

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

WEDNESDAY, MARCH 19, 2003
STATE CAPITOL, ROOM 447
8:30 A.M.

ITEMS TO BE HEARD

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PROPOSED CONSENT CALENDAR

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SUBCOMMITTEE OVERSIGHT ISSUES

Many challenges face the legislature this year in reviewing and adopting the budget. Natural resources and environmental protection are one of the few areas of the budget that receive less general fund than five years ago. These programs have benefited from voter approved bond funds in the last three years for investment in California's water quality, water supply, watersheds, habitat and parks.

This year the Legislature must be more thorough and critical in its review of every program to determine priorities and identify programs that should be streamlined to eliminate duplication.

To assist the Subcommittee in reviewing the budget, several actions are being taken: The chairs and vice chairs of the relevant policy committees have been invited to participate in the subcommittee hearings; Four joint hearings with the policy committee to further explore key areas have been scheduled; and, Questions have been communicated to each agency and department to get a better understanding of funding levels, expenditure trends and priorities.

From each agency and department, the Subcommittee has asked for the following information:

- The level of funding and PYs for your department and divisions within your department for 1998-99, 2000-01, 2002-03 and proposed budget.
- A list of which divisions or programs are funded by general fund.
- What actions were taken either voluntarily or by direction from the Governor in the last year to reduce expenditures?
- How have administrative expenses including travel and attendance at conferences been reduced? How has the OE & E schedule been reduced?
- What statutorily mandated work has not been done in the last year because of budget reductions? Has this work been deferred or stopped? If deferred, when do you anticipate completing it?
- How were priorities established for the funding reductions? What are those priorities?
- What programs did you consider shifting funding source including shifting to a fee basis? If you chose not to make the shift to fees, what was the basis of that decision? What programs could be shifted to a fee basis in order to replace general fund?
- If you were given a 10% additional unallocated cut what programs would you defer or eliminate?

For each Budget Change Proposal:

- What is the purpose of the program and the source of funding?
- How does this funding level and source compare to prior years?
- Does the program have sufficient resources to meet its statutory obligations?
- What is the impact of the requested change in level or source of funding?
- Does this result in a reduction of positions or consulting dollars? If positions were eliminated, were the positions filled or vacant, limited term or permanent?
- If funding was reduced, why is this considered a lesser priority?
- Are there statutory changes that would remove implementation barriers to the program and allow you to better achieve program objectives with fewer resources?

3870 - CALIFORNIA BAY-DELTA AUTHORITY

The CALFED Bay-Delta Program is an unprecedented effort to implement a framework for managing California's most precious natural resource: WATER. On August 28, 2000, with the signing of the Record of Decision (ROD) for the Final Programmatic Environmental Impact Statement/Report (EIS/EIR), California and the federal government announced a commitment to move forward with implementation of the CALFED Bay-Delta Program. This established the framework for implementation of a thirty year program which includes ten elements: ecosystem restoration, water quality, Delta levees, watershed management, water storage, water transfers, water use efficiency, Delta water conveyance, a strong science element and an Environmental Water Account for water purchases.

Year 1 of began in FY 2000-01 with the signing of the ROD. Oversight and coordination of the CALFED Program has been provided by State and federal staff which, until recently, were funded in the Department of Water Resources and the U.S. Bureau of Reclamation.

CALFED program oversight and coordination will be provided by the new California Bay-Delta Authority (CBDA) which was established by Chapter 812, Statutes of 2002. Also reflected for display purposes is a crosscutting budget for the CALFED Bay-Delta Program, which includes funding for all agencies, boards, and departments involved in CALFED.

ISSUE 1: LAO ISSUE: FEDERAL FUNDING

In the Legislative Analyst's *Analysis of the 2003-04 Budget Bill*, it is noted that the budget proposal assumes a certain level of federal reimbursements for CALFED in both the current and budget years, even though virtually no federal reimbursements have been forthcoming to date. The CALFED seven-year implementation plan is based on an equal sharing of state and federal funding, however direct federal spending for CALFED has greatly lagged the state's contribution.

