

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

WEDNESDAY, MAY 8, 2013  
9:00 A.M. - STATE CAPITOL ROOM 447

<b>CONSENT CALENDAR</b>
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## CONSENT CONSENT CALENDAR

<b>Spring Finance Letter (SFL) Issues and May 1 Technical Letter</b>		
<b>Org Code</b>	<b>Department</b>	<b>Summary</b>
0540	Natural Resources Agency	Requests reappropriation of Proposition 84 Urban Greening 2010-11 project funds.
3340	California Conservation Corps	Requests \$163,000 in additional reimbursement authority so that the CCC can perform additional maintenance activities for Caltrans. All CCC expenses will be reimbursed by Caltrans.
3340	California Conservation Corps	Requests the reappropriation of construction funding for the Delta Service District Center. The project is scheduled to proceed to bid in 2013-14 and reappropriation would allow the project to continue.
3540	Department of Forestry and Fire Protection	Requests the reversion of the unencumbered balances of various capital outlay projects.
3760	State Coastal Conservancy	Requests reducing their state operations Sea Otter Funds by \$13,000 and increasing their local assistance Sea Otter Funds by the same amount; budget bill language (BBL) to allow ten percent of the Sea Otter funds for project-related state ops admin charges; BBL to allow 10 percent of the Violation Remediation Fund for administrative costs; reducing Prop. 84 appropriation by \$85,000; and increasing Federal Trust Fund authority by \$100,000 to pay staff costs. These technical adjustments are needed to realign the State Coastal Conservancy Trust Fund balances and the decreasing availability of bond funding.
3790	Department of Parks and Recreation	Requests \$575,000 in Harbors and Watercraft Revolving Fund funding and one position for controlling Spongeplants in the San Joaquin-Sacramento River Delta.
3790	Department of Parks and Recreation	Requests \$167,000 Harbors and Watercraft Revolving Fund for controlling water hyacinth infestations in the Sacramento-San Joaquin Delta and its tributaries, as well as the Suisun Marsh.
3860	Department of Water Resources	Requests various deletions due to the Ground Water Recharge and Water Conservation Loan and the Water Supply and Water Conservation Loan programs are concluding.
3860	Department of Water Resources	Requests reappropriation of various appropriations and the additional of provisional language that makes the funds available for encumbrance or expenditure through June 30, 2015 and other capital outlay appropriations until June 30, 2016.
3860	Department of Water Resources	Requests the extension of the liquidation period of various appropriations until June 30, 2015 and other capital outlay appropriations until June 30, 2016.
3860	Department of Water Resources	Requests the reversion of approximately \$183 million of various prior year funds that are not expected to be expended or encumbered in the budget year.

**VOTE-ONLY****0540 NATURAL RESOURCES AGENCY**

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**VOTE-ONLY ISSUE 1: OCEAN PROTECTION COUNCIL – OCEAN PROTECTION TRUST FUND APPROPRIATION (SFL)**

The Governor requests reappropriation of \$20,154,000, the balance of the 2010-11 Proposition 84 appropriation that funded the first round of Urban Greening projects approved by the Strategic Growth Council. The Governor's Budget included, and the Subcommittee approved, positions and support funding for the Ocean Protection Council to be consolidated with existing staff in the Secretary of the Natural Resources Agency's budget. This request shifts the local assistance funding to the Agency to conform to the Governor's Budget.

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**Staff Recommendation: Approve SFL**

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**3125 TAHOE CONSERVANCY**

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**VOTE-ONLY ISSUE 2: ENVIRONMENTAL IMPROVEMENT PLAN FUNDING – PROP. 84 (SFL)**

The Governor requests \$4,000,000 new Proposition 84 appropriation for acquisition or development projects that would help meet the State's commitment to implement the Environmental Improvement Program (EIP) for the Lake Tahoe Basin. The Conservancy's current appropriation for this purpose has an unencumbered balance of approximately \$6 million and expires on June 30, 2013. This proposal will revert the remaining balance to provide the necessary funds for a new appropriation.

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**Staff Recommendation: Approve SFL**

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**3360 CALIFORNIA ENERGY COMMISSION**

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**VOTE-ONLY ISSUE 3: APPLIANCE EFFICIENCY DATABASE MODERNIZATION (SFL)**

The Governor requests a one-time appropriation of \$2.4 million federal Petroleum Violation Escrow Account funds to modernize the Appliance Efficiency Database System (AEDBS) and associated systems. The California Energy Commission (CEC) appliance efficiency standards specify how manufacturers of energy or water using appliances report appliance performance to the CEC before appliances are sold in the state. All performance information reported is stored and available to the public through the Database.

This proposal will replace the current system with an automated system to allow manufacturers to electronically complete and submit necessary applications and appliance data. The U.S. Department of Energy approved funding the project and the California Technology Agency (CTA) worked with the CEC on a Feasibility Study Report (FSR).

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**Staff Recommendation: Approve SFL**

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**3480 DEPARTMENT OF CONSERVATION**

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**VOTE-ONLY ISSUE 4: STRATEGIC GROWTH COUNCIL – CONTINUATION OF GRANT PROGRAM (SFL)**

The Governor requests the following reversions and new appropriations for the Sustainable Communities Planning Grant and Incentive Program (SCPGIP), a program that is administered by the Department of Conservation (DOC) on behalf of the Strategic Growth Council (SGC):

- Revert and appropriate \$13.9 million in 2010-11 local assistance Proposition 84 bond funds to fund the third of three rounds of grants through the SCPGIP;
- Revert and appropriate approximately \$848,000 in Outreach, Data and Information state operations funds from 2010-11 and 2011-12; and,
- Provide a new appropriation of \$3,257,000 in Proposition 84 funds (with the balance of \$578,000 in 2016-17) to augment the third round of grants through SCPGIP.

These actions will allow for the release of unspent expenditure authority and will provide new appropriations that will consolidate bond funds from numerous enactment years for implementation and support of the efforts of the Strategic Growth Council.

