

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
ON CLIMATE CRISIS, RESOURCES, ENERGY, AND TRANSPORTATION****ASSEMBLYMEMBER STEVE BENNETT, CHAIR****WEDNESDAY, MAY 10, 2023
9:30 A.M. – STATE CAPITOL, ROOM 447****VOTE-ONLY CALENDAR**

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Public Comment

The public may attend this hearing in person or participate by phone. 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: 131 54 47.***

VOTE ONLY ITEMS

3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION

VOTE- ONLY ISSUE 1: AVIATION PROGRAM CONTRACTS (GB)
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The Governor's budget requests \$5.16 million General Fund in 2024-25, and \$5.32 million in 2025-26, to support two optional years of fixed-wing pilot and mechanics contract cost increases, as well as \$4.29 million General Fund in 2023-24, \$4.50 million in 2024-25, \$4.73 million in 2025-26, \$4.96 million in 2026-27, and \$5.21 million in 2027-28 to support three firm years and two optional years of the increased contractual costs of a follow-on aviation parts and logistics contract. The amounts requested for the aviation parts and logistics contract in this proposal are the best estimates at the time this proposal was prepared due to the timing differences between the procurement and budget processes, resulting in the Intent to Award scheduled to be issued in early 2023. It is anticipated that a spring request will be submitted to align this proposal with the final contract amounts from that Intent to Award.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 2: AVIATION PROGRAM CONTRACTS (SFL)

A spring finance letter requests an additional \$1.88 million General Fund in 2023-24, \$2.38 million in 2024-25, \$2.93 million in 2025-26, \$7.02 million in 2026-27, and \$11.52 million in 2027-28 to support three firm years and two optional years of the increased contractual costs of a follow-on aviation parts and logistics contract. Due to the timing differences between the procurement and budget processes, the amounts requested for the aviation parts and logistics contract in this proposal are needed to bridge the best estimates from the 2023-24 Governor's Budget proposal and the Intent to Award issued by CAL FIRE to the winning bidder on January 6, 2023.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 3: BIEBER FOREST FIRE STATION/HELITACK BASE: RELOCATE FACILITY (SFL)

A spring finance letter requests an additional \$5,044,000 Public Buildings Construction Fund for the construction phase of the Bieber Forest Fire Station/Helitack Base: Relocate Facility project, located in Lassen County. This is a continuing project. The total estimated project costs are \$34,722,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 4: OFFICE OF THE STATE FIRE MARSHAL, FIRE AND LIFE SAFETY (SFL)

A spring finance letter requests \$3.2 million (\$2.9 million Reimbursements, \$262,000 General Fund, and \$13,000 Special Funds) and 13.0 permanent positions starting in fiscal year 2023-24, and \$2.8 million (\$2.6 million Reimbursements, \$259,000 General Fund, and \$13,000 Special Funds) in 2024-25 and ongoing to support the Office of the State Fire Marshal's (OSFM) Fire and Life safety (FLS) Division. These resources are necessary to support increased workload related to plan review and construction inspection for current and planned state infrastructure improvement projects; required periodic inspections of state-owned buildings, specified state-occupied buildings, and other specified building types; and reviewing the University of California (UC) campus' adherence to the Designated Campus Fire Marshal (DCFM) Memorandum of Understanding (MOU) entered into as allowed by Health and Safety Code (HSC) section 13146.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 5: ADDITIONAL CAL FIRE TRAINING CENTER: NEW FACILITY

The Governor's budget requests \$19,229,000 General Fund for the study and acquisition phases of the Additional CAL FIRE Training Center: New Facility project. This is a new project. Total estimated project costs are \$418,920,000.

STAFF COMMENTS

It is unusual to appropriate funds for acquisition before the study phase has been completed. Staff recommends only approving \$545,000 for the study phase. The study should include: (1) estimates of future growth in CalFire staffing and associated training needs; and, (2) an evaluation of multiple potential alternatives for meeting those training needs (with constructing a new training center as one but not the only option considered).

Proposed Budget Bill language: "The funds appropriated in Provision 7 shall be available for a facility study that includes (1) estimates of future growth in CalFire staffing and associated training needs and (2) an evaluation of the benefits and costs of multiple potential alternatives for meeting those training needs (with constructing a new training center as one but not the only option considered). The results of the master plan for CFTC lone shall be incorporated into this study."

Staff Recommendation: Approve \$545,000 for study phase with budget bill language on study specifics.

VOTE- ONLY ISSUE 6: CAL FIRE TRAINING CENTER CAPACITY

The Governor's budget requests \$12.9 million General Fund and 12.0 new positions beginning in 2023-24, \$12 million annually through completion of the new training center facility (2030), and \$3.4 million ongoing to address current issues of overcapacity at CAL FIRE Training Centers (CFTC). This request will provide funding for two temporary training facilities and includes the redirection of 12.0 existing positions. The temporary facilities and redirected positions will assist CAL FIRE in meeting current training demand while CAL FIRE develops an additional permanent training center facility. This request is critical to ensuring fire protection positions are filled and can pass probation by completing the required training offered at CFTC.

STAFF COMMENTS

Staff recommends approving \$8.9 million in 2023-24 and \$8.6 million through 2027-28 to support costs associated with leasing and operating two temporary facilities. However, staff recommends rejecting the proposed \$18.7 million General Fund in 2023-24 for site acquisition and \$3.9 million General Fund and 12 new positions in 2023-24 and \$3.4 million ongoing for facility-related staffing that are tied to the new training center above.

Staff Recommendation: Approve \$8.9 million in 2023-24 and \$8.6 million through 2027-28 to support costs associated with leasing and operating two temporary facilities.

VOTE- ONLY ISSUE 7: GROWLERSBURG CONSERVATION CAMP: REPLACE FACILITY

The Governor's budget requests \$4,548,000 General Fund for the working drawings phase of the Growlersburg Conservation Camp: Replace Facility project, to replace the existing facility, located in El Dorado County. This is a project that was originally approved in 2006 and never completed. Total estimated project costs are \$100,162,000.

STAFF COMMENTS

Due to the reduction in inmate firefighters at our existing conservation camps and the General Fund condition, staff recommends rejecting this \$100 million replacement of the Growlersburg Conservation Camp.

Staff Recommendation: Reject.

VOTE- ONLY ISSUE 8: HAYFORK FIRE STATION: RELOCATE FACILITY

The Governor's budget requests \$1,500,000 General Fund for the acquisition phase of the Hayfork Fire Station: Replace Facility project, located in Trinity County. This is a new project, due to the existing lessor increasing their leasing price. Total estimated project costs are \$15,930,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 9: L.A. MORAN REFORESTATION CENTER IMPROVEMENTS

Requests \$50,000 General Fund for the working drawings phase of the L.A. Moran Reforestation Center Improvements project, located in Yolo County. This is a continuing project to expand reforestation capabilities. Total project costs are estimated at \$5,826,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 10: LAND ACQUISITION: ALMADEN FIRE STATION

Requests \$1,500,000 General Fund for the acquisition phase of the Land Acquisition: Almaden Fire Station project, located in Santa Clara County. This is an existing site. The total estimated project costs are \$1,500,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 11: PROPERTY ACQUISITIONS: CAMP FOX, BOYS RANCH, AND SIERRA ELEMENTARY.

Requests \$4,000,000 General Fund for the acquisition phase of three properties: Camp Fox (San Diego County), Boys Ranch (Sacramento County), and Sierra Elementary (Fresno County). This is a new project. Total estimated project costs are \$4,000,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 12: ROHNERVILLE AIR ATTACK BASE: REPLACE FUEL SYSTEM.

Requests \$60,000 General Fund for the preliminary plans phase and working drawings phase of the Rohnerville Air Attack Base: Replace Fuel System project, located in Humboldt County. This is a new project. The total estimated costs of the project are \$2,005,000.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 13: SELF-GENERATING POWER PROJECTS IN TEHAMA-GLENN AND FRESNO-KINGS UNITS

Requests \$1,000,000 General Fund for the working drawings phase of the Self-Generating Power Projects in Tehama-Glenn and Fresno-Kings Units project. This project includes the purchase and installation of renewable energy (e.g., solar array, wind power generation, and clean back-up power supplies with supporting infrastructure) for state-owned facilities within two administration units: Tehama-Glenn and Fresno-Kings. This is a continuing project. Total project costs are estimated at \$30,100,000.

Staff Recommendation: Approve as budgeted.

0540 CALIFORNIA NATURAL RESOURCES AGENCY
3125 CALIFORNIA TAHOE CONSERVANCY

VOTE- ONLY ISSUE 14: LAKE TAHOE SCIENCE AND LAKE IMPROVEMENT ACCOUNT REALIGNMENT (SFL)

A spring finance letter requests \$290,000 ongoing Lake Tahoe Science and Lake Improvement Account and 0.5 permanent position to support the Tahoe Science Advisory Council and aquatic invasive species control and public access projects at Lake Tahoe, consistent with legislative mandates. This request includes \$110,000 ongoing for CNRA and \$180,000 (\$150,000 state operations and \$30,000 local assistance) and 0.5 position ongoing for the Conservancy.

Staff Recommendation: Approve as budgeted.

3790 DEPARTMENT OF PARKS AND RECREATION

VOTE- ONLY ISSUE 15: HUMBOLDT REDWOODS STATE PARK: FOUNDERS GROVE PARKING LOT & RESTROOM REPLACEMENT (SFL)

A spring finance letter requests an increase of \$1,347,000 from the State Park Contingent Fund for the construction phase of the Humboldt Redwoods State Park: Founders Grove Parking Lot & Restroom Replacement. This is the result of additional donated funds for the construction phase of this project. This increase in donated funds should decrease the amount of bond funds needed for construction of this project. The Department continues to seek donations to cover project costs and will use all donated funds prior to expending available bond funds. Once the construction contract is awarded, the Department plans to request to have any unused bond funds reverted.

Staff Recommendation: Approve as budgeted.

3355 OFFICE OF ENERGY INFRASTRUCTURE SAFETY

VOTE- ONLY ISSUE 16: OFFICE OF ENERGY INFRASTRUCTURE SAFETY – INFORMATION TECHNOLOGY TRANSITION SERVICES AND SUPPORT (SFL)

A spring finance letter requests \$717,000 and 1.0 permanent position starting in fiscal year 2023-24 (\$552,000 from Public Utilities Commission Utilities Reimbursement Account (PUCURA) and \$165,000 from Safe Energy Infrastructure and Excavation Fund (SEIEF)), and \$250,000 (\$192,000 (PUCURA) and \$58,000 (SEIEF)) ongoing. This proposal will allow Energy Safety to transition onto its own Microsoft Tenant and establish its own Tier 2 and Tier 3 support services.

Staff Recommendation: Approve as budgeted.