The Legislative Analyst has recommended that the California Bay-Delta Authority advise the Legislature on the programmatic implications and the administration's plans if federal reimbursements do not materialize and if federal direct spending for CALFED continues at its relatively modest level.

BACKGROUND:

Information for the federal fiscal year FFY 2004, will not be available until some time during 2003, after the President's budget is public.

COMMENTS:

The Legislative Analyst should present on the issue for discussion with the Subcommittee and the Authority.

ISSUE 2: LAO ISSUE: BAY-DELTA AUTHORITY'S ROLE VIS-À-VIS THE RECORD OF DECISION

The budget proposes expenditures of \$170.6 million of state funds and 73 personnel-years for CBDA in 2003-04, the first full fiscal year of its operation. Of this amount, \$158 million would come from bond funds and \$12.6 million from the General Fund. In addition, the budget proposes expenditures of \$45.8 million from federal funds (\$29.3 million) and other reimbursements (\$16.5 million), mainly for program oversight and coordination. The staffing level for CBDA does not reflect an increase in overall state personnel; rather, these positions were transferred from DWR.

BACKGROUND:

The responsibilities and authority of CBDA were established for purposes of implementing the various CALFED program elements. The Legislative Analyst notes in the analysis, the CBDA is designated as an implementing agency for only one program element—the science program. The 2003-04 budget proposes CBDA expenditures to implement both ecosystem restoration and watershed management programs.

The Legislative Analyst has asserted that this is contrary to Chapter 812, which provides that the Department of Fish and Game (DFG) is the sole state implementing agency for the ecosystem restoration program, and that the Resources Agency, State Water Resources Control Board (SWRCB), DWR, and DFG are the implementing agencies for watershed management.

COMMENTS:

LAO Recommended Budget Bill Language. According to the LAO, the budget proposal is of concern because it does not provide the Legislature with the assurance that the legislative direction spelled out in statute will be followed. To provide such an assurance, the Legislative Analyst recommends adoption of the following budget bill language:

Item 3870-001-6031. No funds appropriated by this item may be expended for purposes of the CALFED watershed management program until a memorandum of understanding that clarifies the responsibilities of the agencies specified in Section 79441 of the Water Code as the implementing agencies of this program has been executed by these agencies and submitted to the Legislature. It is the intent of the Legislature that these agencies will serve as the implementing agencies beginning in 2003-04.

Item 3870-001-0546 and Item 3870-001-6031. Notwithstanding Section 79441 of the Water Code, the California Bay-Delta Authority is authorized to administer funds appropriated by this item for the CALFED ecosystem restoration program for the 2003-04 fiscal year only. It is the intent of the Legislature that, beginning in 2004-05, the Department of Fish Game will serve as the implementing agency for this program, as required by Section 79441.

ISSUE 3: LAO ISSUE: LEGISLATIVE OVERSIGHT

Proposition 50 allocates \$825 million of bond funds explicitly to several of the program elements of CALFED. The measure provides that all of these funds must be expended consistent with the CALFED Record of Decision. This is in contrast to several allocations in other bond measures, such as the Water Conservation Account in Proposition 13, that have been used for CALFED programs but where the bond measure is silent regarding any connection with CALFED.

COMMENTS:

LAO Recommends Budget Bill Language. To ensure that bond funds allocated in Proposition 50 for CALFED do not lose their required connection to the CALFED ROD when allocated to a department, the Analyst is recommending the adoption of the following budget bill language under each item in the budget bill that appropriates funds from the \$825 million allocation to CALFED under Proposition 50:

No expenditures can be made from the funds appropriated by this item from the allocation of bond funds made to the CALFED Bay-Delta Program under Section 79550 of the Water Code unless those expenditures are consistent with the CALFED Programmatic Record of Decision, as required by Sections 79552 and 79553 of the Water Code.

The Legislative Analyst should present this issue to the Subcommittee for its review. The Subcommittee has approved CALFED budget bill language governing the expenditure of funds in previous years. Staff recommends considering any such language be included as a Control Section.

