RESOURCES

LAO

65 YEARS OF SERVICE

2008-09 Analysis

Major Issues

Resources

☑

Recommend Alternative to Governor's Proposed Insurance Surcharge to Pay for Wildland Firefighting

- The Governor's proposed surcharge on commercial and residential insurance policies statewide to partially pay for wildland firefighting should be rejected in favor of a fee on property owners in "state responsibility areas" because these individuals directly benefit from the state's firefighting services (see page B-47).

☑

Governor Delays Identification of Stable, Long-Term Funding Support for Climate Change Programs

- Contrary to legislative direction, the Governor has failed to identify a stable, long-term source of funding in the budget for implementation of "AB 32"—climate change legislation enacted in 2006. Instead, the Governor has relied on more borrowing from unrelated special funds to pay for a majority of the program. While not taking issue with the merits of the activities proposed for funding, we recommend that the Legislature defer action on a majority of the budget proposal until the administration submits a funding plan that is responsive to legislative direction (see page B-29).

☑

Delta Planning Efforts Chart a Different Course for CALFED's Future

- Various Delta-related planning efforts, including Delta Vision, have made recommendations that, if adopted, will fundamentally change the future approach of the CALFED Bay-Delta Program. We recommend denial of some CALFED budget proposals on the basis that, contrary to recommendations of the planning efforts, they either lack clear objectives and funding priorities, do not apply the beneficiary pays funding principle, or do not meet the information needs of policy makers (see page B-17).

☑ Avoiding Program Cuts and/or Creating General Fund Savings With Fees

- The budget proposes a number of General Fund (GF) budget-balancing reductions (BBRs), including closing 48 state parks, that can be avoided by shifting program funding to fees. We have also identified several other opportunities to create GF savings through fees, freeing up the GF for other legislative priorities. Our fee proposals include:

  — State parks—$25 million in increased user fees, to backfill BBRs and provide $11.7 million more for park maintenance (see page B-73).

  — Coastal development permitting—allow Coastal Commission to spend the $2.5 million of regulatory fee/penalty revenues that it collects, to backfill BBRs and create an additional $1 million in GF savings (see page B-67).

  — Timber harvest plan review—$23.1 million in new regulatory fees, to backfill BBRs and create additional GF savings ($21.2 million) (see page B-36).

  — Fish and Game—$6.7 million in new and increased regulatory fees, to backfill BBRs and create additional GF savings ($4.6 million) (see page B-58).

  — Flood management—$40 million in new benefit assessment fees, to create GF savings of a like amount (see page B-81).

  — Water quality and water rights—$29.8 million in new and increased regulatory and benefit assessment fees, to backfill BBRs and create additional GF savings ($26.6 million) (see page B-100).

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Overview

Resources

The budget proposes significantly lower state expenditures for resources and environmental protection programs in 2008-09 compared to the estimated current-year level. Most of this reduction reflects lower bond expenditures for the budget year, although the budget still includes a major infusion (around $1.7 billion) of available bond funds from two resources-related measures (Propositions 1E and 84) approved by the voters in November 2006. The Governor also has proposed an $11.9 billion water management bond measure to be submitted for voter approval in 2008. Among the Governor's budget-balancing actions is a proposed surcharge on fire insurance policies statewide to offset a $44.7 million General Fund reduction for the state's wildland firefighting activities.

Expenditure Proposals and Trends

Expenditures for resources and environmental protection programs from the General Fund, various special funds, and bond funds are proposed to total $7.3 billion in 2008-09, which is about 5 percent of all state-funded expenditures proposed for the budget year. This level is a decrease of $2.1 billion, or 22 percent, below estimated expenditures for the current year.

Spending From Bond Funds Down Significantly, but Still Substantial. While the proposed reduction in state-funded expenditures for resources and environmental protection programs occurs across all funding sources, it largely comes from bond funds. Specifically, the budget proposes bond expenditures totaling about $2.1 billion in 2008-09—a decrease of $1.7 billion, or 45 percent, below estimated bond expenditures in the current year. A majority of the bond expenditures are from the two resources measures approved by the voters in November 2006—about $1.2 billion from Proposition 84 (for various resources purposes) and $461 million from Proposition 1E (for flood control). The budget also proposes $250 million from the Proposition 1B transportation bond (also approved in November 2006) for air quality improvements in the state's major trade corridors.

The Governor has also proposed an $11.9 billion water bond to be submitted to the voters in 2008. We discuss this proposal in greater detail in the "Department of Water Resources" write-up in this chapter.

General Fund Spending Decrease Reflects Both Program Reductions and a Funding Shift. The proposed reduction in state-funded expenditures for resources and environmental protection programs also reflects a $154 million (8 percent) decrease in General Fund spending. This includes both proposed budget-balancing program reductions in numerous program areas (totaling about $54 million) and a proposal to shift the funding source for $45 million of wildland firefighting activities from the General Fund to a new surcharge on fire insurance policies statewide. The spending reduction also reflects the elimination of a number of one-time expenditures for water and flood-related capital projects that occurred in the current year. Finally, these spending reductions are partially offset by a significant increase in general obligation bond debt-service costs—projected to increase by 30 percent, from $474 million in the current year to $619 million in 2008-09.

Spending From Special Funds Down, Largely Due to Statutory Change. The budget proposes special fund expenditures of about $3.4 billion—about $230 million, or 6 percent, below the current-year level. This decrease largely reflects a reduction in renewable energy incentive payments administered by the Energy Resources Conservation and Development Commission, due to a recent statutory change that shifts the funding of these incentives "off budget" to the electricity rate-making process.

Funding Sources. The largest proportion of state funding for resources and environmental protection programs—about $3.4 billion (or 47 percent)—will come from various special funds. These special funds include the Environmental License Plate Fund, Fish and Game Preservation Fund, funds generated by beverage container recycling deposits and fees, an "insurance fund" for the cleanup of leaking underground storage tanks, and a relatively new electronic waste recycling fee. Of the remaining expenditures, $2.1 billion will come from bond funds (29 percent of total expenditures) and $1.7 billion will come from the General Fund (24 percent of total expenditures).

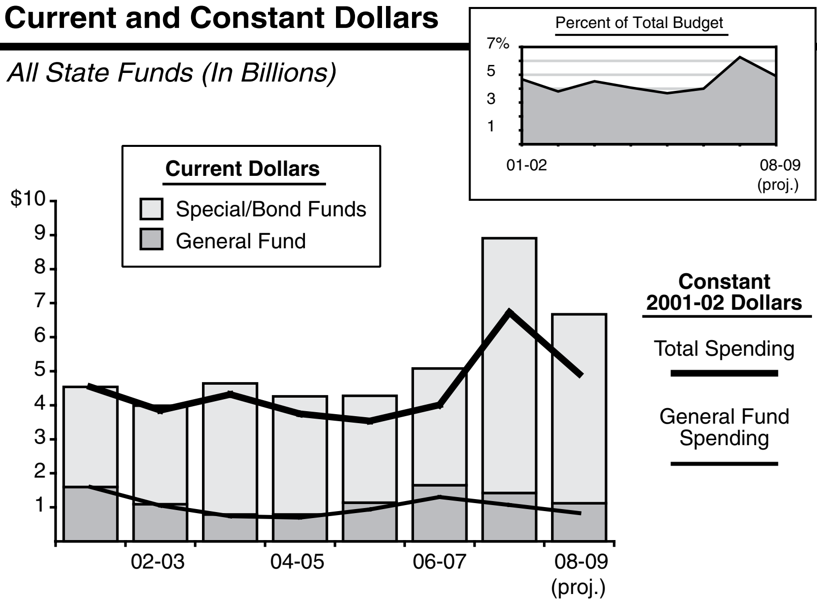
Expenditure Trends. Figure 1 shows that state expenditures for resources and environmental protection programs increased by about $2.1 billion since 2001-02, representing an average annual increase of about 6 percent. The increase between 2001-02 and 2008-09 reflects an increase in special fund and bond expenditures. On the other hand, the budget proposes General Fund expenditures for 2008-09 that are significantly below 2001-02 spending—a decrease of about $500 million.

When adjusted for inflation, total state expenditures for resources and environmental protection programs have grown at an average annual increase of about 1 percent. In contrast, when adjusted for inflation, General Fund expenditures have declined—an average annual decrease of about 9 percent. General Fund expenditures for resources and environmental protection programs over this time frame have been very unstable—they declined significantly from 2002-03 through 2004-05 due to the state's weakened fiscal condition, ticked up in 2005-06, reached a peak in 2006-07, and have declined in subsequent years.

Figure 1

Resources and Environmental Protection Expenditures Current and Constant Dollars

All State Funds (In Billions)



Spending by Major Program

Cost Drivers for Resources Programs. For a number of resources departments, the expenditure levels are driven mainly by the availability of bond funds for purposes of fulfilling their statutory missions. This would include departments whose main activity is the acquisition of land for restoration and conservation purposes as well as departments who administer grant and loan programs for various resources activities.

For other departments that rely heavily on fees, their expenditure levels are affected by the amount of fees collected.

Some resources departments own and operate public facilities, such as state parks and boating facilities. The number and nature of such facilities drive operations and maintenance expenditures for these departments.

In addition, the state's resources programs include a number of regulatory programs. The cost drivers for these programs include the number and complexity of regulatory standards that are required to be enforced and the related composition of the entities which are regulated.

Finally, some resources activities have a public safety purpose, and the cost drivers include emergency response costs that can vary substantially from year to year. These activities include the California Department of Forestry and Fire Protection's (CalFire's) emergency fire suppression activities and the emergency flood response actions of the Department of Water Resources (DWR).

Cost Drivers for Environmental Protection Programs. A core activity of departments and boards under the California Environmental Protection Agency (Cal-EPA) is the administration of regulatory programs that implement federal and state environmental quality standards. These regulatory programs generally involve permitting, inspection, and enforcement activities. The main cost drivers for environmental protection programs are the number and complexity of environmental standards that are required to be enforced, which dictate the extent of the parties regulated by the departments and therefore the regulatory workload.

In addition, a number of Cal-EPA departments administer grant and loan programs. The expenditure level for grant and loan programs, and the staffing requirements to implement them, are driven largely by the availability of bond funds or fee-based special funds to support them.

Budget's Spending Proposals. Figure 2 shows spending for major *resources* programs—that is, those programs within the jurisdiction of the Secretary for Resources and the Resources Agency.

Figure 3 (see page 12) shows similar information for major *environmental protection* programs—those programs within the jurisdiction of the Secretary for Environmental Protection and Cal-EPA.

Figure 2

**Resources Budget Summary
Selected Funding Sources**

(Dollars in Millions)

Department	Actual 2006-07	Estimated 2007-08	Proposed 2008-09	Change From 2007-08	
				Amount	Percent
Resources Secretary					
Bond funds	$66.9	$137.5	$68.1	-$69.4	-50.5%
Other funds	14.3	28.8	28.9	0.1	0.4
Totals	**$81.2**	**$166.3**	**$97.0**	**-$69.3**	**-41.7%**
Conservation					
General Fund	$4.5	$5.0	$4.6	-$0.4	-8.0%
Recycling funds	993.0	1,277.5	1,374.1	96.6	7.6
Other funds	57.6	78.3	64.3	-14.0	-17.9
Totals	**$1,055.1**	**$1,360.8**	**$1,443.0**	**$82.2**	**6.0%**
Forestry and Fire Protection (CalFire)					
General Fund	$710.2	$784.9	$601.4	-$183.5	-23.4%
Other funds	328.4	427.5	773.9	346.4	81.0
Totals	**$1,038.6**	**$1,212.4**	**$1,375.3**	**$162.9**	**13.4%**
Fish and Game					
General Fund	$114.9	$94.6	$75.3	-$19.3	-20.4%
Fish and Game Fund	54.0	86.9	86.7	0.2	0.2
Bond funds	152.8	156.6	72.2	-84.4	-53.9
Other funds	119.9	202.7	159.0	-43.7	-21.6
Totals	**$441.6**	**$540.8**	**$393.2**	**-$147.6**	**-27.3%**
Parks and Recreation					
General Fund	$175.4	$160.2	$137.2	-$23.0	-14.4%
Parks and Recreation Fund	118.6	122.1	122.3	0.2	0.2
Bond funds	41.9	141.6	117.3	-24.3	-17.2
Other funds	112.2	250.2	179.1	-71.1	-28.4
Totals	**$448.1**	**$674.1**	**$555.9**	**-$118.2**	**-17.5%**
Water Resources					
General Fund	$492.2	$198.6	$141.0	-$57.6	-29.0%
State Water Project funds	1,544.0	968.9	986.6	17.7	1.8
Bond funds	162.2	1,247.2	1,180.0	-67.2	-5.4
Electric Power Fund	5,524.8	5,524.3	5,316.1	-208.2	-3.8
Other funds	6.8	136.3	68.4	-67.9	-49.8
Totals	**$7,730.0**	**$8,075.3**	**$7,692.1**	**-$383.2**	**-4.8%**

Figure 3

Environmental Protection Budget Summary Selected Funding Sources

(Dollars in Millions)

Department/Board	Actual 2006-07	Estimated 2007-08	Proposed 2008-09	Change From 2007-08	
				Amount	Percent
Air Resources					
General Fund	$2.3	$2.3	$2.2	-$0.1	-4.4%
Motor Vehicle Account	146.9	120.1	123.1	3.0	2.5
Air Pollution Control Fund	130.7	159.1	164.8	5.7	3.6
Other funds	32.5	478.9	289.3	-189.6	-39.6
Totals	**$312.4**	**$760.4**	**$579.4**	**-$181.0**	**-23.8%**
Waste Management					
Integrated Waste Account	$47.0	$51.5	$52.8	$1.3	2.5%
Electronic Recycling Account	82.3	115.0	84.6	-30.4	-26.4
Other funds	65.8	77.9	71.8	-6.1	-7.8
Totals	**$195.1**	**$244.4**	**$209.2**	**-$35.2**	**-14.4%**
Pesticide Regulation					
Pesticide Regulation Fund	$60.9	$67.1	$71.2	$4.1	6.1%
Other funds	3.3	3.5	3.2	-0.3	-8.6
Totals	**$64.2**	**$70.6**	**$74.4**	**$3.8**	**5.4%**
Water Resources Control					
General Fund	$39.0	$41.9	$38.7	-$3.2	-7.6%
Underground Tank Cleanup	270.8	280.2	278.1	-2.1	-0.8
Bond funds	198.0	413.2	146.1	-267.1	-64.6
Waste Discharge Fund	67.7	73.0	76.8	3.8	5.2
Other funds	194.3	203.3	195.6	-7.7	-3.8
Totals	**$769.8**	**$1,011.6**	**$735.3**	**-$276.3**	**-27.3%**
Toxic Substances Control					
General Fund	$25.0	$28.3	$27.2	-$1.1	-3.9%
Hazardous Waste Control	48.2	53.0	53.7	0.7	1.3
Toxic Substances Control	35.5	49.6	51.3	1.7	3.4
Other funds	53.3	63.1	62.3	-0.8	-1.3
Totals	**$162.0**	**$194.0**	**$194.5**	**$0.5**	**0.3%**
Environmental Health Hazard Assessment					
General Fund	$8.6	$9.2	$8.6	-$0.6	-6.5%
Other funds	7.4	8.8	8.8	—	—
Totals	**$16.0**	**$18.0**	**$17.4**	**-$0.6**	**-3.3%**

Spending for Resources Programs. Figure 2 shows the General Fund will provide about 44 percent ($601 million) of CalFire's total expenditures for 2008-09. The General Fund will account for much less in the support of other resources departments. For instance, for the Department of Conservation (DOC), the General Fund will constitute less than 1 percent ($4.6 million) of its budget-year expenditures. In the case of the Department of Fish and Game (DFG) and the Department of Parks and Recreation (DPR), the General Fund will pay about 19 percent ($75 million) and 25 percent ($137 million) of the respective department's expenditures. The DWR's expenditure total is skewed by the $5.3 billion budgeted under DWR for energy contracts entered into on behalf of investor-owned utilities. If these energy-related expenditures are excluded from DWR's total, the General Fund still pays for only about 6 percent ($141 million) of DWR's expenditures.

Figure 2 also shows that compared to current-year expenditures, the budget proposes an overall spending reduction in some resources departments, while proposing an overall spending increase in others. Specifically, for the Secretary and DFG, the reduction largely reflects a decrease in bond expenditures. For DPR, the reduction largely reflects decreased expenditures for local assistance and capital outlay, funded from special funds, bond funds, and federal funds. While the budget proposes lower spending overall for DWR, its budget reflects a large number of individual program spending increases and decreases, including a substantial increase in bond-funded local assistance for integrated regional water management and a decrease in bond-funded flood capital outlay.

The budget's proposed increase in total spending in CalFire (13 percent) largely reflects an increase of $276 million in capital outlay expenditures (funded mainly from lease-revenue bonds). For DOC, the proposed increase in spending (6 percent) mostly reflects an increase in incentive payments to recycling industries.

Spending for Environmental Protection Programs. As Figure 3 shows, the budget proposes decreased expenditures for a majority of environmental protection departments, with relatively stable spending for the Department of Toxic Substances Control and a modest increase for the Department of Pesticide Regulation. For the Air Resources Board (ARB), the 24 percent spending reduction mostly reflects the elimination of $192 million of one-time funding from the Proposition 1B transportation bond that occurred in the current year for the retrofit and replacement of older, high-polluting school buses. For the California Integrated Waste Management Board, the 14 percent spending reduction is mostly due to a decrease in projected incentive payments to authorized collectors and recyclers of electronic waste. Finally, for the State Water Resources Control

Board, most of the 27 percent spending reduction reflects a decrease in bond-funded local assistance.

MAJOR BUDGET CHANGES

Figure 4 presents the major budget changes in resources and environmental protection programs.

As shown in Figure 4, the budget proposes a number of bond fund and special fund increases throughout resources and environmental protection departments, as well as a significant program reduction (General Fund) under DPR.

Bond Proposals. Bond-funded proposals of particular note include (1) $597 million (Propositions 1E and 84 bond funds) in DWR for various flood control investments, including systemwide levee evaluations and repairs and capital outlay; (2) $452 million (Propositions 1E and 84 bond funds) in DWR for integrated regional water management, mostly for competitive grants to local agencies; and (3) $49 million (Proposition 84 bond funds) in DFG for restoration activities in the Bay-Delta ($21 million), the Salton Sea ($10.8 million), coastal fisheries ($10.9 million), and the San Joaquin River ($6.3 million). As regards San Joaquin River restoration, the budget also proposes $9.6 million under DWR—for a total budget proposal of $15.9 million to continue implementing a settlement agreement between the federal government, water users, and environmental users.

Special Fund Proposals. As regards special fund proposals, the budget proposes an increase of $5.6 million (Air Pollution Control Fund) for ARB to expand its activities implementing Chapter 488, Statutes of 2006 (AB 32, Núñez)—the Global Warming Solutions Act of 2006. This funding will be used to accelerate the board's development of "early action" measures to reduce greenhouse gas emissions from targeted industries, including trucking and ports, and the cement, semiconductor, and consumer product industries. In order to provide the necessary resources in the Air Pollution Control Fund to support the level of ARB's total expenditures for AB 32 implementation, the budget proposes a $32 million loan to the fund from the Beverage Container Recycling Fund in each of 2008-09 and 2009-10. The ARB's budget also proposes $6 million (Motor Vehicle Account) for zero-emission vehicle incentives, including matching funds for hydrogen fueling stations under the Governor's Hydrogen Highway Initiative.

The budget also proposes $101 million in the Energy Resources Conservation and Development Commission (Energy Commission) for the commission to provide incentives (including grants and loans) for the develop-

Figure 4

Resources and Environmental Protection Programs Proposed Major Changes for 2008-09

Air Resources	
+	$11.6 million (special funds) for zero-emission vehicle incentives, including hydrogen highway, and to expand implementation of "AB 32" climate change legislation
Energy Resources	
+	$100.9 million (special funds) for alternative and renewable fuel and vehicle technology incentives
Fish and Game	
+	$49 million (bond funds) for restoration of Bay-Delta ecosystem, Salton Sea, San Joaquin River, and coastal fisheries
Forestry and Fire Protection (CalFire)	
+	$33.1 million for Governor's Wildland Firefighting Initiative, funded from a proposed surcharge on fire insurance policies statewide
Parks and Recreation	
+	$45.6 million (mostly special funds) for local assistance grants
–	$13.3 million (General Fund) for state parks
Water Resources	
+	$1.1 billion (bond funds) for flood control investments and integrated regional water management

ment of alternative and renewable fuels and related technologies, pursuant to a fee-funded program recently established by Chapter 750, Statutes of 2007 (AB 118, Núñez). The Governor has proposed budget bill language that would give the commission the authority to spend the $101 million over a two-year period, reflecting a significant program ramp-up period in the budget year before the commission can begin awarding incentives. Although not shown in the figure, the budget also proposes $1.7 million for ARB to develop program guidelines for its air quality improvement/fleet modernization incentives program under AB 118. Unlike the proposal for the Energy Commission, the budget does not propose expenditures for ARB to begin awarding the incentives in the budget year.

For CalFire, the budget includes $33 million for the Governor's Wildland Firefighting Initiative—$28.9 million to provide four-member crews on fire engines during peak and transition fire periods and $4.2 million to install Global Positioning System (GPS) tracking units on aircraft and engines. (The budget also proposes increases for wildland firefighting activity under the Military Department and the Office of Emergency Services.) The budget proposes to fund these increases by imposing a new 1.25 percent surcharge on commercial and residential fire insurance policies statewide.

Finally, the budget also proposes $46 million in DPR for recreational grants to local and other public agencies and to nonprofit organizations, funded mostly from special funds, including the Off-Highway Vehicle Trust Fund.

General Fund Budget-Balancing Reductions. As shown in Figure 4, the budget proposes to create General Fund savings in state parks. Specifically, the budget proposes to reduce General Fund expenditures for state park field operations by $8.9 million and for departmental administration by $4.4 million. According to the department, these reductions will close 48 of 278 existing state parks and significantly reduce seasonal lifeguards at state beaches.

Finally, although not shown in the figure, the budget also proposes to create General Fund savings under CalFire by shifting funding for $44.7 million of wildland firefighting expenditures from the General Fund to the proposed surcharge on fire insurance policies, discussed earlier.

CROSSCUTTING ISSUES

Resources

CALFED BAY-DELTA PROGRAM

The CALFED Bay-Delta Program (CALFED), a consortium of 12 state and 13 federal agencies, was created to address a number of interrelated water problems in the state's Bay-Delta region. The CALFED has been the subject of a number of recent performance assessments and Delta-related planning processes, the recommendations of which, if adopted, will fundamentally define the future for CALFED programmatically. We evaluate the Governor's budget proposals for CALFED in the context of the lessons learned from the performance assessments and the status of various planning processes. We make recommendations on the budget proposals and provide our assessment of the role of the Legislature in guiding the future of the Bay-Delta and CALFED.

Background. Pursuant to a federal-state accord signed in 1994, CALFED was administratively created as a consortium of state and federal agencies that have regulatory authority over water and resource management responsibilities in the Bay-Delta region. The CALFED program now encompasses 12 state and 13 federal agencies. The objectives of the program are to provide good water quality for all uses, improve fish and wildlife habitat, reduce the gap between water supplies and projected demand, and reduce the risks from deteriorating levees.

The program's implementation—which is anticipated to last 30 years—is guided by the "Record of Decision" (ROD) approved by the lead CALFED agencies in 2000. Among other things, the ROD lays out the roles and responsibilities of each participating agency, sets goals for the program and the types of projects to be pursued, and sets milestones for achieving program outcomes. The ROD also provides that program costs, to the extent possible, be paid by the beneficiaries of the program actions.

Although the ROD envisioned CALFED being financed over time by roughly equal contributions of federal, state, and local/user funding, the state has been the major funding source for the program's first eight years, providing over $3 billion, or around 50 percent, of funding since 2000-01. Almost all of the state funds supporting CALFED have been taxpayer-supported "general-purpose" funds, namely monies from the General Fund and bond funds. Apart from a relatively small contribution from the State Water Project (SWP) and Central Valley Project contractor revenues, no user fees have supported the program.

As a result of a program reorganization initiated in the 2006-07 budget process, the Secretary for Resources is the single main "point of accountability" for CALFED, with clear responsibility for the overall program planning, performance, and tracking. The Secretary is also responsible for the centralized CALFED science function.

What Has Been Learned From the Delta-Related Planning Efforts and the CALFED Program Reviews?

While CALFED has had its successes, such as efforts to increase water supply reliability through increased water recycling and groundwater storage, there is common agreement from the Delta-related planning efforts and CALFED program reviews that the "business as usual" CALFED is not well positioned to meet its objectives. In particular, the current approach to conveyance whereby water moves through the Delta is not working, and alternative methods of conveyance should be evaluated. The CALFED program reviews and performance assessments also found that while much money has been spent on projects, the spending has sometimes been made without any sense of priorities or clear objectives.

Multiple Planning Efforts and Program Reviews. CALFED is currently involved in a number of planning efforts that fundamentally will define its future, including its financing requirements and its program beneficiaries over the long term. In addition, CALFED has been the subject of a number of recent program reviews and performance assessments, following its completion of what is referred to as "stage one"—the program's first seven years from 2000-01 through 2006-07. A brief description of these planning efforts and program reviews, and their status, is found in Figure 1.

