

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

Assemblymember Fran Pavley, Chair

WEDNESDAY, APRIL 23, 2003
STATE CAPITOL, ROOM 447
8:30 A.M.

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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 percent 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?

ITEMS TO BE HEARD

3900 - AIR RESOURCES BOARD

The Air Resources Board is responsible for achieving and maintaining satisfactory air quality in California. This responsibility requires the Board to establish ambient air quality standards for certain pollutants, regulate vehicle emissions, identify and control toxic air pollutants, administer air pollution research studies, develop and oversee implementation plans for the attainment and maintenance of both state and federal air quality standards and oversee the regulation of sources of pollution by air pollution control districts.

The budget proposes total expenditures of \$163.2 million (\$10.4 million General Fund), an increase of \$2.7 million from the current-year budget (\$13.5 million General Fund reduction).

ISSUE 1: GENERAL FUND REDUCTIONS

The Governor's 2003-04 budget proposes \$12.1 million in direct General Fund programmatic reductions. The Governor's January proposal included increased fees on stationary source polluters to partially offset (\$10.0 million) these General Fund reductions.

BACKGROUND:

The Legislature acted on the issue of increased fees during the extraordinary session, and AB 10X (Oropeza) was signed by the Governor in March.

COMMENTS:

LAO Recommendation The Legislative Analyst has identified an additional \$4.4 million of the remaining \$10.4 million of General Fund support to the program that could be funded from the authorized fee. The remaining \$6 million funds the research division of the stationary source program which the LAO believes should remain in the General Fund.

ISSUE 2: CENTRAL VALLEY AIR QUALITY

In the past few years the problem of deteriorating air quality in the Sacramento/San Joaquin Valley has become an issue of statewide importance and concern.

The federal government and the courts (rather than state or local decision making) have increasingly driven air quality policy in the region. In the past year, environmental groups forced the federal EPA to compel revisions to state law to establish permit requirements for agricultural sources of air pollution and to force the San Joaquin Valley air district to propose a comprehensive plan to reduce particulate matter air pollution.

COMMENTS:

The Board should be prepared to respond to the following:

- How much does the Board spend on research, monitoring, and both regulatory and non-regulatory programs to reduce air pollution in the central valley?
- Is this amount sufficient for the assessment and reduction of air pollution in the valley?

ISSUE 3: EXEMPTIONS FROM FEDERAL AIR QUALITY PERMITS

On May 14, 2002, the federal government signed a lawsuit settlement agreement which will require "major" agricultural emission sources in California to apply for federal air quality permits as required by Title V of the federal Clean Air Act. Currently, state law exempts such emission sources from air quality permitting requirements. "Major" sources in agricultural operations would include stationary diesel engines and certain confined feeding operations, among other sources.

The settlement agreement dictated a schedule for processing permits for this new category of permittees. Specifically, permit applications are due for agricultural sources that operate diesel engines by May 2003, and by October 2003 for all other major agricultural emission sources. Federal sanctions, including loss of federal transportation funding (\$2.5 billion), would be imposed if the deadlines are not met.

COMMENTS:

LAO Recommendation. The LAO recommends the enactment of legislation to amend state statute to remove all exemptions for agricultural air pollution permitting before May 2003.

ISSUE 4: ADDITIONAL PROPOSALS

- \$100,000 (Motor Vehicle Account) to meet statutory requirements for the reduction of mobile source greenhouse gasses.
- \$6.0 million (Air Pollution Control Fund) for initial improvements to monitoring infrastructure to implement state and federal particulate matter regulations.
- \$483,000 (\$114,000 General Fund and \$369,000 Motor Vehicle Account) for the replacement of scientific monitoring equipment for the measurement and analysis of air pollution.

COMMENTS:

These proposals are consistent with the duties of the Board and staff has no issues with the requested expenditures.

0555 - SECRETARY FOR ENVIRONMENTAL PROTECTION

The Secretary for Environmental Protection manages the State’s environmental protection programs. The Secretary oversees the operations of the following organizations: Air Resources Board, California Integrated Waste Management Board, Department of Pesticide Regulation, State Water Resources Control Board, Department of Toxic Substances Control, and Office of Environmental Health Hazard Assessment.

The Governor's budget includes \$9.3 million (\$2.3 million General Fund) for support of the Secretary. This reflects a General Fund reduction of \$253,000 (10% from the current year).

ISSUE 1: GENERAL FUND REDUCTIONS

The Governor's budget includes General Fund reductions to programmatic activities of the Secretary of \$345,000 in the budget year.

BACKGROUND:

The Secretary has operated permit assistance centers throughout the State to assist regulated communities in their compliance with State law. Recent budget cuts have reduced the number of centers. This proposal would eliminate the last of these centers and direct all assistance activities to the State's CalGOLD on-line web site that provides these services proposed for reduction.

