry and those subject to evaluation under the Department of Toxic Substances Control's (DTSC) Safer Consumer Products Program. These evaluations would also be used in the establishment of public health goals for drinking water, reference exposure levels and cancer potency values for air contaminants, consumption advisories for contaminants in sport fish, and advisory levels that guide emergency response actions. Therefore, OEHHA's proposed work would provide important state guidance for regulators, policymakers, and emergency responders on harmful chemicals that would otherwise remain unassessed.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 8: PROPOSITION 65 FUND SHIFT

The Governor's budget requests a fund shift of \$1,800,000 from the Safe Drinking Water and Toxic Enforcement Fund to the General Fund (GF) in Fiscal Year 2022-23 and ongoing. This fund shift is necessary to continue funding the voter-approved Proposition 65 program at an adequate level.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 9: STRENGTHENING CALENVIROSCREEN

The Governor's budget requests \$370,000 Reimbursement authority and 2.0 permanent positions in Fiscal Year 2022-23 and ongoing to conduct trend analyses of CalEnviroScreen data. CalEnviroScreen is a science-based screening tool which identifies California communities burdened by multiple sources of pollution and vulnerability. Funding for two permanent staff are requested to examine trends, track changes and measure progress across measures of environmental quality using statewide data contained within the CalEnviroScreen tool. The positions will enable CalEPA to meet goals identified in its 2022-2026 Strategic Plan to use CalEnviroScreen to support data-driven decisions about investments in pollution reduction for the most vulnerable populations, and to measure changes over time in community pollution burdens and conditions to evaluate the effectiveness of regulatory and other actions.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

3930 DEPARTMENT OF PESTICIDE REGULATION

ISSUE 10: CALIFORNIA PESTICIDE ELECTRONIC SUBMISSION TRACKING (CALPEST) PROJECT

The Governor's budget requests \$4.434 million Department of Pesticide Regulation (DPR) Fund 2.0 permanent positions in 2022-23 and \$310,000 DPR Fund in 2023-24 and ongoing to support the second year of design, development, and implementation of the California Pesticide Electronic Submission Tracking (CalPEST) system and ongoing maintenance and operations tasks in support of the CalPEST system. The CalPEST system is a fully integrated information and document management system to substantially improve the current pesticide product registration process for pesticide product and device companies.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 11: LICENSING AND CERTIFICATION PROGRAM ENHANCEMENTS

The Governor's budget requests \$1.608 million General Fund and 3.0 permanent positions in 2022-23 and 2023-24, \$1.558 million DPR Fund in 2024-25, and \$1.258 million DPR Fund in 2025-26 and ongoing. DPR will develop a regulation package for licensing and certification fee changes, which will be implemented in fiscal year 2024-25 to provide ongoing support for the program. These resources will be used to address and implement necessary Licensing and Certification (L&C) responsibilities, required by new unfunded federal mandates issued in 2017, and to modernize elements of the licensing system.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 12: IMPLEMENTATION OF LICENSING ENHANCEMENTS (TECHNICAL CLEAN UP) TRAILER BILL

The Governor's budget requests trailer bill language to implement federal certification and training requirements and move the annual pesticide license to a three year license. The language will:

- Repeal Food and Agricultural Code (FAC) § 14153.1 and FAC § 12203.1 to meet new certification and training category requirements.
- Amend FAC § 12203, FAC § 14153, and FAC § 14092 to align with federal certification and training requirements including removing oral exams as they are no longer allowed.
- DPR is proposing to change the renewal period to three years and require a mid-year renewal/CE completion date prior to the license expiring. This will address staffing concerns and enhance customer service by allowing licensees to continue to apply pesticides and remain in compliance with the law, while allowing DPR staff sufficient time to process the renewals before they expire. The following sections address issues around the timing of the licensing renewal cycle: Amend FAC § 11456, FAC § 11705, FAC § 11706, FAC § 11904, FAC § 12021, FAC § 12103, FAC § 12104, FAC § 12107, FAC § 12202, FAC § 12252, FAC § 12403, and FAC § 12402.