Figure 1

Summary of Delta Planning Efforts and CALFED Program Reviews

Delta Vision

- Secretary for Resources statutorily required to develop a strategic vision for a "sustainable" Delta, including sustainable ecosystems; land-use patterns; flood management strategies; and transportation, water supply, utility, and recreation uses.
- Blue ribbon task force adopted a vision statement in December 2007, and is developing a strategic plan to implement the vision, to be completed by November 2008.

Delta Risk Management Strategy

- Department of Water Resources statutorily required to evaluate the potential impacts of levee failures in the Delta (from risks such as earthquakes and climate change) and, along with the Department of Fish and Game, evaluate options to mitigate these risks.
- Required report to Governor and Legislature by January 1, 2008, has been delayed and is currently undergoing independent scientific review.

Bay Delta Conservation Plan

- Several CALFED agencies, along with local public water agencies and environmental organizations, signed an agreement in 2006 to participate in a conservation planning process authorized under state law that has both conservation and water supply objectives. The plan is under development.

CALFED End of Stage One Assessment

- Staff of CALFED agencies prepared a report in November 2007 reviewing the program's performance during "stage one"—the first seven years.

CALFED Program Performance Assessment

- The CALFED Bay-Delta Public Advisory Committee completed a retrospective assessment of CALFED's progress in achieving its original goals, in August 2007.

Bottom-Line Findings and Recommendations of These Efforts. Our review of the various work products produced by the Delta planning efforts and CALFED program reviews found a relatively high level of agreement on the following four key points:

- ***Alternatives to Current Conveyance System Must Be Evaluated.*** Reliance on the current approach of conveying (moving) water through the Delta will prohibit the state from achieving its environmental and economic-related goals for Delta water use. There are a number of potential alternatives to the current conveyance system—including the creation of so-called "isolated" conveyance facilities that would take water around the Delta, rather than through the Delta as is the case currently. However, the Delta Vision task force concluded that the outcomes of the various conveyance alternatives are far from being understood in terms of their impact on water quality, water supply reliability, cost, seismic risk, endangered species protection, among other impacts. Therefore, the task force concluded that further assessment of the various conveyance alternatives must be made, with the performance of each measured clearly against specified criteria.

- ***CALFED's Progress Has Been Limited Inside the Delta.*** While the CALFED program has made significant progress in areas *outside* of the Delta, progress has been more limited *inside* the Delta. For example, spending on water recycling and groundwater storage projects outside of the Delta have successfully reduced pressures on the Delta to provide water, and spending on fish screens upstream of the Delta has resulted in improved populations of certain fish species, such as salmon. In contrast, populations of native Delta species, most notably the Delta smelt, have declined significantly over the life of CALFED.
- ***Past Spending Has Often Lacked a Sense of Priorities.*** Overall spending in a number of CALFED programs has lacked focus. A clarification of program objectives is needed to guide future activity. For example, according to one of the program assessments, the CALFED ecosystem restoration program has taken "hundreds of non-prioritized actions with no quantified intermediary objectives to help guide those investments." Similarly, a lack of an overall strategy or priorities to guide CALFED's competitive grant program to control pollution at drinking water sources resulted in "scattered program implementation" with "unclear" improvements in drinking water quality resulting from specific project expenditures.
- ***Recommended "No Regrets" Actions for the Near Term.*** As for next steps for CALFED agencies, the planning efforts and program reviews agreed that actions by these agencies should be neutral in terms of the outcome of the Delta Vision, Bay Delta Conservation Plan (BDCP), Delta Risk Management Strategy (DRMS), and other processes that will ultimately set the course for the next stage of CALFED. Examples of such no regrets actions include continued levee maintenance and improvements, water use efficiency

projects, and implementation of water quality best management practices. The CALFED science program should conduct focused research on priority Delta issues that serve to reduce uncertainty and help state policymakers make informed decisions about the future direction of CALFED and the Delta.

GOVERNOR'S BUDGET PROPOSAL

The budget proposes $242.4 million of state funds across eight state agencies for CALFED in 2008-09, a decrease of $497.8 million, or 67 percent, below estimated current-year expenditures. This decrease is primarily due to a decrease in available bond funds from pre-2006 resources bonds.

Expenditure Summary. Figure 2 (see next page) shows the breakdown of CALFED expenditures in the current year and as proposed for 2008-09, among the program's 13 elements.

Current-Year Expenditures. As shown in the figure, the budget estimates CALFED-related expenditures from state funds of $740.2 million in 2007-08. Of this amount, $16 million is from the General Fund, with the balance mainly from various bond funds ($666.2 million, largely from Proposition 50) and State Water Project funds ($55.7 million).

For the current year, the largest state expenditures are for the ecosystem restoration ($276.7 million), water quality ($96.7 million), and conveyance ($94.9 million) programs.

Budget Proposes Substantially Lower Spending in 2008-09. As shown in Figure 2, the budget proposes $242.4 million of state funds for various departments to carry out CALFED in 2008-09, a decrease of $497.8 million, or 67 percent, below estimated current-year expenditures. Of the proposed expenditures, $15.5 million is proposed from the General Fund, with the balance mainly from various bond funds ($174.4 million, largely from Proposition 84) and SWP funds ($50.2 million).

As Figure 2 indicates, CALFED expenditures are spread among eight agencies. The largest expenditures are found in the Department of Water Resources (DWR) ($168.2 million), Department of Fish and Game (DFG) ($32.1 million), and the Secretary for Resources ($26.3 million). The largest state expenditures are proposed for the levee system integrity ($65.9 million), ecosystem restoration ($50.7 million), and science programs ($36.6 million).

Figure 2

CALFED Expenditures—State Funds Only

(In Millions)

Expenditures by Program Element	2007-08	2008-09
Bay Delta Conservation Plan	$15.2	$3.2
Conveyance	94.9	31.5
Delta Vision	0.4	2.0
Ecosystem restoration	276.7	50.7
Environmental Water Account	75.1	—
Levee system integrity	64.1	65.9
Oversight and coordination	8.4	8.1
Science	21.0	36.6
Storage	—	9.8
Water quality	96.7	12.3
Water supply reliability	2.5	2.3
Water use efficiency	72.3	15.9
Watershed management	12.9	4.1
Totals	**$740.2**	**$242.4**
Expenditures by Department		
Water Resources	$388.1	$168.2
Fish and Game	247.7	32.1
Secretary for Resources	17.2	26.3
Public Health	81.2	6.9
State Water Resources Control Board	1.1	4.0
Conservation	3.3	3.3
Forestry and Fire Protection (CalFire)	1.5	1.5
San Francisco Bay Conservation	0.1	0.1
Totals	**$740.2**	**$242.4**
Expenditures by Fund Source		
General Fund	$16.0	$15.5
Proposition 13	118.8	15.2
Proposition 50	366.2	52.9
Proposition 84	122.1	104.5
Proposition 204	59.1	1.7
State Water Project Funds	55.7	50.2
Other state funds	2.3	2.4
Totals	**$740.2**	**$242.4**

ISSUES FOR LEGISLATIVE CONSIDERATION

In the sections that follow, we provide a framework for the Legislature to apply in evaluating the Governor's budget proposals for CALFED, taking into account the findings and recommendations of the various Delta-related planning efforts and the lessons learned from the CALFED program reviews. We follow this with our recommendations regarding specific budget proposals.

Recommended Approach for Evaluating CALFED Budget Proposals

We recommend that the Legislature evaluate CALFED budget proposals based on a number of criteria, including clear objectives, established funding priorities, and use of the beneficiary pays funding principle. We further recommend that the Legislature approve grant and contract funding for the whole CALFED budget on a one-time basis, and that supplemental report language be adopted requiring a zero-based CALFED budget be submitted with the Governor's 2009-10 budget. Finally, we recommend that the Legislature adopt its policy for the future of the Delta in legislation.

Approach for Evaluating CALFED Budget Proposals. In evaluating the merits of CALFED budget proposals, we recommend that the Legislature apply the following criteria. Specifically, budget proposals should:

- Not prejudge or bias the outcome of the various ongoing Delta-related planning efforts, including the Delta Vision, BDCP, and DRMS processes.
- Be focused so as to provide timely scientific information that serves to inform the various Delta-related planning efforts.
- Tie to clear objectives and established funding priorities for the program area.
- Reflect the application of the "beneficiary pays" funding principle, as adopted by both the CALFED ROD and the Delta Vision task force.

Recommend Approval of Grant and Contract Funding on One-Time Basis. We also recommend that the Legislature approve all grant and contract funding proposed in the CALFED budget (both baseline expenditures and new funding proposals) on a one-time basis. As discussed below, the administration should submit a "zero-based budget" for CALFED as part of the Governor's 2009-10 budget submittal.

Recommend Zero-Based Budget Be Submitted for 2009-10. As is evident from the discussion thus far, CALFED is at a major crossroads in terms of its future programmatic direction, as the administration and the Legislature await the outcomes of the various Delta-related planning efforts. The outcomes of these efforts (much of which will be determined a year from now), and the legislative policy-setting that will follow, will help guide the future course of CALFED. Therefore, it appears appropriate for the CALFED budget to start with a "clean slate" next year. To assist the Legislature in its evaluation of the total CALFED budget next year, we recommend the adoption of the following supplemental report language requiring the submittal of a zero-based budget:

> Item 0540-001-0001. *Zero-Based Budget for CALFED Bay-Delta Program (CALFED).* It is the intent of the Legislature that the Governor, as part of the *2009-10 Governor's Budget*, submit a zero-based, cross-cut 2009-10 budget for CALFED, developed in conjunction with the Secretary for Resources and the constituent agencies of the CALFED program. It is the intent of the Legislature that this direction for a zero-based budget would require the administration to justify all expenditures proposed to support CALFED, thereby enabling better legislative understanding of the overall size of CALFED and how funds are being expended as well as how proposed expenditures will further the goals and objectives of CALFED. It is also the intent of the Legislature that the budget change proposals submitted in support of the zero-based budget would inform the Legislature of (1) the administration's objectives and funding priorities for each of the CALFED program areas and (2) how the proposal ties to the findings and recommendations of the various Delta-related planning efforts and CALFED program reviews and performance assessments.

Recommend Legislature Adopt Its Policy for the Delta. Finally, we recognize that the outcomes of the various Delta-related planning efforts—Delta Vision, DRMS, and BDCP—will have major policy implications for the state. Once the Legislature has reviewed the various work products stemming from these efforts—the Delta Vision strategic plan (the plan to implement the recently adopted vision), the final DRMS work product, and the BDCP to be adopted in regulation—we recommend that the Legislature enact legislation establishing its Delta policy. This legislation should establish the Legislature's policies for the future of the Delta and its objectives and funding priorities for CALFED as a key component in implementing the Legislature's Delta policy. This will enable evaluation of future CALFED budget proposals for consistency with legislative policy priorities.

Surface Storage Proposals Still Lack Funding Partners

The budget proposes $9.8 million in bond funds for the Department of Water Resources, under CALFED, to continue feasibility studies for surface water storage projects. As we found in last year's* 2007-08 Analysis*, the CALFED surface storage program has reached a point where these feasibility studies cannot practically move forward un-

less nonstate entities—parties who would benefit from the projects being studied—step up to the plate and share the costs of studying and developing these projects. (Reduce Item 3860-001-6031 by $3.8 million and Item 3860-001-6051 by $6 million.)

Surface Water Storage Feasibility Studies. Over $62 million in state funds has been spent by DWR under the CALFED program on surface water storage studies through June 2007. Some of these studies relate to a project at a specific location (such as Los Vaqueros Reservoir Expansion), while others relate to potential projects throughout a region (In-Delta Storage Investigations). Federal expenditures for the studies total $55.4 million in the same period.

Budget Proposal. The budget proposes a total of $9.8 million in bond funds ($3.8 million from Proposition 50 and $6 million from Proposition 84) to continue various surface storage studies, including the North-of-Delta Offstream Storage (Sites Reservoir), Los Vaqueros Reservoir, and Upper San Joaquin River Storage Investigations (Temperance Flat).

Previous Legislative Action on This Item. The department previously submitted this same proposal as part of its 2007-08 budget proposal, and the Legislature denied it. At that time, we recommended against funding the proposal until nonstate entities—namely parties who would benefit from the projects being studied—stepped up to the plate to share the cost of these studies (see our *Analysis of the 2007-08 Budget Bill*, page B-46). We also noted last year that our recommendation was consistent with legislative direction in the *2006-07 Budget Act* regarding funding for Los Vaqueros Reservoir Expansion. Specifically, the Legislature prohibited state funds from being spent for that project until regional funding sources were secured to fund the continued investigation and planning of this project.

Recommend Denying Budget Request. Given the lack of funding from nonstate funding sources to move the storage studies forward in the budget year, we therefore recommend denying the budget request.

CALFED Science Proposal Needs More Focus

The budget proposes $26.4 million in bond funds for scientific research and related staff costs under CALFED. The administration has not demonstrated that the research to be funded will assist the Legislature in making decisions about the Delta in the next few years. We recommend the Legislature reject the portion of the request for scientific research grants and that the administration submit a more narrowly focused proposal at the May Revision that meets specified criteria. (Reduce Item 0540-001-6031 by $17.3 million. Reduce reimbursements under Item 0540 by $8 million. Reduce Item 3860-001-6051 by $8 million.)

Budget Proposal. The budget requests $26.4 million in bond funds ($8 million from Proposition 84 and $18.4 million from Proposition 50) in the Secretary for Resources and DWR for the CALFED science program. These funds would be used to provide ongoing support for program staff ($1.1 million) and to fund grants for scientific research ($25.3 million). The research funds would be used both to support ongoing research projects and to fund new studies through a grant-making process.

Recommend the Legislature Reject Most of the Budget Proposal as Crafted Currently. In the past, the science program has funded research into both basic science related to the Delta and more focused work on CALFED-specific projects and plans. As discussed above, the results of the Delta Vision process—and subsequent legislative actions—may lead to fundamental changes in how the Delta operates as an ecosystem and water supply system. Given the important decisions that will be made in the next few years, it is important that the science program provide relevant, focused information on potential changes to the Delta and resulting impacts on the ecosystem, water quality, and other areas of concern.

The administration has not provided sufficient information to demonstrate that the scientific work to be funded in the budget year will provide information that is (1) available in time to inform the Delta Vision process and subsequent legislative decision-making, and (2) focused on key policy issues under consideration, as opposed to being for general scientific research. Therefore, we recommend the Legislature reject the bulk of this proposal—the portion ($25.3 million) allocated to grants for scientific research. We recommend the administration present a revised proposal at the May Revision that proposes funding only for research activities meeting the two criteria listed above.

CALFED Ecosystem Restoration Proposals Are Premature or Funded Inappropriately

The Governor's budget proposes $21 million in bond funds for ecosystem restoration projects. We recommend the Legislature reject certain of the proposed projects on the basis that either they (1) are premature until the Delta Vision process has been completed and long-term decisions about the use of the Delta are made or (2) should be funded by beneficiaries of the project. (Reduce Item 3600-001-6051 by $18.9 million.)

Budget Proposal. The Governor's budget requests $21 million in Proposition 84 bond funds and 17 permanent positions for the CALFED Ecosystem Restoration Program (ERP), which is implemented by DFG. These funds would support the following activities:

- ***Dutch Slough Tidal Marsh Restoration ($5.9 Million)***—Continuing restoration of an area of tidal marsh, to improve water quality and fish habitat.

- ***Miens Landing Tidal Marsh Restoration ($1 Million)***—Continuing restoration of an area of tidal marsh, to improve water quality and fish habitat.

- ***M&T/Llano Seco Fish Screen ($12 Million)***—Modifications to a specific Sacramento River bank near Chico to prevent sediment buildup over an existing fish screen that prevents salmon from being pulled into water supply systems.

- ***Performance Measures ($824,000)***—Efforts to develop performance measures that will ultimately be used to track CALFED ERP project successes and failures.

- ***Constant Fractional Marking for Central Valley Chinook Salmon ($1.1 Million)***—Collection of data on salmon in Central Valley rivers and in the Pacific Ocean.

- ***U.S. Fish and Wildlife Invasive Species Program ($200,000)***—State support for a federal program to prevent invasive species from becoming established in the Delta.

Recommend Legislature Reject Certain ERP Proposals. As a general rule, we recommend the Legislature reject budget proposals for new ERP projects that can be delayed until the results of the Delta Vision process is complete. When this process is complete, the Legislature will have an opportunity to consider the long-term uses and configurations of the Delta as both an ecosystem and a water supply system. The result of those deliberations may be significant changes to the way in which the state uses the Delta. We believe it would be premature to fund several of the proposed restoration projects before those decisions are made—since fundamental changes to the Delta may make the proposed projects unsustainable in the long term. In addition, as noted earlier, the "End of Stage One Report" found that in-Delta ERP projects over the last seven years have made low levels of progress—as evidenced by the dramatic decline in open water fish species such as Delta smelt. Until a comprehensive system of performance measures are developed, it would be fiscally imprudent to continue to fund restoration projects whose benefits are uncertain and will not be verifiable. On this basis, we recommend the Legislature reject the Dutch Slough Tidal Marsh Restoration and the Miens Landing Tidal Marsh Restoration proposals in the budget year.

In addition, we recommend the Legislature reject the proposed M&T/Llano Seco Fish Screen project. As noted above, ERP to date has spent a lot of money on infrastructure projects *outside* of the Delta, with resulting improvements in fish populations in these areas, but has spent little on projects that have directly benefited fish populations *in* the Delta. Thus, it seems unwise to use significant bond funds for another out-of-Delta ERP project. Also, we believe that the water users whose water diversion is covered by the existing fish screen should pay for the cost of preventing further siltation. Given the significant ecosystem problems within the Delta, we do not believe the state should use bond funds to pay for an ecosystem project that does not directly address ecosystem problems within the Delta—particularly when there are direct beneficiaries who could pay for the project.

Recommend Approval of Select Subset of ERP Proposals. As a general rule, we recommend the Legislature approve ERP projects that will improve the state's ability to evaluate the success or failure of CALFED projects. To this end, we recommend the Legislature approve the proposal to develop performance measures for the program. Also, we recommend the Legislature approve the Constant Fractional Marking proposal, as the information gathered by this project should be useful in future planning for salmon restoration and management activities.

Finally, we recommend the Legislature approve the proposal to provide funding to the U.S. Fish and Wildlife Service for invasive species prevention. While we continue to be concerned about the lack of federal funding for the CALFED program, we find that the potential threat to the Delta ecosystem from invasive species—particularly zebra and quagga mussels—warrants state funding for these activities.

Adoption of these recommendations would result in savings of $18.9 million in Proposition 84 funds.

IMPLEMENTATION OF "AB 32"—GLOBAL WARMING SOLUTIONS ACT OF 2006

The budget proposes $55.5 million across several state agencies to continue implementation of the Global Warming Solutions Act of 2006 (commonly known as "AB 32"), which seeks to reduce California's greenhouse gas emissions. In the following analysis, we present and evaluate the Governor's budget proposals for AB 32 implementation in various state agencies, highlighting a significant number of augmentations proposed for the budget year. We then consider the administration's plan for long-term funding of the AB 32 program. Finally, we recommend that the Legislature defer action on certain AB 32 budget items until the administration identifies an appropriate, stable, and ongoing funding source for the AB 32 program, as directed by the Legislature.

Goals and Requirements of the Global Warming Solutions Act of 2006 (AB 32)

Assembly Bill 32 establishes the goal of reducing, by 2020, California's greenhouse gas (GHG) emissions to what those emissions were in 1990. The act charges the Air Resources Board (ARB) with monitoring and regulating the state's sources of GHGs and specifies a time line by which ARB is to complete specified implementation actions.

Act Establishes Emissions Reduction Goals, Time Lines, Criteria, and Administrative Responsibilities. In 2006, the Legislature enacted Chapter 488, Statutes of 2006 (AB 32, Núñez)—The Global Warming Solutions Act of 2006. The act establishes the goal of reducing, by 2020, the state's emission of greenhouse gases (GHGs) to what those emissions were in 1990. The act designates ARB as the sole state agency responsible for monitoring and regulating sources of GHG emissions and requires ARB to coordinate with other state agencies and stakeholders involved in implementing AB 32. The act also calls for the Climate Action Team—the multiagency body established in 2005 by executive order and led by the

Secretary for Environmental Protection—to continue its coordination of overall climate policy.

In addition, the act establishes a time line by which ARB is to have taken specific actions. Significant among the actions included in that timeline are the requirements that ARB:

- Adopt regulations by January 1, 2008, to require reporting and verification of statewide GHG emissions.
- Adopt regulations, to be enforced by January 1, 2010, to implement "early action measures" to reduce GHG emissions.
- Adopt additional regulations, effective January 1, 2012, to achieve the GHG emissions reductions goals established by AB 32.

The act also specified numerous criteria that ARB's GHG emissions reduction regulatory measures must meet, including cost-effectiveness and technological feasibility.

Existing AB 32 Funding and the Governor's Budget Proposal

The budget proposes $55.5 million and 212 positions across 12 state agencies for continued AB 32 implementation. This funding reflects increases totaling $23.6 million and 61 positions above the current-year expenditure and staffing levels.

The budget proposes new funding of $23.6 million, mainly from various special funds, and 61 positions across a number of state agencies for the continued implementation of AB 32. This funding is in addition to the $31.9 million in ongoing funding, mainly from special funds, and 151 positions authorized in the *2007-08 Budget Act* for AB 32 implementation. Figure 1 lists, by agency, total proposed AB 32 expenditures, number of positions, and funding sources included in the 2008-09 budget, while Figure 2 (see page 32) provides this information, along with detail on the activities funded, only for the increases proposed in the budget.

Evaluation and Development of Low Carbon Fuel Standard (LCFS) Is Central to Governor's Proposal. In January 2007, the Governor issued an executive order calling for a 10 percent reduction in the carbon intensity of California transportation fuels by 2020, to be achieved through development of an LCFS for transportation fuels. ("Carbon intensity" refers to a measure of the carbon content of a unit of energy.) In the summer of 2007, ARB adopted the LCFS as one of its AB 32 early action regulatory measures to be enforceable by January 1, 2010. Development, evaluation, and implementation of the LCFS is the main focus of the additional AB 32-related positions proposed in the Governor's budget for ARB, as shown in Figure 2.

Figure 1

Total 2008-09 Proposed Budget for AB 32

(Dollars in Thousands)

Agency	Expenditures	Positions	Fund Source
Air Resources Board (ARB)	$30,543	152	Air Pollution Control Fund[a]
Forestry and Fire Protection	11,237	21	Proposition 84
University of California	5,000	—	Public Transportation Account
General Services	2,846	5	Service Revolving Fund
Department of Water Resources	2,000	10	Proposition 84 Bond
Secretary for Environmental Protection	1,658	6	General Fund, Air Pollution Control Fund[a], Motor Vehicle Account
Energy Commission	610	5	Energy Resources Programs Account
Governor's Office of Planning and Research	537	4	General Fund
Water Resources Control Board	428	4	Waste Discharge Permit Fund
Food and Agriculture	331	2	Food and Agriculture Fund
Secretary for Resources	177	2	General Fund
Public Utilities Commission (PUC)	102	1	PUC Ratepayer Advocate Account
Totals	**$55,469**	**212**	

[a] Includes $32 million loan from the California Beverage Container Recycling Fund to fund AB 32-related activities in ARB and the Secretary for Environmental Protection.

Administration Fails to Provide Sustainable, Long-Term Funding Plan for AB 32

Current-year funding for AB 32 implementation mostly relies upon special funds, some of which face substantial future budgetary pressures and cannot support AB 32 implementation over the long term without significant fee increases. Contrary to legislative direction, the administration has failed to produce a sustainable, long-term funding plan for AB 32 implementation in the budget year. While not taking issue with the merits of the AB 32 program and the budget proposal, we recommend that the Legislature defer action on the departmental budgets for AB 32, pending the administration's adoption of a sustainable, long-term funding plan that provides a stable, dedicated funding source for the program.

Figure 2

New AB 32 Funding Proposed by 2008-09 Budget

(Dollars in Thousand)

Agency/Activity	**Expenditures**	**Positions**	**Fund Source**
Air Resources Board (ARB)	$5,579	27	APCF[b]
Study, evaluate, and develop LCFS[a] measures	(4,293)	(18)	
Develop LCFS[a] market program	(286)	(2)	
Develop vehicular/industrial measures	(714)	(5)	
Develop fee to support AB 32 implementation	(286)	(2)	
University of California	$5,000	—	PTA[a]
Model effects of local government actions on greenhouse gas (GHG) emissions	(5,000)	(—)	
Forestry and Fire Protection	$11,237	13	Proposition 84 Bond
Award urban forestry management grants	(5,395)	(—)	
Implement forest management practices to respond to and prevent GHG emissions	(3,593)	(9)	
Evaluate climate change impacts on forests	(427)	(3)	
Coordinate intra- and interagency activities	(221)	(1)	
Other miscellaneous program expenses	(147)	(—)	
Department of Water Resources	$2,000	10	Proposition 84 Bond
Evaluate climate change impacts on state waters	(1,000)	(5)	
Implement water management practices to prevent GHG emissions	(1,000)	(5)	
Office of Planning and Research	$537	4	General Fund
Develop guidelines for mitigation of GHG emissions	(537)	(4)	
Water Resources Control Board	$428	4	Waste Discharge Permit Fund
Assess and develop response to climate-based changes to water supply	(428)	(4)	
Secretary for Resources	$177	2	General Fund
Adopt GHG emissions mitigation guidelines	(177)	(2)	
PUC[a]—Division of Ratepayer Advocate	$102	1	PUC Ratepayer Advocate Account
Monitor PUC actions to implement AB 32	(102)	(1)	
Totals	**$23,606**	**61**	

a LCFS = Low Carbon Fuel Standard; PTA = Public Transportation Account; PUC = Public Utilities Commission.

b APCF = Air Pollution Control Fund. Includes $32 million loan from the California Beverage Container Recycling Fund to fund AB 32-related activities in ARB and the Secretary for Environmental Protection.

