



# BUDGET ACTION BULLETIN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

## **2011-12 State Budget Week of June 13, 2011**

June 16, 2011

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 No. 4**

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It's been a wild budget ride over the last 24 hours... you may have already heard that Governor Jerry Brown has vetoed the budget sent to him by the Legislature yesterday. (Check out the Governor's veto video [here](#) and his veto message [here](#).) This essentially restarts budget negotiations with 15 days until the end of the fiscal year.

The Governor's veto message states that the plan was not balanced, that it contains "legally questionable maneuvers, costly borrowing, and unrealistic savings." In fact, many of the components of this budget package were threatened with immediate legal challenge.

In a press conference this morning, Senate President pro Tempore Darrell Steinberg and Assembly Speaker John Perez expressed their dismay at the Governor's veto and asked for the Governor to lay out a plan for a majority-vote budget if he cannot deliver the necessary Republican votes for the extension of tax revenues and the special election. Still in question, too, is if yesterday's actions meet the Proposition 25 requirement to send the Governor a budget by the constitutional deadline, thus ensuring that legislators continue to be paid.

Yesterday, the Senate and Assembly swiftly approved a package of bills on a majority-vote basis. According to Senate and Assembly analyses, the Legislature approved the vast majority of the Governor's proposed expenditure reductions, but restored about \$200 million in child care cuts and about \$140 million in CalWORKs reductions that were made in March. There were \$10.4 billion in additional solutions, including a \$3 billion deferral to K-12 schools, redirecting \$1 billion in funds from First 5, an additional \$150

million reduction each to the University of California and California State University systems, and an additional \$150 million reduction to the trial courts.

From the revenue side, the package included a modified state building sale/leaseback transaction that was anticipated to generate \$1.2 billion. (Recall that the 2010-11 budget included a controversial building sale that was eventually cancelled by Governor Brown.) Vehicle registration fees were set to increase by \$12 to cover the costs of administration at the Department of Motor Vehicles, freeing up \$300 million in Vehicle License Fee revenue to offset costs associated with local public safety subventions and a partial unwinding of the “Triple Flip” would have saved the state about \$900 million in General Fund costs.

This Budget Action Bulletin outlines these and other components of the budget package sent to the Governor. Our understanding is that, at this point, only the main budget bills (SB 69 and AB 98) have been vetoed, although there are conflicting reports about the status of the trailer bills. We will continue to update counties on the Governor’s actions as they occur.

## **ADMINISTRATION OF JUSTICE**

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The budget passed yesterday by the Legislature left significant uncertainty in the public safety area. It did not provide a clear path as to how the state would fund and implement public safety realignment as defined in AB 109 (Chapter 15, Statutes of 2011), nor did it offer a funding source to sustain local public safety subventions (i.e., those programs and services presently funded through the dedicated 0.15% of the Vehicle License Fee (VLF)). As counties will recall, AB 109 provides the framework for the shift of offender populations and programs to counties, including the low-level offender population for which counties will assume responsibility; post-release community supervision, which is effectively counties’ newly defined role in prospectively supervising a segment of adults now on state parole; and the parole revocation process to be shifted to the courts with any detention term to be served in the county jail. Even in the absence of a tax extension to support overall realignment, AB 109 is expected to be funded and implemented, given that it is a key element of the state’s plan to comply with the three-judge panel’s order – affirmed in late May by the U.S. Supreme Court – to reduce the state’s prison population by over 30,000 inmates in the next two years.

As expressed in the Senate’s [summary](#) (see page 10) of the budget package delivered to the Governor, it appears that the Legislature’s plan was to “ensure [in the coming weeks] that public safety realignment is funded appropriately; including addressing the \$504 million in funding historically dedicated to local public safety programs.” With the Governor’s veto of the budget this morning, these issues of consequence will need to be addressed as parties work to come to a new approach to resolving 2011-12 budget.

CSAC – along with the entire local public safety community – view the local public safety subventions as critical, foundational resources that must remain in place if we are to be successful in managing realigned offender populations.