ISSUE 4: TRANSFER OF POSITIONS AND FUNDING FROM THE DEPARTMENT OF WATER RESOURCES

As part of the transfer of oversight responsibility for the CALFED Bay-Delta Program from the Department of Water Resources to the California Bay-Delta Authority, the Governor's proposed 2003-04 budget includes a transfer of \$216.39 million (various funds) and 76.9 personnel years. Included in this transfer request in a General Fund reduction of \$8.2 million (a net \$1.45 million General Fund reduction) that has been shifted to expenditure from Proposition 50. Table 1 below indicates the break-down by fund source of this transfer and expenditure plan.

Table 1.

BAY-DELTA AUTHORITY FUNDING TRANSFER
(dollars in thousands)

| Fund | Amount |
|-----------------|-----------------|
| General Fund | \$12.59 |
| Proposition 50 | 109.43 |
| Federal Funds* | 29.35 |
| Proposition 204 | 48.53 |
| Reimbursements | 16.50 |
| TOTAL | \$216.40 |

* - See discussion in Issue 1 above.

BACKGROUND:

SB 1653, Chapter 812 of the Statutes of 2002, created the California Bay Delta Authority as the coordinating entity for CALFED Bay-Delta Program oversight.

COMMENTS:

There has been some discussion regarding the use of Proposition 50 funds to back-fill general fund reductions. The Authority should provide information regarding the areas that have been funded by Proposition 50 instead of General Fund, and detail, for the Subcommittee's review, the Authority's rationale for the appropriateness of the transfer.

ISSUE 5: ADDITIONAL BUDGET PROPOSALS

The Governor's proposed 2003-04 budget includes additional expenditure requests for the California Bay-Delta Authority in three components, specifically:

- \$65.8 million (Proposition 50) for regional ecosystem restoration activities. This proposal is requested out of the \$825 million allocation of Proposition 50 specifically provided for CALFED.
- \$27.68 million expenditure from Proposition 50 and an associated \$1.72 million General Fund reduction for the CALFED Watershed Management Program activities.
- \$500,000 (Proposition 50) for science review activities of the CALFED Conveyance Program.

ISSUE 6: SUPPLEMENTAL REPORT LATE

The Legislature requested additional information from the CALFED Program in the Supplemental Report of the 2002-03 Budget Act. Specifically, this report requested, on or before February 1, 2003, that a report be delivered to the Legislature containing:

- A recommendation to establish a process to certify urban water conservation best management practices implementation.
- A proposal to generate \$35 million annually in user fees to support ecosystem restoration.
- Cost allocation principles and a draft financing plan for each potential surface storage facility, consistent with CALFED's "beneficiary pays" requirement.
- An identification of likely beneficiaries of each potential surface storage facility.
- Environmental monitoring and adaptive management programs for all Environmental Water Account and State Water Project purchases.
- An analysis of the impact of court rulings regarding the Central Valley Project Improvement Act on CALFED implementation, including ecosystem restoration, the Environmental Water Account, and conveyance issues.
- A status report on progress in preparing groundwater management legislation.
- A report regarding progress in implementing the CALFED environmental justice program.
- A definition of appropriate water measurement, as discussed in the Record of Decision, including urban metering.

COMMENTS:

The Authority should report on the disposition of this report and indicate when the Subcommittee can expect the information.

3860 - DEPARTMENT OF WATER RESOURCES

The Department of Water Resources protects, conserves, develops, and manages California's water. The department has a major responsibility for supplying suitable water for personal use, irrigation, industry, recreation, power generation, and fish and wildlife; for flood management and the safety of dams, and to educate the public about the importance of water and proper use.

ISSUE 1: GENERAL FUND REDUCTIONS

The Governor's Budget includes several requests for General Fund reductions at the Department of Water Resources. These reductions total \$26.59 million (General Fund) in savings, with \$22.22 million to be back-filled by Proposition 50. Specifically, these proposals include:

True Reductions

- \$4.37 million General Fund reduction to four of the Department's program areas with corresponding reductions in Departmental activities.

