AGENDA

ASSEMBLY BUDGET COMMITTEE NO. 3 RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR
WEDNESDAY, APRIL 9

9:00 A.M. - STATE CAPITOL ROOM 447

VOTE-ONLY CALENDAR

ITEMS TO BE HEARD

VOTE-ONLY

0555 SECRETARY FOR CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

VOTE-ONLY ISSUE 1: REFINERY INFORMATION OFFICER AND EMERGENCY COORDINATOR

The Governor's Budget requests $110,000 (Unified Program Account) to fund a permanent position at the Office of the Secretary for Cal-EPA to coordinate Cal-EPA boards, departments, and offices' emergency preparedness and response activities related to refineries. This position would serve as liaison for the State Emergency Plan for hazardous materials response and debris management. The position would coordinate hazardous materials emergency response with local certified Unified Program Agencies (CUPAs), and federal organizations for rapid response.

STAFF COMMENTS

Staff has no concerns with this proposal.

Staff Recommendation: Approve as Budgeted

3970 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

VOTE-ONLY ISSUE 2: INITIAL TRANSITION FOR SUPPORT OF DORIIS

The Governor's Budget requests two limited term positions and $258,000 in additional authority to begin transition from contractor staff to State staff support of the Division of Recycling Integrated Information System (DORIIS). This proposal yields an annual savings of approximately $250,000.

VOTE-ONLY ISSUE 3: INCREASE BEVERAGE CONTAINER RECYCLING FUND (BCRF) REVENUE THROUGH INCREASED AUDIT COVERAGE

The Governor's Budget proposes five, three-year limited term positions and $566,000 (BCRF) to increase audit coverage of Beverage Manufacturers and Distributors to better protect the integrity of the BCRF. The emphasis will be on collecting revenues owed to CalRecycle and mitigating risk to the Fund.

VOTE-ONLY ISSUE 4: E-WASTE RECYCLING FUND FRAUD INVESTIGATIONS

The Governor's Budget requests $500,000 of expenditure authority to contract with other regulatory departments to enhance programmatic and fiscal integrity of the Covered Electronic Waste Recycling Program. Specifically, CalRecycle is requesting to establish an Inter-Agency Agreement with the California Department of Food and Agriculture, Division of Measurement Standards to fund auditors and field inspectors to assess operational conformity with applicable recordkeeping requirements and ensure compliance with Weighmaster rules. California Department of Food and Agriculture (CDFA) is in agreement with this request and will not require additional reimbursement authority to implement this proposal.

VOTE-ONLY ISSUE 5: CALIFORNIA TIRE RECYCLING MANAGEMENT

The Governor's Budget proposes provisional budget language for new, two-year grant appropriations from the California Tire Recycling Management Fund (Tire Fund) to allow flexibility in the encumbrance of grants and the payment of funds. This request does not include any additional fiscal resources.

VOTE-ONLY ISSUE 6: USED MATTRESS RECOVERY AND RECYCLING PROGRAM

The Governor's Budget proposes 6.5 positions and $595,000 on-going in the Used Mattress Recycling Fund to implement the CalRecycle responsibilities under the mattress stewardship law pursuant to SB 254 (Hancock), Chapter 388, Statutes of 2013.

STAFF COMMENTS

Staff has no concerns with issues 2-6.

Staff Recommendation: Approve as Budgeted Issues 2-6

8570 DEPARTMENT OF FOOD AND AGRICULTURE

VOTE-ONLY ISSUE 7: CALIFORNIA ANIMAL HEALTH AND FOOD SAFETY LABORATORY

The Governor's Budget proposes one-time funding of $1 million (General Fund) to help offset unfunded salary and benefit increases for positions at the California Animal Health and Food Safety Laboratory System.

STAFF COMMENTS

Staff has no concerns with this proposal.

Staff Recommendation: Approve as Budgeted

ITEMS TO BE HEARD

8570 DEPARTMENT OF FOOD AND AGRICULTURE

The California Department of Food and Agriculture (CDFA) protect and promote California's agricultural industry and ensure that only safe and quality food reaches the consumer. The Budget includes $372.56 million ($63 million General Fund) and 1,615 positions for the department. As mentioned previously, the Budget includes $20 million for agricultural activities that reduce GHG emissions.

Fund Source	2012-13 Actual	2013-14 Projected	2014-15 Proposed	BY to CY Change	% Change
General Fund	**$60,269**	**$63,784**	**$63,147**	**($637)**	**(1%)**
Federal Funds	89,404	109,178	109,131	(47)	(0)
Department of Agriculture Account, Department of Food and Agriculture Fund	126,456	145,711	143,045	(2,666)	(2)
Greenhouse Gas Reduction Fund	0	0	20,000		
Other	32,842	35,259	57,242	21,983	62
Total Expenditure	**$308,971**	**$353,932**	**$372,565**	**$18,633**	**5%**
Positions	1,469.20	1,615.70	1,615.70	0	0

ISSUE 1: SECRETARY OF FOOD AND AGRICULTURE – OVERVIEW OF BUDGET AND DROUGHT UPDATE

Secretary Karen Ross will give an overview of the Department's budget and an update on how the drought is impacting agriculture in the state.

Staff Recommendation: Informational Item

ISSUE 2: GHG EMISSIONS REDUCTIONS THROUGH AGRICULTURE

The Governor's Budget requests $20 million (GGRF) for two years to support activities promoting GHG emission reductions in the agricultural sector. Specifically, the proposals include funding for three new programs related to agriculture energy:

- $12 million in grants to fund “digesters” that capture methane from animal waste in order to generate electricity or create transportation fuel.
- $5 million for research related to GHG emissions from fertilizer application and agriculture management practices that reduce those emissions.
- $3 million to develop technical standards that would allow low–carbon agricultural biofuels to be sold in California.