Below we explain briefly a public safety budget trailer bill, ABX1 22 (Blumenfield), passed by the Legislature yesterday related to vehicle registration fees and its possible relationship with realignment. Further, we outline anticipated changes to public safety realignment that remain ongoing topics of discussion in Sacramento. Outside of ABX1 22, there were no other public safety trailer bills acted on by the Legislature. We expect one or more budget bills, including certain adjustments to AB 109, to be taken up in the coming weeks.

**DMV Administrative Fee and Realignment.** ABX1 22 (Blumenfield) authorizes a \$12 increase (from \$31 to \$43) on vehicle registration fees; this increase is expected to generate approximately \$300 million in 2011-12. This revenue would be used to support the Department of Motor Vehicles (DMV) administration, with a like amount of VLF tax revenue moved to the 2011 Local Revenue Fund (a fund that is not otherwise established in statute, but is presumed to be the local realignment fund.) Although statements on the Senate floor when this measure was taken up affirmed that the budget package did not make AB 109 operative nor did it fund public safety realignment, the \$300 million in revenue resulting from ABX1 22 was described by some as a “downpayment” on AB 109. As mentioned earlier in this Bulletin, the Governor’s action or intended action on specific trailer bills remains unclear at this time.

#### **Update on Ongoing Realignment Discussions**

As mentioned above, there are a number of items related to realignment that we expect to be addressed in future bills. Some of these areas are addressed in AB 116 (Assembly Committee on Budget), a public safety trailer bill, which has not yet been taken up by either house. While none of these issues are addressed in budget measures approved by the Legislature yesterday, the issues are significant in the context of realignment.

**Operative Date.** We anticipate that the question of an operative date for AB 109 will be addressed as part of the overall 2011-12 budget. Counties will recall that AB 109 was signed into law in early April, but its provisions do not become effective until a community corrections grant program is created and an appropriation to fund the grant program is made. The Governor has made absolutely clear his intention to implement AB 109 only when it is appropriately funded. It appears that the Administration is now considering pushing the implementation of all aspects of AB 109 to October 1, 2011, in recognition of the scale and magnitude of the policy changes contemplated in the program realignment. We also anticipate that details around the Division of Juvenile

Justice population shift contemplated in AB 109 will require additional work throughout the year and may, as a result, become effective at an even later date.

**Community Corrections Partnership (CCP).** As counties will recall, AB 109 vested the Community Corrections Partnership — established as a body in SB 678 (Leno, Chapter 608, Statutes of 2009) — with the responsibility of developing an AB 109 implementation plan. It also created an executive committee of the CCP, with membership drawn directly from the CCP. A number of changes are forthcoming both related to the membership and governance of the CCP executive committee, all of which are intended to create a meaningful planning process that will produce a consensus-driven implementation plan. There are no substantive changes expected to the underlying CCP as now outlined Penal Code Section 1230(b)(2). It also is important to note that the CCP is vested with responsibility for devising an implementation plan — not a spending or allocation plan.

**Change to Corrections Standards Authority (CSA).** AB 116, a public safety trailer bill that has not yet been voted on by the Legislature, proposes state administrative changes most notably to the role, organizational structure, and duties of CSA. AB 116, as currently drafted, renames the CSA the Board of State and Community Corrections (the Board) and reestablishes it as a standalone entity separate from the California Department of Corrections and Rehabilitation (CDCR) organizational structure. Further, it would vest the Board with responsibility to provide leadership to the state and counties as the entities implement public safety realignment. Other provisions in AB 116 would specify the Board’s mission and duties; recast the Board’s composition; eliminate the California Council on Criminal Justice (CCCJ) and vest its responsibilities with the Board; eliminate the Office of Gang and Youth Violence Policy and assign its responsibilities to the Board; and give the Board administrative responsibilities associated with the local public safety programs currently funded through the Local Safety and Protection Account (LSPA) that now reside with the California Emergency Management Agency. Discussions continue on the scope and details of proposed changes to the CSA.

