STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
DF-46 (REV 07/23)

Fiscal Year	Business Unit Number	Department
2025-2026	3355	Office of Energy Infrastructure Safety

Hyperion Budget Request Name	Relevant Program or Subprogram
3355-001-BCP-2025-GB	2370 – Regulation of Energy Infrastructure Safety

Budget Request Title
Enforcement of the Dig Safe Law

Budget Request Summary

The Office of Energy Infrastructure Safety (Energy Safety) requests 7.0 positions and $1,333,000 Safe Energy Infrastructure and Excavation Fund (SEIEF) in fiscal year 2025-26 and ongoing.

This proposal will allow the Department to meet its public safety mission by addressing Energy Safety's Underground Safety Board's ongoing and unmet needs associated with the operational alignment of Chapter 809, Statutes of 2016 (SB 661); Chapter 307, Statues of 2020 (SB 865); associated legislation; its partnership in pipeline safety regulatory responsibilities with the Pipeline and Hazardous Materials Safety Administration (PHMSA); excavation safety outreach; and education, as mandated.

Requires Legislation (submit required legislation with the BCP)	Code Section(s) to be Added/Amended/Repealed
☐ Trailer Bill Language ☐ Budget Bill Language ☒ N/A	

Does this BCP contain information technology (IT) components? ☐ Yes ☒ No *If yes, departmental Chief Information Officer must sign.*	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), the approval date, and the total project cost.

Project No. Project Approval Document:

Approval Date: Total Project Cost:

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	Date	Reviewed By	Date
Jay Naidu	1/2/2025	Tyler Morris	1/2/2025
Department Director	**Date**	**Agency Secretary**	**Date**
Caroline Thomas Jacobs	1/2/2025	Bryan Cash	1/2/2025

Department of Finance Use Only

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

Principal Program Budget Analyst	Date submitted to the Legislature
Vy Nguyen	1/10/2025

A. Problem Statement

The Office of Energy Infrastructure Safety (Energy Safety) requests $1,333,000 Safe Energy Infrastructure and Excavation Fund (SEIEF) in fiscal year 2025-26 and ongoing. This includes $1,333,000 in personnel costs for 7.0 new full-time permanent positions.

This request is for 7.0 additional positions to permanently staff the Underground Safety Directorate (Directorate), which supports the Underground Safety Board (Board). These positions are critical for the Board to continue to effectively manage the review and investigation of an estimated 233-percent increase in volume of damage notifications, enhance its enforcement capabilities, and address concerns raised by the U.S Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA). By approving this request, the state will strengthen its excavation damage prevention program, ensuring it meets minimum statutory requirements and protects public safety.

The Board is responsible for enforcing California's excavation damage prevention law, which impacts utility operators, excavators, and the public. The Board's mission is to reduce excavation damage, protect the public, and protect underground infrastructure by ensuring compliance with safety standards.

From 2020-21 to 2022-23, the Directorate received approximately 4,078 damage notifications. However, PHMSA reports California received a significantly higher number, approximately 4,800 gas damage notifications annually raising concerns about the Directorate's capacity to effectively audit and enforce the state's excavation damage prevention law upon receipt of the full number of damage notifications.

Additionally, in 2019, PHMSA raised concerns regarding the state's assessment of civil penalties and sanctions for violations, questioning whether they were sufficient to deter noncompliance. PHMSA's evaluation for calendar year 2022 further noted the Board's lack of consistent and regular enforcement, with only two civil penalties issued despite nearly 5,000 federally reported excavation damage notifications, reflecting a 0.04 percent issuance rate. This inconsistency is a direct result of the insufficient staffing hampering the Directorate's ability to fulfill its statutorily required enforcement duties.

To address this issue, the Directorate plans to establish a new Excavation Risk and Compliance Investigation Unit to manage the reviews and investigations for the increase in damage notifications. This unit will specifically process highly complex damage notifications and ensure applicable highly complex investigations are completed timely to enforce key provisions of the Dig Safe Act of 2016.

By expanding the Directorate's capacity, the state can respond to PHMSA's concerns and improve the effectiveness of its enforcement program. This will include a more timely and consistent application of civil penalties and other sanctions, which are critical for deterring noncompliance and protecting public safety.

This proposal will enable the Directorate to meet minimum workload requirements and statutory activities currently unmet due to a lack of resources. This will ensure the Board fulfills its mandate to protect public safety and underground infrastructure.

