

## AGENDA

### ASSEMBLY BUDGET COMMITTEE NO. 3 RESOURCES AND TRANSPORTATION

**ASSEMBLYMEMBER RICHARD BLOOM, CHAIR**

**WEDNESDAY, MARCH 4**

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

<b>VOTE-ONLY CALENDAR</b>		
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**VOTE-ONLY****3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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**VOTE-ONLY ISSUE 1: CAPITAL OUTLAY: Rohnerville Air Attack Base (Humbolt County) Facility Improvements**

The Governor's Budget requests \$280,000 to demolish and replace two concrete loading pads and upgrade security lighting and fencing to FAA/Homeland Security requirements.

**VOTE-ONLY ISSUE 2: CAPITAL OUTLAY: Water System Improvements Various Locations**

The Governor's Budget requests \$775,000 to upgrade or repair water systems at various CALFIRE facilities.

**VOTE-ONLY ISSUE 3: CAPITAL OUTLAY: Columbia Air Attack Base (Sierra Nevada foothills) Facility Improvements**

The Governor's Budget requests \$768,000 to make various improvements related to the support apparatus for the storage of helicopter fuel tender.

**VOTE-ONLY ISSUE 4: CAPITAL OUTLAY: San Luis Obispo Unit HQs – Replace Facility**

The Governor's Budget proposes \$36,912,000 to replace the existing Unit Headquarters located in San Luis Obispo.

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**Staff Recommendation: Approve as Budgeted Issues 1-4.**

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**3860 DEPARTMENT OF WATER RESOURCES****VOTE-ONLY ISSUE 5: Central Valley Flood Protection Board Permitting and Enforcement Branch Support**

The Governor's Budget proposes \$800,000 (General Fund) to support 5 new permanent, full time positions located within the Central Valley Flood Protection Board to adequately fulfill the assurances the State has made to the federal government through a number of Assurance Agreements and in compliance with California Water Code. Specifically, the additional staffing is necessary to assist the 116+ Local Maintaining Agencies in resolving the levee deficiencies that caused the federal government to remove more than half of them from the PL84-99 program (a federal program that provides financial assistance to rehabilitate levees after catastrophic failures). Each month, additional systems are removed from the program due to a number of issues, including illegal encroachments and rodent holes.

**VOTE-ONLY ISSUE 6: Protect and Restore Ecosystems, Sac Valley Water Mgmt. and Habitat Protection Projects – Prop 204**

The Governor's Budget proposes the reversion and new appropriation of \$2.212 million or the remaining balance of Proposition 204 (Chapter 6, Article 5) local assistance bond funds (from fiscal year 2010-11) for advance projects that assist in meeting CA Water Action Plan Action 4 – Protect and Restore Important Ecosystems. Projects would be developed in response to the changing water management environment in Sacramento Valley with a focus on reducing stresses on the Bay-Delta system. This proposal will be implemented through DWR's Local Assistance Grant program.

This proposal has been withdrawn by the Administration, as the funding is no longer available for use. Proposition 1, passed by the voters in November 2014, and swept the unexpended balance from Proposition 204.

**VOTE-ONLY ISSUE 7: Expand Water Storage Capacity – Administration of Truckee River Operating Agreement**

The Governor's Budget requests \$150,000 in Fiscal Year 2015/16 and \$300,000 annually thereafter from the General Fund in order to augment the Central California Water Management program to meet California's mandated responsibilities under the Truckee River Operating Agreement (TROA).

**VOTE-ONLY ISSUE 8: Capital Outlay - Water Efficiency Projects**

The Governor's Budget proposes \$10,000,000 from Cap-and-Trade proceeds allocated to the Department to fund the replacement of the Hyatt Unit 1 turbine runner and the replacement of the Thermalito Unit 1 Kaplan turbine runner, along with rehabilitation of ancillary equipment on both units to increase power generation efficiency, reliability, performance, and safety.

The total project cost is \$26,000,000 of which the Cap-and-Trade auction proceeds funding will contribute \$20,000,000. This request is for the second appropriation of Cap-and-Trade

funding. The first appropriation of Cap-and-Trade funding, in the amount of \$10,000,000, was in FY 2013-14. This request includes only Operating Expenses & Equipment with no positions.

**VOTE-ONLY ISSUE 9: INCREASE REGIONAL SELF RELIANCE – PROP 84 IRWM PROGRAM DELIVERY**

The Governor's Budget proposes the reversion of \$4.822 million of the remaining balance of prior State Operations (SO) and new appropriation of \$5.055 million from Proposition 84 Integrated Regional Water Management (IRWM) Program. The request is for approximately \$1.011 million per year in SO funds over 5 years beginning in fiscal year (FY) 2015-16 that will support 8.5 existing positions. No new positions are requested.

**BACKGROUND**

Proposition 84, passed by California voters in November 2006, among other things, authorized the Legislature to appropriate one billion (\$1,000,000,000) for IRWM programs and projects.

According to the Department, significant progress has been made by the IRWM Grant Program. DWR has concluded the award of all funds for various component grant programs – IRWM Planning, Local Groundwater Assistance, Disadvantaged Community Assistance Program; all Interregional funds are obligated and being expended. All remaining Regional Funds (LA) (\$472.5 million) were previously appropriated (SB 104).

SB 104 directed DWR to expedite the award of \$200 million for drought related actions, which is ongoing, and authorized DWR to provide additional funding to “backfill” prior grant awards, which has been done. The remaining Regional Funds (approximately \$250 million) are currently scheduled for award in FY 2015-16.

DWR is currently administering over 120 grant agreements to implement over 350 projects funded through prior solicitations. The appropriation of the remaining balance of the SO would support the remaining Implementation Grant solicitation and the continuing DWR program administrative efforts including grant oversight, invoice payment, project close out, and bond accountability obligations.

Staff has no concerns with issues 6-11.

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**Staff Recommendation: Approve as Budgeted Issues 5, 7-9. Reject Issue 6 (at Administration request).**

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**3940 STATE WATER RESOURCES CONTROL BOARD****VOTE-ONLY ISSUE 10: TECHNICAL BOND ADJUSTMENT**

The Governor's Budget requests: a reduction of State Operations Authority in Propositions 13 and 50, and an augmentation of Proposition 84 State Operations authority; reversions of the specified amounts for various fiscal years of State Operations and Local Assistance funds for Propositions 13, 40, 50 and 84; and the appropriation of funds for Propositions 13, 40, 50, 84 to ensure the purpose of the bonds are met with the funding of new projects. Additionally, the State Water Board requests that these funds be available for encumbrance until June 30, 2018.

**VOTE-ONLY ISSUE 11: SB 985 STORM WATER RESOURCE PLAN**

The Governor's Budget requests \$381,000 and 3.0 two-year limited term positions from the Waste Discharge Permit Fund to implement the mandates of SB 985 (Pavley), Chapter 555, Statutes of 2014. The intent of the SB 985 is to promote storm water use projects and dry weather non-storm water runoff use projects through storm water resource plans.

**VOTE-ONLY ISSUE 12: AB 2071 USE OF RECYCLED WATER FOR LIVESTOCK**

The Governor proposes a one-time General Fund increase of \$300,000 to implement the requirements of AB 2071 (Levine), Chapter 92, Statutes of 2014. These funds enable the State Water Board to hire contractors to coordinate, oversee, and administer an expert panel to determine if the use of tertiary recycled water for consumption by animals poses a significant health risk to the public or animals.

**VOTE-ONLY ISSUE 13: MARIJUANA CULTIVATION ENFORCEMENT TEAM**

The Governor's Budget requests \$1.5 million General Fund and 11.0 two year limited term positions to continue implementation of a task force and priority-driven approach to address the natural resources damages from marijuana cultivation, primarily on private lands in northern California, but also in targeted partnerships with DFW on high conservation value state public lands. The proposal continues the 11.0 positions approved in the 2014-15 budget. The multi-disciplinary task force assigned to address this issue will develop a long-term scientific monitoring and permitting program in anticipation of future state regulatory changes related to marijuana. The continuation of the current year effort will be focused in the geographic area with the greatest need, which are those counties covered by Water Boards Regions 1 and 5.

**VOTE-ONLY ISSUE 14: SMALL COMMUNITIES WASTE WATER PROJECTS**

The Governor's Budget requests a one-time augmentation of \$4 million for State Fiscal Year (FY) 2015-16 (total of \$12 million for FY 2015-16), for the State Water Pollution Control Revolving Fund Small Community Grant Fund to assist small disadvantaged communities (SDACs) with their wastewater needs. These grants will help SDACs achieve compliance with water quality regulations, protect surface and groundwater quality, and help eliminate threats to public health and safety. The State Water Board requests that the appropriated funds be available for encumbrance until June 30, 2017.

