

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

WEDNESDAY, MARCH 24, 2004
STATE CAPITOL, ROOM 447
8:30 A.M.HEARING ITEMS

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8570 – DEPARTMENT OF FOOD AND AGRICULTURE

The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs.

The Governor's 2004-05 budget proposes expenditures of \$267 million and 1,655 positions in 2004-05 for the department, including \$111 million from the Agriculture Fund and \$73 million from the General Fund. The proposed expenditures are \$28 million (10 percent) below estimated current-year expenditures due to a variety of proposed program reductions.

A.G. Kawamura was appointed Secretary for Food and Agriculture by Governor Schwarzenegger on November 5, 2003.

ISSUE 1: BORDER STATION FUNDING

The Governor's Budget proposes a redirection of \$4.5 million (General Fund) to CDFA's Pest Exclusion program to prevent the closure of 11 of the 16 Agricultural Inspection Stations.

BACKGROUND: Funding for the Agricultural Inspection Stations was reduced by \$1.4 million in the 2003-04 Budget Act, eliminating individual auto inspections, allowing only for commercial inspections. Section 4.10 of the Budget Act provided the Director of Finance with the authority to make further statewide reductions to ensure an additional \$1.07 billion in savings. As a result, in November 2003, CDFA realized an additional reduction of \$8.6 million, including \$4.5 million that would require the closure of 11 Inspection Stations.

COMMENTS: This proposal redirects \$4.5 million (General Fund) to restore funding for the inspection stations. The Department indicates that, in addition to direct inspections and enforcement of quarantine laws, these stations notify County Agricultural Commissioners of shipments requiring more detailed inspections. These closures will increase the potential for the introduction of new hazards and invasive species.

GENERAL FUND IMPACTS: Current revenue and expenditure estimates by the LAO indicate that the Governor's proposed budget, even with several yet-uncertain assumptions, remains as much as \$12 Billion out of balance, requiring additional actions to provide California with a balanced budget.

STAFF RECOMMENDATION: The proposal utilizes funds currently dedicated to local assistance activities, therefore is not a commitment of additional General Fund dollars. Denial of the request could result in a General Fund savings, however the potential hazards of unchecked imports could outpace any savings. **While acknowledging the high risk-to-savings ratio that denial of this proposal would have, staff recommends withholding approval of this item pending receipt of a better overall picture of the General Fund savings necessary to close the budget gap.**

ISSUE 2: LEGISLATIVE ANALYST ISSUE – POSITION MANAGEMENT

In the Legislative Analyst's (LAO) *Analysis of the 2004-05 Budget Bill*, the LAO has noted that the department's management of its budgeted positions deviates from standard state procedures. According to the LAO, about half of CDFA's positions have been created at the discretion of the department—without approval of either the Legislature or the Department of Finance (DOF).

The table below highlights the discrepancies noted by the LAO.

	Standard Statewide Practices	Food and Agriculture Practices
Authorization of Positions	Departments submit budget request for review by DOF and the Legislature.	Department submits budget request to the Secretary.
Establishment of Positions	According to the State Administrative Manual (SAM), once authorized by the Legislature, the State Controller's Office (SCO) establishes the position.	The Department establishes the position through internal processes, funding positions from its funding 'blanket.'
Funding 'Blanket'	Departments are provided a funding 'blanket,' intended to allow flexibility to temporarily adjust staffing levels to meet the needs of its programs, to meet overtime needs, or to hire temporary help to address short-term workload. The SAM specifies that the blanket may not be used for ongoing permanent positions.	Of 771 positions funded from the 'blanket,' as many as 499 are permanent positions.

As a result of these practices, the SCO, DOF, and the Legislature have a diminished ability to review departmental programs, activities, and vacancies at CDFA.

The LAO has noted that in addition to the seasonal, temporary positions for which CDFA indicates the flexibility of this practice is needed, the Department funds a wide variety of positions, outside the expertise of any emergency response or seasonal personnel.

CDFA RESPONSE:

1. CDFA maintains that their statutory authority to continuously appropriate funds provides them with discretion to create positions without the same processes as other State departments. Citing an 'Enrolled Bill Report' from 1970 for AB 938 (R.E. Johnson), the Department notes the loss of 400 positions at the time that the continuous appropriation authority was granted to the Food and Agriculture Fund, with the intent of moving those positions "off budget" as well.