**3355 OFFICE OF ENERGY INFRASTRUCTURE SAFETY
8660 CALIFORNIA PUBLIC UTILITIES COMMISSION****VOTE- ONLY ISSUE 17: OFFICE OF ENERGY INFRASTRUCTURE SAFETY - CONTINUED
IMPLEMENTATION; PERMANENT STAFFING TO SUPPORT WILDFIRE, ENFORCEMENT, AND REFORM
STATUTES; AND OFFICE OF ENERGY INFRASTRUCTURE SAFETY OPERATIONAL EFFICIENCIES TRAILER
BILL**

The Governor's budget requests:

- **California Public Utilities Commission:** \$6,342,000 in ongoing budget authority for twenty-nine (29.0) positions from the Public Utilities Commission Utilities Reimbursement Account (PUCURA) to ensure continued legal, ratemaking, and administrative support of the various wildfire prevention, cost recovery, and enforcement mandates; and CPUC reform measures mandated in Chapter 626, Statutes of 2018 (Senate Bill 901); Chapter 79, Statutes of 2019 (Assembly Bill 1054); and Chapter 81, Statutes of 2019 (Assembly Bill 111).
- **Office of Energy Infrastructure Safety:** 58 positions and \$12,269,000 in 2023-24 and ongoing (\$11,435,000 Public Utilities Commission Utilities Reimbursement Account (PUCURA) and \$834,000 Safe Energy Infrastructure and Excavation Fund (SEIEF)). This proposal will allow the department to meet its public safety mission by reducing the risk and reliance on the use of contractors; reduce annual contracting costs; and address Energy Safety's, the Wildfire Safety Advisory Board's (WSAB), and the Underground Safety Board's ongoing and unmet needs associated with the continued implementation of Chapter 626, Statutes of 2018 (SB 901); Chapter 70, Statutes of 2019 (AB 1054); Chapter 81, Statutes of 2019 (AB 111); Chapter 115, Statutes of 2021 (AB 148); Chapter 809, Statutes of 2016 (SB 661); and associated legislation, which require increased regulatory oversight of electrical corporations' compliance with wildfire safety and outreach to promote excavation safety.
- **Office of Energy Infrastructure Safety: Operational Efficiencies Trailer Bill:** Provides various flexibilities in existing law including:
 - Elimination of the requirement that Energy Safety offer a hearing following a Notice of Violation.
 - Elimination of the requirement that Energy Safety develop regulations to administer the hearing process. Instead, includes the ability for Energy Safety to develop guidelines through its existing process to clarify the Notice of Violation process including any subsequent rebuttal process.
 - Elimination of judicial review of decisions of Energy Safety following a hearing.
 - Elimination of the notification requirement to initiate the Substantial Vegetation Management (SVM) Audit.
 - Makes conducting the SVM Audit discretionary.
 - Clarifies timing issues between providing initial results of an audit to an electrical corporation and the electrical corporation's subsequent responsibilities.

- Elimination of the one-year period for Energy Safety to produce its final report.
- Clarification of an unclear review standard.
- Permits Energy Safety to conduct a Safety Culture Assessment at least once every two years rather than annually.

The trailer bill can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/775>.

Staff Recommendation: Approve as budgeted and adopt placeholder trailer bill language.

3720 CALIFORNIA COASTAL COMMISSION

VOTE- ONLY ISSUE 18: ESSENTIAL ENFORCEMENT PROGRAM SUPPORT (SFL)

A spring finance letter requests \$463,000 annually ongoing from the State Coastal Conservancy Fund, Violation Remediation Account to continue and reclassify 2.0 Headquarters Enforcement Program positions to speed the resolution of California Coastal Act violation cases.

Staff Recommendation: Approve as budgeted.

0540 CALIFORNIA NATURAL RESOURCES AGENCY

VOTE- ONLY ISSUE 19: NATURAL RESOURCES AGENCY BOND AND TECHNICAL PROPOSALS (SFL)

A spring finance letter requests various technical adjustments that will be provided in a chart that will be posted on the Subcommittee's website.

Staff Recommendation: Approve as budgeted.

3940 STATE WATER RESOURCES CONTROL BOARD

VOTE- ONLY ISSUE 20: AUGMENTATION TO THE UNDERGROUND STORAGE TANK CLEANUP FUND AND THE ORPHAN SITE CLEANUP FUND

The Governor's budget requests:

(1) An additional \$300 million in 2023-24 from the Underground Storage Tank Cleanup Fund (USTF) for reimbursing costs associated with the cleanup of contamination from leaking petroleum underground storage tanks. The request will provide a total of \$380 million for this purpose in 2023-24.

(2) A one-time transfer of \$30 million from the Underground Storage Tank Cleanup Fund to the Orphan Site Cleanup Fund (OSCF) for reimbursing costs associated with the cleanup of contaminated leaking petroleum underground storage tanks where there is no financial responsible party, and the applicant is not eligible for the Underground Storage Tank Cleanup Fund program.

As part of this request for items 1 and 2 listed above, the State Water Board requests extended availability of funding (3 years to encumber and 3 years to liquidate) to align with administrative and programmatic needs.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 21: CONTINUATION OF THE CANNABIS CULTIVATION PROGRAM

The Governor's budget requests ongoing funding phased in over three years to support 94 positions to continue the Cannabis Cultivation Program. The request by fiscal year is as follows:

In 2023-24: \$12 million various funds (\$5,227,000 Waste Discharge Permit Fund, \$6,396,000 Cannabis Control Fund, and \$432,000 Water Rights Fund) to support 58 existing and 4 new positions.

In 2024-25: \$19.1 million various funds (\$5,578,000 Waste Discharge Permit Fund, \$13,100,000 Cannabis Tax Fund, and \$432,000 Water Rights Fund) to support 62 existing and 30 new positions as well as aerial imagery and related tools.

In 2025-26: \$19.7 million various funds (\$6,150,000 Waste Discharge Permit Fund, \$13,100,000 Cannabis Tax Fund; and \$432,000 Water Rights Fund) to support 92 existing and 2 new positions as well as aerial imagery and related tools.

The funding and positions described herein will provide ongoing funding for the Cannabis Cultivation Program, allowing the State Water Board and Regional Water Quality Control Boards to fulfill statutory mandates to address water quality and instream flow-related impacts of cannabis cultivation and associated water diversions, under the Medicinal and Adult-Use Cannabis Regulatory and Safety.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 22: DIVISION OF ADMINISTRATIVE SERVICES SUPPORT (SFL)

A spring finance letter requests 15.0 permanent positions and \$2.3 million ongoing from various special funds (Waste Discharge Permit; Safe Drinking Water Account; Underground Storage Tank Clean Up; State Water Quality Control Fund; Federal Trust Fund; Water Rights Fund; Safe and Affordable Drinking Water Fund; and the Cannabis Tax Fund). These resources will be used to address increased administrative workload due to rapid and evolving program growth, increased resource management and tracking workload, and reporting requirements for the Division of Administrative Services.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 23: LEAD AND COPPER RULE REVISION REGULATION IMPLEMENTATION AND DATABASE (SFL)

A spring finance letter requests \$16.22 million Federal Trust Fund in 2023-24 (\$2.84 million in ongoing funding for 14.0 new positions and 2.0 existing positions previously funded by the Safe Drinking Water Account and \$13.38 million in contract funding). An additional \$18.33 million in contract funding over 4 years (\$7.8 million in 2024-25, \$7 million in 2025-26, \$2 million in 2026-27, and \$1.5 million in 2027-28) is requested to support the development of a database to intake lead and copper data in compliance with the federal revised Lead and Copper Rule Revision (LCRR). The 14.0 new positions will create an LCRR unit and provide five field section staff that will ensure successful implementation of the new regulation. Funding will come from the Drinking Water State Revolving Fund set-aside for state program management provided by the Federal Bipartisan Infrastructure Law.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 24: LEVIATHAN CREEK DIVERSION CHANNEL RELINING (SFL)

A spring finance letter requests \$5,163,000 one-time General Fund in 2023-24 for the repair of critical infrastructure at Leviathan Mine (the Leviathan Creek Channel Diversion), a federally listed Superfund Site owned by the State of California.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 25: WATER RIGHTS MODERNIZATION CONTINUATION

The Governor's budget requests \$31.5 million General Fund in 2023-24 for the Updating Water Rights Data for California (UPWARD) modernization project, which is a foundational piece of California's broader water rights modernization effort. This request for one-time contract funds will allow the UPWARD project to be completed on time and with adequate functionality.

Staff Recommendation: Approve as budgeted.

**VOTE- ONLY ISSUE 26: WATER SUPPLY STRATEGY IMPLEMENTATION AND WATER RECYCLING
PROJECT FEES TBL**

The Governor's budget requests:

- Nineteen (19.0) permanent positions and \$4,730,000 (\$4,230,000 and 19 positions and \$500,000 in one-time contract funding from the Waste Discharge Permit Fund), in fiscal year 2023-24.
- Starting fiscal Year 2024-25, an additional nine (9.0) permanent positions and \$2,333,000 (\$1,425,000 and 7.0 positions and \$500,000 in one-time contract funding from the Waste Discharge Permit Fund, and \$408,000 and 2.0 positions from the Safe Drinking Water Account). This will provide total resources for fiscal year 2024-25 in the amount of 28.0 positions and \$6,563,000 (\$5,655,000 and 26.0 positions and \$500,000 one-time contract funding from the Waste Discharge Permit Fund, and 2.0 positions and \$408,000 from the Safe Drinking Water Account).
- Starting fiscal year 2025-26, an ongoing spending authority of \$6,063,000 (\$5,655,000 Waste Discharge Permit Fund and \$408,000 Safe Drinking Water Account) to continue the support of 28.0 permanent positions.

Resources will be used to permit new recycled water projects, including potable reuse, develop plans and permits to increase the supply and number of brackish groundwater and seawater desalination facilities, and identify incentives to increase stormwater capture and use.

This proposal includes Trailer Bill language to modify Water Code sections 13260 and 13523 (waste discharge permits) to authorize the Water Boards to assess annual fees for recycled water permits.

The language can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/781>.

Staff Recommendation: Approve as budgeted and adopt placeholder language.

3940 STATE WATER RESOURCES CONTROL BOARD
3860 DEPARTMENT OF WATER RESOURCES
3600 DEPARTMENT OF FISH AND WILDLIFE

VOTE- ONLY ISSUE 27: HIGH PRIORITY STREAM GAGES (SB 19)

The Governor's budget requests \$4,675,000 General Fund over two years, starting in fiscal year 2023- 24, to begin implementing recommendations outlined in Statutes of 2019, Chapter 361 (Senate Bill 19), focusing on the reactivation of historical stream gages. SB 19 directed the Department of Water Resources and State Water Resources Control Board to develop a plan to deploy a network of stream gages in consultation with the Department of Fish and Wildlife, Department of Conservation, Central Valley Flood Protection Board, and interested stakeholders. The SB 19 Stream Gaging Prioritization Plan was completed in 2022.

The DWR, Water Board, DFW, and DOC request \$1.864 million in fiscal year (FY) 2023-24, and \$2.811 million in FY 2024-25. The two-year total request is \$4.675 million.

This proposal provides the needed resources to reactivate up to 50 stream gages.

Staff Recommendation: Approve as budgeted.

3860 DEPARTMENT OF WATER RESOURCES

VOTE- ONLY ISSUE 28: CENTRAL VALLEY FLOOD PROTECTION BOARD: LOCAL MAINTENANCE AGENCY ASSISTANCE PROGRAM

The Governor's budget requests \$623,000 in General Fund for three Engineer positions dedicated to noncompliant encroachments in the flood control system. The Deferred Encroachment Compliance Program's (DECP) primary goal is to retain or regain compliance with the United State Army Corp of Engineer's (USACE) PL 84-99 Rehabilitation Program for the Central Valley levee systems and protect the lives and properties from flooding. The Board is the only agency with regulatory authorities (through enforcement and permitting) to address the noncompliant, unauthorized encroachments within State Plan of Flood Control (SPFC).