Resource History
(Dollars in thousands)

Underground Infrastructure Directorate's Program Budget	PY-1 (2022-23)	PY (2023-24)	CY (2024-25)
Authorized Permanent Expenditures	$4,659	$6,130	$5,981
Additional One-Time Contract Funding	$0	$0	$1,140
Actual Expenditures	$3,010	$3,479	N/A
Authorized Positions	20	24	24
Filled Positions	10 (50%)	12 (50%)	24 (100%)*
Vacancies	10 (50%)	12 (50%)	0 (0%)*

**Filled permanent positions as of October 17, 2024.*

BCP Positions Breakdown by Unit
(dollars in thousands)

Unit	# of PYs	PS	OE	Total
Underground Infrastructure Directorate	**6.0**	**$914**	**$150**	**$1,064**
• 1.0 Staff Services Manager II (Supervisory) • 5.0 Staff Services Manager I				
Legal Division	**1.0**	**$244**	**$25**	**$269**
• 1.0 Attorney III				
TOTAL	**7.0**	**$1,158**	**$175**	**$1,333**

Workload History

Workload Measure	PY – 4 2019-20	PY – 3 2020-21	PY – 2 2021-22	PY-1 2022-23	PY 2023-24	CY* 2024-25
Notices of Probable Violation (NOPVs) Issued	0	14	10	18	54	12
Advisory Letters Issued	0	0	370	0	469	0
Damage Notifications Received	0	973	1,534	1,571	1,232	1, 370
Investigations Completed	0	12	9	39	15	12
Compliance Audits Completed	0	0	1	0	1	0

**Data as of October 17, 2024.*

B. Justification:

The Legislature, through the Dig Safe Act of 2016, created the Board. The Board was established (Government Code section 4216.12) to perform the following four mandates:

1. Coordinate education and outreach activities that encourage safe excavation practices in section 4216.17;
2. Develop standards, as described in section 4216.18;
3. Investigate possible violations of section 4216.19; and
4. Enforce the Dig Safe Act.

The Board exercises authority over any operation in which earth, rock, or other materials in the ground is moved, removed, or otherwise displaced by means of tools, equipment, explosives or any other way.

PHMSA's jurisdiction includes evaluating the Board's enforcement of the California State Excavation Damage Prevention Law pursuant to 49 United States Code (USC) § 60114 and 49 Code of Federal Regulations (CFR) Part 198, Subpart D—State Damage Prevention Enforcement Programs.

On July 15, 2020, PHMSA evaluated the Board's enforcement of the California State Excavation Damage Prevention Law. While PHMSA found the enforcement "adequate," they also identified areas that needed improvement. Specifically, they noted that the Board must enhance its compliance with 49 CFR 198.55(a)(3) requirements. PHMSA's evaluation revealed that the root cause of 426 out of 5,449 reported damages (7.8 percent) was operators failing to fulfill their responsibilities under the California Excavation Damage Prevention Law and the Pipeline Safety Regulations.

On October 4, 2021, PHMSA reiterated similar concerns regarding PHMSA-regulated facilities. It emphasized that the Board must demonstrate an increased application of effective enforcement processes to manage the high volume of gas damage notifications.

On September 28, 2023, PHMSA again expressed concerns, repeating the same improvement area as identified in 2020. They highlighted the need for the Board to better meet the requirements of 49 CFR 198.55(a)(3). According to PHMSA's evaluation, California's gas distribution operators reported 4,795 excavation damages to their pipeline facilities in the annual reports submitted to PHMSA.

The Directorate requests (1) Staff Services Manager II (Supervisory) and (5) Staff Services Manager I positions. The Underground Infrastructure Directorate needs these resources for the following reasons:

- The Board currently lacks the staffing necessary to manage the increase in damage notifications. It is not equipped to focus on the high volume of gas damage notifications or to conduct regular, proactive audits that deter noncompliance with key provisions of the Dig Safe Act of 2016.
- To address PHMSA's concerns and the estimated 233-percent increase in number of damage notifications, the Board is requesting additional staffing. These new positions are critical for identifying non-compliant sectors and actors, enabling the Board to engage with them proactively through regular safety training, consistent compliance checks, and targeted enforcements actions.
- To streamline the intake process as well as ensure timely and accurate analysis of reported damage, the Board seeks additional staffing to address current significant resource gaps. The new positions will support the development of a robust statewide process for managing the large volume of high complexity damage notifications and ensure targeted audits for key sectors. These positions will be instrumental in enforcing key provisions the Dig Safe Act of 2016, particularly by focusing on actors with a history of non-compliance, thereby enhancing enforcement and reducing the risk of recurring violations.

