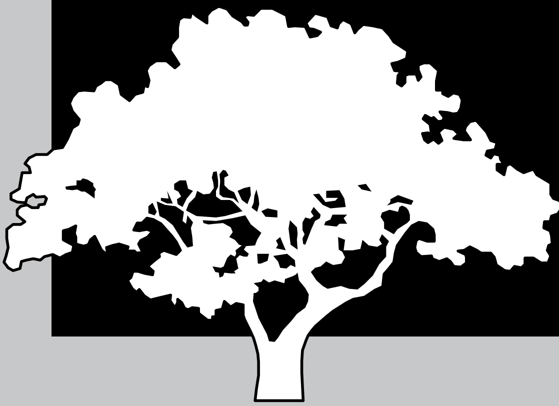
RESOURCES



LAO

60 YEARS OF SERVICE

2005-06 Analysis

Major Issues

Resources

☑ Should the State Issue Debt to Finance Flood Lawsuit Settlement?

- The administration proposes to finance a pending $464 million settlement of a flood-related lawsuit with a "judgment bond." We identify alternatives to issuing debt to pay for this settlement, and raise a number of legal, policy, and fiscal issues with the judgment bond proposal. We recommend that the Department of Finance report at budget hearings on the status of this settlement, on alternative payment mechanisms, and on the issues that we have raised (see page B-75).

☑ Recycling Goals Could Be Met More Effectively

- The state could more effectively meet its recycling objectives by combining the existing recycling and related waste prevention programs of the Department of Conservation and the California Integrated Waste Management Board (CIWMB) into a new department in the California Environmental Protection Agency. We also recommend eliminating CIWMB, and transferring its non-recycling and non-waste prevention functions to an expanded Department of Toxic Substances Control, generating $2 million in savings (see page B-17).

☑ Reorganization of Energy-Related Boards Raises Concerns

- As part of a reorganization of boards and commissions, the Governor proposes to transfer the functions of two energy-related agencies—the California Consumer Power and

Conservation Financing Authority and the Electricity Oversight Board—to the California Energy Commission. Looking at a broad reorganization of the state's energy-related agencies has merit. However, the Governor's proposal raises several issues. Among these are the potential conflicts of interest in the resulting organization and whether this proposal is premature given the potential submission of a broader energy agency reorganization plan and ongoing debate about the future structure of the state's energy market. We recommend that the Department of Finance report at budget hearings on these issues (see page B-27).

☑ **Fire Protection Budget: Details Lacking, Oversight Difficult**

- The budget proposes close to $20 million for new forest firefighting equipment and helicopters and for year-round firefighting staffing in Southern California. Details and justification for these proposals are lacking, and we therefore recommend that the Legislature deny the funding requests (see page B-52).

- It has been difficult for the Legislature to oversee the California Department of Forestry and Fire Protection's use of federal funds received as long as a year or two after assisting the federal government at a fire. We make recommendations to improve legislative oversight over these unanticipated federal funds (see page B-56).

☑ **Getting Bond Funds Out-the-Door**

- Some bond funds (mainly for water projects) are taking a long time to get to the intended recipients; in other cases, there has been little demand for the authorized use of bond funds. We recommend that the administration report at budget hearings on the status of the expenditure of prior appropriations and on actions that can be taken to improve bond program implementation (see page B-33).

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OVERVIEW

Resources

The budget proposes significantly lower state expenditures for resources and environmental protection programs in 2005-06 compared to the estimated current-year level. Most of this reduction reflects a decrease in available bond funds. The budget also proposes somewhat higher General Fund expenditures for the budget year, reflecting a handful of program augmentations mainly concentrated in three resources departments. The budget also proposes to finance a pending $464 million settlement of flood litigation against the state using a judgment bond.

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 $4.7 billion in 2005-06, which is 4.2 percent of all state-funded expenditures proposed for 2005-06. This level is a decrease of about $1.9 billion, or 29 percent, below estimated expenditures for the current year.

Decrease Largely Reflects Reduction in Bond Expenditures. The proposed reduction in state-funded expenditures for resources and environmental protection programs mostly reflects a $2 billion decrease in bond fund expenditures for water, land conservation, and other resources-related projects. (As discussed below, the decrease in bond-funded expenditures is partially offset by an increase in expenditures from the General Fund.) Between 1996 and 2002, the state's voters approved $11.1 billion of resources bonds. Roughly $2 billion of this total remains available for appropriation in the budget year.

Spending From General Fund Up Significantly, Special Funds Down Slightly. On the other hand, the budget reflects an increase in General Fund expenditures for various purposes. The increases from the General Fund are largely concentrated in the Department of Water Resources (DWR), California Department of Forestry and Fire Protection (CDFFP), and Department of Parks and Recreation (DPR). Special fund increases are proposed for the Air Resources Board (ARB). In total, the budget proposes General Fund expenditures for resources and environmental protection programs in 2005-06 that are $198 million, or 17 percent, higher than the current-year level. The budget proposes special fund expenditures that are $49 million, or 2 percent, below the current-year level.

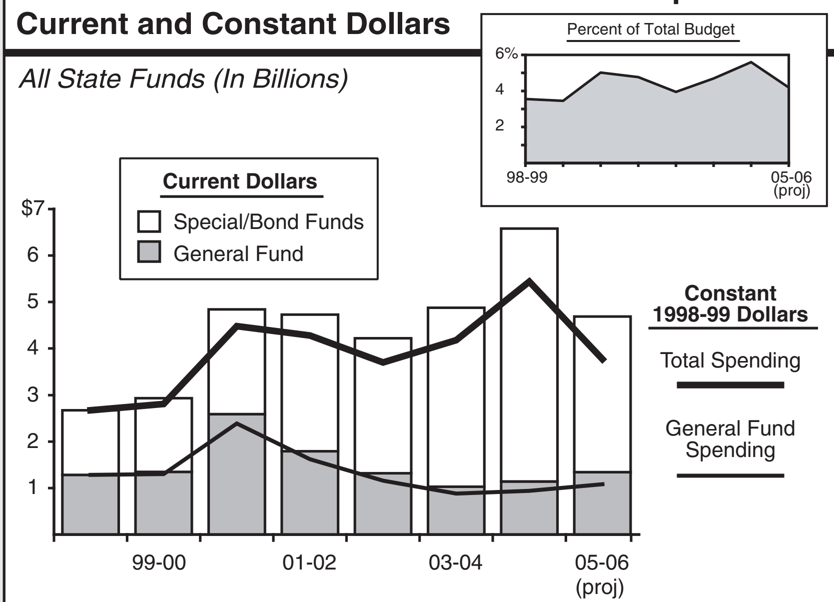
Funding Sources. The largest proportion of state funding for resources and environmental protection programs—about $2.6 billion (or 55 percent)—will come from various special funds. These special funds include the Environmental License Plate Fund, Fish and Game Preservation Fund, funds generated by beverage 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, $1.3 billion will come from the General Fund (29 percent of total expenditures) and about $800 million will come from bond funds (16 percent of total expenditures).

Expenditure Trends. Figure 1 shows that state expenditures for resources and environmental protection programs increased by about $2 billion since 1998-99, representing an average annual increase of about 8 percent. The increase between 1998-99 and 2005-06 mostly reflects an increase in special fund and bond expenditures. On the other hand, the budget proposes General Fund expenditures for 2005-06 at a level roughly the same as that found in 1998-99.

Figure 1

Resources and Environmental Protection Expenditures Current and Constant Dollars

All State Funds (In Billions)



When adjusted for inflation, total state expenditures for resources and environmental protection programs increased at an average annual rate of about 5 percent. When adjusted for inflation, General Fund expenditures proposed for 2005-06 are actually lower than the 1998-99 level, reflecting an average annual decrease of about 2 percent. General Fund expenditures for resources and environmental protection programs peaked in 2000-01 and have since declined due to the state's weakened fiscal condition.

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 regulatory universe.

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 CDFFP's emergency fire suppression activities and the emergency flood response actions of 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 universe of 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 13) shows similar information for major *environmental protection* programs—those programs within the jurisdiction of the Secretary for Environmental Protection and Cal-EPA.

Spending for Resources Programs. Figure 2 shows the General Fund will provide the majority of CDFFP's total expenditures, accounting for 60 percent ($530.6 million) of the department's 2005-06 expenditures. On the other hand, the General Fund provides less support for the other resources departments. For instance, for the Department of Conservation (DOC), the General Fund will constitute less than 1 percent ($4.9 million) of its budget-year expenditures. In the case of the Department of Fish and Game (DFG) and DPR, the General Fund will pay about 13 percent ($37.3 million) and 24 percent ($101 million) of the respective departments' 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 (IOUs). If these energy-related expenditures are excluded from DWR's total, the General Fund pays for about 11 percent ($113 million) of DWR's expenditures.

Figure 2 also shows that compared to current-year expenditures, the budget proposes an overall spending reduction in many resources departments. Specifically, for DFG and DPR , the reduction mostly reflects a reduction in available bond funds. Although not shown in the figure, entities affected by a decrease in available bond funds include other land acquisition agencies, which include the Wildlife Conservation Board and the state's several land conservancies. In the case of the Secretary for Resources, the reduction mainly reflects the elimination of one-time funding of $10 million (tidelands oil revenues) that was provided in the current year for ocean protection projects. In the case of DOC, the reduction mainly reflects a decrease in payments to recycling industries from recycling special funds.

The budget's proposed reduction in total spending in DWR (4 percent) largely reflects a $331 million reduction in expenditures from the Electric Power Fund, due to decreased payments on energy contracts entered into on behalf of IOUs. This decrease reflects expiring energy contracts. However, DWR's General Fund expenditures are proposed to increase substantially—by $70 million, or 163 percent. Included in this increase are $59.1 million for the lining of the All-American Canal and $9.7 million for

Figure 2

Resources Budget Summary
Selected Funding Sources

(Dollars in Millions)

Department	Actual 2003-04	Estimated 2004-05	Proposed 2005-06	Change From 2004-05	
				Amount	Percent
Resources Secretary					
Bond funds	$145.5	$58.9	$54.3	-$4.6	-7.8%
Other funds	2.8	13.5	3.8	-9.7	-71.9
Totals	**$148.3**	**$72.4**	**$58.1**	**-$14.3**	**-19.8%**
Conservation					
General Fund	$5.0	$4.0	$4.9	$0.9	22.5%
Recycling funds	635.5	886.2	849.5	-36.7	-4.1
Other funds	40.2	75.3	60.8	-14.5	-19.3
Totals	**$680.7**	**$965.5**	**$915.2**	**-$50.3**	**-5.2%**
Forestry and Fire Protection					
General Fund	$458.2	$513.9	$530.6	$16.7	3.2%
Other funds	360.5	357.1	346.8	-10.3	-2.9
Totals	**$818.7**	**$871.0**	**$877.4**	**$6.4**	**0.7%**
Fish and Game					
General Fund	$35.6	$37.8	$37.3	-$0.5	-1.3%
Fish and Game Fund	87.4	101.8	98.1	-3.7	-3.6
Environmental License	16.1	16.2	15.8	-0.4	-2.5
Other funds	92.0	209.2	146.2	-63.0	-30.1
Totals	**$231.1**	**$365.0**	**$297.4**	**-$67.6**	**-18.5%**
Parks and Recreation					
General Fund	$97.3	$86.8	$101.0	$14.2	16.4%
Parks and Recreation Fund	96.7	117.8	123.8	6.0	5.1
Bond funds	587.9	612.9	52.8	-560.1	-91.4
Other funds	108.8	248.5	152.1	-96.4	-38.8
Totals	**$890.7**	**$1,066.0**	**$429.7**	**-$636.3**	**-59.7%**
Water Resources					
General Fund	$60.5	$43.0	$113.0	$70.0	162.8%
State Water Project funds	659.9	528.2	533.7	5.5	1.0
Bond funds	159.9	331.1	313.7	-17.4	-5.3
Electric Power Fund	5,883.3	5,670.8	5,339.7	-331.1	-5.8
Other funds	69.8	47.1	52.9	5.8	12.3
Totals	**$6,833.4**	**$6,620.2**	**$6,353.0**	**-$267.2**	**-4.0%**

levee maintenance and other flood management activities. In addition, although not reflected in the budget's proposed spending totals for DWR, the Governor's budget display for DWR references a proposal to finance a pending $464 million settlement of flood litigation against the state with a "judgment bond." We discuss this proposal in our DWR writeup under this chapter.

Finally, the budget proposes a slight net increase in expenditures for CDFFP in 2005-06. The increases include $23 million for firefighting equipment and to support year-round staffing in Southern California and $55 million for increased employee compensation and retirement costs. On the other hand, the budget proposes a $25 million decrease in General Fund spending for emergency fire suppression—from $120 million in the current year to $95 million in the budget year. This is because the current year has turned out to be a high fire year, with higher-than-average expenditures while the budget assumes somewhat lower expenditures in 2005-06. We note that the budgeted expenditures for emergency fire suppression reflect the increasing ten-year average of these expenditures.

Spending for Environmental Protection Programs. As Figure 3 shows, the budget proposes either increased or essentially stable spending for most environmental protection programs. The one area with a significant proposed overall reduction is the State Water Resources Control Board (SWRCB), mostly reflecting a decrease in available bond funds for water projects.

For ARB, the proposed substantial spending increase from the Air Pollution Control Fund ($61.3 million, or a change of almost 100 percent) mainly reflects additional funding from vehicle registration-related fees for a diesel emissions reduction incentives program—the Carl Moyer Program. The scope of the Carl Moyer Program was recently expanded by Chapter 707, Statutes of 2004 (AB 923, Firebaugh).

For the California Integrated Waste Management Board, the proposed increase in spending mostly reflects the first full year of fee revenues from a new electronic waste recycling program established pursuant to Chapter 526, Statutes of 2003 (SB 20, Sher). Finally, while the budget proposes an overall reduction of spending in SWRCB due to declining bond fund availability, the SWRCB's budget reflects a significant increase in spending from special funds for the cleanup of leaking underground storage tanks (an increase of $31.6 million, or 13 percent).

Figure 3

Environmental Protection Budget Summary Selected Funding Sources

(Dollars in Millions)

Department/Board	Actual 2003-04	Estimated 2004-05	Proposed 2005-06	Change From 2004-05	
				Amount	Percent
Air Resources					
General Fund	$4.4	$2.2	$2.2	—	—
Motor Vehicle Account	72.0	73.2	80.8	$7.6	10.4%
Air Pollution Control Fund	30.9	61.7	123.0	61.3	99.4
Other funds	42.9	30.1	30.8	0.7	2.3
Totals	**$150.2**	**$167.2**	**$236.8**	**$69.6**	**41.6%**
Waste Management					
Integrated Waste Account	$40.7	$43.4	$47.7	$4.3	9.9%
Other funds	65.0	106.1	142.7	36.6	34.5
Totals	**$105.7**	**$149.5**	**$190.4**	**$40.9**	**27.4%**
Pesticide Regulation					
General Fund	$4.7	—[a]	—	—	—
Pesticide Regulation Fund	47.0	$56.7	$58.6	$1.9	3.4%
Other funds	3.2	3.4	3.5	0.1	2.9
Totals	**$54.9**	**$60.1**	**$62.1**	**$2.0**	**3.3%**
Water Resources Control					
General Fund	$35.0	$27.9	$29.2	$1.3	4.7%
Underground Tank Cleanup	239.2	244.0	275.6	31.6	13.0
Bond funds	167.2	517.7	178.3	-339.4	-65.6
Waste Discharge Fund	51.3	58.0	57.8	0.2	-0.3
Other funds	303.9	186.0	187.7	1.7	0.9
Totals	**$796.6**	**$1,033.6**	**$728.6**	**-$305.0**	**-29.5%**
Toxic Substances Control					
General Fund	$14.4	$21.1	$18.2	-$2.9	-13.7%
Hazardous Waste Control	45.8	47.4	51.3	3.9	8.2
Toxic Substances Control	36.3	44.4	43.3	-1.1	-2.5
Other funds	45.3	54.7	57.8	3.1	5.7
Totals	**$141.8**	**$167.6**	**$170.6**	**$3.0**	**1.8%**
Environmental Health Hazard Assessment					
General Fund	$8.2	$7.7	$7.9	$0.2	2.6%
Other funds	4.0	7.3	6.9	-0.4	-5.5
Totals	**$12.2**	**$15.0**	**$14.8**	**-$0.2**	**-1.3%**

[a] Not a meaningful figure.

MAJOR BUDGET CHANGES

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

Figure 4

Resources and Environmental Protection Programs Proposed Major Changes for 2005-06

Air Resources

- + $55 million (special funds) for diesel emission reduction incentives
- + $16 million (mainly special funds) for enforcement, monitoring, and other activities

Forestry and Fire Protection

- + $23 million (General Fund) for firefighting equipment and year-round staffing in Southern California

Parks and Recreation

- + $11.2 million (General Fund) for Americans with Disabilities Act-related projects
- + $6 million (special funds) for water quality system repairs

State Water Resources Control

- + $60 million (special funds) for cleanup or replacement of leaking underground storage tanks

Water Resources

- + $464 million (judgment bond) for pending flood lawsuit settlement
- + $59.1 million (General Fund) for lining of the All-American Canal
- + $9.7 million (General Fund) for levee maintenance and other flood management activities

As shown in Figure 4, the budget proposes several General Fund and special fund increases throughout resources and environmental protection departments. Of particular note are $71 million of special fund increases in ARB for diesel emission reduction incentives and various other activities; $59.1 million (General Fund) for the lining of the All-American Canal and $9.7 million (General Fund) for levee maintenance in DWR; and $48 million of General Fund increases in CDFFP for firefighting equipment and year-round firefighting staffing in Southern California. Additionally, as mentioned previously, the budget proposes to issue a judgment bond to finance a pending $464 million settlement of flood litigation against the state.

CROSSCUTTING ISSUES

Resources

REORGANIZING THE STATE'S RECYCLING PROGRAMS

In order to increase the effectiveness and efficiency of the state's recycling programs, we recommend that such programs be consolidated into a new department within the California Environmental Protection Agency. We also recommend that the nonrecycling-related functions in the current agencies be transferred to other departments.

Recycling is one of the solid waste prevention strategies that addresses the state's statutory goal of diverting solid waste from landfills and incineration facilities. (The other solid waste prevention strategies are waste reduction at the source and reuse—using an item, such as a plastic bag, over again in its current form.) More specifically, this strategy transforms an item that may once have been considered valueless (trash) and bound for a landfill into a valuable commodity that is not discarded. This strategy involves the complete cycle from the collection and separation of materials, to the processing of these materials so that businesses can then buy and manufacture using the recycled materials, and finally to consumers purchasing new products made from the recycled materials. For this reason, recycling serves a business development purpose and will become increasingly important as landfill space becomes more limited and the demand for resources continues to rise as California's population increases.