2. Additionally, CDFA has indicated its need for maximum flexibility necessitates this type of position management. Uncertainties relating to crop, weather or other conditions do not permit the Department to plan for contingencies in sufficient time to budget ahead of time.

3. Finally, again referencing legislation authorizing the continuous appropriation of the Food and Agriculture Fund, CDFA asserts that the fee-based, special fund nature of the Food and Agriculture Fund receives sufficient oversight through agricultural industry oversight, without a need for legislative involvement.

COMMENTS: *Funding Blanket.* The DOF and CDFA should provide the Subcommittee with greater detail relating to the appropriate use of these funds for temporary or other positions. *Position Management.* CDFA should explain what makes the Department so different from other State entities to warrant their current position management practices. The DOF should comment on the Administration's position relating to these practices.

The Department should respond to the following questions:

- *What types of positions are being funded? How does CDFA justify the wide variety of positions being funded vis-a-vis the argument made to justify the flexibility?*
- *What is the dollar amount used for the nearly 500 positions otherwise not established?*
- *What, if any internal audit process does DOF undertake to ensure the appropriate use of this funding source?*

LAO RECOMMENDATIONS: The Analyst's Office recommends that the Legislature take actions to revise CDFA's management practices. Specifically, the LAO recommends:

- The adoption of trailer bill language to ensure that continuous appropriation authority does not exempt the Department from the process utilized by other state departments.
- The adoption of budget bill language requiring CDFA to report to the Legislature on the type, classification, funding support, program and workload description of each of the permanent positions funded outside the standard process.

The LAO also recommends that CDFA properly establish the positions with the SCO, and make future position adjustments through budget requests like other State departments.

STAFF RECOMMENDATION: Staff recommends the adoption of trailer bill and budget bill language to provide the Legislature with necessary information relating to these positions, and to clarify what authority the Department has relating to its position management. Direct committee staff, in consultation with the LAO and the Administration, to develop appropriate trailer and budget bill language.

ISSUE 3: ADDITIONAL PROPOSALS

The Governor's budget includes five additional budget proposals in support of the Department's activities. These proposals include:

1. \$300,000 (federal funds) increase in expenditure authority for program costs associated with Sudden Oak Death.
2. \$2.0 million (General Fund) reduction to support for the Pierce's Disease Control Program. The reduction will be offset by funding from the Pierce's Disease/ Glassy-winged Sharpshooter Board.
3. \$831,000 (Food and Agriculture Fund) for increased workload associated with inspections by the Milk and Dairy Food Safety Branch.
4. \$2.4 million (\$912,000 General Fund, various other funds) for final relocation costs associated with the renovation of the Department's N Street building.
5. \$831,000 (General Fund) reduction to the Agricultural Export, Public Affairs and Agricultural and Environmental Stewardship Programs.

STAFF RECOMMENDATION: Staff has identified no issues with these proposals and recommends approval of these five items by the Subcommittee.

0540 – SECRETARY FOR RESOURCES

The Resources Agency, through its various departments, boards, commissions, and conservancies, administers programs that conserve, preserve, restore and enhance the rich and diverse natural resources of California. The Secretary for Resources, a member of the Governor's Cabinet, is responsible for administering programs and policies governing the acquisition, development and use of the State's resources to attain these objectives.

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|--|-------------------------------------|---|
| - Department of Conservation | - Department of Boating & Waterways | - Rivers and Mountains Conservancy |
| - Wildlife Conservation Board | - California Coastal Commission | - San Francisco Bay Conservation and Development Commission |
| - Department of Fish and Game | - Department of Water Resources | - Santa Monica Mountains Conservancy |
| - State Coastal Conservancy | - State Lands Commission | - California Bay-Delta Authority |
| - Department of Forestry and Fire Protection | - Baldwin Hills Conservancy | - Delta Protection Commission |
| - San Joaquin River Conservancy | - Special Resources Programs | - Coachella Valley Mountains Conservancy |
| - Department of Parks & Recreation | - California Conservation Corps | |
| - California Tahoe Conservancy | - San Diego River Conservancy | |
| | - California Energy Commission | |

The budget proposes expenditures of \$6.8 million for the Secretary in 2004-05, a decrease of \$181 million below estimated current-year expenditures. The requested amount is solely for the Secretary's support budget and includes no funding for local assistance.

