



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #248

Decrease PECFA Awards Appropriation (Commerce)

[LFB 2011-13 Budget Summary: Page 130, #11 (part, see page 134)]

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 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 2009-11 biennium, \$19.2 million is appropriated for PECFA claims in a biennial appropriation, including \$10.1 million in 2009-10 and \$9.1 million in 2010-11. Commerce paid \$9,521,200 in PECFA claims in 2009-10, and estimates it will pay almost \$8.7 million in 2010-11.

GOVERNOR

Decrease the PECFA awards appropriation by \$4,550,000 SEG annually, to \$4,550,000, to provide \$9.1 million for payment of PECFA claims during the 2011-13 biennium.

DISCUSSION POINTS

1. The decrease in the PECFA awards appropriation under the bill is a 50% decrease from the amounts anticipated to be paid as PECFA claims during the 2009-11 biennium (\$18.2 million).
2. As of May 1, 2011, Commerce has made PECFA payments of \$1.51 billion for cleanup at 12,988 sites. Of the total payments, \$1.37 billion (90%) has paid for completion of cleanup at 12,071 sites (93%). The remaining \$148 million (10%) has paid for partial cleanup at 917 sites (7%). Additional payments will be made at most open sites.

3. In October, 2010, Commerce estimated the remaining future financial liability of the program for sites that have established PECFA eligibility or are anticipated to establish eligibility in 2010 and 2011, to exceed \$81 million. Thus, the total cumulative program costs could exceed \$1.6 billion. At the current average rate of payment of claims of approximately \$9 million per year, it might take eight to nine years for over \$81 million in potential remaining costs to be submitted to Commerce for reimbursement. The estimate of potential liability will vary depending on the number and cleanup costs for sites for which eligibility is determined after 2010, and the actual remaining cleanup costs for sites currently undergoing cleanup. The rate at which PECFA claims are paid would vary depending on the amount of time it takes responsible parties to clean up sites and submit claims.

4. The PECFA program paid its first PECFA awards in 1988-89. Claim levels increased during the 1990s as owners replaced or upgraded petroleum tank systems in compliance with federal and state requirements. 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 in 2000 through 2003.

5. The first use of petroleum inspection fees is payment of the revenue obligations issued to pay the PECFA claim backlog. As of May 1, 2011, the total amount of outstanding revenue obligations is \$188.6 million, which includes \$117.46 million in long-term obligations and \$71.15 million in short-term commercial paper with terms generally less than 90 days. (The state is making interest only payments on the short-term obligations.) The state made payments to the revenue obligation debt service trustee account of \$11.2 million in 2009-10, and will make payments to the debt service trustee account of approximately \$6.0 million in 2010-11 and \$7.4 million in 2011-12. The amounts were higher in years prior to 2009-10, and will increase to approximately \$31.5 million annually in 2012-13 through 2015-16. This is because the state refinanced debt during the 2009-11 biennium to defer principal payments and make cash available to transfer to the general fund and transportation fund. Under current debt service payment schedules, the remaining principal amount owed will be \$71.15 million after the July 1, 2017, debt service payment. However, any undesignated petroleum inspection fund balances can be used to pay additional debt service beyond the minimum required amounts.

6. The table shows the estimated condition of the petroleum inspection fund from 2009-10 through 2012-13. The estimated petroleum inspection fund balance is \$10.9 million on June 30, 2013. The revenue obligation debt service amounts are shown as a reduction to revenues because amounts must be transferred, in monthly amounts, to be held for debt service payment by a trustee, before any other expenditures are made from the fund. The table includes estimates of the amounts to be transferred to the general fund in 2010-11 as part of budget reduction requirements under the 2009-11 biennial budget act. However, the 2010-11 actual amounts transferred to the general fund may change from the amount shown in the table.