## **AGRICULTURE AND NATURAL RESOURCES**

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AB 120, the Resources Trailer Bill, would:

- Extend the moratorium on suction dredge mining for another for five years;
- Implement the elimination of three Advisory Committees/Review Panels, including the State Interagency Oil Spill Committee Review Subcommittee; the State Interagency Oil Spill Committee, and the Commercial Abalone Advisory Committee;
- Direct the Secretary of Food & Agriculture to allocate any unallocated balance of the Horse Racing Board’s fines and penalties fund to California fairs for fair projects relating public health and safety and deferred maintenance; and,

- Eliminate the California Department of Food and Agriculture’s (CDFA) funding for the following programs: Weed Management Area (WMA), Noxious Weed, and Agriculture Security and Emergency Response (ASER).

**State Responsibility Area Fee.** Budget trailer bill ABX1 29 would establish a fee on structures within the State Responsibility Area (SRA). Specifically, ABX1 29 would require the Board of Forestry and Fire Protection to adopt emergency regulations, on or before September 1, 2011, to establish the “fire prevention fee” on each structure on a parcel within the SRA, not to exceed \$150. A “structure” is defined as a building used or intended to be used for human habitation. The bill would require the State Board of Equalization to collect the fee commencing with the 2011–12 fiscal year.

**Williamson Act.** As you recall, the Governor’s January budget eliminates the \$10 million appropriation that was included in SB 863 (Chapter 722, Statutes of 2010) for Williamson Act subvention payments in 2010-11, and provides no on-going funding. No additional funding for Williamson Act was included in the budget that was sent to the Governor.

## **GOVERNMENT FINANCE AND OPERATIONS**

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**Single Flip.** Counties will recall the Triple Flip mechanism that was approved in 2004 to provide a dedicated state revenue source for repayment of the state’s Economic Recovery Bonds. ABX1 22 undoes two components of the Triple Flip: it restores the 0.25 cent local sales tax reduction (returning the Bradley Burns local sales tax rate to 1.00%), thus eliminating the need to reimburse local governments for the lost sales tax revenue from ERAF. It accomplishes this by simply ending the “revenue exchange period” on July 1, 2011, thereby ending the statutory imposition of the lower tax rate. It maintains the 0.25 cent state sales tax rate that is dedicated to bond repayment, thus resulting in a 0.25 cent sales tax increase to consumers.

**Redevelopment.** ABX1 26 and ABX1 27 contain the changes to redevelopment agencies, both of which must approved by the Governor for either to take effect.

The first of those, ABX1 26, would dissolve all redevelopment agencies and community development agencies as of October 1, 2011, and designate successor agencies to handle remaining legal obligations such as bond payments. Tax increment in excess of the amount necessary to repay bonds would be distributed as property tax.

The bill would also make it easier to challenge a redevelopment plan adopted or amended after January 1 of this year by extending the deadline for bringing an action to review its validity from 90 days to two years. Any transfer of assets since January 1 from a redevelopment agency to its sponsoring agency would be reversed.

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However, the second bill, ABX1 27, would allow a redevelopment agency to continue to exist under certain circumstances. Specifically, the city or county that created the redevelopment agency would need to pay money that would go mostly to schools, but also to any overlapping fire districts and transit districts, by November 1, 2011. The required amount would be based on the redevelopment agency's proportionate share of statewide net tax increment and property tax revenue.

For all future fiscal years, participating communities would have to pay about a third of the 2011-12 amount (plus growth), plus 80 percent of the schools' share of the property tax increment. If they fail to make those payments, the redevelopment agency would be dissolved.

The schools' funding increases would count toward their Proposition 98 guarantee only in 2011-12, saving state General Fund money, but not in all future years. Redevelopment agencies kept afloat under these requirements would be allowed to skip their low and moderate housing fund allocation for 2011-12.

In a press conference this morning, legislative leaders revealed that these two bills have not yet completed the "engrossing and enrolling" process, and therefore have not yet been sent to the Governor. Given his speedy veto of the budget bills, it will be interesting to see whether they are sent at all, and if so, when.