The decrease in expenditures reflects both the substantial drawing down in the current and prior years of bond funds and the Administration's decision to defer to later in the spring the submittal of most of its resources bond proposals. For the core administrative functions of the Secretary supported mainly from the Environmental License Plate Fund, and the proposed budget maintains a funding level approximately the same as in the current year.

Mike Chrisman was appointed Secretary for Resources by Governor Schwarzenegger on November 21, 2003.

ISSUE 1: SECRETARY'S BUDGET

As noted above, the funding level for the Secretary's core functions has remained approximately at the same level as the current year, at \$6.8 million (various funds).

BACKGROUND: In the current year budget, all General Fund support for the Secretary was eliminated, shifting the Secretary's budget entirely to special funds, including the Environmental License Plate Fund.

LEGISLATIVE ANALYST'S ISSUE – RESTRUCTURING PLAN

The LAO has noted a reference, in the Governor's 2004-05 budget, to a plan by the Administration to be released as part of the May Revision.

COMMENTS: The Secretary should report to the Subcommittee on the impacts to the Secretary's activities that the current year reduction had. Additionally, the Secretary should report to the Subcommittee on the status of the Agency's restructuring plan as was noted in the Governor's January budget proposal.

STAFF RECOMMENDATION: Staff recommends withholding approval of the Secretary's budget pending the receipt and review of additional information regarding the restructure plan.

0555 – SECRETARY FOR ENVIRONMENTAL PROTECTION

The Secretary for Environmental Protection manages the State's environmental protection programs and heads the California Environmental Protection Agency (CalEPA). As a member of the Governor's Cabinet, the Secretary advises the Governor on environmental policy.

The following organizations are under the purview of the Secretary:

- Air Resources Board
- Integrated Waste Management Board
- Department of Pesticide Regulation
- State Water Resources Control Board
- Department of Toxic Substances Control
- Office of Environmental Health Hazard Assessment.

The 2004-05 budget proposes expenditures of \$8.2 million (\$1.3 million General Fund) for the Secretary, a decrease of \$378,000 from the estimated current-year expenditures.

Terry Tamminen was appointed Secretary for Environmental Protection by Governor Schwarzenegger on November 13, 2003.

ISSUE 1: SECRETARY'S BUDGET

As noted above, the Secretary for Environmental Protection's proposed budget expenditures total approximately \$8.2 million. The Governor's January budget proposes no new changes to the Secretary's budget.

STAFF RECOMMENDATION: Absent new proposals in April or at May Revise, staff recommends approval of the Secretary's budget as proposed. Should further proposal come forward, the Subcommittee will evaluate and reschedule for further actions.

PROPOSITIONS 40 AND 50: NATURAL RESOURCES / ENVIRONMENTAL PROTECTION BOND PROPOSALS

In March and November of 2002, the voters of the State of California passed Propositions 40 and 50 respectively. These bond acts provided \$6.04 Billion for acquisition, restoration and protection of natural resources, as well as a variety of environmental protection activities. The following tables indicate past appropriations and remaining balances.

Proposition 40 (dollars in thousands)

	<i>Bond Amount</i>	<i>Set Aside</i>	<i>Combined 02-03 & 03-04</i>	<i>Proposed 04-05</i>	<i>Balance</i>
- Per Capita Grants	\$870,000	\$49,834	\$738,938	\$2,815	\$78,413
- Cultural & Historic	230,000	8,121	219,911	1,636	332
- River Parkways	75,000	4,757	61,785	608	7,850
- Conservancies (various)	445,000	29,394	304,196	2,395	109,015
- State Parks	225,000	53,302	132,382	9,762	29,554
- Wildlife Conservation Board	300,000	24,202	90,077	439	185,282
- Air Resources Board	50,000	2,000	48,000	-	-
- Conservation Corps	20,000	10,701	9,299	-	-
- Clean Beaches	300,000	19,673	239,503	1,204	39,620
- Agricultural Lands/ Oak Woodlands/ Urban Forestry	85,000	33,882	34,000	529	16,589
- Statewide	-	-	3,395	1,740	-
TOTAL	\$3,440,000	\$235,866	\$1,881,486	\$21,128	\$466,655

Proposition 50 (dollars in thousands)

