

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

WEDNESDAY, APRIL 10, 2002
STATE CAPITOL, ROOM 127
8:00 A.M.

ITEMS TO BE HEARD

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3910 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

The California Integrated Waste Management Board (CIWMB) promotes the following waste management practices: (1) source reduction, (2) recycling and composting, (3) reuse, and (4) environmentally safe transformation and land disposal. The Board protects public health and safety and the environment through the regulation of solid waste facilities, including landfills.

The Board's activities include: permitting, inspection and enforcement at solid waste facilities and the cleanup of abandoned solid waste sites; training, certification, oversight and evaluation of Local Enforcement Agencies that regulate solid waste facilities; research and investigations of new or improved solid waste handling or recycling methods and of waste reduction and reuse alternatives; market development and business development programs to promote recycling-based industries and alternatives to land disposal; operation of a statewide integrated data base describing California's waste management infrastructure; used oil recycling programs; and programs to promote the recycling or reuse of used tires, and issue permits for tire piles.

ISSUE 1: Administration's General Budget Change Proposals

The Governor's proposed 2002-03 Budget includes two Budget Change Proposals (BCP) for the Waste Board. These proposals include:

- \$1.2 million (special funds) in support of Local Plastic Recycling Programs and for support of litigation and enforcement associated with the Rigid Plastic Packaging Containers Program.
- \$1.5 million (Integrated Waste Management Account) to establish a new grant program and undertake various other new activities to divert additional municipal solid waste from landfills to electrical generation facilities.

COMMENTS:

These proposals are consistent with the duties and responsibilities of the Board.

ISSUE 2: AB 1201: Used Oil Recycling Fund - Implementation

AB 1201 (Pavley), Chapter 317 of the Statutes of 2001 appropriated Waste Board funds for the purpose of grants or loans to local governments or nonprofit entities to pay for education and mitigation projects relating to stormwater pollution from oil and oil byproducts.

The Board should report to the Subcommittee on their efforts regarding this legislation.

ISSUE 3: Tire Recycling Grant Programs

The Tire Product Commercialization Grant Program provides funding on a competitive basis to research institutions, businesses, and individuals for projects and products designed to put large amounts of waste tires (>250,000 passenger tires annually) to use, rather than disposal.

BACKGROUND:

The Tire Product Commercialization Grant Program sets forth criteria by which each application is scored as part of the Board's selection process. In addition to these criteria, the application requires that a copy of finalized permits and/or licenses shall be submitted with the application. These permits and licenses include various local conditional use permits, air quality permits, and other similar types of documents.

There have been some questions as to the process by which these permits and/or licenses are submitted. According to the Board, the applicants are allowed to "self certify" that they have all relevant permits. As part of the Legislature's oversight of state agencies, departments and other entities, the Subcommittee may wish to ask the Board to clarify their process for ensuring that applicants are complying with all State and local land use and environmental permits.

COMMENTS:

The Board should be asked to respond to the following questions:

- What types of licenses or permits are generally required for program activities associated with the Tire Product Commercialization Grants?
- Why would an applicant self certify rather than submit the required permits at the time of the application?
- Does the Board do any kind of audit of the grant recipients to evaluate the compliance of the activities? If yes, have there ever been instances where recipients were not in compliance with State or local environmental or land use regulations?
- What would the impact on the board be to actually review the applicants permits rather than allow for self certification?

3930 DEPARTMENT OF PESTICIDE REGULATION

The Department of Pesticide Regulation regulates all aspects of pesticide sales and use, recognizing the need to control pests, while protecting public health and the environment, and fostering reduced-risk pest management strategies.

ISSUE 1: Administration's Budget Change Proposals

The Governor's proposed 2002-03 Budget includes three BCPs relating to the Department. These proposals include:

- \$3.5 million (General Fund) reduction to State Operations (\$3.0 million) and Local Assistance (\$500,000) activities.
- \$3.4 million (General Fund) to support Departmental activities not fully funded in AB 780 (Thomson) which authorized the Departments "mill" assessment.
- \$37,000 (reimbursement authority) for monitoring of the Department of Food and Agriculture's Pest Eradication and Emergency Projects.

BACKGROUND:

The Administration has requested that State agencies and departments reduce their General Fund expenses to help address the State's current economic situation. The reduction in General Fund expenditures reflects the Department's contribution to this effort.

The \$3.4 million expenditure is to fully fund Departmental activities not supported by revenue from the Department of Pesticide Regulation Fund. AB 780 (Thomson) authorized an increase in the assessment on wholesale pesticides. This legislation did not increase the assessment to a level that would fully support all Department activities. This \$3.4 million expenditure is to fill the gap between Departmental need and the revenue provided for in AB 780.

ISSUE 2: Enforcement Activities

The Legislative Analyst Office has identified issues regarding the Department's oversight and enforcement of pesticide use.

