

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Ira Ruskin, Chair

**WEDNESDAY, APRIL 16, 2008
STATE CAPITOL, ROOM 447
9:00A.M.**

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CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
3900	Air Resources Board	Carl Moyer Program Development – Internal realignment of existing administrative funds within the Carl Moyer program and 5.0 positions (existing funds) to improve program delivery.
3900	Air Resources Board	AB 233 (Jones) Implementation - \$145,000 (MVA) and one position to implement the Healthy Heart and Lung Act of 2007
3910	Integrated Waste Board	Increase Federal Authority - \$200,000 increase in federal funding authority for federal grant projects.
3910	Integrated Waste Board	Temporary Permitting of Nonpermitted Facilities - \$157,000 (Integrated Waste Management Account) to Implement AB 1473 that directs the board to adopt emergency regulations to authorize a local enforcement agency to issue temporary solid waste facilities permits.
3360	Energy Commission	Implementation of PIER Natural Gas Research Program - \$422,000 (PEIR) and 3 positions to expand the PIER Natural Gas program
3360	Energy Commission	New Solar Homes Partnership - \$500,000 (RRTF) for contracting to administer the New Solar Homes Partnership
3360	Energy Commission	Fuel Temperature Dispensation Analysis - \$250,000 to implement AB 868 (Davis) that requires the CEC to work with CDFA on Fuel Temperature Dispensation.
3360	Energy Commission	AB 1613 Implementation - \$669,000 (ERPA) to impellent AB 1613 (Blakeslee) relating to Waste Heat and Carbon Emissions Reduction Act.

3910 – CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

ISSUE 1: PHARMACEUTICAL DRUG WASTE MANAGEMENT AND DISPOSAL

Governor's Budget. The Governor's budget is proposing \$79,000 (Integrated Waste Management Fund) to support one ongoing position to develop model programs for the convenient collection and disposal of pharmaceuticals as directed by SB 966 (Simitian and Kuehl).

Background. Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones. Exposure, even to low levels of pharmaceuticals, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

Without a safe and effective method for disposal, prescription drugs may be left indefinitely in medicine cabinets where they pose a threat of potential prescription drug misuse or abuse. Currently, when an individual needs to dispose of expired or left over medications, the only safe way to do so is to take it to a household hazardous waste collection site. Most often drugs are either flushed down the toilet or thrown in the garbage where they can pose a threat to the environment and contaminate our waterways.

Staff Comments. The requested appropriation is consistent with cost estimates at the time of the bill's approval. Staff has no concerns with this proposal.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 2: EDUCATION AND THE ENVIRONMENT INITIATIVE

Governor's Budget. \$1.167 million in 2008-08 and \$917,000 in 2009-10 from Beverage Control Recycling Funds (CBCRF) for phase five of the Environmental Education Initiative (EEI) development of K-12 curriculum that incorporates environmental principles and concepts into California's academic standards. This funding will be used for one limited term position and consulting contracts for the various tasks involved in developing, editing, and publishing this curriculum.

Background. The EEI began in 2001 when state law established the Office of Education and the Environment at CIWMB under the auspices of CalEPA. The law requires the development of environmental principles and concepts for fourteen specific subject matter areas, the development and submission of model curriculum, the alignment of the curriculum to state academic content standards and coordination with all state agencies and departments to develop and distribute environmental education materials. The fourteen subject matter areas include: resource conservation and recycling; environmental sustainability; water; air; energy; forestry; fish and wildlife resources; oceans; toxics and hazardous waste; integrated waste management; integrated pest management; public health and environment; pollution prevention; and environmental justice.

Currently, the Board has completed their model curriculum and is entering the beginning stages of submission of curriculum to the State Board of Education for approval. In the Budget Year, the initiative will begin to disseminate model curriculum by recruiting potential school districts and provide professional development through statewide outreach opportunities.