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 29: FEDERAL REHABILITATION OF HIGH HAZARD POTENTIAL DAMS

The Governor's budget requests a total of \$50 million (\$10 million per year for 5 years) of additional federal reimbursement authority for the Federal Emergency Management Agency's (FEMA) Federal Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program. The purpose of FEMA's HHPD program is to provide eligible dam owners with resources to revitalize and reduce dam risk in the state's interest.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 30: FLOOD MAINTENANCE AND OPERATIONS SUPPORT

The Governor's budget requests \$655,000 ongoing General Fund and position authority of two full-time permanent positions to address increased workload and to continue providing critical flood maintenance and operations support.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 31: JOINT OPERATIONS CENTER RELOCATION

The Governor's budget requests \$4,773,000 in General Fund in Fiscal Year (FY) 2023-24 for one-time costs for Department of General Services (DGS) expenses related to the relocation of the state/federal Joint Operations Center (JOC) from the current location on El Camino Avenue to a new facility. This request is specific to the Division of Flood Management's shared portion of the project costs. The facility will be shared with the State Water Project (SWP) who will provide their own share of funding.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 32: POSITIONS FOR WATER AND DROUGHT PACKAGE IMPLEMENTATION

The Governor's budget requests 6 new positions for its Financial Assistance Branch to successfully deliver approximately \$800 million in grants for Emergency Drought Relief and Sustainable Groundwater Management Act Implementation funding, provided in both the FY 2021-22 and 2022-23 Budget Acts. The Financial Assistance Branch received \$500 million in urban and groundwater funding in the 2021 Budget and also received over \$300 million for urban drought, urban water conservation, turf replacement and groundwater recharge in the 2022 Budget. This is a positions-only request—no additional funding is being requested.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 33: SALTON SEA ACCELERATED RESTORATION (SFL)

A spring finance letter requests \$20 million of Federal Reimbursement Authority for fiscal year (FY) 2023-24 to be reimbursed from the Department of Interior's funding provided by the Inflation Reduction Act; Public Law 117-169. This money will support the construction of up to 8,000 acres of wetland habitat and up to 5,000 acres of vegetation enhancement projects as dictated under the State Water Resources Control Board (SWRCB) Stipulated Order 2017-0134.

Under the agreement, the Interior Department's Bureau of Reclamation will provide \$20 million in new funding through the Inflation Reduction Act in fiscal year 2023 to implement projects at the Sea, support staffing at the Torres Martinez Desert Cahuilla Indian Tribe, and conduct scientific research and management that contributes to project implementation. This \$20 million investment from the Inflation Reduction Act will complement the \$583 million in state funding committed to date.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 34: STATE WATER PROJECT ACCOUNTING AND BUSINESS SUPPORT

The Governor's budget requests 5 new permanent full-time positions to enhance the financial stability of the State Water Project (SWP) while improving transparency and providing knowledge transfer to internal and external stakeholders. The increased staffing will support the functional business and technical business requirements (IT Specialist II) of the SAP systems, Portfolio and Project Management/Resource Management (PPM/RM) and Cost Allocation and Billing (CAB).

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 35: URBAN WATER USE OBJECTIVES (SB 1157)

The Governor's budget requests \$7 million in General Fund to support State Operations over four years, beginning in FY 2023-24, to implement the legislative requirements established by Senate Bill 1157 (Statutes 2022, Chapter 679, Hertzberg). SB 1157 directs DWR to conduct studies quantifying benefits and impacts associated with the new reduced indoor residential water use standards.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 36: YOLO BYPASS-CACHE SLOUGH MASTER PLAN AND COMPREHENSIVE STUDY

The Governor's budget requests \$3.35 million one-time General Fund for the State cost-share of the US Army Corps of Engineers (USACE) Yolo Bypass Comprehensive Study and continued development of the Yolo Bypass-Cache Slough Master Plan.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 37: DAM SAFETY AND FLOOD MANAGEMENT GRANT PROGRAM TRAILER BILL

The Governor's budget requests statutory trailer bill language to establish programmatic guidance for the \$100 million that was including in last year's budget agreement with \$75 million appropriated this year and \$25 million appropriated next year.

The trailer bill authorizes expenditures for the repairs, rehabilitation, enhancements, and other dam safety projects at existing state jurisdictional dams and associated facilities.

The type of projects eligible for funding include, but are not limited to:

- Dam repairs to allow water storage to full capacity.
- New spillway and spillway repair projects at existing dams.
- Dam and reservoir seismic retrofit projects.
- Enhancement of water supply and downstream flood risk reduction such as implementation of Forecast-Informed Reservoir Operations.
- One-time projects to remove sediment resulting from wildfires or extraordinary storm events.

The funds would be awarded based on the following priority:

- (1) Protection of public safety.
- (2) Restoration of water storage.
- (3) Flood risk reduction.
- (4) Enhancement of water supply reliability.
- (5) Enhancement, protection, or restoration of habitat for fish and wildlife.
- (6) Protection of water quality.

The Department of Water Resources would be required to adopt guidelines before disbursing grants, and this trailer bill provides an Administrative Procedure Act exemption.

The trailer bill requires at least a 50 percent match, but allows other government funds to provide the match.

The language can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/843>.

STAFF COMMENTS

This Subcommittee may want to strike the "including but not limited to" in the list of eligible projects and clarify that existing dams means those in service prior to January 1, 2023.

Staff Recommendation: Adopt placeholder language.

VOTE- ONLY ISSUE 38: SUSTAINABLE GROUNDWATER MANAGEMENT ACT - PROGRAM DELIVERY

The Governor's budget requests \$14 million ongoing General Fund (GF) to fund 11 new positions and the support for 29 existing positions to address the emerging needs associated with Sustainable Groundwater Management Act (SGMA) implementation. This request will support meeting all obligations under SGMA, while also supporting the State's drought response efforts. DWR also requests \$900,000 one-time General Fund in FY 23-24 to support two existing positions that will develop an implementation plan for addressing actions identified in the California Water Commission's white paper published in May 2022 titled, "A State Role in Supporting Groundwater Trading with Safeguards for Vulnerable Users: Findings and Next Steps."

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 39: SAN JOAQUIN RIVER BASIN GROUNDWATER RECHARGE: WATER AVAILABILITY ANALYSIS AND TECHNICAL ASSISTANCE

The Governor's budget requests a onetime appropriation from the General Fund of \$2.5 million in fiscal year (FY) 2023-24 and \$600,000 annually in FYs 2024-25 through 2027-28 (a total of \$4.9 million) for State Operations to enable Groundwater Sustainability Agencies (GSA) and local public agencies to complete water rights applications for groundwater recharge.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 40: 2027 CENTRAL VALLEY FLOOD PROTECTION PLAN

The Governor's budget requests \$36.91 million in General Fund State Operations in the following fiscal years (FY): \$4.41 million (\$3.998 million for DWR and \$0.412 million for Central Valley Flood Protection Board (CVFPB) for FY 2023-24; \$11 million in FY 2024-25; \$11.5 million in FY 2025-26, and \$10 million in FY 2026-27. The requested funding would support the development of the 2027 Update to the Central Valley Flood Protection Plan and Conservation Strategy as required by California Water Code (WC) Sections 9600-9616.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 41: DELTA LEVEE SYSTEM INTEGRITY AND HABITAT RESTORATION PROGRAM

The Governor's budget requests \$13.2 million one-time General Fund (\$11.2 million State Operations; \$2 million Local Assistance) and \$27.4 million in Proposition 1 (Local Assistance). The Program has inadequate funding beyond State fiscal year (FY) 2022-23 to support activities including State Operations and Local Assistance for levee maintenance, repairs, improvement, habitat mitigation and enhancement projects in the Sacramento-San Joaquin Delta.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 42: SYSTEMWIDE FLOOD RISK REDUCTION PARADISE CUT AND YOLO BYPASS PROJECTS

The Governor's budget requests \$25 million in fiscal year (FY) 2023-24 in Capital Outlay (CO) from General Fund. This request will support work and contracts needed to carry out the Paradise Cut Multi-Benefit Project and Yolo Bypass Fix-In-Place Projects. These projects improve climate resilience by reducing the risk of flooding while contributing to ecosystem restoration and other societal benefits such as agricultural sustainability.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 43: (CENTRAL VALLEY) URBAN FLOOD RISK REDUCTION

The Governor's budget requests \$135.5 million in General Fund, including \$90 million to support state cost-share of critical United States Army Corps of Engineers (USACE) projects and Urban Flood Risk Reduction (UFRR) projects and \$10 million for State Operations to support and manage USACE and UFRR projects during the FY 2023-24, and \$35 million General Fund in FY 2024-25. DWR requests a five-year extended encumbrance and two-year liquidation period for the \$125 million project funds, and a one-year encumbrance and two-year liquidation period for \$10 million for the State Operations support efforts. These funds are for specific projects in the Central Valley: American River Common Features – Natomas, West Sacramento, Lower Cache Creek, Lower San Joaquin, Marysville Ring Levee, Yolo Bypass, RD-17, Smith Canal Gate, and Mossdale Tract Multi-benefit.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 44: SOUTH DELTA PERMANENT OPERABLE GATES (SFL)

The Governor's budget requests \$43,713,000 from Proposition 13, Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act, and Proposition 50, Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, for the State's share of costs for the implementation of the South Delta Permanent Operable Gates (SDPOG) project. SDPOG is a key project that has been identified under the CALFED Bay-Delta program for improving the State's water supply reliability. The SDPOG project includes the construction/installation of three permanent barriers, equipped with operable gates, in three South Delta channels. Project is estimated to be completed by 2029.

Staff Recommendation: Approve as budgeted.

VOTE- ONLY ISSUE 45: DAM SAFETY ENFORCEMENT AND DESIGN OVERSIGHT AND DIVISION OF SAFETY OF DAMS FEES TRAILER BILL

The Governor's budget proposes \$3.178 million in ongoing funding from the Dam Safety Fund to support 12 new positions in Fiscal Year (FY) 2023-24 for the implementation of an Enforcement Program (6 positions/\$1.594 million) for new statutory authorities provided by Senate Bill 92 (2017) and to address workload increases related to new dam construction projects, enlargements, repairs/remediations, and removals (6 positions/\$1.584 million). The Dam Safety Program is funded by annual and application fees paid by dam owners. Revenue to support this request would be collected through annual fees and offset through the modernization of a circa 1991 application filing fee schedule to better align revenue collected with DWR's regulatory costs for its oversight of application work.

The language can be found here:

<https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/840>.

Staff Recommendation: Adopt placeholder language that automatically adjusts fees based on inflation after the initial increase outlined in the proposed trailer bill.

3885 DELTA STEWARDSHIP COUNCIL

VOTE- ONLY ISSUE 46: DELTA PLAN IMPLEMENTATION

The Governor's budget requests \$373,000 ongoing General Fund for 2.0 permanent positions to provide technical support for mandated Delta Plan implementation efforts. These two positions were previously approved as limited-term positions for a period of three years for FY 20/21.

Staff Recommendation: Approve as budgeted.

3900 CALIFORNIA AIR RESOURCES BOARD
3480 CALIFORNIA DEPARTMENT OF CONSERVATION
3940 STATE WATER RESOURCES CONTROL BOARD

VOTE- ONLY ISSUE 47: CARBON CAPTURE, REMOVAL, UTILIZATION AND STORAGE PROGRAM (SB 905) (SFL)

A Spring Finance Letter requests the following funds by department:

- The Air Resources Board (CARB or Board) requests \$5.5 million from the Cost of Implementation Account, Air Pollution Control Fund (COIA) and 18.0 permanent positions in 2023-24 and \$4.5 million ongoing to implement the requirements established by SB 905 (CITE). SB 905 requires that CARB establish a Carbon Capture, Removal, Utilization, and Storage Program (Program) to evaluate carbon capture, utilization, or storage (CCUS) technologies and carbon dioxide removal (CDR) technologies and facilitate the capture and sequestration of carbon dioxide from those technologies (as required in Health & Safety Code section 39741). Included in the request is \$1,700,000 in ongoing contract funds: \$700,000 to establish an electronic unified permit submittal system for carbon sequestration project operators pursuing permits to operate in California, and \$1 million in ongoing contract funds to perform evaluations of new and emerging CCUS and CDR technology. This work supports California's proposed 2022 Climate Scoping Plan and the California Climate Crisis Act to achieve carbon neutrality by 2045.
- The Department of Conservation requests \$3,682,000 from the Cost of Implementation Account, Air Pollution Control Fund (COIA) and 4 permanent positions to create a Geologic Carbon Sequestration Group (Group) to support the statutory mandate set forth in Senate Bill 905 (SB 905). The Group will provide support to CARB in the development of the regulatory framework and prioritize locations across the state to evaluate the suitability of geologic carbon sequestration, removal, and associated induced seismic and geologic hazard potential. The Group will also support the Secretary of the Natural Resources (Secretary) in preparing the legal framework for governing agreements regarding ownership of geologic storage reservoirs and overlying lands with multiple owners.
- The State Water Resources Control Board (State Water Board) requests 1.0 permanent position and \$280,000 ongoing from the COIA to collaborate with CARB to develop and implement a unified permit application process for the construction and operation of CCUS projects and to provide technical expertise to ensure these projects are protective of groundwater resources.