Expanding the Directorate's capacity will enhance the state's response to PHMSA's concerns, improve the effectiveness of its enforcement program, and address safety issues for Californians. This will include a more timely and consistent application of civil penalties and other sanctions, which are critical for deterring noncompliance and protecting public safety.

To meet these ongoing needs, the Directorate requests the following positions whose roles and responsibilities are described in the table below:

	Positions	Tasks/Responsibilities
Investigations Division/ Excavation Risk and Compliance Investigation Unit	1.0 Staff Services Manager II (Supervisory)	The 1.0 Staff Services Manager II (Supervisory) position will oversee and supervise the staff assigned to the Unit. They will assign and coordinate work assignments to address non-compliance with the Dig Safe Act through investigations, targeted audits, and enforcement actions and to manage the administrative and analytical tasks related to NOPVs, ensuring compliance with the Bagley-Keen Open Meeting Act.
	5.0 Staff Services Manager I (Specialist)	The 5.0 Staff Services Manager I positions will handle the increased volume of damage notifications and complaints, ensuring timely and accurate processing. They will be responsible for statewide highly complex investigations and serve as liaisons, fostering relationships with local government and law enforcement to improve compliance with the Dig Safe Act of 2016.

The table below provides an overview of how damage notifications and investigations are assigned to different levels of positions based on the complexity of the damage notification/investigation:

Complexity Level	Criteria for Complexity	Projected Annual Number of Cases	Projected Percentage of Cases
High-Complexity	High-complexity cases involve at least one of the criteria outlined below and require the full attention of an SSM I (Specialist)-level investigator to ensure all aspects are thoroughly reviewed and analyzed. A damage notification can be deemed highly complex if it involves one or more of the following characteristics: 1. Multiple Utility Involvement: Notifications that require coordination across various utility types (e.g., gas, electricity, water) and agencies, or where interactions between these utilities significantly increase the risk profile. 2. High Risk or High Impact Areas: Excavations near critical infrastructure	2,850	57%

	such as high-pressure gas lines, power substations, or telecommunications hubs, where incorrect handling could lead to catastrophic consequences. 3. Regulatory Nuances: Cases that require advanced knowledge of regulatory statutes, such as those involving exemptions, exceptions, or special provisions under California Government Code 4216, et. seq. 4. Evidence Disputes or Conflicts: Notifications where conflicting information regarding the sequence of events, liability, or compliance status necessitates expert interpretation of statutes, regulations, and technical reports. 5. Repeat Offenders or Pattern Analysis: Situations involving repeat offenders where a deeper understanding of historical context, violation patterns, and enforcement strategy is needed. 6. Public or Environmental Safety Concerns: Cases presenting heightened public safety concerns or potential environmental damage, which could lead to high-profile or high-impact consequences.		
Moderate-Complexity Cases	Moderate-complexity cases involve some elements of complexity but are manageable under the supervision of an SSM I (Supervisor). AGPA level investigators provided initial assessments and documentation but require SSM I (Supervisor) review to confirm findings and determine compliance actions.	1,100	22%
Low-Complexity Cases	Low-complexity cases are straightforward, with little to no ambiguity, and are adequately managed by AGPA investigators without significant oversight and/or intervention by their SSM I (Supervisor).	1,050	21%
TOTAL		5,000	100%

The table below provides an overview of the current workstreams and duties assigned to each level of position performing investigation-related workload on the Underground Investigations Division as well as the proposed workstreams and duties of the Division if the requested BCP positions are approved:

Workstream	Current Workstreams			Proposed Workstreams			
	AGPA	SSM I (Specialist)	SSM I (Supervisor)	AGPA	SSM I (Specialist)	SSM I (Supervisor)	SSM II
Public Inquiries				X			
Triage Notifications		X	X		X	X	
High-Complexity Investigations		X	X		X	X	X
Medium-Complexity Investigations	X			X (SSM I Sup Assist)		X	
Low-Complexity Investigations	X			X			
Conduct Audits	X		X	X (SSM I Sup Assist)		X	
Advisory Letters	X		X	X		X	
Report of Investigations Review							X
Draft NOPVs		X	X		X	X	
NOPV Issuance					X	X	X
Informal Hearings					X	X	X
Enforcement Referrals							X
Develop criteria, data collection, processes, and monitoring requirements to audit various provisions of the Dig Safe Act of 2016		X	X		X	X	X
Identify unsafe practices and possible mitigation approaches		X	X		X	X	X
Partner with other Agencies (Federal, State, Local)		X			X		X
Testify for Enforcement Referrals		X	X		X	X	X
Annual Reports (Annual Work Plan, Annual Report to Legislature and Governor, Annual Results Report)					X		X
Develop Policies, processes, internal controls, staff development opportunities, and program evaluation criteria.						X	X