Under the Governor’s proposal, some of the requested funding—$1.4 million in 2014–15 and $1.5 million in 2015–16—would support 15 existing positions that are currently funded from various funds such as motor oil fees.

BACKGROUND

This proposal is part of the Governor's $850 million Cap-and-Trade Expenditure Plan to invest cap-and-trade auction proceeds to support existing and pilot programs that will promote GHG reductions and meet SB 535 (de Leon), Chapter 830, Statutes of 2012, goals.

The budget proposal provides the following information to support the GHG emission reduction benefits of the activities proposed for funding and how these activities contribute to the SB 535 goal of investing in disadvantaged communities:

- Methane emitted from dairy operations is approximately 21 times more potent than carbon dioxide as GHG. Dairy digesters capture methane gas at dairy farms and convert it into energy in the form of electricity or fuel. Harnessing this potent gas prevents it from contributing to atmospheric pollution. Converting it to a low carbon energy source provides additional GHG reduction. CDFA estimates that implementation of dairy digesters at six 1,000 cow dairy facilities, a feasible funding scenario for a $12 million program, will result in a reduction of approximately 15,000 to 21,600 metric tons of carbon dioxide equivalent methane GHG per year. Quantitative GHG reductions and clean energy production will be documented by this Program to verify GHG reductions.

- Many of the disadvantaged communities identified in CalEnviro Screen are in the Central Valley, where the majority of the state's dairy operations are located.

- Nitrous oxide emitted from nitrogen plant fertilizer use is 310 times more potent than carbon dioxide. Currently, no nitrogen management practices or methods have been established in agricultural crop production systems to limit theses GHGs due to gaps in science and technical assistance. Funding is needed to complete critical out-come based GHG research to prove and quantify reductions from farm management practices.

- Agricultural waste derived biofuels create a low carbon engine fuel that directly reduces net GHG emissions from dairies, feedlots, and other agricultural operations throughout the State. Introduction of biofuels into commercial applications will generate significant GHG reductions from the transportation sector. However, no fuel standards exist for renewable and low carbon biofuels commonly produced from agricultural waste. Funding will be used to develop standards and specifications for low carbon renewable agricultural biofuels and zero-emission fuels.

- These three initiatives can be implemented now to lead to measurable and quantifiable GHG reductions from the agricultural sector in California.

LAO RECOMMENDATION

As noted previously, in the Subcommittee's March 19th Cap-and-Trade Expenditure Plan hearing agenda, the LAO stated:

> *In order to minimize the negative economic impact of cap–and–trade, it is important that auction revenues be invested in a way that maximizes GHG emission reductions for a given level of spending. In reviewing the Governor's proposed expenditure plan for cap–and–trade auction revenue, we find that there is significant uncertainty regarding the degree to which each investment proposed for funding will achieve GHG reductions. This uncertainty is the result of several factors, including there being only limited data and analysis provided by the administration, as well as the fact that the level of emission reductions achieved would depend on the specific projects funded by departments. Consequently, it is very difficult for the Legislature to have assurance that the specific package of programs proposed by the administration would achieve the greatest reduction per dollar invested possible, or whether a different set of programs might yield better outcomes in a more cost–effective manner.*
>
> *Given these concerns, we recommend that the Legislature direct ARB to develop metrics for departments to use in order to prospectively evaluate the potential GHG emission benefits of proposed projects, as well as direct the board to establish a set of guidelines for how departments should incorporate these metrics into their decision–making processes. Having such metrics to use as part of departments' decision–making processes when determining how program funding will be spent would provide greater certainty regarding the potential GHG emission reductions of projects being considered for funding.*

STAFF COMMENTS

Due to the "*significant uncertainty regarding the degree to which each investment proposed for funding will achieve GHG reductions,"* noted by the LAO, staff recommended, its March 19th Subcommittee hearing agenda, directing the Air Resources Board (ARB) to develop metrics for departments to use in order to evaluate the potential GHG emission benefits of proposed projects. While this requirement could delay getting funding "out the door" at first, staff noted that it would be worthwhile if the result is that the state could better ensure that the most beneficial projects are being funded. Staff also suggested that the Legislature may also wish to consider directing the administration to establish GHG reduction goals for each program funded by auction revenue. Thereby, allowing departments and the Legislature to evaluate the effectiveness of these programs relative to what was expected at the time of legislative approval.

This proposal anticipates the reduction of approximately 15,000 to 21,600 metric tons of carbon dioxide equivalent methane GHG per year through the dairy digester program. The other funded programs are for nitrogen management practices research and develop standards and development of specifications for low carbon renewable agricultural biofuels, thus don't specify a GHG reduction target.

The Subcommittee may wish to ask the department the following questions:

- Can you discuss the near-term and/or the long-term GHG reduction benefits of the proposed activities?
- Under the proposal, the department is responsible for developing its own criteria to determine how to spend its GGRF allocation. Do you have in-house staff with experience evaluating GHG emissions reduction programs?
- Under the current proposal, how soon do you anticipate getting funding out-the-door?
- Has the Department established GHG reduction goals for each program funded by auction revenues?
- If not, how will the department evaluate the effectiveness of these programs relative to what was expected at the time of legislative approval?
- How will you calculate investments in disadvantaged communities?

