



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #261

Decrease PECFA Awards Appropriation (Commerce -- Housing, Buildings, and Environmental Regulation)

[LFB 2009-11 Budget Summary: Page 197, #2]

CURRENT LAW

The petroleum environmental cleanup fund awards (PECFA) program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage tank systems and home heating oil tank systems. PECFA awards are funded from the segregated petroleum inspection fund, which receives revenue from a 2¢ per gallon petroleum inspection fee assessed on all petroleum products that enter the state, including gasoline, diesel and heating oil. In the 2007-09 biennium, \$20,000,000 is appropriated in each year, in a biennial appropriation, for PECFA claims. Commerce paid \$14,591,100 in PECFA claims in 2007-08.

GOVERNOR

Decrease the PECFA awards appropriation by \$5,250,000 SEG annually.

DISCUSSION POINTS

1. Under the bill, the combination of the decrease of \$5,250,000 and the recommended 1% across the board reduction of \$200,000, would provide a total appropriation of \$14,550,000 annually for PECFA awards.

2. As of April 1, 2009, Commerce has made almost \$1.5 billion in PECFA payments for cleanup at 12,753 sites. Of the total payments, \$1.3 billion (87%) has paid for completion of cleanup at 11,665 closed sites (91%). The remaining \$192 million (13%) has paid for partial cleanup at 1,088 open sites (9%). Additional payments will be made at most open sites.

3. In the late 1990s, the program experienced a backlog of over \$200 million in claims that had been received and not paid. Issuance of \$387 million in petroleum inspection fee revenue obligations first authorized in 1999 Act 9 allowed the PECFA program to pay the backlog of claims. The first use of petroleum inspection fees is payment of the revenue obligations issued to pay the PECFA claim backlog.

4. As of April 1, 2009, the total amount of outstanding revenue obligations is \$231 million, including \$88.7 million in long-term obligations and \$142.3 million in short-term commercial paper (with terms generally less than 90 days). The state is paying debt service costs of approximately \$31 million annually for the minimum required principal and interest payments on long-term obligations and interest only payments on short-term obligations. Under current debt payment practices, the outstanding principal balance would be approximately \$185.7 million at the end of 2010-11. The Department of Administration (DOA) can use any undesignated petroleum inspection fund balances to pay additional debt service beyond the minimum required amounts. None of the short-term debt has been retired since it was issued in 1999 through 2001, and such obligations represent over half of the outstanding revenue obligations under the program. DOA monitors the proportion of short-term debt to total debt. DOA will probably begin to pay some of the principal on the short-term obligations or convert the short-term debt to long-term fixed rate debt during the next two years. If the state maintains the current rate of paying approximately \$31 million annually for debt service, all petroleum inspection fee revenue obligations could be retired by approximately 2016.

5. While new PECFA sites continue to be identified, the number declined from an average of over 100 new sites per month during the mid-1990s, to approximately six per month currently. The monthly average of claims received by the program declined from over \$15 million per month in 1997, to \$4 million in 2005, to \$900,000 per month currently.

6. The table shows the estimated petroleum inspection fund balance of \$30.8 million on June 30, 2011, under the bill. The revenue obligation debt service amounts are shown as a reduction to revenues. These amounts are transferred, in monthly amounts, to be held for payment by a trustee. The table includes the amounts identified by the administration as planned for transfer to the general fund under current 2007-09 budget provisions. However, the administration indicates the 2008-09 lapse amounts might change. The table also includes the administration's intended lapses to the general fund during 2009-11, including the amounts of the across the board 1% reductions, additional operations reductions, and \$2,155,000 from the diesel truck idling reduction grant program that would be repealed under the bill.

7. The attachment shows the petroleum inspection fund adjusted base funding for 2008-09 and the amount of each appropriation under AB 75 in 2009-10 and 2010-11. As shown in the attachment, under the bill, \$21.2 million annually, with 86.6 positions, would be spent on programs other than PECFA awards, administration, and revenue obligation debt service. Other programs include amounts for: (a) Commerce petroleum tank and inspection programs; (b) Department of Revenue collection of the petroleum inspection fee; (c) transfer to the segregated transportation fund; (d) petroleum inspection fee refunds to eligible airlines; and (e) brownfields,

clean air and environmental programs in the Departments of Natural Resources, Transportation, Commerce, Agriculture, Trade & Consumer Protection, and Military Affairs. Expenditures shown in the attachment differ from the table because the attachment shows appropriations under Chapter 20 of the schedule under AB 75, while the table shows estimated expenditures (for example, PECFA awards are expected to be substantially lower than the appropriated level under the bill).