Petroleum Inspection Fund Estimated Condition – 2009-10 Through 2012-13
Under AB 40 / SB 27 (\$ In Millions)

	<u>Actual</u> 2009-10	<u>Estimated</u> 2010-11	<u>Bill</u> 2011-12	<u>Bill</u> 2012-13
Opening Balance -- July 1	\$10.4	\$5.2	\$3.0	\$18.6
Revenue				
Petroleum Inspection Fee	\$71.6	\$73.1	\$72.4	\$72.1
Revenue Obligation Debt Service	-11.2	-6.0	-7.4	-31.5
Petroleum Bulk Tank Fees and Other	<u>0.2</u>	<u>0.1</u>	<u>0.2</u>	<u>0.1</u>
Total Revenue	\$60.6	\$67.3	\$65.2	\$40.7
 Total Revenue Available	 \$71.0	 \$72.5	 \$68.2	 \$59.3
Expenditures and Reserves				
PECFA Awards	\$9.5	\$8.7	\$4.6	\$4.6
PECFA Administration	2.6	2.7	2.7	2.7
Commerce Petroleum Inspection	5.1	5.2	5.4	5.4
Transportation Fund	6.3	6.3	6.3	6.3
Other Programs	8.1	9.9	10.7	9.9
Reserves and Lapses	<u>0.0</u>	<u>0.3</u>	<u>0.4</u>	<u>0.4</u>
Total Expenditures	\$31.6	\$33.1	\$30.1	\$28.9
 Transfer to the General Fund	 -\$22.0	 -\$16.1	 -\$0.0	 -\$0.0
Transfer to Transportation Fund	-10.0	-17.8	-19.5	-19.5
Transfer to Recycling & Environmental Fund	-2.2	-2.5	0.0	0.0
 Closing Balance	 \$5.2	 \$3.0	 \$18.6	 \$10.9

7. As shown in the table, expenditures under the bill for PECFA awards, administration, and revenue obligation debt service totaled \$23.3 million in 2009-10, and will total approximately \$17.4 million in 2010-11, and are budgeted at \$14.7 million in 2011-12, and \$38.8 million in 2012-13. (The increase is due to increases in debt service costs after the state resumes paying principal on the revenue obligations in 2012-13.) The other largest expenditure would be \$25.8 million transferred to the transportation fund in each of 2011-12 and 2012-13. Under the bill, a total of 107.9 staff are funded from the petroleum inspection fund, 68.3 of whom are budgeted for PECFA administration and petroleum inspection activities. In addition, expenditures for other programs include amounts for: (a) Commerce petroleum tank and inspection programs; (b) Department of Revenue collection of the petroleum inspection fee; (c) Commerce abandoned tank removal; (d) petroleum inspection fee refunds to eligible airlines; and (e) clean air and environmental programs in the Departments of Natural Resources, Transportation, Agriculture, Trade and Consumer Protection, and Military Affairs.

8. The amount of PECFA claims received annually has declined significantly from the levels received during the mid-1990s. In the last few years, the rate of decline in the receipt of payments has slowed. The program paid \$10.4 million in claims in 2008-09 and \$9.5 million in 2009-10, and will pay claims totaling approximately \$8.7 million in 2010-11 (after receiving claims of approximately \$9.6 million). In the past several years, the program has been able to pay almost

all claims within two to three months of receipt.

9. Commerce officials estimate the program could receive up to approximately \$9.6 million in claims in each of 2011-12 and 2012-13, which would represent a continuance of claims at approximately the same level as received in 2010-11. If this level of claims received results in a level of PECFA awards payments similar to the \$8.7 anticipated to be paid in 2010-11, this estimate of claim demand would mean the \$9.1 million provided under the bill for the biennium might be fully spent by the fall of 2012. Commerce officials anticipate the program would experience the development of a backlog of claims submitted and waiting for payment. They further anticipate they would need to be very selective of the PECFA sites that are managed under the program, and of the work that is approved for payment. Backlogged claims would accrue interest at up to the prime rate minus 1% (which would currently be 2.25%).