This language can be found at: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/592>

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**ISSUE 13: BKK CLASS III LANDFILL ADMINISTRATIVE COSTS AND GAS MONITORING SYSTEM EVALUATION**

The Governor's budget requests \$182,000 from the Integrated Waste Management Account (IWMA) annually to fund an ongoing shortfall in BKK Corporation's (BKK) administrative expenses for operating the BKK Class III Landfill (landfill) for the next 17 years. CalRecycle entered into a judicially enforceable Settlement Agreement (Agreement) with BKK to ensure that the landfill is not abandoned by BKK and does not become a ward of the state. CalRecycle also requests one-time expenditure authority for \$300,000 IWMA to fund the evaluation of the landfill gas monitoring system and replace critical gas wells to protect public health, safety, and the environment. This request covers a total of \$482,000 IWMA in fiscal year 2022-23 and \$182,000 ongoing for the next 17 years.

STAFF COMMENTS

This Subcommittee may wish to have CalRecycle assess:

- The viability of capturing and selling biomethane from this facility to cover costs.
- Closure and post-closure financial assurances of other landfills based on lessons learned from the bankruptcy of BKK.
- The future impacts of climate change, particularly sea level rise, on both active and closed landfills, especially these with toxic waste. And how those impacts may impact financial assurance needs.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 14: CALRECYCLE INTEGRATED INFORMATION SYSTEM (CRIIS)

The Governor's budget requests \$1,606,000 in fiscal year 2022-23 from the Beverage Container Recycling Fund (BCRF) to provide support for the CalRecycle Integrated Information System (CRIIS) project as it continues through the California Department of Technology (CDT)'s Project Approval Lifecycle (PAL) stages 2 through 4. As part of CDT's PAL process, the CRIIS project has completed and received approval for the Stage 1 Business Analysis (S1BA).

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 15: COMPOSTABLE AND BIODEGRADABLE PRODUCT LABELING IMPLEMENTATION (AB 1201)

The Governor's budget requests 1.0 permanent, fulltime position, and \$132,000 from the Integrated Waste Management Account (IWMA) to implement the labeling requirements for compostable and biodegradable products under Chapter 504, Statutes of 2021 (AB 1201).

STAFF COMMENTS

Staff notes that AB 1201 did not call for bifurcated collection systems for compostable material, but labeling. This is consistent with the Letter to the Journal.

On September 8, 2021, the author of AB 1201, Assemblymember Ting wrote a Letter to the Journal, stating:

“AB 1201, as amended on September 3, 2021, expands the content and labeling requirements for compostable products. Among other things, it amends Section 42357 of the Public Resources Code to provide as follows:

“By January 1, 2024, the department, through a public stakeholder process, shall determine whether, for purposes of this section, it would be feasible to separate the collection of products in order to recover organic waste that is suitable for use in organic agricultural applications from the collection of products not suitable for use in organic agricultural applications. If the department determines that such bifurcation is feasible and would enable efficient processing by solid waste processing facilities, the department shall adopt regulations on or before January 1, 2026, to establish a bifurcated approach, and products that are not collected for the purpose of recovering organic waste that is suitable for use in organic agricultural applications shall comply with the department’s regulations and are not subject to the requirements of this subparagraph.”

This bill and this provision are designed to expand content and labeling requirements for compostable products, not adopt new regulations requiring a bifurcated organic waste collection and processing system.

It was brought to my attention, after the amendment deadline, that this language could be construed to invest CalRecycle with authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

It is not the intent of the Legislature that AB 1201, specifically the additions to Public Resources Code Section 42357(g)(1)(B), require CalRecycle to modify their newly-adopted organic waste recycling regulations and impose a completely new dual stream collection system for organic waste.

The only intent of this provision was for CalRecycle’s feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach to product labeling.

To the extent that AB 1201 could be construed to grant CalRecycle broader authority than outlined above, I am clarifying that the language in the bill is intended only for CalRecycle, after a public stakeholder process and a feasibility determination to focus its efforts on establishing a bifurcated approach to product labeling, and does not provide authority to adopt new regulations requiring a bifurcated organic waste collection and processing system.

I commit that in 2022, I will seek to amend this statute to clarify this intent and address this unintended consequence of AB 1201.

In addition, the definition of “desirable organic wastes” in section 42357(g)(1)(E) of the Public Resources Code is meant to include reduces which are intentionally collected by local governments and private solid waste service providers who provide organic waste collection services to residential and commercial customers in the State. Products associated with the recovery of desirable organic wastes would include compostable bin liners for the collection of yard trimmings or other green materials, food scraps, foodservice packaging that will be collected with uneaten food, and produce stickers, but would not include packaging for organic wastes that are generally not allowed in residential compost program, including pet waste. “

Concern has been raised that this BCP is not consistent with the legislation passed last year and the accompanying Letter to the Journal. For example, the BCP states, “*Upon determining that it is feasible to bifurcate the collection of organic waste products, the requested staff resources will organize stakeholder working groups, hold public meetings, and promulgate regulations for a bifurcated organic waste collection system.*” (Emphasis added.)

