

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE No. 3
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION****Assemblymember Ira Ruskin, Chair****THURSDAY, MAY 22, 2008
STATE CAPITOL, ROOM 437
UPON ADJOURNMENT OF SESSION**

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CONSENT CALENDAR

- Secretary for CalEPA** **Environmental Education:** \$400,000 (Environmental Education Account) for the Education and the Environment initiative. Revenues into the EEA are limited to contributions from outside entities for the purposed of funding the Initiative. In addition to the augmentation, the Administration is requesting budget bill language to provide the flexibility to increase the budgeted appropriation in this Item, upon appropriate notification to the Legislature, should revenue to the EEA exceed the budgeted level within the 2008-09 fiscal year.
- Toxic Substances Control** **April Finance Letter: Cleanup Loans and Environmental Assistance** \$70,000 to fund a contract for loan services, including financial analysis and loan underwriting, for the Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) program.
- Toxic Substances Control** **April Finance Letter -Imperial County Calexico Office Move:** \$338,000 to provide funding for the relocation and lease of Toxics' Calexico office, which houses the Imperial County Certified Unified Program Agency (CUPA). Funds are to be used for one-time moving expenses and ongoing lease costs.
- Toxic Substances Control** **May Revise: Board of Equalization Fee Collection Agreement:** It is requested that Item 3960-001-0014 be increased by \$518,000 and Item 3960-001-0557 be decreased by \$518,000 to appropriately apportion the interagency agreement with the Board of Equalization (BOE) for fee collections.
- Toxic Substances Control** **May Technical: Capital Outlay.** Reappropriate \$2.7 million funds appropriated for the Preliminary Plan stage of the Stringfellow site.

VOTE ONLY ISSUES

VARIOUS DEPARTMENTS: BUDGET BALANCING REDUCTIONS

Budget Balancing Reductions Proposed for Rejection				
Dollars in Thousands				
DEPARTMENT	PROGRAM	GF	PY s	Comments
STATE WATER RESOURCES CONTROL BOARD	WATER QUALITY	3,659	10.0	Restore Entire BBR
STATE WATER RESOURCES CONTROL BOARD	WATER RIGHTS	390	2.0	Restore Entire BBR
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	HEALTH RISK AND ASSESSMENT	956	4.5	Restore Entire BBR

3900– AIR RESOURCES BOARD

ISSUE 1: MAY TECHNICAL: CAPITAL OUTLAY

May Technical: In a May Technical letter, the Air Resources Board is requesting an augmentation of \$491,000 to augment the construction phase for the Haagen-Smit Laboratory Seismic Retrofit project.

Additionally, it is requested that funding appropriated in the 2007 Budget Act for construction phase of this project be reappropriate

Staff Comments. Staff understands that the National Earthquake Hazards Reduction Program maps, which govern how the state proceeds with seismic retrofit projects, were amended and subsequently delayed the working drawings phase and increased construction cost estimates.

STAFF RECOMMENDATION: Approve as budgeted

3910– CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

ISSUE 1: APRIL FINANCE LETTER: SPECIAL FUND LOAN FOR E-WASTE PROGRAM

April Finance Letter. In an April Finance Letter, the Board is requesting authority to loan funds from its other special funds to the Electronic Waste Recycling and Recovery Account (EWRRA) until new revenues are earned from expected E-Waste fee increases.

Because of the popularity of the E-Waste Program, greater participation has lead to increased expenditures in advance of the Waste Board's ability to augment revenue. At the current level of fees and payments, the Waste Board anticipates the EWRRA fund balance will be exhausted by August 2008. Fee increases will not go into effect until January 1, 2009. However, there are sufficient fund balances within the Waste Board's other funds to make a loan to the EWRRA to meet program obligations until the anticipated revenue adjustments are realized.

Staff Comments. Staff has no issues with this loan as it solves cash flow problems at the board until new revenues are realized.

