

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Ira Ruskin, Chair

WEDNESDAY, MARCH 17, 2010
STATE CAPITOL, ROOM 447
9:00 A.M.

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Consent Calendar

Department of Conservation

1. **Information Technology Maintenance:** \$132,000 from various special funds for maintenance of the DOC's information technology infrastructure. This proposal is a one-time expenditure and coincides with a larger plan to merge data centers throughout the Resources Agency.
2. **Abandoned Mine Remediation Inventory Project Funding:** \$1.1 million and 3 limited term positions to implement activities specified in a \$4 million federal grant received by the program to remediate hazardous abandoned mines and inventory abandoned mine sites on BLM lands in California.

Department of Resources, Recycling, and Recovery

1. **Implementation of SB 63: Transfer of the Education and the Environment Program to CalEPA:** Transfers the office and 6.5 positions to CalEPA.

Department of Forestry and Fire Protection

1. **American Recovery and Reinvestment Act of 2009:** \$1.4 million in federal funds to implement the Forest Care Fuel Reduction Program that will provide financial incentives to private landowners to reduce hazardous fire fuels in the San Bernardino National Forest.
2. **Extension of Bond Liquidation Period:** Extension in the liquidation period for the unexpended portion of 2007-08 grants from Propositions 12, 40, 50, and 84.

Coastal Commission

1. **Coastal and Marine Education Whale Tail License Plate Program:** \$127,000 augmentation in Whale Tail license plate revenue for coastal education grants to non-profits and government agencies.

State Lands Commission

1. **School Lands Geothermal Workload:** \$160,000 (School Land Revenue) reimbursement to fund 1 position to address increased workload related to geothermal resource development on lands held by the Commission in the School Lands program.

Boating and Waterways

1. **Public Small Craft Harbor Loans and Boat launching Facility Grants:** \$6.03 million for grants and \$9.9 million in loans from the Harbors and Watercraft Revolving Fund for the Public Small Craft Harbor Loans and Boat Launching Facility Grant Program.
2. **Abandoned Watercraft Abatement Fund Grant Program:** \$500,000 baseline augmentation from the Harbors and Watercraft Revolving fund (HWRF) to establish the Abandoned Watercraft Abatement Fund Grant Program. This program funds grants to locals to remove abandoned watercraft and has had a received \$500,000 in annual grants from the fund over the last 3 years. This proposal would make this an annual program, eliminating the need for grants from the HWRF.
3. **AB 166 Implementation: Abandoned Watercraft Surrender Program.** \$150,000 from

the HWRF to fund the implementation of the Abandoned Watercraft Surrender Program. This proposal is consistent with the fiscal analysis of the approved legislation.

Coastal Conservancy

1. **Public Access Programs.** \$985,000 from various funds (Coastal Access Account, Beach and Coastal Enhancement Account, and the Violations Remediation Account) to continue implementation of the Conservancy's Public Access, Education and related programs.

Santa Monica Mountains Conservancy

1. **Capital outlay and Local Assistance Grants- Santa Monica Mountains Zone and Rim of the Valley Trail Corridor Projects:** \$330,000 from the Conservancy Fund for restoration, acquisition and education projects in the Rim of the Valley Trail Corridor. Funding for this is derived from donations, settlements or other non state fund sources.

Baldwin Hills

1. **Proposition 40 Reappropriation.** \$4.8 million reappropriation of Proposition 40 funds for the acquisition and improvement program.

SF Bay Development and Conservation Commission

1. **Reimbursement for Metropolitan Transportation Commission Workload:** \$460,000 in reimbursements from the Metropolitan Agency and Caltrans to expedite their project delivery.

Vote Only Calendar

Coastal Commission

1. **Operating Expenses and Equipment and Information Technology Baseline Budget Adjustments and One Time Costs:** \$311,000 (Coastal Act Services Fund) baseline augmentation for operating expenses and equipment and \$80,000 one-time augmentation for information technology improvements.

Coastal Conservancy

1. **Redirect Existing Funds to Create Two Staff Positions:** \$166,000 (Environmental License Plate Fund) redirection from operating expenses and equipment to support two permanent staff positions to support the Ocean Protection Council. These positions take over the work of 2 current limited term positions that were hired in 2009-10.

