Budget Action Bulletin: Special Session No. 3

2008-09 Special Session

Week of December 15, 2008

Via Electronic Mail

DATE: December 19, 2008

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

FROM: Paul McIntosh, CSAC Executive Director
Jim Wiltshire, CSAC Deputy Director

RE: **Budget Action Bulletin: Special Session # 3**

Within one hour of passage of the complex and controversial budget package passed by the Legislature, Governor Arnold Schwarzenegger announced his intention to veto the package. The Governor indicated that the package falls short of his desired components of an economic stimulus proposal. (See the Governor's press release and remarks here.)

That being said, the Governor has 12 days to act on the 16-bill package (bill list attached) that was sent to him by the Legislature yesterday afternoon. While the Legislature closed the first extraordinary session, it may still reconvene in regular session to consider additional measures. Assembly Speaker Karen Bass and Senate President Pro Tempore Darrell Steinberg are meeting today to discuss the budget before meeting with the Governor. The two called a press conference with State Treasurer Bill Lockyer, indicating that they were prepared to continue negotiations and potentially bring the Assembly and Senate back to Sacramento. Unless legislators are called back to resolve this dispute, we do not expect them to return to Sacramento until January 5, 2009. (This Sacramento Bee article outlines the Speaker's and Pro Tem's responses to the Governor's veto threat.)

Beyond the disagreement between the Governor and the Democratic leaders, the budget package, in particular the method of legislative approval, is controversial, as all bills are majority vote measures that will take effect in 90 days (estimated at April 1, 2009). The legislative leadership is relying on opinions from Legislative Counsel as to the legality of the majority vote requirement for all of these measures. Interest groups are threatening legal action against the state to enjoin the actions on the tax and fee measures.

Governor Schwarzenegger also announced today that he would call the Legislature into yet another Proposition 58 special session. We will keep you apprised of special session activities as they occur. In the meantime, this Budget Action Bulletin includes details on the proposals included in the December budget package that are of interest to counties.

New Revenues

"Gas tax swap" - $5.7 billion. AB 1X 2 is the vehicle for elimination of the existing 18-cents per gallon state excise tax and the state sales tax on gasoline (Proposition 42) and establishes a user fee of $0.39 per gallon of gas to replace the lost transportation funding. (Please refer to the Housing, Land Use and Transportation section of this Bulletin for detailed information on the new transportation funding mechanism.)

In the same bill, a number of taxes are increased to make up for the loss of General Fund sales tax on gas and excise tax on gas, including:

- 0.5 cent sales tax effective February 1, 2009 ($1 billion in 2008-09, $2.3 billion in 2009-10).

- 9.9% oil severance tax effective July 1, 2009 ($845 million in 2009-10).
- 2.5% income tax surcharge for 2009 tax year ($150 million in 2008-09, $1.5 billion in 2009-10)

"Single flip" - $1.6 billion ($400 million in 2008-09, $1.2 billion in 2009-10). Recall the Triple Flip mechanism that was approved in 2004 to provide a dedicated revenue source for repayment of the state's Economic Recovery Bonds. The budget package 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 refund local governments for the lost sales tax revenue from ERAF. It accomplishes this by simply ending the "revenue exchange period" on April 1, 2009. (See SB 1X 9.) 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 on top of the 0.5 cent sales tax increase mentioned above for a total 0.75 cent sales tax increase.

Withholding on independent contractors – $2 billion in 2009-10. AB 1X 12 requires businesses to withhold three percent of payments they make to independent contractors exceeding $600 each year. This is primarily a one-time revenue source, but is touted as a tool to assist with tax enforcement. The Franchise Tax Board will be directed to establish guidelines and begin withholding in 2010.

Authorization of additional 0.25 cent county sales tax for transportation purposes. CSAC's most recent Executive Director's Watch incorrectly characterized this proposal as an increase in the cap on local transactions and use taxes. Instead, SB 1X 6 authorizes counties to impose an additional 0.25 cent for transportation purposes only. Note that SB 1X 6 is double-joined to AB 1X 2, meaning that this measure goes into effect only if AB 1X 2 is signed by the Governor.

WHAT'S BEEN HAPPENING:

ADMINISTRATION OF JUSTICE

Public Safety Reductions/Eliminations. The December package, not unlike the November Special Session Proposal before it, makes a number of reductions to local public safety programs and changes the mechanism by which certain programs are funded. It appears that most programs would be reduced in the current year, with complete elimination anticipated in 2009–10 for certain programs.