The BCP also states, “*Compostable product manufacturers will need assistance on permissible materials and compounds acceptable in California. Local jurisdictions, cities, counties, and their various waste collection programs will need ongoing support and review to ensure proper bifurcation of acceptable compostable products.*” (Emphasis added.)

As noted in the Letter to Journal, “It is not the intent of the Legislature that AB 1201...require CalRecycle to modify their newly adopted organic waste recycling regulations and impose a new dual stream collection system for organic waste. The only intent of this provision was for CalRecycle’s feasibility determination to trigger a requirement to adopt regulations to establish a bifurcated approach to product labeling.”

The Department has agreed to implement this bill pursuant to Legislative intent, which is to not require a bifurcated collection system for compostable material.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 16: ENVIRONMENTAL ADVERTISING IMPLEMENTATION (SB 343)

The Governor's budget requests 1.25 permanent, fulltime positions and \$965,000 in fiscal year 2022-2023 and \$163,000 ongoing from the Integrated Waste Management Account (IWMA) to implement the requirements prescribed under Chapter 507, Statutes of 2021 (SB 343) for environmental advertising.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 17: MATERIALS MANAGEMENT AND LOCAL ASSISTANT DIVISION PERMANENT STAFFING

The Governor's budget requests 9.0 permanent, fulltime positions and \$110,000 from the Electronic Waste Recycling and Recovery Account (E-Waste) to fulfill fiduciary and enforcement obligations related to grant and payment programs, and the Covered Electronic Waste (CEW) Recycling Program.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL**ISSUE 18: BERKELEY REGIONAL OFFICE SITE MITIGATION AND RESTORATION PROGRAM (SMRP) TECHNICAL POSITIONS**

The Governor's budget requests 2.0 permanent positions and an increase of \$411,000 in Reimbursement authority for the Toxic Substances Control Account (TSCA) in 2022-23 and \$409,000 in 2023-24 and annually thereafter to meet mission-essential needs of overseeing site investigation and remediation activities associated with an increasing billable workload. The positions will be supported by reimbursable standard voluntary agreements as part of DTSC's brownfields redevelopment work.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 19: EXIDE: 2014 ENFORCEMENT ORDER PROGRAM OVERSIGHT

The Governor's budget requests \$706,000 Lead-Acid Battery Cleanup Fund (LABCF) in 2022-23 through 2025-26 for three temporary help positions to continue supporting activities to oversee and implement the remaining closure activities needed for the Exide 2014 Stipulation and Order (as amended in 2015) and the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order (collectively referred to herein as "Orders") against Exide Technologies, LLC (Exide).

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 20: EXIDE: CLOSURE AND CORRECTIVE ACTION: THIRD-PARTY QUALITY ASSURANCE OVERSIGHT

The Governor's budget requests \$600,000 annually from 2022-23 through 2025-26 from the Lead-Acid Battery Cleanup Fund (LABCF) for a contractor to continue to provide Third-Party Quality Assurance (QA) as mandated by the December 8, 2016 Exide Technologies, Inc. (Exide) Closure Plan to oversee Phase 2 closure activities and the remaining activities needed to fulfill the Exide 2014 Stipulation and Order (as amended in 2015). The contractor will also oversee the ongoing Resource Conservation and Recovery Act (RCRA) corrective action work associated with the February 2002 Corrective Action Consent Order (collectively referred to herein as "Orders") at the former battery recycling facility in Vernon, California (formerly owned by Exide).

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 21: IMPLEMENTATION OF MERCURY THERMOSTAT COLLECTION ACT OF 2021 (AB 707) AND TRAILER BILL

The Governor's budget requests 2.0 permanent positions and \$281,000 from the Mercury Thermostat Collection Program Fund in 2022-23 and \$279,000 in 2023-24 and annually thereafter through 2029-30 to fully implement the Mercury Thermostat Collection Act of 2021 (MTCA2021) pursuant to Chapter 703, Statutes of 2021 (AB 707). AB 707 requires manufacturers to pay up to \$400,000 annually into the Mercury Thermostat Collection Program Fund until 2028. Payments from manufacturers cannot exceed DTSC's actual and reasonable regulatory costs to administer, implement, and enforce MTCA2021. The resources will fund the initial rollout of MTCA2021, as well as ongoing implementation and enforcement activities. AB 707 will repeal MTCA2021 on January 1, 2030.