As discussed below, our review finds that the state could be more effective in meeting this statutory goal if recycling programs in the Department of Conservation (DOC) and the California Integrated Waste Management Board (CIWMB) were consolidated.

Current Division of Responsibilities

The state's recycling responsibilities are divided between the Department of Conservation's Division of Recycling (DOR) and the California Integrated Waste Management Board (CIWMB). The DOR oversees the beverage container recycling program and CIWMB oversees all other solid waste and hazardous waste recycling programs.

Recycling Responsibility Divided Between Two Agencies. Responsibility for recycling is divided between DOR and CIWMB. In this section, we compare and contrast the recycling-related responsibilities and programs of the department and the board.

The DOR's Beverage Container Recycling Program. The DOR administers the Beverage Container Recycling Program, commonly referred to as the Bottle Bill program. This program was created 19 years ago by Chapter 1290, Statutes of 1986 (AB 2020, Margolin). The program encourages the voluntary recycling of most beverage containers by guaranteeing a minimum payment (California Redemption Value [CRV]) for each container returned to certified recycling centers. As shown in Figure 1, beverages are subject to CRV based on the contents of the container, not the container material. For example, even though wine coolers and wine are both usually bottled in glass and are recycled, only wine coolers are subject to CRV.

Figure 1

Beverage Recycling Responsibilities

Department of Conservation
Beer and malt beverages
Wine coolers and distilled spirit coolers
Carbonated fruit drinks
Coffee and tea beverages
Noncarbonated water, including noncarbonated mineral water
Carbonated soft drinks
Vegetable juice (16 ounces and under only)
"Sport" drinks
Integrated Waste Management Board[a]
Wine
Milk
Vegetable juice (over 16 ounces)
Nutritional supplements
Infant formula
100 percent fruit juice (46 ounces or more)

[a] Responsible for recycling all other solid waste not included in this chart.

The Legislature's intent in enacting AB 2020 was to make redemption and recycling convenient to consumers in order to encourage litter abatement and beverage container recycling in the state. This program's statutory goal is to recycle 80 percent of beverage containers covered under this statute. In 2003, the state's recycling rate was 55 percent. (There has been a drop in the recycling rate in the last four years as new beverages, namely noncarbonated water, have become subject to CRV.)

The CIWMB's Other Solid Waste and Hazardous Waste Recycling Programs. The California Integrated Waste Management Act (Chapter 1095, Statutes of 1989 [AB 939, Sher]) created the CIWMB. This act charged this board with reducing, recycling, and reusing solid waste generated in the state to the maximum extent feasible in an efficient and cost-effective manner. With the implementation of this act, the board became responsible for the recycling of solid waste items not included in the Bottle Bill. Over time, statute has established programs in CIWMB to address particular waste streams. These include programs for the recycling of used oil, household hazardous waste, tires, and electronic waste. (The Department of Toxic Substances Control [DTSC] regulates the generation, treatment, and disposal of *hazardous* waste, such as used oil. The board oversees programs to encourage the collection of and development of economic markets for recycled hazardous waste.)

The board's statutory goal is to divert 50 percent of solid waste from landfills and incineration facilities by 2000. (Subsequent legislation authorized the board to grant time extensions to local jurisdictions for meeting this diversion requirement.) In 2003, the state's diversion rate was 47 percent. In that year, of a total of about 420 jurisdictions, about 150 were operating under approved time extensions to meet the diversion requirement and 11 were found to be noncompliant with the diversion requirement.

Missed Opportunities to More Effectively Meet Recycling Goals

We find there have been missed opportunities to more effectively meet the state's recycling goals. Specifically, the department's and board's efforts in regards to public outreach and education, recycled material market development, and sharing of recycling expertise are fragmented, thereby weakening the potential of delivering the state's recycling message and meeting recycling objectives.

There have been a number of reports regarding the division of recycling responsibilities between the two agencies, including *Beyond Bottles and Cans: Reorganizing California's Recycling Efforts* (March 1994) by the Little Hoover Commission and a report by the board and department, *Duplication and Overlap in Recycling Programs of the Integrated Waste Management Board and the Department of Conservation*, mandated by Chapter 815, Statutes of 1999 (SB 332, Sher). Additionally, legislation has been introduced (but not enacted) in past years to address the duplication and overlap of recycling responsibilities by consolidating recycling programs in a single agency. These bills include SB 2026 (Bergeson) and SB 1089 (Killea), both introduced in the 1993-94 session.

These reports have highlighted duplication and overlap between the department and the board in public information and education, local government review and assistance, and recycled materials market development. Our review finds that many of the cases of duplication and overlap identified in these reports have been addressed through memoranda of agreement and informal arrangements between the two agencies. However, we find that having bifurcated recycling programs leads to missed opportunities to foster and strengthen the state's recycling message and objectives with the result that recycling rates are lower than they would be otherwise. We do not think memoranda of agreement or informal arrangements can adequately address these issues.

In this section, we highlight some of these missed opportunities and explain why consolidating the recycling programs should lead to a more effective and comprehensive approach to recycling.

Public Outreach and Education. Both the department and the board have public outreach and education initiatives to promote recycling. In an attempt to avoid duplication and to coordinate their efforts, the department focuses on beverage container recycling (such as the "What is good for the can, is good for the bottle" campaign), while the board focuses on all other solid and hazardous waste recycling. Even though this operational practice has helped to reduce overlap and duplication, it misses an opportunity to reinforce and encourage recycling of all materials.

For instance, the department is developing a bar and restaurant recycling program. This program is designed to move bottles from the waste stream to the recycling stream. Since bars and restaurants sell almost half of their beverages in glass bottles, the department is reaching out to these establishments to offer assistance in setting up glass bottle recycling programs and is educating them on how this recycling can lower their waste-hauling bills. However, this example highlights a missed opportunity to outreach to bars and restaurants to develop a comprehensive recycling program that includes paper, food waste, and other materials. The current piecemeal approach to educating the public about recycling makes it difficult to encourage the reuse and recyclability of *all* products.

Recycled Material Market Development. The department and the board both have programs to develop and foster economic markets for similar recycled materials. For example, Chapter 753, Statutes of 2003 (AB 28, Jackson), created in the department a grant program to develop recycling markets. Under this program, the department awards grants to projects that develop new and expanded uses for aluminum, glass, and plastic beverage containers and improve the supplies and quality of recycled materials for use in manufacturing. The department is authorized to award up to $10 million annually for these projects until January 1, 2007.

The board has administered the Recycling Market Development Zone Revolving Loan Program since 1990. This program provides loans to businesses that use post-consumer waste (which includes aluminum, glass, and plastic beverage containers) or secondary waste materials to manufacture new products or reduce the waste resulting from the manufacture of a product. Up to $5 million annually is continuously appropriated for this program.

We think that there is an important role for grants and loans to encourage the demand for recycled materials through market development. However, it would be more effective if the state established a single set of priorities for which recycling markets to target, as opposed to the current practice whereby two agencies are each setting their own priorities. Additionally, this is an area where the board and department are duplicating administrative efforts. (The savings from the consolidation of these programs is discussed later in this report.)

Sharing of Technical Expertise. Lastly, since the implementation of recycling programs at the department and the board is different, each agency has developed its own particular technical expertise. For example, the department is familiar with the flow of incentive payments among manufacturers, processors, recyclers, and collectors to encourage participation in the beverage container recycling program. Whereas the board is familiar, for example, with processes for the safe recycling of hazardous waste.

Our research finds, however, that sharing of this expertise between the two agencies is limited. For example, as mentioned earlier, the board is responsible for electronic waste recycling. One of the electronic waste recycling program requirements is to use the electronic waste recycling fee to subsidize the costs of electronic waste recyclers and collectors. As previously mentioned, the department is very familiar with the flow of payments among the parties in the recycling chain that serves to encourage recycling. However, the board only met briefly with the department on this issue when it was developing the electronic waste recycling program, and failed to take full advantage of the department's expertise on this matter.

We think that this example highlights a missed opportunity for the state to maximize existing expertise in these organizations in order to implement effective programs. With recycling programs in different agencies, staff are often constrained from sharing information or expertise. As more and more recycling programs are being considered (such as the recent legislative proposals for mercury lamp and compact disc recycling), we think that it would be increasingly beneficial to centralize recycling experts in one organization in order to design effective and efficient programs.

The Case for Consolidation. As discussed above, having recycling programs in two different agencies creates a piecemeal approach to the state's recycling objectives. These examples of missed opportunities highlight instances where having all recycling programs under one organization would promote a more comprehensive and strengthened approach to recycling, particularly in terms of outreach to the public and the development of markets for recycled materials. We think this approach would be stronger than the current one because *one* state organization would be working towards this goal and *one* organization would be accountable for reaching it.

The memoranda of agreement and informal charters between the department and the board have mainly been effective in ensuring that both organizations do not work on the exact same tasks. However, they have not ensured that each organization's activities reinforce the work being done by the other. We conclude that a comprehensive approach to recycling can only be fostered and encouraged if executed under one organization.

Reorganizing Recycling and Waste Management

We recommend consolidating the state's recycling programs into a new department in the California Environmental Protection Agency. In addition, we recommend the elimination of the California Integrated Waste Management Board and the transfer of most of its remaining responsibilities (regulation of waste management) to an expanded Department of Toxic Substances Control. Finally, we recommend the Legislature consider options for transferring the remaining nonrecycling functions of the Department of Conservation to existing state agencies. Adopting these recommendations would create at least $2 million in special fund savings in the budget year.

The Distinct Goals of Recycling and Waste Management. In this section, we present our recommended reorganization of the state's recycling and waste management programs. We think it makes sense to separate recycling/waste prevention programs and CIWMB's remaining programs that focus on the regulation of solid waste management (such as the permitting of landfills and waste haulers). This is because the goals, as well as the implementation strategies of these two broad efforts—recycling/waste prevention and waste management regulation—are sufficiently distinct to be pursued separately, albeit in a coordinated manner.

As regards goals, the recycling/waste prevention programs attempt to reduce the amount of waste generated and to reuse materials that would otherwise be discarded. These activities focus on materials *before* they become part of the waste stream. In contrast, the focus of waste management activities is to ensure an effective and coordinated approach to the safe management of materials *after* they enter the state's solid waste stream.

As regards implementation strategies, the recycling/waste prevention programs are mostly *nonregulatory* in nature, as they largely involve the provision of incentives to encourage waste prevention and ensure that recycled materials are of good quality. On the other hand, waste management programs are mostly *regulatory*. These include such activities as working with local jurisdictions on integrated waste management plans, regulating the transport of solid waste, and the permitting and monitoring of solid waste management facilities, including landfills and facilities that transform solid waste.

That said, we recognize a connection between recycling activities and waste management regulation. For example, the success of recycling incentives could help local jurisdictions meet waste management plan requirements to divert a specified portion of waste from landfills. Therefore, as discussed later, we think that it will be important for a new department focused on recycling and waste prevention to coordinate its activities with that of a department focused on waste management regulation.

Consolidate State's Recycling Programs in a New Department. In order to improve the efficiency and effectiveness of the state's recycling programs, we recommend that all recycling programs at the department and the board be consolidated into a new department, which could be called, for example, the Department of Recycling and Waste Prevention, in the California Environmental Protection Agency (Cal-EPA). Additionally, we recommend transferring the board's waste prevention responsibilities to this new department. This is because a majority of the board's waste prevention programs concern recycling or encouraging reuse and reduction of waste at the source. These programs include the California Materials Exchange (a directory of residential and industrial materials that can be reused), programs to facilitate composting, and the Waste Reduction Award Program.

Eliminate CIWMB and Transfer Board's Remaining Functions to An Expanded DTSC. We recommend that all remaining functions (solid waste management) of the board be moved to DTSC. Such a consolidation would have several advantages. First, it would enhance the state's protection of the environment and the public's health through centralized management of toxic substances and solid and hazardous waste. Secondly, by consolidating the existing permitting and enforcement activities of the board and DTSC, it would improve their effectiveness and efficiency in licensing businesses seeking landfill permits. Thirdly, this consolidation could facilitate further streamlining of the permitting process and adoption of best practices (such as DTSC's requirement that the financial assurances associated with permits are reevaluated when permits are renewed). Given the expanded responsibilities of DTSC under such a consolidation, it may be appropriate to rename DTSC as the Department of Waste Management.

Board Versus Departmental Structure. Our evaluation of organizational structures and our review of the board's current activities indicate that a departmental structure, rather than a board, could more effectively and efficiently administer the state's recycling and waste prevention programs. Stakeholders have indicated that *as a department* DOC has been very effective and timely in implementing changes to the Bottle Bill program. In contrast, the board's performance in nonregulatory program implementation (such as the award of grants and loans) has been critiqued as slow and bureaucratic.

We find that the board structure at CIWMB has provided the opportunity for valuable public input during (1) the review of local jurisdiction's progress in meeting the diversion requirement and (2) the permitting process. Therefore, it may be asked whether moving CIWMB functions to a departmental structure would impede public participation opportunities. In this regard, it should be noted that DTSC's current public participation program has been effective in seeking public input and participation. The DTSC's public participation specialists hold more than 350 meetings, hearings, briefings, and panel discussions each year, and produce at least 350 public notices and fact sheets to keep residents informed of their opportunities to get involved and ensure that their concerns and priorities are addressed in DTSC's decisions. Therefore, we think that DTSC's public participation program—continued in a new Department of Waste Management—would be effective in serving as the avenue for public input and participation in landfill siting and review of diversion requirements.

Governor's Reorganization Plan Also Proposes Elimination of CIWMB. We note that the Governor has recently proposed to eliminate CIWMB as part of his reorganization plan to eliminate or reform the state's boards and commissions (GRP No. 1). The reorganization plan also recommends that the functions of CIWMB be transferred "to Cal-EPA." No further details on this proposal have been made available. As discussed above, we are recommending the transfer of specific CIWMB's functions within Cal-EPA.

Need for Coordination. As noted previously, we recognize a need for a new Department of Recycling and Waste Prevention and a new Department of Waste Management to coordinate their efforts. In particular, we think that there should be coordination in (1) the development and implementation of local waste management plans and (2) pollution prevention activities.

Currently, the development and implementation of local waste management plans includes working with local jurisdictions to provide assistance (such as the identification of waste prevention strategies) to meet and maintain the diversion requirements and to assist in waste analysis in order to find cost-effective means of waste disposal. One option for coordinating the two departments' efforts in working with local jurisdictions would be for one department to serve as the lead agency for these activities. This would ensure coordination and accountability.

In regards to pollution prevention activities, the Office of Pollution Prevention and Technology (OPPT) at DTSC and a new Department of Recycling and Waste Prevention would each be involved in such activities. We recommend that OPPT continue its scientific and technical work regarding pollution prevention, while the Department of Recycling and Waste Prevention would oversee programs to educate the public regarding OPPT's findings and recommendations.

Recommend Consideration of Options for Transferring the Remaining Functions at DOC. Lastly, it should be noted that transferring DOC's recycling program to a new department under Cal-EPA raises substantial issues regarding the placement of the remaining programs at the department. The remaining programs at DOC concern mine reclamation; farmland and open space conservation; oil, gas, and geothermal resources; and geological mapping. The Legislature should evaluate the remaining programs at the department and whether they should be transferred to other state agencies. In our *Analysis of the 1993-94 Budget Bill* (page B-36) we identified options available for transferring various components of the department to other state agencies, should its recycling functions be consolidated with those currently of CIWMB. We think that this could serve as a starting point for legislative consideration.

Savings Generated From Reorganization Proposal. Our reorganization proposal is summarized in Figure 2 (see next page). In addition to increasing the state's effectiveness and efficiency in developing a comprehensive approach to recycling, our recommended reorganization will generate savings. First, the state could realize approximately $2 million in special fund savings from board salary, staff, and travel expenses by eliminating the CIWMB's board. Furthermore, by consolidating programs as we recommend, there should be some additional administrative savings from the resulting efficiencies.

Figure 2

Recommended Reorganization of Recycling and Waste Management Programs

Current Structure:

✓ Department of Conservation, Division of Recycling (DOR) [in the Resources Agency]

✓ California Integrated Waste Management Board (CIWMB) [in Cal-EPA]

✓ Department of Toxic Substances Control (DTSC) [in Cal-EPA]

Revised Structure Under Reorganization:

✓ Department of Recycling and Waste Prevention [in Cal-EPA]

To include these current functions:

- All of DOR
- CIWMB's Special Waste Division's recycling/waste prevention responsibilities
- CIWMB's Diversion, Planning, and Local Assistance Division recycling/waste prevention responsibilities
- CIWMB's Waste Prevention and Market Development Division

✓ Department of Waste Management [in Cal-EPA]

To include these current functions:

- All of DTSC
- CIWMB's Permitting and Enforcement Division
- CIWMB's Special Waste Division's responsibilities outside of recycling/waste prevention
- CIWMB's Diversion, Planning, and Local Assistance Division's responsibilities outside of recycling/waste prevention

ELIMINATION OF ENERGY-RELATED AGENCIES

Governor's Reorganization Plan

The Governor's Reorganization Plan Number One (GRP 1), related to reforming boards and commissions, proposes eliminating two energy-related agencies and moving their duties to the Energy Resources Conservation and Development Commission.

The Governor's Reorganization Plan Number One (GRP 1) focuses on reforming California's boards and commissions. As is discussed in detail in our companion document, *The 2005-06 Budget: Perspectives & Issues (P&I)*, GRP 1 proposes moving or eliminating 88 of the more than 300 independent boards and commissions in California's state government, based largely on the work of the California Performance Review. In most cases, an existing state agency or department will assume the duties and responsibilities of the board or commission. According to GRP 1, its purpose is to "improve the productivity of state government by removing duplication, leveraging the state's resources, and streamlining decision-making."

The GRP 1 proposes to eliminate two energy-related agencies—the California Consumer Power and Conservation Financing Authority (CPA) and the Electricity Oversight Board (EOB). In both cases, the duties and responsibilities will be moved to the Energy Resources Conservation and Development Commission (CEC, commonly known as the Energy Commission).

Current Energy Agency Organization

There are multiple state agencies involved in implementing and overseeing the state's energy-related responsibilities, including the California Consumer Power and Conservation Financing Authority (CPA) and the Electricity Oversight Board (EOB). The CPA is currently inactive; the budget proposes $3.9 million for EOB in 2005-06.

At least seven state governmental entities are involved in implementing, overseeing, and managing the state's energy-related policies and responsibilities. These include the CEC, California Public Utilities Commission (CPUC), EOB, CPA, California Energy Resources Scheduling (CERS) division within the Department of Water Resources, the Division of Oil, Gas, and Geothermal Resources within the Department of Conservation, and the California Independent System Operator (ISO).