Please note in particular one significant difference from the November proposal: **funding for juvenile camps and ranches is not proposed for reduction** and would be funded at $29.4 million in 2008-09 and in 2009-10 under the provisions of the December package.

Program	2008–09 Budget Act (as enacted)	2008–09 Funding Level	2009–10 Funding Level
Cal-MMET	$19.5 million	$11.4 million	$0
Rural and Small County Sheriffs Program	$18.5 million (already disbursed to counties)	$18.5 million	$0

A number of reductions will be applied to other local public safety assistance programs administered by the Office of Emergency Services, including rural crime prevention, gang suppression, SAFE team, and vertical prosecution grants. Those programs also would be slated for elimination in 2009-10.

Shift in Funding Source for Some Local Public Safety Programs. In addition, the December budget proposal — in SB 1X 7 — includes the creation of a Local Safety and Protection Account into which Vehicle License Fee (VLF) funds will be directed to support public safety initiatives on an ongoing basis. (The VLF redirection would be replaced by a $12 increase in vehicle registration fees.) The table below details these programs and proposed funding levels in the current and budget years.

Program	2008–09 Budget Act (as enacted)	2008–09 Funding Level *	2009–10 Funding Level **
Citizens' Option for Public Safety (COPS)	$107.1 million	$89.4 million	$95.8 million
Juvenile Justice Crime Prevention Act (JJCPA)	$107.1 million	$89.4 million	$95.8 million
Juvenile Probation	$151.8 million	$126.7 million	$135.9 million
Local Detention Facility Accounts (Booking Fees)	$31.5 million	$31.5 million	$31.5 million

** Programs would be supported by a combination of state General Funds and VLF funds.*
*** Programs would be supported exclusively from VLF funds.*

It should also be noted that the minimum grant allocation for the front-line law enforcement portion of the COPS funding would be lowered from $100,000 per agency to $89,500. Further, as with similar budget packages before the December proposal, there are no proposed changes to the Youthful Offender Block Grant, which supports the population transfer of certain juvenile offenders to counties, pursuant to SB 81 (2007).

Parole Reforms. AB 1X 8, the corrections-related measure in the December package, contains a series of parole reform measures, all of which were part of earlier iterations of the 2008-09 budget proposals. These reforms are summarized below:

- **Parole Supervision for Most Serious Offenders.** CDCR would focus parole supervision efforts on offenders who have committed serious, violent, or sexual crimes; offenders without current or previous serious, violent, or sexual crime convictions who have six months of clean time would be discharged from parole.

- **Earned Credit.** State prison inmates could receive four months of earned credit for each successfully completed program while incarcerated. In addition, eligible inmates will receive day-for-day credits for complying with institutional rules, awaiting transfer to a state prison and enhanced credit for inmates who are awaiting an assignment to a conservation camp.

- **Increased Threshold for Property Crimes.** Changes would be made to adjust the threshold values for certain property crimes that are prosecuted as felonies, resulting in more crimes being classified as misdemeanors.

AB 900 "Fix." AB 1X 10 would amend the Public Safety and Offender Rehabilitation Services Act of 2007 (AB 900, Solorio), with the intent of removing a cloud over the feasibility of the lease-revenue bond sale contemplated in last year's corrections reform bill. According to the Attorney General, statutory modifications are necessary to permit him to render a "clean" bond opinion — a step required before the Public Works Board can go to market for the bonds — for infrastructure investment in correctional facilities supported by the lease revenue bonds.

AGRICULTURE AND NATURAL RESOURCES

Williamson Act. SB 1X 3 eliminates Williamson Act subventions for local government. The 2008-09 Budget reduced these subventions by ten percent, and the Budget Act appropriated $34.7 million from the General Fund to make these payments. The latest proposal eliminates the Budget Act appropriation for 2008-09, and associated trailer bill language (SB 1X 7) eliminates the back-up continuous appropriation in order to achieve a savings of $37.4 million annually, starting in 2008-09.

HEALTH AND HUMAN SERVICES

The December package contains three cuts in the health and human services program area. While these are the only cuts to make it into this budget package, all of the proposed health and human services reductions – from the Governor, the Legislative Analyst, and the Republicans – remain on the table for future budget discussions.

- **CalWORKs – SB 1X 5 (Ducheny).** The December budget package would suspend the scheduled CalWORKs 2009-10 Cost of Living Adjustment (COLA) for a savings of about $100 million.