ITEMS TO BE HEARD

0540 – RESOURCES AGENCY

ISSUE 1: OVERSIGHT ISSUE: BOND FINANCING FOR RESOURCES PROGRAMS

Panel 1 – Current State of Affairs of Resources General Obligation Bonds: State Treasurers Office; Brian Dewey, Department of Finance; Patrick Kemp, Resources Agency

Panel 2 –Impacts of Cash Shortage on Non-State Partners: Tina Andolina, Trust for Public Land; Chuck Mills, California Council of Land Trusts; John McCall, Sonoma County Agricultural Preservation and Open Space District

Background

Over \$1 billion of the proposed 2010-11 Resources and Environmental Budget is dependent on general obligation bond funding for support. In general, these bond programs are widespread, ranging from flood protection and planning, water and other capital infrastructure as the well as local grants for land conservation and habitat preservation. Currently, a lack of bond sales has resulted in a severe cash shortage for Resources and Environmental Bond programs. As an example, in the November bond sale for new projects, only \$261 million of a total expenditure capacity of \$1.3 billion was able to be funded.

Prior to last year's cash shortage, Resources and other statewide bond funded programs, were able to easily take short-term loans from the Pooled Money Investment Account (PMIA) to support staff and capital expenditures for bond programs. The Treasure would then periodically throughout the year sell enough bonds in the market to repay short term PMIA loans, providing enough cash flow for future bond expenditures.

Currently, there is not enough cash in the PMIA to allow for short term loans for bond programs. As a result, the state has entered into a new practice of waiting for bonds to be sold for specific programs before department's can be allocated cash for program expenditures. Additionally, because the state has not been able to sell enough bonds to fund all of the State's bond programmatic needs, the Department of Finance and the Treasurer are prioritizing bond sales for programs that score highest in job creation, public safety, and statewide need. Because heavier construction programs in areas such as transportation and school construction generally score higher on the priority list than land and habitat conservation programs, non public safety Resources Bond programs are facing a situation where cash flow for new projects has essentially been turned off.

3560 – STATE LANDS COMMISSION**3720– CALIFORNIA COASTAL COMMISSION****3820 – SF BAY CONSERVATION AND DEVELOPMENT COMMISSION**

ISSUE 1: IMPACTS OF PROPOSED LEGAL SERVICES FUND SWAP

Governor's Budget Proposal

The Department of Justice (DOJ) is proposing to convert current General Fund clients into billable clients and have funding allocated directly to the agencies for their legal services.

Staff Comments

The proposal presented by the Department of Justice has statewide impacts in how General Fund supported clients work with the Attorney General's Office. While the proposal is within the jurisdiction of Subcommittee 4, the purpose of hearing it in Subcommittee 3 is to provide an opportunity for discussion on its impacts on General Fund supported Commissions in the Resources Budget.

The State Lands, Coastal and SF Bay Conservation and Development Commissions were established to be independent protectors of public trust resources. With this independence, the Commission's are relatively free to act outside of political pressure to take the actions that they see are appropriate to protect public trust resources.

Because public trust litigation ranges significantly in size and cost, it is very difficult to accurately budget for one Commission's costs over a budget year. By pooling public trust entities and their allotted billable hours within the Public Rights Division (PRD) at the DOJ, the current system allows PRD clients to distribute hours amongst each other to better manage resources and not exceed the total PRD hours budgeted. Conversely, this proposal would establish, and appropriate funds to, a Control Section that would be allocated by Department of Finance (DOF) to departments for their litigation expenses. If there are cost overruns, DOF had discussed the need for a deficiency process within the item. The State Lands Commission, Coastal Commission and SF Bay Development Commission have expressed strong concern that by allowing the DOF to establish litigation expenditure caps that can only be exceeded by DOF approval, this proposal would jeopardize their independence and their ability to make the decisions that best service the public trust that they were created to protect.

Staff has additional concerns that by placing these and other PRD clients in direct competition for resources from larger more litigious departments such as Corrections and Mental Health, available funding would be essentially crowded out and PRD clients would be forced to get a 2/3 vote of the Legislature, and a signature from the Governor, for a General Fund appropriations if they exceeded their initial allotment and needed to pursue litigation or defend the state in a lawsuit.

Staff Recommendation

None, item is informational because it is within Subcommittee 4 jurisdiction.