Legal Division

The Legal Division requests (1) Attorney III. The Legal Division needs this resource for the following reasons:

- As the Department's capacity to complete investigations increases, the need for legal support and review of those investigations will proportionally increase.
- The Attorney III will also process the increased legal advice and support necessary to train Underground Infrastructure Directorate's investigators, review Notices of Probable Violations, and assist with the personnel issues that arise with an increased number of employees.

To meet these ongoing needs, the Legal Division requests the following position whose roles and responsibilities are described in the table below:

	Positions	Tasks/Responsibilities
Legal Division	1.0 Attorney III	The 1.0 Attorney III will provide legal advice on infrastructure safety; review staff reports; draft letters, guidance, resolutions, and other documents; provide legal interpretation and advice; and provide legal assistance to support Energy Safety. They will draft and review legal correspondence, provide Energy Safety staff and the General Counsel with written and oral advice, perform a variety of other legal-related tasks, and develop and draft regulations and oversee rulemaking material preparation.

C. Departmentwide and Statewide Considerations

This request builds the State's existing framework of improving excavation safety around buried infrastructure and aims to further reduce the risk and safety issues present in California's excavation standards and practices impacting all Californians.

Residents of California will benefit from this budget proposal as it will enable Energy Safety to further reduce the health and safety risks in California's excavation standards, processes, and excavators. To achieve these benefits, a fee increase will be necessary for the SEIEF fund.

D. Outcomes and Accountability

The approval of this request will enable Energy Safety to ensure that the Underground Safety Board effectively fulfills its investigative mandate as outlined in the Dig Safe Act by implementing technical classifications.

The success of these efforts will be measurable in the number of "Dig Safe Act" investigations. The Legislature may monitor the success of the Underground Safety Board's efforts through the Board's annual Report to the Governor and Legislature, its triennial legislative review—set forth in SB 865 (Chapter 307, Statutes of 2020), and PHMSA's annual evaluation of the Underground Safety Board's enforcement of the California State Excavation Damage Prevention Law set forth in 49 United State Code (USC) section 60114 and 49 Code of Federal regulations (CFR) Part 198, Subpart D- State Damage Prevention Enforcement Programs.

Projected Outcomes

WORKLOAD MEASURE	CY 2024-25	BY 2025-26	BY+1 2026-27	BY+2 2027-28	BY+3 2028-29	BY+4 2029-30
Notices of Probable Violation (NOPVs) Issued	180	140*	200	250	500	2,000
Advisory Letters Issued	0	140	200	250	500	2,000
Damage Notifications Received	1,246	5,000	5,000	5,000	5,000	5,000
Investigations Completed	15	35	50	62	125	250
Compliance Audits Completed	0	35	50	62	125	250

**Projected NOPVs are projected to decrease initially due to an increase in ability to conduct safety audits if these requested new BCP positions are approved.*