Staff Recommendation: Hold Open

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The Department of Toxic Substances Control protects California citizens and environment from the harmful effects of toxic substances through restoring contaminated resources, enforcement, regulation and pollution prevention. The Governor's Budget proposes $189 million ($21 million General Fund) and 1,504 positions for support of the Department. The department's budget proposals focus on enhancing cost recovery efforts, rebuilding the hazardous waste tracking system and improving permitting processes.

Fund Source	2012-13 Actual	2013-14 Projected	2014-15 Proposed	BY to CY Change	% Change
General Fund	**$21,418**	**$21,759**	**$21,193**	**($566)**	**(3%)**
Federal Funds	25,635	35,131	35,167	36	0
Hazardous Waste Control Account	44,705	52,088	55,713	3,625	7
Toxic Substances Control Account	43,578	43,721	44,051	330	1
Other	30,989	50,925	39,205	(11,720)	(23)
Total Expenditure	**$166,325**	**$203,624**	**$195,329**	**($8,295)**	**(4%)**
Positions	869.6	941.1	966.6	26	3

ISSUE 1: PROPOSALS TO REDUCE BACKLOGS AND IMPROVE HAZARDOUS WASTE TRACKING

The Governor's Budget includes four proposals to: increase cost recovery from those responsible for hazardous contamination; reduce backlogs; strengthen enforcement; and improve the financial sustainability of its operations:

- **Cost Recovery**. The Governor's Budget requests $1.6 million and 14 two–year limited term positions, Toxic Substances Control Account (TSCA) and Waste Control Account (HWCA), to reduce a backlog of reimbursements owed to the department for hazardous waste clean–up activities. The administration estimates that this cost recovery backlog includes around $26 million in unbilled or uncollected costs that are recoverable.

- **Hazardous Waste Permitting**. The Governor's Budget requests $1.19 million and eight two–year limited term positions for two sets of activities. First, the administration proposes to address the hazardous waste permit renewal backlog. There are currently 24 hazardous waste facilities with continued permits, which is expected to grow to 34 by 2017. Second, the administration proposes to update cost estimates associated with closing hazardous waste facilities in the future. Cost estimates need to be updated to ensure that there are sufficient funds to pay for the decontamination and decommissioning of hazardous waste facilities.

- **Hazardous Waste Tracking System**. The Governor's Budget includes $1.36 million (HWCA) in one–time funding to rebuild the Hazardous Waste Tracking System, an IT system used by the department to track the generation, transportation, and disposal of hazardous waste. The current software used by DTSC was last updated in 2002 and is no longer supported by the developer. Additionally, the capabilities of the system no longer meet the current needs of DTSC and other regulatory agencies.

- **Hazardous Waste Manifest Error Correction**. The budget includes $381,000 and 3.5 two–year limited term positions to correct existing errors in the hazardous waste manifest data. Hazardous waste manifests travel with hazardous waste from the point of generation, through transportation, to the final disposal facility. Each party in the chain of shipping (including the generator), signs and keeps one of the manifest copies, creating a tracking system for the hazardous waste. The manifests are used to verify that the hazardous waste was managed properly and arrived at its intended destination. They are also often used as evidence in criminal enforcement actions. However, according to the department, there are many errors in the system. These errors can occur for various reasons, including handlers of hazardous waste incorrectly, incompletely, or illegibly filling out the handwritten manifests, as well as DTSC staff making mistakes when entering the data into the electronic system. These errors create difficulties for monitoring hazardous waste and prevent DTSC from verifying that hazardous waste is being properly managed.

BACKGROUND

The DTSC regulates hazardous waste management by issuing permits; tracking the generation, transportation, and disposal of hazardous waste; coordinating cleanup of contaminated sites; and seeking recovery of funds from parties responsible for contamination. Concerns have been raised in recent years regarding how DTSC has carried out these responsibilities. For example, due to a backlog in processing applications for hazardous waste permit renewals, many facilities are operating on “continued permits.” This means that these facilities have submitted permit renewal applications, but DTSC has not completed its review and approval process, which usually takes several years. While these particular facilities are allowed to continue operations under the terms of their original permit, these are frequently no longer based on up–to–date technologies, practices, and safeguards. Backlogs in continued permits are also problematic because it means that permit holders have not undergone recent assessments of their facilities to determine if they are releasing any hazardous wastes into the environment. These assessments are part of the permit approval process.

In early 2012, the department responded with its “Fixing the Foundation” initiative, which includes more than 30 different activities intended to improve its operations and restore public trust in the department. Governor’s budget includes four proposals designed to address the above concerns and implement certain aspects of the department’s Fixing the Foundation initiative. These proposals include increased funding over the next two years. In total, the budget proposes $4.6 million in 2014–15 and $3.2 million in 2015–16 from the Hazardous Waste Control Account and the TSCA.