**Petroleum Inspection Fund Estimated Condition – 2007-08 Through 2010-11
Under AB 75 (\$ In Millions)**

	2007-08 <u>Actual</u>	2008-09 <u>Estimated</u>	2009-10 <u>AB 75</u>	2010-11 <u>AB 75</u>
Opening Balance -- July 1	\$21.2	\$15.9	\$18.3	\$25.0
Revenues				
Petroleum Inspection Fee	\$76.8	\$74.1	\$73.2	\$71.8
Revenue Obligation Debt Service	-29.6	-30.0	-31.0	-31.0
Interest Income and Other	0.9	0.2	0.2	0.2
Petroleum Bulk Tank Fees	<u>0.2</u>	<u>0.2</u>	<u>0.2</u>	<u>0.2</u>
Total Revenue	\$48.3	\$44.5	\$42.6	\$41.2
 Total Revenue Available	 \$69.5	 \$60.4	 \$60.9	 \$66.2
Expenditures and Reserves				
PECFA Awards	\$14.6	\$11.0	\$10.0*	\$9.0*
PECFA Administration	2.6	3.0	2.9	2.9
Other Programs	35.4	22.1	21.2	21.2
Reserves and Lapses	<u>0.0</u>	<u>0.0</u>	<u>0.1</u>	<u>0.2</u>
Total Expenditures	\$52.6	\$36.1	\$34.2	\$33.3
 Transfer to the General Fund **	 -1.0	 -6.0	 -1.7	 -1.7
 Cash Balance	 \$15.9	 \$18.3	 \$25.0	 \$31.2
 Encumbrances and Continuing Balances	 -\$6.9	 -\$0.7	 -\$0.7	 -\$0.7
 Available June 30 Balance	 \$9.0	 \$17.6	 \$24.3	 \$30.5

* Expenditures are not expected to exceed this level, but are budgeted at \$14.55 million each year under the bill.

**The administration has indicated its intent to transfer \$6.0 million in 2008-09 to the general fund as part of overall allocations of agency transfers to the general fund under 2007-09 budget lapse requirements, but indicates the amount might change. The administration has also indicated its intent to transfer the amount of the across the board 1% reductions, additional operations reductions, and repealed diesel truck idling reduction grant program to the general fund in the 2009-11 biennium.

8. PECFA awards expenditures in 2008-09 are \$7.67 million through March 31, 2009. The table shows the anticipated PECFA award expenditures of \$11 million for 2008-09 (\$9 million less than the \$20 million appropriated amount). The administration indicates it intends to lapse \$5 million of the \$20 million appropriation in 2008-09 to the general fund as part of the allocation of agency wide lapses required under 2007-09 budget provisions. This is included in the \$6 million

transfer to the general fund shown in the table.

9. Based on steady claim declines in past years, it is unlikely PECFA awards would exceed \$10 million in 2009-10 and \$9 million in 2010-11. These estimated expenditures are lower than the appropriated amounts of \$14.45 million in each of 2009-10 and 2010-11 under the bill. If the Governor's recommendation is approved (Alternative #A1), the funds appropriated for PECFA awards and not needed for that purpose would lapse to the petroleum inspection fund at the end of 2010-11. Leaving the appropriation at the amounts in the bill would provide expenditure authority \$9.9 million higher than anticipated demand, and would provide some flexibility for the program in the event demand exceeds anticipated levels during the 2009-11 biennium. The petroleum inspection fund balance shown in the table would decrease by any amount that expenditures for PECFA awards would exceed \$10 million in 2009-10 and \$9 million in 2010-11. Leaving the appropriation at the amounts in the bill would also provide the administration greater discretion under the bill to lapse unspent appropriated amounts from SEG appropriations to the general fund.

10. The Committee could choose to reduce the expenditure authority in the PECFA awards appropriation by an additional \$9.9 million over the biennium, including \$4,450,000 in 2009-10 and \$5,450,000 in 2010-11, to reflect the estimated level of claims submittal (Alternative #A2). If actual claim demand exceeds the appropriated amount, Commerce could submit a request to the Joint Committee on Finance at a later date for additional expenditure authority under section 13.10 of the statutes.