The Governor, in signing AB 707, acknowledged that the timing of DTSC's responsibilities in 2022-23 and the approval of the 2022-23 Budget Act do not align, resulting in unfunded mandates on DTSC. The signing message also committed the Administration to work with the author and manufacturers to clean up provisions of the bill that may prove difficult to reconcile or implement effectively, including its funding provisions. As such, this proposal includes statutory changes amend fiscal provisions of AB 707.

This also includes a trailer bill to extend timelines from March to September to align with the budget process, allows DTSC to be reimbursed for implementation costs occurring before July 1, 2022, aligns funding amounts with those authorized by the Legislature through the budget process subject to the \$400,000 cap, and extends the sunset of the statute to allow the program to wind down before repealing the code section.

The language can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/616>

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 22: NATIONAL PRIORITIES LIST AND STATE ORPHAN SITES

The Governor's budget requests a revenue transfer of \$13.93 million from the Toxic Substances Control Account to the Site Remediation Account and \$13.93 million expenditure authority from the Site Remediation Account in 2022-23 to fund the state's National Priorities List obligations and state orphan sites with Priorities 1A, 1B, 2, and statewide service contracts.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 23: RESOURCES CONSERVATION AND RECOVERY ACT (RCRA) GRANT SUPPORT

The Governor's budget requests 1.0 permanent position in 2022-23 and ongoing to implement Corrective Action tasks required to manage and oversee site investigation and cleanup activities, as required in the Resources Conservation and Recovery Act (RCRA) Grant Work Plan which are part of United States Environmental Protection Agency's (U.S. EPA's) performance management system.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 24: STRENGTHEN EMERGENCY RESPONSE CAPACITY

The Governor's budget requests 6.0 permanent positions and \$1.7 million General Fund (GF) in 2022-23, and \$1.2 million annually thereafter to support the Emergency Response (ER) Program, when mission-tasked by the California Governor's Office of Emergency Services (CalOES) to respond to natural and/or man-made disasters (wildfires, floods, earthquakes, etc.) and enforcement-related activities. Included in this request is a shift of \$1 million General Fund to the Toxic Substance Control Account (TSCA) annually for an emergency reserve account to readily respond to emergencies per Health and Safety Code section 25354.

Staff Recommendation: Absent member questions or input from the public at this hearing, Staff recommends this item be considered for a vote-only calendar when the Committee takes action.

ISSUE 25: LEAD ACID BATTERY FEE CLEAN- UP TRAILER BILL

Staff recommends adopting trailer bill language to clean up Health and Safety Code Section 25215.2 to ensure the statutorily required notice to consumers regarding the Lead Acid Battery Fee reflects the true cost of the fee which was raised from \$1 to \$2 by AB 142 (C. Garcia, 2019) and takes effect April 1, 2022.

Staff Recommendation: Hold Open.

ITEMS TO BE HEARD

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

ISSUE 1: DTSC REFORM IMPLEMENTATION

The Governor's budget requests 260.1 ongoing positions with \$16.1 million from Hazardous Waste Control Account (HWCA) and \$33.4 million from the Toxic Substances Control Account (TSCA) for 12 budget change proposals to implement the reforms passed last year in SB 158.

PANEL

The following individuals will participate in the discussion of this issue:

- Meredith Williams, Director, Pesticide Regulation
- Francesca Negri, Chief Deputy Director, Pesticide Regulation
- Sergio Aguilar, Assistant Program Budget Manager, Finance
- Frank Jimenez, Fiscal & Policy Analyst, Legislative Analyst's Office

BACKGROUND

This item includes 12 proposals:

1. Administrative Support for Core Programs

DTSC requests 37.6 permanent positions and \$5.6 million (\$1.9 million HWCA and \$3.7 million Toxic Substances Control Account (TSCA)) in 2022-23 and \$5.6 million (\$1.8 million HWCA, \$3.7 million TSCA) annually thereafter to support the core program expansions included in the implementation of the 2021 Governance and Fiscal Reform.

