

AGENDA ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES

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**WEDNESDAY, APRIL 21, 1999
STATE CAPITOL, ROOM 127
8:00 A.M.**

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0540 SECRETARY FOR RESOURCES

The Resources Agency administers the State's natural resources programs. The Secretary for Resources, a member of the Governor's Cabinet, assists the Governor in establishing the objectives of the Administration and in formulating programs and policies governing the acquisition, development and use of the State's resources to attain these objectives, and oversees the operation of the agency departments.

The Governor's proposed budget includes \$5.8 million for the Secretary of Resources.

ISSUE 1: CONSERVATION BLUEPRINT

The Secretary of Resources has not provided a conservation blueprint to assess the current condition of the State's natural resources and to develop a long-term set of priorities and targets for future investment and protection.

COMMENTS:

Requiring the Secretary of Resources to produce a conservation blueprint would require a budget augmentation and the following Budget Bill Language:

Of the amount appropriated in this item, \$???? shall be used by the Secretary for Resources to fund the development of a conservation blueprint for the state of California, which shall assess the current condition of the state's natural resources and develop a long-term set of priorities and targets for future investment and protection, in order that the state's limited resources may be most efficiently and effectively used. The Secretary shall present a detailed plan for the preparation of the conservation blueprint to the Chair of the Joint Legislative Budget Committee on or before January 3, 2000.

0555 SECRETARY FOR ENVIRONMENTAL PROTECTION

The Secretary for Environmental Protection (CalEPA), a member of the Governor's Cabinet, 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. In addition, the Secretary administers the following special environmental programs: Permit Assistance Centers, Scientific Peer Review, Circuit Prosecutor Project, and Information Technology for the new CalEPA headquarters building. Previously, these programs were displayed in 3985 Special Environmental Programs, but have been incorporated into CalEPA's budget as a separate program to simplify budgeting and accounting processes.

The Governor's proposed budget includes \$8 million for the Secretary of CalEPA.

ISSUE 1: CALEPA PROGRAM DELIVERY, STRUCTURE, AND FUNDING

The Governor has called for a review of the operations of CalEPA, including the examination of (1) the delivery of environmental programs, (2) the structure of environmental organizations, and (3) funding mechanisms for environment programs.

It appears the review will address issues raised last year by the LAO and contained in legislation (SB 1577, Sher) that was vetoed by the Governor. Under Governor Wilson's administration, CalEPA was failing to meet its primary goals of focussing on addressing the most significant risks to public health and the environment with the best available science, coordinating the State's environmental protection programs, and serving as the point of accountability for these programs.

As part of the comprehensive attempt to require a review of CalEPA, the Legislature funding the agency's 24 positions for 18 months limited term, through December 31, 1999. The Governor's budget proposes to make the positions permanent and an additional \$965,000 to provide full year funding for the positions.

The LAO recommends that the agency's 24 positions be approved on a two-year limited-term basis. This would provide the new administration an opportunity to adequately conduct the review and to implement changes resulting from the review's findings.

COMMENTS:

Subcommittee #3 discussed the issue of program delivery, structure, and funding during an overview hearing on March 3, 1999. The Secretary should report at the hearing regarding the progress of the review since the overview hearing.

ISSUE 2: PERMIT ASSISTANCE CENTERS

The Governor's proposed budget includes \$444,000 to continue 8.6 positions for permit assistance centers (PACs) that were funded on a one-year limited-term basis for the current year.

PACs serve throughout the State as a one-stop point of contact for businesses to obtain information on all required permits and to provide assistance applying for permits. Staffing for PACs consists of staff loaned from CalEPA and other departments. The current year budget provides reimbursement for up to 40 position, this included an increase of 17 positions on a one-year limited-term basis.

COMMENTS:

The 13 PACs have been administratively established and the Senate has raised the issue whether Trailer Bill Language should be adopted to codify the functions and goals of the PACs and whether Supplemental Report Language should be adopted to obtain basic performance information.

ISSUE 3: INFORMATION TECHNOLOGY INFRASTRUCTURE

The Governor's budget proposes \$1.6 million for development and equipment costs for an information technology infrastructure in the CalEPA headquarters building currently being constructed.

Of the amount proposed, \$393,000 is for staff and consultant contracts and \$1.2 million is for possible equipment needs. It is unknown what the exact needs will be. As a result, the LAO recommends Budget Bill Language that would require the notification of the Legislature prior to the expenditure of funds for equipment.