3480 – DEPARTMENT OF CONSERVATION

ISSUE 1: ORPHAN FACILITY REMEDIATION

Governor's Budget Proposal

The Governor's budget is requesting an annual appropriation of \$1 million for a four-year limited term period from the Oil, Gas and Geothermal Administrative Fund to remediate orphan oilfield production facilities that exist in the state. This proposal does not request any position authority; rather, these funds would be used by the department for contracts to remediate facilities.

Background

An orphan facility is any abandoned oilfield facility that the Division has determined that there is not responsible party. There are currently 59 orphan facilities statewide and the Department anticipates that the resources requested in this BCP will be sufficient to remediate them all over a four year period.

Staff Comments

The majority of these facilities have been abandoned since the 1920s and if left unaddressed, pose hazards to the environment and public safety that can result in higher costs in clean up and or litigation. Though the proposal is for a four-year limited-term time period, the Department reports that the approval of these appropriations will result in an ongoing fee increase for regulated industries. At the hearing, the Department should be prepared to comment on the level of fee increase that will be needed and whether it should not be limited to a four-year time period consistent with the appropriation.

Staff Recommendation

Approve funding as budgeted with trailer bill stating that any fee increases that are a result of this proposal are restricted to a four-year period.

ISSUE 2: GEOTHERMAL STAFFING

Governor's Budget Proposal

The Governor's budget is proposing an augmentation of \$356,000 (Oil, Gas, and Geothermal Administrative Fund) for two permanent positions and associated equipment to address increases workload in regulating the safe operation of geothermal facilities.

Background

The Division regulates oil, gas and geothermal well operations throughout the state, and administers laws for the conservation of petroleum and geothermal resources. The division enforces oilfield and geothermal lease regulation to protect health, safety and the environment.

Currently, there are three offices staffed by the Division's Geothermal Unit that have a total of six positions. In the past five years, the number of new geothermal wells drilled in the state has increased from 1 to 29; an increase in production that correlates to parallel increase in division workload. As an example, with every new well, the department is required either test equipment for blowout prevention. Over the past five years, annual blow out prevention tests by the department has increased by 424 percent.

Staff Comments

The state's drive to increase renewable electricity generation has driven significant growth in geothermal drilling. As examples, Geysers Power Inc. in Santa Rosa plans on drilling as many as 80 new the wells at their facility and in El Centro, new the wells drilled have increased from 12 to 31 since 2006. Because increases in workload are clearly demonstrated for this proposal and it has no impact on the General Fund, staff does not have any concerns with this request.

Staff Recommendation

Approve as budgeted

ISSUE 3: CALIFORNIA FARMLAND CONSERVANCY PROGRAM

Governor's Budget Proposal

The Governor's budget is requesting a one-time appropriation of \$7.9 million from Proposition 40 funds for the Farmland Conservancy Program (CFCP). These funds will be used to provide grants to non-profit land trusts and local governments for the purchase of agricultural conservation easements that protect farmland in perpetuity.

Background

Since its inception, the CFCP has provided grants funding to protect over 43,000 acres of agricultural land and has provided over 30 planning/technical assistance grants to facilitate advancement of local farmland conversion programs. The department averages that this program has used state resources to leverage averaged matching funds of approximately 55 percent of appraised easement values.

Staff Comments

Staff does not have specific concerns with this request as it appropriates funds that were previously reverted after the program was unable to expend them due to last year's cash crisis. Staff does, however, recommend that this request be held open as the subcommittee considers how best to approach the appropriation of limited bond funds.

Staff Recommendation**Hold Open**

3500 – DEPARTMENT OF RESOURCES, RECYCLING, AND RECOVERY

ISSUE 1: SB 63 IMPLEMENTATION: WASTE AND RECYCLING PROGRAM REORGANIZATIONS

Governor's Budget Proposal

The Governor's budget proposes to implement SB 63 (Strickland), Statutes of 2009, which eliminated the Integrated Waste Management Board and shifted its responsibilities to the new Department of Resources, Recycling, and Recovery (DR3) in the Resources Agency. The legislation additionally moved the California Beverage Recycling Program from the Department of Conservation to DR3. This reorganization of recycling and waste programs resulted in an immediate reduction of 18 positions from the elimination of the Waste Board members and their staff. In the out years, it intended to save on average \$2.9 million (multiple funds) overtime as efficiencies are identified.

Staff Comments

Staff does not have concerns with this proposal as it is consistent with the requirements laid out in SB 63 (Strickland) that was signed into law on July 28, 2009. At the hearing, the Department should be prepared to report to the Subcommittee on the progress that it has made in merging these various waste and recycling programs into one department.

