<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Business Unit</th>
<th>Department</th>
<th>Priority No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016-17</td>
<td>3960</td>
<td>Department of Toxic Substances Control</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Budget Request Name</th>
<th>Subprogram</th>
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<tbody>
<tr>
<td>3960-117-BCP-BR-201-GB</td>
<td>Program 3620 - Site Mitigation and Brownfields Rouse 3625 - Hazardous Waste Management Program</td>
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**Budget Request Description**
Attorney General Support for the Independent Review Panel

**Budget Request Summary**
The Department of Toxic Substances Control requests an augmentation of $50,000 in Fiscal Year (FY) 2016-17 ($25,000 from the Toxic Substances Control Account (TSCA) and $25,000 from the Hazardous Waste Control Account (HWCA) and $25,000 in FY 2017-18 ($12,000 from TSCA and $13,000 from the HWCA to reimburse the Attorney General for expenses associated with its support for the Independent Review Panel, which was established pursuant to Senate Bill 83 (Chapter 24, Statutes of 2015).

<table>
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<tr>
<th>Requires Legislation</th>
<th>Code Section(s) to be Added/Amended/Repealed</th>
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</thead>
<tbody>
<tr>
<td>☐ Yes</td>
<td></td>
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<tr>
<td>☒ No</td>
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Does this BCP contain information technology (IT) components? ☐ Yes ☒ No

If yes, departmental Chief Information Officer must sign.

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

Department Director

Date 1/4/16

Reviewed By

Agency Secretary

Date 1/6/16

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 Date submitted to the Legislature
A. Budget Request Summary

The Department of Toxic Substances Control (DTSC) requests an augmentation of $50,000 in Fiscal Year (FY) 2016-17 ($25,000 from the Toxic Substances Control Account (TSCA) and $25,000 from the Hazardous Waste Control Account (HWCA) and $25,000 in FY 2017-18 ($12,000 from TSCA and $13,000 from the HWCA to reimburse the Attorney General for expenses associated with its support for the Independent Review Panel (IRP), which was established pursuant to Senate Bill 83 (Chapter 24, Statutes of 2015).

Background/History

DTSC’s mission is to protect California’s people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically-safer products.

Earlier this year, the Legislature passed and the Governor signed into law SB 83. Among other things, this bill establishes the IRP. The IRP is responsible for reviewing and making recommendations regarding improvements to the Department’s permitting, enforcement, public outreach, and fiscal management. The IRP consists of three appointed members.

Statute requires the IRP to report to the Governor and the Legislature 90 days after the IRP is initially appointed and every 90 days thereafter on the Department’s progress in the four subject areas. The IRP is also required to submit recommendations to the Legislature and Governor at the time of each submission of the Governor’s annual budget.

In order to carry out its responsibilities, statute requires the Department to provide the IRP with two support staff. It also allows each panel member to receive per diem and to be reimbursed for travel and other necessary expenses incurred in the performance of their duties. Statute authorizes an annual budget of $50,000 to support the IRP’s operation.

B. State Level Considerations

DTSC has the responsibility to protect California’s people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products. The participation and contribution from the AG’s Office supports the commitment from DTSC to provide the appropriate staffing and resources to support the IRP’s charge enacted by the Legislature.

C. Justification

As previously noted, the Independent Review Panel is responsible for reviewing and making recommendations and submitting reports in four areas of DTSC: permitting, enforcement, public outreach and financial management. To help prepare these reports, the panel conducts public meetings, which are generally held once per month.

In order to carry out its mandate, the IRP requires legal counsel to attend the panel’s monthly meetings, provide legal guidance on issues pertaining to DTSC, and may review the quarterly reports submitted to the Governor and the Legislature for consideration.

Independence is one of the keys to the success of the panel. That independence can be unduly compromised when the department it is reviewing, in this case DTSC, is reviewing the work and advising the panel on the reports it is statutorily mandated to issue. This issue of independence can be further compromised because the Department’s legal office provides guidance on projects and legal issues that the IRP is reviewing.

DTSC considered having legal counsel from the California Environmental Protection Agency provide legal advice to the panel. However, this option also serves to compromise the independence of the...
panel because CalEPA not only serves in an oversight role to DTSC, but it may also have participated in the decision making-process in the areas subject to the panel’s review.

Existing law authorizes the IRP to have an operating budget of $50,000 annually. This budget covers panel members’ travel and per diem expenses. It also covers other expenses, such as printing, room rentals, translation services, and other expenses incidental to the operation of the panel. However, the cost of providing legal counsel from the Attorney General’s Office would far exceed the panel’s annual operating budget. Without this counsel, the public may view the panel’s work as possibly being compromised.

D. Outcomes and Accountability
In implementing SB 83, the IRP is tasked with the following:
1. Advise DTSC on issues related to the department’s reporting obligations.
2. Provide recommendations for improving DTSC’s programs.
3. Advise DTSC on compliance with Health and Safety Code, Section 57007.
4. Report to the Governor and the Legislature 90 days after the panel is initially appointed and every 90 days thereafter, on DTSC’s progress in reducing permitting and enforcement backlogs, improving public outreach, and improving fiscal management.

E. Analysis of All Feasible Alternatives

Alternative 1: Augment the Attorney General budget for the panel
This option ensures the panel has the independent legal counsel necessary to carry out its statutory mandate. It would also serve to strengthen the integrity of the work prepared by panel members.

Alternative 2: Have CalEPA serve as the panel’s legal counsel
Although this alternative would result in no new costs, it would appear to compromise the independence of the panel because CalEPA is the umbrella agency over DTSC.

Alternative 3: Maintain status quo
This alternative would result in no new costs. However, much like Alternative 2, this option would contribute to the appearance that the panel’s independence would be compromised.

F. Implementation Plan
N/A

G. Supplemental Information
N/A

H. Recommendation
Adopt Alternative 1. This alternative ensures that the panel receives legal guidance that is substantially free of any appearance of influence by either the Department or CalEPA.