

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

WEDNESDAY, APRIL 28, 2004
STATE CAPITOL, ROOM 447
8:30 A.M.PROPOSED CONSENT ISSUES

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0540 RESOURCES AGENCY	
3125 CALIFORNIA TAHOE CONSERVANCY	
3480 DEPARTMENT OF CONSERVATION	
3540 DEPARTMENT OF FORESTRY & FIRE PROTECTION	
3560 STATE LANDS COMMISSION	

SCHEDULED HEARING ITEMS

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Proposed Consent Issues

(dollars in thousands)

	Agency / Department	Description of Issue
1.	Resources Agency	April Letter: Technical correction to Proposition 50 appropriation. \$68,000 reduction to unnecessary bond oversight activities.
2.	Resources Agency	April Letter: Reappropriation of \$4.6 million (Prop. 40) from 2003 for the Urban Streams program, due to delays caused by prevailing wage legal questions.
3.	California Environmental Protection Agency	April Letter: \$150,000 (Environmental Education Account) to implement the Environmental Education Act of 2003 (AB 1548), providing environmental education principles and model curriculum to K-12.
4.	Tahoe Conservancy	January Proposal: \$754,000 (Lake Tahoe Conservancy Account) for various Stream Environment Zone (SEZ) and Watershed Restoration projects.
5.	Tahoe Conservancy	January Proposal: \$377,000 (Lake Tahoe Conservancy Account) for various public access and recreation capital outlay projects.
6.	Tahoe Conservancy	January Proposal: \$438,000 (Habitat Conservation Fund) for activities consistent with Proposition 117 for the Wildlife Enhancement Program.
7.	Tahoe Conservancy	April Letter: \$3.7 million (Prop. 40, reimbursements) for acquisitions and improvements in sensitive Stream Environment Zones.
8.	Tahoe Conservancy	April Letter: \$712,000 (Prop. 40) for the Conservancy's Wildlife Enhancement Program to enhance and restore wildlife habitat.
9.	Tahoe Conservancy	April Letter: \$1.2 million (Prop. 40) for the Public Access Program for lakeshore access facilities.
10.	Tahoe Conservancy	April Letter: \$293,000 (Prop 40, other) for workload adjustments and technical support of the Conservancy's EIP activities.
11.	Tahoe Conservancy	April Letter: \$12.0 million (Props. 40 & 50) for Local Assistance support to fulfill the commitments of the Environmental Improvement Program.
12.	Tahoe Conservancy	April Letter: \$1.5 million (Prop. 40) for various environmentally sensitive acquisitions at risk of development.
13.	Dept. of Conservation	January Proposal: \$1.2 million (GF) reduction and a \$662,000 (Soil Conservation Fund) increase to support DOC activities relating to the Williamson Act.
14.	Dept. of Conservation	April Letter: \$12.0 million (Prop. 40) for the DOC's Farmland Conservancy Program to acquire agricultural easements.
15.	Dept. of Conservation	April Letter: Reestablishment of positions associated with the Surface Mining and Reclamation Act activities, that were previous swept in a vacancy drill.
16.	Dept. of Conservation	April Letter: \$180,000 (Abandoned Mine Reclamation & Minerals Fund) increase for abandoned mine remediation.

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Proposed Consent Issues, continued

(dollars in thousands)

	Agency / Department	Description of Issue
17.	Forestry & Fire Protection	April Letter: \$7.5 million (Prop. 40) for grants to assist in planning and other costs of fuels management activities.
18.	Forestry & Fire Protection	April Letter: \$1.2 million (Prop. 12) for Urban Forestry Grants to cities, non-profits, and districts to assist in urban tree planting.
19.	Forestry & Fire Protection	April Letter: \$240,000 (Prop. 50) for CDF geographic information system (GIS) activities related to CALFED Watershed Program.
20.	State Lands Commission	January Proposal: \$150,000 (OSPAF) for extension and implementation of the Marine Oil Terminal Engineering & Maintenance Standards (MOTEMS).
21.	State Lands Commission	January Proposal: \$970,000 (GF) for state costs for slag remediation in Selby, as a result of a federal judgement against the State.
22.	State Lands Commission	January Proposal: \$1.0 million General Fund reduction from the Commission's Land Stewardship program.
23.	State Lands Commission	April Letter: \$101,000 in increased reimbursement authority for increased in environmental report review of subsea pipelines.