**BACKGROUND**

A SDAC is a community with a population of less than 20,000 persons and a median household income (MHI) less than 80 percent of the Statewide MHI. The challenges SDAC's face in implementing wastewater projects generally result from a lack of adequate local monetary resources, combined with insufficient access to technical expertise. Due to their small rate base, SDAC's lack the economies of scale to build and maintain adequate wastewater systems. They are also commonly located in rural, sparsely-populated areas that require greater pipeline and pumping infrastructure. Many SDACs are on failing septic systems or have old and undersized wastewater treatment plants that cannot meet current water quality standards. Some residents are even forced to discharge wash water directly onto their lawns and/or experience sewage overflowing into their houses or yards. Such systems can cause significant health and safety problems, endanger surface water uses, and pose a threat to groundwater supplies.

Principal forgiveness funds, which are similar to grant funds, became available through the Clean Water State Revolving Fund (CWSRF) Program beginning with the American Recovery and Reinvestment Act (ARRA) of 2009. Subsequent annual federal appropriations have authorized principal forgiveness funds, but only on a limited basis. The State Water Board has targeted available CWSRF principal forgiveness funds primarily toward SDACs. However, federal authority for CWSRF principal forgiveness funds has declined significantly over the last few years. The State Water Board's allocations have declined as follows: approximately \$73 million in Federal Fiscal Year (FFY) 2010, approximately \$25 million in FFY 2011, approximately \$10 million in FFY 2012, approximately \$6.7 million in FFY 2013, and approximately \$8.1 million in FFY 2014.

The funding for SDAC wastewater projects is in great demand, particularly to assist with the upfront planning costs to get projects moving forward to construction. Assembly Bill (AB) 2356, Statutes 2008, Chapter 609, established the Small Community Grant Fund (Water Code Section 13477.6) to offer a consistent source of funding to provide planning, design, and construction grants for SDAC wastewater projects. The bill authorized the State Water Board to assess an annual charge (in lieu of interest that would otherwise have been charged) on financial assistance agreements made pursuant to the Clean Water State Revolving Fund (CWSRF) Program, to be used for grants for these SDAC wastewater projects.

**STAFF COMMENTS**

Staff has no concerns with issues 10-14.

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**Staff Recommendation: Approve as Budgeted Issues 10-14.**

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**3600 DEPARTMENT OF FISH AND WILDLIFE**

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**VOTE-ONLY ISSUE 15: FEDERALLY FUNDED PROJECTS**

The Governor's Budget requests 8.0 positions and \$0.8 million to support the following federally funded programs: to establish a Human Dimensions in Wildlife Program; to conduct the California Recreational Fisheries Survey; and to support the data collection, analysis, and science-based decision support tools being developed by the South Coast Region's Resource Assessment Program.

**STAFF COMMENTS**

Staff has no concerns with this proposal.

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**Staff Recommendation: Approve as Budgeted.**

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## ITEMS TO BE HEARD

### 0540 SECRETARY OF NATURAL RESOURCES

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<b>INFORMATIONAL ITEM: WATER ACTION PLAN UPDATE</b>
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California faces a myriad of water challenges, including limited and uncertain water supplies, poor surface and groundwater quality, impaired ecosystems, and the high risk of flooding. Last year, the Legislature and the Governor made progress towards addressing a multitude of water challenges facing the state with the passage of the Water Bond and enactment of historic groundwater legislation.

In January 2014, the Governor released his Water Action Plan, a five-year roadmap "towards sustainable water management." The Plan articulates actions that the Administration is committed to completing. At the core of the Plan are ten actions and associated sub-actions designed to support three overarching goals: restoration, resilience, and reliability. Reaching these goals requires a commitment of significant resources to both new water management projects and the maintenance of existing infrastructure. It also requires investment in a broad suite of water management strategies, including:

- Providing incentives for improved regional water management, including conservation.
- Recycling and storm water capture.
- Integrating flood management and habitat restoration efforts.
- Implementing sustainable groundwater management policies.
- Developing new and improving operation of existing surface and groundwater storage.

In general, local water agencies (e.g. drinking water, wastewater, flood control) provide the vast majority of revenues that contribute to water system development, upgrades, and operations. Given this, the state must invest its relatively modest water management funding wisely, directing dollars where they can address critical community needs, leverage other funding sources, and spur transformative water management practices.

The 2015-16 proposed Budget includes approximately \$1.7 billion in investments to continue to implement the Governor's Water Action Plan. The two largest components of which are the implementation of the Water Bond and spending for flood protection.

On January 30, 2015, the Governor released the California Water Action Plan Implementation Report 2014-2018. The report reviews actions taken to-date and looks ahead to the next four years and beyond.

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**Staff Recommendation: Informational Item**

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**3540 DEPARTMENT OF FORESTRY & FIRE PROTECTION**  
**3600 DEPARTMENT OF FISH & WILDLIFE**  
**3860 DEPARTMENT OF WATER RESOURCES**  
**5180 DEPARTMENT OF SOCIAL SERVICES**  
**3940 STATE WATER RESOURCES CONTROL BOARD**  
**0690 OFFICE OF EMERGENCY SERVICES**  
**3860 DEPARTMENT OF WATER RESOURCES**

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#### **ISSUE 1: DROUGHT RESPONSE FUNDING PROPOSALS**

The 2015-16 Budget proposes \$115 million (\$93.5 million General Fund) in one-time funds across five departments to continue the critical drought response efforts, should existing drought conditions continue through next year.

#### **BACKGROUND**

The current California drought is the worst in modern U.S. history. However, scientists say that based on what's to come, the United States hasn't seen anything yet. Analysis released in February 2015 from scientists at NASA, Cornell University, and Columbia University predicts that climate change will cause droughts in the Southwest and Great Plains of the U.S. that exceed any experienced in the last 1,000 years. These "megadroughts" are likely to begin between 2050 and 2099, and could each last between 10 years and several decades.

California is now experiencing its fourth dry year in a row. California's drought conditions have resulted in dangerously low levels of water in our reservoirs and groundwater aquifers and have impacted every aspect of our environment and economy. The drought has imperiled drinking water supplies, our agricultural sector, sensitive habitats and greatly increased our risk of wildfire.

Last year's Urgency Drought legislation provided \$687.4 million to support drought relief, including emergency financial assistance for housing and food for workers directly impacted by the drought, funding to secure emergency drinking water supplies for drought-impacted communities, and funding for projects to help local communities more efficiently capture and manage water.

The 2014 Budget Act also provided \$142 million to continue immediate drought-related efforts, such as enhanced fire protection, assistance to local water agencies with emergency water supply projects, public outreach through the Save Our Water campaign, and enforcement of drought-related water rights and water curtailment actions.

The table below outlines the proposed expenditure by Department.

### Drought Related Appropriations

(In Millions)

Purpose	Department	2013-14 Actual	2014-15 Actual	2015-16 Proposed
Increased fire suppression and prevention	Forestry and Fire Protection	—	\$66.0	\$61.8
Emergency drinking water supplies	Public Health/SWRCB	\$15.0	—	15.9
Actions to protect fish and wildlife	Fish and Wildlife	2.3	38.8	14.6
Emergency water supply activities and education	Water Resources	1.0	18.1	11.6
Emergency regulations and enforcement	SWRCB	2.5	4.3	6.7
Drought response coordination and guidance	Office of Emergency Services	1.8	4.4	4.4
Food assistance	Social Services	25.3	5.0	— <sup>a</sup>
Grants for local water supply projects	Water Resources	472.5	—	—
Flood control projects	Water Resources	77.0	—	—
Housing assistance	HCD	21.0	—	—
Grants for projects that save water and energy	Water Resources	20.0	—	—
Groundwater cleanup and sustainable management	Water Resources/SWRCB	14.0	9.1	—
Drought response and water efficiency	Conservation Corps	13.0	—	—
Grants for irrigation improvements to save water and energy	Food and Agriculture	10.0	—	—
SWP water-energy efficiency	Water Resources	10.0	—	—
Training for workers affected by drought	Employment Development	2.0	—	—
Water conservation in state facilities	General Services	—	5.4	—
<b>Totals</b>		<b>\$687.4</b>	<b>\$151.1</b>	<b>\$115.0</b>

<sup>a</sup>Does not include a carryover of \$7 million General Fund from prior years to 2015-16.

SWRCB = State Water Resources Control Board; HCD = Housing and Community Development; and SWP = State Water Project.