Administration Continues to Put Off Difficult Decisions on AB 32's Long-Term Funding. As was the case with the Governor's AB 32 budget proposal for the current year, the 2008-09 budget proposal continues to rely on existing fee-based special funds. It includes neither fee increases nor new fees to cover program costs, even though the act provides ARB with the authority to assess fees in order to implement it. Rather, the bulk of the AB 32 funding for the budget year comes from continuing to draw down special fund balances that were either carried over from previous years or made possible by proposed loans or transfers from other special funds. Specifically, the budget proposes a $32 million loan from the California Beverage Container Recycling Fund (BCRF) to the Air Pollution Control Fund (APCF), which in turn provides about $32 million for AB 32 implementation activities.

Legislature Directed Administration to Report on Long-Term Funding Plan for AB 32 Implementation. In response to the administration's lack of a long-term funding plan for the AB 32 program, the Legislature, as part of the 2007-08 budget process, expressed its intent that the administration find appropriate, stable, and ongoing funding for AB 32 implementation for the budget year. To that end, the Legislature directed the administration to submit, in conjunction with submittal of the *2008-09 Governor's Budget*, a long-term funding plan for AB 32, that was to include:

- An estimate of future-year costs of the state's GHG emissions reduction programs.
- A description of how future-year costs would be funded.
- The administration's intention to increase existing fees and/or impose new fees to support the state's GHG emissions reduction programs.
- An explanation of the method by which the APCF is to be paid back for the funds used in 2007-08 for climate change-related programs.

Despite Legislative Direction, Administration's Long-Term Funding Plan for AB 32 Remains Illusory. While the administration submitted a report on AB 32 funding in conjunction with its budget proposal, it did not comply with legislative direction in that its report fails to identify an appropriate, stable, ongoing funding source for AB 32 activities for the budget year and beyond. Rather, the report indicates the administration's intent to continue to borrow from the carry-over balances in special funds from 2007-08 through 2009-10. The report also expresses the administration's intent to delay identification of a stable, long-term, fee-based funding source until after the board has adopted the statutorily required AB 32 scoping plan in January 2009. The report also indicates that ARB will not begin to collect fees—from whatever fee base the administration eventually identifies—until July 2010, at the earliest. The administration intends that, once established, the fee will support ongoing AB 32 activities and provide for repayment of the loans made from special funds during the program's first three operating years. Figure 3 summarizes the administration's broad intent for AB 32 funding as indicated in its report.

Figure 3

Governor's Intent for AB 32 Funding: Borrow Through 2009-10

Year	Funding Proposal
2007-08	Draw down special fund balances. Borrow $15.2 million from Motor Vehicle Account.
2008-09	Draw down special fund balances. Borrow $32 million from the California Beverage Container Recycling Fund (BCRF).
2009-10	Draw down special fund balances. Borrow $35 million, again from the BCRF.
2010-11 and beyond	Impose fee on as-yet-unidentified regulated emissions sources to cover program costs and to repay special fund loans from fiscal years 2007-08 through 2009-10.

Administration Could Identify Now an Appropriate Fee Base to Fund Implementation Costs. We understand the administration's claim that the sources of GHGs that will ultimately be regulated under AB 32 will not be comprehensively known until completion of the required scoping plan in January 2009. But the scoping plan, as described in AB 32, will not newly identify the significant sources of the state's GHG emissions. Rather, it will form the foundation for the development of a regulatory regime that is in keeping with statutory requirements. As the administration already knows, in broad terms, the state's primary sources of GHG emissions, such as automobiles, electricity producers, and agriculture, we think it could develop now a fee structure to pay for AB 32 implementation in its initial years. The administration could refine the fee structure in later years to reflect the scoping plan and the program's regulatory regime that will govern for the longer term. Instead, the administration has chosen to delay identification of such a fee base while continuing to borrow from other special funds.

Ensuring Legislative Oversight of AB 32 Implementation. We recognize that, in passing AB 32, the Legislature expressed the importance it places upon implementing a regulatory program to significantly reduce the state's emission of GHGs. We also recognize that, subsequent to passing AB 32, the Legislature clearly indicated its desire that the administration submit to the Legislature a plan for the 2008-09 budget year that provides for long-term, stable funding for AB 32 implementation. However, the administration failed to follow legislative direction by proposing to continue to fund AB 32 implementation over the next two years largely by relying on loans from an unrelated special fund—BCRF—that happens to have a large balance, but is hardly a stable, long-term funding source.

While not taking issue with the merits of the AB 32 program or of the activities that would be funded by the administration's AB 32 budget proposal, we nonetheless seek to preserve the Legislature's oversight role with respect to AB 32 implementation. For this reason, we recommend that the Legislature defer action on the AB 32-related budget proposals funded by APCF—$30.5 million under ARB and $1.3 million under the Secretary for Environmental Protection—until the administration provides a long-term funding plan that satisfies legislative direction. Such a plan would need to include identification of an appropriate, stable, and ongoing funding source for the AB 32 program in the budget year.

Administration Needs to Provide Legislature With Timely, Comprehensive AB 32 Budget Information. While AB 32 charges ARB with monitoring and regulating sources of GHGs, implementation of AB 32 is necessarily an interdepartmental effort. In order to effectively evaluate both progress in achieving AB 32's goals and new budget proposals to further implement the act, the Legislature requires timely and comprehensive budget information on AB 32 implementation. To ensure the Legislature's access to such information, we recommend adoption of the following supplemental report language:

> The Air Resources Board, in conjunction with the Secretary for Environmental Protection, shall provide to the Legislature, at the time of the annual submittal of the Governor's budget, a budget that shows all funding proposals across all state agencies included in the Governor's budget (including base funding and budget change proposals) that the administration classifies as part of its implementation of Chapter 488, Statutes of 2006 (AB 32, Núñez)—the Global Warming Solutions Act of 2006.

FUNDING TIMBER HARVEST PLAN REVIEW AND ENFORCEMENT

We recommend the enactment of legislation to create a fee on timber operators to fully fund the review and enforcement of timber harvest plans by several state agencies. This would result in additional General Fund savings of $21.2 million beyond the Governor's proposed General Fund budget-balancing reductions, with no reduction in program activity. (Reduce Item 3480-001-0001 by $2.4 million. Increase new special fund item [under 3480] by $2.6 million. Reduce Item 3540-001-0001 by $12.2 million. Reduce Item 3540-001-0235 by $433,000. Reduce Item 3540-001-0965 by $34,000. Reduce reimbursements under Item 3540 by $170,000. Increase new special fund item [under 3540] by $13.7 million. Reduce Item 3600-001-0001 by $2.7 million. Reduce Item 3600-001-0200 by $443,000. Increase new special fund item [under 3600] by $3.5 million. Reduce Item 3940-001-0001 by $4 million. Increase new special fund item [under 3940] by $4.4 million.)

Background

Under the state Forest Practice Act, logging operations must comply with a timber harvest plan (THP). The THP describes the proposed logging methods and projected production from an area, as well as any environmental mitigation measures that the timber harvesters will undertake to prevent or offset damage to natural resources, such as fish or wildlife. The Department of Forestry and Fire Protection (CalFire) has the statutory responsibility to review these plans, approve or deny them, and to monitor compliance with the plan during logging operations. In addition to CalFire's review of THPs, the Department of Conservation, the State Water Resources Control Board and the Department of Fish and Game (DFG) also participate in the review and enforcement of THPs under their own statutory authorities. Under current statute, there is no THP review fee in place to pay for the general cost of reviewing or monitoring compliance with THPs. (However, there is a fee in place that pays for a small portion of DFG's cost for THP review.) Figure 1 shows the costs for THP review and enforcement across all agencies.

Figure 1

Funding for Timber Harvest Plan (THP) Review and Enforcement

2008-09
(In Thousands)

Agency	Workload Budget, All Funds[a]	Governor's Proposed Budget-Balancing Reductions	Current Fee or Special Fund Revenues	LAO Recommended New Fee Revenues
Conservation[b]	$2,595	-$190	—	$2,595
Forestry and Fire Protection	13,657	-870	$637	13,657[c]
Fish and Game	3,500	-350	443	3,500[d]
State Water Resources Control Board	4,400	-440	—	4,400
Totals	**$24,152**	**-$1,850**	**$1,080**	**$24,152**

a Before Governor's proposed General Fund budget-balancing reductions. All funds General Fund except where specified.
b The Department of Conservation's THP Review budget includes $700,000 from Forestry and Fire Protection.
c We recommend shifting support for the total cost of the program to the new fee, reducing the current support from several special fund sources that totals $637,000.
d We recommend shifting support for the total cost of the program to the new fee, eliminating the current fees of $443,000.

LAO Recommendation: Fully Fund THP Review and Enforcement With Fees

We recommend the enactment of legislation establishing a THP review fee that would generate revenues sufficient to pay for the total cost of THP review in all relevant agencies. Timber harvesters benefit from the review and approval of THPs—required under statute—because the approval of a THP allows timber harvesters to begin revenue-generating timber harvesting. Thus, we believe it is appropriate that timber harvesters pay the full cost of reviewing and enforcing THPs.

There are a variety of fee structures that could be used to recover state agency costs related to THPs—such as a flat fee per THP application, a fee based on the number of acres proposed for harvesting, or a fee based on the value of timber to be harvested (the "yield"). As we noted above, timber harvesters benefit from THP reviews because approval of their THP allows them to start generating revenue. We recommend the Legislature enact a fee based on timber yield—making fees paid proportional to the benefit gained. Such a fee could be collected by the State Board of Equalization (BOE), which already collects a tax on timber yield.

We recommend the Legislature create a new THP fee in statute, to be assessed on the value of timber harvested under each THP. The fee should be set at a level such that total fee revenues are equivalent to the state's cost of THP review and enforcement as well as BOE's administrative costs. We also recommend the Legislature give BOE the authority to adjust the fee level such that it continues to fully cover program costs, as the market value of timber (and thus the amount of revenues raised by the fee) fluctuates. Finally, we recommend the Legislature create a new special fund for these fee revenues and that it make direct appropriations out of this new fund to the relevant agencies, in the amounts shown in Figure 1.

DEPARTMENTAL ISSUES

Resources

CALIFORNIA CONSERVATION CORPS (3340)

The California Conservation Corps (CCC) provides young people between the ages of 18 and 23 work experience and educational opportunities. The program participants, referred to as corpsmembers, work on projects that conserve and improve the environment, such as tree planting, trail building, and brush clearance. Corpsmembers also provide assistance during natural disasters, such as filling sandbags during floods. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse CCC for the work performed by corpsmembers.

The CCC receives the majority of its funding from the General Fund and from reimbursement revenues. When CCC corpsmembers work on projects for other public agencies or private entities, CCC is reimbursed for the labor provided. This reimbursement revenue is used to support the corpsmembers' salaries and benefits as well as department-wide administrative and operational costs. The CCC sets a statewide reimbursement rate target (currently $13 per hour for corpsmember labor) and staff in the field use this target rate when negotiating contracts with client agencies. In the current year, about 60 percent of CCC's budget is funded from the General Fund, with most of the balance coming from reimbursements.

The budget requests about $109 million in total spending in 2008-09, of which $62 million is for state operations, $30 million is for local assistance, and $17 million is for capital outlay. The proposed budget is about $4.3 million—or 4 percent—above estimated expenditures in the current year. However, the proposed budget reflects both increases in local assistance of $30.3 million (bond funds), reduced capital outlay expenditures of $27 million (mostly lease revenue bonds), and a General Fund budget-balancing reduction of $3.8 million.

After accounting for the Governor's General Fund budget-balancing reduction proposals, CCC estimates about 4,000 men and women (about 1,200 full-time equivalent positions) will participate in the program during 2008-09. Corpsmembers earn minimum wage and it is proposed that they will work approximately 36 hours per week (down from the current 40-hour work week). On average, corpsmembers stay in the program for a little over seven months. The 2008-09 budget provides funding for seven residential and 15 nonresidential facilities throughout the state.

Budget-Balancing Reduction Can Be Partially Offset with Special Funds

As part of its budget-balancing plan, the administration proposes to reduce the CCC's General Fund budget by $3.8 million in the budget year—primarily by reducing the corpsmember workweek and closing three non-residential centers, thereby eliminating 75 corpsmember positions. We recommend the Legislature accept $710,000 of these reductions and backfill another $1 million of these reductions with a special fund balance. We recommend the Legislature reject the remaining $2 million of proposed reductions, because the programmatic impact of these reductions would be significantly larger than the General Fund savings. (Increase Item 3340-001-0001 by $2 million and Item 3340-001-0318 by $1 million.)

Administration's Budget-Balancing Reduction. The administration's proposed budget-balancing reduction would reduce CCC's General Fund budget by $1.2 million in the current year and $3.8 million in the budget year. In the budget year, the administration proposes to reduce the work week for corpsmembers by four hours ($2 million savings), close three non-residential centers thereby eliminating 75 corpsmember positions ($1 million savings), reduce funding provided by the state to local conservation corps ($337,000 savings), increase the monthly fee paid by corpsmembers for housing and other costs ($165,000 savings), and reduce staff at CCC headquarters ($207,000 savings). In contrast to the budget year, CCC has not yet determined how it will reduce its costs by $1.2 million in the current year.

Because corpsmembers generate reimbursement revenues for CCC, the proposed reductions in the corpsmember work week and the elimination of corpsmember positions will reduce the reimbursement revenue available to support CCC operations. Specifically, these proposals will save

$3 million in General Fund, but cost the state $3.4 million in lost reimbursement revenue used to support CCC programs. As discussed below, we believe that there is a way to partially achieve the level of General Fund savings assumed by the budget while avoiding the full extent of the proposed programmatic reductions in the budget year.

Recommend Approval of a Portion of the Proposed Budget-Balancing Reduction, To Be Offset with Available Special Fund Revenues. In the budget year, after accounting for certain technical adjustments, the reimbursement-funded Collins-Dugan Account is projected to have a fund balance—about $2 million—sufficient to offset the proposed $1 million General Fund reduction achieved by closing three non-residential centers while leaving a minimally adequate fund reserve. Therefore, we recommend increasing CCC's budget-year expenditure authority from the Collins-Dugan Account by $1 million—thereby avoiding the need to close the centers in the budget year while still achieving $1 million in General Fund savings.

Because current reimbursement rates do not cover the entire cost of CCC's training and work program, our budget solution—relying on reimbursement funding to offset a $1 million General Fund reduction—is not sustainable in the long term. While our recommended fund shift can be accomplished in the budget year, it will leave the Collins-Dugan Account with a modest balance of less than $1 million at the end of the budget year. It will be necessary for CCC to either raise reimbursement rates or increase the percentage of corpsmember hours spent on reimbursable projects in order to avoid additional programmatic cuts in the long term. Therefore, we also recommend the Legislature direct CCC to make every effort to increase reimbursement revenues in the budget year.

We have no concerns with the proposed General Fund reductions involving funding for the local corps, increasing the housing cost for corpsmembers, and eliminating two administrative positions (totaling $709,000). Therefore, accounting for our recommendation to backfill another $1 million reduction with special funds discussed above, we recommend the Legislature approve a total of $1.7 million of the Governor's proposed budget-balancing actions.

One of the key legislative goals for CCC is to provide work training and education for corpsmembers. However, if CCC is required to reduce the corpsmember work week as proposed by the administration, we are concerned that corpsmember training and education would correspondingly be reduced. Because these activities generally do not generate reimbursement revenues, CCC is likely to reduce these activities rather than reimbursement-generating projects in implementing the proposed work-week reduction. We believe that this would reduce CCC's ability to meet its core statutory mission to provide training and job skills to corpsmembers. Therefore, we recommend the Legislature reject the proposed General Fund budget-balancing reduction of $2 million in the budget year. In Part V of our companion *Perspectives and Issues* publication we offer an alternative budget approach to address this and other budget solutions for 2008-09.

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION (3360)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission, or CEC) is responsible for forecasting energy supply and demand, developing and implementing energy conservation measures, conducting energy-related research and development programs, and siting major power plants.

The budget proposes expenditures of $363 million from various state and federal funds in 2008-09. This amount is $330 million, or 48 percent, less than current-year estimated expenditures. This decrease is due mainly to a decrease of $398 million in expenditures from the Renewable Resource Trust Fund, reflecting a recent statutory change that shifts funding of renewable energy incentive payments to the "off budget" electricity rate-making process. The budget also proposes $100.9 million from the Alternative and Renewable Fuel and Vehicle Technology (ARFVT) Fund to implement recently enacted legislation that created a new program.

Financial Award Funding Should Be Made Contingent on Guideline Development

The budget proposes $100.9 million from special funds to begin implementation of the Alternative and Renewable Fuel and Vehicle Technology Program, $100 million of which is for awarding grants and other financial incentives. We recommend the adoption of budget bill language that makes the appropriation of the $100 million for awarding grants and incentives contingent on the completion of statutorily required guidelines and the submittal of these guidelines for legislative review. (Reduce Item 3360-001-3117 by $100 million and adopt related budget bill language governing appropriation of a like amount.)

The Alternative and Renewable Fuel and Vehicle Technology Program. 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 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 Air Resources Board (ARB). The programs are primarily funded by increases in various vehicle, vessel, and other air quality-related fees that are projected to raise 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. This write-up focuses on the ARFVT Program.

Statute Specifies Program Goals, Eligible Fund Uses, and Financial Award Criteria. The act identifies the primary goals of the ARFVT Program as development and commercialization of technologies for renewable and nonpetroleum 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, the program is to provide financial incentives, such as grants, loans, and loan guarantees for specified types of projects that meet specified criteria, including furtherance of a number of air quality and other environmental and energy goals. In addition, the act requires ARB to develop guidelines to ensure that activities that receive awards from the Energy Commission pursuant to the ARFVT Program (1) complement efforts to achieve federal and state air quality goals, and (2) maintain or improve upon emissions reductions and air quality benefits included in specified standards and regulations.

Budget Requests Funding for Budget-Year Financial Awards. The budget proposes $100.9 million for the ARFVT Program in the budget year. Of that amount, $100 million would fund competitive grants and other awards to qualifying public and private projects— including fuel, vehicle, and workforce development projects—that meet the criteria described above. The remaining amount—$891,000—would fund six permanent positions that, in the budget year, would work alongside existing commission staff to establish the program through activities such as development of an investment plan in keeping with statutory requirements.

Financial Awards Dependent on Statutorily Required Guidelines. As mentioned above, AB 118 requires ARB to adopt guidelines to ensure that activities that receive ARFVT Program awards from the Energy Commission complement efforts to achieve federal and state air quality goals and maintain or improve upon emissions reductions and air quality benefits. In its AB 118-related budget proposal, ARB requests $1.7 million and 11 positions to begin implementation of AB 118. Among the activities described in ARB's budget proposal is development of the guidelines mentioned above, which, according to ARB's budget request, ARB expects to adopt no later than July 2009. Based on our discussions with program staff, we understand that developing these guidelines is a priority activity for the budget year and that it is likely that the guidelines will be completed some time during the budget year.

Start-Up Funds Are Warranted in the Budget Year, but Award Funds Should Be Made Contingent on Guideline Development. We find that it is appropriate that the Legislature appropriate funds to the Energy Commission for its program start-up activities in the budget year. Assembly Bill 118 requires the commission to establish a financial awards program that is relatively complex. Program administration must comply with numerous award criteria identified in the act, as well as related standards and regulations. And, unlike other state administered financial award programs, a particularly diverse class of projects may qualify for program awards—including projects for research, demonstration, infrastructure, and workforce development. Energy Commission staff will be busy in the budget year developing an investment plan to guide the financial awards.

Given the importance placed by the Legislature on the development of guidelines by ARB that will direct the commission's program awards, we recommend the adoption of budget bill language to facilitate legislative oversight over this aspect of AB 118's requirements. Specifically, we recommend that the Legislature (1) reduce the commission's appropriation from the ARFVT Fund by $100 million and (2) adopt budget bill language making an appropriation of an additional $100 million from the ARFVT Fund for grants and financial incentives contingent on the submittal of completed guidelines for legislative review. This will give the Legislature the opportunity to evaluate whether the program guidelines adopted by ARB, and the Energy Commission's investment plan which is based on these guidelines, satisfy the Legislature's goals and priorities as identified in the act. We recommend the adoption of the following language:

> Item 3360-001-3317—For support of the State Energy Resources, Conservation and Development Commission ……………………………..$891,000
>
> Provisions:
>
> 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.

Department of Forestry and Fire Protection (3540)

The California Department of Forestry and Fire Protection (CalFire), under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and watershed lands owned privately or by state or local agencies. These areas of department responsibility are referred to as "state responsibility areas" (SRA). In addition, the department regulates timber harvesting on forestland owned privately or by the state and provides a variety of resource management services for owners of forestlands, rangelands, and watershed lands.

The budget requests about $1.4 billion for the department in 2008-09, including support and capital outlay expenditures. Of this amount, 94 percent is for fire protection, 5 percent is for resource management, and 1 percent is for State Fire Marshal activities and administration.

The total proposal represents a decrease of $163 million below estimated current-year expenditures. This reflects a combination of decreased emergency fire protection costs of $149 million (largely reflecting one-time expenditures to fight the 2007 Southern California wildfires), General Fund budget-balancing program reductions of $8 million, and increases of $33 million for the Governor's Wildland Firefighting Initiative and $276 million in capital outlay expenditures.

The General Fund provides the largest portion of the department's funding for state operations and capital outlay—$601 million (about 44 percent). The remaining funds will come from lease-revenue bonds ($369 million), reimbursements ($261 million), a newly created Insurance Fund ($78 million), federal funds ($23 million), and various other state funds, including bond funds.

In addition to the department's base fire protection budget, the budget proposal includes $69 million from the General Fund for emergency fire suppression (known as the E-Fund). As in the current year, the budget bill contains language that authorizes the Director of Finance to augment this amount as necessary to address emergency fire suppression costs. (The costs of wildland firefighting can vary substantially from year to year, making it difficult to accurately budget for emergency fire suppression. However, we note that the budgeted General Fund amount for emergency fire protection is roughly $36 million less than the five-year average for such costs.)

Funding Fire Protection with Fees

The Governor proposes to create a surcharge on commercial and residential property insurance policies statewide to raise additional revenues which would both offset reductions in the department's General Fund budget and pay for program expansions. We recommend an alternative fire protection fee structure that would more closely relate fees paid to the benefits received by the beneficiaries of the state's fire protection. Specifically, we recommend that the Legislature impose a fee on property owners in state responsibility areas, that the fee raise revenues equivalent to 50 percent of the department's General Fund base fire protection budget, and that the fee be focused mainly on residential property.

Governor's Fire Insurance Surcharge Proposal. In order to partially offset the state's cost of providing fire protection services, the administration proposes to levy a surcharge on commercial and residential "multi-peril" property insurance policies. The proposed surcharge would be 1.25 percent of the cost of policies and would be assessed on all policyholders statewide. The administration projects that this proposed surcharge will generate approximately $100 million in revenues in the budget year and $125 million per year thereafter (reflecting full-year collection). The surcharge would be collected by the Department of Insurance.

The Governor's proposed insurance surcharge would be used both to partially offset existing costs for fire protection in the department as well as in the Office of Emergency Services (OES) and to expand fire protection services in CalFire, OES, and the Military Department as shown in Figure 1 (see next page). In the budget year, the administration proposes to offset $45 million in existing costs in the department and to expand programs in the department by $33 million. In OES, the budget proposes to offset General Fund reductions of $1.9 million and to expand programs by $10.2 million. In the Military Department, the budget proposes to expand programs by $9.2 million.

While the administration's proposal would generate General Fund savings, we do not recommend the Legislature approve it. Specifically, we believe that a fire protection fee should be paid by those who *directly benefit* from this service. Also, we believe there is the potential to create additional General Fund savings by raising a higher level of revenues.

For the purposes of this analysis, we consider the mechanism to raise revenues for fire protection separately from proposals for how to spend those additional revenues. We discuss the Governor's specific proposals to expand the department's fire protection activities later in this section and we discuss the proposals to expand programs in OES and the Military Department in the "General Government" chapter of this *Analysis*. We also discuss issues with the insurance surcharge proposal in our "Department of Insurance" section of the "General Government" chapter.

Figure 1

Uses of the Governor's Proposed Insurance Surcharge[a]

2008-09
(In Thousands)

Department	General Fund Offset	Program Expansion	Total
Forestry and Fire Protection	$44,700	$33,100	$77,800
Office of Emergency Services	1,900	10,200	12,100
Military Department	—	9,200	9,200
Department of Insurance	—	—	—
Totals	**$46,600**	**$52,500**	**$99,100**

a About $5.8 million of projected surcharge revenues in the budget year would go into a fund reserve.

State's Responsibility for Wildland Firefighting. The state is responsible for wildland firefighting in SRA. These SRA are primarily *privately-owned* timberlands, rangelands, and watersheds. Lands owned by the federal government or incorporated within existing city limits are excluded from SRA. Also, if the density of houses is greater than three units per acre, the Board of Forestry generally removes these lands from SRA and local governments become responsible for fire protection. Existing law *requires* the department to provide wildland fire protection on SRA. The law *allows* the department to provide other emergency services—such as structure fire protection or medical emergency response—in SRA when resources are available and it is within the department's budget. For a more detailed discussion of the state's responsibility for fire protection and the department's fire protection activities, please see our *Analysis of the 2007-08 Budget Bill*, page B-76.