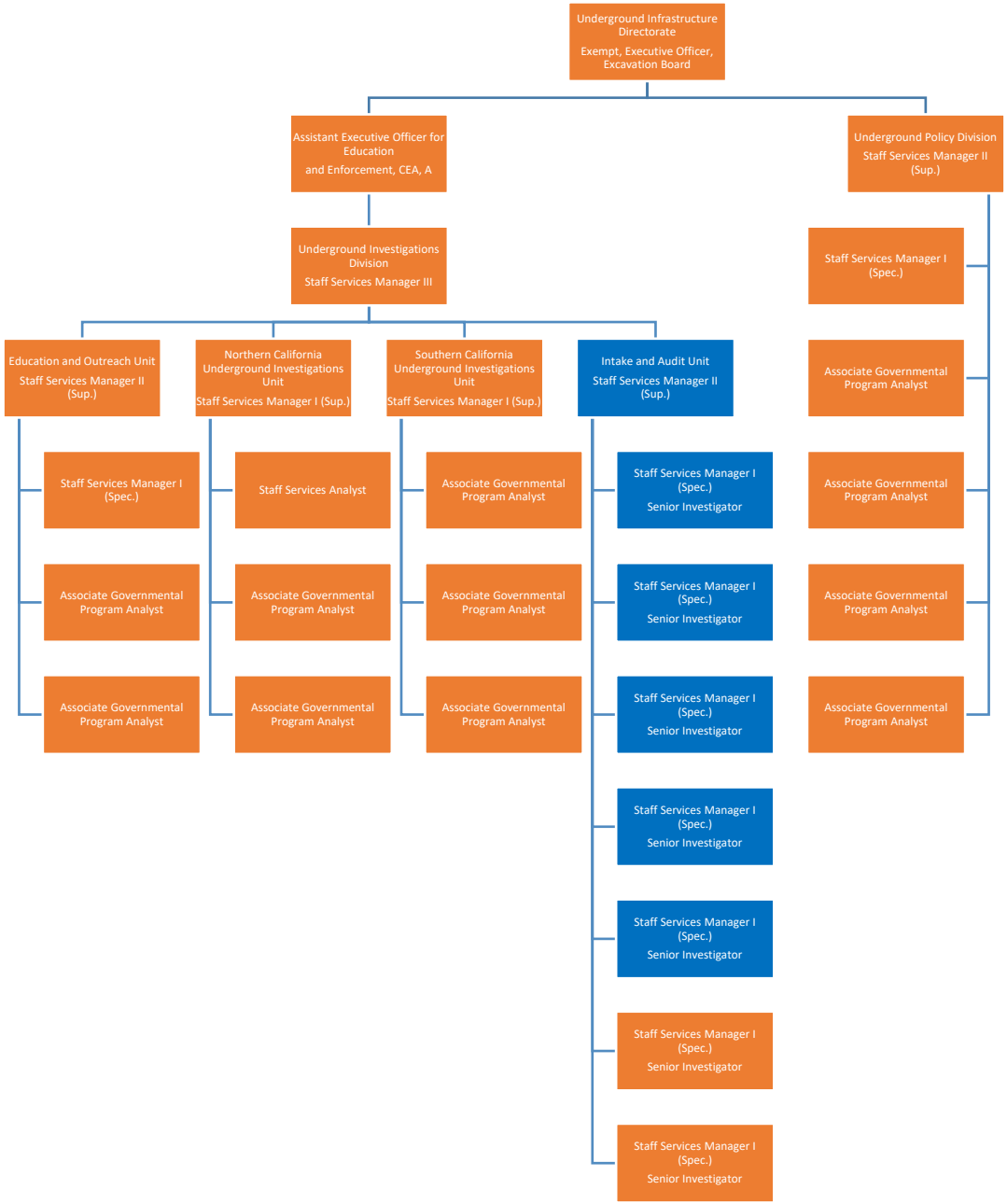
E. Implementation Plan

Upon approval of this request, hiring will immediately take place over the course of FY 2025-26. The hiring process will require coordination of current management in the development of duty statements, justification of positions, advertisement, recruitment in a competitive employee market, hiring, and onboarding. The approach will provide some immediate relief to existing workload for our current staff, support the reallocation of workload as new staff are hired, and help with the completion of the workload.

