



BUDGET ACTION BULLETIN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

2010-11 State Budget Week of February 8, 2010

February 11, 2010

TO: CSAC Board of Directors
County Administrative Officers
CSAC Corporate Associates

FROM: Paul McIntosh, CSAC Executive Director
Jim Wiltshire, CSAC Deputy Executive Director
Jean Kinney Hurst, Legislative Representative

RE: **Budget Action Bulletin #1**

The Senate Budget and Fiscal Review Committee took action on approximately \$2.5 billion in current year budget reductions in the Eighth Extraordinary Session to address the state's fiscal crisis. As counties will recall, the Legislature has until February 22 to "address the fiscal emergency" declared by the Governor.

The Assembly Budget Subcommittees met throughout the week to discuss the various special session proposals.

The Senate Budget and Fiscal Review Committee will meet again next Tuesday, February 16, to discuss additional special session items that will likely include the Governor's gas tax swap proposal and final language on current- and budget-year cash management.

This Budget Action Bulletin outlines the actions of interest to counties on a variety of fronts. Things are moving fast and furious in Sacramento leading up to the impending close of the special session, and we'll keep you up to date.

ADMINISTRATION OF JUSTICE

The full Senate Budget and Fiscal Review Committee and the Assembly Budget Subcommittee No. 4 — with jurisdiction over corrections, courts, and generally all things public safety — have heard a variety of the Governor's special session justice-related budget proposals over the last few days. While the Assembly budget subcommittee discussion was informational, the full Senate budget committee took votes on several items. Below please find a summary of the action in the Senate — which, of course, still

requires the action of the full house and by the Assembly — as well as a brief description of the Assembly subcommittee’s budget discussions on public safety items that have gone before them thus far.

California Department of Corrections and Rehabilitation (CDCR). The Governor proposed several CDCR cost-savings measures in his January budget. This week, the Senate Budget and Fiscal Review Committee did all of the following:

- **Scaled-Back Prison Medical Costs.** The Senate budget committee voted to adopt the Governor’s proposal to reduce the Federal Receiver’s prison healthcare program by \$811 million. That savings would be achieved by bringing California’s per-inmate medical costs (\$11,627) in line with that of inmates housed by the state of New York (\$5,757).
- **Reduction to the Division of Juvenile Justice (DJJ).** The Senate budget committee also adopted a \$48 million reduction to DJJ, with the intent of developing the specifics for carrying out the cut through the budget subcommittee process. It is expected that the department can achieve savings associated with eliminating “time-adds” – which it can accomplish administratively (i.e., without statutory authority — and by transferring juveniles committed to DJJ through the adult court process to state prison at the age of 18 (i.e., “M cases”). The broader issue of reducing the age of jurisdiction in DJJ from 25 to 21 — as the Governor proposed in his January budget — was not expressly adopted, but it is expected that this matter will be discussed further.
- **Immigration and Customs Enforcement (ICE) Commutations.** The Senate Budget Committee approved intent language to net \$182 million in savings in 2010-11 associated with a cost-savings measure advanced — but not yet realized — from the 2009-10 budget. This issue relates to the Governor existing authority to commute sentences of undocumented criminals and subsequent deportation of these felons.
- **Reduction in Rehabilitation Programming.** The Senate Budget Committee decided to delay action to reduce CDCR’s budget in the area of inmate education, citing the need for further discussions as to how the state can best and most effectively educate state inmates. In recent budget hearings, numerous teachers testified to the need for teachers and outlining the damaging effects if funding for inmate education programs was reduced and/or eliminated.

Department of Justice (DOJ) Forensic Laboratories. The Senate budget committee voted yesterday to adopt an increase in the existing penalty assessments (pursuant to Government Code Section 76104.7) for criminal offenses from \$1 to \$3. In turn, the state general fund support for DOJ forensic labs would be reduced by \$45.1 million. The proposal also would broaden the expenditure authority of the DNA Identification Fund to include DOJ crime lab operations. The Assembly Budget Subcommittee No. 4 also discussed, but took no action, on this proposal. During the Assembly discussion,

however, the LAO raised as an alternative a proposal put forward numerous times: charging state and local agencies for the cost of service. Significant opposition to that alternative was noted.

Shifting Felons to County Jails. Counties will recall that the Governor’s budget also proposes to achieve state savings of \$291.6 million by allowing offenders convicted of specified non-serious, nonviolent, non-sex felonies including drug possession to be incarcerated for up to 366 days in local jails. Crimes included under this proposal include auto theft, check fraud, grand theft, drug possession, grand theft, petty theft with a prior, possession for sale, receiving stolen property and theft with felony prior. The Governor’s budget assumes that counties would house 12,600 felons in the budget year under this proposal

On February 10, the Assembly subcommittee heard extensive testimony in opposition to this proposal from county and local law enforcement groups. Subcommittee members seemed to appreciate not only the impracticality of counties accommodating this cost shift – at a time when 32 jurisdictions are themselves operating under a jail population cap – but also recognized that this action could dilute anticipated benefits of the probation incentive programs just now getting underway, pursuant to SB 678 (Leno and Benoit). CSAC provided testimony that the state likely would not be able to escape its obligation to cover the costs of state prisoners, regardless of where the sentence was served given that the function – the detention of felons – is a service now performed by the state. Shifting that responsibility to counties would violate Proposition 1A (2004).