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**Staff Recommendation: Approve SFL**

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**VOTE-ONLY ISSUE 5: ABANDONED MINE REMEDIATION (BCP)**

The Governor's Budget requests a baseline appropriation increase of \$500,000 to the Abandoned Mine Reclamation & Minerals Fund (AMRMF). These funds would be used for remediation activities on hazardous abandoned mines. The federal Bureau of Land Management (BLM) works with the department's Abandoned Mine Lands Unit (AMLU) to inventory mine features and hazardous abandoned mines. The AMLU received \$1.5 million in one-time American Recovery and Reinvestment Act (ARRA) funding from the BLM that runs out in June 2013. The Department requests to continue a higher level of activity from AMRMF, which is derived from the sale of gold and silver in the state.

**STAFF COMMENTS**

This item was held open by the Subcommittee at its March 20, 2013 hearing to consider whether the increase in revenue to the AMRMF should be better spent offsetting a portion of the almost \$5 million per year General Fund obligation for the Empire Mine remediation. The ARRA program was designed to infuse states with one-time federal funds to increase economic activity nationwide. These funds were not intended to create permanent increases in funding for programs. The Department of Parks and Recreation has an ongoing need for funding for a specific mine remediation (Empire Mine) that is both ongoing and expensive to the state.

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**Staff Recommendation: DENY Governor's Proposal. Instead, approve \$500,000 to the Department of Parks and Recreation to partially offset Empire Mine remediation General Fund costs in 2013-14.**

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**3600 DEPARTMENT OF FISH AND WILDLIFE**

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**VOTE-ONLY ISSUE 6: SCIENTIFIC COLLECTING PERMIT PROGRAM (SFL)**

The Governor requests \$517,000 (Fish and Game Preservation Fund) and 5.0 positions to fund implementation and administration of the Scientific Collecting Permits Program enacted by Chapter 559, Statutes of 2012. With this request, DFW will have dedicated staff to receive and review scientific permit applications, issue permits and manage the required submission of results.

Under current law, any entity proposing to take or possess wildlife for scientific or educational research must obtain a permit from DFW. Permit fees have been insufficient to support dedicated staff, resulting in applicants waiting up to two years for permits. This has impaired the ability of colleges and universities and other state agencies to plan research, compete for grants and contracts and conduct investigations. Funding this proposal will result in timely approval of the approximately 1,500 applications that are received each year.

**VOTE-ONLY ISSUE 7: BOND FUND REVERSIONS AND NEW APPROPRIATIONS (SFL)**

The Governor requests a one-time reversion of \$53.2 million as follows:

- \$1.1 million from Proposition 13;
- \$12.9 million from Proposition 50; and,
- \$39.2 million from Proposition 84.

In addition, the Governor requests the first year of new appropriations from these bonds as follows:

- Prop 13: \$545,000;
- Prop 50: \$7,216,000; and,
- Prop 84: \$20,077,078

The appropriation will allow the funding of various projects to start or continue uninterrupted and ensure expenses continue to be paid in a timely manner.

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**Staff Recommendation: Approve Issues 6 & 7**

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**3640 WILDLIFE CONSERVATION BOARD**

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**VOTE-ONLY ISSUE 8: PROPOSITION 84 PLANNING AND ACQUISITION FUNDING (SFL)**

The Governor's Budget requests:

- Reappropriation of \$10 million from the \$24.0 million (Prop. 84) originally appropriated in 2009 for grants to local agencies for the Natural Community Conservation Program.
- Appropriation of \$2,368,000 from the remaining balance of their Proposition 84 2007 Ecosystem Restoration and Wildlife Protection (ERAL) funding.
- Appropriation of \$1,279,000 from the unencumbered balance of its 2007 Proposition 84 appropriation for expenditures and grants for purposes of the Rangeland, Grazing Land and Grassland Protection Act.
- Appropriation of \$1.5 million from the unencumbered balance from a 2007 Proposition 84 appropriation for the Oak Woodlands Conservation Program.

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**Staff Recommendation: Approve SFL**

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**3720 CALIFORNIA COASTAL COMMISSION**

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**VOTE-ONLY ISSUE 9: COASTAL MARINE EDUCATION (BCP)**

The Governor's Budget requests \$357,000 from the Coastal Beach and Coastal Enhancement Account (funds derived from the sale of Whale Tail license plates) for grants to nonprofits and government agencies consistent with its strategic program.

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**Staff Recommendation: Approve as Budgeted**

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**3790 DEPARTMENT OF PARKS AND RECREATION**

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**VOTE-ONLY ISSUE 10: EMPIRE MINE STATE HISTORIC PARK (BCP)**

The Governor's Budget requests \$5.2 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine.

**STAFF COMMENTS**

Empire Mine State Park has cost the state \$36 million from bond funds, SPRF, and General Fund over the past six years due to toxic runoff from the mining operation conducted there over 50 years ago. The park was a gold mine for 100 years until it closed in 1956. The state acquired the property in Grass Valley, with more than 850 acres of forested land, mine buildings, and historic properties in 1975. The state park was the subject of a series of lawsuits and cleanup and abatement orders related to the park's 367 miles of abandoned and flooded mine shafts and toxic legacy from gold mining. The rulings required the state to clean up toxic runoff from the gold mining legacy. The state has been in negotiations with the former owner over the cleanup since the orders were issued; however, according to the latest budget proposal, mediation has stalled while cleanup is still required.

This item was held open by the Subcommittee at its March 20, 2013. For the reasons mentioned above, under the abandoned mine remediation proposal, staff recommends using the increase in revenue to the AMRMF to offset a portion of the almost \$5 million per year General Fund obligation for the Empire Mine remediation. In order to conform with that earlier action, staff recommends reducing the General Fund appropriation for this proposal by \$500,000.

