

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 3900	Department Air Resources Board	Priority No. 5
Budget Request Name 3900-400-BCP-DP-2016-MR		Program 3500 – MOBILE SOURCE	Subprogram N/A

The Air Resources Board requests \$2.011 million Air Pollution Control Fund, one-time, to reimburse the Department of General Services, Office of Risk and Insurance Management for the cost of a judgement awarded in 2016 for a 2011 motor vehicle accident involving a state employee, state vehicle and serious injuries.

Budget Request Summary

This BCP requests one-time expenditure authority from the Air Pollution Control Fund to reimburse the Department of General Services, Office of Risk and Insurance Management for a payment made by the Department of General Services on behalf of the Air Resources Board of a \$10 million judgement associated with a car accident in 2011. The accident was the fault of the Air Resources Board employee and the victim sustained major injuries. An attempt was made to settle the case for \$3 million but was rejected and the case went to trial. The jury found for the victim and awarded the \$10 million. The Department of General Services increased the assessment for the Air Resources Board beginning in 2012-13, and in each subsequent year through 2016-17. The 2016-17 Motor Vehicle Insurance Account assessment is \$3.6 million, or \$2.011 million above the 2015-16 assessment. Per the Department of General Services, this is the final payment for the liability for this accident. The Motor Vehicle Insurance Account increases now exceed the amount the Air Resources Board is able to absorb within its existing expenditure authority for the Air Pollution Control Fund.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed
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Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
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For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Pam Biggins <i>P3</i>	Date 4/18/16	Reviewed By Alice Stebbins <i>Alice Stebbins</i>	Date 4-18-16
Department Director Richard W. Corey <i>RC</i>	Date 4/19/2016	Agency Secretary Matthew Rodriguez <i>MR</i>	Date 4/14/16

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA	Original Signed By: Ellen Moratti	Date submitted to the Legislature	MAY 13 2016
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Analysis of Problem

A. Budget Request Summary

This BCP requests one-time expenditure authority from the Air Pollution Control Fund (APCF) to reimburse the Department of General Services (DGS), Office of Risk and Insurance Management (ORIM) for a payment made by DGS on behalf of the Air Resources Board (ARB) for a \$10 million judgement associated with a car accident in 2011. The accident was the fault of the ARB employee and the victim sustained major injuries. An attempt was made to settle the case for \$3 million but was rejected and the case went to trial. The jury found for the victim and awarded the \$10 million. DGS increased the Motor Vehicle Insurance Account (MVIA) assessment for ARB beginning in 2012-13, and in each subsequent year through 2016-17. The 2016-17 MVIA assessment is \$3.6 million, or \$2.011 million above the 2015-16 assessment. Per DGS, this is the final payment for the liability for this accident. The MVIA increases now exceed the amount ARB is able to absorb within its existing expenditure authority for the APCF. Thus, ARB requests a one-time increase to make this final payment. ARB also requests that Budget Bill language be adopted specifying that Air Pollution Control Fund penalty revenues be used for this purpose (see Supplemental Info).

B. Background/History

At about 4:00 pm on November 9, 2011, a state employee was involved in an accident with a motorcycle while driving a state-owned vehicle in El Centro, California. The employee reported that he was driving into the sun, did not see the motorcyclist, and was at fault.

The motorcyclist suffered severe injuries requiring transport to the hospital via Life Flight. The victim suffered multiple broken bones and required amputation of his left leg below the knee, and a partial hip replacement. The victim has already had at least three surgeries, more are expected, and he will require lifetime medical care because of the accident.

The employee was at fault in the accident. DGS initially set aside \$100,000 for the case but later increased the amount to \$3 million. A settlement of \$3 million was offered and rejected. The case ultimately proceeded to trial and the plaintiff/victim was awarded \$9.6 million and the victim's wife was awarded \$300,000.

In anticipation of the victim receiving a judgement in this case, DGS began increasing the ARB MVIA assessment in 2012-13. The State is appealing the case and the outcome will not be known until mid-year. Assuming the judgement stands and is neither increased nor decreased, this one-time expenditure authority increase will be the final MVIA assessment increase and the ARB payment will be reduced beginning in 2017-18.

Resource History (Dollars in thousands)

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	Not Applicable				
Actual Expenditures					
Revenues					
Authorized Positions					
Filled Positions					
Vacancies					

Workload History

Workload Measure	PY - 4	PY - 3	PY - 2	PY - 1	PY	CY
e.g., Applications Received, Applications Processed, Call Volume, etc.	Not Applicable					

Analysis of Problem

C. State Level Considerations

Because the state is self-insured, when traffic accidents occur, DGS pays any settlements or judgements from the MVIA, fund 0026. Pursuant to the State Administrative Manual, DGS pays the first \$1 million liability per accident. All state agencies pay annual premiums to ORIM. When a settlement or a judgement is made against the state concerning an automobile accident, ORIM pays the settlement of judgement and the affected department reimburses the MVIA the amount in excess of \$1 million.

D. Justification

This request is to obtain the necessary expenditure authority increase of \$2.011 million to reimburse DGS the final payment for this accident of \$3.6 million.

E. Outcomes and Accountability

The expected outcome is to make full final payment of this judgement in a timely manner

Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
e.g., Applications Received, Applications Processed, Call Volume, etc.	Not Applicable					

F. Analysis of All Feasible Alternatives

This judgement must be repaid. The payment will come from the APCF. This is the most appropriate fund, as the employee responsible for the accident works in a program supported by the APCF. The APCF has a sufficient balance to pay the judgement in one payment.

G. Implementation Plan

The department will make a single last payment to resolve the judgement.

H. Supplemental Information

ARB requests the following budget bill language:

Add the following provisions to Item 3900-001-0115:

(1) The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.

(2) Notwithstanding any other provision of law, of the amount appropriated in this item, \$2,011,000 shall be from penalty revenues that are subject to separate accounting in accordance with Health and Safety Code Sections 38580, 39674-39675, 42400-42410, 43016, 43025-43031.5, 43154, 43211, and 43212. These funds shall be available to reimburse the Department of General Services, Office of Risk and Insurance Management for a payment made by the Department of General Services on behalf of the Air Resources Board for a judgment associated with a 2011 car accident in which an employee was determined to be at fault.

I. Recommendation

BCP Fiscal Detail Sheet

BCP Title: Motor Vehicle Insurance Account Payment

DP Name: 3900-400-BCP-DP-2016-MR

Budget Request Summary

		FY16				
	CY	BY	BY+1	BY+2	BY+3	BY+4
Operating Expenses and Equipment						
54XX - Special Items of Expense	0	2,011	0	0	0	0
Total Operating Expenses and Equipment	\$0	\$2,011	\$0	\$0	\$0	\$0
Total Budget Request	\$0	\$2,011	\$0	\$0	\$0	\$0

Fund Summary

Fund Source - State Operations						
0115 - Air Pollution Control Fund	0	2,011	0	0	0	0
Total State Operations Expenditures	\$0	\$2,011	\$0	\$0	\$0	\$0
Total All Funds	\$0	\$2,011	\$0	\$0	\$0	\$0

Program Summary

Program Funding						
3500 - Mobile Source	0	2,011	0	0	0	0
Total All Programs	\$0	\$2,011	\$0	\$0	\$0	\$0