STAFF COMMENTS

Staff believes that it is difficult to accurately predict permanent workload of a new program for technologies that have not yet been brought to scale in this State. Given this uncertainty, this

Subcommittee may wish to phase in the positions or make them limited term positions to provide the Legislature a chance to revisit the workload levels in the future.

Staff Recommendation: For CARB, only approve 9 positions on a temporary 3 year basis, and approve as budgeted the positions for SWRCB and DOC.

3480 DEPARTMENT OF CONSERVATION

<p>VOTE- ONLY ISSUE 48: CALIFORNIA GEOLOGIC ENERGY MANAGEMENT DIVISION: ENVIRONMENTAL REVIEW AND CEQA COMPLIANCE</p>

The Governor's budget requests thirteen (13.0) permanent positions for the California Geologic Energy Management Division (CalGEM) to perform increased workload associated with its mandated responsibilities to carry out the California Environmental Quality Act (CEQA).

Staff Recommendation: Approve as budgeted.

3900 CALIFORNIA AIR RESOURCES BOARD

VOTE- ONLY ISSUE 49: REAUTHORIZATION OF THE CLEAN TRANSPORTATION PROGRAM FEES AND PROGRAM AMENDMENTS; REAUTHORIZATION OF AIR QUALITY IMPROVEMENT PROGRAM AND ENHANCED FLEET MODERNIZATION PROGRAM FEES TRAILER BILL

The Governor's budget proposes a trailer bill to extend the sunset, from January 1, 2024 until June 30, 2035, on various vehicle and vessel registration and identification fees and smog abatement fees that fund clean vehicles and associated infrastructure. These fees provide approximately \$173 million per year in revenue.

The language also proposes the following minor changes to the Energy Commission's Clean Transportation Program (CTP):

- Narrowing the CTP to zero-emission fuel and technology where feasible and near zero-emission elsewhere;
- Expanding sole source and advance payment flexibilities to include private entities that manage a Department of Energy national lab; and,
- Expanding eligibility for Native American Tribes and Tribal Organization to access CTP funds.

The language can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/854>

STAFF COMMENTS

A similar proposal is moving through the legislative process as AB 241 and SB 84.

Staff Recommendation: Reject.

VOTE- ONLY ISSUE 50: ELECTRIC VEHICLE SUPPLY EQUIPMENT PAYMENT STANDARDS TRAILER BILL

The Governor's budget proposes trailer bill language to repeal regulations requiring that publicly available electric vehicle charging stations that require payment to have a chip credit card reader and instead require:

- Electric vehicle (EV) charging stations, installed or made public after this section is adopted, accept contactless payment of major credit cards and debit cards, and either an automated toll-free phone number or a short message/messaging system (SMS) that provides the EV charging customer with the option to initiate a charging session and submit payment.
- Direct current fast charging (DCFC) stations, installed or made public after this section is adopted, to also include Plug and Charge payment capabilities using the ISO 15118 standard no later than one year after the effective date of this section.
- Authorizes CARB to add or subtract to these requirements through regulation, but no earlier than January 1, 2028.

The language to the trailer bill can be found here:

<https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/852>.

Staff Recommendation: Adopt placeholder language.

NON-PRESENTATION ITEMS

3600 DEPARTMENT OF FISH AND WILDLIFE

ISSUE 1: DEDICATED FISH AND GAME PRESERVATION FUND REALIGNMENT SFL

A spring finance letter requests various adjustments to the Fish and Game Preservation Fund's (FGPF) dedicated accounts, Hatcheries and Inland Fisheries Fund (HIFF), and Department of Fish and Wildlife – California Environmental Quality Act Fund (CEQAF) resulting in an increase of \$6.87 million and 23.0 permanent positions. These adjustments align the accounts' expenditure authority with revenues and help the Department maintain stability, structural balance, and workload for the funds.

Staff Recommendation: Approve as budgeted.

DISCUSSION ITEMS

3600 DEPARTMENT OF FISH AND WILDLIFE

ISSUE 1: WESTERN JOSHUA TREE CONSERVATION ACT TRAILER BILL

The Governor's budget requests trailer bill language to conserve the western Joshua tree at a landscape scale, while also making available a permitting and mitigation process that would rely on simpler template permits and allow payment of in-lieu fees.

The Western Joshua Tree Conservation Act includes these elements:

- Authorizes the Department to permit impacts to the western Joshua tree only if specific conditions are met, including the avoidance and minimization of impacts while allowing an option for payment of fees calculated to mitigate for the specific impacts by specific projects.
- Deposits fees in the Western Joshua Tree Mitigation Fund and requires the Department to deploy the Fund, in collaboration with Tribes and others, to address threats to the western Joshua tree, including, but not limited to, acquiring, and conserving western Joshua tree habitat.
- Requires the Department to develop and implement a western Joshua tree conservation plan in collaboration with the Commission, governmental agencies, California Native American Tribes, and the public.
- Requires the Department to consult with California Native American Tribes, includes co-management principles in the conservation plan, provides for the relocation of western Joshua trees to tribal lands upon a request from a tribe, and supports the incorporation of traditional ecological knowledge into the conservation plan.
- Authorizes the Department to delegate to a county or city the ability to approve the removal or trimming of dead or dying trees, subject to conditions, and an option to pay fees, Department oversight, and express Department authority to revoke any delegation.
- Includes annual reporting to the Commission about the effectiveness, performance, and success of the program, with specific deadlines for accountability and flexibility to increase fees as necessary pursuant to public, transparent processes.

The language can be found here: <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/841>.

PANEL

- Chuck Bonham, Director, Department of Fish and Wildlife
- Krystal Acierto, Principal Program Budget Analyst, Department of Finance
- Sonja Petek, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

LAO COMMENTS

The administration proposes trailer bill language (TBL) creating the Western Joshua Tree (WJT) Conservation Act. Assembly Member Bauer-Kahan has proposed a similar policy bill [AB 1008], which the Committee on Water, Parks, and Wildlife passed on April 24th and referred to the Committee on Appropriations.

Background. In September 2020, the California Fish and Game Commission (commission) accepted for consideration a petition to list the WJT as threatened or endangered under the California Endangered Species Act (CESA). The commission has not yet made a final determination. In accordance with CESA policies, the WJT is now temporarily protected while the commission considers its decision. (Of note, in 2019, the U.S. Fish and Wildlife Service decided not to list the WJT under the U.S. Endangered Species Act.)

Governor Proposes Alternative Approach. The Governor's budget proposes an alternative conservation approach for the WJT via TBL, which would remain in effect even if the commission lists the WJT under CESA. Specifically, the TBL would make the process for obtaining an incidental take permit easier by using simplified template permits and by allowing permittees the option to pay an in-lieu fee rather than having to meet the more complicated mitigation steps that CESA requires. It would allow the California Department of Fish and Wildlife (CDFW) to delegate authority to city or county governments, allowing them to issue incidental take permits in conjunction with their review of projects on public works, single-family residences, and accessory structures. This includes permits for trimming WJTs or removing dead WJTs (the administration notes there is no clear mechanism to permit these activities under CESA). Fees would be deposited into a new special fund, which would be continuously appropriated to CDFW for larger-scale WJT conservation projects. The TBL would require CDFW to prepare a WJT conservation plan by December 31, 2024 in collaboration with the commission, governmental agencies, California Native American tribes, and the public and to submit annual reports to the commission with details about WJT permits and conservation efforts. It would require the commission to review the status of the WJT annually beginning in 2026. Finally, it would require CDFW to submit a report to the commission by December 31, 2024 about other unlisted, widespread, and abundant species that are threatened primarily by climate change. It would allow CDFW to develop regulations for conservation of these species based on report findings. The administration indicates an alternative approach to CESA is needed to facilitate the state's goals for energy and housing development. This is because many millions of WJTs populate several thousand square miles of land, which could make permitting burdensome for both CDFW and permittees under CESA. The administration states that it is proposing the language via the budget process because CDFW would need authority to appropriate money from the new special fund.

Key Questions for Legislative Consideration. The Legislature might wish to consider the following questions as it deliberates the proposed WJT TBL.

- ***What Process Would Allow the Legislature the Best Opportunity for Thoughtful Deliberation of the Proposal?*** The Legislature will want to consider whether the budget or policy process is the most appropriate venue for discussing the proposed change. Most importantly, the Legislature will want to ensure that it has sufficient time and opportunities for robust deliberation and public input—which could potentially take place through either the budget or policy process. However, the two processes also have some distinct implications, in particular around timing. Specifically, the TBL, if approved, would take effect July 1, 2023, while a policy bill, if approved, likely would not take effect until January 1, 2024. The earlier TBL timeframe would enable CDFW to process permits sooner (it is already receiving applications due to WJT’s temporary protected status under CESA). However, CDFW would need some time to establish a new process and waiting six months likely would not make a meaningful difference in the long-term.
- ***How Should the State Balance Its Priorities for Energy and Housing Development With WJT Conservation?*** The administration argues that the proposed language is needed to avoid letting WJT permitting create onerous delays for developing new energy and housing development projects. The Legislature will want to weigh how to pursue its commitment to carbon neutrality and 100-percent clean electricity by 2045, as well as its efforts to address the state’s housing crisis, alongside its goals related to protecting and conserving the WJT. The administration notes the WJT is particularly susceptible to the effects of climate change. Yet, the WJT’s sheer number and geographic distribution could complicate development in the region under CESA’s permitting requirements. The Legislature might wish to consider the tradeoffs associated with the Governor’s proposed alternative approach (which might weaken protections for the WJT) as compared to those of the regular CESA process (which might make development permitting less feasible).
- ***What Would an Alternative Approach to CESA Mean for the WJT and More Broadly?*** If the commission ultimately decides not to grant the WJT protected status under CESA, the Governor’s proposed alternative approach would afford the WJT more protection than it would have had otherwise. If the commission ultimately does decide to list the WJT under CESA, however, permittees could elect to use the CESA permit process or this alternative permit process. The Legislature might want to consider not only the impact of this proposed change on the WJT, but the precedent this could set for future departures from CESA. That is, does the Legislature want to establish pathways for a distinct, alternative permitting and compliance process to exist alongside CESA? What implications might approving this approach have for protecting other species in the future, for the commission’s regulatory processes, and for the Legislature’s longer-term intentions for how CESA continues to be implemented?