LAO COMMENTS

***Proposals Would Address Important Issues**. The Governor’s four proposals address documented concerns and would allow the department to make progress toward resolving some key issues, including low rates of cost recovery, inconsistent hazardous waste tracking, and permitting backlogs. Therefore, the administration’s proposals present the Legislature with a reasonable approach to addressing these issues as part of the 2014–15 budget.*

***However, Proposals Alone Will Not Fix All Issues on Ongoing Basis**. While we find the administration’s proposals to be reasonable, it is important to note they will not fully address the identified problems for the long run. For example, while two of these proposals address current backlogs, they rely on limited–term positions that will not address the underlying problems that* *caused the backlogs to form in the first place. In fact, the administration does not anticipate that the permitting proposal will eliminate the entire backlog of permit renewals. Consequently, it is unclear whether the backlogs will begin to grow in the future after the limited–term positions expire. We would note, however, that the department reports that it is taking additional actions—such as internal administrative and process changes—that are aimed at addressing some of these problems.*

Additionally, while the proposal to correct errors in the manifest data would be beneficial, it would not entirely fix the problems it seeks to address. This is because the proposal does not address the root causes of such errors (such as illegible handwriting or data entry mistakes), thus continuing to allow incorrect data to be entered into the system. We note, however, that many problems associated with the manifest system are due to the paper manifests currently required by the federal government. So, DTSC is limited in its ability to make certain changes in this area.

***LAO Recommendation**. We recommend approval of the Governor's proposals because they should enable the department to make progress in addressing operational deficiencies. We further recommend that the Legislature require the department to report at budget subcommittee hearings this spring on its progress in implementing the Fixing the Foundations initiative. Such a report should include (1) how these four proposals fit into the department's overall strategy, (2) the next steps to be taken—especially regarding aspects of the initiative not proposed for funding, and (3) how each of these steps will be the most cost–effective means of accomplishing all of the initiative's objectives. The department should also provide information on how it will prevent the growth of cost recovery and permitting backlogs in the future.*

STAFF COMMENTS

Staff concurs with LAO's analysis. The Department should report on its progress in implementing the Fixing the Foundations initiative, as well as LAO's other concerns in its opening remarks.

Progress on Enforcement? Over the past several years, a myriad of concerns have been raised about numerous deficiencies within DTSC's Hazardous Waste Management Program. While the budget proposals summarized above focus on several of these issues, more oversight of the Department's enforcement arm is necessary. For example, how is DTSC ensuring that Certified Unified Program Agencies (CUPAs) are properly and effectively implementing the hazardous waste program and that appropriate penalties and corrective actions are taken? Further, what actions have been taken to make the enforcement program's information and processes more accessible to the public?

Staff Recommendation: Approve as Budgeted

3970 DEPARTMENT OF RESOURCE RECYCLING AND RECOVERY

The Department of Resources Recycling and Recovery (CalRecycle) protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. CalRecycle also promotes the following waste diversion practices: 1) source reduction; 2) recycling and composting; and, 3) reuse. The Budget includes $1.47 billion and 728.6 positions for support of the Department.

Due to the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) exceed revenues by approximately $100 million. The Budget proposes several reforms to support the fiscal reliability of the program. The Budget also includes $30 million for recycling and composting activities that reduce GHG emissions.

Fund Source	2012-13 Actual	2013-14 Projected	2014-15 Proposed	BY to CY Change	% Change
General Fund	**$0**	**$0**	**$0**	**$0**	**0%**
California Beverage Container Recycling Fund	1,216,295	1,193,473	1,143,243	(50,230)	(4)
Greenhouse Gas Reduction Fund	0	0	20,000		
Greenhouse Gas Reduction Revolving Loan Fund	0	0	10,000		
Other	244,218	282,848	298,522	15,674	6
Total Expenditure	**$1,460,513**	**$1,476,321**	**$1,471,765**	**($4,556)**	**(0%)**
Positions	630	694.6	728.6	34	5

ISSUE 1: BEVERAGE CONTAINER RECYCLING FUND REFORM, PHASE II

The Governor's Budget proposes 12 positions and $1.48 million, Beverage Container Recycling Fund (BCRF), and $1.2 million ongoing to develop and implement Phase II of reforms to the Beverage Container Recycling Program (BCRP), including restructuring administrative and handling fees, a phased elimination of the processing fee offset, creating a Recycling Enforcement Grant Program, and changing the funding sources for local conservation corps payments.

The proposed programmatic changes are expected to result in a net increase to the BCRF annual fund balance of $72.3 million in 2014–15, growing to $127 million when fully implemented in 2016–17. The proposal also increases processing fee revenues by roughly $67.4 million. The administration projects that these changes would eliminate the program's structural deficit once fully implemented and avoid the need to implement proportional reductions.

Specifically, the Budget proposes the following:

1) **Phases Out Processing Fee Subsidy.** Phases out processing fee offsets over three years in order to have manufactures cover the full net cost of recycling materials. The projected savings to the BCRF is estimated at $67 million annually when fully implemented. Currently, the program subsidizes glass and plastic manufacturers by offsetting a portion of the cost to recycle containers.

2) **Eliminates Curbside Supplemental Payments**. Eliminates supplemental payments to curbside collection programs. Curbside recycling collection programs and neighborhood drop–off programs currently receive supplemental payments to support their operations. The Administration believes that curbside collection programs will likely continue even without the supplemental payment. This change is expected to result in $15 million in annual savings.

3) **Restructures "Administrative Fees."** Eliminates administrative fees paid to processors and recyclers due to declining administrative costs resulting from electronic filing. Distributors will keep their administrative fees, but will have increased reporting requirements to provide additional data to CalRecycle. Projected savings are $13 million in 2014-15, with ongoing savings of $26 million beginning in 2015-16.

4) **Eliminates Local Government Payments**. Currently, state law requires a $10.5 million annual payment to incorporated city and county governments for beverage container recycling and litter reduction activities. This payment is distributed in proportion to the population residing in each jurisdiction. According to the administration, the CalRecycle has minimal oversight on the use of the funds, which makes it difficult for the department to direct funding to activities that promote its policy goals. Therefore, the Governor's Budget proposes eliminating this payment, though it proposes redirecting the funds to two grant programs. The elimination of the local government payments would result in a savings to the BCRF of $10.5 million annually.