History of CPA. The CPA was created by Chapter 10x, Statutes of 2001 (SB 6x, Burton), to assure a reliable supply of power to Californians at reasonable rates, including planning for a prudent energy reserve. The CPA was also created to encourage energy efficiency, conservation, and the use of renewable resources. Chapter 10x authorized CPA to issue up to $5 billion in revenue bonds to finance these activities, and directs that the operation of the authority sunset on January 1, 2007.

Funding authorized in the *2004-05 Budget Act* for CPA ran out in October 2004, and the proposed 2005-06 budget contains no funding for CPA.

The CPA exercised only a small portion ($28 million) of its bonding authority, and when operations ceased, it had only one ongoing program. Through its Demand Reserves Partnership Program, CPA provided electricity at peak times to CERS, by paying other large electricity users to reduce their electricity use during these peak demand times. The Demand Reserves Program is in the process of being transferred to Pacific Gas & Electric, under the direction of CPUC. It should be noted that the California Infrastructure and Economic Development Bank also has the authority to issue revenue bonds to finance power plant construction.

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, which manages the transmission grid serving most of California, 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 is a litigant in approximately 40 cases in the federal courts of appeal. In 2004-05 alone, EOB has been a party to settlements of $990 million for various overcharges.

The EOB has a staff of 22 positions and a 2005-06 proposed budget of $3.9 million, the majority of which comes from the Public Utilities Commission Reimbursement Account. The governing board currently has only one governor-appointed member and has not met since March of 2003. Since that time, EOB staff has reported directly to the Governor's office.

Issues for Legislative Consideration

The Governor's proposal to transfer the responsibilities of the California Consumer Power and Conservation Financing Authority and the Electricity Oversight Board to the Energy Resources Conservation and Development Commission raises a number of issues for legislative consideration. These include potential conflicts of interest that may result from the proposed reorganization and whether the reorganization is premature pending potential future changes in the energy market and a potential proposal to establish an energy agency. We recommend that the Department of Finance advise the policy committees charged with reviewing the Governor's reorganization plan on these issues.

We have previously raised the issue of reorganizing the state's energy agencies in light of a multiplicity of energy agencies, some of which have overlapping functions (see *The 2002-03 Budget: Perspectives and Issues*, page 113.) We therefore think that the energy agency component of GRP 1 looks at an issue that needs to be addressed. However, as part of the Legislature's overall evaluation of GRP 1, we think that it should consider a number of specific issues identified below regarding the proposed transfer of responsibilities of CPA and EOB to CEC.

Potential Conflicts of Interest. Moving the responsibilities of CPA and EOB into CEC raises two potential conflicts of interest.

First, moving CPA's bonding authority into CEC sets up a potential conflict of interest with CEC's responsibility for permitting electricity plant construction projects which meet a certain size. For example, if CEC approved bond financing for the construction of a power plant, it would then have a financial interest in that plant being constructed, even while at the same time it was responsible for deciding whether to issue it a permit for construction.

Similarly, moving EOB's electricity market monitoring duties into CEC raises potential conflicts of interest. Specifically, FERC requires that entities that monitor the electricity market (FERC recognizes EOB as such) be independent from any market participation or interest. However, CEC could be considered a market participant given some of its existing programs or if the transfer of CPA's bonding authority to it were to occur. For example, CEC's Renewable Energy Program provides financial incentives to both new and existing renewable energy producers, such as wind generation or solar energy. By providing such incentives, CEC may in effect be a market participant, because it has a financial and policy interest in encouraging certain energy production. Additionally, some of CEC's Public Interest Energy Research funds are used to support increased efficiency projects at existing power plants. This direct financial relationship with certain power plants may also make CEC a defacto market participant. Finally, the transfer of CPA's bonding authority to finance power plant construction is likely to be seen as making CEC a market participant. We believe this poses the most direct conflict of interest. If viewed as a market participant, CEC may not be able to perform EOB's current role as an electricity market monitor that represents the state in FERC proceedings.

If the responsibilities of either or both CPA and EOB were to move to CEC, it would be necessary to create a system of internal "firewalls" to separate CPA's financing ability from CEC's permitting responsibilities, as well as keeping separate EOB's oversight duties from CEC's electricity funding activities. The Legislature could establish these firewalls by enacting companion legislation to the Plan.

Uncertainty of California's Future Electricity Market Structure. Chapter 854, Statutes of 1996 (AB 1890, Brulte), was designed to move the state's wholesale electricity market, and ultimately the retail market, from a rate-regulated market to a more deregulated structure that would allow electricity customers more choice over their electricity provider. However, movement toward the goals of energy deregulation and consumer choice of energy provider was put on hold during the energy crisis. Since the energy crisis, the state has not resolved the question of what California's ultimate electricity market will look like. Accordingly, it may be premature to reorganize components of the state's electricity regulating agencies until legislative decisions are made as to what type of electricity market these agencies will regulate in the long term.

Recent Developments in the Electricity Market May Reduce the Demand for State Financing. In considering the issue of where the responsibility for financing power plant construction should lie in state government, the Legislature may also wish to consider how recent developments that may reduce the demand for public financing of power plant construction affect the state's interest in continuing to participate in such financing. Until recently, power plant developers were limited in their ability to obtain the revenue stream required for private financing of power plants because they were not able to acquire long-term contracts with utilities. However, in December 2004, CPUC adopted long-term energy procurement plans for the state's major public utilities, which will allow the utilities to more easily enter into long-term contracts with electricity generators. The increased market certainty from this decision may improve the financing market for new power plants. As the state moves towards a system in which the utilities have an ability to enter into long-term contracts for power generation, private financing should become more available and the need for public financing will correspondingly decrease.

Potential Savings Are Minimal. Eliminating the governing boards of CPA and EOB would result in minimal savings to the state. While it was in operation, CPA board members were paid a per diem plus expenses (the former chairman position was a full-time position, but that was eliminated in 2003-04). At this time, CPA is inactive and there are no ongoing expenses for board members. Similarly, the governing board of EOB has not met since March 2003, and EOB has spent less than $500 in board member expenses in the last three years. Transfer of the responsibilities of CPA may in fact increase costs to the state. Since CPA is currently inactive and there is no proposed spending in 2005-06, if CEC were to resume the activities of CPA, there would be additional costs for staff not included in the proposed budget.

Larger Energy Agency Reorganization Plan May Be Forthcoming. The California Performance Review Report proposes transferring the state's energy-related agencies and departments (including CEC, CPUC, EOB, and CPA) to a new, consolidated Infrastructure Department. The Governor has indicated that additional reorganization plans will be forthcoming, based on the work of the California Performance Review. This could include a plan that results in a larger energy agency reorganization than just transferring CPA and EOB to CEC. It would be premature to perform an initial reorganization of CPA and EOB if a larger, more comprehensive energy reorganization plan is forthcoming.

Recommend Department of Finance Advise Legislature on Issues Raised. In order that the Legislature may evaluate more fully the issues discussed above regarding the energy agency component of GRP 1, we recommend that the Department of Finance advise the policy committees charged with evaluating it on these issues.

RESOURCES BONDS

The state uses a number of bond funds to support the departments, conservancies, boards, and programs under the Resources and California Environmental Protection Agencies. Of the $4.7 billion in state-funded expenditures for resources and environmental protection programs proposed for 2005-06, about $800 million (16 percent) is proposed to come from bond funds. This amount is about $2 billion less than estimated bond expenditures in the current year, reflecting a decrease in available bond funds. In the sections that follow, we provide a status report on the fund condition of various resources bond funds and discuss bond fund implementation issues for legislative consideration.

RESOURCES BOND FUND CONDITIONS

The budget proposes expenditures in 2005-06 of $821 million from the five resources bonds approved by the voters since 1996. The proposed expenditures would leave a balance of about $1.2 billion for new projects beyond the budget year. Essentially all bond funds for park projects have been appropriated, with the funds remaining being mainly for water projects, land acquisition and restoration, and the CALFED Bay-Delta Program.

As Figure 1 (see next page) shows, the budget proposes expenditures totaling $821 million in 2005-06 from five resources bonds approved by the voters between 1996 and 2002. These bonds include Proposition 204 approved in 1996, Propositions 12 and 13 approved in 2000, and Propositions 40 and 50 approved in 2002. While Propositions 204 and 13 are generally referred to as water bonds, and Proposition 12 as a park bond, Propositions 40 and 50 are most accurately described as resources bonds, since they provide funding for a mix of water, park, and land acquisition and restoration purposes.

Figure 1

Resources Bond Fund Conditions By Bond Measure

2005-06
(In Millions)

	Total Authorization In Bond	Resources Available	Proposed Expenditures	Balances
Proposition 204[a]	$995	$254	$17	$237
Proposition 12[b]	2,100	34	19	15
Proposition 13[c]	1,970	388	104	284
Proposition 40[d]	2,600	100	98	2
Proposition 50[e]	3,440	1,254	583	671
Totals	**$11,105**	**$2,030**	**$821**	**$1,209**

a Safe, Clean, Reliable Water Supply Fund, 1996.
b Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund, 2000.
c Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Fund, 2000.
d California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, 2002.
e Water Security, Clean Drinking Water, Coastal and Beach Protection Fund, 2002.

As shown in Figure 1, most of the bond funds from Propositions 12 and 40 will have been appropriated at the end of 2005-06. The budget projects a balance remaining of about $1.2 billion from the five bonds for new projects beyond the budget year.

Figure 2 shows proposed expenditures and remaining fund balances in the five resources bonds, broken down by broad program category. We discuss each of these program categories in further detail below.

Parks and Recreation. Propositions 12 and 40 together allocated about $2.3 billion for state and local park projects and for historical and cultural resources preservation. The budget proposes expenditures of $48 million for these purposes in 2005-06, essentially leaving no balance for new projects. Bond funds for historical and cultural resources preservation have essentially all been appropriated.

Water Quality. Propositions 204, 13, 40, and 50 together allocated about $2 billion for various water quality purposes. These include funding for wastewater treatment, watershed protection, clean beaches, and safe drinking water infrastructure upgrades. The budget proposes expenditures of

$213 million for these purposes in 2005-06, with a balance of $243 million remaining for new projects.

Water Management. Propositions 204, 13, and 50 together allocated about $1.7 billion for various water management purposes, including water supply, flood control, desalination, water recycling, water conservation, and water system security. The budget proposes expenditures of $215 million for these purposes in 2005-06 leaving a balance of $333 million remaining for new projects.

Figure 2

Resources Bond Fund Conditions[a] By Programmatic Area

2005-06
(In Millions)

	Resources Available	Proposed Expenditures	Balances
Parks and Recreation	$52	$48	$4
State parks	(44)	(40)	(4)
Local parks	(6)	(6)	(—)
Historical and cultural resources	(2)	(2)	(—)
Water quality	456	213	243
Water management	548	215	333
Land acquisition and restoration	396	184	212
CALFED Bay-Delta Program	578	161	417
Air quality	—	—	—
Totals	**$2,030**	**$821**	**$1,209**

a Includes Propositions 204, 12, 13, 40, and 50.

Land Acquisition and Restoration. Propositions 204, 12, 40, and 50 together allocated about $3.2 billion for a broad array of land acquisition and restoration projects. These allocations include funding to the several state conservancies and the Wildlife Conservation Board, as well as for ecosystem restoration, agricultural land preservation, urban forestry, and river parkway programs. The budget proposes expenditures of $184 million for these purposes in the budget year, with a balance of $212 million remaining for new projects.

CALFED Bay-Delta Program. The CALFED Bay-Delta Program is a consortium of over 20 state and federal agencies that was created to address a number of interrelated water problems in the state's Bay-Delta region. These problems relate to water quality, water supply, fish and wildlife habitat, and flood protection. Although each of the five bond measures allocated funds that could (and have) been used for purposes that are consistent with the CALFED Bay-Delta Program's objectives and work plan, only Propositions 204, 13, and 50 allocated funds explicitly for this program. From these specific allocations, the budget proposes expenditures of $161 million in 2005-06, leaving a balance of $417 million.

Air Quality. Finally, Proposition 40 allocated $50 million for grants to reduce air emissions from diesel-fueled equipment operating within state and local parks. This allocation has been depleted.

BOND ISSUES FOR LEGISLATIVE CONSIDERATION

We discuss below issues for legislative consideration when evaluating the Governor's resources bond expenditure proposals.

Status of the Expenditure of Prior Bond Fund Appropriations

We find that there are significant amounts of bond funds that were appropriated in the current and prior years that have not been expended. We recommend that the administration report to the Legislature at budget hearings on the status of expenditures made from current- and prior-year bond fund appropriations.

Significant Bond Funds Have Not Been Expended. The Legislature has appropriated a large amount of resources bond funds over the past few years. For example, about $3.9 billion was appropriated from Propositions 40 and 50 bond funds from 2001-02 through 2003-04. We find that significant amounts of these bond funds have yet to be expended. Specifically, as of end of 2003-04, more than one-half (about $2.2 billion) of the prior appropriations from Proposition 40 and 50 funds had yet to be expended or encumbered. Although a majority of the bond funds appropriated in recent years were approved for expenditure over multiple years, and while we anticipate additional expenditures from these funds between now and the end of the current year, the balance of the appropriations that is unlikely to be spent until future years is likely to be substantial.

Recommend Administration Report on Status of Expenditures From Prior Appropriations. We recommend that the administration report at budget hearings on the expenditure of resources bond funds appropriated in the current and prior years. Specifically, for all prior appropriations from each allocation of funds under the five resources bonds, the administration should report on the amount of cash-out-the-door expenditures and encumbrances to date, plus the anticipated additional expenditures/encumbrances in the remaining months of the current fiscal year. We think this will allow the Legislature to (1) evaluate the administration's proposal to spend bond funds in the budget year in the context of significant prior-year appropriation balances and (2) set its own priorities for use of these funds.

We note that in the *Supplemental Report of the 2003 Budget Act*, the Legislature directed that the 2004-05 and future-year Governor's budgets include a bond fund display for Propositions 40 and 50. While these displays were included with the *Governor's 2004-05 Budget*, they have been excluded in this year's proposed budget. This has made legislative oversight difficult, and we recommend that future-year Governor's budgets include bond fund displays for the resources bonds as directed by the Legislature.

Delays Persist in Getting Funds Out-the-Door

We find that past-year staffing reductions and other constraints significantly slowed the implementation of some bond-funded programs, particularly new ones, and that delays persist in getting funds out-the-door. We recommend that the administration report to the Legislature at budget hearings on its efforts to improve the timeliness of implementing bond-funded programs.

Some Bond Fund Programs Slow Getting Money Out-the-Door. In last year's *Analysis* (see *Analysis of the 2004-05 Budget Bill*, page B-39), we found that some departments were slow to undertake even the initial steps, such as hiring staff and developing guidelines, to implement new bond-funded programs. At that time, departments typically cited the previous hiring freeze and contracting ban (now both ended as of June 30, 2004) and vacancy reductions as reasons for the slowness in spending the bond funds.

However, we find that delays persist in getting a number of programs up-and-running and in a position to begin funding projects. For example, the State Water Resources Control Board (SWRCB) was appropriated $175 million from Proposition 40 bond funds in 2002-03 for various watershed management and pollution control programs. Our review finds that for roughly one-half of that appropriation, funds have not been awarded for projects as grant guidelines are still in the initial stages of development.

Recommend Administration Report on Its Plans for Improving Timeliness of Program Implementation. We recommend that the administration report at budget hearings on (1) its efforts to improve the timeliness of the implementation of bond-funded programs and (2) any legislative action that would assist in meeting this objective.

Some Specified Uses May Not Be in High Demand

Some bond fund accounts have large remaining balances, which may be due in part to a lack of demand for the specified use of the funds that is authorized in the bond measure. We recommend that the administration report at budget hearings on (1) any bond funds for which there does not seem to be significant demand and (2) any legislative action that would improve the administration's ability to award the funds.

Some Bond Fund Uses May Not Be in High Demand. As was mentioned above, several bond fund accounts have large balances of funds that have yet to be expended. In some cases, this is due to multiyear expenditure plans. In other cases, administrative impediments such as staffing reductions may have delayed the expenditure of funds. There are cases, however, in which the specified use of the bond funds as authorized by the terms of the bond measure is not in high demand. This may occur because there are other sources of funding available to address a program funding requirement or because the program requirements make the funds more difficult to spend.

For example, Proposition 204 (1996) allocated $30 million for loans ($27.5 million) and grants ($2.5 million) to local agencies for drainage management infrastructure. The Drainage Management subaccount in the Proposition 204 bond has a projected balance as of the end of 2005-06—almost ten years after voter approval of the bond—of about $19.6 million. The SWRCB has indicated that there has been little demand for the loan funds available from this account because there are other grant funds available and because the program requires that loans be passed through a local agency before they are loaned directly to agriculture producers.

Recommend the Administration Report on Funds for Which There Has Been Little Demand. We recommend that the administration report at budget hearings on (1) any bond funds for which there does not seem to be significant demand and (2) any legislative action that would improve the administration's ability to award the funds. If applicable, the administration should make recommendations for bond measure amendments if this would be the most appropriate course of action to address a lack of demand for funds.

ENVIRONMENTAL PROTECTION INDICATORS UPDATE

In the sections that follow, we provide an update on the Environmental Protection Indicators for California (EPIC) Project. We conclude that legislative involvement is crucial to ensuring the ongoing usefulness and effectiveness of this effort.

Status Report on the Environmental Protection Indicators for California Project

The Environmental Protection Indicators for California (EPIC) Project was established in statute in 2003. Progress reports on EPIC pilot projects reveal that the consideration of indicators in the development and implementation of environmental protection programs has been important in evaluating program effectiveness. However, little application has been made of environmental indicators in the budget development process. We recommend that departments continue to refine existing indicators so as to permit more specificity in the evaluation of the environmental outcome as a result of a particular program investment.

Background. The administration created the EPIC Project in 2000-01 to establish and implement a process for developing environmental indicators. Chapter 664, Statutes of 2003 (AB 1360, Steinberg), established this program in law. Broadly speaking, an environmental indicator is a scientifically based tool to track changes that are taking place in the environment. For example, the "percent of produce with illegal pesticide residues" indicator characterizes the safety of produce in California by providing a direct measure of the level of pesticide residue in produce. (Please see Figure 1 (see next page) for more examples of indicators.)

The EPIC Project has been a joint effort of the Secretaries for Environmental Protection and Resources, with most of the staff work being conducted by the Office of Environmental Health Hazard Assessment (OEHHA). The driving force behind the EPIC Project was a desire to be able to answer two questions: (1) what is the state trying to accomplish in terms of environmental protection and (2) how does it know whether it is accomplishing it or not? In other words, the focus is placed on goals and results. This contrasts with the traditional reliance of the state's environmental programs on measures of workload as opposed to outcomes. (Please see our *Analysis of the 2003-04 Budget Bill*, page B-30, for more information on EPIC.) Funding for EPIC has not been included in the budget since 2002-03 and the budget does not propose funding for EPIC in 2005-06.