**Sales and Use Tax Collection.** The Democrats' budget includes an attempt to increase sales and use tax collection, ABX1 28. Doing so would benefit the state, counties, and cities.

ABX1 28 combines the provisions of three bills that have been working their way through the legislative process this year: AB 153 (Skinner), AB 155 (Calderon), and SB 234 (Hancock), collectively known as the Amazon bills.

The new language would first of all increase sales and use tax collections by defining "retailer engaged in business in this state" — those are the retailers required to collect sales taxes on purchases made by people in California — as every retailer that federal law allows to be defined as such.

The second way the language would increase collection is by requiring retailers that have a relationship with California businesses that refer customers to them for sales to collect sales and use taxes.

Third, when one company in a commonly controlled group of companies is engaged in business in this state, all of those commonly controlled companies would share the

designation and therefore have to collect sales and use taxes. As an example, what customers think of as “Amazon” is in fact a group of companies. One of them, Amazon.com, claims to have no physical presence in California, and is therefore exempt from collecting sales and use taxes. However, at least two of the other companies in the group, one that designs Amazon’s Kindle and one that makes Amazon’s search engine, are both wholly within California.

It is unclear whether the Governor will sign ABX1 28, or whether the Legislature will continue pursuing AB 153, AB 155, and SB 234.

## **HEALTH AND HUMAN SERVICES**

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The budget package includes a number of trailer bills with health and health services impacts, including:

- AB 102 – Health Omnibus. Sent to the Governor.
- AB 106 – Human Services Omnibus. Sent to the Governor.
- SB 85 – Education Omnibus: Contains child care and mental health services for special education students provisions. Sent to the Governor.
- AB 96 – Adult Day Health Care. Sent to the Governor.
- ABX1 21 – Medi-Cal Managed Care Fee: not taken up by the Legislature. Includes \$100 million in savings.

**Medi-Cal.** The June 15 budget includes a couple of new funding assumptions, while also incorporating several pieces of the Governor’s May Revision Budget. For Medi-Cal, the June 15 budget:

- Assumes \$700 million in additional one-time federal funds to offset General Fund costs related to Medi-Cal. These appear to be funds owed to California for Medicaid activities, but it is not clear when or whether such funds will materialize.
- Includes a fee on the intergovernmental transfers (IGTs) used by counties to operate Medi-Cal managed care plans. The fee would be equal to 20 percent of the transferred funds to offset state General Fund costs by \$34.2 million in 2011-12.
- Authorizes the DHCS to obtain federal approval to transfer federal funds from within the Health Care Coverage Initiative portion of the Medicaid Waiver (“Bridge to Reform” Medicaid Section 1115 Demonstration Waiver) to the Safety Net Care Pool to be expended for uncompensated care provided by the State (AB 102). In order to achieve the full \$400 million in savings, the state is proposing to use surplus certified public expenditures (CPEs) from public hospitals on a volunteering basis in the current year. The budget includes \$98 million in General Fund savings to reflect the use of the local CPEs.
- Assumes \$320 million in savings from extending the hospital fee for one year (SB 90, Statutes of 2011).

- Assumes Governor’s proposal to transition all Healthy Families children into Medi-Cal effective January 1, 2012, is on a slower timetable. The budget documents indicate the Legislature scored \$22 million in savings (rather than \$30 million). Please note that there is no trailer bill language associated with the proposal. It appears the details of the transition will move in a bill through the policy committee process.

**First 5.** The Legislature’s June 15 budget includes the \$1 billion First 5 fund shift to the state to pay for Medi-Cal services to children. This proposal was included in the March budget, but in May, the Governor proposed replacing the \$1 billion in First 5 funds with General Funds due to pending litigation. AB 99 (Statutes of 2011) redirected \$950 million of local First 5 funds and \$50 million of state First 5 funds. Several local First 5 commissions and counties have sued the state over the redirection. The Legislature’s budget assumes the state will prevail in the litigation and continues to assume \$1 billion in General Fund savings in children’s Medi-Cal services.