COMMENTS: Staff has raised no issues with the proposals listed.

STAFF RECOMMENDATION: Approve the consent calendar.

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.

The January 10 Budget, along with April Finance Letters proposes expenditures of \$59.6 million for the Secretary in 2004-05, a decrease of \$128.5 million from estimated current-year expenditures.

ISSUE 1: APRIL FINANCE LETTER – RIVER PARKWAYS AND SIERRA NEVADA CASCADE GRANTS PROGRAM (PROPOSITIONS 40 & 50)

The Governor's 2004-05 Budget proposes \$48.1 million in funding for the River Parkways and the Sierra Nevada Cascade Grant Programs. Specifically, this proposal includes:

- \$38.35 million (\$30.5 million Prop. 50 and \$7.85 Prop. 40) for River Parkway Program grants; and,
- \$9.15 million (Prop. 50) for Sierra Nevada Cascade Program grants.

This request proposes that \$27.6 million of the \$48.1 million (56 percent) be available to the Secretary for Resources for opportunity grants.

BACKGROUND: The Budget proposed for the 2003-04 Fiscal Year included \$40.27 million from Propositions 40 and 50 for these programs. Under the recommendation of the Legislative Analyst's Office (LAO), the Legislature sought legislation to provide direction and guidelines for the allocation of grants under these programs.

Ultimately, no agreement was reached between the individual houses of the Legislature and the Administration regarding funding and criteria for these programs, and therefore no appropriation was made for the 2003-04 Fiscal Year.

COMMENTS: The Subcommittee may wish to consider several questions concerning this proposal:

1. *Is additional legislative direction necessary for the grants funded in these programs?*
2. *Should nearly \$28 million of these grants be available for award by the Secretary without statutory direction or Legislative guidance?*
3. *Could statutory criteria impede efforts on vital river parkways who fail to meet some requirements set forth to guide these programs?*
4. *Are there other options open to the Legislature that both provide some layer of oversight and flexibility for potentially unique river parkway needs?*

The Subcommittee should consider these questions and endeavor to develop a proposal that both ensures the utilization of these funds as directed by the voters of the State, and provides sufficient programmatic direction and oversight of their expenditure.

STAFF RECOMMENDATION: Direct staff to continue working with the Agency, the LAO and the Administration to craft an acceptable proposal for the allocation of funds for both the River Parkway and Sierra Nevada Cascade Programs.

3360 – ENERGY RESOURCES CONSERVATION & DEVELOPMENT COMMISSION

The Energy Resources Conservation and Development Commission works to ensure a reliable supply of energy to meet California's needs, while complying with environmental, safety and land use goals. The Commission processes applications for siting new power facilities, encourages measures to reduce wasteful and inefficient use of energy, and monitors alternative ways to conserve, generate and supply energy.

The Governor's 2004-05 Budget proposes \$362.2 million in support of the Energy Commission's activities (all from special funds), an increase of \$48.6 million (15.5 percent) over the estimated current year expenditures. Proposed staffing is 455.6 personnel-years (PYs), a slight decline of 1.5 PY compared with the current year. Regular commission support costs for personal services and operating expenses and equipment total \$61.5 million in 2004-05, a *decline* of \$2.6 million, or 4.1 percent, from the current year. The relatively large *increase* in total funding proposed for 2004-05 is due to a rapid growth in funding commitments from the Renewable Resources Trust Fund (RRTF) for financial commitments to renewable energy projects. The budget proposes expenditures of \$221.5 million from the RRTF in 2004-05. This is an increase of \$85.2 million (64 percent) over 2003-04 spending from the RRTF.

ENERGY COMMISSION
Governor's Budget 2004-05
(dollars in thousands)

