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LAO Budget Options: Resources Agency and Cal-EPA Departments

LEGISLATIVE ANALYST'S OFFICE

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On Resources, Environmental Protection and Energy
Hon. Joe Simitian, Chair





The 2008-09 Enacted Budget

Resources Agency Departments. The 2008-09 enacted budget includes about \$5.9 billion of expenditures for Resources Agency departments, with funding as follows:

- Special funds: \$2.2 billion (38 percent).
- General Fund: \$1.8 billion^a (31 percent).
- Selected bond funds: \$1.6 billion (28 percent).
- Federal funds: \$186 million (3 percent).

^a Note: This amount—which comes from the Department of Finance’s “Schedule 9” document for the enacted budget (with vetoes)—captures emergency fire suppression expenditures at the time the budget act was signed. At that point, these expenditures were already \$160 million higher than the amount included for this purpose in the budget act *for the whole year*. We estimate that an additional \$150 million in General Fund emergency fire suppression expenditures will be incurred in the balance of the fiscal year.

Resources Budgets Represent a Very Small Portion of the Total State Budget:

- General Fund expenditures for resources programs represent about 1.8 percent of the total state General Fund budget.
- Total expenditures for resources programs represent about 2.9 percent of the total state budget (all funds).

Cal-EPA Departments. The 2008-09 enacted budget includes \$1.8 billion of expenditures for California Environmental Protection Agency (Cal-EPA) departments, with funding as follows:

- Special funds: \$1.2 billion (64 percent).
- Selected bond funds: \$397 billion (22 percent).
- Federal funds: \$176 million (10 percent).
- General Fund: \$81 million (4 percent).



The 2008-09 Enacted Budget *(Continued)*

Environmental Protection Budgets Represent a Very Small Portion of the Total State Budget:

- General Fund expenditures for environmental protection programs represent less than one-tenth of 1 percent of the total state General Fund budget.
- Total expenditures for environmental protection programs represent less than 1 percent of the total state budget (all funds).



Budget Option: Timber Harvest Plan Review

Create a New Regulatory Fee for Timber Harvest Plan Review

- Required Review of Forestry Plans.*** The state's Forest Practice Act requires that logging operations comply with an approved Timber Harvest Plan (THP). The THP describes the logging methods to be used and all environmental mitigation measures to be undertaken in order to protect public resources.
- Several State Departments Involved in the Review of THPs.*** The Department of Forestry and Fire Protection (CalFire) is required to review and approve THPs. In addition, several other state departments are involved in the review of THPs—including the Department of Conservation, the Department of Fish and Game, and the State Water Resources Control Board (SWRCB).
- Costs Mostly Paid for by the General Fund.*** Almost all of the costs of THP review and enforcement are paid from the General Fund. (The Department of Fish and Game collects a small fee of about \$400,000 per year which partially covers its expenditures.) Total current-year expenditures on THP review and enforcement, across all departments, are about \$21 million.
- Recommend a New Fee to Cover All THP Regulatory Costs.*** We recommend the Legislature enact a new fee to fully cover the regulatory cost of this program. Because the THP process is designed to protect public resources from potential harm from logging operations and THP approval allows timber harvesters to start generating revenue, it is appropriate that timber harvesters pay for the costs of this program. Such a fee could be based on the value of timber harvested and collected by the Board of Equalization which collects the existing timber yield tax. We estimate this proposal will reduce General Fund expenditures by \$21 million, beginning in the 2009-10 budget year.



Budget Option: Wildland Fire Protection

Create a New Fee to Partially Pay for State Wildland Fire Protection

- The State Provides Wildland Fire Protection Services.*** Under state law, CalFire is responsible for providing *wildland* fire protection in State Responsibility Areas (SRA)—primarily timberlands, rangelands, and watershed areas.
- Local Governments Provide Structural Fire Protection and Other Emergency Response.*** Local governments—including counties and special districts—are responsible for providing fire protection to structures and responding to medical and other emergencies in SRA.
- Increasing Housing Development in SRA.*** While SRA were originally thought of as wildland areas, they are now home to considerable development. Over the last fifteen years, the total acreage in SRA has remained stable, while the number of housing units has increased by 15 percent, to more than 850,000.
- Fire Protection Costs Have Increased Dramatically, Partly Driven by Housing Development.*** The state's expenditures for wildland fire protection are divided between the baseline budget—which pays for regular labor costs, equipment, and facilities—and the Emergency Fund—which pays for overtime and other additional costs of large fire events. Over the last ten years, the total budget for fire protection in the state has increased by more than 150 percent, to over \$1 billion per year. In large part, this increase in costs has been driven by housing development in SRA—which leads to more fires and require more labor intensive fire fighting tactics.



Budget Option: Wildland Fire Protection

(Continued)

- Recommend Beneficiaries in SRA Pay a Portion of State's Costs.*** Because property owners in SRA receive a direct benefit from state fire protection, it is appropriate that they pay a portion of the state's costs for providing this fire protection. Similarly, because there are statewide benefits to the protection of watersheds and other resources, it is appropriate that the state as a whole pay a portion of these costs.