10. If actual PECFA claim demand exceeds the \$9.1 million provided under the bill [Alternative 1], and fund revenues are adequate, the Department 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. Administration officials indicate the PECFA awards appropriation was decreased in order to make additional petroleum inspection funds available for transfer to the transportation fund. The bill would transfer \$19.5 million in each of 2011-12 and 2012-13 from the petroleum inspection fund to the transportation fund, in addition to the \$6.3 million appropriated annually as a transfer to the transportation fund.

12. At the time of introduction of the 2011-13 budget bill, the administration estimated the petroleum inspection fund would have a June 30, 2013, balance of \$400,000. This office has reestimated the condition of the petroleum inspection fund to reflect a June 30, 2013, balance of \$10.9 million, as shown in the table. Petroleum inspection fee revenue is anticipated to be higher than estimated by the administration, based on actual collections in 2010-11 to date, and on using updated estimates from the Department of Transportation for the number of gallons of gasoline and diesel expected to enter the state during the 2011-13 biennium. Estimates of debt service costs have also been updated to reflect actual deposits to the trustee debt service account in 2010-11 and an estimated interest rate of 2.5% for the short-term commercial paper (instead of 5%) during 2011-13. (The current average interest rate for the short-term commercial paper is less than 1%.)

13. It could be argued that the PECFA awards appropriation should be set at a level that uses available petroleum inspection fund balances to meet estimated claim demand, and avoid the potential redevelopment of a PECFA claim backlog as existed in earlier years of the program.

14. The Committee could choose to appropriate a portion of the estimated \$10.9 million June 30, 2013, petroleum inspection fund balance to provide sufficient funds for estimated PECFA claim demand.

15. The Committee could make a smaller reduction in the PECFA awards appropriation than would be made under the bill. One alternative would be to reduce the appropriation by 5% each year from the anticipated awards level of \$8.7 million in 2010-11, to \$8,300,000 in 2011-12 and \$7,900,000 in 2012-13 [Alternative 2]. This alternative would provide \$16.2 million for PECFA claims during the 2011-13 biennium, an increase of \$7,100,000 from the \$9,100,000

provided under the bill. Under this alternative, the petroleum inspection fund would have an estimated June 30, 2013, balance of \$3.8 million.

16. Alternatively, \$8,700,000 million annually could be provided for PECFA awards [Alternative 3] to provide a level of funding consistent with the anticipated level of claims payment in 2010-11. This alternative would provide \$17.4 million for PECFA claims during the 2011-13 biennium, an increase of \$8.3 million from the \$9.1 million provided under the bill. Under this alternative, the petroleum inspection fund would have an estimated June 30, 2013, balance of \$2.6 million.

17. If the PECFA awards appropriation would be continued at the current \$9,100,000 annual appropriation amount [Alternative 4], the petroleum inspection fund would have an estimated June 30, 2013, balance of \$1.8 million. Under this alternative, the PECFA awards level would be set at a level that might exceed current demand, and would provide some flexibility for the program in the event demand exceeds the levels experienced in 2010-11.

ALTERNATIVES

1. Approve the Governor's recommendation to decrease the PECFA awards appropriation by \$4,550,000 SEG annually, to \$4,550,000 annually.

2. Restore \$3,750,000 SEG in 2011-12 (to provide \$8,300,000) and \$3,350,000 SEG in 2012-13 (to provide \$7,900,000) for the PECFA awards appropriation (to provide \$16,200,000 during the biennium). This would provide a funding reduction of approximately 5% annually.

ALT 2	Change to Bill Funding
SEG	\$7,100,000

3. Restore \$4,150,000 SEG annually for the PECFA awards appropriation (to provide \$8,700,000 annually). This would provide funding in each year at approximately the level of payments made in 2010-11.

ALT 3	Change to Bill Funding
SEG	\$8,300,000

4. Delete provision. This would maintain current funding of \$9,100,000 annually for PECFA awards.

ALT 4	Change to Bill Funding
SEG	\$9,100,000

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