Fund Shifts

- \$3.17 million General Fund reduction to Departmental CALFED activities, with a corresponding increase in Proposition 50 expenditures. This proposed shift in funding would be to several Program Elements of CALFED, including the Ecosystem Restoration, Watershed, Drinking Water Quality and Science Programs.
- \$4.82 million General Fund reduction, back-filled from Proposition 50, to the CALFED Water Use Efficiency Program for continuing formulation of the California Water Plan.
- \$2.79 million General Fund reduction to the water supply reliability component of the CALFED Storage Program, to be fully offset by Proposition 50 funding.
- \$623,000 General Fund reduction to the CALFED Environmental Water Account, to be fully offset by Proposition 50 funding.
- \$2.47 million General Fund reduction to the CALFED Delta Levee System Integrity Program, to be fully offset by Proposition 50 funding.
- \$8.35 million General Fund reduction to the surface storage component of the CALFED Storage Program, to be fully offset by Proposition 50 funding.

COMMENTS:

As discussed earlier under the Bay-Delta Authority's proposals, there has been concern regarding the use of Proposition 50 funds to back-fill general fund reductions. The Department should provide information regarding the areas that have been funded by Proposition 50 instead of General Fund, and the rationale for the appropriateness of the transfer.

ISSUE 2: SECURITY ISSUES: DAMS AND STATE WATER PROJECT

The Governor's 2003-04 budget proposes two security-related expenditures from the Proposition 50 bond act.

Proposition 50 - Dam Security. This proposal requests \$1.0 million (Proposition 50) for the evaluation of 1,250 dams to determine security-related hazards, and assist in the development and review of Emergency Action Plans.

The Governor's budget proposes about \$8.8 million for the dam safety program. Of this amount, \$7.8 million is from the General Fund, and \$1 million is from the Proposition 50 bond fund for dam security activities.

Proposition 50 - State Water Project. This proposal requests \$3.8 million for the enhancement of security at various points of the State Water Project, including fencing or other barriers, video surveillance, or electronic access to locations.

BACKGROUND:

Proposition 50 includes \$50.0 million explicitly for the purposes of protecting drinking water from terrorism or other threats. In addition to the \$4.8 million in these proposals, the Governor's budget proposed \$10.26 million for grants through the Department of Health Services.

Dam Safety Program. DWR's dam safety program regulates approximately 1,250 dams in the state that are not under federal jurisdiction. The program is responsible for supervising the maintenance and operation of all non-federal dams that are of a specified minimum size (over 25 feet tall or storage exceeding 50 acre-feet). The program reviews plans and supervises the construction of new dams, and the enlargement, alteration, repair, or removal of existing dams. The program currently oversees the construction of approximately 3 to 5 new dams and supervises around 10 to 15 major alterations or repairs annually. The program is also charged with evaluating the seismic stability of dams with close proximity to fault lines and has been involved in overseeing security at dams.

The department collects around \$1.9 million annually in maintenance fees. These fees have remained virtually constant over the last five years. The division also collects an average of \$475,000 annually in filing fees for new dams or changes to existing dams. However, revenues from the filing fees have varied significantly—ranging from \$300,000 to \$5 million annually—depending on workload. The \$7.8 million in General Fund for this program reflects fee revenues that are deposited directly in the General Fund rather than into a special fund. The Legislative Analyst estimates that such fee revenues will only total about \$2.4 million in the budget year.

COMMENTS:

The Legislative Analyst is prepared to present on this issue.