- **Supplemental Security Income/State Supplementary Payment (SSI/SSP) – SB 1X 3 (Ducheny) and SB 1X 5 (Ducheny).** The December budget package would reduce SSI/SSP grants to the 2008 level – effective April 1, 2009 – and suspends the 2009-10 state COLA. Together, these actions would save the state about $156 million in the current year and about $500 million in 2009-10.

  Currently, the SSI/SSP grant for an aged/blind/disabled individual is $870 per month and $1,524 per month for couples. The implementation of the December budget package would mean that, in 2009-10, an individual receiving SSI/SSP would receive $700 less per year, and a couple would experience a $1,300 cut per year.

- **Regional Centers – SB 1X 3 (Ducheny) and SB 1X 5 (Ducheny).** The December budget package would approve a three percent rate reduction for Regional Centers, which was estimated to save $40 million in the current year and $72 million in 2009-10.

Healthy Families Program Receives Cash Infusion from First 5 Commissions. In other budget news, the California Managed Risk Medical Insurance Board (MRMIB) voted on Wednesday to accept up to $16.75 million from the statewide First 5 California Children and Families Commission and 47 county First 5 commissions to forestall a waiting list in the state's Healthy Families Program (HFP).

Before MRMIB's action, HFP, which provides health insurance and services to children 0-18 whose families earn under 250 percent of the Federal Poverty Level (FPL), was facing a $17 million current year deficit and was proposing a waiting list for all new enrollees to address the deficit. The move to accept the First 5 funds was welcomed by MRMIB board members, who had agonized over the establishment of a waiting list for the children's health insurance program.

On a technical note, the First 5 funds, because of the way the California Children and Families Act of 1998 (Proposition 10) was drafted, cannot be used to supplant existing programs. However, the $16.75 million approved by the state First 5 commission will only be used for the limited purpose of paying health care premiums for children ages 0 through 5 who are new enrollees to HFP.

However, while the First 5 cash infusion is narrowly prescribed for children ages 0 to 5, it will be enough to help MRMIB fund the rest of HFP for children aged 6-18, thereby forestalling the creation of a wait list within the program. If the waiting list had been enacted, MRMIB estimated that as many as 163,000 children would have been placed on it from now until June 30, 2009, which works out to 28,000 children a month. By MRMIB's estimates, approximately 40 percent of those children would be aged 0 to 5.

The county commissions still need to individually approve the fund transfers, which would be overseen by the statewide First 5 California Commission. Each county commission will contribute an amount in proportion to that county's share of new HFP enrollees aged 0 through 5.

Please note that this cash infusion by the First 5 commissions only helps the Healthy Families Program function until June 30, 2009. California is among many states that are waiting for Congressional action to reauthorize the federal State Children's Health Insurance Program (SCHIP), which is due by March 2009.

HOUSING, LAND USE AND TRANSPORTATION

Elimination of State Transportation Taxes and Imposition of a Transportation User Fee. The December package includes the following actions related to state transportation funding (SB 1X 2):

- Eliminate the $0.18 excise tax on gasoline and diesel fuel.
- Exempt the state's portion of the sales tax on gasoline (Proposition 42).
- Eliminate the spillover account.
- Retain the sales tax on diesel fuel (this funding source will continue to be used for local transit operations).

Elimination of these taxes would be replaced with a $0.39 per gallon of gasoline fee adjusted by the California Consumer Index every 3 years. This fee is expected to generate $6.7 billion in 2009-10. According to a briefing with legislative staff, this change is equivalent to a 13 cent increase from the current taxes on gasoline for transportation investments. However, with respect to costs to the public, this fee would not escalate commensurately with the existing sales tax on gasoline as gas prices increase.

All statutes, eligible uses, maintenance of effort provisions, use it or lose, etc., that currently apply to either Highway User Tax Account (HUTA) funds or gas taxes and Proposition 42 also apply to the Highway Users Revenue Account (HURA), into which the new fee revenue will be deposited. Further, although the current Proposition 1A provisions for protection of Proposition 42 funds would not apply, this new fee would be a "user fee," and considered to have stronger protections for the following reasons: 1) the state can't borrow a fee – existing law requires fee revenues to be spent on uses that benefit those who paid the fee, in this case, road users; and 2) Article XIX of the State Constitution protects these funds by explicitly requiring that they be spent on highways, roads, or transit guide way projects).

Division of the new fee in 2009-10 would be as follows:

33 percent (13 cents) to cities and counties – $2.2 billion shared equally

- Six cents would be allocated via the existing HUTA formula, which is $1.08 billion or $504 million each for cities and counties.
- Seven cents would be allocated via the existing Proposition 42 formula, which is $1.18 billion or $588 million each for cities and counties.