Specifically, the Governor requests:

**Department of Forestry and Fire Protection (CAL FIRE):** \$59,408,272 General Fund (GF) and \$2,389,884 State Responsibility Area (SRA) Fire Prevention Fund, and 373.0 temporary help positions through December 31, 2015, to address heightened fire conditions brought on by drought conditions. This includes:

- \$23,033,423 (GF) for extending staffing on engines, at air attack bases, and at helitack bases;
- \$4,236,573 (GF) to hire additional Fire Apparatus Engineers in each of the 21 units to staff engines in direct support of delayed shift relief and increased overtime that already exists and will be compounded by the increase in wildland fire incidents projected for the 2015 fire season;
- \$917,615 (GF) to hire additional Fire Captains for fire crew supervision;
- \$264,150 (GF) for additional Fire Captains to provide required training and safety classes to personnel;
- \$418,842 (GF) for additional information/education and Public Information Officers support;
- \$1,102,728 (GF) to support prompt processing and payment of CAL Card statements;
- \$1,937,100 (GF) for additional Emergency Command Centers;
- \$394,446 (GF) for additional intel support positions in Sacramento and for the two regions;
- \$14,586,997 (GF) to add an additional Firefighter I onto 121 engines when all 343 engines are staffed and then 1/3 of its weekly up-staffed engines between October and December;

- \$1,920,000 (GF) for increased vehicle repair funding given drought driven fire conditions that results in more wear and tear on equipment;
- \$2,182,068 SRA Fire Prevention Fund to extend the existing Forestry Aid positions another four additional months so they can work through peak fire season;
- \$6,436,962 (GF) for two Large Air Tanker exclusive use contracts that will supplement the Department's 22 air tankers; and
- \$4,159,437 (GF) and \$207,816 SRA Fire Prevention Fund, associated with the Defensible-Space/Prevention Education, for proportional funding for the six contract counties.

**State Water Resource Control Board (SWRCB):** \$22.6 million to respond to record dry conditions and diminishing water supplies in the State's major rivers and reservoirs and drinking water emergencies. This includes:

- \$7.6 million State Operations (\$6.7M [GF] and \$916,000 Cleanup and Abatement Account (CAA) to support 42.5 limited term positions;
- \$500,000 (GF) for overtime costs to staff the Drought Response Center for drought related activities;
- \$15.0 million in Local Assistance (CAA) for projects that provide water systems with both interim and permanent solutions to drought emergencies. Interim solutions have included hauled water, bottled water, and emergency interties. Permanent solutions may include design and construction of connections to adjacent public water systems, new wells and well rehabilitation.

The State Water Board approved a petition in FY 2014-15 to adjust water quality requirements in the Sacramento San Joaquin Delta, allowing the State Water Project and the federal Central Valley Project to conserve water supplies in upstream reservoirs and more effectively operate their facilities in response to ongoing drought conditions. In addition, the State Water Board anticipates issuing notices to curtail diversions of water from the Sacramento, San Joaquin, and other drought impacted river systems. According to the Administration, these types of actions reflect extraordinary circumstances brought on by the state's record drought. Recognizing the extraordinary circumstances that Californians are facing, the State Water Board maintains that it will need to make real-time decisions reflecting either improving or deteriorating conditions based on the most current information. Due to the severity of the current situation, the State Water Board states that it will need to have ongoing constant oversight and monitoring during the drought conditions. As a result, workload has increased significantly to ensure water users are in compliance with any actions set by the State Water Board as conditions evolve.

The State Water Board adopted emergency regulations in FY 2014-15 to ensure urban water supplier's implemented drought plans to conserve water. The Board plans to continue to track and ensure compliance with water conservation regulations. The State Water Board also redirected Drinking Water Program staff to assist with Drought emergency response actions, tracking and reporting. The State Water Board requests authorization for staff overtime to continue these activities.

**Department of Fish and Wildlife (DFW):** \$14.7 million (\$11.4 million [GF] and \$3.2 million Fish and Game Preservation Fund) and 13.0 one-year limited-term positions to focus on threatened and endangered species, as required by the Governor's proclamations and the California Water Action Plan. This includes:

- \$1.2 million to provide emergency help for Winter and Spring-run Chinook salmon on the Sacramento River and its tributaries;

- \$3.2 million to apply 21st technology to monitoring salmon and smelt populations;
- \$3.3 million to provide coverage for key 2014 statewide drought responses;
- \$3.2 million to take preventive management actions to avoid commercial fishery impacts;
- \$0.8 million to help ensure existing wildlife laws are enforced;
- \$2.0 million to initiate new terrestrial stressor monitoring; and
- \$1.0 million to respond to problems of human/wildlife conflict.

**Department of Water Resources (DWR):** \$11.625 million (GF) to respond to California's drought emergency in compliance with Governor Brown's Proclamation of a State of Emergency. This includes:

- \$7.525 million and 25 existing positions for the Drought Emergency Response Program. According to the Administration, this project is a critical part of the Governor's Water Action Plan, Department of Water Resources' (DWR) Water Plan and DWR's Emergency Plan. This program would provide management, technical and direct assistance, and resources to State and local agencies for managing drought-related emergencies through the utilization of the DWR's Drought Management Operations Center (DMOC). The DMOC will also be responsible for activities and actions taken by DWR to respond to critical water shortage and drought impacts statewide; and
- \$4.1 million to fund the Save Our Water campaign, water conservation education, continued remote sensing contracts, groundwater monitoring, water transfer support contracts, and monitoring and compliance support for the Drought Operations Plan.

**Office of Emergency Services (OES):** \$4.4 million (GF) state operations to cover operating costs associated with the drought. The funds will be used to pay the cost of existing staff redirected to work in support of the state's response to the drought. Many of the OES' positions are funded with federal funds. As such, when staff is redirected to support a state emergency and there is no federal declaration, the costs are not allowable under federal grants. Such costs need to be covered by state funds – primarily the General Fund.

#### LAO COMMENTS

According to the Legislative Analyst's Office (LAO):

**Recent Expenditures on Drought.** *The Legislature appropriated a total of \$839 million (mostly bond funds) for various drought-related activities in 2013-14 and 2014-15. As of January 2015, the administration had expended \$234 million (27 percent) of the \$839 million (mostly bond funds) appropriated for various drought-related activities in 2013-14 and 2014-15.*

**Generally Reasonable Response to Problems Caused By Drought.**

*The Governor's proposals generally address significant problems that have arisen during the drought and incorporate some lessons learned from previous drought-related activities.*

**Funding Required Will Depend On Future Hydrologic Conditions.**

*Water conditions—and therefore resource needs for drought activities—for 2015-16 will be determined by the amount of precipitation that falls in the next few months.*

***Responding to Drought as an Emergency Creates Problems.***

*Droughts recur periodically in California. However, many state agencies and some local agencies do not have programs and procedures in place to plan for droughts, unlike for other disasters.*

***Consider Actions Needed to Improve Resilience to Future Droughts.***

*The Legislature may want to consider changes to California's water system that would improve the state's resilience to dry conditions. For example, the Legislature could consider enhancing ongoing monitoring and enforcement of the water rights system so that the state does not have to take emergency actions to rapidly ramp up those efforts during droughts.*

**STAFF COMMENTS**

The Administration specifies, "in the event existing drought conditions continue through next year," the Budget will deploy the \$115 million in resources outlined above. Given the extreme drought conditions that continue to plague the state, it seems almost certain that the Administration will need these resources to combat the drought. However, the Subcommittee may wish to ask the Administration why only 27 percent of the funds appropriated last year have been spent. Staff recommends that the Subcommittee continue to closely monitor drought conditions to assess the need to appropriate additional funds beyond what is currently being contemplated by the Administration to ensure adequate drought response efforts.

Further, given the specter of future "megadroughts," the Subcommittee may wish to ask the Administration what it is doing to improve the state's resiliency to future droughts.

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**Staff Recommendation: Approve as budgeted**

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**3860 DEPARTMENT OF WATER RESOURCES**

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The Department of Water Resources' proposed budget is \$3.4 billion, which represents a 22 percent decrease in expenditure from last year. This decrease is primarily due to expiring bond funds. Most of the Department's budget is special funds, with \$83 million of the proposed total funding coming from General Fund.

**ISSUE 1: FLOOD PROTECTION - PROPOSITION 1E**

The Budget proposes \$1.1 billion for the Department of Water Resources (DWR) to support flood protection activities, which will appropriate all remaining Disaster Preparedness and Flood Prevention Bond Act (Proposition 1E), enacted by the voters in 2006. Expenditures of these remaining bond funds will be allocated to program categories that are consistent with the resource allocation recommendations of the Central Valley Flood Protection Plan for prioritizing flood management projects. The Administration has requested the enactment of legislation that appropriates \$1.1 billion of Proposition 1E funds early in the legislative session, prior to enactment of the Budget Act.