ISSUE 2: ENVIRONMENTAL PROTECTION INDICATORS FOR CALIFORNIA

The Governor's proposed 2003-04 budget proposes to reduce all funding for the development of Environmental Protection Indicators for California (EPIC) in 2003-04.

BACKGROUND:

The EPIC program was created in 2000-01 to establish and implement a process for developing environmental indicators. EPIC issued its first report in April 2002 that is described as the foundation for measuring the state's environmental quality in terms relevant to both human and ecosystem health. The report was developed jointly by the California Environmental Protection Agency and the Resources Agency with the active participation of the Department of Health Services. Various stakeholders both in and out of government collaborated in its development.

According to the 2002 report, EPIC is designed to be an ongoing process to integrate and use information about the environment to frame new approaches to solving environmental problems. Environmental indicators can be used as part of the planning process, for setting goals and tracking progress in improving California's environment and natural resources.

Traditionally many environmental programs are evaluated upon measures of activity such as the number of permits granted. Environmental indicators can show the effects of these activities on the environment and public health

Since 2000-01 CalEPA's expenditures for EPIC have been roughly \$700,000 General Fund.

COMMENTS:

LAO Recommendation. The Legislative Analyst recommends legislation to set goals for EPIC's operation and to guide the use of the project's information, including in the budget development process. CalEPA sponsored AB 1360 (Steinberg) to put EPIC in state law.

Legislative Action. Subcommittee 3 held a joint hearing with the Environmental Safety and Toxic Materials Committee and Water, Parks and Wildlife on March 13 to evaluate the program and its potential for evaluating investments in environmental protection.

Questions were raised at the prior hearing about the ability to further develop EPIC so that it can be an effective planning and budget tool for program evaluation. Successful use of EPIC is highly dependent on the ability for programs to monitor activities to determine whether the level of pollution and the impact on public health is increasing or decreasing.

The staff has discussed with the LAO and CalEPA the option of selecting some air quality indicators (where monitoring data is available) and one or two water quality monitoring indicators (where the data is beginning to be collected effectively). This would allow a better evaluation of whether EPIC can be expanded to be an effective program evaluation tool.

ISSUE 3: ADDITIONAL PROPOSALS

- \$250,000 (reimbursement) for grants to non-profits and federally recognized tribes for environmental justice projects. Grants are limited to \$20,000 per.
- \$2.0 million (Environmental Enforcement and Training Account) for the implementation of the CalEPA Local Environmental Enforcement , Training and Grant Program.

COMMENTS:

Committee staff has raised no issues with these proposals of the Secretary.

3940 - STATE WATER RESOURCES CONTROL BOARD

The State Water Resources Control Board (State Board) and the nine Regional Water Quality Control Boards (Regional Boards) preserve and enhance the quality of California's water resources and assure their proper allocation and effective use. These objectives are achieved through two programs: Water Quality and Water Rights.

The budget proposes total expenditures of \$739.4 million (\$44.6 million General Fund), a decrease of \$332.0 million (31.0 percent) from the current-year budget. A large majority of the reduction in spending is attributable to \$304.8 million in bond fund reductions for the local assistance program.

ISSUE 1: PROPOSED BOND EXPENDITURES

The Governor's budget proposes expenditures for Water Board programs from State bond funds totaling \$182.8 million. These proposals include:

- \$114.7 million (Proposition 50) for local assistance and state operations activities;
- \$65.9 million (Proposition 13) for local assistance and grants for bond programs; and
- \$2.2 million (Proposition 40) for state operations of bond programs approved in 2002.

COMMENTS:

Due to on-going discussions between the Secretary for Resources and the Secretary for Environmental Protection relating to the development of a Memorandum of Understanding relating to watershed restoration activities, the Subcommittee has been withholding action on bond expenditures for these activities. Similarly, actions on Proposition 50 expenditures are being deferred to the Subcommittee's May 7 hearing.

ISSUE 2: GENERAL FUND REDUCTIONS

The Governor's 2003-04 budget proposes \$14.6 million in General Fund reductions to the Boards programs. The Governor's January proposal included increased fees and expenditure authority from the Waste Discharge Permit Fund to partially offset (\$13.6 million) these reductions.

BACKGROUND:

The Legislature acted on the issue of increased fees during the extraordinary session, and AB 10X (Oropeza) was signed by the Governor in March. At that time, the Subcommittee expressed concern over \$6.8 million of these cuts to the monitoring & assessment activities of the Board.

COMMENTS:

The Subcommittee discussed the possibility of funding these activities from any fee increase by the Board pursuant to the authority given by AB 10X.