Figure 1

EPIC Project
Selected Environmental Protection Indicators

Air Quality

- Number of days over the state ozone standard.[a]
- Total emissions of toxic air contaminants.[b]
- Visibility on an average summer and winter day in California national parks and wilderness areas.[b]

Water (Quality, Supply, and Use)

- Number of leaking underground fuel tank sites.[a]
- Number of coastal beach postings and closings.[a]
- Statewide per capita water consumption.[a]

Land, Waste, and Materials Management

- Number of waste tires diverted from landfills.[a]
- Amount of hazardous waste generation.[b]

Pesticides

- Percent of produce with illegal pesticide residues.[a]
- Percent reduction in use of high-risk pesticides.[b]

Ecosystem Health

- Clarity of Lake Tahoe.[a]
- Distribution of exotic plants.[c]

a Type I—adequate data for presenting status or trend.
b Type II—further data collection or analysis is needed.
c Type III—systematic data collection is not in place.

Current Status of EPIC. Even though no funds are specifically budgeted for EPIC in the current year, OEHHA has invested a relatively small level of effort (0.1 personnel-year) in updating a select number of indicators. At the beginning of February 2005, OEHHA released an updated version of 43 of the 50 "Type I" indicators. (Type I indicators are indicators in which adequate data are available for presenting a status or trend.) These 43 indicators were chosen because they are supported by already existing ongoing and systematic data collection.

According to OEHHA, a fully operational EPIC Project would require 3 personnel-years and $750,000 in contract funding. This includes staff time to ensure that the indicator system is robust and scientifically well founded and the development of an approach to collect the necessary data to measure indicator trends.

EPIC Pilot Projects. The *Supplemental Report of the 2003 Budget Act* required the Air Resources Board (ARB) and the State Water Resources Control Board (SWRCB) to each submit a progress report on their use of indicators in two specified pilot projects. The ARB's pilot project was the Carl Moyer Program, which provides incentives to reduce smog-forming emissions. The SWRCB's pilot project was the Clean Beaches Program, which provides grant funding for water quality improvement projects. The purpose of these pilots was to quantify the environmental impacts (such as emission reductions or reductions in beach closures) resulting from the program's investments using environmental indicators to measure the outcomes.

Carl Moyer Program Pilot. The ARB's progress report notes that indicators are essential to evaluating the success of the Carl Moyer Program. For this reason, ARB used the pilot as an opportunity to refine the EPIC indicators so that more specific relationships between a Carl Moyer Program grant and changes in air quality could be achieved. For example, the ARB can specify that a total of 907 tons of NOx was reduced each year because of Carl Moyer grants for marine vessels—a level of detail much more refined than what is measured by current EPIC indicators.

We find merit in the board's approach to more specifically refine its use of indicators to be able to characterize the effectiveness of this program. Furthermore, we note that ARB's ability to quantify the Carl Moyer Program's effectiveness contributed significantly to legislative debate this past session regarding the establishment of a permanent, stable funding source for the program.

Clean Beaches Program Pilot. Since this pilot was intended for projects funded with bond funds and these projects have generally not been completed, the SWRCB is not yet able to demonstrate the cost-effectiveness of these grants. However, the pilot analysis indicates that the inclusion of an

EPIC indicator—Beach Mile-Days (a measure of beach unavailability for swimming recreation)—in the grant making process prompted staff and the program's advisory panel to focus on prospective projects' ability to reduce bacterial contamination and therefore reduce beach closures. Additionally, SWRCB staff are working towards refining the Beach Mile-Days indicator, so that projects which improve water quality, but not enough to avert a beach closure, will not be overlooked when evaluating project effectiveness.

Limited Use of Indicators in Budget Development Process. Chapter 664 requires all budget change proposals (for 2005-06 and beyond) submitted by a board, department, or office within the California Environmental Protection Agency or the Resources Agency to describe how the proposal would affect specified environmental indicators. Our review of this year's budget change proposals found that most proposals at least referred to the impacted environmental indicators; however, we find the level of detail explaining *how* the proposal impacted an indicator to be varied and generally very limited.

One of the few examples where the indicators were used quite well is ARB, which has extensive experience with the use of indicators. The ARB estimated that one of its budget proposals would reduce hydrocarbon emissions, a contributor to the formation of ozone, by 32 tons per day by 2020. On the other hand, other departments typically either very generally stated how a budget change proposal affects an indicator or simply stated which indicators could be affected by the proposal.

Recommend Departments Continue to Refine Indicators. To facilitate more widespread use of environmental indicators in the budget development process, we recommend that departments and OEHHA continue to refine existing indicators so as to permit more specificity in the evaluation of the environmental outcome as a result of a particular program investment.

Legislature's Involvement in EPIC

We recommend the Legislature hold hearings to specify high priority indicators for the Environmental Protection Indicators for California (EPIC) Project. We also recommend that the Legislature consider EPIC indicators in the development of new programs and initiatives.

Recommend Hearings to Specify High Priority Indicators. As discussed above, EPIC indicators are a meaningful tool to evaluate program effectiveness and efficiency. In light of the funding constraints facing the EPIC Project, we think that it is particularly important that the project focus its efforts on tracking and updating the environmental indicators that are of most relevance to the Legislature.

Therefore, we recommend that the Legislature's budget subcommittees and environmental quality, natural resources, and water committees hold hearings to specify which of the roughly 85 currently developed indicators they consider to be a high priority. Furthermore, since not all of the current indicators have sufficient data collection mechanisms in place to measure a trend over time, the identification of high priority indicators would also provide notice to affected departments of legislative priorities for improving data collection capabilities.

Consider Indicators When Creating New Programs. As exemplified by the Carl Moyer Program, it is important for a program to be able to quantify the outcome from an investment of public funds. Therefore, we recommend the Legislature consider specifying indicators to be tracked when creating new environmental programs. Not only will this assist the departments in ensuring that data collection requirements are addressed adequately during program development and implementation, but it will also provide specific accountability criteria that can be used to continually assess the effectiveness of the new program.

FINANCING THE 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 program's oversight agency—the California Bay-Delta Authority (CBDA)—has recently approved an $8.1 billion ten-year finance plan for the program, which will be incorporated in the Governor's May Revision proposal. We discuss the Governor's budget proposal and analyze the CALFED finance plan in our writeup on **"Water Policy Issues Facing the State"** ***in our companion document,*** **The 2005-06 Budget: Perspectives and Issues.**

What Is CALFED? 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, overseen by a new state agency—CBDA—created by statute in 2002. 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.
- Reduce the risks from deteriorating levees.

CALFED Is at a Funding Crossroads. The CALFED program is clearly at a funding crossroads. This is for a number of reasons. First, funding sources that the program has traditionally relied on—such as the General Fund and state bond funds—are either essentially unavailable or have been substantially depleted. There will be a significant drop in available funding beginning in 2006-07, particularly due to the depletion of available bond funds. Second, the program's funding requirements are likely to increase as major projects that have been in the study stage for a number of years move toward funding. Third, the program projects a substantial funding gap between its ten-year funding targets and currently available funding. The funding shortfall absent new revenue sources—$6.3 billion—is close to 80 percent of the funding targets.

$8.1 Billion Ten-Year Finance Plan. The Governor's January budget document indicates that elements of a ten-year CALFED finance plan recently approved by CBDA will be incorporated in the Governor's May Revision, along with a package of legislation necessary to implement the plan. The finance plan, as currently developed, is a framework to guide the financing of CALFED through 2013-14, with a total funding target of $8.1 billion. As noted in the budget document, the plan calls for new revenue sources, including water user fees.

***Analysis of Finance Plan in Companion Document,* Perspectives and Issues.** We provide an analysis of CALFED's ten-year finance plan in the "Water Policy Issues Facing the State" writeup in our companion document, *The 2005-06 Budget: Perspectives and Issues (P&I)*. In that analysis, we find that the finance plan anticipates substantial new revenues, including greatly increased federal funds and undefined new sources of state funds. Some of the funding targets in the plan may be unrealistic given the uncertainty surrounding the underlying revenue assumptions. We make a number of recommendations in the *P&I* to address this issue.

DEPARTMENTAL ISSUES

Resources

CALIFORNIA CONSERVATION CORPS (3340)

The California Conservation Corps (CCC) provides young people between the ages of 18 and 23 with 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 estimates about 4,000 men and women (1,500 full-time equivalent positions) will participate in the program during 2005-06. Corpsmembers earn minimum wage and work approximately 40 hours per week. On average, corpsmembers will stay in the program for a little over seven months. The 2005-06 budget provides funding for nine residential and 18 nonresidential facilities throughout the state.

The budget requests about $59.9 million for state operations for CCC in 2005-06, of which $57.7 million is for state operations and $2.2 million is for local assistance. The proposed budget is a decrease of about $12.7 million (or 18 percent) below estimated current-year expenditures. Most of this decrease reflects an unanticipated one-time increase in reimbursement activity in the current year, as well as a decrease (about $4.4 million) in available bond funds for resource conservation grants to local corps. Of the total proposed expenditures for state operations, about $31.7 million (55 percent) will come from the Collins-Dugan California Conservation

Corps Reimbursement Account (CDRA), $24.5 million (42 percent) from the General Fund, and about $1.8 million (3 percent) from other special funds and bond funds.

Beginning in the current year, the budget proposes to restore some of the funding reduced in prior years. Specifically, the budget proposes $3.3 million (CDRA) to restore funding for the Ukiah residential center and 32.3 positions that were eliminated in recent years. Additionally, the budget provides for $3.3 million (Proposition 40) for resource conservation projects and grants to local corps.

Budget Does Not Maximize Available Special Funds

We recommend that special fund support for the California Conservation Corps be increased by $11.5 million, with a corresponding reduction in General Fund support, in order to reflect the availability of funds from the Collins-Dugan California Conservation Corps Reimbursement Account. (Reduce Item 3340-001-0001 by $11.5 million; increase Item 3340-001-0318 by $11.5 million.)

Governor's Proposal for CDRA. The CDRA earns revenues from reimbursements paid by project sponsors for work done by corpsmembers. Statute provides that CDRA can be used to support a broad range of activities of CCC. The budget proposes expenditures of $31.7 million from CDRA. The proposed level of CDRA expenditures is projected to leave the account with a reserve of $15.8 million—or about 50 percent of proposed expenditures—at the end of 2005-06.

Proposed Fund Reserve Unnecessarily High. While we appreciate the inherent uncertainty in projecting reimbursement-driven revenues and expenditures, we think a fund reserve of the magnitude proposed by the budget is not justified and is unnecessarily high. This is based on our review of the history of actual versus projected revenues and expenditures in this account. Specifically, we found that in each year since 2001-02, more than $10 million in funds remained available in the account at the end of the budget year for use in future years than had been initially projected by the Governor's budget.

General Fund Savings Available. Due to the substantial projected fund balance in the CDRA, we find that CCC could use a portion of the reserve in the account to support expenditures proposed to be funded from the General Fund. Accordingly, we recommend a one-time increase in expenditure authority of $11.5 million from CDRA and a corresponding one-time reduction of $11.5 million from the General Fund. This will maintain the proposed level of support for CCC and leave a healthy reserve of $4.3 million in CDRA at the end of 2005-06 (about 10 percent of expenditures). Because the additional funding from the CDRA is from the account's reserve, the resulting General Fund savings should be considered a one-time savings.

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 permitting major power plant construction projects.

Proposed Funding. The budget proposes CEC expenditures of $317 million from various state and federal funds in 2005-06. This is $62.7 million, or 17 percent, less than current-year estimated expenditures. The change represents a baseline reduction of almost $68 million based on reduced availability of renewable energy program funds, as well as an increase of $15 million for a new natural gas research program and $10 million in additional public interest energy research program expenditures.

Long-Term Staffing Plan Needed for Research Program

The budget proposes adding seven new positions and augmenting project funding on a one-time basis ($10 million) in the Public Interest Energy Research (PIER) program. While we recommend approval of these changes, we also recommend the enactment of legislation requiring the commission to devise a long-term staffing plan for the PIER program, reflecting an evaluation of the appropriate mix of contract consultants and state employees.

Budget Proposal for PIER Program. The PIER program provides grant funds to public and private entities for research, development, and demonstration of electricity-related technologies. The budget proposes to add seven permanent positions (and $629,000) to manage CEC's PIER program. These new positions will enhance CEC's management of new and existing PIER research projects. The proposal follows recommendations made by a legislatively mandated independent review panel, which among other things recommended that CEC improve its research and development efforts by increasing project management positions.

The budget also proposes a one-time augmentation of $10 million to fund additional energy efficiency research and development projects in 2005-06, using funds from the repayment of a special fund loan made to the General Fund in a previous year. The total proposed budget for the PIER program in 2005-06 is $80.1 million, funded from the Public Interest Research, Development, and Demonstration Fund.

History of the PIER Program. In 1996, the Legislature authorized CEC to establish the PIER program in order to fund research, development, and demonstration projects (Chapter 854, Statutes of 1996 [AB 1890, Brulte]). The PIER program receives $62.5 million per year, through the Public Interest Research, Development, and Demonstration Fund to fund new projects. This fund is supported through a surcharge on electricity consumption. Because many of the projects funded through PIER take more than one year to complete, the number of projects managed annually by PIER staff has increased, from 344 projects in 2000-01 to an estimated 627 projects in 2004-05. The CEC projects that PIER staff will manage 719 projects in 2005-06. The PIER staff have increased from 47.4 budgeted positions in 2000-01 to 52.1 budgeted positions in 2004-05. The budget proposes an additional seven positions for a total of 59.1 positions for the PIER program in 2005-06.

Chapter 515, Statutes of 2002 (SB 1038, Sher), directed CEC to establish an independent panel to evaluate the PIER program. The resulting panel produced a draft report in March 2004, with the final report anticipated in June 2005. The draft report identified a lack of research expertise in CEC staff as the most pressing issue facing the PIER program. According to the report, this problem resulted from the elimination of vacant positions, staff reductions, and layoffs of contract employees. The draft report recommends that CEC supplement state employees with contract staff, as a near-term solution to the problem.

In addition to its state staff, CEC uses technical consultants on contract to augment its internal project management expertise. Based on projected program requirements, the Executive Director of CEC has authorized the use of up to $2 million in 2004-05 program funds to hire 12 to 14 technical consultants on contract to expedite PIER project selection and management. Even with the additional seven staff proposed for the PIER program in the budget year, CEC estimates that additional technical consultants on contract will be required in 2005-06 and future years.

Recommend Development of a Long-Term Staffing Plan. While we think that the proposed increase in the staffing for the PIER program and the one-time augmentation in funding are justified, the independent review panel has found that there remain requirements for additional technical and management staff to adequately select and manage the large and growing project caseload. Since the PIER program is authorized to operate through 2011, we think it is important for CEC to develop a plan to ensure that these staffing requirements are addressed over the long term. The plan should specifically address the appropriate mix of state employees and contract consultants that will allow CEC to manage the PIER program with the requisite expertise at the least cost.

We note that in some cases, it may be more efficient to use short-term, contract consultants to perform technical or specialized tasks, rather than hiring state staff. This is often the case in situations where a program or project has a limited lifespan, or consultants have skills that are not well covered by civil service classifications. On the other hand, contract consultants can cost more than state employees performing equivalent functions. Therefore, in developing its staffing plan, the commission should consider opportunities to create savings by shifting from contract consultants to state employees or vice versa, provided the requisite level of expertise is maintained.

Therefore, we recommend the enactment legislation requiring CEC to develop a long-term staffing plan for the PIER program. This plan should (1) identify staffing requirements to adequately manage the projected caseload through 2011 and (2) evaluate and recommend the appropriate mix of contract consultants and state employees, considering required technical expertise and overall costs.

It is important to remember that the Legislature has authorized a particular funding level ($62.5 million annually) and dedicated a funding source for the PIER program through 2011. Accordingly, we think it important that the project workload in the program be managed adequately and efficiently, and that potential savings in how the workload is managed be identified. Any cost savings from shifting from contract consultants to state staff can be reinvested in funding additional projects, which would further the Legislature's goals for this program.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION (3540)

The California Department of Forestry and Fire Protection (CDFFP), under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. These areas of CDFFP responsibility are referred to as "state responsibility areas" (SRA). In addition, CDFFP (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

The budget requests about $877.4 million for the department in 2005-06, including support and capital outlay expenditures. Of this total, 94 percent is for fire protection, 5 percent is for resource management, and the remainder is for State Fire Marshal activities and administration.

The total proposed budget is an increase of $6.4 million over estimated current-year expenditures. As in the current year, the proposed budget bill for 2005-06 authorizes the Director of Finance to augment the budget for emergency fire suppression by an amount necessary to fund these costs.

The General Fund will provide the bulk of CDFFP's funding for state operations—$524.8 million (about 65 percent). The remaining funding will come from reimbursements ($224.8 million), federal funds ($31.3 million), and various other state funds. Major budget proposals funded from the General Fund include: (1) $10.8 million for fire apparatus and helicopter replacement; (2) $9 million for year-round staffing in Southern California; and (3) $2.9 million for conversion and replacement of radio equipment.

Recommend CDFFP Resubmit Equipment Proposal

We recommend a deletion of $10.8 million from the General Fund requested for fire apparatus and helicopters because the proposal lacks

details and the plan to purchase helicopters is premature. We also recommend that the department resubmit its budget proposal for fire apparatus as part of the May Revision. Finally, we recommend the adoption of budget bill language to prohibit helicopter purchases in the budget year and require a study on the department's helicopter requirements. (Reduce Item 3540-001-0001 by $10.8 million.)

Fire Apparatus and Helicopter Budget Proposal. The budget proposes an augmentation of $10.8 million (General Fund) for the purchase of fire apparatus and helicopters on an ongoing basis. The budget request is in addition to the $6.3 million currently in CDFFP's budget for ongoing annual purchases of fire apparatus. Fire apparatus includes equipment necessary for firefighting, such as fire engines, bull dozers, pickup trucks, and other vehicles.

The department's budget proposal requests authority to purchase new helicopters in order to eventually replace its existing fleet of 11 helicopters, two of which are used as back-ups. The CDFFP augments its fleet of helicopters by using commercial helicopter services when additional helicopters are needed. All of CDFFP's helicopters were received over several years from the federal government's excess equipment program and then refurbished to meet the department's firefighting requirements. (These helicopters were given to the state by the federal government at no cost; the state incurred costs to refurbish the helicopters.) Beginning in 2011, these helicopters will reach the end of their recommended useful life. The department reports that excess federal helicopters are no longer available and therefore the department must begin purchasing helicopters in the private marketplace at a price of $7 million to $15 million per helicopter depending upon the type of helicopter purchased.

We have several concerns with the department's fire apparatus and helicopter proposal, as discussed below.