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**Staff Recommendation: Reduce the General Fund appropriation for this proposal to \$4.7 million.**

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**VOTE-ONLY ISSUE 11: LIQUIDATION EXTENSION REQUESTS**

It is requested that one local assistance grant be reappropriated and two grants be appropriated anew as follows:

- City of Pasadena, \$381,153
- County of Modoc, \$21,674
- County of Sacramento, \$143,604

**VOTE-ONLY ISSUE 12: REAPPROPRIATION OF LOCAL ASSISTANCE PROJECT FUNDING (SFL)**

The Governor requests reappropriation of local assistance funding for two projects:

- \$426,000 in Proposition 12 funding for the YMCA of San Diego County: Border View Expansion Project; and,
- \$11.626 million in Proposition 40 funding for the Railroad Technology Museum Grant-Rehabilitation and Facilities Plan.

With regard to the Border View Expansion Project, while the project was completed in May 2010, due to an oversight the final encumbrance was not made prior to the expiration of the funding at the end of fiscal year 2009-10. With respect to the Railroad Technology Museum, the funds have not been expended to date because final agreements have not yet been reached with regard to the remediation of the Sacramento Railyards.

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**Staff Recommendation: Approve Issues 11 - 12**

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**3810 SANTA MONICA MOUNTAINS CONSERVANCY**

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**VOTE-ONLY ISSUE 13: MAINTAIN BASELINE SUPPORT BUDGET (BCP)**

The Governor's Budget requests the reversion of previous year's Prop. 84 bond funds and reduction of existing allocations by \$55,000 to maintain existing baseline support budget.

**VOTE-ONLY ISSUE 14: NEW APPROPRIATION/EXTENSION OF LIQUIDATION: VARIOUS BOND FUNDS (BCP)**

The Governor's Budget requests three separate extensions of liquidations from 2004 and 2006-08 (Prop. 12 and 40 bond funds) as well as a new appropriation for the remainder of Prop. 12 funds in the amount of \$43,000 to continue the existing approved strategic plan for the Conservancy.

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**Staff Recommendation: Approve Issues 13 & 14**

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**VOTE-ONLY ISSUE 15: REAPPROPRIATION/REVERSION OF PROP. 84 FUNDS**

The Santa Monica Mountains Conservancy (SMMC) expects to fund roughly \$4-5 million in projects and grants during 2013-14. SMMC's Prop. 84 capital outlay appropriations will be unavailable for encumbrance after 6/30/13. Without reappropriation or a new appropriation, the SMMC will not be able to fund these projects during 2013-14 and they would be delayed a year.

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**Staff Recommendation: 1) Revert the unencumbered balances in the 2007, 2008, 2009 Prop. 84 appropriations. This would free up a little more than \$6,585,000 of Prop. 84 authority that would otherwise be unavailable for expenditure in 2013-14. 2) Issue a new appropriation, 3810-301-6051, for the same purposes, with the standard period of availability for capital outlay – expires 6/30/16. 3) Revert \$25,000 of 2006 3810-301-6031.**

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**3830 SAN JOAQUIN RIVER CONSERVANCY**

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**VOTE-ONLY ISSUE 16: SAN JOAQUIN RIVER PARKWAY PROJECTS (BCP)**

The Governor's Budget requests \$1 million (reimbursement authority) to continue the Conservancy's capital improvement program for the benefit of the public. These Prop. 84 funds are appropriated to the Wildlife Conservation Board on behalf of the Conservancy.

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**Staff Recommendation: Approve as Budgeted**

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**3825 SAN GABRIEL AND LOWER LOS ANGELES RIVERS AND MOUNTAINS  
CONSERVANCY**

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**VOTE-ONLY ISSUE 17: PROPOSITION 50 REVERSION (BCP)**

The Governor's Budget requests to revert \$273,000 from 2006, a capital outlay appropriation to provide funding for program delivery consistent with bond requirements. This would maintain existing staffing levels and operating budgets.

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**Staff Recommendation: Approve as Budgeted**

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**3850 COACHELLA MOUNTAIN CONSERVANCY**

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**VOTE-ONLY ISSUE 18: ACQUISITION FUNDING – VARIOUS BOND FUNDS (SFL)**

The Governor requests the following for acquisition within or surrounding the Coachella Valley:

- \$343,000 Proposition 12 funds (the original 2009 appropriation expired on June 30, 2012);
- \$456,000 Proposition 40 funds (the original 2009 appropriation expired on June 30, 2012);
- \$3,258,000 Proposition 84 funds (the original 2009 appropriation expired on June 30, 2012); and,
- Reappropriate the 2010 Proposition 84 appropriation. The original appropriation was for \$5,454,000 and the Conservancy has encumbered all but \$384,000 to date.

The Conservancy's ability to encumber funds has been limited by the amount of land available. The Conservancy has identified more than 13,000 acres of potential acquisitions in the next three years. The new appropriations are proposed to replace the funding that expired at the end of the last fiscal year, and will be dedicated for the same purposes as the original appropriation.

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**Staff Recommendation: Approve as Budgeted**

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**3860 DEPARTMENT OF WATER RESOURCES**

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**VOTE-ONLY ISSUE 19: FLOODSAFE CALIFORNIA PROGRAM (BCP)**

The Governor's Budget requests continued FloodSAFE funding of \$98.1 million (augment \$83.1 million Prop 1E and \$15 million Prop 84 – continuous appropriation) as part of the multi-year approach to improving flood control.

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**Staff Recommendation: Approve as Budgeted**

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**3860 DEPARTMENT OF WATER RESOURCES****3600 DEPARTMENT OF FISH AND WILDLIFE**

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**VOTE-ONLY ISSUE 20: SALTON SEA RESTORATION (BCPs)**

The Governor's Budget requests an increased appropriation of \$12.1 million (Proposition 84 bond funds) earmarked for the Salton Sea for the restoration of between 800 and 1,200 acres of habitat. The proposal would implement a pilot project to create habitat through the construction of ponds at sites where the sea bed is exposed because of evaporation. The proposal requests reappropriation of funds to provide additional funding for the restoration project, which is estimated to cost approximately \$28 million to complete.