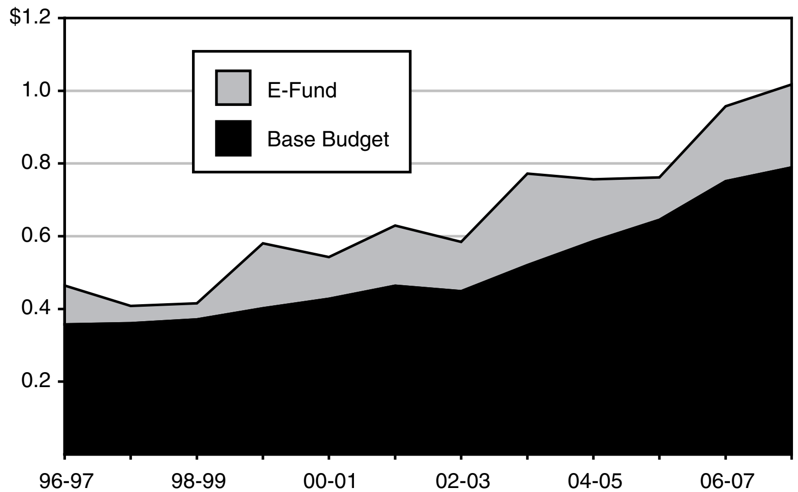
Continually Increasing Costs of State Fire Protection. The department's fire protection budget is divided into baseline fire protection and emergency expenditures. The baseline budget includes normal day-to-day costs, such as salaries and benefits for employees, the costs of operating facilities, and other regular firefighting costs. The budget also includes funding for the E-Fund which is used to pay for costs of fire protection beyond budgeted expenditures, such as overtime or special equipment rentals. The E-Fund expenditures are typically associated with large wildland fires that vary considerably in number and severity year to year.

As shown in Figure 2, the department's budget for fire protection has increased significantly over the last decade. Actual fire protection expenditures (including E-Fund) in 1997-98 were $408 million. In the current year, the department estimates total fire protection expenditures (including E-Fund expenditures beyond the budget appropriation) will be over $1 billion—a 150 percent increase. (Excluding E-Fund expenditures—the most volatile portion of the department's fire protection budget—costs have nonetheless still increased by 120 percent over this period.) As discussed below, there are many reasons why the state's expenditures for fire protection have grown so substantially over the last decade.

Figure 2

CalFire's Fire Protection Budget, All Funds

(In Billions)



The state's cost of fire protection has increased so dramatically in recent years both due to increasing cost of services, such as labor costs for firefighters, and increasing fire protection workload. There are several factors that have either increased or complicated the department's fire protection workload, thereby increasing the department's expenditures:

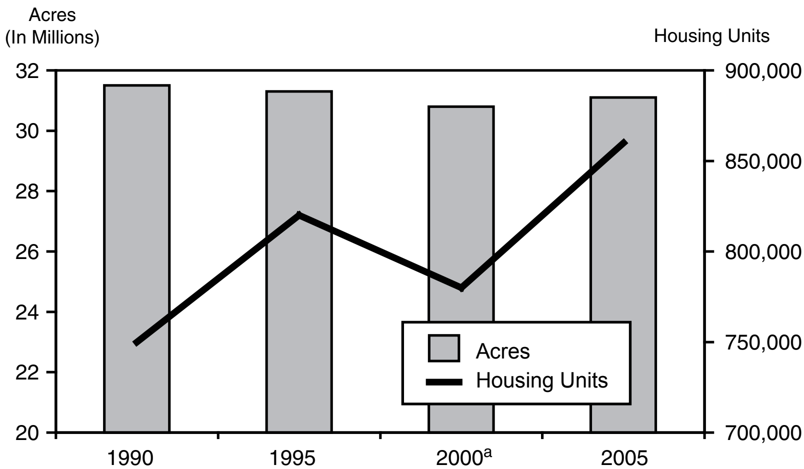
- ***Changes in Wildland Fuel Conditions***. Fire suppression activities over the last century have left much of the state's wildlands filled with fallen trees, standing dead trees, and heavy undergrowth. As these fuels have built up, the risk of catastrophic fires has grown. In addition, several years of drought followed by insect infestations in Southern California and the Sierras have killed many trees, increasing the risk of large, dangerous fires in these regions of the state.

- ***Increasing Development in the Wildland Urban Interface.*** Over the last several decades, the state has experienced significant housing development at the boundary between wildlands and urban areas, known as the wildland urban interface. In particular, significant development has occurred in the Sierra Nevada foothills and the interior ranges of Southern California. As can be seen in Figure 3, while the total acreage in SRA has remained stable over the last 15 years, the number of housing units in SRA has increased by 15 percent over this period—despite changes in SRA designations which have moved fire protection responsibility for significant numbers of houses from SRA to local responsibility areas. As development increases in previously undeveloped—and often fire prone—areas, fire protection costs increase for several reasons. First, the presence of more people increases the incidence of wildland fires, as fires from human-caused activities spread to wildland areas. Second, protecting people and homes often requires greater fire suppression effort than would typically be used on forests or rangelands. Finally, the presence of people and structures can sometimes limit the techniques used for fire prevention or suppression. For example, the use of prescribed burning to reduce available fuel loads or the use of aircraft to suppress fires may be limited by the presence of homes in a formerly wildland area. The inability to use these kinds of fire suppression tactics increases the need for more labor-intensive firefighting methods to protect people and homes.

LAO Alternative Fee Recommendation. We recommend the Legislature create a new fee on SRA lands and use a portion of the revenues to offset the proposed General Fund reduction for the department's fire protection program—thus avoiding the need to close facilities in the budget year.

Figure 3

State Responsibility Areas: Number of Acres Versus Housing Units



[a] In the late 1990s in Southern California, local governments annexed large parcels of land thereby shifting a significant amount of land and housing units from state to local firefighting responsibility. However, the long-term trend shows increasing housing units in state responsibility areas.

Because the state provides a service—fire protection—that directly benefits a particular group—landowners in SRA—it is appropriate that those beneficiaries pay for *a portion* of the state's cost for fire protection. Because the department provides fire protection for natural resources of statewide significance—such as watersheds that provide drinking water for much of the state—it is also appropriate that the state as a whole pay for a portion of the cost of fire protection. Therefore we believe that it is equitable that the state's cost of providing fire protection in SRA be split between the direct beneficiaries and the state's taxpayers as a whole.

Specifically, we recommend the Legislature enact a fee assessed on property owners in SRA that would pay for 50 percent of the state's General Fund baseline cost for fire protection. We recommend that E-Fund costs be excluded from this baseline, as E-fund costs are often caused by large fire events that are of statewide significance. Based on the 2007-08 enacted budget, fee revenues from our proposed fee would be about $265 million. The Legislature may wish to adopt an SRA fee along these lines, but one that reflects a different level of cost sharing between the state and the beneficiaries. Whatever the cost sharing level is, we recommend that the Legislature design the fee such that it recovers a specified percentage of the state's General Fund baseline fire protection budget. This will ensure that the fee payers continue to pay an equitable share of the state's General Fund cost for fire protection over time.

The structure of the fee—who should pay the fee and at what level—is an important policy decision for the Legislature. Given that increasing development in the wildland urban interface is a key driver of the state's increasing cost for fire protection, we recommend that residential homeowners in SRA pay most of the fee. For example, if the fee were assessed entirely on residential structures, the annual fee per residence would be about $310. On the other hand, for example, if the residential fee were supplemented with a $1 per-acre fee on all SRA lands whether developed or not, the annual fee per residence would be reduced to about $270 per year. Because the economic productivity of undeveloped lands can vary considerably, the Legislature may wish to create fee caps or exemptions for certain undeveloped lands that do not generate sufficient revenue to support a fee.

Implementation Issues in Imposing a Fee on SRA Lands. Under current statute, there is no existing fee on SRA landowners. Imposing such a fee will require legislation. In order to achieve revenues in the budget year, it will be necessary for the Legislature to consider and pass fee legislation soon—either in the special session, or shortly thereafter with an urgency clause.

Under our proposal, the SRA fee would be assessed on landowners (homeowners, non-developed landowners, or both). The fee would be included in property tax bills and would be collected by county assessors or controllers. Based on our research, we believe the assessors will need information on parcels in SRA by July or August 2008, to include the fee in the tax bills that go out in September and October, in order to generate fee revenues when property taxes are paid in December 2008 and April 2009.

The cost to the counties of administering the fee will be the responsibility of the state, and will likely be from 5 percent to 10 percent of fee revenues in the first year, with lower costs thereafter. The ability to determine which parcels are in SRA and to quickly update property assessments to reflect a new fee will vary considerably among counties. The department may be able to provide some assistance to the counties in this regard.

If some counties lack the capacity to update property assessments to implement the fee as designed in the budget year, the Legislature could set a 2008-09 revenue target for each county based on the estimated number of houses and acres in the county's SRA. The county assessors could use available information to allocate that revenue target among SRA landowners in the county, until their information systems are updated to assess the fee as designed.

A key policy issue in assessing a fire protection fee is using risk as a factor when setting fee levels. In the long term, we recommend the Legislature use risk as a criterion when setting fee levels. For example, the Legislature could set higher fees on houses or lands that are located in high fire hazard areas, as determined by the department. While it would not be feasible to use fire hazard information to set fee rates in the budget year, the Legislature could include fire hazard as a criterion in the fee structure to be implemented in future years.

Recommend Partial Rejection of Budget-Balancing Reductions

The Governor's budget proposes General Fund budget-balancing reductions of $8 million in areas for which an alternative funding source is not proposed. We recommend the Legislature reject certain reductions totaling $2.1 million. (Increase Item 3540-001-0001 by $2.1 million.)

The budget proposes a number of General Fund budget-balancing reductions for which no alternative funding source is proposed. These proposed reductions—totaling about $8 million—include $3 million in resource management activities, $4.8 million in administration, and $315,000 in the Office of the State Fire Marshal.

We recommend that the Legislature offset the component of the proposed General Fund budget-balancing reduction totaling $870,000 that relates to timber harvest plan (THP) review and enforcement with new fees levied on timber operators. We discuss this recommendation in the "Funding Timber Harvest Plan Review and Enforcement" write-up in the "Crosscutting Issues" section of this chapter.

We recommend approval of the remaining General Fund budget-balancing reductions, with the following exceptions, totaling $2.1 million:

- We recommend the Legislature reject the administration's proposal to reduce funding for vegetation management ($1.1 million). These funds are used by the department to plan for and carry out the removal of vegetation in fire-prone areas. Reducing fire prevention activities, such as this, may increase the state's long-term fire protection costs.

- We recommend the Legislature reject the administration's proposal to reduce funding for hazardous material cleanup ($165,000). These funds are used to clean up contamination caused by leaking fuel storage tanks and other toxic materials. Under state law, the department does not have discretion whether or not to undertake these cleanups. We note that the administration's budget proposal does not include a proposal to exempt CalFire from the state's water quality laws requiring the cleanup of this type of contamination. Thus, if the department fails to adequately clean up contaminated sites, it could be subject to fines and/or penalties.

- We recommend the Legislature reject certain proposed cuts in the department's administrative budget. Specifically, we recommend the Legislature reject the reduction for accounting and audits ($600,000) and contracts and purchasing ($240,000). One of the key activities in these areas is fiscal oversight of the E-Fund. Over the last five years, average E-Fund expenditures from the General Fund have been about $120 million per year. We find that these proposed reductions will impede the department's ability to adequately oversee this large and unappropriated source of funds, thereby increasing the likelihood that inappropriate, nonemergency costs are charged to the E-Fund, increasing the General Fund cost of fire protection.

While our proposal to reject this subset of the proposed budget-balancing reductions will increase the department's General Fund budget above the Governor's proposal by $2.1 million, we note that this increase is more than offset by our proposals to reduce the department's General Fund budget through new fees for fire protection (discussed above) and for THP review and enforcement.

Governor's Wildland Firefighting Initiative

The Governor's proposed Wildland Firefighting Initiative includes augmentations of $33.1 million funded from the proposed insurance surcharge to increase firefighter staffing levels throughout the state, upgrade the department's communication system, and replace the department's helicopter fleet. We recommend the Legislature reject proposals to increase staffing levels statewide and replace the department's helicopter fleet because the administration has not shown that these proposals provide a cost-effective way to provide additional fire protection. We recommend approval of the communication system upgrade, to be funded from the General Fund. (Eliminate Item 3540-001-0217 for $33.1 million. Reduce Item 3540-001-0001 by $9.1 million. Increase Item 3540-006-0001 by $13.3 million)

Administration's Proposals. As we discussed above, the administration is proposing to enact a new surcharge on property insurance in the state. A portion of the proposed new revenues ($44.7 million) would be used to offset the department's General Fund budget for fire protection. The administration also proposes to augment the department's base fire protection budget by $33.1 million in the budget year (and an additional $26 million in 2009-10) with the proposed new revenues. (In addition to the proposed augmentations to the department's budget, there are proposals in OES and the Military Department for firefighting-related augmentations. See our "General Government" chapter of this *Analysis* for a discussion of those proposals.)

Specifically, the Governor's budget includes the following augmentations to the department's budget:

- ***"4-0 Staffing."*** The department's current practice is to staff fire engines with three firefighters. In the past several years, the administration—by executive order—has increased staffing on fire engines in targeted areas in the summer months to four firefighters per engine. In the current year, 4-0 staffing was done by executive order throughout Southern California (costing about $13.3 million, which was charged to the E-Fund). The budget proposes to expand 4-0 staffing statewide during fire season and the months immediately before and after. The budget-year augmentation for this proposal is $28.9 million. (The total cost of this part of the proposal is $42.2 million. The proposed $28.9 million augmentation reflects the net increase in the department's expenditure authority. The proposal would also shift $13.3 million in costs from the E-Fund to the department's base General Fund budget.)
- ***Automatic Vehicle Locators (AVL).*** The department's current dispatch and communications system relies on fire engine or aircraft crews to report their location to the dispatch center. If the department loses contact with a crew, it has to rely on information from the crew's last report to determine where the vehicle or aircraft is located. The administration proposes to upgrade all vehicles and aircraft with a system that will allow the department to automatically determine a vehicle or aircraft's location at all times. This ongoing budget augmentation is projected to cost $4.2 million in the budget year.
- ***Helicopter Replacements.*** The department's helicopter fleet is composed of UH-1H (Super Huey) helicopters procured from the Department of Defense in the early 1990s. This class of helicopter was first produced in the 1960s. While the department keeps up with all FAA-required and manufacturer-recommended maintenance, over time the cost of replacing increasingly rare spare parts will grow. In addition, the department's helicopters are not equipped for night flight. The administration proposes to begin acquiring new helicopters in 2009-10. (The budget proposal submitted to the Legislature includes this component, and if the Legislature approves the budget proposal as a whole, the administration interprets this as authorizing the helicopter replacement

portion to be included in the department's future base budget.) The cost of this proposal is $26 million per year plus additional (unknown) costs for facility upgrades.

Recommend Rejecting Most of the Administration's Proposal. We recommend that the Legislature reject most of the administration's Wildland Firefighting Initiative in the department's budget.

First, we recommend the Legislature reject the proposal to permanently institute 4-0 staffing statewide. While there are likely to be benefits from increasing the number of firefighters on each engine from three to four, the department has not demonstrated that this level of increased staffing is generally cost-effective. Specifically, the administration has been unable to demonstrate that the cost of the proposed significant increase in positions will be offset by an equivalent or greater reduction in emergency fire protection costs. Additionally, the department has not been able to justify why the increased staffing level is needed throughout the state and in all years, rather than targeted to areas of high fire risk or fire seasons of unusual danger. It is also important to note that the department has not estimated the impact from the proposed staffing expansion on its facility costs and capital outlay requirements. The department plans to house the additional firefighters in existing facilities, but most of the department's facilities are at or near full capacity. The costs to create additional capacity in the department's facilities to house the proposed positions are unknown—but could result in substantial increases in the department's capital outlay budget in future years. Finally, we note that the Governor still has the authority to implement 4-0 staffing in targeted areas and times through executive order, as has been exercised over the last several years. (Our recommendation requires both reducing the proposed expenditure from the insurance fund and a technical adjustment to both the department's base General Fund budget and the E-Fund.)

Second, we recommend the Legislature approve the administration's proposal to install AVL systems in its vehicles and aircraft. Since we recommend the rejection of the Governor's proposed insurance surcharge, we recommend this proposal be funded from the General Fund. (We note that our proposed SRA fee would generate revenues sufficient to entirely offset the cost of this augmentation.) We find that this proposal will improve the department's ability to dispatch resources. More importantly, such a system will provide an additional level of safety for firefighting personnel in the field. The proposed system will allow the department to immediately determine a vehicle or aircraft's location if contact with the crew is lost, thereby allowing the department to dispatch assistance quickly in an emergency. While the state's budget situation makes it impractical for the Legislature to approve many program augmentations, we believe the safety benefits for firefighters in the field make this proposal a priority, despite the increased cost.

Finally, we recommend the Legislature reject the administration's proposal to begin replacing the department's helicopter fleet. While it is true that maintenance costs for the existing fleet will increase over the coming years, the department has not shown that increasing maintenance costs make replacement cost-effective at this time. Additionally, the department has provided very little detail on the proposed replacement program. Specifically, the department has not provided detailed information on the required capabilities of the new helicopters, the type of helicopters to be purchased, or specific cost information. Because the department does not intend to begin replacement in the budget year, the Legislature does not have to approve this proposal at this time. We also note that the department indicates that there would be costs to upgrade its helicopter facilities, but that the scope of those costs will not be known until more detail about the new helicopter models is available. Rejecting the proposal in the budget year does not prohibit the department from exploring the cost-effectiveness of replacing its helicopters in future years.

DEPARTMENT OF FISH AND GAME
(3600)

The Department of Fish and Game is responsible for promoting and regulating hunting and fishing for game species, and for promoting resource protection for all California native plants, fish, and wildlife. The Fish and Game Commission sets policies to guide the department in its activities. The department currently manages about one million acres including ecological reserves, wildlife management areas, hatcheries, and public access throughout the state.

The budget proposes total expenditures of $393 million from various sources, a decrease of about $147 million below estimated current-year expenditures. Most of this decrease reflects a reduction in available Proposition 50 bond funds ($57 million), an adjustment to anticipated federal reimbursements ($36 million), and various General Fund budget-balancing reductions ($8.4 million) in the budget year. Of the total proposed expenditures, $87 million comes from the Fish and Game Preservation Fund (FGPF) (22 percent), $75 million from the General Fund (19 percent), $51 million from federal funds (13 percent), $49 million from Proposition 84 bond funds (12 percent), and the rest from reimbursements and other special and bond funds.

Several of the programmatic changes in the department's budget relate to expenditure of Proposition 84 funds, including expenditures for the CALFED Bay-Delta ecosystem restoration program ($21 million), anadromous fish management ($11 million), and Salton Sea Restoration activities ($11 million).

LAO Recommended Fee Proposals Can Partially Offset Budget-Balancing Reductions and Generate Additional Savings

As part of its budget-balancing reduction proposal, the administration proposes to reduce the department's General Fund budget by $1.7 million in the current year and $8.4 million in the budget year. We recommend the Legislature increase fees or create new fees for regulatory

programs and shift funding for law enforcement activities to a special fund to offset the Governor's General Fund reductions for these activities and create additional General Fund savings. We also recommend that the Legislature partially reject the proposed General Fund reduction for administrative activities. The net effect of our recommendations would be an additional $6.6 million in General Fund savings in the budget year. (Reduce Item 3600-001-0001 by $6.1 million. Reduce Item 3600-001-0140 by $650,000. Reduce Item 3600-001-0890 by $100,000. Reduce Item 3600-101-0001 by $500,000. Increase Item 3600-001-0200 by $6.3 million. Increase New Special Fund Item by $3.5 million. Increase Item 3600-001-0320 by $2.6 million.)

Governor's Budget-Balancing Reductions. The Governor's budget proposal includes General Fund budget-balancing reductions of $1.7 million in the current year and $8.4 million in the budget year. These reductions are spread across several program areas within the department, as shown in Figure 1.

Figure 1

Department of Fish and Game, Governor's Proposed Budget-Balancing Reductions

General Fund (In Thousands)

	2007-08		2008-09	
	Amount	**PYs**	**Amount**	**PYs**
Biodiversity conservation	$1,400	—	$3,580	22
Hunting, fishing and public use	165	—	1,189	3
Administration	152	—	964	—
Law enforcement	—	—	2,634	38
Totals	**$1,717**	**—**	**$8,367**	**63**

As is shown in the figure, the budget-balancing reductions will impact a number of program areas, including regulation and enforcement of existing environmental and natural resource laws. In particular, the administration proposes to reduce the department's review of California Endangered Species Act permits, Natural Communities Conservation Plans (NCCPs), and timber harvest plans (THPs). The administration also proposes to eliminate 38 Fish and Game warden positions.

Recommend General Fund Reductions for Regulatory Programs Be Offset With Increased Existing and New Fee Revenues. Several of the program areas proposed for reductions are regulatory program activities that currently receive some fee-based support or could be supported with revenues from new fees. In particular, the following program areas have existing fees or could be supported by fees:

- ***California Endangered Species Act Review.*** State law requires the protection of all species that are designated as threatened or endangered. The department has statutory responsibility to enforce these laws and is also empowered to grant permits for "incidental take" of protected species where activities—such as development—can be done in a way that does not threaten protected species' long-term survival. Currently, there is no existing fee for this activity in statute.
- ***NCCP Review.*** In state law, there is an alternative to the Endangered Species Act approach of looking at individual species. Under the Natural Communities Conservation Planning Act, government agencies and/or private entities can create long-term, ecosystem-based conservation plans designed to protect multiple threatened or endangered species. This system allows for a more comprehensive approach to species protection, while at the same time giving the proponents of a plan assurances about future regulation, thereby allowing them to proceed with projects that may impact species in the future. Under state law, the department is required to review and approve any proposed NCCP. Existing law allows the department to recover its costs through fees, but currently there is no fee in place.
- ***THP Review.*** We discuss the department's role in the review and enforcement of THPs in our "Funding Timber Harvest Plan Review and Enforcement" write-up in the "Crosscutting Issues" section of this chapter. In current statute, there is a fee charged by the department for THP review—although the fee does not cover the department's full cost of carrying out review activities.

Currently each of these programs is either partially supported by fees or could be, based on the "polluter pays" principle and the "beneficiary pays" principle. In each case, the department is responding to proposals by the regulated community that impact natural resources. Because the department's efforts in these programs are driven directly by the activities of the regulated community, we think it is appropriate that the regulated community pay the full cost of operating these regulatory programs. Additionally, approval by the department benefits the regulated community by allowing revenue-generating projects to proceed. Therefore, we recommend that the Legislature:

- Enact legislation to create a new fee to fully fund the review of California Endangered Species Act permits and correspondingly increase the department's expenditure authority to allow it to spend $3.7 million in new fee revenues from the Fish and Game Preservation Fund;
- Increase the department's expenditure authority to allow it to spend $3 million in new fee revenues from the Fish and Game Preservation Fund collected under the Natural Communities Conservation Planning Act;
- Increase the department's expenditure authority to allow it to spend $3.5 million in additional fee revenues from a new special fund to support the review of THPs (we discuss the legislation required to create the new fee and the special fund in our "THP" write-up in the "Crosscutting Issues" section of this chapter) and decrease the department's appropriation from the Fish and Game Preservation Fund by $443,000 to reflect a shift in funding for this activity to the new fund.
- Reduce the department's General Fund appropriation by $7.3 million to reflect these funding shifts.

Offset General Fund Reductions for Law Enforcement With Special Funds. In addition to the regulatory programs proposed for reduction, the administration proposes to reduce General Fund support for the department's Law Enforcement Division. Since 1999, the number of authorized game warden positions has declined about 30 percent—mostly due to budget cuts which eliminated vacant positions. At the same time, the department's environmental protection responsibilities have increased—including new programs such as the Marine Life Protection Act and increased invasive species prevention. We find that additional reductions in game warden staffing levels will make it increasingly difficult for the department to meet its statutory mandates for environmental protection and the preservation of fishing and hunting opportunities.

We believe that the proposed General Fund budget-balancing reduction in the Law Enforcement Division can be offset in the budget year and subsequent years by providing additional special fund support for this program, as discussed below.

The Office of Spill Prevention and Response (OSPR) within the department is responsible for preparation and response to oil spills. The OSPR is principally funded by the Oil Spill Prevention Administrative Fund (Administrative Fund), which is a special fund supported by a surcharge on imported oil. In the event of an oil spill—such as the recent Cosco Busan spill in the San Francisco Bay—some of the first personnel on the scene from the department are game wardens. The department's dispatch system and patrol boats allow game wardens to be directed quickly to an area where there is a potential oil spill. Currently there are about 20 game wardens assigned to OSPR and supported by the Administrative Fund. (These wardens participate in oil spill prevention and response activities, as well as enforcing the rest of the department's statutory responsibilities.) Once on the scene of an oil spill, game wardens can use the department's dispatch system to coordinate response activities with OSPR, the U.S. Coast Guard, and other response agencies.