STAFF RECOMMENDATION: Approve as budgeted

3960– DEPARTMENT OF TOXIC SUBSTANCES

ISSUE 1: MAY TECHNICAL: CAPITAL OUTLAY

May Technical: In a May Technical Letter, the Department is requesting to reappropriate \$2.7 million funds appropriated for the Preliminary Plan stage of the Stringfellow site. The Department has completed the request for qualifications process and is in negotiations with the first ranked Architectural and Engineering A&E contractor. Because of the unique conditions associated with the Stringfellow site, it is necessary for the DTSC to revise and refine the scope of work and ensure contract provisions are acceptable to the state. DTSC is attempting to enter into an agreement as soon as possible, but the A&E contract may not be completed prior to June 30, 2008.

Staff Comments. Staff has no issues with this proposal

STAFF RECOMMENDATION: Approve as budgeted

ITEMS TO BE HEARD**3900 – AIR RESOURCES BOARD**

ISSUE 1: APRIL FINANCE LETTER: TRADE CORRIDORS EMISSION REDUCTION

April Finance Letter: In an April Finance Letter, the Department shift \$747,000 from Operating Expenses and Equipment to Personal Services. The proposal will allow the California Air Resources Board (Air Board) to fund 7.0 positions to fully and effectively administer the Trade Corridors Emission Reduction Incentive Program (Trade Corridors Program). This request also includes Trailer Bill Language (TBL) to provide an option for a state-run loan assistance program that will permit the Air Board to enhance its efforts to assist the state to meet federally-required air quality standards through the Trade Corridors Program.

The implementing legislation contained in Chapter 181, Statutes of 2007 (SB 88), related to the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 requires all air quality funds to be administered through local agencies, rather than allowing the Air Board to directly administer the funds. This arrangement increases the on-going staff workload for program implementation and oversight, requiring 7.0 additional positions, which have been administratively established in the current year. Also, we note that bond funding authorized in the current year, and proposed for the budget year, is more than double the originally proposed amount, which has also increased the Air Board's workload.

Staff Comments. Staff does not have any issues with the proposed augmentation in staff. In approving SB 88 (Committee on Budget) in 2007, the Legislature made a policy decision to front load the appropriation of 1B funds for this program with the hope that funding would move expeditiously in the current year. The proposed increase in staff would allow the Air Resources Board to meet this legislative intent.

With regards to the proposed trailer bill, staff feels that it is a clarification of existing authority and is appropriate for trailer bill. At this point, staff is unaware of any problems with this language.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 2: MAY REVISION: AIR QUALITY IMPROVEMENT PROGRAM

May Revision. In the May Revision, the Air Resources Board is requesting a one-time \$48.7 million appropriation from the Air Quality Improvement Fund for the Air Resources Board to develop, administer, and fund financing programs, including loans, revolving loans, loan guarantees, or other appropriate funding measures, to achieve surplus emission reductions from on, and off-road heavy-duty vehicle and equipment projects. This proposal will support early action on regulatory requirements, thereby assisting affected fleets and ensuring the state achieves emission reductions critical to meeting federal and state air quality standards.

This proposal includes trailer bill language necessary to authorize expenditure of the Air Quality Improvement Fund for the newly proposed loan option program. This proposal also includes provisional language authorizing the funding to be expended without regard to fiscal year, so that the loan options can be provided to eligible fleet owners over the multi-year phase-in compliance periods applicable to the regulations.

Staff Comments. In a prior action on April 16th, the Subcommittee use \$30 million on a one time basis from the AQIF to fund the Carl Moyer. This action was in response to the January 10 Budget's absence of a proposal to spend revenues generated in the current year on existing or new air quality programs. The Governor's proposal would act in lieu of the Subcommittee's proposal.

Staff understands that the Administration's proposal would attempt to use a loan guarantee program to incentivise early compliance with new on and off road heavy duty emissions regulations that will go into effect in 2010. In order to comply with the new regulations, truck drivers and other heavy machine operators may need to install costly clean air devices and fuel efficiency retrofits (aerodynamic equipment, efficient tires, etc). The Air Resources Board envisions that a vehicle owner who takes out a loan to purchase these items would be able to use savings earned from fuel efficiency as a potential method of repayment of the loan.