Expenditure Plan Not Well Defined. Our review of the department's proposal finds that it does not provide information on how many and what types of equipment it will buy in the budget and future years. This information is necessary in order for the Legislature to evaluate how the requested funds will be spent.

Proposed Financing Plan Is Incomplete. The CDFFP has indicated it plans to finance some portion of this proposal. We think financing expensive equipment such as fire apparatus could be an appropriate fiscal strategy that reduces costs in one budget year and extends the costs over multiple years. Financing, however, increases the overall purchase price of equipment because of interest costs. However, the department's expenditure proposal does not include sufficient details of its financing plan. Specifically, it has not indicated how many and what type of apparatus will be financed. Without information on the extent to which this proposal will be financed, the Legislature cannot evaluate whether the funding requested in the budget proposal is consistent with the department's financing plans.

Helicopter Proposal Is Premature. Our review also finds several significant concerns with the department's proposal to acquire helicopters. First, CDFFP has not yet completed a study to determine which type of helicopters should be purchased or the replacement cycle of these helicopters. Second, the proposal does not specify when or how many helicopters will be purchased. Lastly, CDFFP has not sufficiently considered the option of meeting its helicopter requirements by contracting out for commercial helicopter services. Given the significant cost implications of replacing CDFFP's helicopter fleet, we think the information discussed above is essential in order for the Legislature to evaluate this proposal.

Recommend Department Resubmit Equipment Proposal. In summary, our review finds that the budget proposal to purchase firefighting equipment does not provide information necessary for the Legislature to evaluate it. We therefore recommend the Legislature deny this proposal, reduce the department's General Fund budget by $10.8 million, and direct CDFFP to resubmit its equipment proposal at May Revision. We recommend the revised proposal include funding for fire apparatus, but not helicopters, since as previously discussed, we find helicopter purchases are premature. We further recommend that CDFFP include the following information in its resubmitted proposal: (1) a listing of the specific fire apparatus (with costs) to be purchased from the baseline equipment budget and the requested augmentation, including when the apparatus will be purchased and (2) specific details on which equipment purchases the department plans to finance, including the financing costs.

The CDFFP Should Complete Study Before Helicopters Are Purchased. As discussed, CDFFP's proposal to purchase new helicopters represents a significant change in CDFFP's aviation program which currently relies on the use of excess federal helicopters supplied to the state at no cost. The decision on which helicopters to purchase or whether to even purchase helicopters will have long range fiscal and operational impacts. As such, we recommend the adoption of budget bill language directing the department to undertake a study to more fully evaluate the options available to it in addressing its helicopter requirements. Because the department has indicated that it does not plan to purchase helicopters in the budget year, we recommend that the budget bill language specify the Legislature's intent that the department's General Fund appropriation is not available for the acquisition of helicopters. We recommend the adoption of the following budget bill language:

> Item 3540-001-0001. It is the intent of the Legislature that funds appropriated in this item shall not be used for the acquisition of helicopters. It is also the intent of the Legislature that the California Department of Forestry and Fire Protection (CDFFP) complete a study, to be submitted to the Legislature by December 1, 2005, which will provide the basis for the Governor's 2006-07 budget proposal. The study should provide information on (1) the use of contracted resources in CDFFP's helicopter program; (2) the type(s) of helicopters CDFFP should purchase; and (3) a financing plan and schedule for replacement of CDFFP's helicopter fleet.

Year-Round Southern California Staffing Proposal Not Justified

We recommend deletion of $9 million from the General Fund proposed for year-round staffing in Southern California because the proposal has not been justified. (Reduce Item 3540-001-0001 by $9 million.)

Current Southern California Staffing. Currently, the department generally provides staffing for state-funded fire stations in Southern California only from about April 15 to December 15—the normal fire season. The CDFFP operates 36 state-funded stations in Riverside, San Bernardino, and San Diego Counties. The department, however, extends the length of time it provides fire services beyond the normal fire season on an as-needed basis. It does this when Executive Orders are issued by the Governor (accompanied by a General Fund augmentation) or by redirecting existing resources within its budget. For example, in the current year, CDFFP kept open about one-half of the stations in San Bernardino, San Diego, and Riverside Counties through mid-January by redirecting funds in its existing budget.

In some areas of Southern California, local governments request CDFFP to continue providing services beyond the normal fire season on their behalf. In these instances, local governments contract with CDFFP to provide the services and reimburse the department for its costs. These contracts are referred to as "Amador Agreements." Generally, local governments contract with CDFFP for such services when local fire protection services are unavailable, or when they want the existing locally provided services to be augmented. The CDFFP has nine Amador Agreements in Riverside, San Bernardino, and San Diego Counties which will generate about $800,000 of reimbursements to CDFFP in the current year.

In other parts of Southern California, a couple of counties provide fire protection services during the normal fire season on behalf of CDFFP in SRA within county boundaries, as CDFFP does not have its own fire stations in these areas. The CDFFP reimburses these counties, which are referred to as "contract counties," for providing fire protection services on behalf of CDFFP. Contract counties include Los Angeles and Orange Counties.

Year-Round Staffing Budget Proposal. The budget proposes $9 million from the General Fund to provide year-round firefighting staff in Southern California. Of the $9 million, about $5.7 million is for the costs to operate 36 CDFFP stations in San Bernardino, Riverside, and San Diego Counties year-round and $3.3 million is for Orange and Los Angeles Counties to provide additional resources on behalf of the state for wildland fire protection in SRA. In addition to the costs to provide additional staffing, it is unlikely that CDFFP will continue to receive $800,000 in reimbursements from the Amador Agreements in Riverside, San Diego and San Bernardino Counties because, under the budget proposal, the state will be assuming the costs to operate these stations year-round. (The department's budget, however, does not reflect this reduction in reimbursement levels.)

Proposal Does Not Justify Year-Round Staffing. While there may be merit to the budget request, the department was unable to provide information to justify the need for year-round staffing. Specifically, while CDFFP has provided data that show fires occur throughout the year in Southern California, it has not provided an analysis which justifies the need to have the same level of services year-round, or where additional resources are specifically needed. For example, the proposal does not present data showing an increase in the number of and/or intensity of wildland fires during the off season. Further, the proposal does not provide sufficient information on how the requested funds will be used by contract counties to provide additional services to benefit the state. We think such information is necessary in order for the Legislature to evaluate the merits of this proposal. Therefore, in the absence of this information, we recommend that the Legislature deny this proposal and reduce the department's General Fund budget by $9 million.

Recommend Increased Oversight of Federal Reimbursements

We find that the Legislature lacks information on the receipt and use of unanticipated federal funds by the department. In order to improve legislative oversight, we recommend that within the department's overall budget appropriation item, the Legislature schedule individual amounts by program area. We further recommend that the Legislature require the California Department of Forestry and Fire Protection to notify the Legislature upon receipt of unanticipated federal funds.

Federal Reimbursements for Fire Protection. When CDFFP provides assistance for those fires or portions of fires that are considered a federal responsibility (namely fires on federal lands), it fronts money from the General Fund to cover these costs prior to reimbursement after the fire from the federal agencies. The length of time it takes federal agencies to reimburse CDFFP ranges from several months to several years. During 2003-04, the most recent year for which actual data are available, CDFFP received over $49 million in unanticipated federal funds (that is, federal funds received as reimbursements for which expenditure authority had not been provided in the annual budget act).

Legislature Lacks Oversight of Federal Reimbursements. The budget act generally requires that the Legislature be notified before a department can spend unanticipated federal funds which it has received. However, since 2002-03, the budget act has exempted CDFFP from this notification requirement. This exemption in effect allows the department to make significant changes to its legislatively approved budget without legislative notification. In fact the department has used the unanticipated federal funds to "free up" General Fund monies which it then used to augment other programs beyond their budgeted level of expenditures. This happens because the CDFFP's annual support budget is appropriated as a lump sum without any scheduling among program areas, such as fire protection and resource management. This lack of scheduling enables the department to transfer funds among program areas without legislative notification, thereby impeding legislative oversight. For example, our review found that in 2003-04, the department used about $39 million in unanticipated federal funds (cost recoveries) to in effect augment programs in various areas of the department's budget, including resource management, without legislative review. This type of diversion of funds circumvents the Legislature's appropriation authority.

Improving Oversight of Cost Recoveries. We recommend the Legislature take the following actions to improve legislative oversight of cost recoveries from federal agencies.

- ***Require Legislative Notification for All Unanticipated Federal Funds.*** We recommend the Legislature require CDFFP to notify the Legislature upon receipt of any unanticipated federal funds, including for emergency fire suppression. This can be done by removing language in Item 3540-001-0890 of the *2005-06 Budget Bill* that provides an exemption from this notification requirement.
- ***Recommend Scheduling of Budget Bill Appropriations.*** We recommend that within the department's overall budget bill appropriation item, the Legislature schedule individual amounts by program area. (The scheduled programs would track to the three programs displayed in the Governor's budget document. These are the Office of the State Fire Marshal, Fire Protection, and Resource Management.) This separate schedule, in combination with the required legislative notification discussed previously, would ensure legislative oversight of the receipt and use of unanticipated federal funds. Such a change will not significantly impact the

department's budgeting workload because the department currently prepares the Governor's budget each year using the program areas that we recommend be scheduled in the budget bill. We also note that scheduling will not impede the department's response to emergency fire situations given the authority the administration has to augment the budget as required.

DEPARTMENT OF FISH AND GAME (3600)

The Department of Fish and Game (DFG) administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the department in its activities and regulates fishing and hunting. The DFG currently manages about one million acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

The budget proposes total expenditures of $297.5 million from various sources, mainly for support expenditures ($296 million). The total proposed budget is a decrease of about $65.7 million below estimated current-year expenditures. Most of this reflects a decrease in available bond funds for the CALFED Ecosystem Restoration Program.

The budget includes several proposals using bonds and special funds, including $2.2 million for restoration and development of lands managed by DFG, $1.1 million to monitor resource restoration projects in the upper Sacramento River, and $500,000 to continue the implementation of the Marine Life Protection Act of 1999.

Special Fund Spending Proposal Inconsistent With Statute

Our review of the department's expenditure proposal for the Fish and Game Preservation Fund finds that it is inconsistent with legislative direction because it proposes to use revenues dedicated by statute for specific programmatic purposes for other purposes in order to address revenue shortfalls within the fund. We recommend the department resubmit its budget proposal so that it is consistent with statutory direction.

Fish and Game Preservation Fund (FGPF) Includes Many Revenue Sources. About 33 percent of DFG's budget is supported by FGPF. This fund receives revenues from hunting and fishing licenses and taxes, commercial fishing permits and fees, and environmental review fees paid by project proponents. Statute provides that many of these revenues can be used to support a *broad* range of programs related to hunting and fishing, as well as fish and wildlife protection and management activities. These revenue sources are referred to as "nondedicated" revenues.

The FGPF is also supported by revenue sources that are dedicated by statute for specific activities relating to the sources from which they were collected. For example, revenues from a steelhead trout fishing fee are required to be spent on steelhead management and enhancement. These types of revenues are referred to as "dedicated" revenues. There are 26 dedicated accounts within FGPF to track the receipt of funds for each of these dedicated revenue sources.

Recent Budgeting Practices Are Inconsistent With Legislative Direction. Our review finds that in recent years, the DFG has been overspending certain accounts within FGPF. It has then used reserves available in other FGPF dedicated accounts in order to make up the shortfalls. As a result, revenues dedicated by statute for specific uses are instead being used for purposes other than those that are authorized in statute.

Budget Proposal Contrary to Legislative Direction. Based on our review of DFG's expenditure proposal for FGPF, we find DFG is proposing to continue the practice of relying on the use of revenues dedicated by statute for specific programmatic purposes to make up shortfalls in funding in other programs. Specifically, our review finds that by continuing this practice in the budget year, DFG will have spent more than $11 million from dedicated funds for purposes other than specified in statute.

FGPF Proposal Is Not Sustainable. Our review of the budget proposal also finds that assuming the budgeted level of revenues and expenditures for FGPF, the proposed revenue and expenditure plan for FGPF is not fiscally sustainable. This is because, absent corrective action, we project that the FGPF will be out-of-balance beginning in 2006-07 as expenditures in the fund as a whole would exceed available resources.

Condensed Fund Condition Display Impedes Legislative Oversight. The *2005-06 Governor's Budget* condenses the information provided on the FGPF by eliminating the display that allocated revenues and expenditures between nondedicated and dedicated sources. This has complicated legislative oversight, as the fund condition display does not allow for an assessment of the condition of the individual accounts within the fund or a determination of whether the various individual revenue sources are being used for purposes consistent with statutory direction.

Recommend Department Submit a Revised Proposal for FGPF. As discussed, we find the FGPF revenue and expenditure proposal is inconsistent with statutory direction and is not fiscally sustainable. We therefore recommend DFG resubmit its budget proposal for FGPF prior to budget hearings. The revised proposal should be consistent with existing statutory direction with regards to the use of dedicated revenues. Such a proposal will require corrective actions (revenue increases and/or expenditure reductions) to address the funding shortfalls in individual program areas currently being addressed by the use of funds statutorily dedicated for other purposes. In addition, the proposal should also include a plan to repay the dedicated accounts from which $11 million had been redirected to other purposes. In the next section of this write-up, we discuss such an opportunity for corrective action within DFG's lake and streambed alteration agreement program.

Recommend Improved FGPF Budget Display. In order for the Legislature to exercise improved oversight of FGPF, it is necessary for the administration to provide to the Legislature a fund condition which displays the information on the condition of revenues and expenditures both for dedicated and nondedicated revenue sources. In order that future displays of the Governor's budget include such information, we recommend the enactment of legislation requiring that the annual fund condition displayed in the Governor's budget for this fund include both the dedicated and nondedicated revenue sources.

We think this recommended change in the budget display can be accomplished without additional resources since the department already maintains such information. Furthermore, prior-year budget displays have included such information.

Full Cost Recovery for the Streambed Alteration Program Not Yet Achieved

We recommend that the Department of Fish and Game (DFG) report at budget hearings on its efforts to meet the statutory requirement that the costs of the lake and streambed alteration agreement program be fully covered by fees. If at the time of budget hearings DFG has not adopted a revised fee schedule to fully recover program costs, the Legislature should consider establishing a revised fee schedule in legislation. We further recommend increasing DFG's expenditure authority by $1.7 million and the adoption of budget bill language to reflect increased fee revenues. (Increase Item 3600-001-0200 by $1.7 million.)

The Lake and Streambed Alteration Agreement Program. The department's lake and streambed alteration program is responsible for issuing permits for any project which could impact a river, stream, or lake. Projects requiring permits include activities such as bridge construction projects, levee repair, and water diversions. The permits issued by DFG are referred to as lake and streambed alteration agreements.

The Governor's budget proposes $3.4 million for this program in 2005-06 from FGPF.

Legislative Direction for Full Cost Recovery Has Not Been Achieved. Current law requires that when DFG establishes a fee schedule for lake and streambed alteration agreements, the fees must be in an amount sufficient to pay the total costs of administering the program. The fee revenues are deposited in a separate account within FGPF dedicated to the lake and streambed alteration agreement program.

While DFG currently charges fees for lake and streambed alteration agreements, the fee level is not sufficient to cover the program costs. During the last three years, program expenditures have exceeded streambed alteration fee revenues by about $1.7 million annually. In order to make up for the revenue shortfall, the department has relied on the resources available in other dedicated FGPF accounts.

Our review finds that while DFG has made efforts since 2001-02 to move towards full fee-based cost recovery in this program, these efforts have been slow and have not yet resulted in the implementation of a revised fee schedule. The department reports that a revised fee schedule was submitted for public review and comment in April 2004. If the department does not proceed with the proposed fee package by April 2005, current law requires DFG to resubmit the fee package for a new public comment period, thereby delaying the implementation of the revised fee schedule. However, if the department stays on track, a revised fee schedule could be in place at the beginning of the budget year.

Budget Does Not Reflect Statutory Direction for Full Cost Recovery. Although DFG indicates it is pursuing full fee-based cost recovery for the lake and streambed alteration agreement program, the budget does not reflect any anticipated increase in fee revenues for this program. Without an increase in these fee revenues, DFG will continue to rely on the resources available in other accounts in FGPF to address the program's funding requirements.

Recommend Department Report on Status of Revised Fee Schedule. We recommend that DFG report at budget hearings on (1) the actions it has taken to implement a revised fee schedule which would fully recover the costs of the program and (2) when it anticipates the revised schedule will become effective.

Legislature Should Consider Enacting Revised Fee Schedule. If at budget hearings it appears that the department's efforts to implement a revised fee schedule have not shown significant progress, we recommend the Legislature consider enacting legislation which would implement a specific fee schedule to achieve full fee-based cost recovery for the program.

Recommend Budget Adjustment to Reflect Increased Fee Revenues. In order that fees fully cover the program's costs as specified in statute, we recommend the Legislature increase the FGPF expenditure authority by $1.7 million—the amount of program costs not currently budgeted to be funded by the program's fees. Because FGPF receives revenues from many sources, we further recommend the adoption of the following budget bill language to specify the revenue source for the increased expenditure authority:

> Item 3600-001-0200. Of the amount appropriated in this item, $1,700,000 is available for expenditure in the lake and streambed alteration agreement program, contingent on an increase in revenues of a like amount from fees in this program such that the costs of this program are fully recovered by fees as required by Section 1609 of the Fish and Game Code.

Marine Life Protection Act Implementation

The administration has renewed its efforts to implement the Marine Life Protection Act (MLPA). The budget proposes $500,000 from the Environmental License Plate Fund to continue these efforts. We recommend the Legislature withhold action on this proposal until a key report necessary for MLPA implementation is submitted for legislative review. We further recommend that the Legislature direct the Department of Fish and Game to submit the report in April.

Prior MLPA Implementation Unsuccessful. The MLPA of 1999 requires DFG to review and improve the existing network of marine protected areas (MPAs) which are designated by law or administrative action in order to protect marine life and habitat. The MLPA requires DFG to submit a final plan ("Master Plan") which recommends a preferred network of MPAs and addresses how MPAs will be managed, monitored, and enforced. The Master Plan is to be submitted to the Fish and Game Commission for approval by December 1, 2005.

The department began implementing the MLPA in 2000 using funds redirected from other activities. The *2003-04 Budget Act* provided $800,000 from the Environmental License Plate Fund (ELPF) to match private funds for support of MLPA activities. However, the department was not able to secure private matching support and thus eliminated this funding as part of the overall program reductions required in the *2003-04 Budget Act*. Consequently, in early 2004, DFG halted its MLPA implementation efforts.

The department's initial efforts at implementing the MLPA received considerable criticism. Concerns were raised that the process adopted by DFG of establishing MPAs did not provide for sufficient public participation, lacked a strong foundation in science, and was not sufficiently funded.