- ***Is the Legislature Prepared to Grant CDFW New Authority to Regulate Conservation of Other Unique Species in the Future?*** As noted, the Governor's proposal includes a provision that would allow CDFW to handle the future conservation of other abundant and widespread species impacted primarily by climate change via regulation, after submitting a report to the commission. Because this would expand CDFW's authority to handle special species outside of the CESA process, the Legislature may want to consider whether it is ready to make such changes. For example, if it wanted more time to consider this proposed expansion, the Legislature could consider limiting the new statutory language to just allow CDFW new conservation authority over the WJT as a pilot effort, then evaluate its outcomes before granting such permissions for other species.
- ***How Much Authority Should the State Delegate to Cities and Counties?*** The proposed TBL would allow CDFW to delegate authority to cities and counties to issue incidental take permits if certain conditions are met. The TBL would allow CDFW to revoke delegated authority if the local agency is out of compliance. The Legislature might want to consider whether the proposed expansion of and limits on this authority are appropriate and sufficient and whether the proposed data and reporting requirements are adequate to ensure comprehensive state oversight.
- ***How Can the Legislature Ensure Conservation Efforts Are Effective?*** The proposed TBL includes several accountability mechanisms, such as development of a conservation plan and annual reporting to the commission. However, the proposed language does not currently include a mechanism for legislative oversight. Given the important state goals the proposal intends to address, the Legislature could consider adding language to increase accountability. For example, the language could require CDFW to provide copies of the required reports to the Legislature, and could add reporting requirements, such as to evaluate the effectiveness of the alternative approach in conserving a special species. Such an assessment could inform future legislative decisions about potentially expanding CDFW's authority to apply this approach to other species via regulations.

STAFF COMMENTS

Staff notes that AB 1008 (Bauer-Kahan) is similar to this proposal.

This trailer bill could set a precedent to undermine the California Endangered Species Act (CESA) protections and result in individual bills dealing with each individual potentially endangered species.

Staff also questions the stated benefits raised by the Administration to increase housing development. While the Legislature has recently adopted policies to increase housing, particularly infill housing, encouraging housing development in the desert may exacerbate environmental concerns. Building new housing in the desert would: (1) increase energy demand especially during the summer which can increase emissions; (2) increase vehicle miles traveled from long commutes to job centers thus increasing emissions; and, (3) exacerbate water

demands by building in an area will little water for irrigation and drinking water, which may harm other endangered species in the desert.

However, staff notes that existing protections for the western Joshua tree are minimal, a \$5 fee to either the county sheriff or county agriculture commissioner. This Subcommittee may wish to consider if the benefits of conserving the western Joshua tree outweigh the policy tradeoffs mentioned above (in absence of a CESA decision by the Fish and Game Commission).

According to DFW's Status Review of the western Joshua tree as a candidate for listing under CESA, the estimated current population of the species is relatively high (though these population estimates have large uncertainties). But habitat loss, wildfires, aridification, and other climate change effects are major threats to the population. DFW expects that some of the effects of climate change (e.g., increased temperatures and decreased total water availability locally) will likely contribute to a decline in populations of western Joshua trees within California through the end of the 21st century. However, the extent to which the negative effects of climate change will impact the species' range, density, and demographics in this timeframe is less clear. All of the studies assessed by DFW in its Status Review come to similar conclusions: that the areas with climate conditions that supported western Joshua trees during the 20th century are expected to contract substantially by 2100, especially in the southern and lower elevation portions of the species' range.

This proposed TBL as well as AB 1008 aim to increase conservation efforts for the western Joshua tree in recognition of the threats the species is facing from climate change and habitat losses. The two proposals are substantially similar. Both proposals:

- Enact the Western Joshua Tree Conservation Act (Act);
- Require DFW to develop and implement a western Joshua tree conservation plan;
- Allow DFW to issue a permit for the taking of the western Joshua tree if specified conditions are met and the take is mitigated;
- Allow a permittee to meet the mitigation obligation by paying a specified fee. Revenues from the fee will be deposited in the Western Joshua Tree Conservation Fund where it may only be used for acquiring, conserving, and managing western Joshua tree conservation lands and other conservation efforts; and,
- Allow DFW to enter into an agreement with a local government that authorizes that entity to issue take permits for the western Joshua tree for specified projects.

The key critical differences between the two proposals are how the conservation efforts interact with CESA and the level of protection with respect to relocation and mitigation. Under the TBL, the take provisions would remain in place regardless of the western Joshua tree's CESA status, effectively making this Act an alternative to CESA. While the Act requires mitigation, it falls short of the "full mitigation" standard required by CESA, a core and long-standing principle of that law.

In addition, the Act also has less protection for relocated trees and appears to allow mitigation without requiring long-term management of those mitigation lands.

On the other hand, under AB 1008, the Act's conservation efforts would represent an effort to prevent the Joshua tree from becoming endangered in the first place. The take provisions would apply **unless** the western Joshua Tree is listed as endangered or threatened. If it becomes a listed species, take would be guided by the existing provisions under CESA. That is, if the tree's population becomes very low, the state will still have additional tools under CESA to try to prevent the extinction of the species. AB 1008 also includes stronger protections for relocated trees and would require that mitigation lands be managed over the long-term.

If DFW's conservation plan is strong and the mitigation fees collected are sufficient so that the western Joshua tree population can be protected in the face of climate change, the differences between TBL and AB 1008 will be unnoticeable.

This Subcommittee may wish to ask:

- Should DFW's conservation plan prove to be insufficient to protect the western Joshua tree either due to deficiencies of the plan itself or because of insufficient funds to implement the plan, under the Administration's proposal what additional actions could DFW take under existing law to prevent the extinction of the Joshua Tree?
- If the western Joshua Tree is listed as threatened or endangered under CESA, why should CESA's full mitigation standard not apply?
- Does the Administration believe that implementation of DFW's future conservation plan can protect Joshua tree populations close to today's level for the near-term future?
 - If so, is it premature to create an alternative to CESA before we can evaluate the effectiveness of the plan?
- What actions is the Administration taking to encourage renewable energy development in areas with low-habitat value either for the western Joshua tree or for greater 30x30 efforts?

Staff Recommendation: Reject.

VARIOUS

ISSUE 2: ENERGY TRAILER BILL

This request also includes statutory language to:

1) Enforce the Integrated Resource Plan (IRP):

- a. Reinforces the clear expectation that load-serving entities (LSEs) – electric investor-owned utilities (IOUs), community choice aggregators (CCAs) and energy service providers (ESPs) are required to achieve their IRP requirements via existing individual procurement mechanisms.
- b. Clarifies that if an LSE fails to achieve their CPUC IRP requirements, they may be subject to financial penalties assessed by the CPUC.

2) Allow a Central Procurement Entity:

- a. Authorizes CPUC/CEC/CAISO to jointly approve DWR to procure diverse clean resources on behalf of all CPUC jurisdictional LSEs, financed through non-bypassable charges on customers.
 - i. Allows publicly owned utilities (POUs) to opt in.
 - ii. Allows DWR to issue bonds and provides an exemption from the Public Contract Code requirements.
 - iii. Requires CPUC to find the costs just and reasonable and not increase costs on a net present value basis over IOU costs.
- b. Authorizes CPUC to direct IOUs to act a central procurement entity on behalf of all LSEs.

3) Capacity Payments for the Strategic Reliability Reserve (SRR):

- a. Authorizes CPUC to assess a capacity payment for LSEs or POUs who rely on the SRR.
 - i. Payment based on average SRR cost (with adder for summer resources) times the amount of energy the LSE or POU used from the SRR as a portion of their total load.
 - ii. Payments due within 30 days.
 - iii. CPUC can change payment formula. CPUC can issue regulations with and Administrative Procedure Act Exemption.
 - iv. Does not prohibit CPUC from assessing penalties for resource adequacy shortages of jurisdictional entities.
 - v. Funds would be continuously appropriated to DWR for the SRR.

4) Clean Up Provisions:

- a. Restores a rebuttable presumption at the CPUC for the need of certain types of electric transmission projects approved by the California Independent System Operator, if specified conditions are met. This was chaptered out by SB 1020 (Laird, 2022).
- b. Extends the CPUC's authority to convene the Diablo Canyon Independent Peer Review Panel if plant operations continue through 2030.

- c. Clarifies that the Independent Safety Committee (ISC) for Diablo Canyon was established by the CPUC.
- d. Removes conflicting language in the statutes governing the DSGS and DEBA programs at CEC.
- e. Clarifies that CEC is required to approve DWR's investment plan for the SRR.
- f. Other provisions.

The trailer bill language can be found here:

<https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/846>.

PANEL

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LAO COMMENTS

Reliability Challenges and Recent Funding

State Facing Some Energy Reliability Challenges. Climate change is contributing to demands on the state's electric grid, with warmer temperatures leading to more calls for electricity during peak evening hours in the summer months. In August 2020, California experienced rolling power outages due to a heatwave and accompanying strain on the electric grid. The state avoided outages in 2021 and 2022, but energy resources were strained during summer heatwaves. A major heatwave in September 2022 caused the state to send an emergency text message alert to 27 million Californians to encourage energy conservation—the first time such a measure had been deployed. While the state has experienced significant growth in renewable energy sources in recent years, solar resources are not well-positioned to supply energy during peak evening hours after the sun has gone down. Greater development of energy storage technology will be needed to help address the misalignment challenge of growing demand during times that a key renewable energy source is not available.

Significant Growth in New Energy Resources, but Also Project Delays. In recent years, the number of clean energy projects across the state has increased exponentially, with the amount of renewable energy supply more than tripling since 2005. Between 2020 and 2022, 130 new clean energy projects came online to serve customers in the California Independent System Operator network, which provides electricity to 80 percent of California. However, some projects also have experienced delays due to issues with the supply chain, permitting, and connecting new resources to the electric grid. While the state is on track to continue to develop new clean energy resources over the next decade, such delays in bringing these projects online could pose challenges in meeting the state’s clean energy, emissions, and reliability goals.

Recent Budgets and Policy Actions Provided Significant Funding for Clean Energy and Reliability. The 2022-23 budget package planned for \$9.6 billion over five years for clean energy programs and reliability efforts. The administration indicates that California also has received federal funds to support various energy efficiency efforts through the Inflation Reduction Act and the Infrastructure Investment and Jobs Act, but has not yet provided specific details on the status of this funding or what types of projects it could support. The Governor’s budget proposes some reductions to state energy activities, but would maintain the majority of the planned funding (\$8.7 billion). Moreover, a large share of this funding—\$3.3 billion across five years—is for three programs intended to increase statewide electricity reliability, which the Governor does not propose reducing. Together, the administration refers to these three programs as the “Strategic Reliability Reserve,” and they include:

- **Electricity Supply Strategic Reliability Reserve Program (ESSRRP, \$2.3 Billion).** This program funds the Department of Water Resources (DWR) to secure additional electricity resources to help ensure summer electric reliability. So far, these activities have included extending the life of gas-fired power plants that were scheduled to retire, and procuring temporary diesel power generators and new energy storage. The ESSRRP provided between 554 megawatts (MW) and 1,416 MW of energy during last September’s extreme heat event. For context, the rotating outages in 2020 were caused by a shortfall of about 500 MW.
- **Demand Side Grid Support (\$295 Million).** This new program, administered by the California Public Utilities Commission (CPUC), provides customer incentives to reduce net electricity load during extreme events. In the summer of 2022, utilities began enrolling participants in the program, which pays customers to reduce their energy usage during summer peak evening hours when the electric grid is strained.
- **Distributed Electricity Backup Assets (\$700 Million).** This new program, administered by the California Energy Commission (CEC), provides incentives for certain distributed energy resources that can be used to support the state’s electrical grid during extreme events. The CEC is still developing the program, which is intended to fund zero- or low-emissions technologies such as fuel cells and energy storage at both existing energy facilities and new facilities.