Staff supports the proposal as presented in the May Revise as it presents an innovative opportunity to provide ongoing funding to reduce particulate pollution and help boost early compliance by the trucking industry with new clean air regulations that will be expensive and difficult to meet. The State Water Resources Control Board and the State Treasurer's office have been able to successfully use loan guarantee programs to provide ongoing funding for infrastructure needs with low rates of default by borrowers. While this is a new that is not fully developed, staff understands that the Board is evaluating similar programs as models and would also be conducting a small-scale, \$300,000 pilot loan guarantee program through the State Treasurer's Office this summer utilizing existing resources. This program will help identify and address potential barriers prior implementing the proposed program.

STAFF RECOMMENDATION: 1) Rescind the prior action to allocated \$30 million to Carl Moyer; 2) approve the proposed funding of \$48 Million in the May Revise Finance Letter; 3) approve the Trailer Bill language in concept so that the statutory details of the program can continue to be discussed in Conference Committee.

3940 – STATE WATER RESOURCES CONTROL BOARD

ISSUE 1: PROPOSITION 84 PROGRAMS

Governor's Budget. In the Governor's budget, the Board is requesting the appropriation of \$100.5 million (Proposition 84) to provide local assistance resources for the following programs:

Agricultural Water Quality Grant Program:	\$ 7.7 million
Urban Stormwater Grant Program;	\$44.0 million
Clean beaches Grant Program	\$14.0 million
- Areas of Special Biological Significance:	\$19.9 million
- Santa Monica Bay Restoration Commission:	\$14.8 million

Staff Comments. The programs proposed Proposition 84 funds are for existing bond funded programs and would constitute the second year of funding for these programs. Staff has no issues with these proposals.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 2: APRIL FINANCE LETTER: CLEAN-UP AND ABATEMENT ACCOUNT

April Finance Letter. In an April Finance Letter, the Administration is proposing to transfer \$3.2 million from the Waste Discharge Permit Fund (WDPF) to the State Water Pollution Cleanup and Abatement Account (CAA), a subaccount of the State Water Quality Control Fund. The CAA is funded by fines and penalties on waste discharge violators and is continuously appropriated. The account provides funds for water quality improvement projects undertaken by the State Water Resources Control Board (Water Board) when there are no responsible parties available to be used for the purpose of cleaning up waste or abating its effects on the water of the state.

Existing statute levies administrative fines on waste dischargers for failure to file required discharge monitoring reports. These funds are directed to the WDPF and are statutorily designated to be used for waste clean-up or to abate the effects of water pollution. However, because statute also requires that these funds be separately accounted for, a new subaccount in the WDPF would be necessary in order to expend these fines for the purpose of clean-up and abatement activities. This subaccount would duplicate the purpose of the existing CAA. The requested funds transfer will allow the Water Board to use all available funding to administer the CAA and protect water quality.

Staff Comments. Staff feels that this is a technical issue and stays within the existing statutory limits of the fund.

STAFF RECOMMENDATION: Approve as budgeted

ISSUE 3: APRIL FINANCE LETTER: INSTREAM FLOW CONTRACTS

April Finance Letter. In an April Finance Letter, the Administration is proposing to extend the liquidation period to June 30, 2009 for funds originally appropriated by Item 3940-001-0235, Budget Act of 2005 (Attachment C). This extension will allow the Division of Water Rights to complete contract work related to Instream Flows as directed by Chapter 943, Statutes of 2004 (AB 2121). The Water Board anticipates that \$500,000 will remain encumbered at the end of fiscal year 2007-08.

AB 2121 requires the Water Board to adopt principles and guidelines for maintaining instream flows and necessitates the development of new water quality control policy. This liquidation extension is needed as a result of delays in the completion of the proposed policy, and to allow adequate public comment from interested parties.