	<i>Bond Amount</i>	<i>Set Aside</i>	<i>02-03</i>	<i>03-04</i>	<i>Proposed 04-05</i>	<i>Balance</i>
- H ₂ O Security	\$50,000	\$2,750	-	\$10,010	-	\$37,240
- Safe Drinking H ₂ O	435,000	22,645	-	100,207	-	312,148
- H ₂ O Quality Improvements/ Coastal H ₂ O Quality	200,000	17,000	20,500	70,838	-	91,662
- River Parkways	100,000	7,000	-	-	-	93,000
- Lake Tahoe/ Sierra Nevada Cascades	70,000	5,700	-	-	-	64,300
- Contamination & Salt Removal	100,000	7,960	-	36,250	-	55,790
- CALFED Bay-Delta Program	825,000	52,356	45,041	342,918	12,149	372,536
- Integrated Regional H ₂ O Management	500,000	38,920	6,400	89,500	395	364,785
- Wildlife Conservation Board	140,000	6,363	1,565	81,000	21,000	30,072
- Colorado River	70,000	4,950	-	51,500	-	13,550
- Coastal Watershed & Wetlands	950,000	46,956	76,956	317,677	1,348	507,176
TOTAL	\$3,440,000	\$212,487	\$150,462	\$1,099,900	\$34,892	\$1,942,259

ISSUE 1: 2003-04 CURRENT YEAR APPROPRIATIONS

The 2003-04 Budget Act appropriated more than \$823 million from Proposition 40 and more than \$792 million from Proposition 50 for support, local assistance, and capital outlay.

BACKGROUND: Of the \$1.62 Billion in funds appropriated from these bonds in the 2003-04 Budget Act, nearly \$1.1 Billion was specified for local assistance and grant programs. Additionally, legislation was enacted providing statutory direction for the implementation of various Proposition 50 programs.

COMMENTS: The Secretaries for Environmental Protection and Resources should update the Subcommittee on the status of the current-year appropriations made, as well as some detail relating to the timeline for implementation of the programs.

STAFF RECOMMENDATION: Informational only.

ISSUE 2: 2004-05 BUDGET YEAR PROPOSALS

At the time of its release in January, the Governor's 2004-05 budget proposes only \$56 million combined expenditures from these two bond acts. The '2004-05 Governor's Budget Summary' indicates that the Administration is evaluating existing conservation efforts and therefore is deferring bond proposals until "the spring."

COMMENTS: The Subcommittee may wish to ask the Secretaries when it can expect to receive the additional 2004-05 proposals. With as much as \$2.4 Billion in bond funds still eligible for appropriation, the Legislature should have sufficient time to evaluate any proposal.

STAFF RECOMMENDATION: Informational only.

ISSUE 3: BOND PROGRAMS – GRANTS TO PRIVATE WATER AGENCIES

The Department of Health Services (DHS) has issued draft guidelines for Proposition 50 funds that would allow private water agencies to compete for bond funds. Both the legal counsel for DHS and the Legislative Counsel, in a February 27th opinion requested by Senator Machado, have found that there is no reason why private water agencies should not be eligible unless there is a specific prohibition for funding private companies in the language of the bond. However, some public water agencies and consumer groups have argued that this is unprecedented, and question the public benefit of this change, arguing that voter intention in this regard is not clear since use of bond funds by private water agencies was not mentioned in the bond.

On March 17, 2004 the State Treasurer sent a letter to the Governor urging him to halt proposals to provide funds to private water companies "because of serious concerns regarding potential costs to taxpayers, inadequate assurance of public benefits, and inconsistencies with representations made to voters about potential uses of bond funds." In particular, the Treasurer pointed out that funding private water agencies could jeopardize the tax-exempt status of the bonds, resulting in higher repayment costs to the state General Fund (see attached letter).

COMMENTS: While this Subcommittee does not oversee the budget of DHS, this issue is relevant to Proposition 50 bond funding to various departments, including The State Water Resources Control Board, the Department of Water Resources, and the CALFED Bay-Delta Authority.

The Subcommittee should ask the Secretaries for Resources and CalEPA to comment on the current status of discussions relating to this matter, and if the Administration plans to allow private water companies to compete for Proposition 50 funds. The Subcommittee may also wish to consider whether such a change in policy is appropriately made at an administrative level, or whether this policy should be considered by the Legislature.

STAFF RECOMMENDATION: Informational only at this time.