The Department is responsible for ensuring compliance with state pesticide laws, however enforcement activities are shared by the department and the County Agriculture Commissioners. The state is responsible for overseeing the counties' enforcement efforts. The state provides counties with program information and guidance to facilitate enforcement, while the counties monitor pesticide application, conduct field inspections, investigate complaints, and

assess penalties for violations. The state monitors the counties' enforcement efforts and effectiveness by conducting program overview inspections. However, the LAO reports that state overview inspections occur on less than 1 percent of all county inspections.

The Department also reviews local data regarding various county activities. The state reviews the data to ensure that counties are applying enforcement standards.

BACKGROUND:

The LAO reports that the department completed an assessment of how individual pesticide users comply with the law. The department surveyed 20 counties with high pesticide use and high agricultural activity to help determine the effectiveness of compliance programs. From June 1997 through March 2001, the department participated in extensive field inspections and reviews of county level data, and monitored local pesticide applications. The department has defined 80 percent compliance with inspection criteria as an acceptable compliance level, and any compliance lower than that as needing improvement. The LAO says the report found lower-than-acceptable levels of compliance throughout the state, and that compliance levels for agricultural growers was below that for pest control businesses. The report indicates a low level of compliance for agricultural workers that handle pesticides and for hazard posting in agricultural areas. However, the report did not find a distinction for worker safety between those who worked directly for growers and those who worked for labor contractors. Overall, the department concluded that compliance statewide "needs improvement."

The compliance assessment report grouped all county compliance data together to gain a statewide perspective. To obtain a more detailed look of compliance by counties, the LAO requested the 20 individual county reports for further analysis. The LAO states that county-level data contained information on specific inspections, as well as summary data for each county. The goal of the LAO analysis was to determine the range of compliance across the counties in the sample.

COMMENTS:

The LAO recommends legislation that holds counties accountable for enforcing and improving the compliance of local pesticide users. The legislation should direct the department to report annually on local compliance as measured by the department using appropriate performance measures.

The Analyst also argues that the department's oversight of county enforcement programs lacks performance measures and goals. The LAO recommends legislation that directs the department to develop clear goals for its enforcement program and measurable performance criteria to monitor the progress of the counties toward those goals.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The Department of Toxic Substances Control (DTSC) protects public health and the environment by (a) regulating hazardous waste management activities, (b) overseeing or performing cleanup activities at sites contaminated with hazardous substances, (c) encouraging pollution prevention and the development of environmentally protective technologies and (d) providing regulatory assistance and public education. The Environmental Cleanup and Fee Reform Act of 1997 (Chapter 870, Statutes of 1997 [SB 660]) changed the Department's fee structure by eliminating, replacing and reducing many of the existing fees paid by the hazardous waste management industry and other businesses. The Act eliminated hazardous waste industry fees as a source of funding for the cleanup of hazardous substance release sites, including state match at National Priority List Sites, and replaced them with an expanded environmental fee. The Act was the first step to establish a more reliable and stable funding structure for the Department's programs.

ISSUE 1: Administration's General Fund Budget Change Proposals

The Governor's proposed 2002-03 Budget includes a proposal to reduce the General Fund expenditures of the Department by \$7.9 million. This proposal would shift General Fund expenditures to the Toxic substances Control Account (DTCA).

COMMENTS:

The Administration has requested that State agencies and departments reduce their General Fund expenses to help address the State's current economic situation. This reduction in General Fund expenditures, by shifting costs to the DTCA, reflects the Department's contribution to this effort.

ISSUE 2: Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) Program

The CLEAN program provides grants and low-interest loans to property owners, developers, community groups, and local governments to assess the level of contamination at abandoned and underutilized properties and clean up the contamination at these sites.

In 2000-01, the Legislature approved a transfer of \$85 million from the General Fund to the CLEAN Account as "seed money" for the loans and grants to assess and clean up brownfield sites. Due to the state's General Fund condition, the Legislature has approved the transfer of \$77 million of the \$85 million back to the General Fund. Of the remaining \$8 million in funds, approximately \$1.0 million remains unencumbered in the Budget Year. Expenditures in the current year have been mainly for cleanup loans. For the budget year, expenditures will be solely for ongoing loan administration and oversight.

In its *Analysis of the 2002-03 Budget Bill*, the LAO argues that the department and the California Pollution Control Financing Authority (CPCFA) have overlapping statutory authority to operate similar programs to promote the redevelopment of brownfields. Due to the down turn in the State's revenues, past-year funding for the CLEAN program has been reduced to support the General Fund. LAO has identified \$5.0 million within CPCFA's activities that may be available for brownfields cleanup activities.

The CPCFA issues bonds on behalf of private borrowers for the acquisition, construction, or installation of pollution control and solid waste facilities. The Authority charges fees to borrowers for its services and has built up a fund balance from these fees since the mid-1980s. Additionally, the CPCFA is authorized to establish a program to provide grants and loans for the identification, assessment, and mitigation of brownfield sites.