11. In July, 2006, Commerce estimated the total potential future financial liability of the PECFA program might total \$387.9 million for 3,171 sites. Since then, Commerce has received and paid \$45 million in PECFA claims. In October, 2008, Commerce updated its estimate of the potential future financial liability of the PECFA program to be approximately \$106.7 million for 1,680 sites with established eligibility that have not received final reimbursement for cleanup costs. As of October, 2008, Commerce had also made \$192.2 million in PECFA payments for these sites. It is uncertain when, and for what total amount, additional claims will be submitted for these sites. In October, 2008, Commerce also identified 1,119 sites that had identified petroleum releases to the Department of Natural Resources, and that have site characteristics that make them potential financial liabilities to the PECFA program, but have not established PECFA eligibility. It is uncertain how many of these sites would be determined to be eligible for PECFA and have claims submitted for reimbursement of cleanup costs in the future.

12. As mentioned earlier, DOA has the authority to use any undesignated petroleum inspection fund balances to pay additional debt service beyond the minimum required amounts. In 2007-09, DOA is also authorized to transfer undesignated SEG fund balances to the general fund. The Legislature could also choose to appropriate undesignated fund balances for other purposes, or to specify that amounts be transferred to the general fund, as has been done in previous biennia.

13. In 2001-02 through 2008-09, a cumulative total of \$62.5 million has been or will be transferred from the petroleum inspection fund to the general fund to help balance the general fund. The Committee could choose to authorize specific additional transfers from the petroleum inspection fund to the general fund. For example, the fund balance would be approximately \$30.5 million at the end of 2010-11. If \$25.0 million would be transferred to the general fund in 2009-10

(Alternative #B1), an undesignated balance of \$5.5 million would remain. If \$12.5 million would be transferred to the general fund in 2009-10 (Alternative #B2), an undesignated balance of \$18 million would remain.

14. In addition, the Governor and Legislature have used the petroleum inspection fund for other purposes. There is currently an ongoing SEG petroleum inspection fund appropriation under “Miscellaneous Appropriations” that is used to transfer funds from the petroleum inspection fund to the transportation fund. Base funding is \$6,321,700 in 2008-09, and an additional \$14,000,000 was transferred in 2007-08 under the 2007 Act 20. Under the bill, \$6,258,500 is transferred in each of 2009-10 and 2010-11. The petroleum inspection fund has also been used in recent years for other new programs such as the Department of Military Affairs (DMA) major disaster assistance program and Commerce diesel truck idling reduction grant program. Under the bill, separate budget items also provide appropriations from the fund for a new position in DMA, and for the conversion of four DNR remediation and redevelopment staff from FED. However, the total number of positions authorized from the petroleum inspection fund would increase by 0.75 rather than 5.0 because 4.25 positions authorized from the fund would be deleted from Commerce (3.0 PECFA, 1.0 diesel truck idling reduction grant administration, and 0.25 brownfields grant administration).

15. If the Committee wishes to prioritize paying off revenue obligation debt sooner than under current practice, it could amend the bill to prohibit any transfers from petroleum inspection fund appropriations or the undesignated petroleum inspection fund balance to the general fund during the biennium. It could also direct DOA to pay additional outstanding principal on petroleum inspection revenue obligations (Alternative #B3). As noted earlier, current law allows DOA to use undesignated fund balances to retire petroleum inspection revenue obligations.

ALTERNATIVES

A. PECFA Awards

1. Approve the Governor's recommendation to decrease the PECFA awards appropriation by \$5,250,000 SEG annually.

2. Adopt the Governor's recommendation. Further, decrease the PECFA awards appropriation by an additional \$4,450,000 SEG in 2009-10 (to provide \$10,000,000 for PECFA claims) and by an additional \$5,450,000 SEG in 2010-11 (to provide \$9,000,000 for PECFA claims) to accommodate expected 2009-11 claim demand.

ALT A2	Change to Bill Funding
SEG	- \$9,900,000

B. Petroleum Inspection Fund Balance

1. Transfer \$25,000,000 in 2009-10 from the petroleum inspection fund to the general fund.

ALT B1	Change to Bill Revenue
GPR	\$25,000,000

2. Transfer \$12,500,000 in 2009-10 from the petroleum inspection fund to the general fund .

ALT B2	Change to Bill Revenue
GPR	\$12,500,000

3. Prohibit transfers from petroleum inspection fund appropriations or the petroleum inspection fund balance to the general fund during the 2009-11 biennium. In addition, direct DOA to use available petroleum inspection fund balances to pay outstanding principal on petroleum inspection revenue obligation debt service during the 2009-11 biennium.