**Mental Health Services for Special Education Students, AB 3632.** The June 15 package includes the Governor’s proposal to eliminate the mandate on counties to provide mental health services to special education students (AB 3632). The education trailer bill (SB 85) and budget bill AB (98) contain the pertinent language. As of July 1, schools will be responsible for funding mental health services for special education students. The budget rebenchs Proposition 98 with an additional \$222 million to reflect this change. The budget also includes \$80 million in 2010-11 to partially backfill for the AB 3632 funding Governor Schwarzenegger vetoed last fall.

**CalWORKs.** The June budget alters two of the March budget proposals related to CalWORKs. The June 15 package includes \$90 million to prevent additional grant cuts for safety net and child only cases that exceed 60-months and restores \$50 million of the single allocation cut.

**Child Care.** The Legislature modified its March budget actions regarding child care. The June package restores approximately \$200 million in child care cuts by taking the following actions:

- Restored the 10 percent Standard Reimbursement Rate cut to the Title V contracts.
- Reduced contracts by 11 percent – instead of 15 percent.
- Restored funding for child care services for 11- and 12-year olds.
- Restored the changes to family fees, which would have increased fees by 10 percent.

**Realignment.** The June budget package does not include the realignment of any health and human services programs. The programs that were included in the Governor’s realignment proposal remain funded as they were in 2010-11, with existing state



sharing ratios remaining in effect. The June 15 budget continues to rely on AB 100 (Statutes of 2011) to divert Mental Health Services Act (Proposition 63) funds to pay for certain mental health services: mental health managed care (Medi-Cal), Early Periodic Screening Diagnosis and Treatment, and mental health services for special education students.

**Maddy Funds.** The March budget bill (SB 69) had referenced a reduction of \$55 million General Fund by shifting a portion of Maddy Funds to the State to offset General Fund support within the Medi-Cal Program. However, the necessary statutory changes to affect this change *did not occur* in trailer bill language. The June budget increases by \$55 million the state's expenses because the shift was not enacted.

**State Government.** The budget package includes the Governor's proposal to transfer administration of Medi-Cal community mental health programs and Drug Medi-Cal to the Department of Health Care Services.

Additionally, the package eliminates 21 state boards and commissions, among them:

- California Medical Assistance Commission (CMAC). CMAC would be eliminated on July 1, 2012.
- Health Care Quality Improvement and Cost Containment Commission
- California Health Policy and Data Advisory Commission
- Healthcare Workforce Policy Commission
- Rural Health Policy Council
- Continuing Care Advisory Committee

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**ACTION**

## 2011-12 Budget Revision and Trailer Bills

Budget	Vote	Subject	Governor Action
AB 98	Maj	Budget Bill Jr.	Vetoed
AB 96	Maj	Adult Day Health Care	
AB 102	Maj	Health Omnibus	
AB 104	Maj	Developmental Services Omnibus	
AB 106	Maj	Human Services Omnibus	
AB 112	Maj	Current-year Budget Act Changes	
SB 85	Maj	Education Omnibus	
AB 115	Maj	Transportation Omnibus	
AB 116*	Maj	Public Safety Omnibus	
AB 119	Maj	General Government Omnibus	
AB 120	Maj	Resources Omnibus	
AB 122	Maj	Supplemental Appropriations Bill	
AB 19X	2/3	Nursing Home Fee	
AB 21X*	Maj	Medi-Cal Managed Care Fee	
AB 22X	Maj	Motor Vehicle Account	
AB 23X	Maj	Single Flip	
AB 26X	Maj	Redevelopment Part 1	
AB 27X	Maj	Redevelopment Part 2	
AB 28X	Maj	Sales Tax Enforcement (Amazon)	
AB 29X	Maj	State Responsibility Area	
AB 34X	Maj	Senior Citizens' Property Tax Assistance	

*\*AB 116 and AB 21X were not taken up by the Senate or Assembly.*