Staff Comments. The EEI is a unique opportunity for the state to lead an effort in partnership with national environmental organizations to develop a complete K-12 curriculum that incorporates environmental stewardship themes and will be provided to districts at no cost. While the EEI has completed the milestone of finishing a model curriculum that will be used in pilot programs statewide, the initiative faces significant work to be done in getting final approval by the State Board of Education and placing complete, finalized curriculum in districts statewide. At the hearing, the Board should be prepared to walk the subcommittee through the process, from present day, of bringing this curriculum from the testing phase to the full application.

Staff has no concerns with this proposal because this program to date has met all of its expected milestones and the EEI fits appropriately within the requirements of the California Beverage Container Recycling Fund.

STAFF RECOMMENDATION: Approve as budgeted

3360– CALIFORNIA ENERGY COMMISSION

ISSUE 1: RESPONDING TO LEGISLATIVE DIRECTION FOR THE PIER PROGRAM

Governor's Budget. The California Energy Commission (CEC) is requesting an augmentation of \$3.2 million (PIER) for 8 full time positions and \$2.5 million in baseline contract funds to respond to Legislative direction related to the PIER research program by increasing overall program infrastructure and oversight.

Specifically, this proposal requests:

3 positions to meet legislative direction to bring technologies to market from the PIER program. SB 1250 (Perata) added to the PIER program the goal of bringing technologies to market that provide increased environmental benefits, greater system reliability, lower system costs, and provide tangible benefits to electric utility customers. CEC cites that because the PIER program was primarily a research focused program, the expanded role of bringing technologies require new staffing resources.

1 position for PIER program evaluation. Assembly Subcommittee 3 in 2007-08 directed the CEC to review and submit reports on how deliverables from research programs are evaluated upon conclusion. The CEC is requesting an ongoing augmentation of one position to continue this effort of quantifying program costs and benefits.

1 position for program support. CEC is requesting 1 position to provide more effective administrative oversight over this critical the 300 active projects that the PIER program manages.

3 positions for clerical support. PIER lost 2 clerical positions in vacancy sweeps in 2002 and 2003 thus there is currently 1 clerical position remaining that provides direct support to PIER management and also supports the division. The CEC is requesting an augmentation of 3 positions to augment this purpose.

\$2.5 million for increased contract funds for programs support. This request is to increase baseline spending authority to support need for contract resources to identify and evaluate research opportunities, develop and manage research studies, evaluate research activities, and help bring new energy technologies to the market place.

Staff Comments. This BCP is in response to various legislative actions, including those made by Subcommittee 3, to improve the PIER program's ability to bring technologies to market and self evaluate its efficacy in conducting research which result in products of value to California's electric utility ratepayers. Additionally, there have been recent discussions in policy committee that the CEC's needs to better align its permanent staff with program implementation and its contracted staff with technical assistance. Staff feels that this BCP appears to follow this recommendation but while discussions are ongoing, staff recommends that the proposal be held open.

STAFF RECOMMENDATION: Hold Open

**ISSUE 2: AIR QUALITY IMPROVEMENT PROGRAM (AB 118 NÚÑEZ) IMPLEMENTATION
(JOINT ISSUE WITH THE AIR RESOURCES BOARD)**

Governor's Budget. In total, the CEC and Air Resources Board (ARB) are asking for \$102.6 million in new funding for program development, implementation, and for the following three new programs established by AB 118 (Nunez):

