



# BUDGET ACTION BULLETIN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

## **2011-12 State Budget Week of April 4, 2011**

April 5, 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. 2**

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Where we are in April: budget stalemate, an unresolved realignment proposal, no prospect for a June election, and a remaining \$12 billion budget hole. So, the big question remains: what's next?

While it is clear that Plan A for the state budget will not come to pass, discussions about Plan B continue and, while it is difficult to say exactly what that plan will mean to counties, it is obvious to us that the constitutional protections and revenues contained in SCA 1X and ACA 2X are necessary components of any realignment plan. Governor Brown has reiterated his continued strong commitment to the components of the constitutional amendment: guaranteed funding to counties and constitutional protections that mitigate future financial risk. (The Governor outlined his commitment to "vigorously pursue" the constitutional amendment in the signing [message](#) attached to AB 109. For more about AB 109 and the accompanying signing message, please see the **Administration of Justice** section of this Bulletin.)

California counties are clearly in a particularly challenging situation, facing declining local revenues in addition to the uncertainty created by the absence of a clear state budget solution. Even in this context, we at CSAC remain focused on and committed to securing constitutional protections and dedicated funding for counties to take on additional responsibilities under a realignment plan. Our challenge will be to continue to communicate this message to the Legislature and to the public through the May Revision and end of the fiscal year.

There are a couple of other newsworthy budget items to share. First, Senate Bill 69, the main budget bill for 2011-12, has yet to reach the Governor's desk. This measure contains a number of the budget components assumed in the Governor's plan, including expenditure reductions in the health and human services area and mandate suspensions.

Legislative hearings on bills are picking up and budget talks appear to be on hold until the May Revision. This *Budget Action Bulletin* outlines where things currently stand after gubernatorial action on budget-related bills approved by the Legislature in March. Look for continuing communications from CSAC on budget activities as they occur.

## **ADMINISTRATION OF JUSTICE**

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The Governor has taken action on several justice-related trailer bills sent to him by the Legislature. He signed two of those bills just yesterday — AB 109 and AB 111, related to realignment — after having previously signed SB 78, the judiciary trailer bill. Below we summarize the core components of each measure.

### **AB 109 – Public Safety Realignment**

AB 109 contains provisions that enact a portion of the criminal justice realignment as contemplated in the Governor's budget. In very broad terms, AB 109 outlines the low-level offender population for which counties would assume responsibility; defines post-release community supervision, which is effectively counties' newly defined role in supervision of adult parolees; and gives counties responsibility – and ability to contract back – for the juvenile offender population that previously was placed with the Division of Juvenile Justice (DJJ).

It is important to note that the terms of AB 109 specify that it becomes effective **only after** a community corrections grant program is established and an appropriation is made to support the program. The Governor's signing [message](#) reiterates that point and underscores the need for stable and constitutionally protected funding to support a shift in program responsibilities. Many details regarding future implementation will require extensive work among counties, our local public safety partners, and state agencies – the Department of Finance (DOF), California Department of Corrections and Rehabilitation, and the Administrative Office of the Courts among them.

The key components of AB 109 are as follows:

- *Defines the Low Level Offender Population to be Shifted to the Local Level*
  - Changes the sentencing construct for low level offenders – those convicted of non-serious, non-violent, non-sex offenses – by having this class of

offenders serve their time locally in county jails pursuant to newly added Penal Code §1170(h);

- Amends and/or adds provisions related to alternative custody, involuntary home detention, and work furlough programs to provide local correctional administrators (sheriffs and correctional directors) more flexibility in dealing with the local offender population.
- *Requires the Local Community Corrections Partnership pursuant to SB 678 (Chapter No. 608, Statutes of 2009) to develop and recommend a 2011 realignment plan to the county board of supervisors*
- Creates an executive committee of the local partnership to include: the chief probation officer, a chief of police, the sheriff, a county supervisor or county administrative officer, and the director of county social services that will develop and present the plan to maximize effective investment of the criminal justice resources.
- *Establishes the Post-Release Community Supervision Act of 2011*
- Shifts low-level prison inmates – those convicted of non-violent, non-serious and non-sex offenses – released from state prison to the responsibility of counties (rather than state parole) and allows each county to determine what county department supervises this new population.
  - Vests local courts with the authority and responsibility to handle **all** parole revocations beginning July 1, 2011;
  - Requires that counties house parole violators sanctioned by the court to serve 30 days or less in detention; however, any state supervised parolee will return to state supervision upon serving time for their parole violation;
  - Limits the term of post release community supervision to three years; and,
  - Sets broad terms of post-release community supervision for state inmates discharging onto the program and allows the court and county to set more defined and individualized supervision terms once the offender is in the community.
- *Vests Full Responsibility of the Juvenile Justice Population with Counties*
- Requires counties to keep all juvenile offenders locally, on a prospective basis;
  - Requires counties to enter into a Memorandum of Understanding with DJJ; and,
  - Allows counties to contract with DJJ for the housing juvenile offenders