The funding request is contained in several budget change proposals. The chart on the following page organizes the requests by program.

**Prop. 1E Funding Proposal**

<b>Proposal</b>	<b>Amount Requested</b>
<b>FloodSAFE Programs</b>	<b>\$398,530,000</b> (\$163 million state operations, \$235.5 million local assistance)
• Flood Management Planning Program	\$5,000,000
• Floodplain Risk Management (including risk assessment & mapping; community assistance; and floodplain mitigation planning)	\$20,000,000
• Flood Risk Reduction Projects	\$303,000,000
o Flood Corridor Program(\$34 million)	
o Flood Control Subventions(\$168 million)	
o Delta levee System Integrity (\$72 million)	
o Flood System Conservation Program (\$29 million)	
• Flood System Operation and Maintenance (including channel evaluation and rehabilitation; Flood Control facilities Evaluation & Rehabilitation Program; Levee Evaluation and Rehabilitation Program; and Flood System Evaluation and Rehabilitation Program)	\$14,000,000
• Flood Emergency Response	\$43,000,000
<b>System-Wide Flood Risk Reduction Program</b> (examples of known projects below)	<b>\$300,000,000</b> (capital outlay)
• Expansion of Fremont Weir and Sacramento Weir	
• Expansion of Yolo, Sacramento, Sutter, Feather River Bypasses	
• Reservoir Reoperation and Folsom Dam Modifications	
• Flood Projects associated with SJ River Restoration	
<b>Urban Flood Risk Reduction Program</b>	<b>\$320,000,000</b> (capital outlay)
• Grants (examples of known projects below)	
o West Sac Southport	
o Feather River West	
o San Joaquin Smith canal	
o San Joaquin Mormon Slough	
o Sac River pocket Area	
o Bear River Wheatland	
o Yuba River Goldfields	
• U.S. Army Corps of Engineers-Central Valley Flood Protection Board Flood Risk Reduction Projects (examples of known projects below)	
o American River Common Features	
o Merced County Streams Feasibility	
o Lower SJ River Feasibility	
o Lower Cache Creek Feasibility	
o Cache Creek Settling Basin	
o West Sac General Reevaluation Report	
o American River Common Features	
o Marysville Ring Levee Project	
o Sutter Basin, Project A	
<b>Non-urban Flood Risk Reduction Programs</b>	<b>\$118,000,000</b> (capital outlay)
• Flood System Repair Project	
• Sac River Bank Protection Project	
• Federal PL84-99 Emergency Repairs	
• Small Communities Flood Risk Reduction program	



The Governor has also proposed two additional Prop. 1E requests:

- \$600,000 State Operations funding for the Central Valley Flood Protection Board to update its California Code of Regulations Title 23 regulations in order to be consistent, timely and effective in fulfilling its permitting and enforcement authorities while adopting, monitoring and overseeing the implementation of the Central Valley Flood Protection Plan; and
- Reversion of \$2.912 million of the remaining balance of prior State Operations (SO) and new appropriation of \$3.585 million for the Stormwater Flood Management Grant Program. The requested SO funds will be expended over 5 years beginning in fiscal year 2015-16 to support 6 existing positions. No new positions are requested.

## BACKGROUND

More than 7 million California residents and \$580 billion in economic assets statewide are vulnerable to flood risk. The DWR estimates that the total need for flood control funding in the Central Valley is between \$14 billion and \$17 billion.

In 2006, the voters of California approved two general obligation bond acts for activities to benefit California's environment, protect its water supply and water resources, and begin to address California's unique flood protection needs. A total of \$4.85 billion was authorized by these bond acts.

Since 2007, the Legislature has appropriated all but approximately \$335 million of this funding for a variety of flood-related activities in the state, including emergency flood system repair projects, emergency preparedness, Delta flood protection projects, floodplain mapping, statewide and local planning, and the construction of flood protection projects.

Often, however, flood protection projects can see delays due to timing and availability of local funding, state and federal permitting processes, delays due to construction season limitations, and fluctuations in the overall economy such as was seen between 2008 and 2013. In the event of such delays in the expenditure of funds, the Legislature is often asked to reappropriate the funding in a future budget act to provide sufficient time for those delays to be worked through.

Proposition 1E, however, includes specific language that allows for no appropriation after June 2016 – essentially setting up a “use it or lose it” scenario. In order to provide sufficient times to both encumber and expend the as-yet unspent Proposition 1E dollars, the 2015-16 Budget Act is seeking the reappropriation of approximately \$750 million in money previously approved, and approximately \$335 million in new dollars – collectively comprising the remaining Proposition 1E authorizations – that would be available for up to ten years. Providing this length of time, the Administration argues, would ensure any hurdles that may stand in the way of projects can be overcome without loss of the state funding.

**LAO COMMENTS**

**Governor's Proposal.** *Unlike with prior appropriations, the proposal does not identify specific projects that would be funded. The DWR would have ten years to encumber the funds (commit to projects) and an additional two years to expend them. The department would also be able to transfer funds between state operations, local assistance, and capital outlay projects as it deems necessary.*

**Significantly Reduces Legislative Involvement and Oversight.** *Under the proposal, the administration would be able to direct funding to currently unknown projects and shift funding away from currently planned projects without justification and legislative approval. Compared to current budgeting practice, this would significantly limit the Legislature's ability to direct funding to its priorities and oversee how those funds are spent.*

**Establishing Legislative Priorities Is Key Given Large Demand.** *Prioritizing among flood projects inherently involves weighing the reduction in flood risk with various other factors, including (1) how much to rely on local and federal contributions, (2) how quickly projects can be initiated, (3) how to value environmental and other state-level benefits, (4) reducing state financial liabilities related to levee failures, and (5) how much funding should support shorter-term planning activities versus projects.*

**Does Not Address Problems That Led to Delay.** *According to DWR, the state has faced challenges to initiating and completing Proposition 1E projects, including (1) securing local and federal cost shares, (2) identifying suitable projects, and (3) securing permits needed to complete projects. While lengthening the appropriation as proposed might allow the state to fully expend the bond funds, it does not fundamentally address the problems that led to the current situation.*

**Modify Governor's Proposal to Provide Greater Control and Accountability.** *Legislature could modify the Governor's proposal to (1) require annual reporting on projects and expenditures, (2) require legislative review of projects prior to encumbering funds, and (3) prohibit transfers to state operations(except levee maintenance). This would provide greater accountability than the Governor's proposal, but would still be less than under current budget practice.*

**STAFF COMMENTS**

As mentioned above, the language in Prop. 1E prohibits the appropriation of funds after June 1, 2016 -- essentially setting up a "use it or lose it" scenario. While authorizing the DWR ten years to appropriate funds is highly unusual and raises some concern, California's flood problem is far greater than the money remaining in Prop. 1E. Thus, it may not be wise to risk leaving any flood money on the table.

However, staff agrees with LAO that granting the Department authority to shift money freely between State Operations, Local Assistance and Capital Outlay is problematic. In order to increase transparency and Legislature oversight, staff recommends:

- 1) Limiting the Departments ability to shift funds by restricting the movement of funds from State Operations to Local Assistance or Capital Outlay (i.e., no shifts to State Operations).
- 2) Requiring DWR to provide an annual report to the Legislature showing which programs are being funded and the progress of those programs. Specifically, the report should include:
  - a. Three years of expenditures from the specific programs – Prior Year Actuals, Current Year Estimates, and Budget Year Proposed;
  - b. Identification of projects funded in the prior year, projects being-funded in the current year and proposed for funding in the Budget Year; and
  - c. Any actual or proposed shift of funding from State Ops to Local Assistance or Capital Outlay in prior years, current year, or proposed in the BY.

Such limits and reporting requirements would ensure no money is left on the table, provide greater transparency and accountability, and allow input from the Administration and the Legislature on an annual basis – providing the Legislature information akin to an annual budget change proposal. Further, it will also keep the Legislature posted on how quickly the remaining Prop 1E funding is being spent.

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**Staff Recommendation: Approve funding as budgeted. Specify that the Department provide an annual accounting of funds to the Legislature (as prescribed above); Limit shifting of funds to only allow shift from State Operations to Local Assistance or Capital Outlay.**

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**ISSUE 2: Prepare for and Manage Dry Periods - Critical Water Shortage Management**

The Governor's Budget proposes \$1.4 million annually in General Fund, beginning in fiscal year (FY) 2015/16 to support 4 existing positions. This funding will be used to support the Water Transfers Program. According to the Administration, this request will allow the water transfers management program to address mission critical water supply needs statewide. Specific activities include, improved program transparency, support for multi-agency water transfers workgroup, program information management, and development of a Water Transfer Clearing House.