Staff Recommendation

Approve as budgeted

ISSUE 2: INTEGRATED WASTE MANAGEMENT ACCOUNT**Governor's Budget Proposal**

The Governor's budget proposes to address current shortfalls within the Integrated Waste Management Account (IWMA) due to an estimated 30 percent decline in tipping fee revenue. The following proposals provide \$8.6 million out of a total of \$13.2 million in expenditure reductions from the IWMA:

- Shift \$821,000 and ten positions from the IWMA to the California Tire Recycling Management Fund (Tire Fund).
- Reduce \$821,000 from Local Government Waste Tire Enforcement grants.
- Reduce \$5.8 million and 16 vacant positions from IWMA programs.
- Loan \$1.5 million from the Electronic Waste Recycling and Recovery Account (EWRRA) to the IWMA.
- Shift \$501,000 and 6 positions for AB 32 implementation from IWMA to the Air Pollution Control Fund.

Background

IWMA Funds are used to support source reduction, recycling and composting, and the safe transformation and disposal of waste, and also the protection of public health and safety through regulation of solid waste facilities. Funds are expended for the support of the Secretary of Environmental Protection, to offset the cost of fee collection for the State Board of Equalization, and for the regulation of solid waste facilities by the State Water Resources Control Board.

The IWMA is currently out of balance due to an approximate 30 percent reduction in tipping fee revenue and an annual expenditure level since 2002 that has exceeded revenues. In order to address revenue shortfalls, the Administration has assembled \$13.2 million in IWMA reductions that span proportionally across departments that expend IWMA funds. The following chart outlines the Administration's crosscut proposal:

Dept.	Proposal	Positions	Amount
DR3	Eliminate vacant positions	16	\$1,319,000
DR3	Reduce general operational expenses	n/a	4,431,000
DR3	Loan from Electronic Waste Account	n/a	1,543,000
IWMB	Eliminate Board Members and associated staff	18	1,726,000
DR3	Shift Climate Change Personnel from IWMA to AB 32 Fee	6.0	501,000
DR3	Shift IWMA grants to support tire enforcement staff		\$821,000
SCWRB	Reduce Water Board Appropriation	Unknown	2,027,000
OEHHA	Reduce OEHHA Appropriation	.5	108,000
CalEPA	Reduce CalEPA Appropriation	Unknown	748,000
Total		50.5	\$13,224,000

Staff Comments.

In order to address the shortfalls in the IWMA, the Administration has spread expenditure reductions proportionally amongst the different departments who depend on the account for their programs. While this approach is understandable, the Subcommittee may want to consider holding off on taking action on these specific proposal until it discusses all of the impacts these reductions will have on other impacted departments. At that time, the Subcommittee will be in a better position to address this issue as a whole, rather than compartmentalized by individual departments.

Specifically for the DR3, these proposed reductions, fund shifts and loans have the benefit that they allow the department to meet expenditure reduction goals while minimizing programmatic impacts. All of the positions that they are proposing to eliminate are currently vacant and the reductions in grants will not reduce services since local governments have only been able to expend on average 60% of Waste Tire Enforcement Grants. Annually since 2003-04, at least \$1.8 million has been reverted in each grant cycle. At the hearing, the Department should be prepared to discuss the following additional options for further reductions in IWMA spending and their impacts to program activities: Are there any additional vacant positions funded by the IWMA in the Department? Why the Department determined that \$821,000 was an appropriate grant reduction when at least \$1.8 million is reverted back to the fund from this program? and lastly, how long can the EWRRA sustain an annual \$1.5 million loan to the IWMA?

Staff Recommendation

Hold Open until all departments impacted by IWMA cuts are heard.

3540 – DEPARTMENT OF FORESTRY AND FIRE PROTECTION

ISSUE 1: LAO ISSUE: IMPROVING OVERSIGHT OF CAL FIRE'S FIRE PROTECTION BUDGET

(From the LAO's 2010-11 Analysis of the Budget)

Background

Role in Fire Protection. The CAL FIRE is responsible for wildland fire protection in SRAs. These SRAs encompass about 31 million acres (about one-third) of the state, primarily privately owned timberlands, rangelands, and watershed areas. In order to provide this fire protection, CAL FIRE employs around 5,000 permanent firefighters, operates an aviation program (aircraft, helicopters, and air tankers), and runs some 230 fire stations.