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**Staff Recommendation: Approve as Budgeted**

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**3885 DELTA STEWARDSHIP COUNCIL**

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**VOTE-ONLY ISSUE 21: REIMBURSEMENT AUTHORITY – DELTA SCIENCE PROGRAMS (SFL)**

The Governor requests an increase of \$6 million in reimbursement authority for an interagency agreement between the Department of Water Resources and the Council. This action conforms to the DWR request to extend the liquidation period for Proposition 84 funds appropriated for research activities related to the Sacramento-San Joaquin Delta.

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**Staff Recommendation: Approve SFL**

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## ITEMS TO BE HEARD

### 8660 CALIFORNIA PUBLIC UTILITIES COMMISSION

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#### ISSUE 1: SENATE SUBCOMMITTEE NO. 2 – CONFORMING ACTIONS

The Senate Subcommittee No. 2 took a series of bold actions at its April 25<sup>th</sup> hearing related to CPUC's budget, trusts and entities created by the CPUC, and the Division of Ratepayer Advocates.

**CPUC Budget Proposals.** Similar to this Subcommittee's actions, the Senate Subcommittee rejected all but one CPUC's budget requests. However, because the CPUC acknowledged during the Senate hearing that it currently has 10 budget control officers in program positions, the Senate Subcommittee took action to require the CPUC to absorb the positions by shifting either vacant positions or converting program positions to the budget office immediately.

**Trusts and Entities Created by the CPUC.** The Senate Subcommittee also took several actions related to trusts and entities created by the CPUC. The following is an excerpt from the Senate agenda on this issue.

***Background.** The CPUC is entrusted with rate-making at investor-owned utilities. Within this capacity, the CPUC reviews current policy and attempts to set rates in a manner that is forward thinking and in compliance with the terms of state law. In recent years, the Commission has extended its reach a number of times beyond its rate-making capabilities, spending considerable time and effort to create entities that use ratepayer funds but are outside the state budget process. It is common for Commissioners or their designees to serve on these nonprofits as board members, officers, or advisors. In many of these cases, the Legislature has stepped in to stop these practices. This issue was highlighted in the adoption of a report annually to the legislature (PUC Section 326.5) in 2008, wherein the Legislature required the Commission to report on expenditures from specific non-budget entities established by the CPUC.*

***Lawrence Livermore National Laboratory (\$150 Million Project).** In July 2011, the CPUC sought authority to increase customer rates to recover more than \$150 million for research conducted by Lawrence Livermore National Laboratory (LLNL) for a five-year cooperative research and development agreement entitled "California Energy Systems for the 21st Century Project," (CES-21 Project). The CPUC issued a decision in late 2012 authorizing the utilities to enter into the agreement, and to provide the CPUC with a list of proposed projects annually. The utilities would be exempt from anti-trust laws. There was no competitive solicitation for this project or consideration of other currently pending proposals at both the Legislature and the CPUC, such as the Public Goods Charge and the Electric Program Investment Charge.*

**Commissioners Directing Programs Outside Ratemaking Process.** *It is clear from the public record of the CPUC proceedings that this proposal was not only directed by the CPUC, but that for more than a year prior to the application's submission, the president of the CPUC worked with the utilities and LLNL to develop the proposal. The president, as revealed in now-public email records, oversaw the shaping of the proposal and calling it the "overall grand project with all three energy utilities." The entirety of this project would be undertaken outside the State's budget process, with utilities required to send their contributions directly to LLNL, with no state review.*

*Upon developing the proposal, the president of the CPUC assigned the approval of this project to himself. He then approved the proposal in its entirety.*

**Circumvention of Legislative and Budget Process.** *The CPUC has crossed the line between budget and policy, both of which are the purview of the Legislature. The CPUC in its quasi-legislative capacity, has attempted to usurp the Legislative branch's prerogative to determine what future projects and policies make sense. The major five-year proposal described above should be vetted in the Legislature, either in a policy bill or in the budget process. The manner in which this project was approved would circumvent both of these processes and effectively challenge the notion of checks and balances.*

**Staff Comments.** *As will be discussed in a later agenda item, this is not the first or the only proposal the Commission has approved recently that circumvents Legislative authority. At the same time, the CPUC annually requests multiple positions to continue its work. It would seem that the establishment of these programs and policies that circumvent legislative authority, including all research, proceedings and Administrative Law Judge time should be considered an extracurricular activity of the CPUC and as such, subject to budget reduction. Not only should the use of CPUC staff and time be subject to legislative review, they also should be subject to Legislative approval through the policy process.*

#### STAFF COMMENTS

The Senate took the following actions:

- 1) APPROVED a request to the Fair Political Practices Commission to review the CPUC practice of directing, adjudicating and approving the establishment of nonprofits for possible conflict of interest or bequest violations;
- 2) APPROVED trailer bill language halting the establishment of California Energy Systems for the 21st Century Project (Lawrence Livermore) and to refund all ratepayer funds that have been directed to this project;
- 3) APPROVED trailer bill language that prohibits the CPUC from creating non-state entities through decisions, settlements, rules, orders, or mergers without a legislative approval process;

- 4) APPROVED trailer bill language that prohibits the CPUC from awarding contracts to non-profits in which a sitting commissioner serves as an employee, officer, or director; and,
- 5) APPROVED trailer bill language that prohibits CPUC commissioners from serving on commission-established non-state entities.

The Senate agenda makes compelling arguments for the above actions. Staff recommends that the Subcommittee consider expanding the Senate action to prohibit CPUC commissioners from serving on commission-established non-state entities to include CPUC executive staff.

Both House of the Legislature have called for increased controls and oversight of the CPUC this year. The chairs of the Senate Budget Subcommittee No. 2, Assembly Budget Subcommittee No. 3 and the chairs of both the Assembly and Senate energy and utilities committees wrote a letter to the Joint Legislative Audit Committee recommending further audits of the CPUC's external auditing functions. Specifically, the question of balancing accounts and monitoring of the Investor Owned Utility funds was questioned. Further, this Subcommittee has taken numerous actions to strengthen the CPUC watchdog, the Division of Ratepayer Advocates, as well as calling on the Department of Finance, Office of State Audits and Evaluations to conduct a further fiscal audit of the CPUC programs.