2. Cleanup in Vulnerable Communities Initiative

DTSC requests 73.5 permanent positions and \$12.9 million Toxic Substances Control Account (TSCA) in 2022-23 and 79.5 permanent positions and \$13.9 million TSCA in 2023-24 and annually thereafter to implement the Cleanup in Vulnerable Communities Initiative.

3. Criminal Enforcement Increase in Vulnerable Communities

DTSC requests 14.0 permanent positions and \$2.3 million Hazardous Waste Control Account (HWCA) in 2022-23 and annually thereafter. The 14.0 positions will provide support for the most serious environmental violations by increasing criminal enforcement in the most disproportionately impacted vulnerable communities.

4. Enhancing Environmental Protection in Vulnerable Communities through Compliance
16.0 permanent positions and \$2.9 million Hazardous Waste Control Account (HWCA) in 2022-23 and annually thereafter to improve the quality of hazardous waste generator inspections in disadvantaged communities and to educate regulated businesses and Certified Unified Program Agencies (CUPAs) on compliance with hazardous waste control laws as required by Health and Safety Code (HSC) section 25142.5.

5. Hazardous Waste Classification

DTSC requests 8.0 permanent positions and \$1.5 million from the Hazardous Waste Control Account (HWCA) in 2022-23 and annually thereafter to evaluate the existing California hazardous waste criteria, recommend modifications to those criteria, assist in the adoption of any approved recommendations, and provide waste classification determination and recycling exclusion interpretations and technical support.

6. Hazardous Waste Management Plan

DTSC requests 7.0 permanent positions and \$1.2 million Hazardous Waste Control Account (HWCA) in 2022-23 and annually thereafter to develop and regularly update a state Hazardous Waste Management Plan. Chapter 73, Statutes of 2021 (SB 158), requires DTSC to prepare a report by March 1, 2023, and every three years thereafter, that includes an analysis of available data related to hazardous waste that includes specified components. SB 158 also requires DTSC to establish and maintain a state Hazardous Waste Management Plan based on reports to be approved by the Board of Environmental Safety every three years. This plan requires an analysis of hazardous waste generation and site assessments of hazardous waste facilities.

7. Increase Frequency of Transporter Inspections

DTSC requests 8.0 permanent positions and \$1.3 million Hazardous Waste Control Account (HWCA) in 2022-23 and annually thereafter. This request provides inspection and enforcement resources for the hazardous waste transportation industry to verify compliance with Hazardous Waste Control Laws.

8. Legal Resources Augmentation for Support of Core Programs

DTSC requests 24.0 permanent positions and \$6.8 million (\$2.1 million Hazardous Waste Control Account (HWCA), \$4.7 million Toxic Substances Control Account (TSCA)) in 2022-23 and \$7.3 million (\$2.6 million HWCA, \$4.7 million TSCA) annually thereafter to properly resource the management, operations, and litigation functions of DTSC's Office of Legal Counsel to allow focus on enforcing hazardous waste control laws, holding polluters accountable for contamination, and compelling manufacturers to make safer consumer products.

9. Modernizing Information Technology Infrastructure

DTSC requests 24.0 permanent positions and \$6.1 million (various special funds) in 2022-23 and annually thereafter to: (1) address the gaps between workload and current Office of Environmental Information Management (OEIM) information technology (IT) staffing levels and technology costs; and, (2) support the core program expansions that are part of the implementation of the 2021 Governance and Fiscal Reform. These resources will support DTSC's mission critical work to address high risk legacy systems, adequately manage data, and take necessary steps to modernize DTSC's technology infrastructure. Included in this request is \$1.8 million annually for the increased cost of modernizing DTSC's infrastructure, business solutions, and IT services.

10. Office of Environmental Equity

DTSC requests 9.0 permanent positions and \$1.3 million (\$281,000 Hazardous Waste Control Account (HWCA) and \$1.0 million Toxic Substances Control Account (TSCA)) in 2022-23 and \$1.3 million (\$279,000 HWCA, \$1.0 million TSCA) annually thereafter so that the Office of Environmental Equity has sufficient resources to support core program expansions included in other budget change proposals.

11. Review of Lead Agency California Environmental Quality Act (CEQA) Documents

DTSC requests 2.0 permanent positions and \$306,000 Hazardous Waste Control Account (HWCA) in 2022-23 and \$304,000 in 2023-24 and annually thereafter to meet its legal obligations under the California Environmental Quality Act (CEQA), which requires that DTSC, as a Responsible Agency, review and provide comments on CEQA documents.

