



BUDGET ACTION BULLETIN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

2010-11 State Budget Week of February 22, 2010

February 25, 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 #2**

Budget deficit beware, the Legislature is in action.

The soft 45-day deadline for the special budget session came and went this Monday (February 22); the same day, the Senate passed several bills to address the deficit. The Assembly added its approval to six of those same bills later on Monday, and today approved two more of them. The Assembly also sent the Senate a modified version of the social services bill for the upper house's later consideration.

One major proposal that remains unfinished is the swap of transportation revenues. The Governor and the Legislature have different ideas about the best way to structure the swap, and now that the Governor has returned from Washington D.C. they will no doubt be negotiating a compromise over the ensuing days.

Some of the savings the package of bills provides is disputed, but it approaches \$4 billion. One of the bills also allows the state to defer some payments to counties and others to avoid a dangerously low balance in the state's General Fund (GF). Details about the cash deferrals can be found later in this Bulletin.

Even though they have now passed bills to the Governor that address the state's fiscal emergency, the Legislature has not closed the Eighth Extraordinary Session. As outline above, the Senate still must approve SBX8 4, which makes social service cuts, and the issue of the transportation revenue swap is outstanding. Majority-vote bills passed in a special session take effect on the ninety-first day after the session is closed; urgency bills take effect immediately, just as they do in regular sessions.

Bill	Description	Status
ABX8 1	Public Health	To the Governor
ABX8 2	Budget-Year (2010-11) Reductions	To the Governor
ABX8 3	DOJ/Corrections Trailer Bill	To the Governor
SBX8 4	Human Services Trailer Bill	To Senate for Concurrence
ABX8 5	Cash Solutions (urgency)	To the Governor
ABX8 6	Transportation Part I	Senate Floor
ABX8 7	CRV Trailer Bill (urgency)	To the Governor
ABX8 8	Tax Enforcement	Assembly Floor
ABX8 9	Emergency Response Initiative	Senate Floor
ABX8 10	General Government Trailer Bill	To the Governor
ABX8 11	Transportation Part II	To the Governor
ABX8 12	Port Security	To the Governor

ADMINISTRATION OF JUSTICE

On Monday, the Assembly passed two bills containing public safety-related budget provisions: ABX8 2 and ABX8 3. Both measures, approved by the Senate last week, reflect the previously reported actions of the Senate Budget and Fiscal Review Committee. Taken together, these provisions offer approximately \$1 billion in state savings.

The majority of the budget changes are contained in ABX8 2; the only provisions referenced below contained in ABX8 3 is the authority to increase the existing penalty assessment to offset the cut to the state's crime labs and legislative direction on prison education cuts. The specific actions are as follows:

- Reduce funding to the Department of Justice (DOJ) for the operation of forensic labs by \$45 million and offset that reduction by increasing an existing penalty assessment (authorized in Government Code Section 76104.7) on criminal offenses from \$1 to \$3.
- Reduce the budget for the California Department of Corrections and Rehabilitation (CDCR) by \$182 million associated with the commutation of sentences for undocumented state prison inmates. Counties will recall the Governor possesses the constitutional authority to commute sentences; undocumented inmates whose sentences are commuted would be transferred to federal authorities for deportation. *(Note that the Administration has already informed the Legislature that the Governor — following the department's review of the undocumented immigrant prison population last fall — now believes it is possible to commute the sentences of only 860 undocumented inmates, reducing the expected savings associated with this item to \$19 million.)*
- Reduce CDCR's budget for the Federal Healthcare Receiver by \$811 million to reflect savings achieved by bringing per-inmate inmate medical costs in line with

that of the State of New York. (New York, with per-inmate medical costs of \$5,757, has the second highest medical spending behind California's average cost of \$11,627.)

- Implement an unallocated cut of \$48 million to the Division of Juvenile Justice (DJJ). Associated savings will be achieved in part by reducing the number of juvenile wards served by the state as a result of transferring certain DJJ wards — those aged 18 and older who were convicted in the adult criminal court — to state prison. Savings also will be realized by abandoning the “time-add” system, which is an administrative practice that results in the lengthening of stays in DJJ facilities. The Legislature also intends to work through the budget subcommittee process to further vet — as the Governor’s proposed in his January spending plan — the idea of reducing DJJ’s age jurisdiction from 25 to 21.
- Recommend that CDCR, when implementing budget reductions to its inmate and parolee programming, consider prioritizing inmate education programs and thereby preserve its credentialed teacher positions and vocational instructor positions instead of replacing these positions with teaching assistant positions.

AGRICULTURE AND NATURAL RESOURCES

Beverage Container Recycling Program. The Assembly passed AB 8X 7, the resources trailer bill, on the Assembly Floor today on a 63-0 vote. The bill addresses two different subject matters: the California Beverage Container Recycling Program (Bottle Bill) and the Clean Water State Revolving Fund (Fund) program.

With regard to the Bottle Bill, AB 8X 7 makes statutory changes to provide a short term solution to address the fiscal solvency of the Fund. The bill provides for accelerated payments by beverage distributors of the California Redemption Value, resulting in approximately \$100 million in one-time revenue. The measure also authorizes Handling Fee Payments and the City/County Payments to be made retroactively to January 1, 2010.