5) **Diversifies Local Conservation Corps Funding.** Replaces $15 million of existing Beverage Container Recycling Fund grants to local conservation corps by redirecting a like amount of other special funds to support local corps recycling programs. New funding for local corps programs will be provided by the Tire Recycling Management Fund ($5 million), the Electronic Waste Recovery and Recycling Account ($8 million), and the Used Oil Recycling Fund ($2 million).

6) **Restructures Handling Fees**. Handling fees are monthly payments made from the BCRF to recycling centers located in "convenience zones." These payments are intended to offset additional costs a recycler may incur as a result of their location, such as higher rent. CalRecycle audits the convenience zone sites every two years to determine their cost of operations, and uses that to calculate the handling fee amount. The amount of handling fees paid to recyclers is based on volume of material recycled. The Governor's Budget proposes replacing the volume–based handling fee with a flat monthly payment of $1,700 per site. The Administration estimates that a flat payment will result in a savings to the BCRF of approximately $7 million annually.

7) **Creates Recycling Enforcement Grant**. The Governor's Budget proposes to establish a new competitive grant program, which would provide funding for local enforcement agencies to perform activities targeted toward detecting and deterring fraud. This program would increase expenditures from the BCRF by $7 million annually.

8) **Expand Beverage Container Recycling Competitive Grants**. This grant program provides funding for local recycling and litter reduction projects, such as projects to increase the recycling rates in schools, improve container collection in cities, or reduce litter at public events. The administration proposes increasing funding for this program by $3.5 million, resulting in $5 million in total funding for the program.

9) **Public Education and Information**. The proposal includes $2.5 million for public education in order to inform program participants and the public of recent and proposed changes to the BCRP.

10) **Program Administration**. The proposal includes an additional 12 positions and $1.5 million in funding for increased program administration workload resulting from the above changes, such as the establishment of a new grant program.

BACKGROUND

The Beverage Container Recycling Program (BCRP) is one of the state's most successful recycling and environmental protection efforts. The state's recycling rate currently exceeds 85 percent. Because of the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) now exceed revenues by approximately $100 million.

Overview of California Redemption Value (CRV) Program. The Division of Recycling (DOR) within CalRecycle administers the BCRP (commonly referred to as the "bottle bill program"). This program was established more than 25 years ago with the enactment of Chapter 1290, Statutes of 1986 (AB 2020, Margolin). The purpose of the program is to be a self–funding program that encourages consumers to recycle beverage containers. The program accomplishes this goal by guaranteeing consumers a payment—referred to as the CRV—for each eligible container returned to a certified recycler. Only certain beverage containers are part of the CRV program. Whether a particular container is part of the program depends on the material, content, and size of the container.

Unredeemed Deposits Support Supplemental Programs. The CRV redemption rate—the percent of all CRV that is actually collected by consumers from recyclers—is less than 100 percent. This means that distributors pay more CRV into the BCRF than is claimed by consumers. In 2012–13, for example, the BCRF received roughly $1.2 billion in deposits, but only about $1 billion was spent in redemption—an 88 percent redemption rate. State law requires that much of the unredeemed CRV be spent on specified recycling–related programs. In total, there are currently ten supplemental programs funded from the BCRF (including program administration), such as programs to subsidize glass and plastic recycling, subsidize supermarket recycling collection sites, and provide grants for market development and other recycling–related activities. These particular programs cost $254 million in 2012–13.

High Redemption Rates and Supplemental Programs Create Shortfall in BCRF. Over time, redemption rates have increased and are now higher than the target recycling rate defined in statute—80 percent. This leaves less money for the other BCRF expenditures. As a result of the combination of a higher redemption rate and the cost of supplemental programs, the BCRF has been operating under an annual structural deficit averaging about $100 million since 2008–09.

Based on current expenditure levels, the "break even" recycling rate—the rate at which there is enough unclaimed CRV to support all other program spending—is around 75 percent. Therefore, anytime the recycling rate is above 75 percent, the fund is operating in a deficit. According to CalRecycle's estimates, the fund is currently forecast to run a deficit of $110 million in 2014–15 absent any changes made to reduce expenditures or increase revenues. While the BCRF has had operating deficits on several occasions in the past, it was able to absorb the deficits from its large fund balance built up when the CRV redemption rate was low, as well as payments received from loans made to other funds. This balance is now nearly depleted, and the loans are mostly repaid. Thus, the fund no longer has a healthy reserve to help offset the impact of operating shortfalls. CalRecycle projects the BCRF balance to fall below the healthy reserve in September of 2015.

Under current law, if there are insufficient funds available in the BCRF to make all of the required CRV and supplemental payments, the department is required to reduce most supplemental program payments in equal proportions (commonly referred to as "proportional reductions"), in order to keep the fund in balance. The only payments from the fund that are not subject to the proportional reductions are the return of CRV to consumers, as well as program administration. Proportional reductions are problematic because they do not allow for discretion in spending based on priorities or other factors. For example, under proportional reductions, the department cannot prioritize programs that are most effective or central to the BCRP's overall mission. Additionally, proportional reductions are very disruptive to program participants. Since all payments are reduced equally and quickly, participants can experience a significant cut in funding without much warning to plan accordingly.

In 2009, CalRecycle had to implement proportional reductions to maintain the BCRF's solvency. This included (1) reduced payments to recyclers of about 70 percent, (2) increased processing fees charged to beverage manufacturers totaling around $50 million, and (3) elimination of most grant and market development program funding. Based on current revenue and expenditure projections, CalRecycle expects to implement proportional reductions in 2015–16.