12. Safer Consumer Products Program Full Implementation

DTSC requests 37.0 permanent positions and \$7.2 million Toxic Substances Control Account (TSCA) in 2022-23 and ongoing to provide the resources needed to fully implement the Safer Consumer Products (SCP) Program. This request also includes \$246,000 for contracts. This proposal would increase DTSC's capacity to identify product-chemical combinations for regulation under the regulatory framework, perform rulemaking tasks, review Alternatives Analyses, and provide technical support to regulated manufacturers for Alternatives Analysis (AA) development.

LAO COMMENTS

Summary. Overall, the LAO finds that the proposals are consistent with the information the Legislature used as the basis for approving DTSC's governance and fiscal reform. However, the LAO recommends that the Legislature continue to conduct oversight of the programmatic expansions being proposed and to revisit staffing levels in future years.

Background

DTSC Is Responsible for Protecting California From Toxic Substances. DTSC is charged with protecting the people of California and the environment from the harmful effects of toxic substances. DTSC administers the following major programs:

- **Hazardous Waste Management Program.** The department regulates the generation, storage, transportation, and disposal of hazardous waste through permitting, compliance monitoring, and enforcement of noncompliance.
- **Site Mitigation and Restoration Program.** DTSC implements the state's laws regarding the identification, assessment, and cleanup of sites contaminated by toxic substances. The department also monitors long-term operations and maintenance activities at sites where cleanup is complete.
- **Safer Consumer Products Program.** This program identifies and prioritizes chemicals of concern in consumer products, evaluates alternatives, and specifies regulatory responses to reduce chemicals of concern in products.

DTSC Supported by Two Special Funds. The department's ongoing operations are primarily supported by the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA). HWCA largely supports the Hazardous Waste Management Program. The account is sustained by regulatory fees charged to hazardous waste generators, waste disposal entities, and other facilities that handle hazardous waste. TSCA largely supports the Site Mitigation and Restoration Program and the Safer Consumer Products Program. The account is primarily funded by a broad-based tax charged to businesses that contribute to hazardous waste.

Department Recently Underwent Significant Governance and Fiscal Reform. Budget trailer legislation as part of the 2021-22 budget package, Chapter 73 of 2021 (SB 158, Committee on Budget and Fiscal Review), restructured and increased the charges that support HWCA and TSCA. The resulting revenues provided from the changes are intended to (1) solve the longstanding structural deficits in HWCA and TSCA, (2) support a new Board of Environmental Safety (discussed below), (3) support programmatic expansions that address high-priority programs and activities, and (4) build sufficient reserves in both accounts.

Beginning in 2022-23, these reforms are estimated to increase revenues in HWCA by \$46.3 million (\$22.5 million to address the account's structural deficit and \$23.8 million for programmatic expansions) and increase revenues in TSCA by \$53.1 million (\$11.5 million to address the account's structural deficit and \$41.6 million for programmatic expansions). (Since the state would not begin to receive revenues until 2022-23—due to the timing of how charges for both accounts are collected—the 2021-22 budget provided one-time General Fund resources of \$29 million and \$11.5 million to HWCA and TSCA, respectively, to keep the accounts solvent and to advance high-priority programmatic expansions a year early.) To inform the 2021-22 budget decisions, DTSC provided the Legislature with an expenditure plan that stated the programs and activities the department intended to augment with the additional revenues from HWCA and TSCA. However, the department still needs statutory authorization to use all of the additional funds in 2022-23.

Senate Bill 158 also established the Board of Environmental Safety within the department. The five-member board is responsible for hearing hazardous waste permit appeals and providing strategic guidance to the department. The board also has the authority to set charge levels for HWCA and TSCA in future years beginning in 2023-24. Specifically, the board will set charges annually to align revenues from both accounts to the amount of expenditures authorized by the Legislature through the annual budget act.