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**Staff Recommendation: Conform with Senate actions as outlined above, plus expand #5 to include CPUC executive staff.**

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**ISSUE 2: ZERO BASE BUDGETING**

Similar to the issued considered by the Subcommittee on April 10, 2013 with regard to Caltrans' budget, the Subcommittee may want to consider directing the CPUC to submit, as part of the 2014-15 Governor's Budget, a zero-based budget. Given the concerns raised above regarding the CPUC circumventing the legislative and budget process and the serious breakdown of fiscal controls revealed in the OSAE's audit of CPUC's budget process, zero-basing the CPUC budget would allow the Legislature to step back and reevaluate the base funding requirements of all CPUC program implementation. In other words, it would require the CPUC to justify all expenditures for the entirety of its budget going forward, after the budget year. This exercise would enable the Legislature to better control the overall size and direction of the CPUC's programs, including how funds are being allocated and prioritized for particular programs and functions, as well as how the proposed expenditures will further ensure that safety is integrated into every aspect of the CPUC's activities.

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**Staff Recommendation: Require the CPUC to submit, as part of the 2014-15 Governor's Budget, a zero-based budget.**

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**ISSUE 3: SUPPLEMENTAL REPORTING REQUEST**

The Subcommittee will consider adopting additional reporting requirements to provide information for forthcoming oversight hearings.

**STAFF COMMENTS**

Subcommittee #3 intends to revisit several CPUC issues discussed this year in oversight hearings this summer, including safety. The CPUC recently provided the Committee with a report entitled "Safety and Actions Culture Change Status Report to the Legislature." Staff recommends that additional information be requested so that the hearing can discuss tangible timelines, staffing, and accountability for safety improvement efforts outlined in that report.

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**Staff Recommendation: Adopt Supplemental Reporting Language**

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**3600 DEPARTMENT FISH AND WILDLIFE****ISSUE 1: CONSERVATION AND MITIGATION BANKING (SFL)**

The Governor requests \$1.3 million (newly established Conservation and Mitigation Bank Fund dedicated account within the Fish and Game Preservation Fund), and 9.0 positions to fund the first phase of the Conservation and Mitigation Banking Program established through SB 1148 (Pavley), Chapter 565, Statutes of 2012. Additional funding and positions will be provided in the subsequent two fiscal years, contingent on the receipt of projected revenues, with total funding of \$3.068 million and 23 positions by June 30, 2016.

**BACKGROUND**

A conservation or mitigation bank is a publically or privately owned and operated habitat mitigation site that is to be conserved and managed in accordance with a written agreement with the Department that includes provisions for the issuance of credits that represent important habitats on site, including habitat for threatened, endangered or other special status species. Banks: 1) allow public agencies and developers to meet their mitigation needs in advance of project impacts by providing certainty of pre-approved lands as mitigation sites; 2) facilitate partnerships between the Department and landowners by providing landowners economic incentives to protect natural resources; and 3) provide long-term protection and management of wildlife habitat. Banks not only take advantage of economies of scale otherwise unavailable to individual mitigation projects, but they can also contribute to acquisition of regional conservation reserves and priority actions that can lead to the conservation of important habitats and habitat linkages. SB 1148 established the Conservation and Mitigation Banking Program, which specifies a process and timeline for DFW review of bank-related documents and authorizes the Department to charge and adjust specified fees to cover reasonable costs to the DFW of reviewing and approving bank-related documents.

**STAFF COMMENTS**

This proposal provides staffing to initiate and establish the Department's new Program that has a mandate to plan, review, approve, establish, monitor, and oversee conservation mitigation banks in the state. The Governor's proposal provides a realistic and flexible timeframe to gradually establish a stable functioning program that will help protect critical fish and wildlife resources.

**Staff Recommendation: Approve SFL**

**ISSUE 2: AGRICULTURE AND GRAZING LEASES (SFL)**

The Governor requests authority to spend \$2.5 million from the Wildlife Restoration Fund (WRF) generated from agriculture and grazing leases for management and oversight of state-owned land. Trailer bill language clarifies that revenue generated from leases is authorized to be used to improve and maintain the intrinsic and ecological values of wildlife areas, ecological reserves and other DFW managed lands.

**BACKGROUND**

The Subcommittee heard the issue of improper use of lease proceeds at its April 3, 2013 hearing. To recap, in December 2012, the Bureau of State Audits (BSA) found that a supervisor with DFW improperly implemented an agricultural lease agreement. The DFW undertook a broader review of its agricultural leases and grazing permits to determine if the problems identified by BSA, or any similar situations, are occurring in other areas in the Department. This Administration-driven review discovered new "systemic violations of law" with the department's grazing and agriculture lease program.

In light of what the DFW identified in its review, the Department has asked the Natural Resources Agency to act as an independent overseer on this matter. Additionally, at the urging of Legislators, the Department directed its General Counsel to meet with the Chief of Enforcement at the Fair Political Practice Commission to share information regarding its investigation.

On March 7, 2013, the DFW distributed its Agricultural Lease, Grazing Permit, and Partnership Agreement Policy to Department staff. It outlines the steps staff must complete prior to entering into any such agreement. Further, it prohibits "in-lieu of" payments that fail to comport with state laws and policies and directed that all lease payments or other funds be correctly deposited in appropriate accounts within the State Treasury. The Committee to action to direct DFW to provide a proposed statutory amendment to allow lease revenues to be used directly for management of leased lands.

**STAFF COMMENTS**

This proposal responds to Legislative concern and direction to allow funds derived from agriculture and grazing leases to be used for the management of those lands. The DFW estimates that \$2.5 million per year will be deposited into the WRF from leases; therefore, this revenue neutral proposal would not adversely affect the condition of the fund.

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**Staff Recommendation: Approve SFL**

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**3860 DEPARTMENT OF WATER RESOURCES****ISSUE 1: LAKE PERRIS DAM AND RECREATION AREA (BCP)**

The Governor's Budget requests \$37.7 million from Proposition 84 for the state's share of costs associated with the repair of the foundation of Perris Dam to ensure compliance with state dam safety guidelines – an action that would allow for the return of the lake to its historical operating elevation.