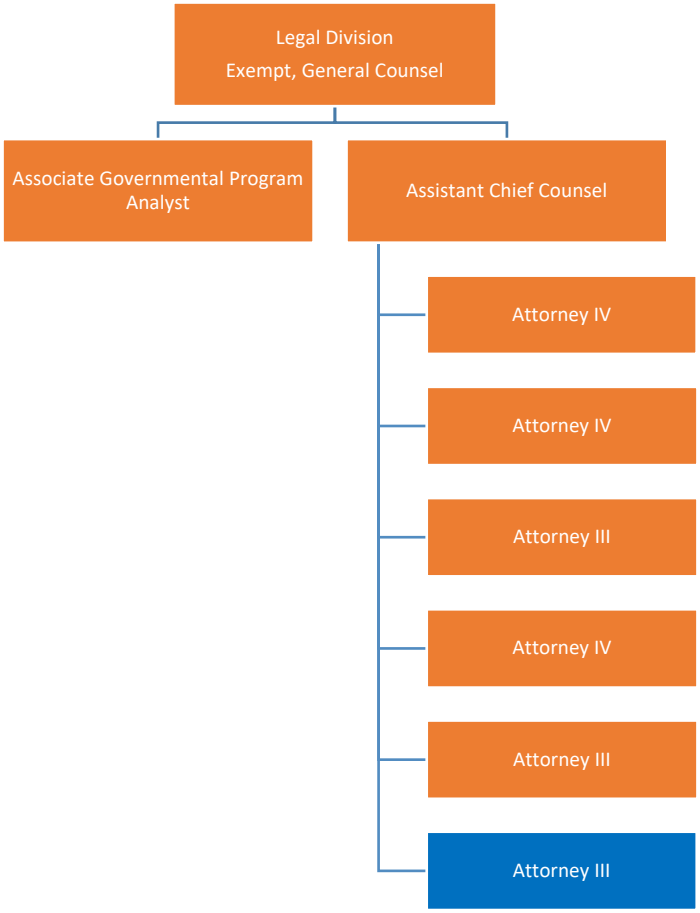
F. Supplemental Information

Appendix A: Proposed Organizational Charts (Blue *boxes indicate proposed new positions.)*

Underground Infrastructure Directorate



Legal Division



BCP Fiscal Detail Sheet

BCP Title: Office of Energy Infrastructure Safety: Enforcement of the Dig Safe Law

BR Name: 3355-005-BCP-2025-GB

Budget Request Summary

Personal Services

Personal Services	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
Positions - Permanent	0.0	7.0	7.0	7.0	7.0	7.0
Total Positions	**0.0**	**7.0**	**7.0**	**7.0**	**7.0**	**7.0**
Salaries and Wages Earnings - Permanent	0	724	724	724	724	724
Total Salaries and Wages	**$0**	**$724**	**$724**	**$724**	**$724**	**$724**
Total Staff Benefits	0	434	434	434	434	434
Total Personal Services	**$0**	**$1,158**	**$1,158**	**$1,158**	**$1,158**	**$1,158**

Operating Expenses and Equipment

Operating Expenses and Equipment	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
539X - Other	0	175	175	175	175	175
Total Operating Expenses and Equipment	**$0**	**$175**	**$175**	**$175**	**$175**	**$175**

Total Budget Request

Total Budget Request	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
Total Budget Request	**$0**	**$1,333**	**$1,333**	**$1,333**	**$1,333**	**$1,333**

Fund Summary

Fund Source

Fund Source	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
State Operations - 3302 - Safe Energy Infrastructure and Excavation Fund	0	1,333	1,333	1,333	1,333	1,333
Total State Operations Expenditures	**$0**	**$1,333**	**$1,333**	**$1,333**	**$1,333**	**$1,333**
Total All Funds	**$0**	**$1,333**	**$1,333**	**$1,333**	**$1,333**	**$1,333**

Program Summary

Program Funding

Program Funding	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
2370 - Regulation of Energy Infrastructure Safety	0	1,333	1,333	1,333	1,333	1,333
Total All Programs	**$0**	**$1,333**	**$1,333**	**$1,333**	**$1,333**	**$1,333**

Personal Services Details

Positions

Positions	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
4800 - Staff Svcs Mgr I (Eff. 07-01-2025)	0.0	5.0	5.0	5.0	5.0	5.0
4801 - Staff Svcs Mgr II (Supvry) (Eff. 07-01-2025)	0.0	1.0	1.0	1.0	1.0	1.0
5795 - Atty III (Eff. 07-01-2025)	0.0	1.0	1.0	1.0	1.0	1.0
Total Positions	**0.0**	**7.0**	**7.0**	**7.0**	**7.0**	**7.0**

Salaries and Wages

Salaries and Wages	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
4800 - Staff Svcs Mgr I (Eff. 07-01-2025)	0	468	468	468	468	468
4801 - Staff Svcs Mgr II (Supvry) (Eff. 07-01-2025)	0	103	103	103	103	103
5795 - Atty III (Eff. 07-01-2025)	0	153	153	153	153	153
Total Salaries and Wages	**$0**	**$724**	**$724**	**$724**	**$724**	**$724**

Staff Benefits

Staff Benefits	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
5150900 - Staff Benefits - Other	0	434	434	434	434	434
Total Staff Benefits	**$0**	**$434**	**$434**	**$434**	**$434**	**$434**

Total Personal Services

Total Personal Services	FY25 Current Year	FY25 Budget Year	FY25 BY+1	FY25 BY+2	FY25 BY+3	FY25 BY+4
Total Personal Services	**$0**	**$1,158**	**$1,158**	**$1,158**	**$1,158**	**$1,158**