ISSUE 3: DEPARTMENTAL CALFED PROPOSALS

- \$100,000 (Proposition 50) and \$5.76 million (Proposition 13) for continuing activities at the Tracy Fish Test Facility as a component of the CALFED Conveyance Program.
- \$901,000 (reimbursements and federal funds) for Ecosystem Restoration Program activities associated with the Prospect Island, as described in the Record of Decision.
- \$35.34 million (Proposition 50) for support of the CALFED Water Use Efficiency Program.
- \$76.19 million (Proposition 50) in support of the Authority's CALFED Storage Program as it relates to water supply reliability activities.
- \$35.64 million (Proposition 50) for the CALFED Environmental Water Account.
- \$21.34 million (Proposition 50) for state operations and local assistance of the CALFED Delta Levee System.
- \$19.67 million (Proposition 50) for feasibility studies in the CALFED Surface Storage Program.

COMMENTS:

The Subcommittee should consider withholding action on Proposition 50 expenditures in order to fully evaluate all Proposition 50 proposals as a group.

ISSUE 4: ADDITIONAL DEPARTMENTAL PROPOSALS

- \$300,000 (reimbursement) for an increase to the Department's existing authority for construction services to other departments.
- \$4.66 million (Proposition 40) in reimbursement for grants and program delivery activities associated with the Urban Streams Restoration Program.
- \$7.3 million (Proposition 13) for year-four of a six year effort associated with the Department's Flood Protection Corridor Program.
- \$3.0 million (Proposition 13) for continuing local assistance activities of the Yuba Feather River Flood Protection Program.
- \$150,000 (reimbursement authority) associated with DWR contract preparation activities to assist in the allocation of grants and loans by the Department of Health Services.
- \$58.07 million (Proposition 50) for grant activities of the Integrated Regional Water Management Program.

- \$19.0 million (Proposition 50) for canal lining activities to implement the Colorado River Water Use Plan.
- \$15.25 million (Proposition 50) for grants associated with desalination projects.
- \$11.55 million (Proposition 50) for demonstration projects relating to the removal of contaminants from drinking water.

COMMENTS:

The Subcommittee should consider withholding action on Proposition 50 expenditures in order to fully evaluate all Proposition 50 proposals as a group. Staff has identified no issues with the remaining proposals.

PROPOSED CONSENT ITEMS

3460 - COLORADO RIVER BOARD

The Colorado River Board protects California’s rights and interests in the water and power resources of the Colorado River system. Activities include analyses of the engineering, legal and economic matters concerning the Colorado River resources of the seven basin states and the 1944 U.S.-Mexico Water Treaty obligation to deliver Colorado River water to Mexico. The board develops a single position among the California agencies having the major rights to Colorado River water and power.

3820 - SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

The San Francisco Bay Conservation and Development Commission (BCDC) is a regional planning agency responsible for protecting the bay and its shoreline. The Commission maintains the Bay Plan to serve as a guide for the conservation of the San Francisco Bay and the development of its shoreline, issues or denies permits for filling or dredging in the Bay, approves any change in the use of salt ponds or other “managed wetlands” adjacent to the Bay; and implements the Suisun Marsh Preservation Act of 1977.

3840 - DELTA PROTECTION COMMISSION

The Delta Protection Commission was created in 1992 to provide a regional approach to protecting the Sacramento-San Joaquin Delta’s resources through comprehensive regional land use planning implemented by local governments. The Commission, comprised of 13 local and 6 state government officials, prepared and adopted a “comprehensive long-term resources management plan” for land uses within the Sacramento-San Joaquin Delta.

COMMENTS:

The Governor's budget proposals for these three State entities are shown in Table 2 below. If no members have issues with these entities, staff recommends approve as budgeted.

Table 2.

| <i>Department</i> | <i>2002-03 Actual</i> | | <i>2003-04 Proposed</i> | | <i>Change</i> | |
|--|-----------------------|--------------------|-------------------------|--------------------|---------------------|--------------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Colorado River Board | \$192 | \$874 | \$192 | \$875 | \$0 | \$1 |
| Bay Conservation & Develop. Commission | 3,450 | 782 | 3,458 | 782 | 8 | 0 |
| Delta Protection Commission | 0 | 312 | 0 | 307 | 0 | -5 |
| TOTAL | \$3,642 | \$1,968 | \$3,650 | \$1,964 | \$8 | -\$4 |