Two Main Components to CAL FIRE's Fire Protection Budget. The Governor's budget proposes about \$1 billion (from all fund sources) for CAL FIRE's fire protection state operations in 2010–11. As discussed in further detail below, this budgeted amount has two components—the “base budget” and an amount budgeted for emergency fire suppression known as the E–Fund. The base budget is proposed to be supported from the General Fund (\$300 million) and revenues from a proposed surcharge on property insurance policies statewide (\$200 million). The E–Fund is budgeted with a \$223 million General Fund appropriation. The additional \$277 million consists of reimbursements from local agencies as well as the federal government for fire protection services provided by CAL FIRE.

Base Budget Intended to Pay for Day-to-Day Fire Protection Costs. The CAL FIRE's base budget pays for everyday firefighting operations of the department, including salaries, facility maintenance, and other regularly scheduled costs. Included in the base budget are the costs associated with the “initial attack” on a wildfire—that is, the firefighting operations generally undertaken in the first 24 hours of an incident. Typical costs would include retardants, overtime, and equipment. The base budget is the source of support for personnel costs to staff engines with three firefighters year-round. (The base budget is also used for the support of fire stations that are in operation on a seasonal basis.)

The base budget is subject to annual appropriation by the Legislature and follows normal budget review processes (such as the submission of budget change proposals for consideration by the Legislature).

E–Fund Budget Intended to Pay for Large-Incident Firefighting Costs. Once an incident has gone beyond the initial 24 hours and therefore will likely exceed the capability of containment by that CAL FIRE unit, costs associated with firefighting are charged to the E–Fund. Such costs as equipment rental, unplanned overtime, inmate crews, and additional air support are charged to the E–Fund for large incidents. If there were no large-fire incidents in a given fiscal year, expenditures from the E–Fund in that fiscal year would in theory be zero.

For many of these large incidents, the state is eligible to be reimbursed by the federal government for some or all of the costs. However, the federal reimbursement process can take a number of years. Once federal funds have been obtained, they are deposited into the General Fund, where in effect they offset state firefighting costs. As a result, the E–Fund

expenditures that occur in any given year do not necessarily reflect the ultimate cost to the state for these activities during that time period.

The General Fund support for the E–Fund is provided by the Legislature as a separate budget appropriation based on an estimate of the large–incident firefighting costs for the fiscal year. For 2010–11, the estimated expenditure is \$223 million. According to the Administration, this amount reflects the average of the most recent five years of these costs. The budget act’s appropriation item for the E–Fund provides that the Director of Finance can augment the item to pay for emergency fire suppression costs at any time without the approval of the Legislature. The department is required to report actual expenditures from the E–Fund to the Legislature quarterly. However, CAL FIRE does not submit requests for any specific expenditure item from the E–Fund to the Legislature.

E–Fund Budgeting Practice Raises Several Issues

Our review of the department’s E–Fund budget proposal finds that the amount requested in the budget is likely to provide a more accurate estimate of the resources needed in the budget year than has been the case with past estimates. However, the LAO are concerned about the expanded use over time of the E–Fund by the department—in particular, its practice of charging day–to–day operating costs not related directly to a large incident to the fund. The practical consequence is that expenditures that would normally be required to be justified in the legislative budget process would escape the Legislature’s oversight and budgetary review. The LAO elaborate on these concerns below.

Budgeting of E–Fund Has Historically Underestimated Expenditures. Figure 11 shows by how much the budgeted E–Fund amounts and actual expenditures for emergency fire suppression have underestimated actual expenditures for the last five years. Beginning with the 2009–10 budget year, the Administration has changed its methodology to estimate E–Fund costs by using the average of costs from the most recent five years. Given this, the estimate for the E–Fund should more closely reflect the likely costs to be incurred.

Figure 11

CAL FIRE E–Fund: Actual Versus Budgeted Expenditures

*Fiscal Years 2005–06 to 2009–10
(In Millions)*

	2005–06	2006–07	2007–08	2008–09	2009–10 ^a
Budgeted amount	\$95	\$95	\$82	\$69	\$182 ^b
Actual expenditures ^c	93	169	372	437	256
Amount Over/Under Budget	–\$2	\$74	\$290	\$368	\$74

^a Estimated.