Administration's Plans to Implement MLPA. The *2004-05 Budget Act* provided $500,000 (Marine Life and Marine Reserve Management Account) for MLPA implementation and specified that the funds were to be used to leverage private resources. The department and the Resources Agency subsequently entered into a partnership with a private foundation to assist in the implementation of MLPA. The department indicates a private foundation will provide about $2 million for the initial implementation of MLPA.

The administration is now implementing the MLPA through several steps. First, it has established a taskforce, the California MLPA Blue Ribbon Task Force, to work with the Resources Agency and DFG to restart the implementation of MLPA. It is proposing to develop the Master Plan (including recommendations for specific MPAs) in stages through 2011, rather than submitting the Master Plan as one document to the commission. In addition, the administration proposes to implement MLPA according to a "Draft Framework" that will be completed by May 2005 and will serve as a document to guide the development of MPAs.

As shown in Figure 1, issuance of the Draft Framework is the first of several milestones toward MLPA implementation. The administration also proposes to complete a funding plan in December of this year that includes recommendations to fund the continued development of the Master Plan and the implementation costs.

MLPA Budget Proposal. The Governor's budget proposes $500,000 (ELPF) to support MLPA implementation. Although the proposed ELPF funding levels will not cover the entire costs, DFG reports the private funding it has secured will be used to continue the development of the Draft Framework and the sequential development of MPAs through 2006. Since the administration's specific strategy (Draft Framework) for implementing MLPA over the long term is not scheduled to be completed until May, future-year funding requirements have yet to be determined.

Recommend Department Report on Its Approach to MLPA Implementation. We think the completion of the Draft Framework offers the administration a good opportunity to present its MLPA implementation strategy to the Legislature. However, we think the projected completion date of May 2005 is too late for the budget subcommittees to have sufficient time to evaluate the report which serves as the basis for the activities in the budget proposal. We therefore recommend the Legislature direct the DFG to complete the Draft Framework earlier so as to be in a position to present the major recommendations from the report by April 15. We also recommend that the resources budget subcommittees and the Joint Committee on Fisheries and Aquaculture hold joint hearings on the report. At the hearings, the department should report on the Draft Framework's recommendations on how MPAs will be developed and on the process for completing the Master Plan. In addition, the department should report on how the new strategy addresses previously aired concerns over public participation, the inclusion of the best available science, and financial feasibility.

Figure 1

Marine Life Protection Act (MLPA) Implementation Timelines

Milestones	Projected Completion Date
Submit "Draft Framework" for the design, implementation, and management of marine protected areas (MPAs) to the Fish and Game Commission.	May 2005
Prepare long-term funding strategy for the implementation of the MLPA.	December 2005
Submit proposed MPA plan for Central Coast to the Fish and Game Commission.	March 2006
Complete development of "Master Plan" and designation of MPAs.	2011

Recommend Legislature Withhold Taking Action Until Draft Framework Is Completed. We further recommend that the Legislature withhold taking action on the budget proposal for MLPA implementation until DFG reports to the Legislature with its Draft Framework for MPAs. We think such a recommendation is appropriate because the budget proposal would fund implementation of the Draft Framework.

DEPARTMENT OF PARKS AND RECREATION (3790)

The Department of Parks and Recreation (DPR) 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 31 units administered by local and regional agencies. The system contains approximately 1.5 million acres, which includes 4,100 miles of trails, 300 miles of coastline, 970 miles of lake and river frontage, and about 14,800 camp sites. Over 80 million visitors travel to state parks each year.

The budget proposes $429.7 million in total expenditures for the department in 2005-06. This is an overall decrease of $636.3 million below estimated current-year expenditures. Most of this reflects a decrease in available bond funds.

The budget proposes $337.5 million in departmental support, $44.1 million in local assistance, and $49.6 million in capital outlay expenditures. Of the total proposed expenditures in 2005-06, about $101 million (24 percent) will come from the General Fund; $52.8 million (12 percent) will come from bond funding; $123.8 million (29 percent) from the State Parks and Recreation Fund (SPRF); $65.9 million (15 percent) from the Off-Highway Vehicle Trust Fund (OHVF); and the remainder $85.2 million (20 percent) from various other state funds, federal funds, and reimbursements. Major budget proposals include: (1) $11.8 million ($11.2 million General Fund and $600,000 OHVF) to continue modifications to state park facilities in compliance with the Americans with Disabilities Act (ADA); (2) $6 million (SPRF) to repair and improve state park water systems; and (3) $1.3 million (General Fund) for the operation of the planned Hearst Ranch Conservation Area.

Shift ADA Project Funding From General Fund

We recommend that $11.2 million in General Fund support for Americans with Disabilities Act (ADA) projects be replaced with a combination of bond and federal funds. We recommend the Legislature achieve this cost shift by (1) appropriating the remaining $3.4 million from unallocated Proposition 12 funds specified for state parks and (2) redirecting support for selected projects proposed in the budget from Proposition 12 and federal funds ($7.8 million) to ADA projects. Finally, we recommend the adoption of budget bill language to specify the use of the selected funds for ADA purposes. (Reduce Item 3790-001-0001 by $11.2 million; Increase Item 3790-301-0005 by at least $3.4 million.)

ADA Budget Proposal. As a result of a lawsuit, DPR is required to spend $110 million over 14 years (beginning in 2002-03) for modifications to existing state park facilities in order to make state parks more accessible for visitors with disabilities. These modifications include modifying restrooms, parking areas, picnic sites, and trails to allow for greater access. Toward this end, the department developed an ADA Transition Plan. The budget proposes about $11.8 million for the continued implementation of its transition plan. Of this amount, $11.2 million is from the General Fund and $600,000 is from the OHVF.

As shown in Figure 1, between 2002-03 and the current year, DPR has spent $17.3 million to implement the ADA Transisition Plan. The General Fund and Proposition 12 have provided the bulk of funding for the modifications.

Figure 1

ADA Transition Plan Expenditures

(In Millions)

Fund Source	2002-03	2003-04	2004-05	2005-06
Proposition 12	—	$4.0	$4.0	—
General Fund	$7.4	—	—	$11.2
Off-Highway Vehicle Trust Fund	0.8	0.5	0.6	0.6
Totals	**$8.2**	**$4.5**	**$4.6**	**$11.8**

Unallocated Proposition 12 Funds Available to Fund ADA Proposal. Our review of the Proposition 12 fund condition finds that there are $3.4 million of unallocated funds remaining that could be used to support ADA modifications. By unallocated, we mean funds that have not been previously appropriated, proposed for expenditure in the budget year, or set aside for future expenditure. Proposition 12 allows the funds in question to be used to support the development and rehabilitation of state parks and to provide for improved access and safety. As shown in Figure 1, Proposition 12 has previously been used to support ADA modifications.

Budget Proposes Bond and Federal Funds That Could Fund ADA Projects. Our review of DPR's proposed capital outlay budget finds that it includes several proposals for the use of Proposition 12 and federal funds. Of the expenditures proposed from Proposition 12, we find that about $1.4 million is for (1) the planning phase of three projects not yet approved by the Legislature and (2) the construction of minor projects, namely trails and interpretive exhibits. Additionally, our review finds that the department has set aside $6.6 million of Proposition 12 bond funds for future-year construction costs of the three projects in the planning phase. Finally, the federal funds are proposed for unspecified acquisitions or improvements. We think that funding proposed or set aside for this particular group of projects—as detailed in Figure 2—could be redirected to ADA-related projects.

Recommend Shifting ADA Funding From General Fund to Bond and Federal Funds. We recommend the Legislature shift support for ADA projects in the budget year from General Fund to bond and federal funds, thereby generating a one-time General Fund savings of $11.2 million. The savings consists of three components. First, $3.4 million in unallocated Proposition 12 funds would replace an equivalent amount of General Fund monies. Second, $5 million in federal funds currently proposed for unspecified acquisition and improvement projects would be redirected to fund the ADA projects, freeing up a like amount of General Fund. Thirdly, the remaining $2.8 million would be derived by redirecting an equivalent amount of Proposition 12 bond funds from projects proposed by the department but not yet approved by the Legislature. Proposed funding for these projects totals $8 million, more than enough to fund the remaining $2.8 million.

General Fund Savings. Implementing our recommendation to shift funding for ADA projects from the General Fund to bond and federal funds would result in a General Fund savings of $11.2 million. We therefore recommend that the Legislature make the corresponding $11.2 million reduction in DPR's General Fund budget and provide the necessary increases in Proposition 12 expenditure authority and federal funds. Finally, we recommend the adoption of budget bill language to specify the use of the selected funds for ADA project purposes.

Figure 2

Selected Proposed Project Funding Available for Redirection

(In Thousands)

	Proposed Expenditures	Funding Set Aside	Total Funding
Proposition 12 Funds			
Antelope Valley Indian Museum			
• Preliminary plans for structural improvements	$149	$1,845	$1,994
Columbia State Historical Park			
• Preliminary plans for drainage improvements	144	1,422	1,566
Millerton Lake			
• Preliminary plans for day use improvements	331	3,379	3,710
Recreational Trail Improvements			
• Trail improvements	250	—	250
Interpretive Exhibits			
• Interpretive exhibits	500	—	500
Federal Funds			
Federal Trust Fund Program			
• Unspecified acquisitions and improvements	$5,000	—	$5,000
Totals	**$6,374**	**$6,646**	**$13,020**

Concession Proposals

The budget includes four concession-related proposals requiring legislative approval. While we find three of the proposals warranted, we recommend the Legislature withhold approval of the ferry service concession proposal for Angel Island State Park until the Department of Parks and Recreation, based on the completed economic analysis, provides the Legislature with information on the specific minimum rent to be paid to the state.

Under current law, the Legislature is required to review and approve any proposed or amended concession contract that involves a total investment or annual gross sales over $500,000. In past years, the Legislature has provided the required approval in the supplemental report of the budget act.

As shown in Figure 3, the department has included four concession proposals in its budget that require legislative approval. While we find three of the proposals warranted, we recommend the Legislature withhold approval of the ferry service concession proposal for Angel Island State Park.

Figure 3

Concession and Operating Agreement Proposals

Proposal	Term (In Years)	Minimum Revenue To State	Minimum Capital Investment
Candlestick Point State Recreation Area			
• Parking	Up to 10	90% of sales	$25,000
Crystal Cove State Park			
• Lodging	Up to 20	$30,000 or 2% of sales	$450,000 and 12% of sales to a facility improvement fund
• Food services	Up to 20	$90,000 or 10% to 12% of sales	$325,000
Carnegie State Vehicular Area			
• Store operation	Up to 20	$70,000 or 8% of annual gross sales	$350,000
Angel Island State Park			
• Ferry service	Up to 20	Not determined	

Recommend Withhold Approval for Angel Island State Park Ferry Service Concession. The department requests approval to solicit bids for ferry services between the mainland of Marin County and Angel Island State Park. Our review of the request to solicit proposals found that the department has not yet completed the economic feasibility study that is used to determine the minimum revenue share to be paid to the state. The study is also important because it will determine the availability of dockage and ferry routes from Marin County to Angel Island. The DPR anticipates the report will be completed this spring. Without this information, the Legislature is not able to determine whether the proposal is in the state's best interest. Accordingly, we recommend the Legislature withhold approval of the proposal for Angel Island State Park until the department, based on the completed economic analysis, provides the Legislature with information on the specific minimum rent to be paid to the state.

SIERRA NEVADA CONSERVANCY (3855)

The Sierra Nevada Conservancy was established by statute in 2004. The conservancy will undertake projects and make grants and loans for various public purposes in the Sierra Nevada Mountains, including increasing tourism and recreation; protecting cultural, archaeological, and historical resources; reducing the risk of natural disasters; and protecting and improving water and air quality.

The budget proposes total expenditures of $3.6 million from two sources, the Environmental License Plate Fund ($3.4 million) and reimbursements ($200,000), and 20.5 positions (13.5 personnel-years) to activate this conservancy in 2005-06.

Start-Up Expenditures Should Be Made Limited-Term

The budget proposes $3.6 million to activate the conservancy. We recommend the adoption of budget bill language specifying that the expenditure authority for about $1.2 million of start-up costs is for a limited term.

Background. Chapter 726, Statutes of 2004 (AB 2600, Leslie), established the Sierra Nevada Conservancy. The mission of the conservancy is to preserve and restore significant natural, cultural, archaeological, recreational, and working landscape resources (farms, ranches, and forests) in the Sierra Nevada Mountains. The conservancy's jurisdiction covers 25 million acres and is divided into six subregions. In the next few months, the conservancy will begin its start-up activities, such as determining a headquarters location and initiating an executive director search.

The conservancy's initial focus (in the next two years) will be undertaking and facilitating a strategic program planning process involving meetings and workshops within each of the subregions, with the purpose of formulating strategic program objectives and priorities within that subregion. Chapter 726 requires these activities in order to encourage local involvement and participation in the conservancy's activities.

Budget Proposal. Of the $3.6 million proposed to activate the conservancy in 2005-06, $948,000 is for personal services (salaries, wages, and benefits) and $2.6 million is for operating expenses and equipment. This proposal assumes a phased-in approach to staffing and operating expenses. Therefore, it is projected that for fiscal year 2006-07, full-year costs for the conservancy will total about $4 million—$1.5 million for personal services (31 positions [20.5 PYs]) and $2.5 million for operating expenses.

Included in the budget-year proposal are two sets of expenditures that are appropriately characterized as "start-up" expenditures. These are (1) $567,000 for program and guideline development, which includes the statutorily required workshops throughout the subregions and the detailed assessments of local general plans and water plans by external consultants, and (2) $586,000 for equipment.

Start-Up Expenditure Authority Should Not Be Considered Part of Baseline Budget. We estimate that it will likely take about two years to develop programs and guidelines. Therefore, we do not think that the $567,000 proposed for these activities should be included as a baseline expenditure of the conservancy. Similarly, the $586,000 for equipment, as a one-time cost, should also not be included in the conservancy's baseline budget. For these reasons, we recommend the adoption of the following budget bill language to make this expenditure authority available for a limited term:

> Item 3855-001-0140. Of the amount appropriated in this item, $567,000 for external consulting for program and guideline development and $586,000 for equipment are limited to terms of two years and one year, respectively.

Coordination of Sierra Nevada Grant Programs

The Secretary for Resources and the conservancy both have the authority to administer grants in the Sierra Nevada region. We recommend the adoption of supplemental report language requiring the agency and the conservancy to report on their plans for coordinating these programs.

Sierra Nevada Grant Programs. Chapter 726 also provides the conservancy with the authority to issue grants to public agencies and nonprofit organizations for planning activities, land acquisition, and site improvement projects. The Secretary for Resources also administers a grant program, the Sierra Nevada Cascade Grant Program, for these purposes. The jurisdiction of the conservancy's and the secretary's programs overlap, but are not identical (the secretary's program jurisdiction is greater than that of the conservancy's).

Recommend Plan for Coordination Be Developed. It is important that these two grant programs coordinate their efforts in order to avoid duplication of administrative efforts and in order to ensure that the grants are consistent with both organizations' priorities in the region. A plan for this coordination is not included in the budget proposal. This is reasonable given that the conservancy has not yet been activated. For this reason, we recommend the adoption of the following supplemental report language, under the budget item of both the Secretary for Resources and the conservancy, directing the agency and the conservancy to report on their coordination plans in regards to administering grants in the Sierra Nevada region.

> Item 0540-001-6031 and Item 3855-001-0140. The Secretary for Resources, in consultation with the Sierra Nevada Conservancy, shall submit a plan for the coordination of grant programs in the Sierra Nevada region to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature by December 1, 2005.

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 maintains public safety 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, which is 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 "Bay-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, the IOUs manage the receipt and delivery of the energy procured by the contracts.

Proposed Funding. The budget proposes total expenditures of about $6.4 billion in 2005-06, a reduction of $267 million, or 4 percent below estimated expenditures in the current year. Most of this reduction reflects decreased payments due to expiring energy contracts entered into on behalf of the IOUs. Major budget proposals include $59.1 million from the General Fund to pay for the lining of the All American Canal and an increase of $9.7 million (General Fund) for levee maintenance and other flood management activities. The budget total includes $319.4 million for capital outlay projects, of which $271.6 million is for SWP (the costs of which are reimbursed from SWP contractors), and $21.1 million for flood control ($16.7 million comes from the General Fund and $4.4 million is reimbursed from local agencies) and $26.6 million (Proposition 13 funds) for CALFED water conveyance projects.

Although not included in DWR's budget total, the Governor's budget display for DWR contains a proposal to finance a pending $464 million settlement of flood litigation against the state with a judgment bond. We discuss this proposal below.

FINANCING FLOOD LAWSUIT SETTLEMENT WITH A JUDGMENT BOND

The budget proposes to finance a pending $464 million settlement of a flood-related lawsuit against the state (the **Paterno** ***case) with a judgment bond. We recommend that the Department of Finance report to the Legislature at budget hearings on the status of the settlement, on alternative ways to pay the state's obligation, and if the administration decides to proceed with the judgment bond, on various legal, policy, and fiscal issues we raise.***

Background

Budget Proposes Judgment Bond to Finance Flood Lawsuit Settlement. The budget proposes to finance a pending $464 million settlement of a flood-related lawsuit against the state (the *Paterno* case) by issuing a "judgment bond." The concept of a judgment bond is not defined in statute. Nevertheless, a judgment bond is basically a debt payment mechanism issued to finance a court judgment or lawsuit settlement. To our knowledge, the state has never issued a judgment bond, but we are aware of at least a few instances where local governments in the state have issued bonds to finance a judgment or settlement. For example, the City of Long Beach issued a bond to finance the cost of a court judgment finding it liable in the faulty construction of a public building that collapsed, killing several people.

To date, the administration has not issued a formal proposal for the terms and conditions of this bond because a settlement is still pending. Based on our discussions with the Department of Finance (DOF), we understand that the administration's plan is to issue the bond in 2005-06, with the first debt service payments to be made in 2006-07. According to the DOF, the debt service payments would be paid from the General Fund and subject to annual appropriation in the annual budget act.

History of the Paterno Case. In 1904, Yuba County constructed a levee (the Linda levee) mostly out of hydraulic mining debris. The levee was incorporated into the Sacramento River Flood Control Project (SRFCP), a federal valley-wide flood control project. In 1953, the SRFCP, including the Linda levee, was turned over to the state, under the jurisdiction of the state Reclamation Board. The agreement that transferred the system to the state stipulated that the state would be responsible for operation and maintenance of the system, and would hold the federal government harmless from any future liability claims. The state then turned over the levees (including the Linda levee) to the local reclamation districts, with the agreement that the local reclamation districts would maintain and operate the levees, but that the state would remain responsible overall for the project.

The *Paterno* lawsuit stems from a flood on the Yuba River in 1986. In February of that year, a 150 foot gap opened in the levee, allowing approximately 20,000 acre feet of water to flood 7,000 acres of land in the communities of Linda and Olivehurst, in Yuba County. As a result, hundreds of homes and a shopping center in the area were flooded.