**BACKGROUND**

California is experiencing its third dry year in a row. Even if hydrology and project water storage conditions improve during 2015/16, water transfers will be critical in the recovery from the shortfalls in water supply allocations incurred in 2014. If water conditions do not improve, allocations will be very low and water transfers will be required to meet local agency health and safety needs.

These conditions put California's drinking water supplies, urban and rural areas, agriculture, plants, and animals that rely on California's rivers, including many species in danger of extinction, at high risk. In May 2013 Governor Brown issued Executive Order B-21-13, directing State water officials to expedite the review and processing of voluntary transfers of water and water rights.

According to the Administration, the resources requested in this proposal are required in order to comply with Executive Order B-21-13 and the requirements of the Governor's Drought Proclamations to facilitate and expedite water transfers. The requested funds will allow DWR to perform necessary and ongoing work in its continuing efforts to provide a reliable and safe water supply for Californians through facilitation of voluntary water transfers and expeditious review and approval of water transfer proposals, as required by statute.

**STAFF COMMENTS**

The requested funds will allow DWR to perform necessary and ongoing work in its continuing efforts to provide a reliable and safe water supply for Californians through facilitation of voluntary water transfers and expeditious review and approval of water transfer proposals, as required by statute.

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**Staff Recommendation: Approve as Budgeted**

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**3860 DEPARTMENT OF WATER RESOURCES**  
**3600 DEPARTMENT OF FISH AND WILDLIFE****ISSUE 1: GROUNDWATER LEGISLATION IMPLEMENTATION**

The Governor's Budget requests funding for two departments to implement the recently adopted groundwater legislation (SB 1168, AB 1739, and SB1319):

- **Department of Water Resources.** \$6,000,000 in General Funds in fiscal year( FY) 2015/16 and \$8,000,000 for four years from FY 2016/17 through FY 2019/20 for the DWR to complete objectives and actions to 1) implement the Sustainable Groundwater Management Legislation and 2) develop and implement strategic actions to achieve sustainable groundwater management. This proposal will support 5 new and 26 existing positions. It will also cover external consulting services and local technical assistance to implement the legislation. This proposal augments and complements other parts of the California Water Action Plan and work described in two approved FY 2014/15 proposals: California Groundwater Elevation Monitoring (CASGEM) and California Statewide sustainable groundwater management (SGM) Program.
- **Department of Fish and Wildlife (DFW).** Two positions and \$274,000 of General Fund to be phased in over two years. The Sustainable Groundwater Management Act requires that fish and wildlife impacts be addressed in high and medium-priority basins where groundwater pumping is causing significant impacts on interconnected surface waters. The proposed resources will enable the DFW to coordinate with local agencies, DWR and the State Water Resources Control Board (State Water Board) on groundwater policies and management plans.

**BACKGROUND**

On September 16, 2014, the Governor signed into law three groundwater legislation bills (SB 1168, AB 1739, and SB 1319) that significantly expand the directed actions and authority of DWR to implement sustainable groundwater management (SGM). The new legislation suggests local agencies form Groundwater Sustainability Agencies (GSA) to manage groundwater through groundwater sustainability plans (GSP) in CASGEM high and medium priority basins. GSA will need financial and enforcement (which the legislation provides) tools to carry out effective sustainable groundwater management (SGM). The new legislation also allows for State intervention at discrete points throughout the process toward SGM.

The legislation directs DWR to complete regulations, review Groundwater Sustainability Plans (GSPs), alternatives to GSPs, and complete other activities, and conduct groundwater assessments into the next decade.

This proposal will implement the legislation through investments in groundwater data management and exchange, reporting, outreach to groundwater sustainability agencies, and financial and regional planning assistance to ensure local agencies have the tools needed to meet their responsibilities under the legislation. DWR will incorporate new basin assessments required by groundwater sustainability agencies (State of the Basin Reports) into the Department's California's Groundwater and California Water Plan (Bulletin 118 & 160); share new information gathered from subsidence monitoring; update well standards; coordinate State

agency groundwater management actions; provide technical support for monitoring and data collection; and advance groundwater modeling tools and capabilities.

Further, the legislation requires the DFW to: address impacts groundwater extractions have on fish and wildlife; revise policies resulting from this legislation and newly developed groundwater sustainability plans (Plan); and coordinate with local agencies and the DWR in the development and/or revision of plans, policies and reports.

To ensure fish and wildlife impacts associated with groundwater extraction are analyzed, identified and addressed, this proposal, among other things, directs DFW to evaluate proposed groundwater sustainability thresholds in priority basins, cumulative impacts of groundwater substitution water transfers, surface water depletion factors attributed to groundwater extractions, groundwater/surface water models, and technical reports prepared for groundwater regulatory programs.

#### **STAFF COMMENTS**

Sustainable management of groundwater is a top priority for the Legislature. In the past, rather than working under a comprehensive plan addressing all aspects of groundwater in an integrated manner, groundwater activities have been conducted in a piecemeal fashion and have been underfunded. Increased pressure on groundwater resources due to population increases, climate change, and drought make the protection and sustainable management of the resource critical because it provides over 1/3 of the water supply statewide and in some areas 100 percent of the water supply. With three consecutive dry years, a reliable and sustainable groundwater supply is more critical than ever for California.

This proposal allows DWR and DFW to implement critical activities necessary to meet legislatively mandated timelines for advancing sustainable groundwater management in California and addressing impacts groundwater extractions have on fish and wildlife.

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**Staff Recommendation: Approve as budgeted**

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**3600 DEPARTMENT OF FISH AND WILDLIFE**  
**3940 STATE WATER RESOURCES CONTROL BOARD****ISSUE 1: ENHANCE STREAM FLOWS**

The Governor's Budget requests 22.0 positions and \$4.035 million to protect and restore important ecosystems which includes enhancing flow in stream systems statewide that support critical habitat for anadromous fish. The resources are comprised of 12.0 positions and \$1.635 million from the General Fund for the DFW and 10.0 positions and \$2.4 million from the General Fund and Water Rights Fund for the State Water Resources Control Board.

**BACKGROUND**

Competing uses of water and increased water demand have resulted in degraded watersheds throughout California. Although significant progress has been made toward decreasing water pollution, past and ongoing stream modifications have degraded instream and riparian habitats resulting in insufficient flow. Consequently, many streams do not have flow regime or habitat that supports a healthy aquatic environment.

As the demand for water continues to grow throughout California, the Administration maintains that it is increasingly important to establish and implement flow requirements in critical stream systems to protect aquatic life. According to the Administration, flow requirements, when implemented, will restore and improve many of the degraded stream systems in California by restoring a more natural flow pattern and increase the available aquatic habitat quality.

Historically, salmonid populations such as coho salmon, Chinook salmon, and steelhead trout were abundant and widely distributed throughout California's Central Valley, coastal rivers and streams. However, many of California's streams that once had thriving salmonid populations now have populations at or near historic lows. The decline in salmonid populations has been attributed to the limited quantity of stream flow available for fish during key life stages, such as spawning and rearing, declining water quality, barriers to migration, decreases in floodplain and riverine habitat connectivity, and poorly managed flows.

The work outlined in this proposal will be implemented by the DFW and the Water Board as a collaborative effort. The DFW, with Water Board assistance, will develop flow criteria recommendations to protect fish and wildlife. The Water Board will use these recommendations and information on other beneficial uses of water, in a public process, to establish and implement flows that balance the needs of people and the environment.

The five stream systems targeted for flow enhancement work under this proposal are: Mark West Creek, Mill Creek, Shasta River, South Fork Eel River, and Ventura River. The five stream systems were selected throughout the State using a number of considerations including the presence of anadromous fish species, federal and state listing status, availability of existing data and information, probability of success, and level of support.

**STAFF COMMENTS**

Anadromous salmonids have been in steady decline for over 30 years and many population segments have been placed on the State and Federal Endangered Species lists as threatened or endangered. Climate change and drought stresses is exacerbating the poor flow and habitat conditions and accelerating the already declining fish population. In order to address and hopefully reverse this negative trend, this proposal directs the DFW and the Water Board to implement a program to enhance flows throughout California in at least five stream systems that support critical habitat for anadromous fish. Implementation of better timed and managed flows and associated improvements in habitat is needed now to provide resilience to at-risk fish populations.

Funding for the Water Board's activities under the proposal will be comprised of monies from the Water Rights Fund (75 percent) and General Fund (25 percent). In order to accommodate the increase in Water Rights Fund expenditures, the Water Board will need to increase its water rights fees. This is a reasonable and appropriate use of the Water Rights Fund and General Fund as this work will occur statewide, as described above, and will affect water right holders with permits and licenses as well as those with riparian and pre-1914 rights.