COMMENTS:

The LAO recommends the following Budget Bill Language:

Of the funds appropriated in this item, \$1,600,000 is appropriated for the development and installation of a data communications infrastructure in the CALEPA headquarters building. Of this amount, up to \$393,000 may be expended for a staff position and to contract with an outside vendor to evaluate equipment needs, recommend equipment purchases, and oversee the installation of the procurement and installation of the networking infrastructure. Funds may be expended for equipment purchases no sooner than 15 days after the Secretary notifies the Chairperson of the Joint Legislative Budget Committee and the Chairpersons of the legislative fiscal committees of (1) the equipment to be purchased and (2) any written approvals from the Department of Information Technology and the Department of Finance for equipment purchases to the extent such approvals are required.

ISSUE 4: PRESIDENTIAL EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE

President Clinton has issued an executive order directing federal agencies and state agencies implementing federal laws to incorporate environmental justice into their operations. Under Governor Wilson's administration, the Secretary of CalEPA opposed the executive order and resisted its implementation.

COMMENTS:

The Secretary of CalEPA's budget should be augmented and Budget Bill Language should be adopted to enable the implementation of the executive order and begin incorporating environmental justice policies into its operations.

ISSUE 5: OMBUDSMAN SERVICES

The creation of CalEPA included a commitment to ombudsman services to provide important outreach to the public and to assist small businesses comply with complex environmental requirements. The ombudsman services should be provided by the Deputy Secretary for External Affairs, however, this position has focussed primarily on public relations and not ombudsman services.

COMMENTS:

The Subcommittee can provide a budget augmentation for ombudsman outreach services to the general public and the rebuilding of public participation programs in local communities, particularly those communities disproportionately affected by pollution clusters. In addition, the Subcommittee can adopt Trailer Bill Language that formally defines the ombudsman duties of the Deputy Secretary for External Affairs.

ISSUE 6: ENFORCEMENT OF ENVIRONMENTAL PROTECTION PROGRAMS

The Governor and the Secretary of CalEPA have identified clear and consistent enforcement of environmental laws to be a top priority. To enable this stepped up enforcement efforts, the Subcommittee should consider increasing staff and providing additional authority to investigate possible violations and enforce environmental laws.

COMMENTS:

Enforcement efforts can be enhanced by adopting Trailer Bill Language that grants the Deputy Secretary for Law Enforcement and Counsel to enforce the law and coordinate enforcement programs and by providing additional funding for enforcement activities.

3580 SEISMIC SAFETY COMMISSION

ISSUE 1: FINANCE LETTER

The Department of Finance has submitted a finance letter requesting an increase of \$8,000 to fund a portion of administrative expenses attributable to the Proposition 122 Seismic Retrofit Practices Improvement Program.

COMMENTS:

The finance letter should be approved.

3820 BAY AREA CONSERVATION AND DEVELOPMENT COMMISSION

ISSUE 1: FINANCE LETTER

The Department of Finance has submitted a finance letter requesting increased reimbursements of \$200,000 from the San Francisco International Airport (SFIA) to allow the Bay Area Conservation and Development Commission (BCDC) to update the airport element of the Bay Plan and process the SFIA bay fill permit application.

COMMENTS:

The SFIA plans to expand and relocate its runways that will require as much as two square miles of bay fill. The BCDC want to update the airport element of the Bay Plan prior to evaluating SFIA's permit application for the bay fill.

There has been some concern expressed that there is no need to update the airport element of the bay plan prior to approving the permit application. Such a requirement, it is claimed, would unnecessarily delay the project.

3940 STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: TOTAL MAXIMUM DAILY LOADS (TMDLS)

The Governor's budget includes an increase of \$6 million in federal funds and 30 positions for the first year of a five-year program be added to the current level of \$9 million spent for non-point source pollution programs.

This issue was heard last week and the State Water Resources Control Board was presented with a set of questions to be answered in time for this week's hearing. As of this writing, staff has not completed an evaluation of the Board's responses, which are attached to the agenda.

In addition, the Board has provided written responses to the LAO's analysis. These responses are also attached to the agenda.

BACKGROUND:

Under the federal Clean Water Act, the State Water Resources Control Board is required to identify those waters for which prescribed effluent limitations are not stringent enough to implement water quality standards and to establish total maximum daily pollution loads for certain pollutants for those waters subject to the approval of the federal government. There are approximately 470 water bodies in California that have poor water quality as a result of 1380 identified pollutants. The majority of these water bodies are in 40 key watersheds that have been targeted by the Regional Boards as their top priorities for action to improve water quality.