Subsequently, approximately 2,600 affected parties filed suit against the local reclamation district and the state. In 2001, a trial court ruled in favor of the state. However, in 2003 the California Court of Appeal ruled that the state was liable (and that the local reclamation district was not) and sent the case back to the trial court to award damages. The state appealed to the California Supreme Court which refused to hear the case.

The administration and the plaintiffs are in the process of negotiating a settlement, and appear to have reached a tentative agreement, with the state to pay the plaintiffs $464 million. While the court has not yet approved the settlement, the administration anticipates that a final settlement will be agreed to and approved by the court by the end of the current fiscal year.

Is a Judgment Bond the Only Option? While the administration proposed a $464 million judgment bond to pay the settlement in the Governor's January budget document, the Director of DOF has recently indicated that the administration would use this financing option only if it represents the least costly method to resolve the *Paterno* case. So, are there other alternatives available to the administration for paying the settlement?

There are two possibilities, although they entail their own limitations. First, the settlement could be fully paid off out of available resources in the budget year. As noted in Part I of our companion document, *The 2005-06 Budget: Perspectives and Issues,* we project that revenues will be $2.2 billion higher over the current and budget years combined as compared to the forecast reflected in the Governor's January budget. Some of those additional revenues could be used for the one-time purpose of funding the *Paterno* settlement. Funding the settlement in the budget year from the General Fund would eliminate the large costs of borrowing associated with debt financing. However, it would do so at the expense of other potential legislative priorities.

Second, there may be other ways to structure the payment of a lawsuit settlement beyond a lump-sum payment from the General Fund or issuing a bond and incurring debt. For example, in other lawsuits against the state, settlement payments to plaintiffs have been structured to be paid over multiple years. This allows the state to spread the costs over a few years, thereby reducing the burden on the General Fund in a single fiscal year. The total cost would still be higher due to interest, when compared to making a single lump-sum payment. However, these interest costs would likely be significantly less than a bond because the payment would be over a few years as compared to long-term debt financing which can typically be 30 years.

Issues for Legislative Consideration

If the administration decides to proceed with proposing a judgment bond to finance the settlement of the *Paterno* case, there are several legal, policy, and fiscal issues that the Legislature should consider in its evaluation of the judgment bond proposal.

Specifically, the main issues are:

- Legal Issues: Is a vote of the people required to issue a judgment bond? Is legislative authorization required?
- Policy Issue: Is debt financing a lawsuit settlement good policy?
- Fiscal Issues: How much would it cost? How can costs be minimized?

We discuss each of these issues in the sections that follow.

Legal Issue—Would the Bond Require a Vote of the People? Legislative Counsel has indicated to us that a vote of the people would not be required for this type of financing instrument. Although there is no state case law directly involving a state-issued debt of this kind, state courts have found that local governments are exempt from the constitutional voting requirement for local government debt in instances where the debt is an obligation "imposed by law" that was not "voluntarily incurred." For example, bonds issued by the City of Long Beach and Los Angeles County to fulfill obligations imposed on them by a tort judgment and state law, respectively, have been validated by the courts as being exempt from the constitutional voting requirement for local government debt as obligations imposed by law. To the extent that the *Paterno* settlement would be considered an obligation imposed by law and not voluntarily incurred by the state, it is likely that the courts would find that the state is exempt from the constitutional voting requirement for state debt.

Legal Issue—Is Legislative Authorization Required? Based on discussions with Legislative Counsel, it appears that if the state were to proceed with issuing the judgment bond, it would be advisable for the Legislature to enact legislation authorizing its issuance, including the terms and structure of the bond. Such authorizing legislation is advisable because there are no statutory provisions in state law that explicitly authorize the issuance of a judgment bond or dictate how such a bond is to be structured.

Policy Issue—Is Debt Financing of a Lawsuit Settlement Good Policy? The state has to date accumulated $26 billion in budgetary debt. We have previously cautioned against the state accumulating additional such debt because its repayment diverts resources from future budgets for past obligations. Nevertheless, we believe a distinction can be drawn between this bond and other forms of budgetary borrowing the state has engaged in. While recent budgetary borrowing has been used to temporarily cover ongoing budget shortfalls, this bond would be used to spread out the pain associated with a large, one-time cost imposed by a court judgment. In this regard, it could be considered reasonable and practical to pay an obligation like the *Paterno* settlement over multiple years rather than imposing all the costs on the state's taxpayers in a single year. This is because the *Paterno* obligation concerns an unanticipated cost arising from an event a number of years in the past, as opposed to an anticipated, ongoing expenditure obligation of the state. Because paying the *Paterno* settlement in 2005-06 as a lump sum from the General Fund may divert funds from other legislative priorities, the issuance of a judgment bond in this case may be warranted.

Fiscal Issue—How Much Would It Cost? As with any bond measure, the price of deferring payment is the increased cost of interest payments. According to our estimates, the total cost to the state of paying a $464 million settlement through a judgment bond would be approximately $915 million, assuming a 30-year term of the bond. Accordingly, paying the state's settlement obligation through borrowing nearly doubles the total cost to the state over the long term. This cost, however, is spread over the entire 30-year period, so the total cost after adjusting for inflation is considerably less—approximately $600 million in today's dollars.

Fiscal Issue—How Can the Cost Be Minimized? The DOF has indicated that the debt service payments of the proposed bond would be subject to the annual appropriation process. While we generally favor such an approach from a legislative oversight perspective, this is an instance where another method is advisable from a fiscal prudence perspective. Specifically, by issuing a bond subject to continuous rather than annual appropriations, the state should be able to secure a lower interest rate—hence a lower total cost of borrowing—because the perceived risk inherent in the bond would be lower. For example, a reduction in the interest rate of one-tenth of one percent would save the state over $10 million over the life of the bond. Consequently, we think that if the Legislature decides to authorize the judgment bond, it also should provide for continuous appropriations authority.

Recommend DOF Report at Budget Hearings. Because the court has not finalized the *Paterno* settlement, we recommend that DOF report at budget hearings on several issues. Specifically, DOF should provide the Legislature an update on the status of the settlement agreement; comment on the alternative methods of paying the state's obligation that we have identified; and respond to the legal, fiscal, and policy issues related to such a bond raised in this review.

LOOKING PROSPECTIVELY: FLOOD MANAGEMENT AND FUTURE STATE LIABILITY

***Based on the court's ruling in the* Paterno *case, the state faces an unknown but potentially substantial liability in the event of future floods. We discuss various flood management issues for legislative consideration in our companion document,* The 2005-06 Budget: Perspectives and Issues (P&I).**

The previous discussion of the *Paterno* settlement does not address the larger issue of the state's potential liability exposure from future flood events. It should be noted that the construction of the Linda levee (central to the *Paterno* case) is typical of Central Valley levees for which the state has responsibility. Thus, it is possible that the state could face further liability from future floods, absent corrective action. While it is not possible to make an accurate estimate of those potential liabilities, they are potentially very large. We address the issue of flood management in our writeup, "Water Policy Issues Facing the State," in our companion document, *P&I*.

AIR RESOURCES BOARD
(3900)

The Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects 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 $236.8 million from various funds, primarily special funds, for support of ARB in 2005-06. This is an increase of $69.6 million, or 42 percent, from estimated 2004-05 expenditures. This increase is largely a result of the first-time receipt of a full year of fee revenues related to the Carl Moyer Program (diesel emission reduction incentives). The increase also results from the availability of new tire fee revenues to fund programs and projects that mitigate or remediate air pollution caused by tires. In addition, the budget proposes increases of $8.6 million (special funds) to reduce exposure to fine particulate matter and $7.3 million (special funds) for various mobile source compliance and enforcement-related activities.

Budget Does Not Reflect Current-Year Revenue From Increase in Tire Fee

The budget does not reflect current-year revenue from a recent increase in the tire fee that is to be used for air quality programs. We recommend the Governor's May Revision proposal include an expenditure plan for these revenues.

Increase in Tire Fee for Air Pollution Programs. For several years, the California Integrated Waste Management Board has assessed a $1.00 tire fee on every purchase of a tire in California. This fee is for prescribed purposes related to the disposal and use of used tires, and supports programs to encourage the recycling of waste tires and to foster markets for recycled tires. Chapter 707, Statutes of 2004 (AB 923, Firebaugh), increased this fee (from $1.00) to $1.75 per tire from January 1, 2005 until December 31, 2006 and $1.50 per tire from January 1, 2007 until December 31, 2014. Chapter 707 also required that revenues generated by this increase in fee be deposited into the Air Pollution Control Fund (APCF) for use by ARB and the local air districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state.

Budget Does Not Reflect Current-Year Revenue From Increase in Tire Fee. The budget proposes expenditures of $25 million from the tire fee revenues deposited in APCF in the budget year. Our review finds that the budget does not account for the receipt of a projected $12 million of tire fee revenues that will be deposited in APCF from January through June of this year (the tire fee increase is effective January 1, 2005). Accordingly, resources available from the tire fee for air quality programs in the budget year are $12 million higher than shown in the Governor's budget display. The board advises that there will not be expenditures of these revenues in the current year.

Governor's May Revision Should Include an Expenditure Plan. We recommend that the Governor's May Revision include a plan for expenditure of the $12 million of current-year revenues unaccounted for in the January proposal. This will give the Legislature the opportunity to evaluate the complete expenditure proposal for tire fee revenues at budget hearings.

California Integrated Waste Management Board (3910)

The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed in landfills. The CIWMB administers various programs which promote waste reduction and recycling, with particular programs for tires, used oil, and electronics. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly enforced by local enforcement agencies that are certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

The budget proposes expenditures of $190 million from various funds (primarily special funds) for support of CIWMB. This is an increase of $41 million (or 27 percent) from estimated 2004-05 expenditures. This increase is largely a result of the first-time receipt of a full year of fee revenues from the electronic waste recycling fee.

Funding for Environmental Education

We withhold recommendation on $3.5 million proposed for an environmental education program pending receipt of a revised funding proposal that more accurately reflects the broad range of environmental topics covered by the program.

Background. Chapter 926, Statutes of 2001 (SB 373, Torlakson), established an office in CIWMB which was charged with the development and implementation of an environmental education program for elementary and secondary schools in the state. The environmental principles that are to be included in the program are very broad in scope and relate to, but are not limited to, the following topics: air, water, energy, pest management, forestry, fish and wildlife resources, toxic and hazardous waste management, resource conservation and recycling, and integrated waste management. Chapter 665, Statutes of 2003 (AB 1548, Pavley), further defined the requirements of the program (The Education and the Environment Initiative [EEI]), mandated school boards to include the environmental principles in instructional materials, and established the Environmental Education Account to be administered by the Secretary for Environmental Protection for purposes of funding this program. This account may receive funds from public or private organizations and also proceeds from state or federal court judgments.

The first two phases of EEI have been completed. These were (1) the development of environmental principles and concepts and (2) the alignment of the environmental principles and concepts to the California Academic Content Standards.

Budget Proposal. The budget proposal requests $3.5 million (in each of the budget year and 2006-07) and 5.5 permanent positions to implement the next two phases—planning for model curriculum and curriculum development—of EEI. Of the $3.5 million requested in the budget year, $3.3 million is from the Integrated Waste Management Account (IWMA) and $200,000 is from the Waste Discharge Permit Fund (WDPF). The IWMA receives its revenues from "tipping" fees on the disposal of waste at landfills. The WDPF receives its revenues from fees levied on permittees of the State Water Resources Control Board discharging waste into the water. (Statute provides that a portion of WDPF revenues is for CIWMB programs.) The budget does not propose any funding for the environmental education program from the Environmental Education Account established by Chapter 665.

The budget proposes to make the $3.5 million of appropriations contingent on the enactment of clean-up legislation that would make changes to Chapter 665, including repealing the mandate on school boards to include environmental principles in instructional materials. Legislation with these changes was introduced last session (AB 1696, Pavley), but was vetoed by the Governor.

Governor's May Revision Should Include New Funding Proposal. As previously mentioned, this program includes the development of curriculum on a broad range of environmental topics; however, $3.3 million (94 percent) of the requested funding for 2005-06 is from a CIWMB account—IWMA—funded by landfill disposal fees.

We withhold recommendation regarding this budget request and recommend that the Governor's May Revision include a revised funding proposal for this program that better reflects the scope of the environmental education program to be funded. Specifically, since CIWMB is coordinating the implementation of *all* environmental topics in the curriculum, we think that the funding proposal should include reimbursements from other environmental protection and resources departments whose programmatic area of focus is covered prominently in the environmental education curriculum to be developed. To the extent that private-sector funding is available, we also think that the funding proposal should include some level of funding from the Environmental Education Account, as intended by the Legislature in establishing the program.

DEPARTMENT OF PESTICIDE REGULATION (3930)

The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state (the mill assessment).

The budget proposes expenditures of about $62 million in 2005-06 for the department, including $58.6 million from the DPR Fund (funded mainly by an assessment on pesticide sales). The proposed expenditures are $1.9 million (3 percent) above estimated current-year expenditures. This increase is primarily due to a projected increase in mill assessment revenues to be used to support local enforcement and other baseline adjustments.

Budget Does Not Address Substantial Revenue Undercollection

The budget does not address a substantial revenue undercollection in the mill assessment that has been identified in recent audits. To address this, we recommend the department and Department of Finance report at budget hearings on options for addressing the revenue undercollection. We also recommend the adoption of supplemental report language to require the department to report on options for the use of the new revenues.

What Is the Mill Assessment and Who Pays It? California assesses a fee on all pesticides (agricultural and nonagricultural) at the point of first sale in the state. This fee is paid either by the pesticide manufacturer, distributor, or retailer.

The current mill assessment rate is 21 mills (2.1 cents per dollar of sales). Mill assessment revenues are deposited into the DPR Fund and are the major source of funding for the state's pesticide regulatory program.

Licensing Requirements. Under current law, all sellers of pesticide products labeled for *agricultural* use are required to be licensed before they can sell such products in California. The requirements of being licensed include record-keeping responsibilities to (1) maintain records of all purchases, sales, and distributions of pesticides for four years and (2) submit a quarterly report to the department specifying the total dollars of sales and total pounds or gallons of pesticides sold in California. Additionally, if a license-holder is the first point of sale of the pesticide in the state, then the license-holder would be required to pay the mill assessment on those sales.

In contrast, sellers of pesticide products labeled for use in the home and other *nonagricultural* settings (consumer pesticides) are *not* required to be licensed. (See Figure 1 for examples of nonagricultural pesticides.) Both agricultural and nonagricultural pesticide sellers are required to pay the mill assessment on the first sale in the state. Thus, the requirement to pay the mill assessment is not dependent on one being licensed.

Figure 1

Examples of Pesticides Most Often Used in Nonagricultural Settings

- Ant or roach spray
- Disinfectants and sanitizers (for example, toilet bowl cleaner)
- Mosquito repellant
- Pool chlorine
- Rat poison
- Rose dust
- Snail bait
- Weed killer

Current Scope of Licensing Requirements Have Created a Compliance Problem. There is some evidence that unlicensed entities selling pesticides in the state may not be aware that they are required to pay the mill assessment. A recent departmental audit conducted of a statewide retail chain that sells consumer pesticides found substantial sales of pesticide products without the mill assessment being paid. It may be that the unlicensed entities are not paying the mill assessment because they do not receive the quarterly mill assessment reporting forms from the department that serve to enforce compliance with this requirement, as these forms are only sent to licensed entities.

Extrapolating the audit findings, it appears that the department is losing $4 million annually in mill assessments from unlicensed consumer pesticide retailers. As a consequence of this revenue undercollection, current fee payers who are complying with the requirement to pay the mill assessment are disproportionately funding the work of the department.

Budget Does Not Take Steps to Address Revenue Undercollection. The department has been aware of this compliance problem with retailers of consumer pesticides for at least a couple of years. During last year's budget hearings, the department indicated that it was working with the administration on means to collect mill assessments on these unlicensed entities. However, the budget does not contain any proposal to address this issue. The department indicates that it is still working with the administration on options.

Administration Should Report at Budget Hearings on Options to Address Problem. Since the budget does not address the revenue undercollection in mill assessment, we recommend that the Legislature step in to begin addressing this issue in a timely manner. For this reason, we recommend that the department and the Department of Finance (DOF) report jointly at budget hearings on the actions that can be taken for the budget year to improve the collection of the mill assessment revenues owed to the state. Specifically, the report should include an evaluation of the costs and benefits of at least the following two options that we have identified to address the uncollected mill assessment revenue.

- ***Option One—Require Licensing of Nonagricultural Pesticide Sellers.*** This option would require retailers of nonagricultural pesticides to (1) obtain a license (with the same record-keeping responsibilities of existing license-holders discussed earlier) from the department, (2) pay license fees, as is currently required of sellers of agricultural pesticides, and (3) annually submit a list of their suppliers (to assist the department in tracking the chain of pesticide sales in the state). This license requirement could be limited in some way, such as requiring a license only for nonagricultural pesticide retailers who meet an annual sales threshold, in order to ensure administrative cost-effectiveness of an expanded licensing program. The report by the department and DOF should specify additional workload and costs created by such an expanded licensing function.
- ***Option Two—Increase Staff at the Mill Assessment Branch.*** This option would increase staff in the department's Mill Assessment Branch in order to inform (through public outreach) sellers of

nonagricultural pesticides of the requirement to pay the mill assessment and to enhance the department's enforcement activities to ensure greater compliance with the requirement. For example, increased staffing could be used to perform additional audits of the chain of pesticide sales in the state to ensure that the mill assessment is being paid at the first point of sale in California.

Consider Options for Using New Revenues. If actions are taken to improve compliance of those required to pay the mill assessment, mill assessment revenues will correspondingly increase. Given the time required to implement changes to address the revenue undercollection in mill assessment, a major improvement in revenue collection may not be seen until 2006-07.

The future availability of these new revenues in the department presents the Legislature with some policy choices. For example, the Legislature could authorize that these revenues be used to restore a portion of the positions and funding lost in previous budget reductions. In this regard, we note that Chapter 523, Statutes of 2001 (AB 780, Thompson), required the department to report to the Legislature on the appropriate levels of funding needed to support its pesticide regulatory program. This report notes that the department considered that its funding requirements were met in 2001-02, when its budget was $50 million (excluding $13 million that was a pass-through to local pesticide programs). Reflecting subsequent budget reductions, including a loss of over 100 positions, the 2005-06 budget proposes about $45 million for the department's own programs.

Many of the programs that were reduced involved efforts to improve the timeliness of the pesticide registration process and the evaluation of the major environmental and health impacts posed by pesticide use. The restoration of such programs would not only strengthen the department's regulatory decisions to protect human health and the environment from the adverse effects of pesticide use, but would also improve the registration process so that chemicals can be fully and efficiently evaluated, without unnecessary delays in authorizing their introduction in the market.