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**Staff Recommendation: Approve as Budgeted**

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## **3940 STATE WATER RESOURCES CONTROL BOARD**

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The State Water Resources Control Board's budget is \$1.35 billion, which represents a 19 percent increase from last year. This change is primarily due to implementation of the Water Bond and SB 445 (discussed below). Most of the Department's budget is special funds, with \$32.7 million of the proposed total funding coming from General Fund.

### **ISSUE 1: DRINKING WATER PROGRAM FEE REGULATION**

The Governor's Budget requests trailer bill language to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an adopted annual fee schedule will generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures and ensure the immediate preservation of the public peace, health, safety and general welfare.

#### **BACKGROUND**

The Safe Drinking Water Program is a mandated program to ensure that all small and large public water systems meet the Safe Drinking Water Act Standards. Fees are used to support the Safe Drinking Water Program Budgetary expenditures. However, for the past two fiscal years, the Safe Drinking Water Program fees have not generated sufficient revenue to support budgetary expenditures. Total revenue for Fiscal Year 2012-13 and 2013-14 has fallen short of total program expenditures in the amount of \$1,253,087. The shortfall in revenue has been offset by a combination of Public Water System Supervision federal grant and a set aside from the Drinking Water State Revolving Fund. The use of alternative funding sources is forcing the program to rely on Federal Funds that are not guaranteed on an annual basis.

Currently, in order to amend the fee schedules, the State Water Resources Control Board (State Water Board) is subject to the Office of Administrative Law's review process. This request is to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an annual fee schedule is adopted to generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures. This will also align the Safe Drinking Water Program fee process with the State Water Boards' Waste Discharge Permit Fees and Water Rights Fees processes.

#### **STAFF COMMENTS**

Approving this proposal would give the State Water Board, through emergency regulations, the ability to adopt a fee schedule that would fully support the Safe Drinking Water Program and eliminate the need for Federal Fund assistance. This would result in a sustainable funding source and reduce the risk of relying on Federal Funds each fiscal year.

It is important to note that the total revenue collected each year through annual fees would be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. Further, this proposal allows for an annual stakeholder process to discuss fee options, present the findings and recommendation to the State Water Board and get their approval.

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**Staff Recommendation: Approve as Budgeted.**

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**ISSUE 2: SB 445 IMPLEMENTATION**

The Governor's Budget requests the following:

- an increase of authority in the Underground Storage Tank Cleanup Fund (USTCF) of \$39.5 million that will be used to reimburse tank owners and operators for their costs in cleaning up leaking Underground Storage Tanks;
- an appropriation to the Site Cleanup Subaccount (SCS) of \$24.7 million of which \$4.9 million is one-time and \$19.8 million (partially offset by a \$1.4 million decrease to fund 0679) is ongoing for the investigation and remediation of contaminated sites where there is no viable party; and
- an increase of authority in the Petroleum Underground Storage Tank Financing Account (PUSTFA) of \$24.7 million of which \$4.9 million is one-time and \$19.8 million is ongoing for loans and grants for Replacing, Removing, or Upgrading Underground Storage Tanks (RUST).

Additionally, the request includes a one-time appropriation of \$100 million from the Expedited Claim Account (ECA) with availability for expenditure until June 30, 2018. The proposal would fund 21 new positions plus a funding shift equivalent to 17 positions (-\$1.4 million fund 0679 Cleanup and Abatement Account (CAA) to Site Cleanup Subaccount (SCS)+ \$1.4 million), and be a permanent augmentation of \$79 million in baseline authority supported by the SB 445 mil tax increase.

**BACKGROUND**

This proposal implements the changes placed into law by SB 445 (Hill) (Chapter 547, Statutes of 2014), which took effect immediately as an urgency measure on September 25, 2014, and affects the USTCF and the California Water Boards Groundwater Cleanup Programs.

SB 445 provides new funding to address the most serious groundwater contamination sources such as solvents like PCE (drycleaners) and TCE (industries), nitrates (chemical fertilizers), and perchlorate (fireworks, rockets) that have taken thousands of public supply wells out of service in drought-impaired California. The law also supports the continued efforts to address contamination from thousands of petroleum USTs by requiring removal of single-walled USTs that are likely to have released contaminants into groundwater. The law makes several additions to make funding available to claimants, grantees, and loan recipients.

SB 445 provides the State Water Board with the administrative tools to address investigation and timely response to known fraud against the USTCF. This authority will help preserve the funds for their intended purpose. Additional provisions require studies and audits to continue program improvements and accountability.

**STAFF COMMENTS**

SB 445 is a groundbreaking new law that provides new funding to address the most serious groundwater contamination sources that have taken thousands of public supply wells out of service in drought-impaired California. An increase in state operations authority as outlined in the Budget Request Summary will allow the State Water Board to recognize the storage fee increase as implemented by SB 445, as well as expend the additional revenue to support cleanup of leaking USTs.

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**Staff Recommendation: Approve as Budgeted**

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**3600 DEPARTMENT OF FISH AND WILDLIFE**

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The Department of Fish and Wildlife budget is \$516 million. This represents a six percent decrease from last year. This decrease is primarily due to expiring bond funds. Most of the Department's budget is special funds, with \$80 million of the proposed total funding coming from General Fund.

**ISSUE 1: PAYMENT IN LIEU OF TAXES (PILT) TO COUNTIES**

The Governor proposes \$644,000 to DFW from the General Fund to resume PILT payments in 2015–16. Under the Governor's proposal, the funding would be allocated to 36 counties containing wildlife management areas. (Local county assessors would then be responsible for allocating the funds they receive to the relevant local governments in their jurisdiction.) The Governor also proposes budget trailer legislation to articulate that the state is not required to make PILT payments to counties, and counties may not spend the payments on school districts.

The table below (provided by the LAO) shows the amount each county would receive in PILT under the Governor's proposal.

County	Amount
Alpine	\$31,739
Butte	39,603
Colusa	1,704
Del Norte	20,947
Fresno	5,569
Glenn	17,745
Humboldt	15,225
Imperial	3,728
Inyo	335
Lake	7,260
Lassen	19,087
Madera	623
Marin	11,644
Merced	27,536
Modoc	15,968
Mono	15,756
Monterey	3,597
Napa	45,390
Nevada	5,289
Placer	6
Plumas	1,903
Riverside	132,485
San Bernardino	3,129
San Diego	46,529
San Luis Obispo	14
Shasta	3,962
Sierra	41,288
Siskiyou	15,376
Solano	23,582
Sonoma	7,762
Stanislaus	200
Sutter	7,014
Tehama	2,548
Tulare	169
Yolo	50,385
Yuba	18,723
<b>Total</b>	<b>\$643,820</b>
Average	\$17,884

The Governor's estimate of PILT includes funding for counties, cities, and special districts, but not school districts. According to the Administration, state General Fund payments to school districts already take into consideration the amount of local property tax collected by the district.

Therefore, providing PILT payments to school districts would be duplicative with existing state General Fund payments.

#### BACKGROUND

According to the California Constitution, state lands (including wildlife management areas) are exempt from the property tax. However, state law specifies that DFW shall provide those counties containing wildlife management areas with payments from funds available to the department. These “payments in lieu of taxes” (PILT) are designed to offset lost property tax revenues that counties and other local governments would be able to collect on these properties if they were not state-owned. These PILT payments were made between 1957 and 2002 from the General Fund. Beginning in 2002–03, the state stopped providing PILT payments in the budget in order to achieve cost savings.

#### LAO COMMENTS

***Policy Considerations in Providing PILT.** We find that there are policy trade-offs that should be considered carefully by the Legislature in evaluating the Governor’s proposal. On the one hand, providing PILT payments is in line with existing statutory direction and longstanding historical practice before 2002. In addition, some local governments might provide services on state wildlife management areas from which they do not receive property taxes. For example, some counties might incur costs to maintain local facilities on DFW wildlife management areas, and might step in to provide law enforcement services when necessary. However, the administration has not provided any detail on the extent to which this happens.*

*On the other hand, no other state department that we are aware of makes PILT payments to local jurisdictions for state-owned land. This includes other state properties for which local governments might provide some services, such as state buildings owned by the Department of General Services (DGS) and state parks. The administration has also argued that the lost property taxes can be particularly challenging for rural counties. While there is some variation, on average, PILT payments to these counties would be a fraction of a percent of their non-school property tax revenues.*

***Conclusion.** The decision about whether to resume PILT payments to counties is ultimately a policy decision for the Legislature. In large part, this determination will be based on how the Legislature weighs the potential benefit to counties against other General Fund priorities, as well as the consideration of why PILT payments should be made for certain DFW lands but no other state properties.*

#### STAFF COMMENTS

The Administration and the Legislature have received numerous reports of hardships on counties resulting from the inability of the DFW to pay in-lieu fees. The impact is particularly challenging for rural counties, for which the fees constitute a significant portion of their annual budget. Counties have reported staff losses and program reductions due to the loss of in-lieu fee revenues.