Much of the impairment is caused by polluted runoff from non-point sources. The Regional Boards have traditionally focused on the point sources of pollution (e.g. factories, sewage treatment plants, storm water) rather than non-point sources that are the result of many land use activities that are difficult to regulate or treat. Less than 7 percent of the SWRCB's resources are directed to addressing non-point sources. The Board's existing non-point source program is limited to a relatively small federally funded grant program for local restoration, remediation and education projects; limited review of timber harvest plans; and review and certification of dredge and fill projects.

The Board proposes a five-year effort that is aimed at 50 priority watershed through creation of an integrated water quality control effort to restore and protect impaired and polluted water bodies based on significant local participation to identify and implement collaborative, cost effective solutions. The Board proposes that this process will begin with monitoring and assessment of conditions and problems in a watershed followed by the establishment of numeric targets in specific water bodies to prevent the impairments and continuing pollution. This will be followed by development and implementation of action plans with participation of local stakeholders. More monitoring

will be done to determine the effectiveness of the actions and whether there are still impairments that have not been addressed.

The Board recognizes that its current monitoring and assessment capabilities are limited and focused on specific protection or remediation projects. This has led to fragmentation of the monitoring efforts and resulted in gaps in needed information and a lack of integrated analysis. The BCP outlines the specific goals for water quality monitoring and assessment and the development of load allocations.

The Board understands that proposed total of \$15 million is not adequate to address the 50 TMDLs necessary to forestall further lawsuits and to abate the continuing pollution threatening the safety of the state's waters.

COMMENTS:

For several years the Legislature has tried to increase funding for non-point source pollution prevention and cleanup activities. This proposal is a limited first step. However, both industry and environmental-public health groups are concerned that the requirements of the program are not sufficiently set out to achieve improved water quality; will layer new regulations over old rather than seeking a true watershed water quality improvement effort; and fail to provide the funding level necessary to do the job.

In its analysis this year the Legislative Analyst Office (LAO) raised significant concerns about enforcement of the law, deficiencies in the needs analysis, and lack of adequate program funding. It makes the point that the total cost for improving nonpoint source water pollution is unknown.

At the prehearing the Board was asked to provide information on the specifics and costs of this program over the proposed five years and what water bodies are scheduled to have TMDLs completed in the budget year. The Board did not provide a five-year work plan or cost estimate. They did respond that each of the nine Regional Water Quality Control Boards has committed to completing two TMDLs in the Budget year and that an additional set of TMDLs is being negotiated with the federal EPA for completion by April.

The following is the list of watersheds/waterbodies for which regional Boards have committed to complete TMDLs in the Budget year:

<u>Region</u>	<u>Watershed/waterbody</u>	<u>Pollutant</u>
1	Redwood Creek Garcia Creek	Sediment Sediment
2	San Francisco Bay San Francisco Bay	Invasive Species* Mercury*
3	San Lorenzo River San Luis Obispo Creek	Nitrogen Nitrogen

4	Upper San Gabriel River Santa Clara River	Trash Chloride
5	Salt Slough Grasslands Channels	Selenium Selenium
6	Heavenly Valley Creek Indian Creek Reservoir	Sediment Nutrients
7	Imperial Valley Drains New River	Silt Bacteria
8	Newport Bay Newport Bay	Sediment Nutrients
9	Rainbow Creek Chollas Creek	Nutrients Toxicity

*Due to the size of the water body and the complexity of the work will take more than one year

Developing solutions to improve the state's water quality is a high priority and any new program to make significant investments in improving the water quality should have clear standards for evaluation of the program's progress and use of state resources. The Board's proposal raises key questions the Legislature should have answers to before approving the first year funding for this program. The following questions were presented to the Board last week and the answers are attached to the agenda.

- 1) What are the estimates for the ongoing operation of the program including monitoring and local incentives?
What is the cost estimate for the each of the 18 TMDLs scheduled for development in the next year?
- 2) What is the assurance that these programs will be integrated into existing water quality regulatory programs to avoid duplication and result in the best investment in water quality?
What process will be used to establish the guidelines for an integrated watershed-monitoring program throughout the state? Issues that need to be addressed include the protocols for data collection and analysis for the monitoring programs, minimum data requirements and evaluation criteria to list and delist waterbodies, minimum data requirements and scientifically reliable methodologies to be used to establish TMDLs
- 3) What are the criteria that the Board is using to give priority to watershed and pollutant selection? Should the Legislature set benchmarks at the beginning of this new effort to determine effectiveness, adequacy of funding level, and the out-year success of the program?

- 4) What criteria should the legislature use to annually evaluate the success of the program including the adequacy of funding?