Alternatively, the new revenues could facilitate a reduction in the mill assessment *rate*, perhaps in combination with some level of program restoration. Accordingly, we recommend that the Governor's 2006-07 budget proposal be accompanied by a report that evaluates the options for using the new revenues and explains the department's chosen course of action. To ensure that this report is submitted, we recommend the adoption of the following supplemental report language:

> On or before January 10, 2006, the Department of Pesticide Regulation shall report to the Legislature on its evaluation of options for using the new revenues generated from the mill assessment due to actions taken

to increase the compliance of nonagricultural pesticide retailers. The report shall include a list of all options considered by the department, the consequences of adopting each option (benefits and costs), and an explanation of the department's chosen course of action as reflected in the Governor's 2006-07 budget proposal.

STATE WATER RESOURCES CONTROL BOARD (3940)

The State Water Resources Control Board (board), 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 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 $729 million from various funds for support of the board in 2005-06. This amount is a decrease of $305 million, or about 30 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. Despite this overall spending reduction, the budget does propose some increases in programs. These proposals include $1.5 million for contaminated site cleanups, $48 million ($33 million ongoing) to accelerate the reimbursement of private parties for the cleanup of leaking underground storage tanks, and $12 million to fund grants to test underground storage tanks for leaks.

Legislatively Required Report Overdue

The administration has failed to submit a legislatively required report on funding opportunities to address the environmental impacts of agriculture. Pending the submittal of the report, we recommend denial of the budget request for 5.5 new positions and $523,000 to administer Proposition 50 grant funds related to agricultural and dairy water quality. (Reduce Item 3940-001-6031 by $523,000.)

The *Supplemental Report of the 2004 Budget Act* requires the board to report to the Legislature by December 31, 2004 on its recommendations for legislative action to identify and maximize state and federal funding opportunities to address adverse environmental impacts of agricultural activities, including dairy operations. The *Supplemental Report* also requires our office to provide an analysis of the report and make recommendations to the Legislature in our *Analysis of the 2005-06 Budget Bill*. However, at the time the *Analysis* was prepared, the administration had not yet submitted the report. We will provide our analysis of the report and related recommendations at budget hearings, assuming the required report has been submitted by that time.

The budget proposes an increase of 4.5 positions (1.5 ongoing) in the Agriculture Water Quality program and 1 position in the Dairy Water Quality program, at a total cost of about $523,000 (Proposition 50 bond funds). These positions are proposed to administer $29.5 million in grants in the board's Agriculture Water Quality program and $5 million in grants in the Dairy Water Quality program. In general, these programs are intended to mitigate the adverse impacts of agriculture and dairy activities on water quality. Funding for these grants was provided in a current-year appropriation, available for expenditure through 2006-07.

The information required by the overdue report would assist the Legislature in its evaluation of the budget request for these grant programs. Specifically, it would permit the Legislature to determine whether the requested level of staffing is appropriate for the potential size of the program if the state were to maximize all funding sources for these grant programs. Because the administration has not provided the Legislature with recommendations regarding funding opportunities in this area, we believe that adding the requested level of positions is premature. We therefore recommend denying the request for these new positions and $523,000, pending submittal and legislative evaluation of the report.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (3980)

The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency (Cal-EPA) and to other state and local agencies.

The budget requests total funding of $14.8 million for support of OEHHA in 2005-06. This is about the same as current-year expenditures.

Regulatory Programs Should Fund More of OEHHA

The Office of Environmental Health Hazard Assessment (OEHHA) has largely relied on the General Fund to support its operations. We find that there are potential alternative funding sources for many of OEHHA's activities, namely regulatory programs benefiting directly from OEHHA's technical expertise. While these create opportunities for additional General Fund savings in the budget year ($2.8 million), they also present an opportunity to provide more stable funding for OEHHA. We recommend that the administration report at budget hearings on the status of an overdue report to the Legislature and on the information requested in the report requirement.

General Fund Supports a Majority of OEHHA's Activities. Most of OEHHA's activities are required by statute and are supported largely by the General Fund. Using General Fund money, OEHHA identifies cancer-causing chemicals for annual updates of the state list of chemicals in drinking water, provides health risk assessments of "toxic air contaminants," reviews health risk assessments of pesticides, and jointly regulates pesticide worker health and safety with the Department of Pesticide Regulation.

Of the $14.8 million of expenditures proposed for OEHHA in 2005-06, about $7.8 million (53 percent) is from the General Fund. (The balance of OEHHA's support is from various special funds and reimbursements.)

Legislative Direction Regarding OEHHA's Funding. At legislative hearings on the 2003-04 budget, concerns were raised about the instability in OEHHA's funding base, due to declining General Fund support, and whether OEHHA's funding level was adequate to meet its statutory mandates. (Over the last two years, OEHHA's budget was reduced by about $1.5 million [10 percent].) Additionally, there was a recognition that while OEHHA's total budget had been declining, a number of statutory mandates have been added to its responsibilities. These include mandates related to children's health and an assessment of fuel-related risks.

As a result, the Legislature, in the *Supplemental Report of the 2003 Budget Act*, directed OEHHA to report to the Legislature by January 10, 2004 on various issues, including its long-term baseline funding requirements to meet its statutory mandates, recommendations regarding the appropriate mix of General Fund and fee-based special funds, and potential efficiency improvements. The overall purpose of this report was to assist the Legislature in determining the appropriate level of funding and allocation of funding sources to support OEHHA and to provide greater stability in OEHHA's budget. At the time this analysis was prepared, the required report had not been submitted to the Legislature and was a year overdue.

Administration Should Report at Budget Hearings on Status of Report and Funding Requirements. We recommend that OEHHA and the Department of Finance report at budget hearings on the status of the report mentioned above and also provide the information required in the report, including OEHHA's long-term baseline funding requirements to meet its statutory mandates and recommendations regarding the appropriate mix of General Fund and fee-based special funds.

OEHHA's Activities Often Directly Support Regulatory Programs. Despite this lack of input, in the section that follows, we present our findings about alternatives to General Fund support of OEHHA's programs. The analysis which follows updates the alternative funding sources we offered for legislative consideration when we evaluated OEHHA's budget last year in the *Analysis of the 2004-05 Budget Bill*.

Our review finds that OEHHA provides support to various *regulatory* programs in its sister Cal-EPA departments, as well as to the safe drinking water program in the Department of Health Services (DHS). For example, OEHHA's statutory mandate to evaluate how well the state's air quality standards protect children and other populations particularly susceptible to air pollution serves to guide the Air Resources Board's regulatory activities.

In those cases where OEHHA's activities can be directly and reasonably connected with a regulatory program, the Legislature is presented with an opportunity to consider potential fund source alternatives to the General Fund—namely fee-based special funds—to support the activities. Using fee-based revenues instead of the General Fund is appropriate because many of OEHHA's activities provide a scientific basis for environmental permit requirements, thereby preventing the requirements placed on permittees from being arbitrary or unduly burdensome. As such, OEHHA's activities provide a benefit to the permit holder and therefore are appropriately funded through regulatory program fees.

On the other hand, some of OEHHA's activities—such as its Proposition 65 program—have more of a broad-based public health focus and cannot be reasonably connected with discrete regulatory programs. For activities such as these, we think that the General Fund continues to be the appropriate funding source.

Alternative Funding Sources for Legislative Consideration. The fee-based alternative funding sources referred to above could be used to support a portion of OEHHA's budget. The use of these alternative funding sources would provide greater funding stability in OEHHA's budget, consistent with recent legislative direction discussed above.

These alternative fund sources are potentially available to replace a portion of General Fund support proposed for OEHHA in 2005-06, thereby creating General Fund savings. Our review finds that of OEHHA's activities proposed to be funded from the General Fund, those with the most direct connection with regulatory programs for which those programs are not currently providing any funding to OEHHA are focused in three program areas. These are drinking water, air toxicology and epidemiology (including children's health), and fish programs. We think that about $2.8 million of costs in these program areas could be shifted from the General Fund to existing fee-based special funds. Specifically, we think that the Legislature should consider the following funding shifts from the General Fund:

- $1.5 million of OEHHA activities that support DHS' safe drinking water program could be shifted to the Safe Drinking Water Account (SDWA).
- $800,000 of OEHHA activities that support various air quality regulatory programs could be shifted to the Air Pollution Control Fund (APCF).

- $500,000 of OEHHA activities that support fish contaminants evaluation and advisories could be shifted to the Fish and Game Preservation Fund (FGPF).

We note that for the budget year, the APCF's reserves can support this shift in funding. However, the projected fund balances (and available cash) in SDWA and FGPF would not be able to support the level of appropriations suggested above to support OEHHA activities in 2005-06, without an increase in fees or redirection of monies from other activities.

Increase Expenditure Authority for Federal Trust Fund

The budget does not account for a federal grant the Office of Environmental Health Hazard Assessment received for a pesticide illness reporting improvement project. We recommend an increase of $500,000 from federal funds to provide necessary expenditure authority. (Increase Item 3980-001-0890 by $500,000.)

Budget Does Not Reflect Federal Grant. In December 2004, OEHHA received a federal grant for $750,000 ($250,000 for fiscal year 2004-05 and $500,000 for budget year) for a two-year pesticide illness reporting improvement project. According to OEHHA, this grant was not received in time for inclusion in the 2005-06 budget. The OEHHA indicates that it plans to submit notification of a midyear budget adjustment to spend these funds after the *2005-06 Budget Bill* is enacted. However, we think that it is more appropriate to incorporate this anticipated adjustment in the budget bill currently being evaluated by the Legislature.

Recommend Increase in Federal Fund Expenditure Authority to Reflect Grant. Accordingly, we recommend an increase of $500,000 in federal fund expenditure authority in order to account for this grant in the budget year.

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Crosscutting Issues

Reorganizing the State's Recycling Programs

B-18 ■ **Division of Recycling Responsibilities.** The state's recycling responsibilities are divided between the Division of Recycling (DOR) in the Department of Conservation (DOC) and California Integrated Waste Management Board (CIWMB). The DOR oversees the beverage container recycling program and CIWMB oversees all other solid waste and hazardous waste recycling programs.

B-19 ■ **Missed Opportunities to More Effectively Meet Recycling Goals.** The DOR's and CIWMB's efforts in regards to public outreach and education, development of markets for recycled goods, and sharing of recycling expertise are fragmented. Consolidating recycling programs under one organization would promote a more comprehensive and effective approach to recycling.

B-22 ■ **Reorganizing Recycling and Waste Management.** Recommend the consolidation of the state's recycling programs in a new department in California Environmental Protection Agency. In addition, recommend the elimination of CIWMB and the transfer of its responsibilities outside of recycling and waste prevention to an expanded Department of Toxic Substances Control, thereby generating $2 million in special fund savings.

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Finally, recommend the Legislature consider options for transferring the remaining nonrecycling functions of DOC to existing state agencies.

Elimination of Energy-Related Agencies

B-27 ■ **Governor's Reorganization Plan.** Governor proposes transfer of functions of two energy agencies to the Energy Resources Conservation and Development Commission.

B-27 ■ **Multiple Energy Agencies Exist.** At least seven state agencies implement or oversee energy responsibilities, including the California Consumer Power and Conservation Financing Authority and the Electricity Oversight Board.

B-29 ■ **Issues with Governor's Plan.** Governor's Plan raises issues for legislative consideration, including potential conflicts of interest and whether the plan is premature given market structure uncertainty and likelihood of broader reorganization proposal forthcoming. Recommend Department of Finance advise Legislature on these issues.

Resources Bond Funds

B-33 ■ **Resources Bond Fund Conditions.** The budget proposes $821 million of program expenditures from the five resources bonds approved by the voters since 1996. Funds for park projects have essentially been depleted.

B-36 ■ **Status of the Expenditure of Prior Bond Fund Appropriations.** Recommend that the administration report at budget hearings on the status of the expenditure of resources bond funds appropriated in current and prior years.

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B-37 ■ **Delays Persist in Getting Funds Out-the-Door.** Recommend that the administration report at budget hearings on its plans to improve the timeliness of implementing bond-funded programs.

B-38 ■ **Some Specified Uses May Not Be in High Demand.** Recommend that the administration report at budget hearings on cases where authorized use of bond funds has created little demand for the funds.

Environmental Protection Indicators Update

B-39 ■ **Status of Use of Environmental Indicators.** Results from pilot projects show potential for using environmental indicators in evaluating program effectiveness. We find rather limited use of environmental indicators in the budget development process. Recommend that departments continue to refine existing indicators so as to permit more specificity in the evaluation of the environmental outcome as a result of a particular program investment.

B-42 ■ **Legislature Should Specify High Priority Indicators**. Recommend legislative hearings to specify high priority indicators for the Environmental Protection Indicators for California Project.

Financing the CALFED Bay-Delta Program

B-44 ■ **Analysis of CALFED Finance Plan in Perspectives and Issues Document.** We provide an analysis of CALFED's $8.1 billion ten-year finance plan in our companion document, *The 2005-06 Budget: Perspectives and Issues*.

California Conservation Corps

B-48 ■ **Budget Does Not Maximize Available Special Funds. Reduce Item 3340-001-0001 by $11.5 Million. Increase Item 3340-001-0318 by a Like Amount.** Recommend an increase in support from the Collins-Dugan California

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Conservation Corps Reimbursement Account of $11.5 million and a corresponding reduction in General Fund support.

Energy Resources Conservation And Development Commission

B-49 ■ **Long-Term Staffing Plan Needed.** Recommend enactment of legislation to require development of a long-term staffing plan for the Public Interest Energy Research program which would evaluate the appropriate mix of contract consultants and state employees.

Department of Forestry and Fire Protection

B-52 ■ **Recommend California Department of Forestry and Fire Protection (CDFFP) Resubmit Equipment Proposal. Reduce Item 3540-001-0001 by $10.8 Million.** Recommend deletion of the funding because the proposal provides insufficient information. Recommend CDFFP resubmit a budget proposal for fire apparatus at May Revision. Recommend adoption of budget bill language prohibiting helicopter purchases in budget year and requiring study on department's helicopter requirements.

B-55 ■ **Year-Round Southern California Staffing Proposal Not Adequately Supported. Reduce Item 3540-001-0001 by $9 Million**. We recommend deletion of the funding because the proposal is not justified.

B-56 ■ **Recommend Increased Oversight for Federal Reimbursements**. Recommend that within CDFFP's overall budget act appropriation item, the Legislature schedule individual amounts by program area. Further recommend that the Legislature require CDFFP to notify the Legislature upon receipt of any unanticipated federal funds.

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Department of Fish and Game

B-59 ■ **Fish and Game Preservation Fund (FGPF) Proposal Inconsistent With Statute.** Recommend the Department of Fish and Game (DFG) resubmit a FGPF expenditure proposal consistent with statutory direction regarding authorized uses of FGPF revenue sources.

B-61 ■ **Full Cost Recovery for Streambed Alteration Agreement Program Not Achieved. Increase Item 3600-001-0200 by $1.7 Million.** Recommend DFG report at budget hearings on its efforts to implement a revised fee schedule consistent with statutory direction for full fee-based cost recovery in the streambed alteration agreement program. Recommend the Legislature enact a specific fee schedule in legislation if necessary. Further recommend increase of $1.7 million in FGPF expenditure authority and adoption of budget bill language to reflect increased fee revenues.

B-63 ■ **Marine Life Protection Act Implementation Proposal.** Recommend the Legislature withhold taking action on this proposal until a key report is submitted in April.

Department of Parks and Recreation

B-67 ■ **Shift ADA Project Funding From General Fund. Reduce Item 3790-001-0001 by $11.2 Million and Increase Item 3790-301-0005 by at Least $3.4 Million.** Recommend deletion of the $11.2 million General Fund support for Americans with Disabilities Act (ADA) modifications to be replaced with a combination of bond and federal funds. Recommend adoption of budget bill language to specify use of funds for ADA purposes.

B-69 ■ **Three of Four Concession Proposals Are Warranted.** Recommend the Legislature withhold approval of the concession proposal for Angel Island State Park until Department of Parks and Recreation, based on its economic feasibility study, has finalized the major provisions of the proposal.

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Sierra Nevada Conservancy

B-71 ■ **Start-Up Expenditures Should Be Made Limited-Term.** Recommend the adoption of budget bill language specifying the $1.2 million of start-up expenditures as limited-term.

B-72 ■ **Coordination of Sierra Nevada Grant Programs.** Recommend the adoption of supplemental report language requiring the Secretary of Resources and the conservancy to report on their plans for coordinating these programs.

Department of Water Resources

B-75 ■ **Financing Flood Lawsuit Settlement With Judgment Bond.** Budget proposes to finance a pending $464 million settlement with a judgment bond, raising legal, policy, and fiscal issues for legislative consideration. Recommend Department of Finance report at budget hearings on the status of the settlement, on alternative methods to meet the state's obligation, and on issues we have raised.

B-79 ■ **State Faces Large, Unknown Liability From Future Flood Events.** The state faces unknown, but potentially substantial liabilities from future floods. We address flood management issues in our companion document, *The 2005-06 Budget: Perspectives and Issues*.

Air Resources Board

B-80 ■ **Budget Does Not Reflect Current-Year Revenue From Increase in Tire Fee.** Recommend Governor's May Revision include expenditure plan for current-year increase in tire fee revenues.

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California Integrated Waste Management Board

B-82 ■ **Funding for Environmental Education.** The funding proposal for the environmental education program does not reflect the broad environmental topics covered by this program. Withhold recommendation on this proposal and recommend that a revised funding plan be submitted to the Legislature as part of the Governor's May Revision.

Department of Pesticide Regulation

B-85 ■ **Budget Does Not Address Revenue Undercollection in Mill Assessment.** Recommend the department and the Department of Finance report jointly at budget hearings on options for addressing the undercollection in mill assessment revenues. Also recommend the adoption of supplemental report language to require a report evaluating options for the use of new revenues.

State Water Resources Control Board

B-91 ■ **Deny New Positions Pending Receipt of Funding Opportunities Report. Reduce Item 3940-001-6031 by $523,000.** Administration has not submitted a legislatively mandated report on funding opportunities to reduce environmental impacts from agriculture and dairy activities. Recommend denying proposed new positions to administer related grants, pending submittal and legislative evaluation of the report.

Office of Environmental Health Hazard Assessment

B-92 ■ **Funding Alternatives to General Fund Support.** There are several potential fund source alternatives to the General Fund to support many of OEHHA's activities. Use of these fund sources would provide more stability in OEHHA's budget and present opportunities for General

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Fund savings. Recommend the administration report at budget hearings on long-term funding requirements and potential alternative funding sources.

B-95 ■ **Increase Expenditure Authority for Federal Trust Fund. Increase Item 3980-001-0890 by $500,000.** Recommend an increase of $500,000 in federal funds to account for receipt of grant for pesticide illness reporting project.