LAO COMMENTS

Proposal Is Reasonable Way to Eliminate Structural Deficit. We find that the Governor's proposal is a reasonable approach to addressing the BCRF structural deficit and avoiding the need for proportional reductions in 2015–16. For example, the proposal eliminates some program elements that are not as central to the mission of the CRV program, such as processing fee offsets. The Governor's proposal also reduces payments where there is little data on the program's impact on the overall beverage container recycling rate, such as curbside supplemental payments. We note, however, that there is some level of uncertainty inherent in forecasting BCRF revenues and redemption rates. Therefore, it is possible that even if the Legislature were to adopt all of the Governor's proposed changes, there could be funding shortfalls in the future.

Proposal Could Have Small Impact on Recycling Rates. The proposed program changes would reduce some payments to participants, especially high–volume recyclers in convenience zones (CZ), curbside recyclers, and cities and counties currently receiving payments. Consequently, some recyclers and processors currently operating with a very small profit margin might shut down or operate fewer hours. However, these changes are a small portion of revenue for most participants, and they still receive other payments through the program. For example, while curbside collection programs would no longer receive curbside supplemental payments, they would still receive CRV and processing payments, and are eligible for several grant programs. This is in addition to revenue from their contract with the local government and scrap value of the materials they collect. Therefore, we expect any impact on recycling to be small.

Future Recycling Rate Increases Can Cause Another Structural Deficit. We calculate that the proposed reforms would put the fund balance at the current break-even redemption rate of approximately 88 percent. However, if the redemption rate were to increase past this point, it could result in another structural deficit in the future. If that were to occur, CalRecyle anticipates that additional programmatic changes (such as additional spending reductions) would be necessary to support a redemption rate higher than 88 percent. The department states that it expects the rate to stay close to the current rate. The department is currently required to issue quarterly reports on the status of the BCRF to allow the Legislature to monitor revenue and expenditure trends.

LAO Recommendations. We recommend that the Legislature adopt the Governor's proposal. As stated above, we find that the proposal is a reasonable way to ensure the fiscal solvency of the BCRF, which is currently operating with a large structural deficit. We would note, however, that each proposed reduction does come with some trade–offs and would result in a recycling program participant—especially distributors and recyclers—bearing greater costs. Therefore, the Legislature will want to make sure that each of the changes is consistent with policy priorities.

STAFF COMMENTS

The BCRP has achieved great success over the past several years -- attaining an overall recycling rate of approximately 84 percent. The BCRF's ongoing $100 million structural deficit is in large part due to that success. Due to mandated expenditures, the Fund cannot sustain a recycling rate that is higher than 72 percent. Up until now, a high fund balance (due to past unclaimed CRV) and fund loan repayments have enabled the BCRP to stay afloat and avoid proportional reduction.

Though the Department conducted seven stakeholder workshops in 2012 in response to the structural deficit, the Administration's reform proposal lacks stakeholder consensus. And, while some of the proposed reforms have merit, others raise questions. The elimination of the curbside supplemental payment and the local government payment, as well as diversifying local conservation corps funding, makes sense. However, the proposed changes to the processing and handling fees elicit serious concerns from stakeholders.

The curbside supplemental payment is a $15 million annual payment made to operators of residential curbside collection programs. However, these programs are primarily funded by homeowners who pay for this collection service. Overall, curbside programs receive more than $100 million from an assortment of BCRF payments and this change would only cut $15 million of that. Eliminating this payment would not disrupt curbside collection.

Eliminating payments to local government for undefined "beverage container recycling and litter reduction activities" that receive minimal oversight from the Department seems reasonable. Currently, to receive payment, jurisdictions simply complete a one-page request form -- no oversight or reporting is required. Redirecting $7 million from the local government payment towards the establishment of a new Recycling Enforcement Agency (REA) Grant Program has merit. The Department states that some estimates indicate that the illegal redemption of beverage container material costs the Program from $40 to $60 million per year. The REA grants could be focused on specific current enforcement issues, such as scavenging or avoiding border inspection stations. This will allow the grants to react to changing industry behavior by targeting the most pressing enforcement and compliance needs.

The restructuring of the handling fees is concerning. Handling fees are monthly payments to recycling centers located in convenience zones (CZ), placed close to supermarkets. The purpose of locating centers in these areas was to increase convenience for consumers seeking to redeem used beverage containers. Seventy-five percent of consumers who recycle at recycling centers choose CZ -- these customers account for 61% of total transactions.

Currently, handling fees are assessed on a tiered, volume-based system -- the higher the volume, the higher the fee. Moving to a flat monthly fee of $1,700 per site would not guarantee more recycling centers open in currently un-served CZ areas -- in fact, creating a flat fee could be a disincentive to establishing new centers. Currently, areas without centers aren't served now due to a lack of profitability.

CZ recycling centers typically operate with relatively low profit margins and relatively high operating expense. For calendar year 2012, the average payment per site was $2,701. The proposed flat payment of $1,700 per month per site would be a 37% cut. CalRecycle's own audits show that these sites have an average profit of 5%. Thus, cuts of this magnitude would likely eliminate profits, and drive centers to close. The proposed change in handling fees would result in a savings of $7 million to the BCRF.