- Structure of a New SRA Fee.*** We recommend the Legislature impose a new fee on property owners—particularly the owners of structures—in SRA. Because the development of housing in SRA has driven increasing fire protection costs, it is appropriate that owners of structures in SRA pay most of the fee. A new SRA fee that splits evenly the state's baseline fire protection cost between direct beneficiaries and the state as a whole would generate about \$240 million per year. If such a fee were enacted soon, it may be possible to generate General Fund savings beginning as early as the 2009-10 budget year.



Budget Option: Department of Fish and Game

Impose New Fees to Pay for Department of Fish and Game Regulatory Programs

- Existing Regulatory Programs.*** The Department of Fish and Game has statutory responsibility for protecting the state's fish and wildlife resources. To this end, it enforces the California Endangered Species Act under which the department reviews and permits projects that may pose risks to threatened and endangered species. The department also enforces the Natural Communities Conservation Planning Act, which also protects threatened and endangered species, but is applied on a larger ecosystem scale, rather than on a case-by-case basis.

- Existing Programs Largely Supported by the General Fund.*** These two regulatory programs are largely supported from the General Fund. (Current law allows the department to assess a fee to cover its costs for implementing the Natural Communities Conservation Planning Act, however the department currently does not do so.) In the current year, the General Fund cost of these programs is about \$4.6 million.

- Recommend Imposing New Fees.*** We recommend the Legislature enact new fees on the regulated community (generally property developers and local governments) to fully fund these programs. Since project proponents are potentially threatening state resources, we believe it is appropriate that they pay the cost to ensure that these resources are protected. We estimate shifting the cost of these programs to fees would save about \$4.6 million in General Fund, beginning in 2009-10.



Budget Option: State Parks

Increase State Park Fees to Facilitate General Fund Reduction

- Free Day Use is the Largest Component of Parks Visitation.*** In general, the public is allowed to walk or bike into state parks for free. In addition, many state parks do not charge any entrance fees for vehicles. For 2006-07, free use of state parks and beaches was over 49 million, while paid day use was 25.5 million (excluding off-highway vehicle use).
- Park Fees Vary by Park, Time, and Attractions Offered.*** At most parks, visitors are charged when they drive a vehicle into a state park and/or for the use of an overnight campsite. In these cases, individuals do not pay an individual entrance fee; rather the fee may be paid by an individual or a group. There are some state park attractions, such as Hearst Castle, that charge an individual entrance fee, but these are rare. In addition, many parks charge different fees based on the season.
- Fees Levels Vary Widely.*** The cost for entering a state park or using park facilities varies considerably based on the location, time of year, and level of amenity offered. Generally, park entrance fees vary from \$2 to \$10 per vehicle (with most falling between \$5 and \$9), while campsites vary from \$9 to \$200 per night (with most falling between \$15 and \$40).
- Fee Revenues Per Visitor Are Relatively Low.*** In 2006-07, the state park system generated about \$72 million in fee revenues. This equates to \$2.83 per paid visitor. (The per-paid visitor revenue is substantially lower than posted fee levels because many park users enter as families or groups and share campsites.)



Budget Option: State Parks

(Continued)

- Recommend Reduced General Fund Budget and Offsetting Fee Increases.*** We recommend the Legislature reduce the General Fund budget of the Department of Parks and Recreation by \$25 million and increase the department's authority to collect and spend fee revenue by a like amount. Under this proposal, per-visitor fees would increase to \$3.83. If this increase was imposed across all posted fees, most day use fees would increase to a level of about \$7 to \$12 per vehicle, while most camping fees would increase to a level of about \$20 to \$55 per night.

- Potential Impacts to Attendance of Fee Increases.*** Because park fees are paid voluntarily, there is a possibility that attendance will decline with increased fees. However, because existing fees are relatively low compared to other entertainment alternatives and there are existing programs to subsidize certain low-income visitors, we do not think these increases will have substantial impact on attendance. (We note that over the past decade, changes in fee levels have not substantially influenced paid attendance.) We recommend that the department be given the authority to target fee increases to parks where demand is strong, to minimize any impacts on attendance.



Budget Options: SWRCB

The SWRCB's General Fund Budget

The SWRCB's enacted budget for 2008-09 includes about \$39 million of expenditures from the General Fund, as shown in the figure below:

State Water Resources Control Board: General Fund Expenditures		
<i>2008-09 (Dollars In Thousands)</i>		
Program Activity	General Fund	
	Expenditures^a	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	\$38,713	

^a Include administrative overhead totaling \$2.3 million distributed throughout program budgets. Overhead calculated at the current-year rate of 6.25 percent.

Fully Fund Regulatory Programs From Fees



Core Regulatory Programs. Core regulatory programs include water quality permitting activities (pollution discharge program), the agricultural waiver program, water rights, and forest activities.