- **Air Quality Improvement Program (AQIP).** Administered by the ARB, this program will provide approximately \$50 million per year in grants for air pollution reducing technologies and research. This is a new program and does require the ARB to adopt program guidelines consistent with the bill. The ARB expects to have guidelines adopted for this program by the end of 2009 with grant funds potentially being awarded in 2009-2010.
- **Enhanced Fleet Modernization Program (EFMP).** Administered by the ARB, this program will allow for the scrapping of high emitting passenger cars and light and medium duty trucks. The ARB is required to adopt guidelines for the program by July 1, 2009. The program will commence by January 1, 2010 and be administered by the Bureau of Automotive Repair. Funding for EFMP is approximately \$30 million per year through 2015.
- **Alternative and Renewable Fuel and Vehicle Technology Program.** Administered by the CEC, this program will award grants for the development and deployment of technology and alternative and renewable fuels in the marketplace by providing about \$120 million annually in incentives through grants, loans, loan guarantees for specified projects and loans annually. AB 118 (Núñez) identifies the primary goals of the ARFVT Program as the development and commercialization of technologies for renewable and non-petroleum fuels that help to achieve the state's climate change goals. The act states that the program is not to prefer any particular vehicle or fuel technology. Rather, it is the intent that the program criteria will determine how this investment in alternative fuel technologies will be allocated. The CEC and the ARB expect to have guidelines approved and have the program ready to allocate grants by the end of 2007-09.

Background. In 2007, the Legislature enacted the California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007 (Chapter 750, Statutes of 2007 [AB 118, Núñez]). The act expanded the EFMP and created two new programs—the ARFVT Program, to be administered by the Energy Commission, and the Air Quality Improvement Program, to be administered by the ARB. The programs are primarily funded by increases in various vehicles, vessels, and other air quality-related fees that are projected to rise upwards of \$150 million annually for each of eight years. The revenues to be administered by the Energy Commission are deposited into the ARFVT Fund.

Staff Comments.

Air Quality Improvement Program (AQIP). While CARB is required to set up a new program to administer these funds, other ongoing air quality programs within CARB have similar program deliverables. AB 118 (Núñez) recognized this and specifically qualified the Carl Moyer and School Bus replacement programs as appropriate expenditures of these funds. In 2008-09 it is anticipated that this state will collect \$118 million in revenue for future expenditure by this program. The ARB plans that it will be able to approve guidelines for this program in the budget year and begin expenditure of funds by 2009-10. Because the ARB's Carl Moyer program is currently oversubscribed, the Subcommittee might want to consider appropriating a portion of the budget year revenues to these programs in order to expedite funding for backlogged air quality projects.

Enhanced Fleet Modernization Program. The Bureau of Automotive Repair and the ARB both operate programs to provide payment to either repair or replace of vehicles that do not pass smog check. As authorized in AB 118 (Núñez), the ARB will now be developing an additional program that will use fiscal incentives to motivate vehicle owners to replace their high polluting vehicle – regardless of whether or not a car passes smog check.

Staff understands that there is a tendency of participants of existing programs to use rebates earned from the decommissioning of a high polluting vehicle to buy other less expensive older vehicles that are also higher polluting but may not necessarily fail smog check. Since the goal of these programs is to accelerate the greening of the statewide inventory of automobiles, the success of these programs is questionable if dollars spent by the state are reinvested by the public into other aging vehicles. Additionally, the two funds that are available for programs at the ARB and BAR are both forecasted to carry surpluses in the budget year of \$93.4 million – funding that could be used for program expansion.

Staff feels that with both programs, high ongoing fund surpluses indicate an opportunity for the Administration to increase program delivery and amplify the impacts that dollars spent have on air quality. To gain understanding of what options are available to the state, the Subcommittee may want to direct the Administration to study: 1) how these programs could be structured to give added incentive to a participant to purchase newer, cleaner automobiles instead of older vehicles; and 2) how program delivery levels can be increased.

Alternative and Renewable Fuel and Vehicle Technology Program. The LAO has recommended that the Legislature should have a chance to review grant guidelines for this program prior to the CEC awarding the scheduled \$100 million in competitive grants in the budget year. To achieve this recommendation, the LAO has developed the following budget bill language.