The estimated total cost of this project in the January Budget was \$287 million. In the intervening time period, and in consultation with the Division of Safety of Dams and representatives of the state water contractors, DWR has revised the costs of the retrofit down to \$141 million. With the overall reduced project cost, the total state share identified by DWR is \$46.9 million, with \$37.7 million requested for FYs 2013-14 and 2014-15.

**BACKGROUND**

Lake Perris is a terminal reservoir at the southern end of the State Water Project (SWP), which stores water for delivery to urban users in the Metropolitan Water District of Southern California, Coachella Valley Water District, and the Desert Water Agency. Additionally, Lake Perris is a state park with roughly 600,000 visitors each year. In 2005, seismic safety concerns were identified in the foundation of Perris Dam and DWR was directed by the state's Division of Safety of Dams to lower the water level as an interim step to reduce the risk while a broader remediation plan was developed.

In 1961, the Davis-Dolwig Act (Chapter 867, Statutes of 1961 (AB 261, Davis)) memorialized the requirement that the SWP should provide benefits to the state in the form of recreational opportunities and enhanced fish and wildlife elements. In doing this, it also declared these costs to be the responsibility of the state. As such, elements of the SWP - the operational costs of which is primarily the responsibility of the state's water contractors to pay – do have components that require state funding.

**LAO Concerns with Proposal.** In its February review of the Governor's Budget, the LAO had identified three primary concerns that merit Legislative consideration. Specifically, the LAO's analysis raised concern over the total project costs, the state's share of costs, and ultimately raised the question of whether a cheaper alternative existed.

As noted above, since the release of the Governor's 2013-14 Budget, DWR has reduced the overall costs of the project from \$289 million to just under half that amount (\$141.1 million) through continued design review of the project and working with the engineers of the state water contractors who are responsible for paying the majority of the project's costs. With the reduction in total project costs, the state's share of costs have reduced from an initial \$92 million to the current \$46.9 million.

**STAFF COMMENTS**

As part of the multi-year settlement of the Davis-Dolwig funding issues in the last budget cycle between the Administration and the Legislature, all parties agreed that the Lake Perris Dam remediation issue would be put over until this year for discussion.

This proposal remediates an unacceptable seismic safety risk to those communities downstream of the lake. It also allows DWR to refill Lake Perris to its former maximum operating pool elevation level. This not only maximizes water storage south of the Sacramento/San Joaquin Delta, but also allows for the return to full operation and maximum use of the recreational facilities that include boating, swimming, camping, and stocked sport fishery.

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**Staff Recommendation: Approve Revised Budget Proposal**

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**ISSUE 2: SALTON SEA FEASIBILITY STUDY & LOCAL GRANTS**

The Salton Sea, California's largest inland lake, is an important natural resource for California. The Sea is a key stopover on the Pacific Flyway and provides habitat for more than 400 species of birds – approximately two-thirds of all bird species in the continental United States. Unfortunately, the future of the Sea is highly uncertain. As part of an agreement to transfer water to San Diego and reduce California's overuse of Colorado River water, water flowing to the Sea from the irrigation of agricultural fields in the Imperial Valley will be significantly reduced in 2017. The reduction of 300,000-acre feet annually of water to the Sea will expose as much as 134 square miles of sea bed to the prevailing winds by 2035. That is an area three times larger than the lakebed exposed in Owens Valley. The Imperial Valley already suffers from severe air quality problems – with a childhood asthma rate three times higher than any other part of the state – and does not need more dust storms, and certainly not at the magnitude, we will see from such a large exposed area.

Besides becoming an air quality disaster, the loss of this water would accelerate the Sea's path of biological collapse, creating a brine sink of limited value to birds. The existing fish population would crash and become a tiny remnant near the river mouths, seriously reducing the food base for fish-eating birds. Further, the choking dust storms will also create serious issues for birds.

The Natural Resources Agency reported in its 2009 Environmental Impact Report that the estimated cost of the proposed restoration plan was over \$8 billion -- even taking no action toward the Salton Sea would cost the state over \$1 billion. So far, several million dollars in bond funds have been expended on limited habitat restoration projects. However, the plan lacks a long-term funding strategy and has never been adopted by the Legislature.

In 2012, the Legislature appropriated \$2 million from the Salton Sea Restoration Fund to pay for a restoration funding and feasibility study. However, the Governor used his line-item veto power to veto that appropriation. In his veto message, the Governor instructed the Department of Fish and Wildlife to work with stakeholders on other options for such a study.

**STAFF COMMENTS**

**Feasibility Study Proposal.** Given the number of unanswered questions with regard to funding and long-term planning, staff again proposes a \$2 million appropriation (Salton Sea Restoration Fund) be allocated to the Salton Sea Authority (Authority) for a funding and feasibility study. The study would fill in the missing piece to the Sea's restoration plan by identifying potential funding sources and financing options to help determine financially sustainable restoration projects.

In the six years since the Programmatic Environmental Impact Report for Salton Sea Restoration was prepared, prolonged drought has impacted water supply assumptions, the recession has called into question the ability of the economy, and the state and federal governments, to sustain the robust restoration alternatives proposed by the Report. At the same time, new opportunities such as renewable energy development have arisen. Moreover, the funding plan called for by the QSA legislation was limited to existing bond funds and a discussion of broad concepts such as potential user fees, public/private partnerships, and possible future bond acts. As a result, policy makers do not currently have a strong long-term financing foundation upon which future restoration can be built.

The proposed study would undertake a more detailed analysis of state, local and federal funding opportunities that can support restoration of the Sea, including funding opportunities derived from local development of energy resources. The goal is to provide decision makers a reliable factual basis to answer two key questions: 1) What future restoration work can realistically be done; and, 2) What is the best course of action given the limited funding that may be available in the foreseeable future?