We therefore recommend that the Legislature appropriate $2.6 million from the projected balance of the Administrative Fund to offset the proposed General Fund budget-balancing reduction in the Law Enforcement Division. (We note that the Administrative Fund has a persistently large fund balance that can accommodate this augmentation for at least five years at current fee levels and program activity.) Because oil spills occur intermittently and can occur in any coastal waters, we do not recommend assigning additional game wardens to OSPR full-time. Rather, we believe that using the Administrative Fund to support a portion of the existing positions in the Law Enforcement Division will provide the department with the continuing capacity to use game wardens to respond to oil spills, while allowing them to continue to carry out other department responsibilities. (While the department can recoup its costs for all response activities from the parties responsible for the spill, it is important that the department has the resources in place to respond to an oil spill event.)

Our recommendations for fee increases, new fees, and funding shifts in order to offset the Governor's budget-balancing reductions in the budget year are summarized in Figure 2.

Administrative Program. Of the $964,000 in proposed General Fund budget-balancing reductions for the budget year in the department's administrative program, we recommend the Legislature reject the proposed reductions for training ($400,000) and accounting services ($287,000). Cutting the department's training budget may reduce the department's ability to fill vacant game warden positions—a legislative priority in the current year. The department, like many state agencies, faces a large number of retirements in coming years. Reducing the department's training budget will decrease its capacity to prepare new and existing employees for future leadership positions in the department.

Given the complexity of the department's funding sources (27 different funds and dozens of accounts within some of those funds), the department's administrative personnel must keep careful track of program budgets and activities to ensure that activities are funded from the correct fund or account. Reducing the department's accounting capacity would reduce the department's ability to effectively oversee its complex budget. Improving the department's fiscal management has been a legislative priority in recent years. Reducing the department's accounting capacity may undo progress made by the department in recent years. These relatively modest General Fund restorations totaling $687,000 are easily offset by the additional General Fund savings created by adopting our fee-based recommendations above.

Figure 2

Department of Fish and Game, LAO Recommended Fee Proposals and Funding Shifts

(In Thousands)

Program Area	Workload Budget[a]	Governor's Proposed General Fund Reduction	Budgeted Fee Support	LAO Recommended Fee Increase/ Special Fund Offset	Statutory Change Required?
California Endangered Species Act Review	$3,700	-$500	—	$3,700	TBL to create fee
Natural Communities Conservation Plan Review	3,000	-850	$750[b]	3,000	None
Timber Harvest Plan Review	3,500	-350	443	3,500	TBL to create new fee structure
Law Enforcement	60,308	-2,634	—[c]	2,634	None
Totals	**$70,508**	**-$4,334**	**$1,193**	**$12,834[d]**	

a All fund sources. Does not include Governor's proposed General Fund budget-balancing reductions.

b The NCCP review program receives $650,000 from the Environmental License Plate Fund and $100,000 in federal funds.

c The Law Enforcement Division receives support from several funds, some of which are supported by fee revenues. However, there is no dedicated law enforcement fee mechanism.

d Adopting LAO fee recommendations serves to (1) offset Governor's proposed General Fund reductions of $4.3 million (thereby avoiding program reductions) and (2) create additional General Fund savings (beyond Governor's budget proposal) of $7.3 million.

The net effect of our recommendations for fee increases, funding shifts, and rejected General Fund budget-balancing reductions is a General Fund savings of $6.6 million beyond the Governor's proposal.

WILDLIFE CONSERVATION BOARD (3640)

The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The budget proposes $4.3 million for support of the board's state operations in 2008-09, essentially the same level of expenditure as in the current year. The WCB's support funding comes from a number of fund sources, including the General Fund, the Wildlife Restoration Fund, the Habitat Conservation Fund (HCF), the Environmental License Plate Fund, and bond funds. The budget also proposes $58 million for capital outlay expenditures—including $21 million from the General Fund (transferred to HCF) and $35 million from Proposition 84. This is a decrease of $813 million (or 93 percent) from estimated current-year expenditures. The decrease reflects the drawing down of Proposition 50 and Proposition 84 bond funds available to WCB in prior years. (Much of these bond funds are continuously appropriated. The budget displays them as being expended in the current year, but in fact they will be spent over a number of years.)

Use Special and Bond Funds Instead of General Fund for HCF

The budget proposes to transfer $20.8 million from the General Fund to the Habitat Conservation Fund, pursuant to a statutory requirement. We find that there are available special and bond funds that could be used in lieu of the General Fund. We recommend the Legislature appropriate $10.9 million from the Natural Resources Infrastructure Fund and $9.9 million in Proposition 1E bond funds to replace the proposed General Fund transfer. (Eliminate General Fund transfer to the Habitat Conservation Fund in the amount of $20.8 million. Add Item 3640-311-0383 in the amount of $10.9 million. Add Item 3640-311-6052 in the amount of $9.9 million.)

The Habitat Conservation Fund. The California Wildlife Protection Act of 1990 (Proposition 117), was enacted by the voters in 1990. Among other provisions, Proposition 117 requires an annual transfer of $30 million of specified state funds to HCF until 2020. Proposition 117 allocates HCF funds to various agencies—including $21 million to WCB—for specific programmatic goals (listed below) divided between Northern and Southern California:

- Acquisition of habitat—including oak woodlands, for the protection of deer and mountain lions;
- Acquisition of habitat—to protect rare, endangered, threatened, or fully protected species;
- Acquisition of habitat—to further implement the Habitat Conservation Program (protection of unique species or natural communities of species);
- Acquisition, enhancement, or restoration of wetlands;
- Acquisition, enhancement, or restoration of aquatic habitat for salmon and trout;
- Acquisition, restoration, or enhancement of riparian habitat.

Under Proposition 117, funds to be transferred to HCF come from the General Fund unless other, eligible funds are transferred. Eligible fund sources for HCF include the Cigarette and Tobacco Products Surtax Fund (Proposition 99), the Environmental License Plate Fund, the Wildlife Restoration Fund, and any bond funds authorized after 1990, for which the allowed uses match the purposes of Proposition 117. In previous years, Proposition 50 bond funds were used to fulfill Proposition 117's requirements, reducing the General Fund transfer amount. Under the Governor's budget proposal, $8 million comes from Proposition 99 funds, $20.8 million comes from the General Fund, and $1 million comes from Proposition 50.

Using Special and Bond Funds to Replace the General Fund Obligation to HCF. Based on our analysis, there are available special and bond funds that could be used to replace the General Fund obligation to HCF in the budget year and future years. We therefore recommend that the Legislature eliminate the General Fund transfer to HCF in the budget year and replace those funds with specified special and bond funds, thereby saving the General Fund $20.8 million in the budget year and like amounts in future years.

Using the Fund Balance in the Natural Resources Infrastructure Fund. Under previous statute since repealed, revenues from the production of oil on state lands or in tidal waters (known as tidelands oil revenues) were—in part—deposited in the state's Natural Resource Infrastructure Fund (Infrastructure Fund). Monies in this fund were used—under the previous statute—for environmental review, land acquisition, pollution control, and other natural resource-related activities. In 2006, statute was amended to direct all future tideland oil revenues into the General Fund. This statutory change also deleted the parameters that governed the use of the Infrastructure Fund. Currently, the Infrastructure Fund has a balance of $10.9 million, with no foreseeable draw on these funds. We recommend that the Legislature appropriate $10.9 million from the Infrastructure Fund to HCF, to partially offset the General Fund obligation in the budget year. Because there are no longer any statutory requirements for the use of the Infrastructure Fund, we believe that WCB can allocate them to any of the allowed uses for HCF funds.

Using Proposition 1E Bond Funds. In 2006, the voters enacted Proposition 1E, which provides $4.1 billion for flood control and prevention projects. The Department of Water Resources (DWR) has begun using Proposition 1E funds to repair flood control levees and will ultimately use some of the approved bond funds to purchase land for flood bypasses as a flood control mechanism.

Proposition 1E does not include any funds specifically allocated for wildlife habitat acquisition or restoration. However, as part of most levee repair, replacement, or new construction projects, DWR is required under current law to perform wildlife habitat mitigation. The DWR is still preparing estimates of the total cost for mitigation from its planned flood control projects. However, a review of a sample of DWR's levee restoration projects found that environmental mitigation costs ranged from 20 percent to 50 percent of project costs. A conservative estimate that environmental mitigation costs will comprise 10 percent of future project costs yields total mitigation costs of $300 million for Proposition 1E-funded flood control projects in the Central Valley and Delta regions.

Based on the allowed uses of HCF and the availability of environmental mitigation funds from Proposition 1E, we believe that the Legislature can appropriate funds from Proposition 1E to HCF—satisfying the requirements of Proposition 117. Therefore, we recommend that the Legislature appropriate $9.9 million from Proposition 1E to HCF in the budget year and about $21 million per year thereafter. Also, we recommend the Legislature adopt budget bill language directing WCB to spend those funds in a manner that both provides mitigation for DWR's flood control projects and meets the criteria of Proposition 117.

California Coastal Commission (3720)

The California Coastal Commission, following its initial creation in 1972 by a voter initiative, was permanently established by the State Coastal Act of 1976. In general, the act seeks to protect the state's natural and scenic resources along California's coast. It also delineates a "coastal zone" running the length of California's coast, extending seaward to the state's territorial limit of three miles, and extending inland a varying width from 1,000 yards to several miles. The commission's primary responsibility is to implement the act's provisions including regulation of development in the coastal zone. It is also the state's planning and management agency for the coastal zone. The commission's jurisdiction does not include the San Francisco Bay Area, where development is regulated by the San Francisco Bay Conservation and Development Commission.

The Coastal Commission has its headquarters in San Francisco and operates six regional offices throughout the coastal zone. The commission proposes expenditures totaling $16.6 million in 2008-09. This is a decrease of $483,000 or 3 percent below estimated expenditures in the current year. This reflects a proposed budget-balancing General Fund reduction in the budget year of about $1.2 million, of which $1 million is for permitting, enforcement, and local coastal plan reviews in the coastal management program. This reduction is partially offset by a proposed increase of $524,000 for information technology and other operating expenditures to be funded with special funds.

Stable Funding Source Available for Commission's Permitting Functions

We recommend a number of actions to stabilize funding for the California Coastal Commission by giving the commission the authority to retain its fee and penalty revenues and directing that permitting and enforcement costs be recovered to the extent practical from fees and other non-General Fund sources. This would allow the Governor's proposed

budget balancing reduction of $1 million to be offset by fees and result in additional General Fund savings of $1 million in the budget year. (Reduce Item 3720-001-0001 by $1 million and Item 3720-001-0593 by $524,000; and increase new special fund item by $2.5 million.)

Commission's Permitting Authority Over Coastal Development. The commission's core program activities include issuing and enforcing permits for coastal development. The commission carries out permitting activities in those areas where a local government within the state's coastal zone does not have a local coastal plan (LCP) certified by the commission. Under current law, the commission has the authority to charge fees for these activities. In jurisdictions with a certified LCP, coastal development permits are processed and issued by the local government, and are only seen by the commission if an appeal is filed on the basis that the permitted development conflicts with the Coastal Act. Currently, 36 local areas with LCPs remain to have permit authority transferred from the commission to the locals.

General Fund Supports Most of Commission's Permitting and Enforcement Activities. The budget proposes about $10.3 million for the commission's permitting and enforcement activities in 2008-09. Of this amount, about $6.6 million is from the General Fund with the balance from federal funds and reimbursements. This amount reflects the result of proposed budget-balancing reductions of $956,000 for permitting, enforcement, and local coastal plan reviews in the coastal management program, and $52,000 for energy infrastructure project review. The budget also projects that the commission will have permit fee revenues of $2.3 million and penalty revenues of $150,000 in the budget year.

The reliance on the General Fund to pay for most of its core program needs has lead to increasing instability in the funding of the commission. As the state has faced budget shortfalls, General Fund support for core permitting and enforcement activities at the commission has been reduced. Specifically, General Fund support for permitting and enforcement activities decreased during the early part of this decade and increased modestly after 2004-05. The recent increase in funding, however, has been more than offset by increasing workload, particularly in the review of complex development proposals, such as desalination and natural gas facilities. Accordingly, backlogs in the commission's permitting and enforcement activities have developed.

Current Law Requires Transfer of Commission's Permit Fees and Penalty Revenues. Under current law, permit fee revenues collected by the commission are not retained by the commission. Rather, all of the commission's permit fee revenues are transferred to the Coastal Access Account in the State Coastal Conservancy (SCC), to be used to fund activities related to the development and operation of coastal public access permits. Similarly, the commission's enforcement fine and penalty revenues are required to be transferred to the Violation Remediation Account in SCC, to be used to carry out the general purposes of the Coastal Act. The budget proposes to amend the statutorily eligible uses of the Coastal Access Account. However, at the time this analysis was prepared, the trailer bill language was not available.

Previous LAO Recommendation to Increase Permit Fees, Stabilize Budget. We have previously recommended that the commission's permitting fees be increased so that its permitting and enforcement costs are fully covered from fees and other non-General Fund sources (see the *Analysis of the 2004-05 Budget Bill*, page B-57). We argued that this would provide a more stable funding source for the commission. At the time, we noted that the commission's permit fees were relatively low in comparison to fees charged by local governments for comparable development projects. We also recommended the enactment of legislation to (1) delete a current-law requirement that the commission's permit fee and penalty revenues be transferred to accounts administered by the SCC and (2) establish a special fund at the commission for the deposit of the commission's fee and penalty revenues.

Progress Made on Stabilizing Funding. While legislation has not been enacted to allow the commission to retain the permit fee and penalty revenues, progress has been made on stabilizing funding. Specifically, the commission, under its broad fee authority, recently increased permit fees. As a result, the commission projects that permit and fee revenues will increase to $2.3 million in the budget year, an increase of about 53 percent from the current year. The regulations to implement these increases are currently under Office of Administrative Law review, and revenues from the increases are assumed both in the current- and budget-year projections. However, the revised fees do not fully cover the costs of the commission's permitting, enforcement, and related activities, nor did the commission intend to do so. According to the commission, the proposed fee structure would (1) establish fees that are based on the average costs the commission incurs in processing permit applications and filings, and (2) increase fee revenue to constitute about 50 percent of a specified subset of the commission's overall regulatory costs and budget.

Commission Unable to Process Permits in Timely Manner. As a justification for increasing permit fees, the commission has proposed to shorten the time it takes to process permits internally. There are several statutory time requirements governing this process. For example, the commission has six months to review some applications for development. The commission has reported that it is unable to meet some of these time limitations on processing permits, and in effect has rejected permits that might otherwise have moved forward due to lack of funding and staff capacity. With these increased revenues, the commission believes that it will be able to shorten these delays.

Assessment of Fines and Penalties Is a Costly Process. Currently, in order for the commission to issue a fine or penalty, the commission must file a case in the superior court. This process is cumbersome and results in few fines and penalties issued by the commission due to the high cost of pursuing enforcement through the courts. This, in turn, is reflected in the commission's budget where enforcement fines and penalty revenues remain stable at $150,000, with no change from the current year. By contrast, based on our review of other state and local regulatory agencies in the resources area, those which administratively assess fines/penalties tend to have this as a growing source of support for their enforcement activities.

Fees Should Cover Most Permitting and Enforcement Costs. We continue to believe that fees levied on permittees/developers should, along with other non-General Fund funding sources, cover the commission's costs to issue and enforce permits to the extent practical. (Based on discussions with the commission, there are some limited instances in which it is not practical to charge fees for certain permitting and enforcement activities.) This is because there is a direct link between the activities carried out by the commission and those who directly benefit from them through their development actions. Funding such activities would be consistent with the Legislature's actions in requiring that the costs of most other environmental regulatory programs, such as those protecting air and water quality, be largely if not totally reimbursed through industry fees and assessments.

Recommend Legislation to Direct Revision of Fee Schedule and to Amend Commission's Enforcement Authority. In view of the above, we recommend the enactment of legislation to direct the commission to increase its fees so that permit fees, combined with other non-General Fund sources including reimbursements and penalties, cover the commission's permitting and related enforcement costs to the extent practical. We further recommend the enactment of legislation enabling the commission to issue fines and penalties directly for enforcement actions, rather than through the court process, as an additional means to stabilize funds available to the commission.

Recommend Legislation to Eliminate Revenue Transfer to Coastal Conservancy. As we previously recommended, in order that permit fee and penalty revenues collected by the commission can be used to support the commission's permitting and enforcement activities, we also recommend the enactment of legislation to delete the current-law requirement that these revenues be transferred to SCC for purposes of developing and maintaining coastal public access. As discussed above, we think that the commission's permitting and enforcement functions are appropriately supported by these particular funding sources. In addition, we find that substantial funding (well over $100 million) remains available from recent bond measures (Propositions 40, 50 and 84) for SCC to improve coastal public access.

Recommend Special Fund Be Created. We also recommend the enactment of legislation to create a special fund in the commission's budget into which fee and penalty revenues would be deposited, with expenditures from the fund subject to appropriation by the Legislature. We think that the Legislature's oversight of, and accountability for, the uses of the funds are facilitated by depositing the fees into a special fund.

Adopting LAO Recommendations Creates General Fund Savings and Allows for Program Restoration. By transferring the commission's fee/penalty revenues to a new special fund to be administered by the commission, there will be about $2 million in additional resources available to the commission in the budget year. We have two recommendations on how to use these new resources available to the commission. First, we recommend that these special fund revenues be used to offset the Governor's proposed General Fund budget-balancing reduction of about $1 million (mostly for permitting, enforcement, and LCP review). Second, we recommend that an additional $1 million General Fund reduction be taken in the commission's budget. Accordingly, even without a fee increase, the commission's programs proposed for reduction by the Governor can be restored and additional General Fund savings created.

Also, adopting our recommendation that the commission increase its permit fees to the extent practical to cover its permitting and enforcement costs will provide the commission with additional resources to address program funding requirements in future years.

DEPARTMENT OF PARKS AND RECREATION (3790)

The Department of Parks and Recreation acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 278 units, including 26 units administered by local and regional agencies. The system contains approximately 1.5 million acres, which includes 4,600 miles of trails, 300 miles of coastline, 970 miles of lake and river frontage, and about 14,800 campsites. The state park system includes parks and attractions that require entrance or use fees and other parks, beaches, and attractions that are free to enter. Almost 80 million visitors traveled to state parks in 2006-07, including more than 50 million visitors to free day-use sites.

The budget proposes $556 million in total expenditures for the department in 2008-09. This is an overall decrease of about $118 million below current-year estimates. This decrease reflects about $50 million in reduced capital outlay expenditures (mostly special funds), reduced federal funding (a decrease of $28 million), and about $13 million in General Fund budget-balancing reductions.

After accounting for the proposed budget balancing reductions, the budget proposes $405 million in departmental support, $45 million in local assistance, and $105 million in capital outlay expenditures. Of total departmental spending, $137 million comes from the General Fund, $122 million comes from the State Parks and Recreation Fund (primarily fee revenues), $115 million comes from bond funds, and $90 million comes from the Off-Highway Vehicle Trust Fund.

Major budget proposals include (1) a budget-balancing reduction of $13 million achieved largely by closing 48 state parks and beaches and (2) increases of $46 million in local assistance grants (bond funds and special funds); $20 million (special funds) and 84 positions to expand the

Off-Highway Vehicle program; $17 million in bond funds for deferred maintenance and other park improvement projects; and $3 million General Fund to add 29 park ranger positions in order to improve fire prevention in state parks.

GOVERNOR'S BUDGET-BALANCING PROPOSAL DOES NOT CONSIDER OPPORTUNITIES TO INCREASE USER FEE REVENUES

As part of its budget-balancing plan, the administration proposes to close 48 state parks and eliminate lifeguards at certain state beaches in order to save $13.3 million in General Fund support. Separate from the budget-balancing proposal, the department's maintenance needs far exceed its maintenance budget, leading to a deferred maintenance backlog of approximately $1.2 billion. We find that user fees in the state park system are comparatively low and have not kept up with inflation over the last decade. We recommend the Legislature direct the department to increase total park fees by $25 million. Of this amount, we recommend using $13.3 million to offset the Governor's proposed General Fund budget-balancing reduction and using the remaining $11.7 million to augment the department's maintenance budget. (Increase Item 3790-001-0392 by $25 million.)

Governor's Budget-Balancing Reduction

The Governor's proposal to balance the state's budget includes a General Fund budget-balancing reduction of $13.3 million. The administration proposes to cut $8.9 million from park operations and $4.4 million in related administrative costs. In order to achieve the savings in park operations, the administration proposes to eliminate 124 positions in park operations, closing 48 state parks, and reducing or eliminating lifeguards at state beaches in Orange, San Diego, and Santa Cruz Counties. While the proposed closures are projected to save $13.3 million in General Fund support, they would also reduce fee revenues generated by these parks by $3.7 million. (However, the budget does not propose to reduce the department's expenditure authority from fee-based special funds by this amount.)

Ongoing and Deferred Maintenance at State Parks

The state park system includes 278 units, of which about 250 are directly managed by the department (the remainder are mainly managed by local governments). These park facilities vary from state beaches, to historic parks, to off-highway vehicle recreation areas. The department estimates that almost 80 million people visited the system in 2006-07. The size and breadth of the state park system, heavy usage by the public, and the fact that so much of the system's infrastructure is exposed to the elements means that the department has a significant obligation to perform maintenance activities.

Based on its internal facility management program, the department estimates that its ongoing maintenance needs exceed its maintenance budget by almost $120 million per year. (This imbalance between ongoing maintenance funding and identified need has persisted for many years.) Over the years, the difference between ongoing maintenance needs and available funds has created a backlog of deferred maintenance projects—currently estimated at $1.2 billion. Typically, these projects encompass the replacement or rehabilitation of an existing asset that has not been adequately maintained—such as water or sewer systems. Given the current shortfall between the department's maintenance budget and its estimated maintenance requirements, this backlog will likely continue to grow over time unless corrective action is taken.

The Governor's budget proposal does include $12 million in bond funds for deferred maintenance projects and an additional $4 million in bond funds for projects which may address deferred maintenance projects (the department does not yet have project lists for these proposals). However, the budget proposal does not address the ongoing maintenance deficit of the state park system, as it proposes no additional funding for this purpose.

Fee Revenues at State Parks

State Park Fees. Fees charged for use of the state park system vary considerably. Some parks and state beaches have no entrance fees while other parks do charge a fee for use. (Typically, entrance fees are assessed on vehicles entering the park, rather than on individual visitors. At most state parks, visitors can walk in for free.) Entrance fees vary between $2 and $10 per vehicle, with most parks charging from $5 to $7 per vehicle. The department also charges fees for camping. Camping site fees vary from $9 to $200 per night, with most fees between $15 and $40 per night, depending on the demand for camping sites and/or the costs of operating them. While the bulk of the department's fee revenues come from parking and camping fees, some parks charge for other services, such as tours or access to specific attractions. Also, it is important to note that the largest component of state park system attendance is unpaid—that is people visiting parks that do not charge entrance fees or walking into state parks.

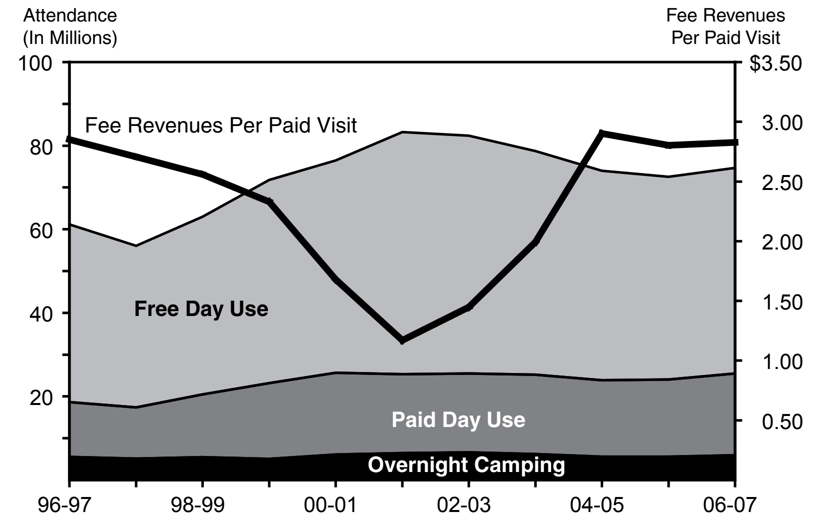
(Throughout this section, we refer to attendance and fees as those collected at non-off-highway vehicle parks. The department's off-highway vehicle program has separate funding sources from the rest of the department's operations and is not included in this analysis.)

Fee Revenues Are Low and Not Keeping up With Inflation. Because fees vary by location, service provided, and time of year, it is difficult to compare specific fee levels over time. Rather, we use the average fee revenue generated per paid visitor to make comparisons across time. Figure 1 illustrates fee revenues per visitor over time as well as attendance at the state park system, broken out by free day use, paid day use, and camping use. In 2006-07, the last year for which data are available, fee revenue per paid visitor to the state park system was $2.83. (As was mentioned above, most park entrance fees are charged per vehicle or per campsite. Therefore the *individual* cost of using the park is typically much less than the posted fee level.) As is shown in Figure 1, fee reductions in the late 1990s led to declining fee revenues per visitor. To some extent, these previous fee reductions were reversed early in this decade, leading to rising fee revenues per visitor. However, they have now returned to previous levels. Once fee revenues are adjusted for inflation, we find that the real value of fee revenue per visitor has declined. If fee revenues were adjusted to

Figure 1

State Park System Attendance and Fee Revenues

Non-OHV



keep up with inflation over the last decade, fee revenue per visitor would be $3.81 per paid visit, rather than the actual revenue of $2.83 per paid visit. In 2006-07 year, total fee revenues were approximately $25 million lower than they *would have been* had fees kept up with inflation over the last decade.