The processing fee is the difference between the costs of recycling minus the scrap value and is intended to cover recyclers' costs of collecting a given material. According to the Department, the processing fee was never intended to be either an incentive or disincentive for recycling. Further, the Department states that the intent of the processing fee was to ensure that the full costs of a container were included in the market's decision-making about which containers to sell.

While the Administration's rationale for proposing that manufactures cover the full net cost of recycling materials may be desirable, the elimination of the processing fee offsets may lead to beverage manufactures seeking lower cost, non-recyclable containers for their products. Glass manufacturer's argue that this proposal rewards container types that are not in the program and pay no processing fee.

The phase-out of processing fee offsets will result in a large fee increase ($67 million) for beverage container manufactures. Glass container manufacturers will absorb $59 million of the fee increase. Glass container manufactures maintain that eliminating the processing fee-offset will result in the loss of market share and the closure of plants. The Department counters that the glass industry is facing many challenges that threaten the viability of the industry that have nothing to do with the bottle bill, including meeting air quality requirements, the high transportation costs associated with glass, and allegations that the industry is not doing enough to screen leaded glass from entering the recycling stream.

There is considerable debate about the amount of uncollected CRV revenue. The Container Recycling Institute (CRI) reported that CRV payments are below projections by as much as $200 million, or about 15% lower than projected. CalRecycle puts the scale of the problem closer to $23 million. Both CRI and CalRecycle agree that there are numerous possible reasons for non-payment or underpayment of CRV, including companies not registering with CalRecycle and companies not reporting to CalRecycle or remiting payments until they are audited. The Department annually audits a small fraction of beverage distributors and manufacturers. For example, in 2012/13, only 57 companies out of 2,170 were audited, or 2.6 percent of the total.

The Department's most recent Quarterly Report projects that the cash balance of the BCRF will permanently fall below the prudent reserve in January 2016 without additional reforms to the Program. The projected date is four months later than the date indicated in the projection in the October 2013 Quarterly Report.

Finally, since proportional reductions were implemented in 2009, CalRecycle has been under intense scrutiny. The State Auditor conducted an extensive review in 2010 that resulted in numerous operational improvements. The implementation of the recommendations have not resulted in addressing the size of the structural deficit. The Joint Legislative Audit Committee recently approved a request to again audit the Beverage Container Recycling Program to determine the financial condition of the program and examine the programs performance and effectiveness of its anti-fraud measures.

Given the discrepancy in estimates of under-collection, the host of controversial issues, and the shifting drop dead dates for instituting proportional reduction, staff recommends holding this item open.

Staff Recommendation: Hold Open

ISSUE 2: GHG EMISSIONS REDUCTIONS THROUGH RECYCLING AND COMPOSTING

The Governor's Budget requests $30 million for each of the next two years to support projects designed to increase recycling and composting. Specifically, the administration proposes $20 million for grants to expand existing facilities or develop new facilities that process organic or recyclable materials, and $10 million to establish a new revolving loan fund to provide low–interest loans to encourage the establishment or expansion of recycling businesses. These two programs are intended to reduce GHG emissions by (1) redirecting organic waste from landfills to anaerobic digestion facilities, which would reduce methane emissions at landfills; and (2) increasing recycling, which could produce fewer GHG emissions than the manufacturing of new products. Of the amount proposed, the budget provides CalRecycle with $392,000 in 2014–15 to support four new positions ($477,000 and five positions in 2015–16) for program implementation.

BACKGROUND

This proposal is part of the Governor's $850 million Cap-and-Trade Expenditure Plan to invest cap-and-trade auction proceeds to support existing and pilot programs that will promote GHG reductions and meet SB 535 (de Leon), Chapter 830, Statutes of 2012, goals.

The budget proposal provides the following information to support the GHG emission reduction benefits of the activities proposed for funding and how these activities contribute to the SB 535 goal of investing in disadvantaged communities:

- Significant GHG emissions reductions can be achieved by redirecting organic materials from landfills to composting and anaerobic digestion. Similar reductions can be obtained by substituting recyclable commodities for virgin materials in manufacturing processes, to produce recycled-content products.
- Organics and recycling commodity infrastructure development is a major priority in the Waste Sector portion of the Draft 2013 Scoping Plan Update and critical to reaching the State's new 75 percent recycling goal.
- The importance of moving organics from landfills was recognized in the Administration's Cap-and-Trade Auction Proceeds Investment Plan issue in April 2013.
- Methane emissions from landfills account for almost 7 million metric tons of carbon dioxide per year. When organics are kept out of landfills, these methane emissions are avoided and the resultant products are either compost/mulch that improve soil health and save water, or bioenergy/biofuel. The Department estimates that keeping just food and green waste out of landfills would mean a minimum of 4 million metric tons of GHG emissions reductions, equivalent to emissions from about 750,000 passenger cars.
- Capturing the energy already embodied in these commodities can avoid tens of millions of tons of GHG emissions.
- To the extent that these organic and recyclable materials can be used in California, the Department estimates that reaching the 75 percent goal could result in between 20 and 30 million metric tons of GHG emissions reductions per year.

- The Department plans to target a minimum of 10 percent of grant and loan funds towards the benefit-disadvantaged communities in the first year. The Department notes that it may be difficult to fund more than 10 percent of projects in disadvantaged communities during the first year due to timeframes associated with CEQA, siting, and other issues. However, the Department plans to design the program strategically to afford greater opportunities for project proponents in disadvantaged communities, so that it may be possible to aim as high as 25 percent of projects being in such communities.

LAO RECOMMENDATION

See LAO comments above under CDFA's GHG Emissions Reductions Through Agriculture on page 6.