	Change from 2003-04				
	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>Amount</u>	<u>%</u>
Program Spending					
Regulatory and Planning	\$26,183	\$26,021	\$26,933	\$912	3.5%
Energy Resources Conservation	\$34,954	\$53,986	\$22,106	-\$31,880	-59.1%
Development	\$170,672	\$233,638	\$313,152	\$79,514	34.0%
Policy, Management and Administration	<u>(\$11,091)</u>	<u>(\$11,641)</u>	<u>(\$10,951)</u>	<u>(-\$690)</u>	<u>-5.9%</u>
Totals	\$231,809	\$313,645	\$362,191	\$48,546	15.5%
Personnel-Years	484.0	457.1	455.6	-1.5	-0.3%
Funding Source					
State Energy Conservation Assistance Account	\$4,513	\$33,732	\$4,027	-\$29,705	-88.1%
Public Interest Research, Development and Demonstration Fund	\$86,041	\$73,658	\$69,147	-\$4,511	-6.1%
Renewable Resources Trust Fund	\$63,645	\$136,258	\$221,456	\$85,198	62.5%
Energy Resources Programs Account	\$47,452	\$46,031	\$46,479	\$448	1.0%
Federal Funds	\$4,415	\$8,931	\$8,906	-\$25	-0.3%
Reimbursements	\$6,209	\$8,495	\$5,745	-\$2,750	-32.4%
Other funds	\$19,534	\$6,540	\$6,431	-\$109	-1.7%

ISSUE 1: ACHIEVING THE RENEWABLE PORTFOLIO STANDARD

BACKGROUND: The RRTF receives a portion of "public goods" charges added to utility bills and collected by the investor-owned utilities under state law. The RRTF supports operating subsidies to electricity generators who use renewable resources. These subsidies are one means of assisting utilities in meeting the Renewable Portfolio Standard (RPS) established by Chapter 516, Statutes of 2002 (SB 1078, Sher). The RPS requires the utilities to essentially double their portfolio of renewable generation over the next 13 years in order to provide diversity in generation resources to reduce the state's exposure to natural gas price increases and to provide environmental benefits.

The requirement for expanded electricity generation from renewables, however, depends on the availability of financial guarantees from the RRTF to cover near-term higher costs of renewable generation. The Energy Commission solicits bids for renewable energy projects. Winning bidders receive financial commitments from the RRTF to make up any shortfall between their bid prices for electricity and the prices paid by the utilities based on market conditions.

In 2004-05, the commission expects to make new financial commitments of \$194.7 million from the RRTF, primarily for the RPS. This amount is expected to be sufficient to finance a one percent growth in the renewable generation portfolio of the investor-owned utilities.

FINANCE LETTER REQUEST: In an April 1 Finance Letter, the administration requests an augmentation of \$190,000 from the RRTF to fund 2 positions. These positions will be used to certify eligible projects for the RPS and to develop an accounting and tracking system to verify that the utility compliance with the RPS.

COMMENTS: The commission expects to issue its first RPS bid solicitation in the near future. The commission should provide the subcommittee with an update of the current status of the program, its plans for the upcoming bid solicitation, and the adequacy of RRTF funding to achieve the RPS goals.

STAFF RECOMMENDATION: Approve Finance Letter.

ISSUE 2: POWER PLANT SITING AND ELECTRICITY SUPPLY OUTLOOK

BACKGROUND: The commission's budget requests \$18.9 million for power plant siting and certification activities in 2004-05. This represents an increase of \$1.5 million (8.6 percent). As of March 20, the commission indicates that 4,045 megawatts of approved new generating capacity currently is under construction. Projects with an additional 6,000 megawatts of capacity have been approved for siting by the commission, but the project developers have placed them on hold. The commission currently has projects totaling 4,012 megawatts under review, including 7 projects with capacities over 300 megawatts.

COMMENTS: On a statewide basis, the Energy Commission forecasts that summer electricity supplies should be adequate this year and in 2005, including the effects of high-probability new generating capacity and interruptible and demand response programs. This summer, the state will have a margin of between 10 percent (if the summer is a hot one) and 18 percent

(if the weather is normal). Significant generating additions in 2005 will continue to provide adequate reserves that year. However, absent additional new generating capacity or other

electricity resources, total electricity generation and resource capacity remains essentially constant after 2005 while demand grows. By 2010, there would only be a few percent of reserve resource capacity in a hot summer.

The commission should update the subcommittee on the following:

- *Assumptions behind the commission's budget request for power plant siting.*
- *The electricity supply outlook for this year and through 2010.*
- *Prospects for construction of power plants currently on hold or recently approved.*
- *The potential timing of resource contributions by power plants currently in the siting process.*
- *Potential contributions of additional energy conservation and demand response programs, and of renewable energy projects.*

STAFF RECOMMENDATION: Approve as budgeted. (power plant siting and all other components of the commission's budget request).