In addition to these budget actions, Chapter 239 of 2022 (SB 846, Dodd) authorized the extension of the Diablo Canyon Power Plant (DCPP)—which was scheduled to retire by 2025—

through 2030. Diablo Canyon is California's last remaining nuclear power plant, and the state has identified it as a valuable near-term source of zero-carbon energy during the transition to greater renewable resources. While the legislation authorized an extension, DCPD still has to receive required permits at the local, state, and federal levels in order to continue operations. SB 846 also authorized the following expenditures:

- ***Loan to Pacific Gas & Electric (PG&E) (up to \$1.4 Billion)***. The Legislature specified intent to provide a General Fund loan of up to \$1.4 billion to PG&E to support extended operations at Diablo Canyon. Of this total amount, the Legislature has authorized \$600 million so far. The potential remaining \$800 million is subject to a future appropriation. PG&E was awarded a \$1.1 billion federal grant from the U.S. Department of Energy in November 2022 and is expected to use this award to pay back the state for loans it ultimately receives.
- ***Clean Energy Reliability Investment Plan (CERIP, \$1 Billion)***. Senate Bill 846 also included legislative intent to provide a total of \$1 billion General Fund from 2023-24 through 2025-26—\$100 million in 2023-24, \$400 million in 2024-25, and \$500 million in 2025-26—to support the CERIP, which CEC recently developed. The legislation required the plan to support investments that address near- and mid-term reliability needs and the state's GHG and clean energy goals. In accordance with the legislation, the administration proposes to provide \$100 million in 2023-24 for CERIP-identified activities. Specifically, the Governor proposes: (1) \$32 million for DWR to develop a proposed new central procurement role described below; (2) \$33 million for extreme event support (including additional funding for the Demand Side Grid Support and Distributed Electricity Backup Assets programs); (3) \$20 million for various administrative, community engagement, and planning expenditures; and, (4) \$15 million to help new energy resources come online.

Procuring Reliable Clean Energy Resources

State Generally Determines What Levels of Energy Resources Are Needed, Then Requires Regulated Local Entities to Procure Them. With regard to CPUC-regulated electric utilities, the state generally has assumed responsibility for determining: (1) how much energy will be needed to reliably meet statewide demand; and, (2) what share of those resources must be from renewable sources to meet the state's GHG reduction and clean energy goals. After the state determines these needs, it then requires local energy providers—known as Load Serving Entities, or LSEs—to procure them. (As described below, this process works slightly differently for publicly owned utilities [POUs].) LSEs can procure energy through purchasing contracts or by developing the resources themselves (such as by building solar arrays). Please see the nearby box for more background about LSEs.

Load Serving Entities (LSEs) in California

LSEs are entities that provide electricity to customers. They include the following types of organizational structures:

- **Investor Owned Utilities (IOUs):** The territory of California's six privately owned IOUs covers about 75 percent of the state's electricity needs. The three largest IOUs in the state are Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric. The California Public Utilities Commission (CPUC) regulates IOUs by setting their electricity rates for customers and requiring them to procure and maintain a certain amount of energy resources.
- **Community Choice Aggregators (CCAs):** The CCA program allows cities, counties, and other government entities within the service area of an IOU to purchase and/or generate electricity for their residents and businesses. The intention of this program is to increase options for customers. The IOU continues to deliver the electricity through its transmission and distribution system and provides meter reading, billing, and maintenance services for CCA customers. CCA energy resource needs are regulated by CPUC. There currently are 25 CCAs in California.
- **Electric Service Providers (ESPs):** ESPs are non-utility companies that provide electricity to large electric users within the service territory of an existing electric utility. They are regulated by CPUC and there are 20 ESPs in California.
- **Publicly Owned Utilities (POUs):** POUs are regulated by locally elected governing boards such as municipal utility districts, which govern POU energy resource needs and rates. The state has some authority over POU energy resources. POUs provide about 25 percent of the state's electric services. Examples of large POUs include Sacramento Municipal Utility District and Los Angeles Department of Water and Power. There are 47 POUs in California.

State Has Adopted Numerous Requirements for LSEs to Help Ensure Reliability and Procurement of Clean Energy Resources. CPUC is responsible for a number of programs and activities designed to: (1) grow the share of renewable resources used to generate electricity; and, (2) ensure regulated LSEs are procuring enough energy to both serve demand and meet state GHG goals. These programs and initiatives include:

- **Resource Adequacy (RA) Program.** The RA program was established in 2004 to promote electric reliability. CPUC establishes RA obligations for all LSEs within its jurisdiction, including Investor Owned Utilities (IOUs), Community Choice Aggregators (CCAs), and Electric Service Providers. LSEs are required to demonstrate compliance with RA requirements on both a monthly and annual basis and must pay penalties if they do not comply. The current RA program mandates a 16 percent planning reserve margin (that is, the amount of resources an LSE must have on reserve, as a percentage of peak total electricity load, in case of extreme events). The planning reserve margin will increase to 17 percent in 2024. This margin is also known as the planning standard or RA margin.
- **Renewable Portfolio Standard (RPS).** The RPS was established by Chapter 516 of 2002 (SB 1078, Sher) with the initial requirement that 20 percent of retail electricity must be provided by renewable energy resources by 2017. The RPS program is overseen jointly by CEC and CPUC and has been updated numerous times. Senate Bill 100

increased the RPS requirement to 60 percent of retail electricity coming from renewable sources by 2030. All LSEs, including POUs, are required to comply.

- ***Integrated Resource Planning (IRP) Process.*** The IRP process was established in 2015 through Chapter 547 (SB 350, de León) to plan for how LSEs could meet mid- and long-term energy procurement and GHG goals while maintaining reliability. As part of this process, CPUC conducts modeling that sets out a path for the state to meet its energy needs while reaching its emissions reduction goals. Regulated LSEs are then required to use CPUC's model to develop their own individual IRPs. CPUC ultimately approves each LSE's IRP and the process is updated every two years. The IRP process is CPUC's primary planning tool to ensure that the state is meeting its emissions reductions goals from the electricity sector. CPUC initiated a related process, the IRP Procurement Track, in 2019. The IRP Procurement Track orders LSEs to undertake additional resource procurement beyond the normal IRP planning time line, recognizing that some newer clean energy resources have longer lead times (such as offshore wind and long duration storage).

Recognizing that the state's growing electricity needs and emissions reduction goals will necessitate new resources, CPUC has used these processes to mandate unprecedented expansions in energy procurement in recent years. For example, between 2020 and 2022, CPUC's IRP procurement orders resulted in more than 11,000 MW of new energy resources, most of which are coming from solar, wind, and battery storage projects. CPUC also has expanded its allowed time lines for LSEs to secure new energy resources in recognition of the timing difficulties in bringing these resources online. For instance, in February 2023, CPUC extended its deadline for a new procurement order that totals 4,000 MW of additional energy capacity from 2026 to 2028.

Public Utilities Also Subject to Some State Requirements for Energy Resource Procurement. Because POUs are outside of CPUC's jurisdiction, some—although not all—of their reliability requirements differ from those of other LSEs, and their compliance with state requirements largely is overseen by CEC. Like other LSEs, POUs are subject to the RPS requirements for renewable energy procurement. Additionally, the state's largest POUs (which account for 94 percent of POU electric load and customers) are required to submit an IRP every five years to CEC. In addition, Chapter 251 of 2022 (AB 209, Committee on Budget) required CEC to develop updated planning reserve requirements for POUs that account for the increased frequency of extreme weather events and reliability challenges the state has experienced in recent years. CEC is required to develop these requirements by December 2023.

IOUs Sometimes Play Centralized Procurement Role. LSEs generally are required to procure new energy resources themselves, but IOUs are legally authorized—and, in some cases, required—to procure resources on behalf of other LSEs. For example, a 2019 CPUC decision ordered LSEs to procure additional RA-qualifying resources and allowed IOUs to act as a procurement backstop. In response to this order, between 2020 and 2022, 15 LSEs elected to have an IOU procure energy resources on their behalf. CPUC also has compelled IOUs to procure resources on behalf of other LSEs, because the relatively small size of some LSEs—in particular, many CCAs—can make procuring larger resources somewhat difficult. Over the

past few years, IOUs have experienced challenges in centrally procuring resources due to associated costs, as they have simultaneously been facing growth in other types of costs such as those related to wildfire mitigation.

State Has Some Limited History of Undertaking Procurement Activities. While the state mostly tasks LSEs with procurement responsibilities, it has occasionally stepped in to undertake these activities in the past. For example, during the energy crisis of the early 2000s, California experienced electricity supply shortages and utilities struggled to attain capital for energy projects. In response, DWR financed energy purchases on behalf of IOUs and entered into long-term contracts for electricity valued at over \$40 billion. The last of these contracts terminated in 2015. In addition, as mentioned above, the 2022-23 budget package committed \$2.3 billion over five years for DWR to secure additional electricity resources intended to ensure summer electric reliability. So far, ESSRRP activities have mostly extended the life of natural gas plants that supply electricity—these plants are only turned on when the electric grid is experiencing major strain. The administration indicates that the ESSRRP also provided financing support to IOUs for their procurement of electricity imports last summer.

Clean Energy Goals and Growing Electricity Demand Will Necessitate Procuring New Types of Resources. While California has brought a significant amount of clean resources online in recent years, including wind and solar projects, new resources still will be needed to meet the state's clean energy goals and satisfy electricity demand. The state's electricity planning agencies anticipate that demand will grow significantly over the next decade due not only to climate change and higher temperatures, but also to a shift towards zero-emission vehicles and more electric-powered appliances and heating. This likely will necessitate adding larger "long-lead time" resources (such as offshore wind, long duration storage, and geothermal electric generation) to the state's portfolio. However, such resources typically are more expensive and take longer to develop. Moreover, fewer of these projects currently exist in California, so local entities do not have a proven history to rely upon when seeking to develop or procure them. Because of the expense and general risk associated with newer, large technologies, smaller LSEs face particular challenges in procuring these types of resources.

Governor's Proposals

Governor Proposes Two Major New Energy Policy Changes. The Governor has put forward two major proposals related to procuring sufficient clean energy resources to meet reliability and GHG reduction goals. These proposals are contained in budget trailer legislation. The proposals include: (1) establishing a new centralized energy procurement role for the state, for which costs could be recovered from ratepayers; and, (2) requiring "capacity payments" from LSEs that experience energy resource deficiencies during months when the state utilizes the ESSRRP. Figure 3 describes each proposal in detail.

Figure 3

Summary of Governor's Major New Energy Policy Proposals

New Centralized Procurement Role for the State

- ✓ **New Central Energy Procurement Authority.** The proposal provides the California Public Utilities Commission (CPUC) with the option to identify either an Investor Owned Utility (IOU), the Department of Water Resources (DWR), or both to procure energy resources through a centralized procurement process on behalf of Load Serving Entities (LSEs) that provide electricity services to customers. The proposal primarily focuses on establishing requirements for DWR, as DWR does not yet have the authority to centrally procure electricity resources in the way that IOUs currently do. Any resources that DWR procures through this process would be available for IOUs, Publicly Owned Utilities (POUs), and other types of LSEs to use. DWR would utilize its new Strategic Reliability Reserve office and staff to manage the procurement.
- ✓ **Requirements for Types of Resources Procured.** The proposal requires DWR to conduct a competitive procurement process and prioritize investments that do not compete with LSEs' traditional procurement. According to the administration, the DWR procurement is intended to be for long lead-time resources such as offshore wind, geothermal, and long duration storage. The proposed statutory changes, however, do not explicitly limit this procurement option to those types of resources.
- ✓ **Authority for New Electricity Rate Charges to Cover Central Procurement Costs.** The proposal gives CPUC the authority to impose a non-bypassable charge to ratepayers to cover DWR's procurement costs, should CPUC find that the charge would not unreasonably increase costs to customers. A new Clean Energy Procurement Fund would receive the customer charges and support the procurement activities.
- ✓ **Authority for DWR to Issue Bonds.** The proposal gives DWR the authority to issue bonds, if necessary, to fund up-front costs for its central procurement activities. These bonds would be repaid with the ratepayer charges noted above.