BACKGROUND:

SB 667 (Sher), Chapter 912, Statutes of 2000 established the Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) program in DTSC. The CLEAN program provides grants and low-interest loans to property owners, developers, community groups, and local governments to (1) assess the level of contamination at abandoned and underutilized properties with either real or potential toxic waste found on site and (2) clean up the contamination at these sites. The majority of funds are to be dispersed as loans, creating a "revolving door" of funding such that, after an initial investment in the program, the program would largely refinance itself.

AB 779 (Torlakson), Chapter 914, Statutes of 2000 authorizes CPCFA to use up to \$2.5 million of its funds to assist cities and counties in community planning and development efforts, including programs and projects that reduce pollution hazards and the degradation of the environment. The CPCFA plans to commit these funds in 2002-03. SB 1986 (Costa), Chapter 915, Statutes of 2000, authorizes CPCFA to provide forgivable loans for brownfields site assessment, technical assistance, remedial action plans, and site access. The goal of this program is to put up risk money to characterize sites. Loans are repaid if a site is able to be commercially developed, or forgiven if cleanup and development is not economically feasible. The CPCFA has entered into "strategic partner" agreements with Oakland and Emeryville, and expects soon to finalize an agreement with the City of San Diego to begin implementation of the

program. The cities will select the individual sites and projects to be funded. The CPCFA plans to spend \$5.3 million in the current year and \$4.7 million in 2002-03 on this program. The CPCFA estimates that it will have a fund balance (for all of its programs) of \$49.7 million at the end of 2001-02, and \$14.7 million at the end of 2002-03 (after a \$20 million loan to the GF)

COMMENTS:

LAO Recommendation: The LAO argues that the department and CPCFA have the authority to provide financial assistance through loans and grants to identify, assess, and clean up sites with real or potential environmental hazards. The Analyst believes the overlap in authority--if exercised by DTSC and CPCFA in practice--could compromise the effectiveness of the state's overall effort to facilitate brownfield redevelopment. The LAO recommends legislation that would divide authority for brownfields programs between the two agencies based on their respective expertise. The proposed legislation should require CPCFA to give priority to providing loans and grants for predevelopment site assessment, and allow the department to provide cleanup loans and grants.

The LAO also recommends supplemental report language requiring CPCFA and DTSC to submit a report to the Legislature, by January 1, 2003, on their efforts to reduce overlap and streamline the process for providing financial assistance for brownfield redevelopment.

Subcommittee staff has been working with the LAO and the Treasurer's office to investigate options, including a shift of funds from CPCFA to the CLEAN program, for continuing the Department's brownfields urban cleanup efforts.

ISSUE 3: Administrations' Additional Budget Change Proposals

The Governor's proposed 2002-03 Budget includes a proposal for the reestablishment of 2 positions abolished by the State Controller pursuant to Government Code Section 12349. The Department cites the technical nature of the positions as well as recruiting and testing difficulties as the rationale for the reestablishment.

COMMENTS:

This proposal will provide for continued efforts to fulfill the mission and statutory responsibilities of the Department with regard to protecting the public health.

Subcommittee staff has identified no issues relating to the Department's remaining proposals and recommends the approval as budgeted.

3980 OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

The Office of Environmental Health Hazard Assessment (OEHHA) protects and enhances public health and the environment by objective, scientific evaluation of risks posed by hazardous substances. OEHHA's primary role is as risk assessor for various programs under the California Environmental Protection Agency, as well as other State and local agencies. OEHHA provides these programs with the scientific tools and information upon which to base risk management decisions. Distinct programs within OEHHA focus on assessing the health risks from exposures to chemicals in air, water, food, consumer products, hazardous and municipal waste facilities, fish and shellfish, and sediments in bay and estuarine waters. OEHHA strives to provide scientific leadership in developing guidelines, criteria, and risk assessment methodologies that will protect public health and the environment and form the basis of a unified scientific multimedia approach. OEHHA uses an open public process, with internal and external review, to ensure that its work products are based upon the best available scientific approaches and information.

ISSUE 1: Administration's General Fund Budget Change Proposal

The Governor's proposed 2002-03 Budget includes a reduction to OEHHA's General Fund expenditures totaling \$1.5 million. These reductions come from the reduction of 9 positions and \$753,000 in contracts.

COMMENTS:

The Administration has requested that State agencies and departments reduce their General Fund expenses to help address the State's current economic situation. This reduction in OEHHA's budget reflects this effort.

Some of the key reductions associated with this proposed General Fund reduction include:

- \$183,000 reduction to evaluations of Toxic Air Contaminants, a component of the Children's Environmental Health Protection Act.
- \$204,000 reduction in contracts associated with the publication of Public Health Goals for chemicals in water.
- \$62,000 (and 1.0 personnel year) reduction to support of the Indoor Air Quality Working Group.