The Board should report on its activities toward the adoption of updated fee regulations and the use of these dollars to provide support for the monitoring and assessment activities. Additionally, the Board should report on which specific, previously reduced programs it intends to fund from the additional revenue.

ISSUE 3: ADDITIONAL PROPOSAL

The Governor's 2003-04 budget proposes \$181,000 from the Surface Impoundment Assessment Account to fund activities associate with the adoption of emergency regulations pertaining to solar evaporators.

COMMENTS:

This request is necessary to allow the Board to undertake activities associated with solar evaporator use to deal with agricultural runoff.

ISSUE 4: WATER RIGHTS FEES

The Governor's budget proposes \$8.7 million for the water rights program, a 20 percent reduction in the funding from the current year. The reductions are accomplished by a proposed reduction of \$3.3 million in General Funds and 15.5 personnel years (PYs) to the water rights program. Current-year reductions to the water rights program of \$610,000 were approved earlier this year.

BACKGROUND:

The water rights program is responsible for (1) issuing new water rights for water bodies that have not already been fully "allocated" to water rights holders, (2) approving changes to existing water rights, and (3) conducting ongoing enforcement and compliance monitoring of water rights.

Permits issued specify the use, point of diversion, quantity, and other conditions that protect prior water rights holders, the public interest, and the environment. After a water right has been approved, the project must be completed, inspected, and licensed. The board enforced the conditions of the permits and licenses through ongoing inspections and investigating complaints.

Currently, water rights applicants pay a one-time nominal application fee, which varies depending on the amount of the proposed diversion and/or storage. Applicants proposing large water diversions that are likely to have an impact on the environment pay for the preparation of any environmental documents required to comply with CEQA. The minimum application fee is \$100 and was established in the mid-1980s. The current fee generates approximately \$30,000 for the water rights program, or about 1 percent of program expenditures.

COMMENTS:

LAO Recommendation. The Legislative Analyst identified significant backlogs in the review and issuance of water rights by the board. Currently, the board receives about 170 applications a year, and at the current-year funding level processes around 150 applications per year. The board also issues approximately 125 licenses annually on completed projects with over 1,000 pending. In addition, the board conducts about 120 inspections on current water rights holders, or less than 1 percent of water rights granted.

According to the LAO, the proposed reductions have a potential to exacerbate the current backlog in the program and that the program should be supported by water rights fees as there is a direct nexus between water rights holders and the application and compliance process. The LAO recommends that the existing application fee be increased and a new annual compliance fee be created so that fee revenues replace General Fund support budget for the water rights program. These fees are to include water-rights-related costs incurred by other state departments.

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. The office performs risk assessments for various programs under the California Environmental Protection Agency, as well as other state and local agencies, and 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 to risk assessment.

The budget proposes total expenditures of \$10.8 million (\$8.7 million General Fund), a decrease of \$4.2 million (28.1 percent) below the current-year budget.

ISSUE 1: GENERAL FUND REDUCTIONS AND APRIL FINANCE LETTER ADJUSTMENTS

January Budget Proposal. The budget proposes a \$3.6 million reduction in General Fund expenditures. The proposal calls for a reduction of 34 filled positions, 244,000 in contract funds, including the elimination of the Pesticide Worker Health and Safety Program and reducing various air quality standard reviews.

April Finance Letter. The Finance Letter would change the January proposal to restore \$3.523 million and 33 position that were proposed to be eliminated above. The proposal asks to restore funding and the associated activities through direct appropriations of special funds, increased General Fund and reimbursement authority, and the redirection of baseline General Fund dollars. The proposed funding in the Finance Letter is on a one-time basis for FY 2003-04.

Three components of the January proposal are not included in the requested April restorations. These include: the Emerging Challenges Program (\$95,000); the Environmental Protection Indicators of California program (\$83,000); and the Scientific Peer Review of Pesticide Risk Assessments program (\$309,000).

Scientific Peer Review. The \$309,000 General Fund reduction from Scientific Peer Review work is part of the larger \$1.4 million pesticide-related activities reduction.

Current law requires OEHHA to perform scientific peer review of pesticide studies, registration reviews, and risk assessments conducted by DPR. Another statute requires the Secretary for CalEPA to coordinate peer review of policies, regulations, and guidelines proposed by Cal EPA departments, using a scientific peer review panel of independent scientists. The budget proposes to shift responsibility for the pesticide-related peer review from OEHHA to the Secretary's external scientific peer review panel.

COMMENTS:

LAO Recommendation. The Legislative Analyst believes the shift will both weaken OEHHA's position as the state's environmental risk assessor and the review process by shifting the review to an advisory panel that is not configured or funded to handle individual risk assessments or has the specialized technical background for pesticide review.