The funding and feasibility study will be designed to address the following objectives:

- Evaluation of funding opportunities for near-term habitat improvement measures that expand upon the State's current Species Conservation Habitat (SCH) project;
- Thorough review of the feasibility and cost of existing alternatives and their components;
- Identification of any other feasible options which may be incorporated to help fund the project such as renewable energy and desalination;
- Identification of components of existing alternatives that may be used in various combinations to form a near-term plan;
- Development of long-term strategies; and,
- Identification and development of funding and financing options.

**Continuation of Salton Sea Financial Assistance Program.** In addition, staff suggests a \$3 million appropriation from the Salton Sea Restoration Fund for purposes of funding a second year of the Salton Sea Financial Assistance Program (FAP). The Salton Sea Financial Assistance Program (FAP) is funded by the Department of Fish and Wildlife and administered by the DWR. The FAP is focused on funding projects that improve habitat for fish and wildlife at the Salton Sea, while also benefiting air quality by covering exposed playa with habitat.

After spending three years setting up the program, DFW and DWR plan to discontinue the FAP after only one year of activity. Given the considerable response the program received from locals (over \$10 million in proposed projects), and its ability to dramatically, and cost-effectively, build habitat for fish and wildlife while controlling dust emissions from exposed playa, staff believe that allowing the FAP to run for an additional year makes sense and will save the state millions in the long run.

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**Staff Recommendation: 1) Approve \$2 million (Salton Sea Restoration Fund) for a funding and feasibility study. 2) Draft Budget Bill language to specify that the report be conducted by the Secretary, in coordination with the Authority. Such funds shall be appropriated to the Secretary, who shall then contract with the Authority to do the study. 3) Approve \$3 million (Salton Sea Restoration Fund) to fund a second year of the Financial Assistance Program.**

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**3885 DELTA STEWARDSHIP COUNCIL**

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**ISSUE 1: DELTA PLAN IMPLEMENTATION (SFL)**

The Governor requests a permanent General Fund augmentation of \$777,000 to replace expiring bond funds and maintain the five existing level of positions in order to begin implementation of the Delta Plan.

**BACKGROUND**

The Delta is the hub of the state's major water supply systems, conveying water to where it is needed most for municipal, agricultural, and environmental purposes. The Delta is also the largest estuary on the West Coast supporting a vast array of birds, fish and wildlife and home to a half million people.

The Delta Reform Act established a seven-member appointed Council with a mandate to develop and implement the Delta Plan (Plan), a comprehensive, legally enforceable long-term management plan to guide state and local actions related to the Delta. Since 2010, a \$16 million appropriation from Prop. 84 has supported preparation of the Plan.

The Delta Stewardship Council (Council) released a final draft of the Delta Plan and a corresponding draft Environmental Impact Report in the fall of 2012. After the Council releases and considers written comments on the draft Report and holds public hearings regarding proposed regulations to implement the Plan, it will be adopted formally in the spring 2013.

**STAFF COMMENTS**

This proposal addresses the need for a permanent funding source for the Delta Plan Division. It ensured that staff will be available to: consult with state and local agencies as they prepare sustainable community strategies; certify that their proposed action are consistent with the Plan; and support the Council in its review of appeals of the Bay-Delta Conservation Plan. The proposal is consistent with the use and purpose of the General Fund in that the objectives of developing, adopting, implementing and amending the Delta Plan benefit the state by addressing long-term water supply reliability and restoration of the Delta's ecosystem.

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**Staff Recommendation: Approve SFL**

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**3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL****ISSUE 1: HAZARDOUS WASTE FEE REFORM (SFL)**

The Governor proposes to: modify the hazardous waste fees in the Hazardous Waste Control Account (HWCA) to simplify the hazardous waste fee system; align the fees with public policy and program objectives; assess the fees more fairly on those who generate wastes; and provide more stability to the funding source for Department of Toxic Substances Control's (DTSC) Hazardous Waste Management Program. Specifically the proposal:

- Eliminates four fees: Disposal Fee, flat rate Permitting Activity Fees, Environmental Protection Agency (EPA) Identification Verification Fee and the Manifest User Fee;
- Revises two fees: changes the current tiered Generator Fee to a per ton Generation and Handling Fee, revises the per ton fee rate from an average of \$50 per ton to \$25.70 per ton (\$23.27 per ton for used oil), and expands the universe of businesses required to pay the fee; and makes minor changes to Facility Fees

**BACKGROUND**

DTSC's Hazardous Waste Management Program is funded primarily from the HWCA. Many of DTSC's core efforts, including hazardous waste facility inspections, criminal investigations, enforcement of hazardous waste laws, and other hazardous waste-related activities are funded by HWCA. DTSC is responsible for ensuring hazardous wastes generated are managed safely and properly to prevent harm to public health and the environment. HWCA is supported primarily by hazardous waste fees and corrective action/cost recoveries.

The hazardous waste fees come from a complex system of fees paid by a broad spectrum of businesses that generate or manage hazardous wastes. This fee system, which is vital to allowing DTSC to continue to fulfill these essential public health and environmental protection responsibilities, is facing challenges due to changing businesses and industrial trends.

**Impacts on Other Agencies.** This proposal will impact the Board of Equalization (BOE). BOE has the responsibility for collecting the majority of DTSC's fees. The Hazardous Waste Control Account Fee Reform proposal will eliminate two of the fees currently collected by BOE; Disposal Fee and Activity Fee. In addition, this proposal will increase the number of businesses required to pay a Generation and Handling fee, which will increase the number of accounts BOE will be required to maintain. DTSC estimates that the number of generation and handling accounts BOE must oversee could rise by over 3,000 or 61 percent.

This proposal will also impact the California Department of Resources Recycling and Recovery (CalRecycle). CalRecycle implements the Used Oil Recycling Program that develops and promotes the collection and recycling of used oil, to provide an alternative to the illegal disposal of used oil. Through its program, CalRecycle has established a statewide network of collection centers and performed outreach efforts to inform and motivate the public to recycle used oil. DTSC has been working closely with CalRecycle to ensure that DTSC's Hazardous Waste Control Account Fee Reform proposal does not adversely impact the generators that accept used oil from the public. To avoid unintended impacts on the program, DTSC has included language in its Fee Reform proposal that would exempt certified collection centers from paying the Generation and Handling Fee on used oil they collect from the "do-it-yourself" oil changing public.