^b Amount contained in 2009–10 Budget Act reflects the Legislature’s removal of funding for DC–10 contract.

^c Does not fully reflect reimbursement for major incidents from the federal government that can take several years to be received by the state.

Use of the E-Fund Has Been Expanding. Our review finds that, over time, CAL FIRE’s E-Fund expenditures have been expanded by the Administration to include costs that are not incurred as a result of a large-fire incident. These costs include:

- **One-Half of the Aviation Program’s Budget.** One-half of the costs of CAL FIRE’s aviation program are generally supported from its base budget, but one-half comes from the E-Fund under a longstanding departmental budget policy. This means that even if there were no large incidents in a given fiscal year, one-half of the costs of the aviation program would be charged to the E-Fund. However, if an aircraft is used for a specific large incident, then any additional costs (such as fuel and retardants) are charged to the E-Fund. One exception is CAL FIRE’s contract for a large air tanker—a DC-10—that recently had been supported exclusively from the E-Fund. (See the box below for a full discussion of the budget issues associated with the DC-10 air tanker.)
- **Four-Person Staffing.** As discussed above, CAL FIRE’s base budget contains funding for three firefighters per engine. In recent years, CAL FIRE—under an executive order issued by the Governor—has increased staffing on fire engines to four in targeted areas during peak fire season (generally June to October) with resources provided from the E-Fund.
- **Tahoe Fire Station.** The California-Nevada Tahoe Basin Fire Commission recommended in its response to the Angora Fire (a 2007 wildfire that burned 3,100 acres and 250 structures on the western side of Lake Tahoe) that CAL FIRE establish a seasonal fire station to improve initial attack on wildfires. The CAL FIRE has implemented that recommendation under an executive order and supported this fire station activation through the E-Fund.

Figure 12 shows the total costs of these different cost items paid for under the E-Fund over the last five years.

Figure 12

A Significant Portion of CAL FIRE’s E-Fund Expenditures Were Anticipated^a

2005–06 to 2008–09 (In Millions)

Cost Type	2005–06	2006–07	2007–08	2008–09
Unanticipated Incident Costs^b	\$77	\$155	\$324	\$381
Anticipated Costs				
Personnel ^c	\$3	\$1	\$23	\$33
Half of aviation program	13	12	16	15
DC-10 contract	—	1	9	7
Subtotals	(\$16)	(\$14)	(\$48)	(\$56)
Totals	\$93	\$169	\$372	\$437

^a Split between the type of costs as estimated by CAL FIRE.
^b Costs related directly to large-fire incidents.
^c Includes four-person staffing of engines and staffing costs of Tahoe firehouse.

Current E-Fund Budgeting Practice at Odds With Original Legislative Intent. As stated previously, if there were no large-fire incidents in a given fiscal year, expenditures from the E-Fund in that fiscal year should in theory be zero. However, the assumption in the

Administration's budget plan is that certain significant ongoing firefighting costs the LAO has identified would be paid for from the E-Fund even if the state had a year in which it avoided fire emergencies. For example, the staffing costs of the Tahoe fire station are costs that are not related to a fire emergency. The LAO believes this budgeting practice is at odds with the Legislature's original policy intent that the E-Fund be devoted to paying for costs associated with large-incident emergencies.

Legislature Not Given Opportunity to Review E-Fund Expenditures. The practical consequence of this budgeting practice discussed above is that the Legislature is not being given the opportunity to review the E-Fund expenditures that should more appropriately be considered as part of the department's base budget. If subjected to legislative review, some of these expenditures might not have been approved by the Legislature based upon cost-effectiveness concerns or a lack of workload justification. The Legislature might also have chosen to support some proposed expenditures found to have merit from an alternative funding source. The current use of the E-Fund by the department undermines the ability of the Legislature to exercise appropriate oversight of these expenditures.

Recommendations to Improve Legislative Oversight

Given the concerns discussed above, the LAO recommends that the Legislature make two changes to the budgeting of CAL FIRE's E-Fund, with the intent of improving the Legislature's oversight over CAL FIRE's budget:

- Require day-to-day expenditures currently charged to the E-Fund to instead be justified under the department's base budget.
- Improve the budget act controls on the E-Fund appropriation item.

The LAO discusses both of these proposed changes below.