Automated Speed Enforcement (ASE) Program. As outlined in the AOJ [section](#) of the February 5 CSAC *Legislative Bulletin*, the Governor’s budget proposes giving local governments the authority to make use of photo radar technology to detect speed violations. Revenue collected for these violations would be distributed differently than is current specified in statute, with the majority of funds dedicated to offset costs associated with trial courts, including a specific allotment for court security, and the remainder retained by the local entity where the violation occurred. Similar to the discussion before the full Senate budget committee (described in the *Bulletin* article referenced above), the Assembly budget subcommittee expressed its own concerns and heard extensive testimony about this proposal. CSAC remains interested in hearing from counties regarding the likely level of interest in opting in to this program. For a copy of the ASE proposal, please contact Rosemary Lamb (rlamb@counties.org).

AGRICULTURE AND NATURAL RESOURCES

Emergency Response Initiative. The Senate Budget and Fiscal Review Committee met this week and took up the Governor’s proposed Emergency Response Initiative (ERI). The Committee held this item open, pending additional information from Legislative

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Counsel related to the question of whether the surcharge proposed by the Governor is a fee or a tax.

The ERI would place a 4.8 percent surcharge on all residential and commercial property insurance statewide. The fee would fund a portion of the Department of Forestry and Fire Protection operations. Beginning in 2011-12, the ERI would provide funding for the state's emergency response efforts, including CAL Fire, CAL EMA and assistance to local first response agencies in support of the state's mutual aid program.

Beverage Container Recycling Program. The Senate Budget Committee voted to adopt trailer bill language that incorporates a portion of the Governor's proposal for the Beverage Container and Recycling Program, including the acceleration and retroactive payment authorization and current 14581 program funding levels, which includes funds for curbside and local government city/county payments.

The Governor's proposal also included a more comprehensive proposal to implement market-based programmatic and budgetary reforms to the program. These reforms would seek to incorporate the cost of recycling into the price paid by consumers and eliminate certain programs and subsidies. The Committee did not take action on this portion of the proposal.

GOVERNMENT FINANCE AND OPERATIONS

State Controller John Chiang released his [monthly cash update](#) and the news is good: state revenues were \$1.28 billion above budget estimates. The Controller notes that, while this news is obviously positive, the state still faces cash shortfalls this spring and summer.

This afternoon, the Senate Budget and Fiscal Review Committee unanimously adopted placeholder trailer bill language to allow for specific additional deferrals of no more than one month in the current year. Additionally, the Committee adopted placeholder trailer bill language to authorize specific cash deferrals in 2010-11. The Committee expects to see final trailer bill language when it reconvenes next week. While we do anticipate additional payment deferrals in 2010-11, we understand that there are no additional deferrals of payments to counties proposed for the current year.

Mandates. The Senate Budget Committee voted Wednesday to continue suspending all the same mandates in the budget year that are currently suspended, with one exception. The Committee wants further information about the Local Recreational Background Checks mandate before taking final action on it, so they referred it back to the appropriate budget subcommittee for further review. Also of note, the Committee tentatively voted to fund the final two years of a mandate (Crime Victims' Rights for 2007-08 and 2008-09) that they repealed last year; if this action holds up (they also

referred this to the subcommittee), it would close the book on this mandate. These actions would bring total proposed funding for mandates in the 2010-11 budget year to approximately \$84.6 million.

Employee Relations. The Senate approved a reduction of nearly \$678 million in state employee personnel costs. In order to achieve the savings, state agencies under the Governor's purview, except the Franchise Tax Board, will be required to comply with an Executive Order that calls for a five percent workforce reduction. Additional savings will be reached by reduction of operating expenses and equipment funding related to the workforce reduction and deferral of pre-funding payments for retiree health care benefits.

HEALTH AND HUMAN SERVICES

The Senate Budget and Fiscal Review Committee adopted a relatively modest set of proposals impacting health and human services programs. The proposals are outlined in detail below. The health and human services actions save \$133.6 million in state general fund (GF) in 2009-10 and \$168.7 million federal funds, for a total of \$302.3 million in reductions. In 2010-11, the proposals save \$109.3 million GF. The actions anticipate a net increase of \$162.4 million in federal funds in 2010-11.

The Legislature had reviewed the Administration's special session proposals regarding health and human services, which included approximately \$330 million in GF savings in 2009-10 and over \$5 billion in GF savings 2010-11.

MEDI-CAL

Delay Checkwrite to Providers. The Committee approved the Governor's proposal to delay a payment called a checkwrite to Medi-Cal institutional providers, which include hospitals, clinics, and nursing homes. This comes on top of a similar proposal approved in the 2009-10 budget, for a total of two checkwrite delays at the end of this fiscal year.

The Budget Committee scored \$94 million in state GF savings in 2009-10, but the move will trigger the federal American Recovery and Reinvestment Act (ARRA) prompt payment penalties totaling \$38.5 million in 2010-11.