Impact of Fees on Park Attendance. In the past, concerns have been raised about the effects of proposed fee increases on attendance at the state park system. We find that while park system attendance varies over time, paid attendance to the system does not seem to be very sensitive to changes in park fees, as shown in Figure 1. Specifically, the long-term trend of increasing *paid attendance* does not seem to change significantly due to increases in fees. As reflected in the figure, paid attendance has remained relatively stable during the period of fee increases that began around 2002-03 and continued in subsequent years. There are several reasons to believe that park visitors will not significantly reduce their use of state parks if fees are increased:

- Park fees represent only a portion of the total potential cost of attending a state park—including the costs for gasoline, lodging, food, and recreational equipment. A modest increase in park entrance fees is not likely to have a very significant impact on the total cost to the visitor of using state parks.
- Visiting a state park is a relatively low-cost (and often no-cost) entertainment option for California residents. Over the last decade, the cost to visit the state park system has remained essentially flat at about $2.85 per visitor. In comparison, the average cost of a movie ticket in the United States has increased from $4.42 to $6.55.
- The department has programs to provide discounted fees for certain senior citizen, low-income, and disabled veteran park visitors who may be more sensitive to price increases. These programs could work to offset the impact of increased fees on low-income park visitors.
- The department has the authority to adjust fees by park unit and service provided. This gives the department the ability to raise fees at parks where there is high demand, making a general decline in attendance less likely. Also, the department can target fee increases in such a way as to avoid large increases at parks that are visited by more low-income persons.

LAO Recommendations

Increase Park Fees to Keep up With Inflation. We recommend the department increase its fees to keep up with inflation over the last decade. Specifically, we recommend that the department increase its fee revenue projections for the budget year by $25 million, and that the department adopt updated fee schedules to achieve this revenue increase. As the department has done in the past, we recommend it target fee increases to high-demand parks to minimize any potential impact on attendance.

Fee Revenues Can Offset Budget-Balancing Reduction Amount, Thereby Avoiding State Park Closures. We believe that increasing fee revenues by the recommended amount will be sufficient to allow the department to avoid closures of any state parks or beaches. Our increased revenue projection would be sufficient to fully offset the Governor's budget-balancing reduction of $13.3 million in General Fund, thereby avoiding park or beach closures and the potential loss of $3.7 million in fee revenues due to the closures.

Dedicate Remaining Revenue Increases to Ongoing Maintenance. In order to slow the growth in the department's deferred maintenance, we recommend that the remaining revenue from the fee increase (about $11.7 million) be used for ongoing maintenance of the state park system. We also recommend that the budget bill provide the requisite increased expenditure authority for ongoing maintenance.

IMPROVING FIRE PREVENTION AT STATE PARKS

The administration proposes to augment the department's budget by $3 million (General Fund) and 30 park ranger positions ostensibly to reduce the danger of wildland fires in state parks. We find that the proposed augmentation is not justified as a cost-effective means to improve fire prevention and therefore recommend that the proposal be rejected. (Reduce Item 3790-001-0001 by $3 million.)

Fire Protection in State Parks. The department operates and maintains about 170 park units that are located in rural areas and have potential wildland fire risk. In two of these parks, the department provides its own firefighting capability. In the remaining 168 parks, the department has a contract with the Department of Forestry and Fire Protection (CalFire) to provide wildland fire response. Throughout the state park system, the department is responsible for preventing wildland fires by reducing fuels through vegetation thinning and prescribed burns. The department does this by developing plans for vegetation removal and prescribed burns, based on the fire hazard and the natural resource characteristics of individual parks. These activities are then performed by department maintenance staff, CalFire, and other fire response agencies. Over the last decade, there have been about 100 fires of ten acres or more in state parks.

Budget Proposal. The Governor's budget proposes $3 million General Fund for increased fire prevention in the state park system. The proposal would fund 30 new park ranger positions statewide and related equipment and vehicles. According to the department, the additional park ranger positions requested would not participate in fire prevention or in firefighting activities. Rather, the requested positions would be used to augment the department's law enforcement presence in state parks—potentially deterring park visitors from accidentally or intentionally starting fires—and reporting fires to firefighting agencies.

Recommend Against Budget Proposal. The department's primary responsibility with regard to wildland fire is prevention. Park rangers are not directly involved in prevention activities. We find that adding park ranger positions will not address the department's primary responsibility with respect to wildfire—vegetation management and prescribed burns. In addition, while there may be *general* law enforcement benefits from adding park ranger positions, the department has not demonstrated that adding 30 park rangers across the entire park system will cost-effectively prevent human-caused fires in state parks. We therefore recommend the budget request be denied.

CONCESSION AGREEMENTS

The budget includes proposals for four concession agreements requiring legislative approval. While we find three of the proposals warranted, we recommend the Legislature withhold approval of one of the proposals, pending delivery of a final economic feasibility study.

Under current law, the Legislature is required to review and approve any proposed or amended concession contract that involves total investment or annual gross sales over $500,000. Concessions are private businesses operating under contract in state parks to provide services such as food preparation that are not normally provided by the state. The Legislature is also required to approve most types of operating agreements, in which one governmental entity operates and maintains another entity's facility. In some cases the department contracts with local government agencies to operate state park facilities while in other cases the department agrees to operate federal or local facilities. In past years, the Legislature has provided the required approvals in the *Supplemental Report of the Budget Act*.

As shown in Figure 2, the department has included four concession proposals in the budget that require legislative approval. While we find three of the proposals warranted, we recommend the Legislature withhold approval of one of the proposals that lacks sufficient detail.

Figure 2

Department of Parks and Recreation Concession Proposals

	Term (In Years)	Minimum Rent To State (Annual)	Minimum Capital Investment
State Park Concession Proposals			
Angel Island State Park			
• Tours and food service	Up to 10	$50,000 or 6% of sales[a]	$350,000
Lake Oroville State Recreation Area			
• Bidwell Canyon Marina Concession	Up to 30	$300,000 or 8.5% of sales up to $1 million and 10% of additional sales, plus 2% of certain other sales[a]	$4.2 million
Old Town San Diego State Historic Park			
• Historic Replica of the Franklin House	Up to 20	At least 4% of sales	$6.5 million
Pacheco State Park			
• Wind Turbine Concession	Unknown	Unknown	Unknown

a Whichever is greater.

One of Four Proposals Lacks Sufficient Detail. The department has not yet completed the final economic feasibility study for the Pacheco State Park wind turbine concession. Without this information, the Legislature is not able to determine whether this proposal is in the state's interest. It would be premature for the Legislature to approve this proposal before all the pertinent information is available for consideration. Therefore, we recommend the Legislature withhold approval of the Pacheco State Park wind turbine concession proposal, until the department has provided a final economic feasibility study.

Department of Water Resources (3860)

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Project (SWP), which is the nation's largest state-built water conveyance system, providing water to 23 million Californians and 755,000 acres of agriculture. The department also performs public safety functions and prevents damage through flood control operations, supervision of dams, and water projects. The department is also a major implementing agency for the CALFED Bay-Delta Program (CALFED), which is charged with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (the "Delta").

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, IOUs manage the receipt and delivery of the energy procured by the contracts.

Proposed Funding. The budget proposes total expenditures of about $7.7 billion in 2008-09 (including capital outlay), a decrease of $376 million, or about 5 percent below estimated expenditures in the current year. Although this is a net decrease, the proposed DWR budget reflects both spending increases and decreases. As regards decreases, the department's General Fund expenditures ($141 million) are lower in the budget year, largely reflecting reduced General Fund expenditures for Colorado River management and flood control capital outlay. There is also slightly lower spending from bond funds ($1.2 billion), a decrease of $67 million from current-year estimated expenditures. In addition, the CERS budget proposes a decrease of $208 million in the budget year, largely due to decreases in energy contract payments.

Major budget proposals include increases of $598 million (Propositions 1E and 84 bond funds) for flood control investments, including a new "Flood SAFE California" initiative implementing bond-funded programs; $13.5 million (General Fund) for the lining of the All-American and Coachella Canals and related Colorado River management projects; $452 million from Propositions 1E and 84 bond funds for integrated regional water management, mostly for local assistance; $1.8 million (General Fund) to establish the Central Valley Flood Protection Board (formerly the Reclamation Board); and $1.4 million (State Water Project funds) to develop options for an alternative Delta conveyance facility.

The budget total includes $266 million for capital outlay projects, of which $122 million is for the SWP (the costs of which are reimbursed from SWP contractors), and $139 million for flood control (Proposition 1E and reimbursements).

Broad-Based Flood Management Fee Could Create Substantial General Fund Savings

We recommend the enactment of legislation to establish a fee to cover the department's flood management expenditures that provide a direct benefit to property owners in flood zones statewide and those protected by the state Central Valley flood control system. The implementation of this recommendation would result in General Fund savings of about $40 million. (Reduce Item 3860-001-0001 by $40 million and increase new special fund item by a like amount.)

State's Role in Flood Management. In the Central Valley, the state is the nonfederal sponsor of federally authorized flood control projects. For these projects, the state provides capital outlay funds for the construction and repair of flood control structures such as levees, with a federal and local cost share. For approximately 80 percent of the 1,600 miles of federally authorized levees in the Central Valley, the state has turned over operations and maintenance to local reclamation districts, although the state retains ultimate responsibility for the levees and the system as a whole.

The department serves as the lead state agency for predicting and responding to floods both within the Central Valley and outside this system. In addition, outside the Central Valley flood system, the state's role in flood management has traditionally been limited to providing local assistance funds to local governments for flood control projects. In the Delta region, for example, the state does not have an oversight role with respect to local levee construction or maintenance (a majority of the Delta levees—about 700 miles—are located outside the state system). However, because a significant portion of the state's population depends on water supplies that come from the Delta, several initiatives recently have begun to increase the state's role with respect to Delta levees.

Budget Proposal Expands State's Role. The budget proposes $461 million (Propositions 1E and 84 bond funds) to implement the planning and management (state operations) portion of the Governor's proposed Flood SAFE California initiative. The initiative is a multiyear, mostly bond-funded, proposal to (1) reduce flood risk throughout the state, including outside the state system of flood control in the Central Valley, (2) develop sustainable flood management systems statewide, and (3) reduce risk during flood events. In addition, the budget proposes $127 million (Proposition 1E) in capital outlay expenditures for evaluation and repairs within the state system of flood control, and $8.5 million (bond funds) for specific flood control projects. This initiative is an expansion of the state's traditional flood management role.

General Fund Proposed for Baseline Flood Management. The budget includes about $43 million from the General Fund for baseline expenditures (state operations and local assistance) in the flood management program (excluding debt-servicing costs for a flood-related lawsuit settlement). This funding is used for (1) floodplain management to include identifying land subject to flooding and encouraging local land use practices consistent with the existing flood threat, (2) managing the Central Valley Flood Protection Board, (3) maintenance of the state-federal system of flood control including encroachment control and inspection, (4) administration of local flood control subventions, and (5) flood forecasting and natural disaster assistance.

Department Lacks Fee Authority to Cover its Flood Management Costs. The department funds its flood management activities using some baseline General Fund support as well as significant bond funds. The department currently lacks fee authority to cover the costs of its flood management activities that benefit local agencies and/or private parties (such as landowners). This is unlike many other resources and environmental protection agencies where fees currently pay for services the department provides directly to identifiable beneficiaries.

Previous Proposals to Fund Flood Management. The department has previously explored funding a portion of its flood control activities through fees. For example, in the early 1990s, the Reclamation Board explored issuing permit fees for its encroachment control and inspections program. In 2005, the department explored a maintenance assessment on all landowners protected by the entire Central Valley flood control system. In our *2005-06 Budget: Perspectives and Issues (P&I)* (see page 217), we recommended the enactment of legislation to establish a systemwide benefit assessment based on the application of the beneficiary pays principle.

Recommend Broad-Based Flood Management Fee. As noted above, our review finds that the department's existing flood-related activities funded by the General Fund, while largely focused in the Central Valley system, also significantly benefit other flood-prone areas of the state. This includes activity in the Sacramento-San Joaquin Delta through which much of the state's drinking water passes, as well as areas in Southern California in flood zones. We therefore recommend the Legislature enact a flood management fee on the broad segment of the state's population that benefits from the department's flood management activities currently funded from the General Fund. There are a number of options available for structuring the fee, including imposing fees based on current federal flood-zone designations, or seeking a more broad-based fee to include those jurisdictions with locally determined flood zones designations, and taking into account the protection afforded to the property owner by the state Central Valley flood control system.

We also recognize that a package of flood management legislation enacted in 2007 was designed to improve the connection between land use decision-making and resulting flood-related fiscal consequences. For example, the legislation requires local governments to prepare local flood safety plans and gives priority for state funding for flood management to those localities completing these plans. The legislation also makes local governments responsible for contributing their fair share of costs for property damage resulting from the failure of a state flood control project in cases where they have unreasonably approved new development protected by the project. In a similar vein to the 2007 legislation, we recommend that the broad-based flood management fee be structured in a way that provides incentives for local governments who give greater consideration to potential costs and benefits of approving development in flood zones. For example, the fee could be lower for those living in local areas with good land-use planning practices from a flood management perspective and higher in areas lacking such practices.

Legislation Would Need to Specify the Particulars of the Flood Fee. In order for a new broad-based fee to be created for flood management activities, legislation should be enacted to determine the fee structure, the collection mechanism (potentially the fee could be collected as a state surcharge on property tax bills), where the fee revenues are to be deposited (we would recommend the creation of a new special fund), and the eligible uses of the special fund revenues. In addition, for General Fund savings to be realized in the budget year, legislative action to establish the fee would need to be taken soon. Assuming timely enactment, this recommendation could result in General Fund savings of about $40 million in the budget year, as the new fee revenues could replace General Fund support for flood management of a like amount.

Opportunity for General Fund Savings From Colorado River Management Proposal

We recommend enactment of legislation to allow bond funds to be used to pay for canal lining and other Colorado River management projects, as specified in a legal agreement between the state and water users on California's use of water from the Colorado River. Implementation of this recommendation would result in General Fund savings of $13.5 million in the budget year. (Eliminate Item 3860-102-0001 for $13.5 million and Increase Item 3860-101-6051 by $13.5 million.)

The California Plan to Reduce Its Colorado River Water Use. California currently has agreements with the federal government and other Colorado River water users to reduce its annual use of water from the Colorado River to 4.4 million acre-feet. This amount is referred to as the "basic apportionment" of California's rights to use Colorado River water under the "Law of the River." Prior to 1998, California traditionally used more than its basic apportionment, by using water that other water rights holders on the river left unused. Due to increasing demand on the river, a series of agreements were reached between 1998 and 2003 that both required California to develop a plan to reduce its use of Colorado River water as well as complete several local assistance projects designed to increase water availability within the state. These projects included lining canals and creating more storage through groundwater and other means. These agreements are commonly referred to as the California Plan and the Quantification Settlement Agreement (QSA).

State Obligated to Fund Local Assistance for Colorado River Management. As part of the agreement to reduce Colorado River water use, the law implementing the QSA requires the state to provide $235 million in General Fund to finance California Plan projects. Legislation enacted in 1998 provided these funds as a continuous appropriation; $13.5 million of the appropriation remains available for expenditure in the budget year. In addition to the General Fund appropriation, subsequent bond funds have been made available for specified projects to cover increasing construction costs.

Budget-Year Proposal. The department proposes to spend $13.5 million from the General Fund to complete the state's General Fund commitment to the QSA. Of the $13.5 million, $11.2 million is proposed for a project to increase storage through "conjunctive use," that is, a combination of groundwater and surface water storage management. The remaining $2.3 million is proposed to be expended on lining the All American Canal to prevent water seeping through the base of the canal and being lost for use among downstream water rights holders. (The All American Canal brings Colorado River water to the Imperial Valley, feeding into multiple regional water distribution systems.)

Bond Funds Eligible, Available. We find that there are sufficient bond funds available that can be used instead of the General Fund for both the lining of the canal and the conjunctive use project. Funds from Proposition 84 are available for projects to increase water supply reliability and for integrated regional water management, of which conjunctive use and the lining of the All American Canal are eligible project types.

Recommend Legislation to Shift Final $13.5 Million Payment From General Fund to Bond Funds. Current law requires that the General Fund be used to meet the QSA obligations. We recommend that legislation be enacted to allow bond funds to replace the General Fund, while holding the QSA and California Plan whole, to complete California's obligation to reduce its water use from the Colorado River. Implementation of this recommendation would result in General Fund savings of $13.5 million, without negative impact to the proposed projects.

Integrated Regional Water Management Program—Guidelines and Policy Direction Needed Prior to Awards

We recommend rejection of most of the integrated regional water management budget proposal, because program guidelines and legislative policy direction are needed prior to awarding grants. We recommend retaining $2.5 million for program development in the budget year. (Decrease Item 3860-001-6051 by $28.5 million, Decrease Item 3860-001-6052 by $1.5 million, Decrease Item 3860-101-6051 by $319.5 million, Decrease Item 3860-101-6052 by $100 million, and Reject Fund Shift of $6.4 million within Item 3860-001-6031.)

Bonds Provide Funding for Integrated Regional Water Management. Propositions 1E and 84 provide a combined $1.3 billion for integrated regional water management (IRWM) programs, the majority of which is for local assistance. Of this amount, about $900 million from Proposition 84 is allocated among 11 identified regions, while $100 million is for interregional projects. Under Proposition 1E, $300 million is allocated for stormwater-related projects that are consistent with any applicable IRWM plan. Many types of projects would be eligible for bond funding under the broad definition of IRWM, including regional water storage, water quality, stormwater projects, canal lining, and drinking water projects.

Budget Proposes $452 Million Increase in Expenditure Authority. The budget-year proposal includes three separate components related to

IRWM funding: (1) $350 million from Proposition 84 IRWM funding, of which $30.5 million is for state operations and the remaining $319.5 million is for local assistance grants, (2) $102 million from Proposition 1E stormwater management funds, of which $2 million is for state operations and the remaining $100 million for local assistance, and (3) a fund shift of $6.4 million in Proposition 50 bond funds from drought programs to IRWM programs. The budget proposal states that approval of the budget request gives the department authority to spend the entire $1.3 billion. This is anticipated to take place during a nine-year period.

Proposal Lacks Guidelines, Policy Direction. The budget proposes to spend the funds among a broad array of categories including allocation among the 11 regions as required by Proposition 84. However, the department has not completed its guidelines for expenditure of the funds and plans to do so in the budget year. The department estimates that guideline development will require about $2.5 million, split between Proposition 84 ($2 million) and Proposition 1E ($500,000). Previous legislative actions indicated the Legislature's desire for clear guidelines in the IRWM program prior to project awards. In this regard, the Legislature rejected the Governor's 2007-08 IRWM budget proposal, as program guidelines had not been developed and legislative policy direction had not been enacted. Subsequent proposals to provide guidelines for expenditure in legislation—SB 1002 (Perata) and AB 1452 (Wolk)—were not enacted in 2007.

Recommend Funding Guideline Preparation, Deny Implementation Funds. We think the department should move forward with its efforts to implement the bond-funded IRWM program by establishing guidelines necessary for awarding grants, and submitting these guidelines for legislative review. The guidelines should address funding eligibility criteria for awarding both competitive grants within the regions and allocations from the statewide pot. The department should also provide an updated timeline for spending the IRWM bond funds. Accordingly, we recommend the Legislature only approve at this time funding required to complete the IRWM guidelines, which as indicated by the department, should total $2.5 million. Upon receipt of these guidelines, the Legislature will be in a position to consider how and when the bond funding should be appropriated to the department for local assistance grants, and provide any policy direction that it deems necessary in legislation. We therefore recommend denying most of the IRWM funding request (including the proposed funding shift from Proposition 50) until these guidelines are received and reviewed by the Legislature and required legislative policy direction is provided.

Recommend Hearings on State's Water Supply

We recommend joint budget and policy hearings on the state's water supply given related major proposals in the Governor's budget, as well as recent events affecting both the Colorado River supply and water deliveries through the Sacramento-San Joaquin River Delta. We further recommend that the Legislature withhold action on storage and conveyance funding proposals until after such hearings to give the Legislature the opportunity to set its funding priorities.

Multiple New Water Supply Proposals in Budget and Off Budget. The budget includes substantial funding (mostly bond funds) for proposals to increase the reliability of the state's water supply. This funding includes $452 million (bond funds) for IRWM, of which supply and conveyance are projects eligible for funding. In addition to this, the department proposes $1.4 million (ongoing) for environmental studies related to an alternative Delta conveyance facility, with funds from the off-budget SWP (revenues derived from beneficiaries of SWP). The department also proposes $9.8 million in bond funds for feasibility studies for specific surface storage projects being considered by the CALFED Bay-Delta program. These multiple water supply and conveyance proposals build on existing funding for water supply reliability programs and studies funded by the department. Figure 1 describes selected new proposals for supply and conveyance proposed for the budget year.

Figure 1

Selected Water Supply and Conveyance Budget Proposals[a]

(In Millions)

Proposal	Fund Source	Amount
Integrated regional water management (including stormwater management)	Propositions 1E and 84	$452.0
Colorado River management (canal lining and conjunctive use)	General Fund	13.5
CALFED surface storage feasibility studies	Propositions 50 and 84	9.8
Alternative Delta conveyance study	SWP Funds[b]	1.4
System management (integration of flood and water supply systems)	Proposition 84	1.4

a Excludes flood management proposals and Governor's proposed new water management bond.

b State Water Project funds are "off budget."

Governor Proposes New Water Bond. As part of his ten-year Strategic Growth Plan to address the state's infrastructure needs, the Governor has proposed an $11.9 billion water management general obligation bond to be submitted to voters in 2008. The proposal includes elements from the Governor's proposal from 2006 in the amount of $4 billion, but goes significantly further in the magnitude of funding. The allocation of the $11.9 billion among projects and programs to be funded by the measure is as follows:

- ***Water Storage—$3.5 Billion.*** This funding is for the "state's cost share" in the design, acquisition, and construction of surface water storage projects studied by DWR under CALFED—Los Vaqueros (Contra Costa County), Sites Reservoir (Colusa and Glenn Counties), and Temperance Flat Reservoir (Fresno and Madera Counties). The proposed measure also provides that the state's cost share is not to exceed 50 percent of total project costs. The nonstate costs would be funded by the water suppliers who would benefit from the new storage.
- ***Water Conservation—$3.1 Billion.*** This component of the proposal is designed to supplement existing bond authority to support IRWM programs. Funding is proposed as state local assistance for water conservation grants to increase water use efficiency and protect water quality, and reduce energy use, urban and agricultural runoff, and urban effluent.
- ***Delta Sustainability—$2.4 Billion.*** This funding is to implement a strategic plan currently under development for sustainable management of the Delta's multiple uses, resources, and ecosystem.
- ***Water Resources Stewardship—$1.1 Billion.*** This funding is for various restoration projects including restoration of the Klamath River, Sacramento River corridor and tributaries, Salton Sea, and San Joaquin River system.
- ***Water Quality Improvement—$1.1 Billion.*** This funding is to reduce groundwater contamination for sources used for drinking water supplies, assist local community wastewater treatment projects, provide grants for stormwater management projects, and support ocean protection efforts.
- ***Other Critical Water Projects—$700 Million.*** This funding provides specified amounts for water recycling, watershed restoration in fire-damaged areas, and fish barrier removal, including the removal of obsolete dams.

Many Agencies Have a Role in Water Supply and Conveyance. As shown in Figure 2, many boards and departments at the state level have roles that impact water supply and conveyance, in addition to DWR. For the most part, the activities of each of these agencies influence both water supply and conveyance. For example, the Coastal Commission regulates the development of desalination facilities in the Coastal Zone, some of which have been proposed to augment water supply in Southern California. We think it important for the Legislature to consider the roles of these many agencies as it reviews new water supply and conveyance budget proposals.

Figure 2

State Agencies With Water Supply and Conveyance Role

Agency	Role
Department of Water Resources (including State Water Project [SWP])	• Broad water supply planning, local assistance (including for integrated regional water management), and development and operation of SWP
State Water Resources Control Board	• Water rights regulation, water quality regulation (which may affect water supply), local assistance for integrated regional water management (through regional boards)
Department of Fish and Game	• Enforces California Endangered Species Act, Delta fish regulation
CALFED (overseen by Secretary for Resources)	• Program's overriding goals include increasing water supply reliability
Colorado River Board	• Negotiates on behalf of the state on Colorado River management issues
Delta Protection Commission	• Regulates Delta development, monitors Delta issues
California Coastal Commission	• Regulates development on coast, including water supply facilities
California Public Utilities Commission	• Regulates investor owned water utilities, including rate-setting and monitoring

Legislature Should Consider Water Supply and Conveyance Proposals Together. We find that there have been a number of recent developments that have a significant bearing on the "state" of the state's water supply and future challenges in addressing the state's water supply requirements. These include court cases related to the Delta, multistate settlements related to the Colorado River, and the release of various Delta-related planning documents and reports. These planning documents and reports include,

(1) the Delta Vision task force report, (2) CALFED's "End of Stage One Report," and (3) the initial Delta Risk Management Study (Phase One).

We think the Legislature, after considering these developments and what they mean for the state's water supply, would be in a better position to evaluate water supply/conveyance-related budget proposals and provide its policy direction for them, including how they should be funded. For example, the Legislature may wish to weigh in on whether budget-year funding for surface storage studies should follow the model proposed by the Governor in his water bond proposal, wherein those benefiting from the studies pay for those studies, or alternatively the model proposed in the budget where the studies are a state expense. (For a more detailed discussion of this issue, see our "CALFED Bay-Delta Program" write-up in the "Crosscutting Issues" section of this chapter.) We think that the Legislature should evaluate the water supply/conveyance proposals in the budget as a package.