AB8X 7 also provides for a necessary fix to the Fund program, allowing the Fund to be eligible for federal funding. This change would enable California to access an estimated \$145 million in federal funds.

GOVERNMENT FINANCE AND OPERATIONS

Cash Management. ABX8 5, which contains the various cash deferral proposals including numerous deferrals of state payments to counties, passed the Assembly this morning and is on its way to the Governor’s desk. As we have previously reported, counties can anticipate the following deferred payments in 2010-11:

- **Highway Users Tax Account (HUTA) deferrals:** HUTA payments will be deferred \$50 million per month from July 2010 until March 2011, to be fully repaid in April 2011. These funds would be deferred half from cities and half from counties.

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- **Social services deferrals:** Social services payment deferrals would be limited to three times in the fiscal year: July 2010, October 2010, and March 2011. The July and March deferrals are limited to 60 days, while the October deferral is limited to 90 days. With a 30-day notice (that the Joint Legislative Budget Committee may waive), the deferrals may be moved 30 days (e.g. the October deferral could be used in September or November and paid in 90 days). While the 30-day notice is required for legislative notification only, we are told by the Department of Finance that affected entities will also be notified.
- **Proposition 63 deferrals:** The Proposition 63 July 2010 payment of \$300 million will be paid in May 2011.

For all of these deferrals, a \$1 billion cap in outstanding payments to local governments (counties and cities) will be in place at any given time in 2010-11. The deferrals will be limited to the 2010-11 fiscal year and small counties (those with a population of 50,000 or fewer) and cities within those counties will be exempted from the deferrals. The Department of Finance, the State Controller's Office, and the State Treasurer's Office will be in regular communications on the state's cash situation and will have some discretion to modify deferrals due to hardship.

Recently, CSAC was made aware of a determination by the State Treasurer's Office that backfilling HUTA deferrals with Proposition 1B should instead be characterized as a "loan," to be repaid with interest, in order to ensure the tax-exempt status of the Proposition 1B bonds. The Administration will be proposing amendments to the HUTA deferral language to require that a city or county that borrows from its Proposition 1B account during the HUTA deferral period must repay that fund with interest. This language should be included in a clean-up bill that will likely be introduced and approved before the Eighth Extraordinary Session is adjourned.

HEALTH AND HUMAN SERVICES

The Legislature has not sent all of the special session health and human services proposals to the Governor. While the health proposals have been acted on, the human services trailer bill is awaiting additional action in the Senate.

HEALTH

The Legislature approved the following health proposals in the special session.

Office of AIDS Federal Fund Shift. ABX8 1 contains the current technical federal fund shifts related to the Office of AIDS. The measure shifts \$3.5 million of federal funds within the Office of AIDS. 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 fall of 2009.

Delay Checkwrite to Providers. The Legislature 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 delay 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. There is no trailer bill necessary to implement this proposal.

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 Legislature chose, instead, to authorize increased anti-fraud efforts on physician services and pharmacy, but directed DHCS to use existing staff to do so. The Legislature scored a \$28 million savings in the current year for the implementation of this proposal. The savings is reflected in ABX8 2.

HUMAN SERVICES

The human services trailer bill, ABX8 4, failed on the Assembly Floor on Monday evening. The Assembly worked on amendments to the provisions related to developmental services. Subsequently, the Assembly amended SBX8 4 with the altered developmental services provisions and voted the bill off the Assembly Floor on Thursday. The Senate must concur in the amendments. SBX8 4 contains \$186 million in GF savings through June 2011. Please recall that the human services trailer bill contains the provisions related to foster care, described below.

Foster Care. The Legislature approved Governor's trailer bill language to make the state eligible for increased foster care funding for a savings of \$7.5 million GF 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.

HOUSING, LAND USE AND TRANSPORTATION

Since the last Budget Action Bulletin, little has changed with respect to the Legislature's proposed alternative to the Governor's transportation tax swap proposal. ABX8 6 and SBX8 6 were both amended on February 19 to contain trailer bill language with only one significant difference from the package the Senate Budget Committee passed last week. This most recent version makes additional changes to transit funding as follows:

- Increases the sales tax rate on diesel to 6.75 percent starting in 2011-12 to provide additional revenues for the Public Transportation Account (PTA). This revenue stream is projected to increase over time.
- Appropriates, in the period between now and June 30, 2011 (i.e. current year plus budget year), \$400 million from the PTA balance to the State Transit Assistance (STA) program.
- Appropriates some non-Article XIX funds to the PTA.

The Governor indicated concerns with the Legislature's alternative proposal early on, and CSAC understands that the concerns are related to Prop 98 (funding for education), the corporate tax breaks, and the methodology in which to adjust the replacement gas tax.

Notable progress towards a compromise solution is evidenced by some of the major metropolitan regional agencies coming out in support of the regional fee authority contained in the Legislature's alternative proposal. Yet, at the same time, the League of California Cities expressed its opposition to the transportation tax swap this week.

Negotiations continue in order to reach a compromise and, while it is still possible that further changes to the transportation component could be made during negotiations, the Legislature's alternative proposal seems to be a viable option for a final vote in the near future.

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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!