Increase CAL FIRE's Base Budget and Decrease E-Fund Budget. The LAO recommends that the Legislature increase CAL FIRE's General Fund base budget appropriation for 2010-11 by about \$60 million (our estimate of day-to-day costs inappropriately charged to the E-Fund), with a corresponding reduction of \$60 million in the E-Fund appropriation. The LAO recommend that the Legislature direct the Administration to provide the Legislature, in conjunction with the Governor's May Revision, a more precise estimate of the amount of funding that should be shifted from the E-Fund to the base budget to implement this change in budgeting policy. Also, the Administration should detail the changes in position authority for seasonal firefighters that should be implemented commensurate with this funding shift.

As noted above, the LAO recommends that whatever amount of funding that is reduced from the E-Fund in the budget year be added to the base budget appropriation. This will provide needed certainty to CAL FIRE that all funding that is needed will be available for the current fire season, which generally runs from May to October. That is, as CAL FIRE will be hiring seasonal firefighters and entering into a contract for the very large air tanker in the current year; our recommended budget adjustment should not impede CAL FIRE's planning for the full fire season that extends into the budget year.

However, given that many current E-Fund expenditures have never been subjected to the normal budget review process, the LAO recommends that this funding issue be revisited in 2011-12. Specifically, the Administration should be directed to provide budget change

proposals in 2011–12 to fully justify this additional base–budget spending. Consistent with this approach, any staff positions shifted into the base budget for the budget year should be established on a limited–term basis and any new contracts funded from these monies should not commit state funding beyond the budget year.

Going Forward: Increasing E–Fund Spending Accountability. In tandem with these budgetary changes, the LAO recommend that the Legislature take further steps to ensure that E–Funds are spent solely for large–incident firefighting costs. To accomplish this, the LAO recommend the Legislature adopt statutory language that (1) explicitly specifies what types of expenditures are allocated from the E–Fund and (2) requires that any other expenditures be supported from the Department’s base budget, where they would be subject to annual appropriation in the Legislature’s regular budget review process.

Staff Recommendation

Hold open pursuant to further discussion

ISSUE 2: CODE DEVELOPMENT: GREEN BUILDING STANDARDS

Governor's Budget Proposal

The Governor's budget is requesting one position and \$169,000 (Special Funds) in new baseline funding to accomplish the implementation of green building standards. This position will be responsible for promulgating building fire and safety regulations for new green building designs and products, approving fire safety products for use in Wildland Urban Interface and providing training to reduce home loss due to wildland fires.

Background

Currently, a portion of fees collected by cities and counties for building permit applications are used support code development at the State Building Standards Commission (BSC), Department of Housing and Community Development (HCD), and the Office of the State Fire Marshal (OFSM). The OFSM is the state agency responsible for developing building standards for fire and life safety and has been working with HCD and BSC to develop new regulations for new green building designs and products as they are introduced into the marketplace.

Comments

Economic incentives and government policy have been driving a sharp increase in innovative housing designs and products to lower home energy/water consumption. The department reports that these new advances in green technology have created workload increases through the need to promulgate regulations as well as required participation in local/state advisory committees, meetings and hearings. Staff feels that there is has been a valid increase in workload for the OFSM and the department's request for one staff is modest and appropriate.

In addition to the staffing requested, this proposal is requesting that one vehicle be purchased for the new staff. While there is definitely a need for this position to be able to travel to required meetings, staff needs further justification on whether a new vehicle is the most cost effective way of meeting this workload. The Department should be prepared to comment on the average miles that this position is anticipated to drive, whether they did a cost comparison with vehicle mile reimbursements or rental vehicles and whether there are vehicles that are being disposed of or unused by the department that could be used in place of this request.

Staff Recommendations**Hold Open**

ISSUE 3: CIVIL COST RECOVERY PROGRAM

Governor's Budget Proposal

The Governor's budget is requesting \$2.1 million in General Fund to convert 14 positions that are currently limited term to permanent status. These positions were approved by the Legislature in the 2008-09 budget on a two-year basis to engage in a pilot program to recover state General Fund costs of fighting wildfires from responsible parties. The Department reports that the pilot program has recovered \$12.3 million for the state since its inception. Without the program, the Department recovered \$2.8 million on average. In addition to these positions, the Department is requesting \$55,000 in new equipment, which includes one new vehicle and \$492,000 in contracts.