Recommend Legislature Withhold Action on New Funding Proposals Until Joint Hearings Held. We recommend the Legislature withhold action on budget proposals related to water supply and conveyance until it has an opportunity to review these proposals in joint budget and policy hearings. At these hearings, the relevant boards and departments should be directed to (1) provide a complete picture of the actions proposed for the budget year to improve water supply and conveyance and (2) discuss the current state of knowledge regarding the state's water supply and future challenges.

AIR RESOURCES BOARD
(3900)

The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, is charged with protecting the state's air quality. The local air districts regulate *stationary sources* of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of *mobile sources* of pollution and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

The budget proposes $579.4 million from various funds, primarily special funds and bond funds, for support of ARB in 2008-09. This is a decrease of $180 million, or roughly 24 percent, from estimated 2007-08 expenditures. This decrease mainly reflects the elimination of one-time expenditures from bond funds that occurred in the current year for replacement or retrofit of the state's oldest, most-polluting school buses. The budget also reflects a number of increases from special funds, including $6 million to continue the implementation of the Governor's Hydrogen Highway initiative, $5.6 million for continued implementation of the Global Warming Solutions Act of 2006 (also know as "AB 32"), $1.7 million to begin implementation of the Air Quality Improvement and Enhanced Fleet Modernization Program (Chapter 750, Statutes of 2007 [AB 118, Núñez]), and $1.6 million for enforcement of new and enhanced air quality regulations.

Additional Funding for Hydrogen Highway Unwarranted

The budget proposes $6 million in one-time funding from the Motor Vehicle Account for financial incentives for the establishment and deployment of hydrogen-powered vehicle technology and infrastructure. We recommend that the funding be deleted primarily because, given relatively little progress to date, the Air Resources Board has sufficient

funds from previous budget appropriations to fund continued program activity in the budget year. In addition, given that the Legislature now has information to evaluate the record of the Governor's Hydrogen Highway initiative, it is in a position to set its own hydrogen policy priorities before approving additional funding. (Reduce Item 3900-001-0044 by $6 million.)

Governor's Executive Order. In April 2004, the Governor issued an executive order designating California's 21 interstate freeways as the California Hydrogen Highway Network (the Hydrogen Highway). The order further declared the administration's intention to plan and build a network of fueling stations along the state's major roadways so that, by 2010, every Californian would have convenient access to hydrogen fuel. The order asserted numerous benefits of a hydrogen-based fuel economy as justification for development of the Hydrogen Highway, including the administration's claims that:

- Hydrogen can be produced from clean, renewable energy.
- Hydrogen-powered vehicles can break California's dependence on unstable energy sources.
- Hydrogen-powered vehicles produce zero or near-zero emissions and can reduce California's contribution to global warming.
- Public investment in hydrogen energy stations enhances the economic feasibility of hydrogen infrastructure.

Legislature Has Provided One-Time Funding for the Hydrogen Highway Several Years in a Row. 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 as part of the 2006-07 and 2007-08 budget processes. Figure 1 provides details on the appropriations and their eligible uses.

In addition, in connection with its 2005 appropriation, the Legislature placed conditions upon expenditures and ARB's administration of the program. Specifically, the Legislature expressed its intent that the funded activities:

- Contribute to a 30-percent reduction in greenhouse gas emissions.
- Use at least 33 percent renewable resources in the production of hydrogen for vehicles.
- Cause no increase in toxic or smog-forming emissions.

The Legislature expressed its intent to continue to evaluate the appropriateness of ongoing funding of the Hydrogen Highway initiative. To that end, the Legislature required reoccurring reports on the program every six months, as well as a one-time report in 2006 on the development of hydrogen-related business activity in California and the appropriateness of continued deployment of hydrogen fueling stations.

Figure 1

Hydrogen Highway Appropriations to Date

(Dollars in Thousands)

Year	Amount	Fund Source	Authorized Uses
2005[a]	$6,500	MVA	• Up to three public hydrogen fueling stations. • Public procurement of hydrogen-fueled vehicles. • Two-year, limited-term support staff. • Adoption of specifications for hydrogen fuels by January 1, 2008, in conjunction with CDFA.
2006-07	$6,500	MVA	• $5.0 million in grants to transit agencies for procurement of up to five hydrogen-fueled buses. • $1.5 million in matching funds for three hydrogen fueling stations.
2007-08	$6,033	MVA	• $5.0 million in matching funds for up to eight hydrogen fueling stations. • $1.0 million for eight permanent program support staff.
Total	**$19,033**		

[a] In 2005, after rejecting the administration's budget proposal to implement the hydrogen program, the Legislature approved program funding in separate legislation—Chapter 91, Statutes of 2005 (SB 76, Committee on Budget and Fiscal Review).

MVA = Motor Vehicle Account; CDFA = California Department of Food and Agriculture.

What Has the State Gotten for Its $19 Million? Despite over $19 million in funding since 2005, the administration has 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. While ARB indicated it has an agreement with Pacific Gas and Electric (PG&E) to build and operate one public hydrogen fueling station in the Bay Area, PG&E has since publicly stated its intent not to proceed with construction of the station, citing a "more pressing need" to develop other alternative vehicle technologies.

According to ARB, it has expended $6 million to fund part of the costs to modify or build 22 hydrogen-fueled vehicles, including buses, shuttle vans, cars, and trucks. However, at the time this analysis was written, and despite repeated requests over a period of several months, ARB did not indicate which, if any, of those 22 vehicles currently are operating on California roadways versus how many are under construction or in the planning stages. Nor did ARB indicate the extent to which the availability of state funding was a necessary factor in the development of these vehicles.

Finally, the program is close to meeting, but has not yet met, a statutory requirement to develop and adopt, by January 1, 2008, standards for use of hydrogen as a transportation fuel. As of the writing of this analysis, the California Department of Food and Agriculture (CDFA), in conjunction with ARB, has developed such hydrogen fuel standards and received public comment on them. The CDFA anticipates that it will adopt final standards in April of 2008.

Figure 2 summarizes the expenditures to date and projects funded from the $19 million of available funding.

Budget Proposes Additional $6 Million for Hydrogen Fueling Stations and Vehicles. The Governor's budget proposes an additional $6 million from the Motor Vehicle Account for ARB to continue implementation of the hydrogen initiative. Of that amount, $5 million is to provide matching funds for the construction of hydrogen refueling stations and $1 million is for matching funds for the deployment of hydrogen-fueled vehicles.

Substantial Funds Still Available From Previous Appropriations. As shown in Figure 3 (see page 96), of the $19 million appropriated for the Governor's hydrogen initiative to date, nearly one-half—$9.4 million—remains uncommitted and available for new projects. Of that remaining amount, $5.3 million is available specifically to provide matching funds for hydrogen fueling stations. Another $4.1 million remains broadly available to fund any eligible program activity, including providing matching funds for hydrogen fueling stations or deployment of hydrogen-fueled vehicles. Therefore, the $9.4 million of uncommitted funding remains available for the very purposes identified for additional funding in the Governor's budget.

Figure 2

Hydrogen Highway Initiative— Expenditures Through December 2007

(Dollars in Thousands)

Project Type	Number of Projects Initiated	Expenditures	Status of Projects
Hydrogen Fueling Stations	1	$1,250	
Contracted	(1)	(1,250)	Agreement with Pacific Gas and Electric (PG&E) to construct and operate one publicly accessible fueling station in San Carlos. The company has indicated its intent to not proceed with construction.
Under Construction	(—)	(—)	
Open for Use	(—)	(—)	
Hydrogen-Fueled Vehicles	22	$5,968	At the time this report was written, the Air Resources Board could not indicate the status of the 22 vehicles that received program funding. It is therefore unknown which of the 22 vehicles are operational, under development, or in the planning stages.
Hydrogen Fuel Specifications Development	N/A	$312	Specifications for safe use of hydrogen as a motor vehicle fuel, accomplished through contract with California Department of Food and Agriculture (CDFA), currently are under development. The CDFA anticipates adopting standards in April 2008.
Total		**$7,530**[a]	

a Total amount shown does not include $2.1 million in expenditures for program support and other miscellaneous program costs.

Request for Additional Funds Is Unwarranted. Based on our review, we conclude that ARB has sufficient resources to continue the hydrogen initiative in the budget year without additional funding. We base our conclusion on two findings. First, nearly one-half the funds appropriated during the three-year history of the program—$9.4 million—currently remains available for new projects. The ARB has not made a compelling case as to why that amount (or the portion of that amount expected to remain available at the beginning of the budget year) will be insufficient to fund the anticipated level of program activities in the budget year. In this regard, ARB has not provided evidence of anticipated funding commitments that will substantially draw down the balance of the available funds between now and the beginning of the budget year. Second, ARB indicates that it intends to use all but $600,000 of the $9.4 million as matching funds for the construction of publicly accessible hydrogen fueling stations. Given that ARB has made little progress to date towards successfully awarding funds for fueling stations, we do not think it likely that these funds would be committed in the budget year and therefore the request for an additional $5 million for that purpose has not been justified. We therefore recommend that the Legislature deny this budget request.

Figure 3

Hydrogen Highway Initiative— Balances Available From Prior Appropriations[a]

(In Thousands)

	Eligible Uses				
	Fueling Stations	Vehicles	Staffing	Other[b]	Totals
Appropriations	$6,500	$5,000	$1,033	$6,500	$19,033
Expenditures[a]	1,250	5,000	1,033	2,372	9,655
Remaining Balances	**$5,250**	—	—	**$4,128**	**$9,378**

a As of December 2007. Staffing expenditures assume full-year expenditures.

b Amounts in the "Other" category include funds for which the Legislature did not specify an intended use and which can be used to fund any eligible hydrogen program activity. In addition to other miscellaneous items, the expenditure amount includes expenditures made for hydrogen vehicles ($968,000) and staffing program support ($522,000), thereby supplementing the amounts specifically appropriated for those purposes.

Legislature Has Adopted Several Policies That Encourage Development of Alternative Fuels. The Legislature has adopted a number of policies that support, explicitly or implicitly, the use of alternative transportation fuels to achieve numerous environmental and other policy goals. Among the more significant of these legislative policies are:

- ***The California Clean Air Act (Chapter 1568, Statutes of 1988 [AB 2595, Sher]).*** Requires attainment of state ambient air quality standards by the earliest practicable date.
- ***State Alternative Fuels Plan (Chapter 371, Statutes of 2005 [AB 1007, Pavley]).*** Requires the Energy Commission, working

with ARB and other relevant state agencies, to develop a plan to increase use of nonpetroleum transportation fuels.

- ***The Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006 [AB 32, Núñez]).*** Establishes the goal of reducing the state's emission of greenhouse gases, by 2020, to what they were in 1990.

Hydrogen-Fueled Vehicles Might Help Achieve Legislative Goals, but Barriers Exist. Because hydrogen fuel cells produce no tailpipe pollution, and because of hydrogen's abundance, some see hydrogen as a promising alternative to fossil-based transportation fuels, such as petroleum, that would allow California to achieve certain of its environmental quality and related policy goals. Substantial barriers, however, stand in the way of the widespread commercialization of hydrogen as a fuel source for passenger vehicles. These barriers include the current high cost of fuel cell systems when compared to internal combustion systems, the high cost to develop the infrastructure necessary to deliver hydrogen for use by the consumer, and the expense of producing hydrogen from energy sources that do not themselves emit greenhouse gases or harmful air emissions. These barriers make it questionable when, if ever, hydrogen fuel cells will come to be widely used to power passenger vehicles.

In Absence of Legislative Direction, Governor Drives the State's Hydrogen Policy. As described above, the Legislature has established policies that are compatible with the Governor's vision for a hydrogen-fueled transportation economy. The Legislature has approved funding for the administration's program to advance hydrogen fuel infrastructure, although it has not explicitly endorsed the administration's hydrogen-related policy goals in legislation. The Legislature has, however, required the administration to report regularly on implementation of the hydrogen program and on development of the state's hydrogen-fueled vehicle economy in general.

Legislature Can Use Program Data to Explore Hydrogen Policy Options. For three years, ARB has encouraged development of hydrogen-fueled vehicles and hydrogen fueling stations. The administration also has released several reports tracking the hydrogen program's progress to date, as well as that of hydrogen-fueled vehicle development in general. Those reports and other program data provide the Legislature with information upon which to establish its own hydrogen policy for California.

The Legislature Has Options. Encouragement of transition to a hydrogen-fueled transportation economy through the establishment of refueling infrastructure is one of several ways that the Legislature might seek to achieve certain of its environmental and related policy goals. Specifically, the Legislature could:

- Choose to redirect hydrogen program funding to additional research to advance energy generation methods that emit fewer air pollutants, generation methods that someday could be used to produce "clean" hydrogen.
- Increase funding for grants and other financial incentives to encourage use of emissions-reducing and efficiency-increasing technologies that are commercially available today, such as gasoline-electric hybrid vehicles.
- Endorse the Governor's vision of a statewide network of hydrogen fueling stations to enable the market for commercial hydrogen passenger vehicles.

The point is that the Legislature has options that may differ from the Governor's vision of a publicly funded hydrogen highway.

Legislature Should Set Course for the Hydrogen Highway. As demonstrated in this analysis, there is no need for additional funding for the state's hydrogen program in the budget year. For this reason, we recommend that the Legislature deny any funding proposals for the Governor's hydrogen program at this time. During the budget year, the Legislature can evaluate more recent developments in hydrogen-fueled vehicle technology, as well as the hydrogen program itself, without delaying the program's progress. Based on that evaluation, the Legislature can set its hydrogen policy priorities before approving additional funding.

STATE WATER RESOURCES CONTROL BOARD (3940)

The State Water Resources Control Board (state board or SWRCB), in conjunction with nine semiautonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board's oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The state board carries out its water quality responsibilities by (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

Proposed Funding. The budget proposes expenditures of about $735 million from various funds for support of the state and regional boards in 2008-09. This amount is a decrease of $276 million, or about 27 percent, below estimated current-year expenditures. Most of this decrease reflects a reduction in bond-funded expenditures, mainly for loans and grants for local water quality and water recycling projects funded from pre-2006 bond funds. The reduction also reflects proposed budget-balancing reductions of $4.3 million for various water quality and water rights activities including Total Maximum Daily Load (TMDL) development and basin planning. Despite this overall spending reduction, the budget does propose some increases in program funding. These proposals include $100 million in Proposition 84 bond funds to implement various water quality programs; $29 million for grants to local agencies from pre-2006 bonds mainly for watershed protection, pollution control, and water recycling; $2.4 million (special funds) to implement new statutorily required programs related to plastic discharges, recycled water, and stormwater; and $1.3 million (special funds) to increase enforcement capacity.

Recommend Full Application of "Polluter Pays" Funding Principle

We recommend applying the polluter pays funding principle more fully to the board's core water quality and water rights programs by (1) increasing existing fees to fully cover regulatory program costs, and (2) enacting a new broad-based fee to fully fund water quality management programs. Adopting our recommendation would result in $30.6 million in General Fund savings beyond the Governor's budget proposal. (Reduce Item 3940-001-0001 by $30.6 million and increase Item 3940-001-0193 by $7.4 million, increase Item 3940-001-3058 by $400,000, increase new special fund item [timber harvest fee] by $4.4 million, and increase new special fund item [broad-based water quality fee] by $22 million.)

General Fund Provides Significant Support for Board's Core Water Quality and Water Rights Activities. The budget proposes about $152 million for the board's "core" regulatory and water quality management programs, and for water rights regulation. (We define the board's core water quality programs mainly as those which assess water quality, update water quality standards and basin plans, and issue and enforce permits that are based on these standards and plans. We therefore exclude the board's local assistance and other financial assistance programs [such as the Underground Storage Tank Cleanup Fund program] from this definition.) Of this amount, $38.7 million is from the General Fund, with the remainder provided by a mix of permit fees, federal funds, bond funds, and other special funds. As shown in Figure 1, General Fund support is a funding source in several water quality and water rights programs. Many of these programs also receive funding from other sources, with varying degrees of funding from the General Fund. These programs are managed by the state board in conjunction with nine semiautonomous regional boards—together referred to as "the boards."

General Fund Budget-Balancing Reductions Proposed for Core Programs. Reflected in the expenditure amounts in Figure 1 is the budget's proposal for a 10 percent reduction across the core water quality management and water rights programs totaling $4.3 million in General Fund. As shown in Figure 2 (see page 102), with the exception of funding for cleanup at Leviathan Mine, the reductions are roughly about 10 percent of the General Fund support level for each of the activities funded from that source.

Figure 1

Core Water Quality and Water Rights Management Programs— Proposed General Fund Expenditures

2008-09
(Dollars In Thousands)

	General Fund	
Program Activity	**Expenditures**	**As a Percent of Total Program Funding**
Regulatory Programs	**$10,997**	
Forest activities	(4,207)	100%
Water rights program	(3,730)	35
Agricultural waiver program	(1,721)	75
Pollution discharge program (NPDES)	(1,338)	8
Water Quality Management	**$19,650**	
Total Maximum Daily Loads (TMDLs)	(10,662)	79%
Basin planning	(5,833)	86
Nonpoint source program	(1,243)	12
Other water quality programs	(1,912)	100
General Cleanup Programs	**$8,064**	
Leviathan Mine	(3,187)	100%
Underground storage tank program	(2,773)	8
Spills, Leaks, Investigations, Cleanup	(2,103)	8
Total[a]	**$38,713**	

[a] Administrative overhead distributed among programs.

Recommend Remaining General Fund Support for Core Regulatory Programs Be Shifted to Regulatory Fees. We have previously recommended that fees fully support regulatory programs at the water boards, based on the application of the polluter pays principle. This funding principle provides that private individuals or businesses that use or degrade a public resource (such as water) should pay for the social costs imposed by their use of the resource. Although significant progress has been made in recent years to shift the board's regulatory program funding to fees, our review finds that the proposed budget includes about $11 million of General Fund for regulatory activities (see Figure 1) that are more appropriately funded from fees. (This includes $4 million for "forest activities"—that is, timber harvest plan [THP] reviews—that we discuss in greater detail as part of a fee recommendation under our "Funding Timber Harvest Plan Review and Enforcement" write-up in the "Crosscutting Issues" section of this chapter.) We therefore recommend that the board's General Fund appropriation be reduced by $11 million, and that its appropriations from the Waste Discharge Permit Fund and a new special fund for THP fee revenues be increased by $7 million and $4 million, respectively.

Figure 2

Proposed General Fund Budget-Balancing Reductions

2008-09
(In Thousands)

Program Activity	Amount
Regulatory Programs	**$1,150**
Forest activities	(440)
Water rights program	(390)
Agricultural waiver program	(180)
Pollution discharge program (NPDES)	(140)
Water Quality Management	**$2,389**
Total Maximum Daily Loads (TMDLs)	(1,449)
Basin planning	(610)
Nonpoint source program	(130)
Other water quality programs	(200)
General Cleanup Programs	**$510**
Leviathan Mine	—
Underground storage tank program	(290)
Spills, Leaks, Investigations, Cleanup	(220)
Administrative Overhead	**$253**
Total	**$4,302**

Boards Not Keeping Up With Workload. We have concluded in several prior *Analyses* that the state and regional boards' inability to keep up with their workload in their core programs has resulted in backlogs in the TMDL program and in water quality and water rights permitting and enforcement. To avoid further exacerbating backlogs within these programs, we recommend that the Governor's proposed budget-balancing reductions in regulatory programs (totaling $1.2 million) be offset fully by fee revenues of a like amount ($400,000 in the Waste Discharge Permit Fund, $400,000 in the Water Rights Fund, and $400,000 of new THP fee revenues) so that program reductions will not have to be made to create the General Fund savings.

Recommend New Broad-Based Fee to Replace General Fund Support for Water Quality Management. The bulk of the board's General Fund supported programs—$19.6 million—relate to the assessment of the state's water quality, and the related development of water quality standards and plans which ultimately form the basis of the board's permitting and enforcement actions.

Although not strictly regulatory program activities, we find that the board's water quality management activities are appropriately funded by a broad-based fee on water users statewide who, as users, impact water quality. This is a somewhat broader application of the polluter pays principle applied currently to regulatory programs. As an example of a potential fee structure, a fee of less than $10 per year, per individual water utility hookup, to include residential, commercial, and agricultural users would provide funding at the level of current General Fund support for these activities ($19.6 million). We think that shifting funding for the board's core water quality management activities to fees would provide greater funding stability to these activities that are the foundation of much of the board's work.

We therefore recommend the enactment of legislation to establish the new broad-based fee at a level that will replace the General Fund support budgeted for water quality management ($19.6 million) and offset the Governor's proposed General Fund budget-balancing reduction of $2.4 million for these activities. We recommend that the legislation create a new special fund for the deposit of these new revenues. In order to create full-year General Fund savings from our recommendation in the budget year, it would be necessary to enact urgency legislation to create the new broad-based fee.

Information Technology Update: Progress Made, but Problems Persist

We recommend the adoption of budget bill language to prohibit expenditures for new information technology (IT) projects until (1) the board's IT strategic plan is updated and submitted to the Legislature and, (2) the IT implementation plan required by supplemental report language is submitted. We further recommend the Legislature deny the budget proposal to increase support for the California Integrated Water Quality System (CIWQS) by $129,000 as it cannot be evaluated

without these plans. Finally, we recommend the board report at budget hearings on the loss of future federal funding for CIWQS and with a proposal for alternative federal funding opportunities. (Reduce Item 3940-001-0193 by $129,000.)

IT at the Water Boards. The SWRCB IT systems serve a variety of purposes, including administrative functions, permitting and enforcement systems, water quality monitoring, and providing public access to water quality and enforcement data (through the Internet). On numerous occasions, the Legislature has stressed the fundamental role that management of data—including permitting, enforcement, and water quality—at the boards plays in assisting the board to carry out its mission. The board's CIWQS is the main IT program used to assist the state and regional boards in this regard.

Budget Proposes Augmentation to CIWQS. The budget proposes $129,000 (special funds) in contract funds for CIWQS. This proposal does not propose to directly augment day-to-day data entry and quality control at the regional board levels, but rather increases efforts at the state board level to manage CIWQS through outreach and training activities.

LAO Previously Reviewed IT Program. We previously reviewed the board's IT systems (see our *Analysis of the 2007-08 Budget Bill,* page B-138) and cited various deficiencies including a lack of strategic plan, circumvention of legislative oversight, and data entry backlogs which resulted in misleading information to the public on permitting and enforcement. At that time, the board was aware of these issues and initiated an external review of the program. The review committee met in May 2007 to make recommendations to the board, with a report back on progress to the committee due in December 2007. The Legislature also imposed certain oversight measures on the board including adopting (1) budget bill language prohibiting the development of new IT projects until a strategic plan was submitted to the Legislature for review, and (2) supplemental reporting language requiring the board to submit a report on its IT projects.

Required Report Late, Results of External Review Delayed. The legislatively required report, due on January 10, 2008, had not been submitted at the time this analysis was prepared. This report is important in order to help the Legislature evaluate the need for additional funding for IT programs, including at both the state and regional board levels, and to evaluate the board's progress in implementing reforms to CIWQS. In addition, a scheduled meeting of the external review committee was delayed to allow the board more time to begin addressing the review panel's recommendations for reform and to report back to the review committee on its progress.

Data Management Problems Persist, Federal Support Lost. In recent months, incorrect or incomplete data continue to be reported to the public using CIWQS. This is particularly the case with respect to enforcement data. Not only does this cause confusion as to the board's progress in meeting its water quality goals, but the lack of reliable enforcement data (including the status of corrective actions made in response to an enforcement action) also frustrates both the board's enforcement efforts and the efforts of the regulated community to comply with enforcement actions taken against them. Additionally, the board has not yet reported on its actual progress in addressing its efforts to correct erroneous historical data and reduce the data entry backlog to its federal funding partners (specifically US EPA, Region IX). This, among other reasons, led the US EPA to deny further federal grant resources in support of CIWQS-related tasks, including in future budget years. Therefore, the budget reflects no federal funding for the program.

Legislative Oversight Continues to Be Needed. In view of the above problems, we recommend the adoption of budget bill language prohibiting expenditures for new IT projects until (1) the board's IT strategic plan is updated and submitted to the Legislature, and (2) the required IT implementation supplemental report is submitted. We recommend:

> No funds appropriated in this item or any other items appropriating funds to the State Water Resources Control Board can be used for new information technology modules related to the California Integrated Water Quality System (CIWQS) no sooner than 30 days after the board has submitted its updated Agency Information Management Strategy and the report required by the *Supplemental Report of the 2007 Budget Act* to the Joint Legislative Budget Committee, or such lesser time as the chair may determine.

Recommend Denying IT Budget Proposal. As detailed above, various documents requested by the Legislature have not been submitted, including the IT strategic plan and the IT implementation plan. In addition to this, the board's report to the external review committee has been delayed until February 2008. While the proposal may have merit, the Legislature does not have enough information to evaluate the budget proposal, and we therefore recommend denying the request.

Recommend Report at Hearings. Finally, we recommend the board report at hearings on the loss of federal funding for CIWQS as well as the steps it is taking to reestablish federal funding for the project. The board should also be prepared to discuss the various late reports and its progress in improving the CIWQS system, including addressing issues raised by the external review panel.