Item 3360–001–3317 — For support of the State Energy Resources, Conservation and Development Commission\$891,000

1. An additional sum of \$100 million is hereby appropriated from the Alternative and Renewable Fuel and Vehicle Technology Fund for the award of grants and other financial incentives by the commission pursuant to Chapter 750, Statutes of 2007 (AB 118, Núñez), not sooner than 30 days after notification to the Chairperson of the Joint Legislative Budget Committee of the completion of specified guidelines required by Chapter 750 to be developed by the Air Resources Board, or not sooner than whatever lesser time the Chairperson, or his or her designee, may determine. To the extent that monies are made available pursuant to the terms of this appropriation, unexpended funds from the appropriation at the end of the 2008–09 fiscal year shall revert to the Alternative and Renewable Fuel and Vehicle Technology Fund.

Staff agrees with the LAO that the grant funding for this program should be made contingent on the completion of statutorily required guidelines and the submittal of these guidelines for legislative review. Staff recommends that the subcommittee make this a one time, two-year appropriation to give the program adequate time to complete their first cycle of grants and give the Legislature an opportunity next year to evaluate the program.

Staff Recommendation: Staff Recommends the Subcommittee adopt the following:

- 1. Fully fund the CEC and the LAO's budget change Proposal but approve grant funds on a one-time basis with a two-year appropriation.**
- 2. Approve the LAO proposed budget bill language, with amendments making it a two- year appropriation.**
- 3. Approve \$30 million in expenditure authority from the AQIP for ARB's Carl Moyer Program on a one-time basis with a two year expenditure authority.**
- 4. Direct the ARB to study 1) how these programs could be structured to give added incentive to a participant to purchase newer, cleaner automobiles instead of older vehicles; and 2) how program delivery levels can be increased.**

3900 – AIR RESOURCES BOARD

ISSUE 1: REGULATORY IMPLEMENTATION AND ENFORCEMENT

Governor's Budget. The ARB is requesting a total of \$8.5 million in Motor Vehicle Account (MVA) for 46 positions and \$1.6 million in contracts in the 2008-09 budget to implement and enforce the Board's new and augmented programs. This request decreases to \$7.0 million (MVA) in 2009-10 because one-time equipment purchases will be complete. This proposal will be spread amongst 8 different areas:

- 1. Heavy-Duty Diesel Vehicle Idling Emission reduction Regulations:** Since 2002, the ARB has been increasing the scope of diesel vehicles that are restricted from idling, initiating with school buses in 2002, commercial vehicles in 2004, and commercial vehicles with sleeper berths in 2005. The 8 proposed position workload request will be used to keep up with the program expansion.
- 2. In-use off Road Diesel Vehicle Regulation:** 14 positions and \$22,000 will be used to implement 2007 adopted Off Road Diesel Vehicle Regulations.
- 3. Retrofit Device Verification:** 4 positions will be used to verify new diesel retrofit devices that will be needed to comply with the In-use Off Road Diesel Regulations adopted in 2007.
- 4. In-Use on Road Diesel Fueled Heavy Duty Drayage Trucks:** 6 positions will be used to increase enforcement of Diesel regulations on heavy duty drayage trucks at California Ports.
- 5. Rail Marine Rule Enforcement:** 2 positions will be used to enforce recently adopted rail and marine regulations such as: Ocean Going Ship Auxiliary/Main Engines; Shore Power; On Board Incineration; and Intrastate Locomotive Fuel.
- 6. New Generation Light Duty Vehicle Testing:** 3 positions/\$1 Million equipment/\$125K in contracts will be used to test light duty diesel vehicles that enter California markets. Because of increased demand for high mileage diesel vehicles, CARB anticipates higher manufacturer production.
- 7. Formaldehyde in Composite Wood Products Regulations:** 8 positions/\$303K equipment/\$52K contracts will be used to enforce formaldehyde regulations since it is identified as a toxic air contaminant and is used throughout wood product manufacturing.
- 8. Ozone Generating Air Cleaners:** 1 position/430K equipment/ \$50K contracts will be used to implement the Air Cleaner Ozone Emission Regulation adopted in Sept 2007.