New Charges for LSEs That Do Not Procure Sufficient Energy Resources

- ✓ **Require Payments if LSEs Do Not Meet Energy Capacity Targets.** To discourage LSEs (including POUs, which are outside the CPUC's jurisdiction) from over-relying on the Electricity Supply Strategic Reliability Reserve Program (ESSRRP), the proposal would require utilities that do not procure sufficient energy capacity to make payments to help support the ESSRRP.
- ✓ **Payments Calculated Based on Energy Resource Deficiency.** The state would assess a payment if an LSE does not meet its reliability obligations in a month when the state had to access the ESSRRP. Specifically, the payment would be based on a calculation that factors in the cost of the energy resource provided by the ESSRRP and the LSE's deficiency in meeting its monthly Resource Adequacy or planning reserve requirements. The payments would be calculated by CPUC and the California Energy Commission.
- ✓ **Payments Would Be In Addition to Existing Integrated Resource Planning Enforcement Penalties.** The proposed new payments would be in addition to existing enforcement protocols. Specifically, an LSE that fails to meet its planning reserve margin or Resource Adequacy requirements for the given month when the state used the ESSRRP would be subject to both this new charge and existing penalty payments.

Some Initial Funding to Come From the General Fund. As described in the figure, the Governor proposes to fund the ongoing support and operational costs for DWR's new procurement role from new charges to ratepayers. These charges also would be used to pay off any bonds that DWR might issue for large capital costs. In addition, the Governor proposes using General Fund in 2023-24 to help "stand up" the new procurement function at DWR. Specifically, the CERIP that CEC recently submitted to the Legislature includes \$32 million—of the intended \$100 million budget-year amount—to help establish this new central procurement office and process.

Other Technical Statutory Changes to Existing Energy Policies and Programs. The proposed trailer legislation also includes various statutory changes for the three Strategic

Reliability Reserve programs and DCPD which the administration considers to be technical “clean up.”

Key Questions for Legislative Consideration

The Governor’s proposed changes to the way energy is procured and paid for in California represent a significant new role for the state. The proposals raise a number of crosscutting questions that the Legislature will want to consider as it weighs whether or not to adopt any of these changes. As such, the LAO recommends that the Legislature take sufficient time to engage with the administration and stakeholders such that it feels confident it has answers to these questions. The Legislature has a number of options for undertaking such deliberations, including oversight hearings and both formal and informal information requests to the administration. Below, the LAO summarizes the key questions that merit legislative consideration.

How Would Ratepayers Be Affected? How electric ratepayers would be affected by the Governor’s proposals is unclear. In order to understand the potential impacts, the LAO recommends that the Legislature consider the following issues when evaluating the proposal:

- **New Charges and Capacity Payments.** Under the proposal, LSEs that do not procure sufficient energy resources would be required to make a capacity payment to support the ESSRRP. In addition, LSEs could be required to apply a non-bypassable charge to ratepayers to cover DWR’s central procurement costs. The effects these charges would have on rates are unclear. Given that California’s electricity rates already are among the highest in the nation and rising faster than inflation, the Legislature will want to carefully consider the potential impacts on rates and whether the potential benefits merit those costs.
- **Market Effects of Central Procurement.** Under the proposal, DWR would be able to procure energy resources on behalf of the state and LSEs if requested by CPUC. The current market for energy resources is strained, with a large number of LSEs competing for a relatively small pool of projects that often will take years to develop. How the entrance of DWR—a large, well-resourced entity with the backing of the state—would influence the market for new energy resources is unclear. The market for large, long-lead time resources, which the administration says would be the priority for DWR’s procurement, is somewhat nascent and developing, as these types of resources are newer technologies and very expensive to build. This makes it even more difficult to predict the potential effects of the central procurement proposal. Because DWR likely would have more resources to expend than other purchasers, it is also unclear how energy resource developers may alter prices. Ultimately, how energy resources are priced will affect the rates customers are charged.

Are Current Processes and Resources Insufficient? The administration states that the procurement option and capacity payments to the ESSRRP are necessary to avoid energy shortfalls occurring among LSEs. However, these processes largely have been adequate thus far, and the state has taken numerous other actions in pursuit of the same goals. Yet the extent to which existing reliability requirements and procurement processes will be sufficient to

meet *future* needs is uncertain. The following are existing processes and resources that are designed to support current and future electric reliability:

- **Existing IRP and Planning Processes.** As described above, LSEs are required to demonstrate sufficient energy capacity to the state through the IRP process, RA requirements, and—in the case of POUs not subject to those requirements—separate planning reserve margin targets administered by CEC. While the electric grid has been strained in recent summers, whether LSEs are actually at risk of a serious shortfall that could lead to reliability issues is unclear. The administration reports that no shortfalls have been identified by any LSE for IRP energy resource procurement recently. CPUC has recognized the need for more energy capacity and has issued numerous orders in recent years both for LSEs to procure more resources and to extend the time they have to do so, recognizing the delays in permitting and building new energy projects described above. In addition, as noted, efforts currently are underway at CEC to develop new planning reserve margin targets for POUs, which could support additional reliability.
- **Existing Collective Action.** LSEs have successfully banded together to procure resources in the past. For example, CCAs and POUs have formed joint powers authorities to procure power on a collective basis. Taking this approach to procure larger, long-lead time resources may prove more challenging, as these resources can be very expensive and the market is limited. However, certain existing locally based collective approaches may be sufficient to meet reliability needs in the future.
- **Existing IOU Central Procurement.** IOUs have been directed to procure on behalf of other LSEs in the past, and CPUC has authorized them to recover their costs of doing so. Additionally, last summer, the state provided financing support for IOUs to procure through the ESSRRP. Some IOUs have reported challenges procuring energy resources on behalf of others due to the high capital costs of procuring larger resources and a more diverse landscape with the rise of CCAs. However, if the Legislature was concerned about the potential risks of DWR acting as a central procurement authority, expanding centralized procurement undertaken by IOUs could be an alternative option worth exploring. If the state were to provide financing support to IOUs, similar to how it did in the summer of 2022, cost issues could prove less of a barrier.
- **DCPP.** As described above, the Legislature has authorized the extension of DCPP through 2030, though the plant will have to overcome a number of regulatory hurdles before it can continue operations past its originally scheduled sunset date of 2025. Accordingly, the administration is not accounting for the availability of DCPP-provided energy past 2025 in its reliability planning and modeling for the next decade. Given the remaining uncertainty around whether the extension will proceed, the LAO finds that this approach is reasonable. However, if DCPP continues operations as intended, the plant would provide a significant contribution to helping the state meet its reliability goals—2,280 MW, which is more than double the reliability benefits provided by the ESSRRP in 2023 and nearly five times the MW shortfall that resulted in the rotating outages of 2020. The availability of DCPP from 2025 through 2030 could significantly improve the state's

reliability outlook and reduce the urgency of the need that the administration has identified for these new policy proposals.

What Are the Risks to the State? The administration has expressed concerns that LSEs might be hesitant to procure large, long-lead time resources because of their high cost and risk as newer technologies. The Governor's proposal to have the state pursue procuring these resources instead essentially shifts this risk from the privately owned utilities (and their investors) to ratepayers and taxpayers. While this could help facilitate the development of these important resources, additional information is needed about the types of risks involved and their magnitude for the Legislature to determine if they are worth the potential benefits. Additionally, the Legislature could explore whether it might be able to adopt statutory "guardrails" or protections to help minimize potential risks to the state from pursuing unproven technologies. For example, this could include capping the amount of funding DWR could invest in newer and more uncertain types of technologies. The Legislature also could require DWR to prioritize certain types of resources that it believes to be safer types of investments, such as long duration storage projects. While the Governor's proposal would require DWR to utilize project evaluation criteria, whether these would be sufficient to adequately assess and limit the potential risks to the state is unclear.

What Is the Status and Effectiveness of Recent Investments? The state invested heavily in reliability efforts in the 2022-23 budget package and state departments still have not spent most of the associated funds. While the ESSRRP appears to have provided important reliability support during the September 2022 heat wave—primarily through utilizing natural gas plants—how it might provide support in future years still is unclear. More broadly, the Strategic Reliability Reserve programs have significant funds remaining in their balance. For example, as of February 2023, the ESSRRP had committed \$654 million for specific expenditures, but \$1.4 billion of funding the Legislature appropriated for 2021-22 and 2022-23 remained unspent. If the ESSRRP continues to be relatively slow to spend down its existing funds, asking ratepayers to provide the program with even more funds through the proposed capacity payments seems potentially unnecessary. Specifically, whether capacity payments in support of the ESSRRP—which LSEs would pass down to ratepayers—are needed seems questionable, given the availability of significant General Fund resources from the previous budget. Moreover, existing penalty requirements already are in place to help discourage LSEs from under-preparing, so it is also not clear that these payments are needed to incentivize compliance with planning mandates.

Is a Central Procurement Function Necessary Now? Should the proposals be adopted as budget trailer legislation, the new authorities they grant to the state would take effect upon enactment of the statute, even though the administration estimates it would not utilize the procurement option in the 2023-24 fiscal year. A rationale could exist for the state to take on central procurement authority to support the procurement of larger, long-lead time resources—particularly given that these are difficult for individual LSEs to procure on their own or even banded together. However, whether this new authority is needed urgently this year is unclear. The Legislature may want to consider deferring a decision on these proposals beyond the coming budget discussion time line or even beyond the 2023 session. Delaying action could sacrifice some time that could be spent beginning to develop these resources, but given the

many questions that remain about this proposal, taking more time to weigh the trade-offs could be valuable.

Should the Governor's Proposals Be Considered as Part of the Budget Process? The Governor's proposals represent significant policy changes for the state and they do not have a particularly strong nexus with the budget. The Legislature will want to consider the most appropriate venue for discussing and deliberating these proposed changes. For example, the Legislature could consider these proposals through the policy process, rather than as part of the budget process. Ultimately, ensuring it has the time and opportunities for developing a greater understanding, sufficient input from stakeholders, and thoughtful deliberation will be vital to ensuring it can make an informed decision on these important proposals. Given the policy implications of the Governor's proposals and the fixed constitutional time frame associated with adopting the annual budget—as well as the complicated fiscal decisions the budget process will involve this year, in the context of the General Fund shortfall—the budget process may not be the best venue for deliberating these proposals.

STAFF COMMENTS

Staff notes that the content of this trailer bill has been introduced in AB 1533 (Committee on Utilities and Energy) and AB 1373 (Garcia) and were heard in Assembly Committee on Utilities and Energy on April 13th.

Staff also notes that multiple of these provisions expand the state's regulatory authority over Community Choice Aggregators (CCA's) and publicly owned utilities, which can be seen as superseding local control of a local government's authority to make energy policy decisions on behalf of its residents.

Central Procurement Entity:

The trailer bill does not define diverse clean resources and provides a public contract code exemption. This could lead to preferred projects being selected despite costs or local community concerns. This could be addressed by adding definitions, narrowing the Public Contract Code exemption to specific provisions that are necessary, and limiting the procurement orders from naming overly specific projects or attributes and instead limiting procurements to those that are reliable in certain hours.

Additionally, this proposal could be amended to specify appropriate cost thresholds or clarify when customers will incur costs.

This Subcommittee may wish to ask:

- Why are the existing CPUC or CAISO backstop procurement authority not enough to ensure reliability?
- Practically, how will a central procurement entity avoid disrupting the procurement market for all load serving entities?