45 percent (17.5 cents) for the State Highway Account (SHA) – $3 billion

- Including a twenty percent or $600 million minimum guarantee for the State Transportation Improvement Program (STIP).

22 percent (8.5cents) for a Transportation Stabilization Account (TSA) – $1.5 billion.

- The TSA is a discretionary fund to be appropriated by the Legislature annually.

According to 2008-09 projections under current law, counties are expected to receive about $640 million from the HUTA and $286 from Proposition 42, or $926 million in total. However, due to an estimated seven percent reduction in consumption of gasoline and a drop in gasoline prices the actual amount for 2008-09 may be less than $926 million.

The changes under this proposal would take effect in April 1, 2009 and is expected to generate $1.09 billion for counties in 2009-10. Further, the proposal contains an adjustment every three years according to the Consumer Price Index (CPI).

The exemption of the state's sales tax on gasoline does not affect the local portion, thus local transportation sales tax measures such as Bradley-Burns, etc. would not see any reduction in funding.

Economic Stimulus Package

Included in the December package was an omnibus infrastructure bond bill (AB 1X 7) that would act as an economic stimulus by accelerating the appropriation of $2.9 billion in infrastructure bond funds for the construction of projects that are ready to go in 2009. Specifically, the bill appropriates:

Proposition 1B (Transportation Bond):

- $800 million from the Public Transit Modernization, Improvement, & Service Enhancement (PMISE) Account to the Department of Transportation (Caltrans) for allocation to public transit agencies for capital improvements.

- $700 million from the Local Streets and Roads (LSR) Account to the State Controller for allocation to cities and counties (this would include the remaining $450 million of the county portion—chart below provides a county-by-county allocation).

- $500 million from the Corridor Mobility Improvement Account (CMIA) to Caltrans for the advancement of State Highway improvement projects.

- $200 million from the State-Local Partnership Program (SLPP) to the California Transportation Commission (CTC) for allocation to eligible applicants as defined by the CTC SLPP Guidelines.

- $170 million from the State Route 99 Account to the California Transportation Commission (CTC) for the advancement of State Route 99 corridor projects.

- $110 million from the Trade Corridors Improvement Fund (TCIF) to CTC for eligible projects according to the CTC TCIF Guidelines.

COUNTY	NO. OF REGISTERED VEHICLES (4/08)	NO. OF MAINTAINED MILEAGE (4/08)	% OF TOTAL REVENUE	PROJECTED REVENUE FY 2008-09 (Estimated)
Alameda	1,149,575	495.39	3.147%	$ 14,159,338
Alpine	2,038	134.96	0.056%	$ 252,961
Amador	51,051	410.84	0.287%	$ 1,289,606
Butte	211,423	1,353.70	1.056%	$ 4,749,799
Calaveras	67,318	689.22	0.434%	$ 1,951,143
Colusa	25,929	716.75	0.337%	$ 1,518,448
Contra Costa	851,398	659.84	2.441%	$ 10,984,528
Del Norte	25,932	300.88	0.180%	$ 811,745
El Dorado	209,802	1,075.50	0.946%	$ 4,258,241
Fresno	670,649	3,563.16	3.072%	$ 13,824,624
Glenn	33,370	863.19	0.412%	$ 1,853,523
Humboldt	137,005	1,205.06	0.808%	$ 3,635,088
Imperial	139,950	2,561.57	1.328%	$ 5,974,507
Inyo	26,116	1,133.10	0.495%	$ 2,228,185
Kern	630,683	3,327.67	2.880%	$ 12,961,433