DFW has not had the statutory authority or the funding available to pay these fees since the 2002 General Fund reduction. With the improved condition of the General Fund, the Administration proposes resuming payment of these fees to counties beginning in 2015-16. Staff agrees with the Administration that payment of these fees would improve the state's relationships with the counties and provide support for important local programs. Acknowledging LAO's argument that no other state department makes PILT payments to local jurisdictions for state-owned land, staff supports the proposed trailer bill language that articulates that the state is not required to make PILT payments to counties.

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**Staff Recommendation: Approve as Budgeted**

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## **3540 DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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The Department of Forestry and Fire Protection's (CALFIRE) budget is \$1.7 billion, which represents less than a one percent increase from last year. This increase is primarily due to a hiring and training augmentation at CALFIRE's Academy (discussed below), employee compensation increases, and increased estimates for E-Fund expenditures. Some of the Department's budget is special funds, with \$1 billion of the proposed total funding coming from General Fund.

### **ISSUE 1: HIRING AND TRAINING AUGMENTATION**

The Governor's Budget proposes \$9,192,222 (\$7,276,737 General Fund, \$332,720 Special Fund, and \$1,582,765 Reimbursements), and position authority for 28.0 limited-term positions and 21.0 limited-term temporary help positions through June 30, 2017, to address the hiring and training needs resulting from the increased length of fire season.

### **BACKGROUND**

Funding for personnel who are responsible for hiring and training CAL FIRE's firefighting workforce is based on the traditional "fire season" length. According to the Administration, climate change has, and will continue to, lengthen the "fire season" in California, requiring more firefighters be hired and trained, and creating the need for staff that can perform these functions. CAL FIRE maintains it has been encountering adverse consequences that are becoming increasingly worse due to a lack of staff that can hire and train firefighters at the rate and time required by the change in fire season.

The White House recently released a narrative from President Obama's Senior Science Advisor, Dr. John Holdren, who states, "[w]hile no single wildfire can be said to be caused by climate change, climate change has been making the fire season in the U.S. longer and on average more intense." Holdren explains that annual wildfires in the west have "increased several-fold in the last decade," and notes that "the eight worst years on record for area burned by wildfires have all occurred since 2000."

In many areas in California, fire season never truly ends. Over the last five years, CAL FIRE has experienced a 25 percent increase in fire activity in the middle of the winter months. While some of this activity could be attributed to temporary drought conditions, scientists have been confirming that fire season length and intensity have noticeably increased over the past two decades. In *Climate Change in California*, researchers provide detailed evidence of a lengthening fire season in California, specifically attributing it to warmer spring and summer temperatures, reduced snowpack, and earlier spring snow melts.

The longer and more active fire season requires that more firefighters be hired and trained. CAL FIRE has requested and received authority over the last several years to augment its firefighting force to deal with the longer and more active fire season, based on what appeared at the time to have been temporary conditions. These requests will continue into the foreseeable future given the long-term climate impact on weather and fuel conditions. However, CAL FIRE has not received any additional funding or authority for positions responsible for hiring these firefighters but was provided one-time funding in FY 2014-15 to train the additional firefighting resources brought on through the Drought 2014 request.



When there is insufficient capacity to train firefighting personnel, CAL FIRE attempts to fill as many emergency response positions as possible with limited-term personnel that do not need to complete the Academy training. Limited-term personnel “time-out” and generally have far greater attrition rates than permanent personnel, which increases the hiring workload due to the separation-replacement-separation cycle. In early summer 2014, CAL FIRE’s two regions estimated there was a total backlog of nearly 570 firefighters needing mandatory Academy training.

CAL FIRE has addressed the shortfall issue by implementing “forced overtime” at fire stations, mandating existing personnel to stay on duty to cover shifts that would be covered with other personnel. CAL FIRE has deferred work, redirected staff, and sacrificed incident command, forest and fire law enforcement, and employee development courses to accommodate the basic fire control training. However, according to CAL FIRE, the operational adjustments have created adverse consequences that cannot continue.

The deferral of incident command classes to accommodate basic fire control training has resulted in CAL FIRE running out of personnel qualified in incident command positions. According to the Department, this had critical and dangerous impacts during this year’s fire siege in Northern California when requests for these positions could not be filled. Fortunately, the weather ultimately cooperated and mitigated the need for these incident management staff. CAL FIRE maintains that the lack of qualified personnel to serve on incident management teams has the potential to result in longer, larger, and more damaging fires that will directly impact the environment and its ecosystems, listed and endangered species, the water supply, public health, local economies, and the General Fund.

#### STAFF COMMENTS

CAL FIRE has attempted to reduce the impact of training capacity limitations by “forced overtime,” deferral of work, staff redirection, hiring more limited-term firefighting personnel, and sacrificing incident command, forest and fire law enforcement, and employee development courses to accommodate the mandated firefighter training. However, these measures have exacerbated the hiring demands and do not provide a stable solution to the sustained increase in needs stemming from longer fire seasons, and other mandated work creating a growing backlog of personnel needing training.

To stabilize the cycle without a reduction in service, CAL FIRE needs more hiring and training staff. Additionally, CAL FIRE needs additional temporary help position authority to address the backlog of training by providing position coverage during increased wildland fire activity, so employees can attend mandatory training at the Academy. This will reduce the current backlog of over 570 employees needing training in the short-term, and will then meet the ongoing annual need so that new firefighting personnel can attend the training and the home station can be assured their position coverage is appropriately staffed.

**Update on Misconduct at the CAL FIRE Lone Training Academy.** In May 2014, the Director of CAL FIRE requested the California Highway Patrol (CHP) conduct an investigation into serious allegations of misconduct at CAL FIRE’s Lone Training Academy. The CHP concluded its investigation in December 2014. Through this investigation, CHP determined that there was no actionable criminal conduct. However, CHP did determine there were violations of

Department policy including misuse of state time and property, and dishonesty. The CHP investigation provided the basis for the Department's determination to move forward with disciplinary actions. What CHP provided was not what could be characterized as a report but rather a comprehensive set of supporting documentation including interview transcripts, policy research, and other investigative materials. The Department took this comprehensive set of documents as the basis for disciplinary actions.

In late January 2015, CAL FIRE completed the service of disciplinary actions on 15 individuals for the policy violations (CAL FIRE also previously accepted the resignation of another individual). Of these 15, two individuals had their employment terminated, and the remainder received sanctions including loss of pay, suspensions, and demotions.

According to the Department, it is committed to allowing the disciplinary process to play out, and maintains that it has a responsibility to uphold the rights of these individuals to a fair, unbiased process. Thus, CAL FIRE will not be releasing any of the personnel actions or the supporting documentation provided by the CHP.

The Subcommittee may wish to ask the Department about the nature of the misconduct and how it has impacted the training of CAL FIRE personnel and what steps the Department is taking to ensure it doesn't happen again.

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**Staff Recommendation: Approve as Budgeted**

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**ISSUE 2: HELICOPTER REPLACEMENT**

The Governor's Budget requests budget bill language related to the procurement of 12 new helicopters to replace the existing fleet that does not fully meet the Department's operational need and is aging, for which the cost to maintain is increasing as parts are harder and more expensive to acquire.

**BACKGROUND**

According to the Department, there is an urgent and immediate need to replace the aging, increasingly expensive, and hard-to-maintain fleet of Vietnam-era UH-1H helicopters (CAL FIRE Super Huey). These former military aircrafts were acquired as free assets in 1990 through the Federal Excess Personal Property Program (FEPP) and upgraded to fire-fighting aircraft by CAL FIRE from 1991 to 1998. The need to replace this fleet of 40+ year-old helicopters has been well documented by the Governor, the Legislature, and an independent panel of experts commissioned by the Governor.

The Governor's Blue Ribbon Commission (BRC) Report was a result of the Fire Siege of Southern California in 2003. The BRC recommended replacement and diversification of the aging CAL FIRE helicopter fleet and establishment of a helicopter replacement planning cycle. The Governor made replacing helicopters a top priority in the Fire Prevention and Suppression Action Plan of 2004. The Legislature followed the next year with Assembly Bill 287 (Chapter 290, Statutes of 2005), known as the Rapid Disaster Response Act of 2005, which directs the State to replace the Department's aging helicopter fleet with aircraft that can meet the future needs of CAL FIRE. The Act includes non-codified language stating the Legislature's intent to have the resources necessary to meet the future needs of CAL FIRE and to ensure that in the event of a major disaster, such as the 2003 Southern California fire siege, that adequate resources would be available to deploy quickly and efficiently.