- Is the objective of the central procurement entity for the State to unlock markets for long-lead time resources like offshore wind and new geothermal resources?
- Does the Administration expect the central buyer will be needed in perpetuity, not as a bridge through the procurement challenges of this decade?
- What will the costs be to the state and ratepayers? How will you keep these as low as possible?
 - If DWR issues state bonds to front procurement costs, how will the state budget be held harmless?
- Is the CPUC's discretionary review of contracts the only guardrail in this proposal?

Capacity Payments for Strategic Reliability Reserve (ESSRRP):

- How do the capacity payments mechanism deter load serving entities from failing to meet their core reliability requirement (sufficient system resource adequacy resources)?
 - Why are the many existing regulatory mechanisms on electric reliability insufficient to deter reliance on the Strategic Reliability Reserve?
- How many LSEs would have been deemed deficient last summer?
 - Are load serving entities negligent in procuring required resource adequacy or is the market too tight and resulting in astronomical prices?
- Why does CPUC need an Administrative Procedure Act waiver for regulations to establish these payments?

Integrated Resource Plan (IRP) Enforcement:

- How do you envision enforcing the Integrated Resource Plan?
- Will this include financial penalties? If so, how does this help to keep ratepayer costs down?

Staff Recommendation: Hold Open.

0521 SECRETARY FOR TRANSPORTATION AGENCY

ISSUE 3: TRANSIT OPERATIONS FUNDING SHORTFALLS OPTIONS

This item is a follow up to the March 15, 2023, hearing on transit operators “fiscal cliff.” The LAO will present to the Subcommittee various options to consider to provide short-term fiscal relief to transit agencies, and to evaluate associated benefits and trade-offs.

PANEL

- Frank Jimenez, Senior Fiscal and Policy Analyst, Legislative Analyst’s Office
- Michael Pimentel, Executive Director, California Transit Association
- Chad Edison, Chief Deputy Secretary, Rail and Transit, California State Transportation Agency
- Steve Wells, Budget Analyst, Department of Finance

BACKGROUND

On March 15, 2023, Assembly Budget Subcommittee No. 3, discussed with the transit operators’ fiscal cliff. During the hearing, the Chair requested that the LAO work with the California Transit Association to various options to consider to provide short-term fiscal relief to transit agencies, and to evaluate associated benefits and trade-offs.

On February 27, 2023, the Assembly and Senate Transportation Committees held a joint hearing on “Short Term Crisis Long Term Transformation: How to Bring Back and Build Transit Ridership in California.” The hearing focused on the state of public transportation in California and how the state can partner with transit operators to both rebuild and transform the state’s transit systems. A copy of their background paper can be found at: [Transit Info Hearing Background Paper FINAL on Letterhead \(002\).pdf \(ca.gov\)](#).

LAO BACKGROUND AND COMMENTS

California has over 200 local transit agencies that operate across the state, delivering services to the public through modalities such as buses, trains, ferries, and paratransit vans. Transit systems generally are owned and operated by local governments, such as cities, counties, and local transit authorities. These agencies largely operate without much direct state involvement, apart from some funding.

State funding for transit comes from various fuel taxes and vehicle fees, as well as a portion of annual cap-and-trade auction revenues through the Greenhouse Gas Reduction Fund (GGRF). The state provides this funding to local agencies through several formula-based and competitive programs that support both operations and capital improvements. State formula allocations are largely based on population and agencies’ operating revenues. The federal government allocates most of its funding directly to transit agencies on a formula basis, with a smaller amount

awarded competitively. Federal formula allocations vary by program. Federal funding is primarily intended to support capital expenditures, but can be used for operations in certain circumstances, such as by rural transit agencies.

Figure 1

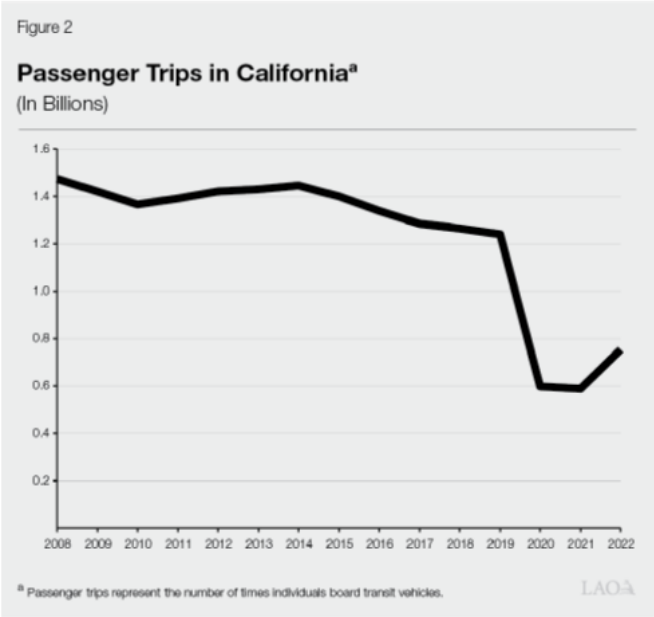
California's Transit Services Are Supported by Various Funding Sources

2019 (Dollars in Billions)

Source	Operations		Capital		Total	
	Amount	Percent	Amount	Percent	Amount	Percent
Local	\$3.6	44%	\$2.3	50%	\$5.9	46%
Fares and fees	2.1	26	0.1	2	2.2	17
State	1.6	19	0.9	20	2.5	20
Federal	0.9	11	1.3	28	2.2	17
Totals	\$8.2	100%	\$4.6	100%	\$12.8	100%

Transit ridership in the state had been on a gradual decline since 2014, but dropped dramatically when the pandemic began in 2020—falling by more than 50 percent compared to the previous year. As a result of these pandemic-related disruptions, transit agencies across the country projected significant declines in both fare revenues and state and local funds dedicated to transit—such as state fuel taxes and local sales taxes. In response, the federal government provided a nationwide total of nearly \$70 billion in operational relief to stabilize transit agencies' budgets, prevent layoffs, and maintain service levels. In most cases, these funds were distributed through existing formula-based programs. In total, California's transit agencies received \$9.8 billion in federal relief funds. As noted, the federal government historically has focused its funding for transit primarily for capital expenditures, however, it deemed this substantial and unprecedented operational support to be necessary to sustain agencies during the pandemic.

While state and local funding sources dedicated to transit generally have recovered to their pre-pandemic levels, ridership and corresponding fare revenues have not. In 2022, total ridership across California's transit systems was roughly 40 percent lower compared to 2019.



Statewide Operational Funding Shortfall Difficult to Estimate. Data the LAO reviewed from individual transit agencies suggest the overall statewide operational funding shortfall could be about \$300 million in 2023-24, increasing to about \$1.2 billion in 2024-25 and \$1.9 billion in 2025-26. The California Transit Association estimates that the overall statewide operational funding shortfall could total at least \$6 billion across the next five years. However, developing an accurate statewide number is difficult given that transit agencies calculate their individual estimates based on different assumptions. In particular, agencies use varying methodologies to project how their ridership levels might rebound in the coming years and may include different types of costs in their “baseline” operation totals.

Note: Numbers have been updated by the California Transit Association to reflect a shortfall of \$5.1 billion.

2023-24	2024-25	2025-26	2026-27	2027-28	5-Year Total
\$233,235,522	\$1,020,011,613	\$1,644,547,371	\$1,104,619,861	\$1,136,365,171	\$5,138,779,538

The LAO provides key considerations for providing short-term fiscal relief to transit agencies, given the significant funding shortfalls they are projecting for the coming years. The Legislature’s choices around potentially increasing support for transit agencies are complicated by the context of the multibillion-dollar budget deficit the state is facing, could be even larger than previously projected.

Figure 3

Key Considerations in Providing Relief to Transit Agencies

Key Goals

- **Time for Change.** Provide time for transit agencies to determine long-term modifications?
- **Equity.** Mitigate near-term equity impacts of potential fare increases and service reductions?
- **Climate Goals.** Ensure transit agencies are well-positioned to help state reduce greenhouse gas emissions?

Structure

- **Timing.** Provide relief in the budget year or in a future year?
- **Duration.** Provide relief on a one-time basis or over multiple years?
- **Magnitude.** Provide relief that fully or only partially covers operational funding shortfalls?
- **Repayment Requirements.** Allocate relief as a grant or as a loan?
- **Distribution.** Distribute relief based on need or via an existing formula?

Fund Source

- **Existing Capital Funds.** Allow transit agencies to use existing and planned transit capital funds for operations?
- **Existing Transportation Funds.** Shift funding from certain existing transportation funds and programs to support transit operations?
- **Greenhouse Gas Reduction Fund.** Redirect or provide additional funds from the Greenhouse Gas Reduction Fund?
- **General Fund.** Redirect funds from General Fund-supported programs?
- **New Revenues.** Temporarily raise state fuel taxes, vehicle fees, or other taxes to generate additional revenues?

Potential Accountability Measures to Accompany Relief

- **Future Planning.** Require agencies to conduct analyses of potential operational changes and future ridership?
- **Data Reporting.** Require agencies to collect and report additional data to the state?
- **State Oversight.** Increase state oversight and management of transit?

Potential Statutory Changes

- **Extend Suspension of Revenue-Related Provisions.** Continue pandemic-related program allocation adjustments and suspension of financial penalties?
- **Innovative Clean Transit Regulations.** Adjust time line for agencies to purchase zero-emission buses?

Funding Options:

The Legislature has several fund sources upon which it could draw to provide relief to transit agencies. Available options include: (1) providing flexibility over existing and planned transit funds; (2) redirecting funding from existing transportation funds and programs; (3) redirecting or providing additional funding from GGRF; (4) redirecting funding from the General Fund; and, (5) generating additional revenues. See page 9 of the LAO Letter to Assemblymember Bennett for more detail:

<https://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/LAO%20Letter%20to%20Asm.%20Bennett.pdf>.

STAFF COMMENTS

The Legislature may be positioned to provide short-term or long term assistance to transit agencies; however, it is uncertain if this fiscal year is the right time to consider that relief. Based on the self-reported data provided by the transit agencies, it is difficult to determine whether the fiscal cliff will occur this fiscal year or next. If the Legislature were to wait to act, it would provide time to further evaluate the numbers, and provide time to see if ridership will recover. There is no standardization or external validation of the data collected by the transit agencies and additional time may provide clarity of the problem and an equal evaluation of what transit agencies are facing when they describe their fiscal cliff.

Further, the state also is facing its own budgetary challenges. Funding estimates will be delayed due to the postponement of federal taxes from April to October 2023 and this delay will impact having a holistic view of the state revenues until the fall.

Will the Legislature have to address a one-time or ongoing transit fiscal cliff? The data provided by transit agencies shows an ongoing problem that one-time funding is not going to solve absent significant reforms. It is also difficult to know whether locals have exhausted all possible local solutions before turning to the state for help. Transit agencies have been slow to put accountability proposals forward to the Legislature with their budgetary ask and discussion around transit reforms including how to increase ridership begun before covid but have been delayed because of the pandemic.

The Subcommittee should consider the following when discussing the options by the LAO:

1. Should the state treat transit agencies different from other local governments that have budget shortfalls? How, for example, does the state treat school districts with such shortfalls?
2. What is the total cost for the fiscal cliff? Should relief for a fiscal cliff only include those facing imminent challenges or should relief be scoped to help all transit agencies? How do transit agencies demonstrate that they have exhausted all local solutions before asking for state funding?
3. The Legislature should discuss what short term relief looks like? Should relief be one-time one- year basis or should relief be provided over multiple years?
4. What accountability provisions need to be included to access state funds by local transit agencies and which state agency should oversee the accountability provisions? How should transit be reformed to bring back ridership?
5. What goals does the Legislature want to accomplish with transit, such as serving those individuals who are transit reliant and/ or addressing climate change, and should those goals vary by region? What those goals are will, in part, help the Legislature decide the path forward.

Staff Recommendation: Hold Open.