3900 – AIR RESOURCES BOARD

The Air Resources Board (ARB) has primary responsibility for protecting air quality in California. This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the U.S. Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's 2004-05 Budget proposes \$133.3 million in support of the Board's activities, a reduction of \$32.1 million from the expected current year expenditures.

ISSUE 1: GENERAL FUND REDUCTION – FUND SHIFT

The Governor's 2004-05 Budget proposes a General Fund reduction of \$2.6 million to the ARB. This proposal includes a shift of \$2.6 million in support of the Board's activities to fees.

BACKGROUND: In March of 2003, the Legislature passed ABX1 10 (Oropeza) which made several changes to state law, including allowing the Air Resources Board to broaden the base of stationary source fee payers from those who discharge 500 tons of any nonattainment pollutant annually, to 250 tons annually. Additionally, it expanded the fee authority to include various consumer products that emit pollutants.

COMMENTS: The LAO recommended this shift in the current year, but the proposal was not acted upon, either by the Administration or the Legislature. According to the LAO, this proposal would shift the last of the General Fund support from the ARB that could be shifted without significant reductions to programmatic activities or increases in fees on regulated entities that would be difficult to implement and justify.

GENERAL FUND IMPACTS: This proposal provides \$2.6 million in General Fund savings through this shift to fees on stationary source polluters.

STAFF RECOMMENDATION: Approve the recommended reduction in General Fund support.

ISSUE 2: ADDITIONAL PROPOSALS

January Budget Change Proposals

- 1) **Fine Particulate (PM 2.5) Infrastructure Improvements.** This proposal requests \$3.0 million from the Air Pollution Control Fund for the purchase and upgrade of monitoring equipment to assist the Board in expediting its statutorily mandated emissions inventory.
- 2) **Nontoxic Dry Cleaning Incentives Program.** This proposal requests \$1.5 million from the Nontoxic Dry Cleaning Incentives Trust Fund to implement AB 998 (Lowenthal) from the 2003 legislative session, which created this grant program for the dry cleaning industry.

April Finance Letter Proposal

- 3) **Increased Attorney General Fees.** This Letter requests \$147,000 (Motor Vehicle Account) to reimburse the Attorney General (AG) for increased legal costs billed in the current year.

COMMENTS: Staff has raised no issues with these proposals. They are consistent with the statutory and regulatory requirements of the ARB.

STAFF RECOMMENDATION: Approve these three requests from the ARB.

ISSUE 3: AIR QUALITY PROGRAMS – CARL MOYER AND DIESEL SCHOOL BUS

Since 1999, the State has committed approximately \$140.0 million (General Fund and Proposition 40) in support of the Carl Moyer Memorial Air Quality Standards Attainment Program. Additionally, Since 2000, nearly \$70 million (General Fund and bond funds) has been provided for financial assistance to replace and retrofit older, higher polluting school buses.

BACKGROUND:

Carl Moyer Program. The Carl Moyer Program provides funds for cleaner than required engines and equipment. Eligible projects include cleaner on-road, off-road, marine, locomotive and stationary agricultural pump engines, as well as forklifts, airport ground support equipment, and auxiliary power units. The program achieves near-term reductions in emissions of oxides of nitrogen (NOx), reductions which are necessary for California to meet its clean air commitments under the State Implementation Plan.

Lower-Emission School Bus Program. The Lower-Emission School Bus Program is a grant program that has provided new buses for California school children, and equipped older buses with filters to reduce their particulate (smoke) emissions.

COMMENTS: These emissions programs have been quite successful in assisting in the replacement and retrofit of older, higher-polluting diesel engines. With the elimination of General fund support due to the State's fiscal situation, as well as the "drying-up" of bond funds available for these activities, there are several pieces of legislation that would provide additional funding for these activities. Specifically:

AB 2526 (Oropeza) – Would dedicate one quarter of one cent (\$0.0025) of the existing eighteen cent (\$0.18) State diesel fuel tax, for annual support of the Carl Moyer Program.

SB 403 (Florez) – \$4.6 billion bond act for various air quality activities, including \$600 million pursuant to the Carl Moyer Program, and \$300 million for various transit retrofit programs including school buses.

Various Local Air Districts. Several other pieces of legislation, including AB 2880 (Pavley) and AB 2366 (Chan), would allow local areas to assess a fee on registration of vehicles within the district for local air quality programs.