Legislature Provided Considerable New Funding for DTSC to Address Brownfields. In addition to the above fiscal and governance reforms, the 2021-22 budget package provided DTSC with one-time General Fund of \$300 million to address brownfields, properties underutilized due to the presence or potential presence of hazardous contaminants. Most of the funding was allocated for: (1) DTSC to investigate and clean up brownfields with contracted assistance; and, (2) a new grant program—Equitable Community Revitalization Grant (ECRG) Program—to provide funding to municipalities, nonprofits, tribes, and other governmental agencies for brownfield investigations, cleanups, and community-wide assessments. The 2021-22 budget package also provided an additional \$100 million in 2022-23 and in 2023-24 to continue these activities. A portion of the \$300 million provided in 2021-22 is being used to support the staff needed to begin implementing the above activities, with the expected revenue increases in TSCA anticipated to cover staff costs starting in 2022-23.

Governor's Proposal

Proposes Total of \$510 Million for DTSC. The Governor's 2022-23 budget proposes a total of \$510 million from various funds to support DTSC. The proposed amount reflects a decrease of \$355 million, or 41 percent, compared to projected current-year expenditures. The year-to-year change largely reflects some one-time funds the department received in 2021-22 that are not sustained at the same levels in the 2022-23 proposal, including the \$300 million to address brownfields as well as funding related to the Exide facility.

Provides Funding for DTSC to Significantly Expand Activities. The Governor's budget includes multiple proposals requesting authorization to use the additional revenues that HWCA and TSCA received from the restructured and increased charges. The funding would be used to support various programmatic expansions to fully implement the reforms initiated in 2021-22. As discussed earlier, some of these activities began in 2021-22 using one-time General Fund, but would switch to HWCA and TSCA beginning in 2022-23. The new proposals request \$16.1 million in additional spending from HWCA and \$33.4 million in additional spending from TSCA, in order to support 260 additional ongoing positions. All of the funding and positions are proposed on an ongoing basis.

DTSC Reform Implementation Proposals (Dollars in Millions)

Proposals	HWCA	TSCA	Positions
Approve in 2021-22^a			
Implement Violations Scoring Procedure	\$3.1	—	11.0
Resource Conservation and Recovery Act	2.5	—	17.0
Board of Environmental Safety	1.5	\$1.5	15.0
Information technology security unit	0.6	0.6	4.0
Subtotals	(\$7.7)	(\$2.1)	(47.0)
Governor's 2022-23 Proposals			
Enhance hazardous waste generator inspections	\$2.9	—	16.0
Criminal enforcement increase	2.3	—	14.0
Modernize information technology infrastructure	2.3	\$3.8	24.0
Legal support for core programs	2.1	4.7	24.0
Administrative support for core programs	1.9	3.7	37.6
Hazardous waste classification	1.5	—	8.0
Increase frequency of transporter inspections	1.3	—	8.0
Hazardous Waste Management Plan	1.2	—	7.0
California Environmental Quality Act review	0.3	—	2.0

Office of Environmental Equity	0.3	1.0	9.0
Administrative support for brownfield cleanups	—	12.9	73.5
Expand Safer Consumer Products Program	—	7.2	37.0
Subtotals	(\$16.1)	(\$33.4)	(260.1)
Totals	\$23.8	\$35.5	307.1

^aActivities funded with one-time General Fund in 2021-22.

DTSC = Department of Toxic Substances Control; HWCA = Hazardous Waste Control Account; and TSCA = Toxic Substances Control Account.

Major requests from HWCA include funding to improve inspections of hazardous waste generators and to enhance criminal enforcement investigations. The most significant proposals to be funded from TSCA include funding to administer brownfield cleanups (discussed more below) and expand the Safer Consumer Products Program.

Provides Resources to Support Brownfield Cleanups. Consistent with SB 158, the Governor’s budget includes an additional \$100 million in General Fund to support brownfield cleanups. The budget proposes \$12.9 million from TSCA in 2022-23 to hire 73.5 ongoing positions to help administer this cleanup workload—together with the workload associated with the \$300 million provided in the current year and the additional \$100 million in 2023-24. The Governor proposes increasing these staffing resources to \$13.9 million and 79.5 positions in 2023-24 and on an ongoing basis as cleanup projects and grants ramp up. These positions would implement and oversee investigation and cleanup contracts at brownfield sites and administer the ECRG Program.

Assessment

Proposals Consistent With Department’s Intended Expenditure Plan. Overall, the LAO finds that the Governor’s budget aligns with the expenditure plan provided to the Legislature last year. Specifically, the proposed activities, associated number of new staff, and corresponding costs are generally consistent with the information the Legislature used as the basis for approving HWCA and TSCA increases.