Legislative and State Board Controls Needed for Supplemental Environmental Projects (SEPs)

We recommend several measures to increase legislative and administrative oversight over enforcement penalties authorized by the regional boards, including the use of supplemental environmental projects as a penalty mechanism. Adopting our recommendation should increase enforcement penalties paid into the Cleanup and Abatement Account by up to $500,000, and we recommend that the state board's expenditure authority be increased by this amount to further its oversight of regional board enforcement. (Increase Item 3940-001-0679 by $500,000.)

Regional Water Board Authority Over Enforcement Penalties. Under current law, the regional boards may administratively issue civil liability penalties against companies, cities, and individual waste dischargers that violate water quality laws or permit conditions, or do not comply with enforcement and penalty orders of the boards. Monetary penalties collected through these enforcement actions are paid to the state board and deposited in the Cleanup and Abatement Account (CAA), an account within the State Water Quality Control Fund. These funds are used to address priority water quality cleanup and abatement activities throughout the state. The budget projects revenues of about $5.2 million in the budget year to CAA. This amount fluctuates depending on the size and number of individual penalties assessed in any given year.

SEPs. As an alternative to paying penalties that are deposited into the CAA, current law allows dischargers to pay a portion of their penalty assessment by providing funding for water quality improvements within the region in which the enforcement action was taken. These are known as SEPs. The SEPs are projects, generally proposed and implemented by nonprofits, local governments, or collaborative efforts, that enhance the beneficial uses of the waters of the state, provide a benefit to the public at large, and are not otherwise required by board directives. Examples of SEPs include pollution prevention projects, environmental restoration programs, water education activities, and watershed assessments.

The SEP Process. Most regional boards choose to use SEPs as an alternative to full monetary penalties, as current law allows. Generally, this means that in negotiations with the board, the discharger and board come to an agreement on how much will be paid in monetary penalties, and how much will be paid to support a SEP. Some boards have a formal list of potential SEPs available to assist this negotiation process, while others have no criteria or formal list available to the public during this phase of the penalty negotiations. Once a project is agreed upon, the discharger then pays both the monetary penalty (deposited in the CAA for statewide purposes) as well as the SEP amount provided for in the penalty agreement. Regional boards are then required to track these projects.

Problems With Use and Tracking of SEPs in Some Regions. Our review found that implementation of SEPs varies widely among regions. Only some regional boards have formal criteria for implementing SEPs, with a list of preapproved projects available. While some regions generally track SEP projects well and report projects to the state board, in other regions we found complaints on a variety of issues emanating both from the regulated community as well as those organizations or local governments eligible for SEP funding. These include complaints about the lack of standards for awarding SEP funding, lack of accountability for completion of SEPs, and lack of clear criteria for the penalty phase of enforcement proceedings. A lack of reporting of SEPs causes problems both in tracking completion of the projects as well as in comparing enforcement actions taken across regions and across waste dischargers. One region declined our office's request for information on SEPs, making our analysis of this enforcement tool more difficult.

Use of SEPs Not Always Authorized in Statute, Reduces Funding Available for Statewide Enforcement. Current law states that a regional board may allow certain monetary penalties to be reduced by *up to 50 percent* if accompanied by a SEP. For other penalties, such as certain administrative civil liabilities, SEPs are not expressly authorized by law. It is the current practice of both the state and regional boards, however, to allow SEPs in such cases, even though not expressly authorized in statute. As seen in Figure 3 (see next page), within the past three years, six of the nine regional boards issued SEPs reflecting over 50 percent of a penalty amount. In at least one region, all SEPs issued over the past three years were for over 50 percent of the total monetary penalties. This practice reduces the amount of funding in CAA available for statewide water quality cleanup and enforcement purposes.

State Board Has Role in SEP Oversight. Our review finds that the state and regional boards both have statutory responsibility for tracking and reporting enforcement activity. We also find that a regional board may include in any penalty the projected administrative costs associated with the implementation of a SEP. While the majority of day-to-day oversight of a SEP project is conducted by the regional board, we find that the state board has a role in providing oversight of the SEP process, and is ultimately responsible for reporting on enforcement activity and outcomes statewide. These state board costs are eligible for funding within the administrative component of a SEP.

Figure 3

Regional Water Quality Control Boards—Supplemental Environmental Project (SEP) Activity, 2005-2007

Regional Water Quality Control Board	Issued a SEP Reflecting More Than 50 Percent of Total Monetary Value of Penalty?
Region 1 (North Coast)	Yes
Region 2 (San Francisco Bay)	Yes
Region 3 (Central Coast)	Yes
Region 4 (Los Angeles)	Yes
Region 5 (Central Valley)	No
Region 6 (Lahontan)	Yes
Region 7 (Colorado River Basin)	Yes
Region 8 (Santa Ana)	No
Region 9 (San Diego)	—[a]

[a] Did not respond to LAO request.

State Fiscal Oversight of SEP Funding Can Be Lacking. The SEP is designed to be a beneficial project completed as part of a penalty for discharger violations. However, at least one regional board has shifted funding accepted for SEPs to a nonstate entity (a local water agency) who keeps the funds in a trust fund as "holding funds" for a potential, but not certain, future SEP project. As a consequence, the state loses its fiscal oversight of SEP funding.

Recommend Measures to Increase Oversight of Regional Board Enforcement. We find that SEPs serve a useful purpose by allowing regional boards to reduce the amount of time spent on negotiating penalties, and providing for beneficial water quality improvements. However, we recommend several measures to increase state board and legislative oversight of regional board enforcement activity, including the use of SEPs.

Enforcement Data Must Be Updated and Clear. First, we think regional boards should update their enforcement-related data entries to include all penalties and SEPs issued, and this information should be available on the state board's public and internal websites. This would allow the state board to oversee enforcement actions at the regional board level and to better compare regional board use of SEPs. We also think providing the public, including the discharger community, access to all SEP information in a clear, usable format provides another means to hold the regional boards accountable for their use of SEPs and allows potential SEP project proponents to be informed of the type and quality of SEPs authorized by the board.

Trust Fund Use Raises Issues. Second, we think it important to establish controls for the current regional board practice of setting up trust funds as holding funds for SEPs. For example, what happens to these funds should a SEP project not come to fruition? We think the state board, in its next update of its statewide enforcement policy, should set clear guidelines for such trust funds, including clear and reasonable time limits for the trust fund, with requirements that SEP projects commence by a date certain of the SEP funding being established.

Legislation Should Restrict SEP Assessment, Unless Otherwise Indicated by Law. Third, we find the current practice of issuing SEPs for over 50 percent of the total monetary value of the penalty has the effect of reducing funding available at the state board for statewide enforcement purposes, including oversight of regional board enforcement. We recommend the regional boards be required to annually report to the state board on all SEPs issued, and the amount of monetary penalty these SEPs offset, in order to assure regional board compliance with current statutory requirements governing the use of SEPs. We think that this recommendation should increase the availability of funds in the CAA by up to $500,000 in the budget year, based on a review of historical enforcement penalty collection. We therefore recommend that the expenditure authority from the State Water Quality Control Fund be increased by a like amount, allowing the state board to increase its oversight of regional board enforcement activity.

ELECTRICITY OVERSIGHT BOARD (8770)

The Electricity Oversight Board (EOB) was created in 1996 as part of the Legislature's restructuring of California's electricity industry. The board's main role has been overseeing the electricity market and the activities of the California Independent System Operator (ISO), the nonprofit organization that manages the portion (approximately 75 percent) of the electricity transmission system owned by the state's three investor-owned utilities—Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric. In addition, the board has been responsible for representing the state before the Federal Energy Regulatory Commission, which has jurisdiction over some aspects of California's restructured electricity market.

In the current year, the EOB has a staff of 23 positions and a budget of $3.1 million, the majority of which comes from the fee-funded Public Utilities Commission Reimbursement Account. The EOB's governing board has not met since March 2003. Since that time, EOB staff has reported directly to the Governor's office. The Governor's proposed budget for 2008-09 includes no expenditures for the EOB, reflecting the Governor's intent—stated in his *2007-08 Budget Act* veto message—that EOB will be eliminated and its remaining duties transferred to the California Public Utilities Commission (CPUC) by April 1, 2008.

Governor Once Again Sidesteps Legislature's Policy-Setting Role

The administration has begun the process to eliminate the Electricity Oversight Board (EOB) and to transfer its remaining duties to other state energy agencies, without the Legislature having determined its policy position on this issue. We recommend the administration present, at budget hearings, its plan to assign EOB's duties and workload to other state agencies. We also recommend that the Legislature enact legislation to implement its own policy determinations regarding the

future of the board, including the placement of transferred responsibilities should the board be eliminated.

History of EOB. The EOB was created by Chapter 854, Statutes of 1996 (AB 1890, Brulte), which deregulated California's wholesale electricity industry. The board was created to oversee ISO and the Power Exchange (PX), which for a time was the marketplace in which all electricity in the state was bought and sold. The EOB was also given very broad authority over ensuring reliability of the state's supply of electricity.

Central to the original role of EOB was oversight of the activities of ISO and PX and determining the composition of the governing boards of these two organizations. However, among the many developments associated with the 2001 energy crisis was the bankruptcy of the PX in March 2001, and the replacement of the EOB-appointed ISO stakeholder board with a board of gubernatorial appointees. Thus, EOB no longer carries out these original duties. However, subsequent legislation has given it authorization to conduct certain other activities. These include the following:

- ***Petition the Federal Energy Regulatory Commission (FERC) on Specific Transmission Matters.*** Chapter 1040, Statutes of 2000 (SB 1388, Peace), requires EOB to petition FERC to allow the recovery of certain expenses of investor owned utilities relating to the replacement and expansion of the state's electricity transmission grid.
- ***Communicate ISO's Rule Changes to FERC.*** Chapter 1x, Statutes of 2001 (AB 5x, Keeley), requires EOB to direct ISO to amend its bylaws in response to FERC decisions, and to communicate this action to FERC.
- ***Investigate Any Matter Related to the Wholesale Electricity Market.*** Chapter 766, Statutes of 2001 (SB 47, Bowen), gives EOB broad powers to investigate and initiate proceedings at FERC in response to market manipulation by electricity market participants.

As a result of these statutory responsibilities, EOB's primary duty at this time is to act as a market monitor, overseeing the state's electricity market and initiating proceedings at FERC in response to market manipulation. The EOB has been a participant in over 400 proceedings at FERC and has been a litigant in over 100 cases in the federal courts of appeal. Through 2005-06, EOB has been a party to settlements of over $1 billion for various overcharges. Presently, EOB is actively involved in 12 separate cases of pending FERC litigation.

Governor Proposed Eliminating EOB in 2007-08 Budget Process. As part of the 2007-08 budget process, the Governor proposed an EOB budget of $4.1 million, but also proposed budget bill language allowing the Director of Finance to reduce appropriations to EOB included in the budget to reflect savings from elimination of the board. However, the Governor's budget proposal did not specify how EOB's existing workload and authority would be transferred to another state agency.

Legislature Rejected Governor's Proposal to Eliminate EOB. In response to the Governor's proposal, the Legislature stated in budget hearings that elimination of the board and transfer of its remaining duties is a policy decision best addressed in the policy committee process. Accordingly, the Legislature approved the EOB's operating budget of $4.1 million for 2007-08 while rejecting the proposal to authorize the Director or Finance to reduce the EOB's budget appropriation.

Governor Vetoed Legislature's Decision to Fully Fund the EOB in 2007-08. In response to the Legislature's decision to appropriate $4.1 million to the EOB in 2007-08, the Governor exercised his veto authority to reduce EOB's 2007-08 budget by 25 percent. In a statement accompanying the veto, the Governor declared his expectation that, by April 1, 2008, the EOB would be eliminated and have transferred its remaining duties to CPUC.

Governor's 2008-09 Budget Seeks to Eliminate Both EOB and the Legislature's Policy-Making Prerogative. Despite the Legislature's direction that elimination of the EOB and dissemination of its remaining duties be considered as part of the Legislature's policy-making process, the Governor's budget proposal includes no funding for the EOB in 2008-09. Indeed, documents supporting the Governor's budget proposal restate his intent that EOB cease operation on April 1, 2008, claiming that, because other state agencies have already taken on the duties of the EOB, the board's continued operation is no longer necessary.

Elimination of EOB Already Underway. The administration has initiated a number of actions in anticipation of the EOB's imminent elimination, although the Legislature has not yet adopted its policy position on this issue. Of 23 positions authorized for EOB in the current year, only 11 are currently filled. According to the administration, those 11 positions are subject to an active layoff plan by which the administration seeks to place the remaining EOB employees with another state energy agency, most likely the Energy Commission or the CPUC. In addition, the CPUC is already involved in and preparing to assume responsibility for EOB's remaining litigation-based workload in April of this year.

Proposed EOB Elimination Involves Policy Choices. We have previously raised the issue of reorganizing the state's energy agencies in light of the current multiplicity of organizations, some of which have overlapping functions. (See, for example, *The 2006-07 Budget: Perspectives & Issues*, page 199.) And we agree that there may be merit in consolidating EOB's functions in another energy entity. We nonetheless think that, despite the administration's claims to the contrary, EOB has statutory duties that are unique to it, although other state energy agencies may have duties that are similar or related to those of EOB. For example, while both EOB and CPUC monitor electricity markets, only EOB monitors the day-to-day performance and outcomes of the electricity market, whereas CPUC has focused its efforts on the evaluation of electricity market design. In addition, EOB has ongoing workload, including its participation in a number of FERC proceedings and litigation on behalf of the state's ratepayers that has added value to, rather than being merely duplicative of, the involvement of other state agencies in these matters. Accordingly, any proposal to eliminate EOB must provide a plan for the assumption of EOB's duties and workload—an important policy choice.

In 2004, the Legislature passed legislation that called for the elimination of EOB and transfer of its responsibilities to specified state agencies. While that legislation—SB 920, Bowen—was subsequently vetoed by the Governor, its passage underscores the Legislature's recognition of the inherent policy making involved in the board's elimination and the Legislature's prerogative to provide its policy direction in this matter.

As we recommended previously (see page B-66 of the *Analysis of the 2007-08 Budget Bill*), we recommend that that Legislature require the administration to present at budget hearings a comprehensive plan to assign EOB's duties and pending legal workload to other state agencies, including its justification for its choice of agencies to assume the duties and workload. We further recommend that the Legislature consider the administration's plan as part of its budget and policy-making processes. Finally, once the Legislature has considered the policy merits of the administration's plan and other options for assigning the duties of the EOB, we recommend that legislation be enacted to reflect the Legislature's policy determination on these issues.

FINDINGS AND RECOMMENDATIONS

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CALFED Bay-Delta Program (CALFED)

B-18 ■ **Lessons Learned From Delta Planning Efforts and CALFED Program Reviews.** Various Delta-related planning efforts and CALFED program reviews have found that the "business as usual" CALFED will not meet its objectives and that the current means of conveyance in the Delta needs to be reassessed. The program reviews found that past CALFED spending has lacked a tie to clear program objectives and funding priorities.

B-21 ■ **Governor's CALFED Budget Proposal.** The Governor's budget proposes $242.2 million in state funds across eight state agencies for CALFED in 2008-09.

B-23 ■ **Recommended Approach for Evaluating CALFED Budget Proposals.** We provide criteria for evaluating CALFED budget proposals. Recommend that grant and contract funding be approved on a one-time basis and that a zero-based CALFED budget be submitted for 2009-10. Further recommend enactment of legislation establishing Legislature's policy for future of the Delta, to provide a basis for evaluating future CALFED budget proposals.

B-24 ■ **Surface Storage Proposals Lack Funding Partners. Reduce Item 3860-001-6031 by $3.8 Million. Reduce Item 3860-001-6051 by $6 Million.** The CALFED surface storage program has reached a point where feasibility studies cannot move forward until funding partners have been secured to move the studies into the final investigation stage and project development.

B-25 ■ **Science Proposal Needs Focus. Reduce Item 3860-001-6051 by $8 Million. Reduce Reimbursements Under Item 0540 by $8 Million. Reduce Item 0540-001-6031 by $17.3 Million.** Recommend

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the Legislature reject most of the proposed expenditure for scientific research and that administration provide at the May Revision a more focused proposal that will serve to inform the Delta Vision process and subsequent legislative decision-making.

B-26 ■ **Ecosystem Restoration Proposals Are Premature or Funded Inappropriately. Reduce Item 3600-001-6051 by $18.9 Million.** Recommend the Legislature reject specified ecosystem restoration proposals that are either premature (pending the outcomes of the Delta Vision process) or should be funded by project beneficiaries.

Implementation of "AB 32"—Global Warming Solutions Act of 2006

B-30 ■ **Governor's Budget Proposal.** The budget proposes $55.5 million (mostly special funds) for 212 positions at various departments to implement the act. These figures include $23.6 million and 61 positions in addition to the baseline budget.

B-31 ■ **Administration's Funding Proposal Fails to Meet Legislative Direction.** Recommend deferring action on AB 32 funding from the Air Pollution Control Fund until administration submits a long-term funding plan adequate to meet legislative direction.

Funding Timber Harvest Plan Review and Enforcement

B-36 ■ **Enact Timber Yield Fee to Cover State Agency Timber Harvest Plan (THP) Review and Enforcement Costs. Reduce Item 3480-001-0001 by $2.4 Million. Increase New Special Fund Item (Under 3480) by $2.6 Million. Reduce Item 3540-001-0001 by $12.2 Million. Reduce Item 3540-001-0235 by $433,000. Reduce Item 3540-001-0965 by $34,000. Reduce Reimbursements Under Item 3540 by $170,000. Increase New Special Fund Item (Under 3540) by $13.7 Million. Reduce Item 3600-001-0001 by $2.7 Million. Reduce Item 3600-001-0200 by $443,000. Increase New Special Fund Item (Under 3600) by $3.5 Million. Reduce Item 3940-001-0001 by $4 Million. Increase New Special Fund Item (Under 3940) by $4.4 Million.** Recommend the Legislature enact a fee on timber operators to fully fund state agency costs of reviewing and enforcing THPs.

California Conservation Corps

B-40 ■ **Recommend Budget-Balancing Reductions Be Accepted, Backfilled with Special Funds, or Rejected. Increase Item 3340-001-0001 by $2 Million; Increase Item 3340-001-0318 by $1 Million**. Recommend the Legislature approve

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$1.7 million of the Governor's budget-balancing reduction proposals, partially backfilled by a $1 million increase in reimbursement expenditure authority. Recommend the Legislature reject additional $2 million reduction proposed by the Governor.

Energy Resources Conservation and Development Commission

B-43 ■ **Assembly Bill 118 Award Funding Requires Guideline Development. Reduce Item 3360-001-3117 by $100 Million and Adopt Related Budget Bill Language Governing Appropriation of Like Amount.** Recommend the adoption of budget bill language making funding of $100 million for financial awards contingent on submittal of statutorily required guidelines for legislative review.

Department of Forestry and Fire Protection

B-47 ■ **Funding Fire Protection With Fees.** Recommend the Legislature reject the Governor's insurance surcharge proposal and instead impose a fee on property owners in state responsibility areas. The fee should raise revenues equivalent to 50 percent of the department's General Fund base fire protection budget and be focused mainly on residential property owners.

B-53 ■ **Recommend Rejecting Specified Budget-Balancing Reductions. Increase Item 3540-001-0001 by $2.1 Million.** Recommend the Legislature reject specified General Fund budget-balancing reductions totaling $2.1 million.

B-54 ■ **Governor's Wildland Firefighting Initiative. Eliminate Item 3540-001-0217 for $33.1 Million. Reduce Item 3540-001-0001 by $9.1 Million. Increase Item 3540-006-0001 by $13.3 Million.** Recommend the Legislature reject proposals to increase staffing levels statewide and replace the department's helicopter fleet (beginning in 2009-10). Recommend the Legislature approve proposal for communication system upgrades, but from the General Fund.

Department of Fish and Game

B-58 ■ **Fee Increases and Funding Shifts Can Partially Offset Proposed General Fund Reductions and Generate Additional Savings. Reduce Item 3600-001-0001 by $6.1 Million. Reduce Item 3600-001-0140 by $650,000. Reduce Item 3600-001-0890 by $100,000. Reduce Item 3600-101-0001 by $500,000. Increase Item**

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3600-001-0200 by $6.3 Million. Increase New Special Fund Item by $3.5 Million. Increase Item 3600-001-0320 by $2.6 Million. Recommend the Legislature increase existing fees or create new fees for regulatory programs, shift funding for law enforcement activities to a special fund, and reject specified administrative reductions.

Wildlife Conservation Board

B-64 ■ **Using Special and Bond Funds to Replace General Fund Contribution to the Habitat Conservation Fund (HCF). Eliminate General Fund Transfer of $20.8 Million to HCF. Add Item 3640-311-0383 in the Amount of $10.9 Million. Add Item 3640-311-6052 in the Amount of $9.9 Million.** Recommend the Legislature appropriate $10.9 million from the Natural Resources Infrastructure Fund and $9.9 million from Proposition 1E to replace a proposed General Fund transfer of $20.8 million to support HCF in fulfillment of Proposition 117 requirements.

California Coastal Commission

B-67 ■ **Recommend Actions to Increase Commission's Budget Stability. Reduce Item 3720-001-0001 by $1 Million and Item 3720-001-0593 by $524,000; and Increase New Special Fund Item by $2.5 Million.** Recommend enactment of legislation (1) deleting current-law requirement that commission's permit fee and penalty revenues be transferred to the State Coastal Conservancy and (2) creating a special fund in the commission for the deposit of the commission's fee and penalty revenues.

Department of Parks and Recreation

B-73 ■ **Governor's Budget-Balancing Proposal Does Not Consider Opportunities to Increase User Fee Revenues. Increase Item 3790-001-0392 by $25 Million.** Recommend the Legislature direct the department to increase total park fees by $25 million, thereby providing funding to offset the proposed General Fund reduction ($13.3 million) and to increase ongoing maintenance ($11.7 million).

B-77 ■ **Improving Fire Protection at State Parks. Reduce Item 3790-001-0001 by $3 Million.** Recommend the Legislature reject the administration's proposal as it has not been justified.

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B-78 ■ **Concession Agreements.** Recommend the Legislature withhold approval of one of the proposals, pending delivery of a final economic feasibility study.

Department of Water Resources

B-81 ■ **Enact Broad-Based Flood Management Fee to Replace General Fund in Flood Management Programs. Reduce Item 3940-001-0001 by $40 Million, Increase New Special Fund Item by a Like Amount.** Recommend legislation to enact a fee to cover the department's flood management expenditures currently funded from the General Fund that benefit those whose properties exist in flood zones and/or receive protection from the state Central Valley flood control system.

B-84 ■ **Opportunity for General Fund Savings From Colorado River Management Program. Eliminate Item 3860-102-0001 for $13.5 Million and Increase Item 3940-101-6051 by $13.5 Million.** Recommend legislation to allow bond funds to be used to replace General Fund for the state's final Colorado River management obligation for canal lining and related projects, as specified in a legal agreement between the state, federal government, and water users.

B-85 ■ **Funding for Bulk of Integrated Regional Water Management (IRWM) Proposal Is Premature. Decrease Item 3860-001-6051 by $28.5 Million, Decrease Item 3860-001-6052 by $1.5 Million, Decrease Item 3860-101-6051 by $319.5 Million, Decrease Item 3860-101-6052 by $100 Million, and Reject Proposed Fund Shift of $6.4 Million Within 3860-001-6031.** Recommend rejection of IRWM proposal, with exception of funding to create implementation guidelines ($2.5 million), as budget proposal lacks clear policy direction and funding eligibility guidelines do not exist for awarding grants.

B-87 ■ **Recommend Hearings on State Water Supply.** Recommend joint budget and policy hearings on the state's water supply given major budget proposals as well as recent events significantly impacting water supply and deliveries. Recommend Legislature withhold action on storage and conveyance funding proposals in budget until after such hearing.

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Air Resources Board

B-91 ■ **Request for Additional Funds for Hydrogen Highway is Unwarranted. Reduce Item 3900-001-0044 by $6 Million.** Recommend Legislature deny request for $6 million to continue the Governor's Hydrogen Highway initiative, given sufficient funding remains available from prior appropriations.

State Water Resources Control Board

B-100 ■ **Recommend Full Application of "Polluter Pays" Principle. Reduce Item 3940-001-0001 by $30.6 Million and Increase Item 3940-001-0193 by $7.4 Million, Item 3940-001-3058 by $400,000, New Special Fund Item (Timber Harvest Fee) by $4.4 Million, and a New Special Fund Item (Broad-Based Water Quality Fee) by $22 Million.** Recommend application of polluter pays principle to board's regulatory and water quality management programs, including enactment of a new broad-based fee, to create General Fund savings and offset General Fund reductions.

B-103 ■ **Information Technology (IT) Progress Made, but Problems Persist. Reduce Item 3940-001-0193 by $129,000.** Recommend deletion of funding to increase California Integrated Water Quality System IT budget because required reports are late making evaluation of progress in addressing IT problems difficult.

B-106 ■ **Increased State Board and Legislative Oversight Needed for Supplemental Environmental Projects. Increase Item 3940-001-0679 by $500,000.** Recommend measures to increase oversight over regional board enforcement activity, including the use of Supplemental Environmental Projects, and to provide increased funding to the state board for its oversight function.

Electricity Oversight Board

B-110 ■ **Elimination of the Electricity Oversight Board (EOB) Needs Legislative Direction.** Recommend administration present, at budget hearings, its plan to assign EOB's duties and workload to other state agencies. We further recommend the enactment of legislation to implement the Legislature's policy determinations on the future of the board.