An independent consultant was used to evaluate the needs and identify practical candidates to replace the current fleet of CAL FIRE helicopters. The report generated by the Infinia Group was completed in June 2006, and it confirmed earlier findings that newer, faster, all weather, 24-hour operation capable helicopters were the proper fit for both the current fire-fighting mission of CAL FIRE, and the increasing demand for first responder capability needed in the event of both natural disasters and response to homeland security incidents. This report was confirmed by two additional studies by the Flight Safety Institute. The last, in 2010, focused on the future availability and cost of replacement parts for the CAL FIRE Super Huey to sustain the aircraft through 2030. It also identified and evaluated required upgrades for the fleet to be capable of meeting the current and evolving mission. Because of the need to ensure the integrity of the procurement process, both CAL FIRE and DGS can only share limited information about the procurement process itself and potential bid requirements. What can be shared is the CAL FIRE Super Huey is restricted to daylight, fair weather operations, and has other constraints that limit its ability to fully meet the current and evolving mission.

The proposed budget bill language would codify that the Department and DGS are working cooperatively on a procurement to replace the existing fleet of 12 helicopters. The actual cost per aircraft will be determined by the outcome of the bids by the vendors having aircraft that meet the specifications as determined by DGS and CAL FIRE. According to the Administration,

this language is needed so that DGS can fully engage its staff to complete the procurement and put that bid out to the vendor community. The current procurement schedule calls for the winning vendor to be selected by Spring 2016, at which time the actual cost per aircraft will be known. Once the winning vendor is selected, CAL FIRE will also then be able to identify any one-time support and capital outlay cost items that are impacted by new aircraft. This would result in a May Revision 2016 budget request for both the DGS procurement and contract costs, acquisition costs, capital outlay, and operating expenditure and equipment. CAL FIRE would then sign the helicopter replacement contract upon the enactment of the Budget Act of 2016 or in FY 2016-17.

#### LAO RECOMMENDATION

**Very Limited Information Provided.** *The Governor's proposal includes very little information on the proposed helicopter replacement. For example, CalFire has not provided cost estimates, a procurement schedule, or the desired specifications for the new helicopters. In addition, CalFire has not identified what additional support and capital outlay costs might be incurred to support this proposal. Such costs could include increased staffing, training, and modifications to current infrastructure (such as helicopter landing pads and hangars). Depending on the specific details of the procurement, the total procurement, support, and capital outlay costs could be in the range of a couple hundred million dollars. These costs would likely be supported from the General Fund.*

*Our office has requested the above information, but the department has not provided it, citing legal concerns. We find no compelling rationale for why CalFire should not provide the Legislature with the above information. Other departments have included this type of information when submitting budget requests related to large-scale procurements. For example, the California Highway Patrol (CHP) requested helicopters in 2013-14 and 2014-15, and was able to provide such information to the Legislature as part of the budget process.*

**Difficult for Legislature to Weigh Trade-Offs.** *The lack of information provided makes it difficult for the Legislature to weigh the relative trade-offs associated with the proposed helicopter replacement. While we agree that eventual replacement of CalFire's helicopter fleet is reasonable given the capabilities, maintenance needs, and age of the current fleet, we note that there is a wide range of factors that must be considered prior to replacing the department's fleet. Such factors include (1) the number of helicopters needed, (2) how the helicopters will be used, (3) the desired specifications of each helicopter (such as the size and speed), (4) the need for new facilities, and (5) the timeline for replacement. The Legislature will want to weigh the benefits and costs associated with each factor. For example, night vision capabilities allow helicopters to operate 24 hours a day, which could enable CalFire to respond and contain fires more quickly during nighttime hours. However, without knowing the cost of this capability, it is difficult for the Legislature to determine if helicopter night vision should be funded before other competing programs that it may deem to be of higher priority.*

*It is important for the Legislature to identify its priorities for the new fleet prior to CalFire and DGS moving forward on this procurement. However, the proposed budget bill language would allow DGS and CalFire to enter a contract prior to legislative approval and without legislative oversight. While the Legislature would still be able to determine*

*whether to appropriate or not appropriate money for helicopters in future budget processes, the price and specifications would already be set in the contract. Therefore, the department should provide sufficient information for the Legislature to make decisions regarding the procurement before adopting language allowing it to move forward.*

**LAO Recommendation.** *We recommend the Legislature withhold action on the proposed request and require CalFire to provide additional information at budget hearings regarding the proposed helicopter replacement, including desired specifications and possible alternatives; cost estimates for helicopters, staff training, personnel, and capital outlay; and the planned procurement schedule. If the department does not provide this information to the Legislature, we would recommend rejecting the proposed budget bill language. If, however, CalFire provides this information, our office will analyze it and make specific recommendations based on our analysis.*

#### STAFF COMMENTS

CAL FIRE currently operates 12 Vietnam-era military helicopters. These aging helicopters are becoming more costly to maintain, and are not equipped with modern technology that enables night-flying capabilities. Replacing the existing fleet with new helicopters would enhance CAL FIRE's initial attack effectiveness, improving its ability to contain wildfires quickly before they spread.

The Governor is proposing budget bill language directing CAL FIRE and the Department of General Services (DGS) to work together on a competitive procurement process to replace its existing fleet of helicopters -- essentially codifying legislative intent to spend money for this purpose in the 2016-17 Budget.

According to the Administration, the Governor's Budget does not include an appropriation for helicopters in order to preserve the integrity of a competitive procurement process and because, from a timing perspective, an appropriation is not needed until 2016-17. The earliest date the Administration is anticipating an intent to award is Spring 2016, with an actual award made 30 days later. To the extent an intent to award is made in Spring 2016, the Administration would have sufficient time to include an amount necessary to facilitate that award in the 2016-17 May Revision. However, as CAL FIRE has already initiated the procurement process with DGS, if the process proceeds more quickly than anticipated by the Administration, not having money appropriated in the 2015 Budget could delay acquisition of the helicopters.

Given the concerns put forward by the LAO and the timing issues noted above, staff recommends holding this issue open for further clarification.

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**Staff Recommendation: Hold Open**

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**ISSUE 3: FIRE SAFE CIGARETTE CERTIFICATION PROGRAM WORKLOAD**

The Governor's Budget requests an ongoing \$249,653 increase to the spending authority for the Cigarette Fire Safety and Firefighter Protection Fund, and 2.0 permanent positions starting in Fiscal Year (FY) 2015-16. This proposal would provide the staffing necessary to address the Office of the State Fire Marshal (OSFM) Fire Safe Cigarette Certification Program workload.

This proposal includes trailer bill language that establishes the Cigarette Fire Safety and Firefighter Protection Funds and authorizes the State Fire Marshal to adopt emergency regulations approve an annual certification fee to be paid by manufacturers in an amount sufficient to cover all reasonable costs of administer the program. The current number of styles of cigarettes would require approximately 2,020 cigarette style (e.g., regular, menthol, light, etc.) certifications, and the OSFM is proposing a \$150 fee per style certification (new and renewal) to cover the cost involved. Therefore, the projected new revenue stream of \$303,000 annually will meet the needs of the funding requested.

**BACKGROUND**

The OSFM is responsible for the California Cigarette Fire Safety and Firefighter Protection Act. This Act requires cigarette manufacturers to certify with the OSFM that their cigarettes have been tested and meet the national fire safety standard as having reduced ignition propensity. Under this Act, cigarettes sold in California must meet the following criteria:

- The cigarettes must satisfy the American Society of Testing and Materials (ASTM) Standard "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
- A certification must be submitted by the manufacturer to the OSFM certifying that each cigarette variety listed was tested and satisfies the performance requirements of the Standard Test Method for Measuring the Ignition Strength of Cigarettes.
- The cigarettes must be sold in packaging marked with the letters "FSC," which stands for "Fire Standards Compliant."

The OSFM has insufficient staff to keep up with the workload demands of the California Cigarette Fire Safety and Firefighter Protection Act. According to the Administration, this has created a significant negative impact for the Attorney General's (AG's) Office, who has requested the OSFM take measures to increase its efforts to meet the workload demands of the Program.

**STAFF COMMENTS**

Staff has no concerns with the proposal. Approving this request would allow the OSFM to meet the current workload requirements related to the California Cigarette Fire Safety and Firefighter Protection Act and increase public safety as actual certified fire safe cigarettes can reduce or prevent fires.

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**Staff Recommendation: Approve as Budgeted**

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