STAFF COMMENTS

Due to the "*significant uncertainty regarding the degree to which each investment proposed for funding will achieve GHG reductions,"* noted by the LAO, staff recommended, its March 19th Subcommittee hearing agenda, directing the Air Resources Board (ARB) to develop metrics for departments to use in order to evaluate the potential GHG emission benefits of proposed projects. While this requirement could delay getting funding "out the door" at first, staff noted that it would be worthwhile if the result is that the state could better ensure that the most beneficial projects are being funded. Staff also suggested that the Legislature may also wish to consider directing the administration to establish GHG reduction goals for each program funded by auction revenue. Thereby, allowing departments and the Legislature to evaluate the effectiveness of these programs relative to what was expected at the time of legislative approval.

This proposal includes some metrics for the measurement of GHG reduction. The proposal also includes plans to direct at least 10 percent of grant and loan funding towards disadvantaged communities the first year and as much as 25 percent in the second year.

The Subcommittee may wish to ask the department the following questions:

- Can you quantify the estimated annual GHG emission reductions benefit for the activities being proposed and describe the metrics used to conduct this work?
- Can you discuss the near-term and/or the long-term GHG reduction benefits of the proposed activities?
- Under the proposal, the department is responsible for developing its own criteria to determine how to spend its GGRF allocation. Do you have in-house staff with experience evaluating GHG emissions reduction programs?
- What front-end metrics will the department use to guide investment decision-making?
- Under the current proposal, how soon do you anticipate getting funding out-the-door?
- Has the Department established GHG reduction goals for each program funded by auction revenues?
- If not, how will the department evaluate the effectiveness of these programs relative to what was expected at the time of legislative approval?
- How will you calculate investments in disadvantaged communities?

Staff Recommendation: Hold Open

ISSUE 3: RUBBERIZED ASPHALT CONCRETE MARKETING DEVELOPMENT ACT

The Governor's Budget requests $5.2 million in on-going expenditure authority from the Tire Recycling Fund (Tire Fund) and 1.5 three-year limited term positions to allow CalRecycle to increase funding for Rubberized Asphalt Concrete grants in order to spend down an existing Tire Fund balance.

BACKGROUND

California is faced with the significant challenge of diverting and safely managing more than 41 million reusable and waste tires generated each year. AB 513 (Frazier), Chapter 499, Statutes of 2013, the Rubberized Asphalt Concrete Market Development Act, requires the CalRecycle to award grants for various projects that use rubberized asphalt concrete (RAC) and prescribes how to calculate the grant amount.

RAC is a road paving material made by blending crumb rubber with asphalt to produce a binder which is then mixed with conventional aggregate materials. This mixture is then placed and compacted into a road surface. This material is cost effective, durable, safe, quiet, and an environmentally friendly alternative to traditional road paving materials.

STAFF COMMENTS

This proposal's additional expenditure authority will enable CalRecycle to increase funding for RAC grants by spending down the existing Tire Fund balance without impacting other necessary tire-related programs already in place. Incentivizing the use of waste tires will increase diversion from landfills, reduce waste tire stockpiles and increase sustainable economic markets for waste tires in California.

Staff Recommendation: Approve as Budgeted

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

The Office of Environmental Health Hazard Assessment (OEHHA) protects and enhances public health and the environment through scientific evaluation of risks posed by hazardous substances. OEHHA's risk assessments provide state and local agencies with the scientific tools upon which to base risk management decisions. The Budget includes $21.6 million and 129 positions for OEHHA.

Fund Source	2012-13 Actual	2013-14 Projected	2014-15 Proposed	BY to CY Change	% Change
General Fund	**$4,058**	**$4,625**	**$4,628**	**$0**	**0%**
Motor Vehicle Account, State Transportation Fund	3,571	4,086	4,064	(22)	(1)
Other	9,005	12,413	12,920	507	4
Total Expenditure	**$16,634**	**$21,124**	**$21,612**	**$488**	**2%**
Positions	119.9	125.4	129.4	4	3

ISSUE 1: PROPOSITION 65 REFORM

The Governor's Budget requests $785,000 (Safe Drinking Water and Toxic Enforcement Fund) and four, limited term positions to revise Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, regulations and to develop a website that provides information to the public on exposure to listed chemicals.

BACKGROUND

Proposition 65 is a "right-to-know" law that requires businesses to warn individuals when the businesses knowingly expose individuals to a chemical listed by the State of California as known to cause cancer or reproductive toxicity. Proposition 65 enforcement actions have led businesses to reduce exposures to diesel exhaust emissions from port facilities, acrylamide in snack foods, and lead in calcium supplements, Mexican candies, and children's jewelry.

However, regulations developed 25 years ago allowed Proposition 65 warnings to contain vague information about the presence of an unnamed chemical or chemicals that cause cancer or reproductive harm. This proposal stems from a Proposition 65 reform effort announced by the Governor in May 2013. In response to concerns about the clarity and quality of Proposition 65 warnings, the Administration proposes to institute reforms that will better inform consumers about what they are being exposed to and how they can protect themselves. Additionally, the proposed improvements will purportedly provide affected businesses a more reasonable level of certainty that they will not be sued for inadequate warnings.

STAFF COMMENTS

This proposal seeks to better inform the public about their exposures to chemicals that cause cancer or reproductive harm by revising existing regulations to take into consideration technological advances made over the last 25 years and by developing a website that will contain detailed information regarding listed chemicals as well as exposure pathways, risks, and avoidance measures.

Staff Recommendation: Approve as Budgeted