COUNTY	NO. OF REGISTERED VEHICLES (4/08)	NO. OF MAINTAINED MILEAGE (4/08)	% OF TOTAL REVENUE	PROJECTED REVENUE FY 2008-09 (Estimated)
Kings	98,731	946.10	0.611%	$ 2,751,608
Lake	79,421	612.36	0.436%	$ 1,960,737
Lassen	35,722	878.64	0.424%	$ 1,907,024
Los Angeles	7,054,048	2,966.98	19.280%	$ 86,761,071
Madera	120,519	1,532.06	0.889%	$ 3,999,818
Marin	226,626	419.82	0.742%	$ 3,338,848
Mariposa	26,599	560.41	0.280%	$ 1,260,520
Mendocino	104,206	1,018.92	0.653%	$ 2,938,786
Merced	190,480	1,726.96	1.143%	$ 5,141,515
Modoc	13,187	987.40	0.407%	$ 1,830,795
Mono	16,452	684.42	0.301%	$ 1,353,719
Monterey	326,055	1,242.60	1.309%	$ 5,888,963
Napa	129,175	445.01	0.501%	$ 2,252,717
Nevada	120,739	560.79	0.523%	$ 2,351,751
Orange	2,353,013	313.86	6.176%	$ 27,792,286
Placer	346,883	1,052.75	1.291%	$ 5,807,612
Plumas	33,470	687.96	0.346%	$ 1,556,888
Riverside	1,577,871	2,671.26	5.071%	$ 22,818,767
Sacramento	1,140,198	2,194.40	3.764%	$ 16,938,078
San Benito	51,651	383.63	0.278%	$ 1,250,314
San Bernardino	1,548,162	2,822.22	5.051%	$ 22,731,147
San Diego	2,451,387	1,921.25	7.036%	$ 31,663,576
San Francisco	448,004	930.75	1.505%	$ 6,771,737
San Joaquin	532,969	1,653.70	1.997%	$ 8,984,638
San Luis Obispo	267,197	1,321.49	1.187%	$ 5,341,182
San Mateo	650,661	313.12	1.793%	$ 8,069,828
Santa Barbara	345,484	892.68	1.227%	$ 5,519,379
Santa Clara	1,399,998	684.10	3.862%	$ 17,381,112
Santa Cruz	225,039	602.94	0.807%	$ 3,631,664
Shasta	206,029	1,191.19	0.980%	$ 4,411,132
Sierra	5,289	390.25	0.161%	$ 724,481
Siskiyou	62,487	1,361.34	0.675%	$ 3,037,408
Solano	348,017	586.95	1.118%	$ 5,029,152
Sonoma	450,716	1,384.62	1.683%	$ 7,574,478
Stanislaus	420,414	1,545.37	1.666%	$ 7,496,618
Sutter	87,191	786.69	0.522%	$ 2,347,013
Tehama	64,133	1,089.38	0.577%	$ 2,594,295
Trinity	19,367	698.14	0.314%	$ 1,410,806
Tulare	322,713	3,047.10	1.982%	$ 8,916,890
Tuolumne	71,821	607.16	0.414%	$ 1,863,857
Ventura	699,159	545.51	2.006%	$ 9,026,592
Yolo	167,229	794.60	0.731%	$ 3,287,669
Yuba	62,559	650.59	0.407%	$ 1,830,367
TOTAL	29,133,310	66,198.30	100%	**$450,000,000**

Proposition 1C (Housing Bond):

- $60 million from the Regional Housing, Planning, and Infill Incentive Account to the California Pollution Control Financing Authority for loans and grants under the California Recycle

Underutilized Sites (CALReUSE) program for brownfield cleanup that promoted infill residential and mixed use development.

- $30 million from the Housing Urban-Suburban-Rural Parks Account to the Housing and Community Development Department (HCD) for the creation, development, or rehabilitation of parks.

Proposition 1E (Water Bond):

$100 million to the Department of Water Resources (DWR) for local agencies and flood protection agencies for the purpose of prevention and mitigation of flooding, mudslides and damage associated with winter rains and fire damaged areas.

Proposition 84 (Resource Bond):

- $100 million to the DWR for integrated regional water management plans.

- $100 million to the Department of Parks & Recreation for deferred maintenance and rehabilitation of parks and recreation facilities.

Access to these funds is dependent upon selling of state bonds and reauthorizing expenditures from the Pooled Money Investment Account. While the full budget package is expected to assist in addressing this issue, the markets and other factors may delay the State's ability to issue bonds for quite some time.

California Environmental Quality Act (CEQA) Relief

The proposal also included CEQA relief for eight transportation projects (list contained in AB 1X 5) until January 1, 2011.

Additional Public-Private Partnerships (PPPs):

AB 1X 5 also included the authorization of six more public-private partnerships (three more in southern California and three more in northern California) with an extension from January 1, 2012, to January 1, 2014, for existing and new public-private partnership agreements. The proposal also removes the requirement that the Legislature approve negotiated lease agreements.

WHAT'S GOING TO HAPPEN NEXT:

It is entirely unclear as to what happens next. However, you can be sure to hear from the CSAC staff as soon as we know something new.

Stay tuned for the next Budget Action Bulletin!

If you would like to receive the Budget Action Bulletin electronically, please e-mail Faith Conley, CSAC Legislative Analyst, at fconley@counties.org. We're happy to accommodate you!