It is widely accepted that the Carl Moyer Program has been a great success and has assisted in the State's efforts to reduce harmful emissions from diesel engines. The Subcommittee may wish to discuss these available options for continued funding of these programs. The ARB should comment on its efforts through the funding already received, and its ability to utilize future funding should it be received.

STAFF RECOMMENDATION: Informational at this time.

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 fosters reduced-risk pest management strategies.

The Governor's 2004-05 Budget proposes approximately \$60 million in support of the Department's support and local assistance activities.

ISSUE 1: APRIL FINANCE LETTER PROPOSALS

- 1) **Increased Attorney General Fees.** This Letter requests \$26,000 from the Department of Pesticide Regulation Fund to reimburse the Attorney General for increased costs of the AG's office.
- 2) **Restricted Materials Use Permits and Dealer Licensing Program.** This letter requests a shift in payments (approximately \$2.9 million) to County Agricultural Commissioners (CAC) from direct contracts with each of the 56 CACs to the CAC's allocations from their portion of the mill assessment. This proposal represents a zero-sum change in both programmatic funding and the mill assessment, it simply streamlines the funding and State oversight of these activities. This proposal includes trailer bill language allowing an increase in the CAC allocation from the 'mill.'

BACKGROUND: Currently, CACs receive 6 'mills' from the maximum of 21 mills (\$0.021) per dollar on the purchase of pesticides in the State. This proposal would increase that amount to 7.6 mills to the CACs and any contract dollars that would have been paid to the CACs through contracts would remain at DPR. This would have no effect on the overall 21 mills assessed; the CACs would receive their increase in lieu of direct contracts with DPR that would need to be administered by DPR. DPR has annually contracted with CACs since 1978, and feels that this shift would both streamline their administration processes and provide uniformity in CAC activities due to the requirements set forth for the CAC's expenditures of their portion of the mill assessment.

COMMENTS: Staff has raised no issues with these Finance Letter proposals.

STAFF RECOMMENDATION: Approve the requested April Finance Letter changes.

ISSUE 2: PESTICIDE SALES – "BIG BOX" RETAILERS

The mill assessment is levied upon the first, usually wholesale, sale of pesticide products in the State of California. Agricultural pesticides are usually sold through licensed pesticide dealers, and tracking pesticide sales through licensed dealers is relatively easy. The mill assessment is supposed to be paid on both agricultural products and on consumer products. Commonly used consumer products that are subject to the mill assessment include insecticides such as "Raid" and herbicides such as "Round-Up." In addition, products making anti-bacterial claims, including some commonly used soaps and detergents (including "Tide") are subject to the mill assessment.

BACKGROUND: So-called 'big-box' retailers such as Home Depot, Target, and Costco sell these consumer products. However, the 'big-box' retailers are not required to have

pesticide dealer licenses. Products are often shipped directly to stores from warehouses, sometimes out of state, and do not have a first wholesale locus within the state that agricultural pesticides usually have. Therefore, it is difficult to track whether or not mill assessment is being paid on products sold through 'big box' retailers.

In recent years the Department also had difficulty determining if mill assessment was being collected on internet pesticide sales. Legislation clarifying that such sales are subject to the mill assessment and increased Departmental focus on this area, as well as cooperation from pesticide manufacturers, has resulted in increased collections and tracking of internet sales. However, the Department has only recently started assessing whether it is losing significant amounts of mill assessment through sales from large retailers.

In the 2002-03 Fiscal Year, the Legislature approved a budget proposal to create a specific unit within DPR to improve collection and administration of the mill assessment. That unit had six positions associated with it and was approved by the Legislature. Subsequently however, three of those positions were eliminated through Section 4.10 reductions. The Department now has just three positions to track, collect, and administer the mill assessment.

COMMENTS: The Department has limited capacity to investigate and audit large retailers due to loss of staff. The Subcommittee may wish to find out if the Department has data on how much is collected, on average, per auditor to ascertain if these positions are cost-effective.

STAFF RECOMMENDATION: The Department should report on the progress of investigation and audit activity related to ensuring that adequate mill assessment is being collected from "big box" retailers.

To ensure adequate staffing for the purposes of the Department's efforts, the Subcommittee may wish to reauthorize the three auditing positions that were recently lost, directing the funding to come from existing resources.