Staff Comments. Proper Instream flow requirements are important to both the protection of existing fish habitat. Because of this and the effect that these policies will have on water rights holders, staff understands that there has been tremendous interest expressed by the public in the development and approval of these policies. Staff also understands that there are numerous concerns from the public that the current public process to develop and adopt these policies has not been adequate to accommodate the interest.

At the hearing, the Water Board should be prepared to present to the Subcommittee on how it will expand its public process in the instance to accommodate a complete public discussion of the policy pushing to achieve these very important habitat protection policies.

STAFF RECOMMENDATION: Hold Open

3960 – DEPARTMENT OF TOXIC SUBSTANCES CONTROL

ISSUE 1: STRINGFELLOW CAP OUTLAY

Governor's Budget: The Governor's budget is proposing \$3.2 million (General Fund) to fund the working drawing activities for the construction of a new pretreatment plant to treat contaminated groundwater from the Stringfellow Hazardous Waste Site.

This proposal is part of a larger DTSC capital outlay proposal to construct a new Pretreatment Plant at the Stringfellow Hazardous Waste Site. The BPTB would replace the existing pretreatment plant, which was constructed in 1985 as an interim treatment facility, with an intended life of between three and five years. The proposed plant would be used to pretreat contaminated groundwater before it is discharged into the industrial sewer, which is essential to meet effluent quality standards and land disposal restrictions.

Staff Comments. Staff has no issues with this proposal since the state is responsible for the remediation of this hazardous waste facility. When this issue was heard on April 2nd, the Subcommittee discussed with the Department of Finance whether there were any other appropriate bond funds available to fund this proposal. After further discussion with the Administration, staff does recommend that the Subcommittee use Proposition 84 funds to fund this proposal as it would be considered a planning activity rather than a purely capital expense. Additionally, the IRWM program at DWR traditionally is used to address water infrastructure and supply issues, rather than toxic remediation. As such, staff recommends that the proposal be approved as budgeted.

STAFF RECOMMENDATION. Approve as budgeted

ISSUE 2: APRIL FINANCE LETTER: FEDERAL RLF GRANT PROGRAM TRAILER BILL LANGUAGE

April Finance Letter: In an April Finance Letter, the Department is requesting Trailer Bill Language to amend the Health and Safety Code to create the Revolving Loans Fund for Toxics' deposit of funds from the Federal Revolving Loan Fund (RLF). The Federal RLF Grant Program requires that all advances of grant money be deposited into an interest bearing account. The pending legislation creates a fund to receive Federal RLF deposits and operate the State RLF Grant Program.

Toxics' has been awarded \$3 million in federal funding for brownfield loans and grants over a five-year period. In order to comply with the federal grant cooperative agreement, an interest bearing account must be established for the deposit of grant advances and program income. The State RLF Grant Program funding revolves by using loan repayments, including interest, to provide new loans and grants. Furthermore, once the original award has been spent, additional federal funds can be requested.

Staff Comments. Staff is in support of providing the mechanism to ensure that these funds can be expended on brownfield remediation loans. At the hearing, the Department should comment on what added fiscal management costs this new fund will bring to the Department and whether there are any existing funds that comply with federal requirements.

STAFF RECOMMENDATION. Approve as budgeted if there are no existing funds that meet Federal requirements.

ISSUE 3: MAY REVISION: AUGMENTATION FOR LITIGATION SUPPORT

May Revision: In the May Revision, the Department is requesting an augmentation of \$755,000 (HWCA) and \$245 (TSCA) in order to augment an interagency agreement with the Department of Justice to provide litigation support for cost recovery and enforcement cases. The Governor's budget provided 2.2 million for this purpose. This request would increase total funding for this contract in fiscal year 2008-09 to \$3.2 million.

Staff Comments. Historically, the Department of Justice has provided litigation support for the Department through an interagency agreement. The Department reports that based on an updated assessment of their litigation needs, the proposed funding levels in the Governor's budget were incorrect. Staff recommends that the Subcommittee approve this request.

STAFF RECOMMENDATION. Approve as budgeted