The LAO recommends the subcommittee deny the Governor's proposal to shift responsibility for conducting scientific peer reviews of pesticide-related risk assessments from OEHHA to a the Secretary of Cal EPA and recommends funding of this activity through the Department of Pesticide Regulation Fund.

8570 - DEPARTMENT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture promotes and protects the state's agriculture industry through marketing and industry inspections. The Department also develops California's agricultural policies, assures accurate weights and measures in commerce, and provides financial oversight to county, district, and citrus fairs. The primary divisions of the Department are the Animal Health and Food Safety Services, Fairs and Expositions, Inspection Services, Marketing Services, Measurement Standards, and the Plant Health and Pest Prevention Services.

The Governor's 2003-04 proposed budget includes \$269.0 million (\$86.6 million General Fund) to the Department for state operations, local assistance, and capital outlay.

ISSUE 1: MEDITERRANEAN FRUIT-FLY PREVENTATIVE RELEASE PROGRAM

The Governor's 2003-04 budget includes an \$8.9 million General Fund proposal to support Departmental activities relating to the Med-fly Exclusion Program.

BACKGROUND:

The Medfly Exclusion Program costs approximately \$18.8 million annually; half of this cost is borne by the federal government in a dollar-for-dollar matching arrangement with the state General Fund. The Administration and Legislature have consistently supported this funding arrangement over the past seven budget years.

Over the years, there has been some discussion as to whether the release of sterile Medflies constitutes exclusion, eradication, or control. Exclusion programs work by preventing a pest not found within a particular jurisdiction from establishing itself. Eradication programs, on the other hand, are meant to eliminate infestations of new pests that have already penetrated an exclusion barrier. According to the Department, historically in California, exclusion and eradication of pests have been considered General Fund responsibilities. Control programs,

which are efforts to deal with well-established and ongoing pest infestations, in recent years have tended to be industry funded.

The Department should be prepared to discuss the difference between this on-going exclusion program and a control program. Specifically, at what point does an on-going exclusion program meant to control a pest's population stop being an exclusion program and start being a control program?

LAO Recommendation. The Legislative Analyst recommends the enactment of legislation to direct CDFA to develop an assessment program that would equitably distribute the nonfederal cost of the PRP across those industries that most benefit from the absence of the medfly. This assessment should be distributed in such a manner as to maximize participation—thereby minimizing the economic impact on any individual industry.

COMMENTS:

In the Supplemental Report of the 2002-03 Budget Act, the Legislature asked the Department to explore options for the funding of this program. The Department has provided its options for funding of this program in its recent report on the exclusion program (see attachment 1 for options).

ISSUE 2: GENERAL FUND REDUCTIONS

The Governor's budget proposes \$4.75 million in reductions to the General Fund support of the Department's activities. Specifically, the reductions include:

- \$212,000 reduction to the Department's general agricultural activities;
- \$168,000 reduction to the Department's Exotic Pest Program;
- \$1.5 million reduction to the Plant Health and Pest Prevention Services Division;
- \$1.37 million reduction to the Pest Exclusion Program's border station activities; and
- \$1.5 million General Fund reduction to the "Buy California" program.

COMMENTS:

The Department has identified these programs as areas from which the Department could sustain General Fund reductions. Committee staff concurs with these items.

ISSUE 3: OTHER DEPARTMENTAL PROPOSALS

The Governor's 2003-04 budget requests various additional proposed changes to the Department's budget. These include:

- *April Finance Letter.* \$510,000 (federal funds) for enhanced surveillance and response to animal diseases;
- *April Finance Letter.* \$20,000 (\$13,000 General Fund, \$7,000 Dept. of Agriculture Fund) to run the County of San Francisco's exotic insect detection and trapping program.
- \$2.8 million (federal funds) for the federal Specialty Crop Block Grant Program;
- \$3.4 million in increased federal funds for agricultural insect pest detection programs;
- \$1.32 million (Harbors and Watercraft Fund) for the Department's Hydrilla Eradication Program activities;
- \$350,000 (federal funds) for regulatory enforcement activities associated with Sudden Oak Death Syndrome; and
- *April Finance Letter.* \$1.49 million (reimbursement) from the Department of Pesticide Regulation for work done by the Department's Analytical Chemistry Laboratory.

COMMENTS:

The Department should explain why it is taking on the exotic insect detection and trapping activities of the County of San Francisco.

ISSUE 4: CAPITAL OUTLAY PROPOSALS

The Governor's 2003-04 budget proposes two capital outlay projects to be paid for from lease revenue bonds. These proposals are:

- \$10.96 million for expansion of the Department's Hawaii Med-Fly rearing facility;
- \$6.59 million for construction work relating to the relocation of the Dorris agricultural inspection station.

COMMENTS:

Staff has currently raised no issue with these proposals.