4. Take no action.

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Attachment

ATTACHMENT

Appropriations from the Petroleum Inspection Fund Under 2009 AB 75

			2008-09		2009-10		2010-11	
			<u>Adjusted Base</u>	<u>Positions</u>	<u>AB 75</u>	<u>Positions</u>	<u>AB 75</u>	<u>Positions</u>
Petroleum Environmental Cleanup Fund Award Program								
<i>Commerce</i>								
143	(3)(v)	PECFA Awards	\$20,000,000	0.00	\$14,550,000*	0.00	\$14,550,000*	0.00
	(3)(w)	PECFA Administration	2,872,000	25.80	2,687,800	22.80	2,687,800	22.80
<i>Natural Resources</i>								
370	(2)(dw)	Environmental repair, petroleum spills administration (PECFA)	<u>185,300</u>	2.00	<u>179,200</u>	<u>2.00</u>	<u>179,200</u>	<u>2.00</u>
		Subtotal	\$2,3,057,300	27.80	\$17,417,000	24.80	\$17,417,000	24.80
Other Programs								
<i>Agriculture, Trade and Consumer Protection</i>								
115	(1)(r)	Unfair Sales Act	\$228,600	2.35	\$228,200	2.35	\$228,200	2.35
	(1)(s)	Weights and Measures	655,800	6.00	787,200	6.00	787,200	6.00
<i>Commerce</i>								
143	(1)(qa)	Business development center; brownfields activities and staff	220,300	2.50	207,700	2.25	207,700	2.25
	(3)(r)	Petroleum inspection program	5,628,100	43.50	5,616,900	43.50	5,616,900	43.50
	(3)(sm)	Diesel truck idling reduction grants	2,000,000	0.00	0	0.00	0	0.00
	(3)(sn)	Diesel truck idling reduction grant administration	72,100	1.00	0	0.00	0	0.00
	(3)(vm)	Abandoned tank removal	0	0.00	247,500	0.00	247,500	0.00
<i>Natural Resources</i>								
370	(2)(bq)	Vapor recovery administration	94,000	1.00	96,500	1.00	96,500	1.00
	(2)(br)	Air management - mobile sources	1,334,800	4.00	1,352,200	4.00	1,352,200	4.00
	(2)(dw)	Environmental repair, petroleum spills administration (remediation and redevelopment, and cooperative environmental assistance)	1,268,500	14.00	1,612,900	18.00	1,612,900	18.00
	(2)(mu)	Environmental fund - environmental repair and well compensation	1,049,400	0.00	1,038,900	0.00	1,038,900	0.00
	(3)(ms)	Pollution prevention	94,400	1.00	74,400	1.00	74,400	1.00
	(4)(mw)	Environmental fund - Groundwater management	766,900	0.00	759,200	0.00	759,200	0.00
	(8)(mq)	Mobile source air pollution	738,700	0.50	919,600	0.50	943,900	0.50
	(9)(mq)	Mobile source air pollution	180,300	1.00	182,200	1.00	182,200	1.00
<i>Transportation</i>								
395	(4)(dq)	Air quality - demand management	357,600	4.00	405,900	4.00	405,900	4.00
<i>Military Affairs</i>								
465	(3)(r)	State emergency response board	466,800	0.00	462,100	0.00	462,100	0.00
	(3)(s)	Major disaster assistance **	0	0.00	0	0.00	0	0.00
	(3)(u)	Emergency management administration	0	0.00	114,900	1.00	114,900	1.00
<i>Revenue</i>								
566	(1)(s)	Petroleum inspection fee collection	167,400	2.00	213,700	2.00	213,700	2.00
<i>Miscellaneous Appropriations</i>								
855	(4)(r)	Petroleum allowance	600,000	0.00	600,000	0.00	600,000	0.00
	(4)(w)	Transfer to transportation fund	<u>6,321,700</u>	<u>0.00</u>	<u>6,258,500</u>	<u>0.00</u>	<u>6,258,500</u>	<u>0.00</u>
		Subtotal	\$22,245,400	82.85	\$21,178,500	86.60	\$21,202,800	86.60
Total Petroleum Inspection Fund Appropriations			\$45,302,700	110.65	\$38,595,500	111.40	\$38,619,800	111.40

* \$14.55 million is appropriated for PECFA awards, but claims are not expected to exceed \$10 million in 2009-10, or \$9 million in 2010-11.

** The appropriation is \$0 but may expend up to the \$731,000 balance carried over from 2007-08.