Staff Comments

The Subcommittee approved these positions in the 2008-09 budget on a limited term basis to address a need for the state to be proactively pursuing the recovery of General Fund costs for fighting fires when liability for those fires can be assessed to private parties. From CAL FIRE's data, this pilot program has demonstrated a clear benefit to the General Fund by collecting over \$6 million above the combined costs of the program and what was collected on average prior to the pilot. Staff does not have concerns with the position request since these are ongoing activities at the department that have a clear benefit to the General Fund. With the positions, however, the Department is also requesting \$540,000 (General Fund) for equipment and contracting that include the purchase of a new vehicle and nearly \$500,000 in contracts for professional fire scene analysis. At the hearing, the Department should be prepared to justify these new expenses since this is an ongoing effort with no new workload associated with the request.

Staff Recommendation

Approve position authority. Hold open contracts and vehicle purchases.

ISSUE 4: WATERSHED FUELS MANAGEMENT PROGRAM

Governor's Budget Proposal

The Governor's budget is requesting \$40 million over seven years from Proposition 1E storm water funding and 9.5 positions to continue the Watershed Fuels Management Program that provides grants and assistance to local governments to reduce wildfire fuels in watershed areas. This program was previously funded by Proposition 40 and was focused on the Sierra Nevada. Under this proposal, the program would be expanded statewide as is required by Proposition 1E stormwater funding requirements.

Background

For the past 6 years, CAL FIRE has conducted the Sierra Nevada Fuels Management Program using Proposition 40 funds. The program provides grants and technical assistance to local governments to reduce fire danger in their watersheds. This program has worked together with the General Fund supported Vegetation Management Program to conduct statewide fuels reduction projects. If cash from bond proceeds are available, it is anticipated that Proposition 40 funding will be fully exhausted in the 2010-11 budget year for the Sierra Nevada program and the Department. Additionally, the Vegetation Management Program which provides statewide fuels reduction was reduced by \$3 million (General Fund) in the budget year.

Comments

Through Proposition 40, the state was able to conduct a six year fuels reduction program focused in the Sierra Nevada watersheds. This program assessed Sierra Nevada watersheds for priority areas for fuels reduction projects. Projects were then ranked by their impacts on: municipal water supply; water storage; wild and scenic river status; hydroelectric power generation; post-fire erosion potential (based on the expected amount of surface erosion (tons/acre) generated in the first winter season following wildfire, and is a function of expected changed in vegetation cover resulting from wildfire, as the well as terrain, soil, and weather characteristics. The Department anticipates that it will use a similar methodology for ranking projects under this proposed statewide expansion.

In prior years, the Subcommittee has approved bond funding for fuels reduction primarily because they were specifically allocated in Proposition 40 for these purposes and they provided a clear benefit to the state tax payer by protecting watershed resources. This proposal differs in that instead of having a dedicated fuels reduction "pot" of bond funds, the Department is requesting that \$40 million be carved out of the following Proposition 1E section dedicated to grants for stormwater flood management projects:

5096.827. Three hundred million dollars (\$300,000,000) shall be available, upon appropriation to the department, for grants for stormwater flood management projects that meet all of the following requirements:

- (a) Have a nonstate cost share of not less than 50 percent.
- (b) Are not part of the State Plan of Flood Control.
- (c) Are designed to manage stormwater runoff to reduce flood damage and where feasible, provide other benefits, including groundwater recharge, water quality improvement, and ecosystem restoration.
- (d) Comply with applicable regional water quality control plans.

(e) Are consistent with any applicable integrated regional water management plan.

While under the requirements of the section this program technically qualifies for stormwater funds, the Legislature did not intend for these funds to be used for fuels reduction programs when writing Proposition 1E. Rather, they were constructed to be available for urban stormwater projects that are not eligible for funding dedicated to the state plan of flood control.

Additionally, because of the scarcity of bond funds, this program has not been able to expend its 2008-09 or 2009-10 Proposition 40 appropriations. As such, in a subsequent BCP, it is requesting the reappropriation of 2008-09 Proposition 40 funds. Because there are Proposition 40 funds available, staff feels that it would be appropriate to approve the Proposition 40 reappropriation. However, staff does not feel that the requested use of Proposition 1E is consistent with legislative intent and should be denied. Assuming bond funds are made available, this action will maintain funding in the program for the Sierra Nevada for the budget year through Proposition 40 funds.

Staff Recommendation

- 1. Reject Proposition 1E appropriation request.**
 - 2. Approve reappropriation of Proposition 40 funds.**
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