Staff Comments. Staff has no concerns with this proposal.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 2: ZERO EMISSION VEHICLE PROGRAM: HYDROGEN HIGHWAY

Governor's Budget. \$6 million (MVA) in one time funding for the following efforts to implement Zero Emission Vehicle Program and the Hydrogen Highway Program:

- \$1 million in incentives for zero emission vehicles (fuel cell and battery electric) and certain advanced technology near zero emission vehicles.
- \$5 million for up-to 3 hydrogen fueling stations funded with a 50% match that demonstrate renewable hydrogen production pathways.

Background. Since 2005, the Legislature has approved three, one-time appropriations totaling \$18.6 million and \$430,000 for ongoing program support staff for the Governor's Hydrogen Highway initiative, first in 2005 policy legislation, and again in 06-07 and 07-08.

LAO Comments: The LAO recommends rejecting the proposal because there are unexpended funds from prior years to continue the program and because though California has invested over \$19 million in funding since 2005, there little visible progress to show towards building the Hydrogen Highway described in the Governor's executive order. While the executive order envisions that, by 2010, every Californian will have access to hydrogen fuel through a network of fueling stations along California's major highways, to date, not a single hydrogen fueling station funded by the program is under construction or in operation. As shown in Figure 1, of the \$19 million appropriated for the Governor's hydrogen initiative to date, nearly one-half—\$9.4 million—remains unexpended.

**Figure 1
Hydrogen Highway Initiative— Unexpended Balances Available From Prior Appropriations**

(In Thousands)	Eligible Uses				Totals
	Fueling Stations	Vehicles	Staffing	Other	
Appropriations	\$6,500	\$5,000	\$1,033	\$6,500	\$19,033
Expenditures	1,250	5,000	1,033	2,372	9,655
Balance	\$5,250	—	—	\$4,128	\$9,378

Staff Comments. The purpose of investing state funds for alternative fuels research and technology is to bring the best new clean-technologies into the marketplace as soon as possible. Through the passage of AB 118 (Núñez) the Legislature has demonstrated a clear policy preference for allowing competition among technologies to determine viability and acceptability by the market place. Conversely, in this proposal the Legislature is being asked to approve funding for a program that has been dedicated to one fuel source, hydrogen, and has proved increasingly difficult to fulfill since its inception. Staff recommends this proposal be rejected because existing funds remain and it conflicts with Legislative policy preferences. If hydrogen fuel vehicle and infrastructure programs need future funding, staff feels that the \$120 million in competitive grants made available annually by AB 118 (Núñez) would be a more appropriate source.

STAFF RECOMMENDATION: Reject proposal

ISSUE 3: DEPARTMENT OF JUSTICE COSTS FOR DEFENDING AIR QUALITY PROGRAM LAWSUITS

Governor's Budget. \$1.9 million (MVA) augmentation to reimburse the Department of Justice (DOJ) for the increased litigation workload and costs associated with ARB's schedule for regulations to be adopted. DOJ believes that additional resources will be necessary to adequately defend against increased litigation, which is anticipated to increase the current base workload of DOJ's public Rights Division, Natural Resources Section.

Background. In 2007, the ARB anticipates an aggressive calendar with 27 anticipated rulemakings. These include major regulations specifically mandated by recent legislation, ARB's obligations to implement the State Implementation Plan for attaining the federal ambient air quality standards, the state's Goods Movement Action Plan, and the ARB's Diesel Risk Reduction Plan. The ARB and DOJ anticipate that this aggressive schedule foreshadows a budget year need for more funds to defend state air quality policies in lawsuits filed against the state.

Staff Comments. As the ARB's representing counsel in ongoing and future lawsuits, DOJ has advised the Board to increase available resources because it sees the Board's aggressive rulemaking calendar as an indicator for increased future workload. Staff agrees with the ARB that it should follow DOJ's litigation workload expectations and recommends that the proposal be adopted.

STAFF RECOMMENDATION: Approve as budgeted