Anti-Fraud Efforts. The Governor had proposed increasing anti-fraud efforts in Medi-Cal, and the Department of Health Care Services (DHCS) had requested up to 38 new positions to implement the plan. The Budget Committee chose instead to authorize increased anti-fraud efforts on physician services and pharmacy, but directed DHCS to use existing staff to do so. The Committee scored a \$28 million savings in the current year for the implementation of this proposal.

FOSTER CARE

The Budget Committee approved the Governor's trailer bill language to make the state eligible for increased foster care funding for a savings of \$7.5 million General Fund in the current year and \$87 million GF in 2010-11. The budget proposes to recognize, effective June 1, 2010, savings from expanded eligibility for federal participation in the costs of foster care. Please note that this is one of the Governor's January proposals to account for \$6.9 billion in additional federal funds.

PUBLIC HEALTH

Office of AIDS Technical Federal Fund Shift. The Committee approved shifting \$3.5 million of federal funds within the Office of AIDS to utilize the funding before authorization expires. The money was shifted from the state support area to the local assistance area and conforms to the Office's plan for HIV/AIDS services released in the fall of 2009.

DEVELOPMENTAL SERVICES

Regional Center Three Percent Reduction. The Committee voted to continue a three percent reduction in funding for regional centers, money which would have been used by the centers for the purchase of services and operations. Besides the three percent reduction, the Committee also extended for one year the current 1:66 caseload ratio of Regional Center staff to clients and some salary reporting requirements. All of these actions combined were scored as a \$60.9 million savings for the 2010-11 fiscal year.

HOUSING, LAND USE AND TRANSPORTATION

Assembly Budget Subcommittee No. 5 on Information Technology and Transportation

The Assembly Budget Subcommittee No. 5 on Information Technology and Transportation met yesterday, February 10, to review the Governor's proposed transportation revenue swap, which would eliminate the sales tax on gasoline (Proposition 42) and all transit revenue streams and replace it with a 10.8-cent excise tax on gasoline (Highway User Tax Account or HUTA), resulting in a net reduction in transportation revenues of about \$1 billion in FY 2010-11.

The committee heard from transit, local government, environmental, labor, and private sector advocates on essentially all negative aspects of this budget proposal regarding long-term transportation funding for the State of California. It remains unclear at this point what the Assembly's next move is regarding budget action in the special or regular session.

Senate Democratic Draft Alternative to the Governor’s Proposed Transportation Revenue Swap

The Senate Democratic leadership is developing an alternative to this proposal. While nothing has been provided to CSAC on paper about the draft alternative, CSAC understands that it includes the following:

- The proposal would essentially “divorce” transportation from the General Fund by eliminating the sales tax on gas and replacing it with a commensurate gas tax/fee. This tax would be regularly adjusted to remain comparable to the amount generated from the sales taxes slated for elimination in an effort to keep pace with the expected sales tax growth, but also remain revenue neutral.
- The tax would provide General Fund relief by funding the highway bond debt service and then be allocated 30 percent to the STIP, 30 percent for state highway preservation (SHOPP), and 40 percent to cities and counties for local streets and roads.
- With respect to transit, the proposal would retain \$313 million annually for transit, provide some one-time funding from the Public Transportation Account (PTA) balance that currently stands at over \$900 million, and provide regional fee authority to the 18 regions that fall under Senate Bill 375.

Under the proposal, local streets and roads funding would be held harmless to the extent the debt service does not exceed the spillover amount. This holds true because we will continue to receive 40 percent of a revenue stream equivalent to what Proposition 42 would generate. However, to the extent debt service exceeds the spillover it would reduce the amount available for Proposition 42 and thus be available to fund the three transportation purposes mentioned above. The SHOPP definitely benefits from this proposal as it is slated to receive 30 percent that it does not currently receive, while transit loses its current 20 percent from Proposition 42 and potential spillover revenues.

CSAC continues to work with the Senate Democratic alternative to address the concerns with the Governor’s proposal. Specifically, the proposed gas tax would not be afforded the same constitutional protections as Proposition 42. Proposition 42 revenues can only be borrowed twice in ten years and requires payback before borrowing again. Further, payback must occur within three years and with interest. Currently, the Constitution allows the State to borrow HUTA with required payback within three fiscal years, but with no interest requirements and no restriction on consecutive or limited year borrowing.

Transit continues to express concerns with the Senate Democratic budget alternative as they believe the partial restoration of the transit funding is insufficient. Again, the

Democratic alternative retains the sales tax on diesel and provides some funding to the PTA for transit operations, it remains unclear how the regional fee authority would assist in backfilling the other three core transit funding sources. Transit advocates and the transportation community in general remain suspect that it will not provide a sufficient, stable funding stream into the future.

The Senate Democratic leadership intends to pursue this in the special session, so stay tuned for more details as they become available.

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If you would like to receive the Budget Action Bulletin electronically, please e-mail Amanda Yang, CSAC Legislative Assistant, at ayang@counties.org. We're happy to accommodate you!