Budget Options: SWRCB

(Continued)

While these programs receive much of their funding from fees, the current-year budget includes about \$11 million for these core programs (\$4 million related to THP review).

- Recommend Full Fee Funding.** We recommend the core regulatory programs at the water boards be fully funded by fees, based on the polluter pays funding principle. In addition to \$4 million in General Fund savings related to THP review, this will save the General Fund an additional \$6.4 million, when fully operational, beginning in 2009-10. A portion of the \$6.4 million in savings may be achievable in the current fiscal year if fees were increased for the balance of the current year.

Create New Broad-Based Water Quality Fee

- Recommend Broad-Based Fee.** In our *2008-09 Analysis*, we recommended the bulk of the board's General Fund supported programs outside of the core regulatory programs be funded by a new broad-based water quality fee. These programs relate to the assessment of the state's water quality and the development of water quality plans and standards, which ultimately form the basis for the board's permitting and enforcement activities. These program activities—which include Total Maximum Daily Loads (TMDLs), basin and groundwater planning, and nonpoint source pollution programs—currently receive General Fund support of about \$18.5 million.
- Potential Fee Structure.** As an example of a potential fee structure, an annual fee of less than \$10 per individual water utility hookup or individual discharger to include residential, commercial, and agricultural users who impact water quality, would provide funding of at least \$18.5 million. General Fund savings would begin in 2009-10. It was suggested previously in budget hearings that economically disadvantaged communities could be exempted from the fee with nominal changes to the fee structure.



Budget Options: Department of Water Resources (DWR)

Establish Fees to Cover Central Valley Flood Protection Board Costs

- Previous Flood Fee Proposals.*** 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.

- Department Lacks Fee Authority to Cover Its Flood Management Costs.*** 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.

- Recommend New Fees to Cover Flood Protection Board's Costs.*** While opportunities exist for a new broad-based fee to support a broad range of the department's flood management activities that are currently funded from the General Fund, our November budget option focused solely on shifting funding for the Central Valley Flood Protection Board to fees or benefit assessments. Fee payers would be property owners and cities within the board's jurisdiction. General Fund savings of \$3.4 million in 2008-09, ramping up to \$6.7 million in 2009-10, would accrue.



Budget Options: DWR

(Continued)

Fully Fund Watermaster Program From Fees

- Watermaster Program.*** The Watermaster Program in effect ensures that water is distributed according to established water rights through the apportionment of water in streams that have had water right determinations. This program encompasses seven Watermaster service areas that are all located in Northern California counties. Currently, this program receives \$1.2 million of General Fund support. Fully funding this program from fees (levied on local agencies) would create General Fund savings of a like amount.



Budget Option: Office of Environmental Health Hazard Assessment (OEHHA)

Shift Funding for Expenditures Supporting Regulatory Activities to Fees

- OEHHA's Total 2008-09 Budget Is \$18.2 Million.*** Funding for OEHHA is split between fee-based special funds, federal reimbursements, and the General Fund. The General Fund contribution is \$8.3 million and fee-based special funds and reimbursements are \$9.9 million.

- Some of OEHHA's Activities Directly Support Regulatory Programs.*** The OEHHA identifies and quantifies the health risks of chemicals in the environment. It provides these assessments to the boards and departments in Cal-EPA and to other state and local agencies. These departments and agencies use OEHHA's information for both regulatory programs (for example, permitting) as well as general public health programs.

- Current Major Fee-Based Special Fund Sources for OEHHA Include:***
 - Pesticide Regulation Fund—funds risk assessment and hazard evaluation activities related to pesticides and other chemical contaminants in food and consumer products.
 - Air Pollution Control Fund and Motor Vehicle Account—fund OEHHA's activities related to air quality (toxic air contaminants, criteria air, and fuels).
 - Fish and Game Preservation Account—funds specific fish consumption advice activities.

- Activities Directly Related to Regulatory Programs Could Be Fully Supported With Fee-Based Special Funds.*** As OEHHA provides services to regulatory programs administered by other state agencies, using regulatory program fees from these programs is an appropriate funding source for these activities.



Budget Option: OEHHA

(Continued)

- Potential General Fund Shift to Special Funds Estimated at About \$5 Million.** Through increasing appropriations (or reimbursements) from special funds that currently support OEHHA, and through identifying additional special funds (for example, the Childhood Lead Poisoning Prevention Fund and the Toxic Substances Control Account) that relate to regulatory activities supported by OEHHA, we estimate that funding for \$4.9 million of OEHHA's current General Fund expenditures could be shifted to various fee-based special funds.
- Some General Fund Support Is Appropriate.** For OEHHA's broad-based public health focused activities (for example, Proposition 65), the General Fund is the appropriate source of funding.
- Fee Increases May Be Required.** Some of the special funds have sufficient balances to absorb additional funding for OEHHA in the near term. In other cases where sufficient balances do not exist, fee increases may be required.