Need for New Cleanup Staff Will Diminish in Future Years Absent Additional Program Funding. As noted above, the Governor’s budget includes ongoing funding from TSCA for staff to administer the new \$500 million brownfields cleanup program. While the workload for the proposed staffing levels is clear in the near term, the need for these positions will diminish in future years as the department completes investigation and cleanup contracts and ECRG projects. The LAO estimates that the department will encumber most of the \$500 million after

five years, at which point the department will start to see a gradual decline in workload. Unless the Legislature provides comparable levels of additional funding for annual brownfield investigation and cleanup contracts and/or grants in future years, the need for the proposed staffing levels likely will begin to gradually phase out after five years.

Recommendations

Approve DTSC Reform Implementation Proposals. The LAO recommends the Legislature adopt the Governor’s DTSC reform implementation proposals, given that they align with the expenditure plan provided to the Legislature last year and are consistent with the assumptions upon which the HWCA and TSCA funding increases were based. Approving these proposals will provide the department with additional resources that will better enable DTSC to enforce hazardous waste laws and clean up contaminated sites.

Monitor Implementation of Program Expansions and Brownfield Cleanups. The LAO recommends the Legislature use future budget hearings to conduct oversight on how the department is implementing these significant programmatic expansions. In addition to solving the structural deficits within HWCA and TSCA, the Legislature enacted the reform measures to ensure that high-priority programs and activities were adequately funded to improve DTSC’s outcomes. Continued monitoring of the department’s efforts will further ensure that DTSC is meeting its mission and achieving the Legislature’s goals. Moreover, such oversight would allow the Legislature to identify when changes—such as to staffing or funding levels, implementation strategies, or statutory requirements—for particular activities might be warranted to improve desired outcomes. Some examples of information the Legislature could request from the department include the average time DTSC takes to make hazardous waste facility permit decisions, the number of additional hazardous waste transporters the department is able to inspect, and the number of additional product-chemical combination investigations completed by the Safer Consumer Products Program.

In addition, the LAO recommends the Legislature track major outcomes from the brownfields cleanup funding. For instance, the Legislature will want to know how many sites the department was able to investigate and clean up, average time lines for completing projects, the number of ECRG projects funded with grants, the human and environmental benefits associated with these activities, and the communities that benefited from funding. Such information can help inform whether the Legislature should consider providing additional funding for cleanup activities—and associated staffing, as discussed next—in the future.

Revisit Staffing Levels in Future Years. The LAO recommends that the Legislature revisit the department’s staffing levels in future years to evaluate whether the approved level of positions are still needed for the same activities. In particular, the LAO recommends that the Legislature request annual updates beginning in 2024-25 regarding how much funding and workload remains from the \$500 million in brownfields funding to assess the degree to which the 79.5 staff and associated \$13.9 million are still needed to administer the program. Based on its assessment of the outcomes of the brownfields program and whether it finds merit in funding additional rounds of contracts and grants, the Legislature could consider one of the following options in future years when the \$500 million is largely expended:

- Provide additional funding for brownfield cleanups and adjust TSCA funding for staffing levels commensurate to the new workload.
- Reallocate some of the TSCA funding from staffing to instead be used for cleanup grants or contracts to sustain a continued but down-sized program.
- Redirect the \$13.9 million in TSCA funding and the 79.5 associated staff from the brownfields cleanup program to a different DTSC priority activity.

STAFF COMMENTS

Together, these BCPs represent implementation efforts required under SB 158 to ensure that DTSC is more efficient and effective at managing the state's toxic substances. If adopted, these BCPs will provide nearly a 26% increase in the number of DTSC positions. The Subcommittee may wish to ask:

- How long does DTSC anticipate it will take to hire staff into these positions? Does the anticipated timeline take into account current vacancies and anticipated retirements?
- What are the key metrics that DTSC is using to measure the tangible impacts of the additional staff?

Regarding the funding for cleaning up brownfields or contaminated sites, the Subcommittee may wish to ask:

- What is the time table/expenditure plan for the \$500 million for brownfield cleanups?
- How will you select the sites? Will local community groups be involved?
- SB 158 allowed for the technical assistance grants with the cleanup funds to cover the costs of confirmation sampling. This access to sampling funds is critical to building community confidence on cleanups managed by DTSC. What parameters has DTSC developed around these technical assistance grants, including for confirmation sampling costs?
- What will you do with these permanent positions after the funds are exhausted?

Staff Recommendation: Hold Open.

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