**Impacts on Fee Payers.** This proposal will directly impact businesses generating and handling hazardous waste in California. Hazardous Waste Land Disposal Facilities should support the aspect of the Hazardous Waste Control Account Fee Reform that eliminates the Disposal Fee as generators may find it more economical to dispose of hazardous waste in California than out-of-state. Some hazardous waste generators will find that the revised Generation and Handling Fee will reduce their fees because the current tiered Generator Fee system has the largest generators paying the smallest per ton fee. Currently a large quantity generator of hazardous waste, 2,000 tons or more, would pay an effective rate of \$41.73 per ton at 2,000 tons while businesses generating more than 5 tons and less than 2,000 tons pay effective per ton rates ranging from a low of \$8.71 per ton (those generating 24 tons) and a high of \$83.46 per ton (those generating 50, 250, or 500 tons). The average per ton rate of the current system is \$50 per ton.

Under the proposed fee system, all generators would pay \$25.70 per ton. Used oil made up 20 percent of the total hazardous waste disposed in 2011 and is very labor intensive for DTSC with respect to complaints, inspection, permitting and corrective action. Businesses generating and handling used oil do not currently pay generator fees. Under the proposed Hazardous Waste Control Account Reform, these businesses will pay a reduced Generation and Handling Fee of \$23.27 per ton when they take the used oil to a recycling or transfer facility, otherwise they will pay the full fee. The fee is reduced to take into account \$720,000 DTSC receives annually in funding from the Used Oil Recycling Account to inspect and enforce used oil transfer facilities and used oil re-refineries.

<b>STAFF COMMENTS</b>
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The Governor's proposed restructuring is necessary to set fee levels to cover the cost of the hazardous waste management program, more fairly distribute the fee burden to the regulated fee payers, and provide stability and sustainability in the HWCA.

Since FY 2000-01, the projected HWCA revenue from fees has never been sufficient to cover the projected costs of authorized Hazardous Waste Management Program expenditure authority. As a consequence, to fund DTSC's Hazardous Waste Management Program, a significant fund balance has been required.

**Generator Fee Reform.** The most significant change included in the proposed fee reform is in the Generator Fee. Generator fee "tiers" are eliminated and replaced with a uniform rate per ton. Under the current generator fee, businesses pay an effective per ton fee ranging from a low of \$8.71 per ton to a high of \$83.46 per ton, with an average rate of \$50 per ton. The higher per ton rates are paid by businesses at the lower end of one of the seven tiers. For example, a business generating 499 tons in a year would pay a generator fee of \$20,865 in 2013—this equates to an effective rate of \$41.81 per ton. A business generating 500 tons would pay a generator fee of \$41,730 or an effective rate of \$83.46 per ton. This significant increase in the generator fee could be an incentive for some generators to store hazardous waste at their facility for longer than authorized.

Businesses generating 2,000 tons or more per year pay a generator fee of \$83,460. There is no incentive to reduce generation of hazardous waste, as the generator fee does not increase once the 2,000 ton cap is reached.

**Proposed Generation and Handling Fee.** The Generator fee will be revised and renamed the generation and handling fee, to be assessed on a per ton basis. DTSC proposes to set the initial generation and handling fee at \$25.70 per ton (\$23.27 per ton for used oil). These rates represent a revenue neutral proposal of \$ 36,850,667.

**Exemptions from generator fees.** The existing generator fee structure contains specific exemptions and fee accommodations for specified circumstances. DTSC's proposal manages those as follows:

- Eliminates exemptions for:
  - Cap of 2,000 tons per generator per site per year. (provides an incentive to reduce the generation of hazardous waste)
  - Treatment, storage and disposal facilities and consolidated transporters (these businesses are regulated by DTSC, generate hazardous wastes in their operations, create workload for DTSC, and should pay the fees into the HWCA)
  - Used oil will be charged a reduced fee per ton (provides an incentive to reduce the generation of used oil)
  - Refunds of generator fees paid to Certified Unified Program Agencies. Currently this exemption is only operative if DTSC determines that it has a significant fund balance in HWCA to allow the refunds to be paid. This exemption has never been used, as DTSC has never had an excessive fund balance in HWCA.

- Creates an exemption for:
  - Used oil collected by used oil collection centers certified by CalRecycle (encourages the use of these collection facilities by the public to reduce illegal disposal of used oil)

**Activity Fee Reform.** The existing hazardous waste fee structure allows a permit applicant to choose one of two options: 1) to pay a flat fee established in statute to pay for DTSC's review and evaluation of its application; 2) to enter a reimbursement agreement with DTSC to pay for DTSC's actual costs in reviewing and evaluating its application. The flat fee rates, when initially established in statute, were thought to be sufficient to pay for DTSC's review costs. In DTSC's experience, however, its costs have significantly exceeded the revenues collected through the current activity fee. Rough estimates show that the activity fee covers only about one third of DTSC's actual costs.

DTSC's fee reform proposal would eliminate the flat activity fee option, and require all permit applicants to enter a reimbursement agreement with DTSC to pay DTSC's actual costs.

**Elimination of the Disposal Fee, Manifest User Fee, and EPA ID Verification Fee.** Due to the complexity of the fee system, most generators, in addition to paying the generator fee, also pay disposal, manifest user, and EPA ID verification fees. Many facilities, in addition to the annual facility fee, pay the manifest user, EPA ID verification and disposal and activity fees. The existing fee system is unnecessarily complex, and is more costly and burdensome in terms of collection and recordkeeping for both DTSC and the fee payers. DTSC's fee reform proposal would eliminate the Disposal, Manifest User, and EPA ID Verification Fees.

This proposal simplifies the hazardous waste fee system, reduces the number of different fees paid by most hazardous waste generators, facilities, and transporters, creates a more equitable fee system, and allows DTSC to be reimbursed for its full costs.

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**Staff Recommendation: Approve SFL**

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