## **AB 111 – Revisions to AB 900**

AB 111 recasts certain aspects of AB 900, the Public Safety and Offender Rehabilitation Services Act of 2007, with a view toward accelerating investment in local jail construction projects. Specifically, it does all of the following:

- Moves \$132.9 million in uncommitted jail construction dollars from Phase I to Phase II of AB 900;
- Eliminates funding preference tied to counties assisting the state in siting reentry facilities and mental health day treatment centers;
- Gives preference points to counties that commit the largest percentage of inmates to state custody relative to the total inmate population of CDCR in 2010; and,
- Eliminates certain milestones required before Phase II expenditures can be made (i.e., construction of at least 4,000 local jail beds and 2,000 reentry beds).

In the Governor’s accompanying signing [message](#), he expresses his intent to lower the required county match from 25 to 10 percent of overall project costs.

## **SB 78 – Judiciary trailer bill**

SB 78 contains the following elements of interest to counties:

- Recasts the court security “fee” to a court security “charge” and extends the authority for the \$40 charge through July 1, 2013. The charge reverts to \$30 thereafter;
- Conditions implementation of the Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones) on an appropriation;
- Creates the California Judicial Branch Contract Law for contracts entered into or amended by judicial branch entities on or after October 1, 2011;
- Enacts various provisions to judicial branch regarding procurement and contracting for trial court construction; and,
- Mandates reports on the status of the state Court Case Management System.

## **AGRICULTURE AND NATURAL RESOURCES**

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### **SB 80 – General government trailer bill (Williamson Act provisions)**

SB 80, the general government budget trailer bill, was signed by the Governor on March 24, 2011. This bill strikes from statute SB 863, the Williamson Act alternative funding mechanism, and cuts the \$10 million subvention appropriation from last year.

During a hearing of the Budget and Fiscal Review Committee several weeks prior, Senator Wolk addressed the elimination of SB 863 in SB 80 and asked the Department of Finance (DOF) why the repeal was included in the trailer bill. DOF replied that they viewed the program language and the \$10 million appropriation from last year as a package. Senator Wolk indicated that she felt that the policy could be de-coupled from the \$10 million cut, and that the local funding option should be preserved to give counties the opportunity to continue the program in their communities. Senator Leno indicated that the issue could be revisited in during the spring. The bill was subsequently signed into law.

However, AB 1265, by Assembly Member Jim Nielsen, was amended yesterday to include the SB 863 language. This bill is the vehicle to seek reinstatement of the Williamson Act alternative funding mechanism.

### **AB 95 – Resources trailer bill**

AB 95, the resources budget trailer bill, was signed by the Governor on March 24, 2011. This bill eliminates state support for the California Network of Fairs, including any General Fund (GF) support. It also repeals provisions related to fairs including reporting, auditing and program management. The resources bill also provides criteria for the Department of Parks to determine which state parks it will close in order to implement the reduction to its budget. Parks targeted for closure will be based, in part, on visitation rates and historical significance.

AB 95 also includes implementation language for the State Water Board's fee increases to cover regulatory and programmatic costs for basin planning activities, the development of water quality control plans and state policies for water quality control.

## **GOVERNMENT FINANCE AND OPERATIONS**

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### **SB 77/AB 101 (Not yet passed by Legislature) – Redevelopment agencies**

The Legislature has not passed the trailer bill that would eliminate redevelopment agencies, SB 77/AB 101. The bill failed to achieve the required two-thirds vote in the Assembly.

The California Redevelopment Association has circulated among legislators a proposed alternative to the elimination. It would rely on voluntary contributions from redevelopment agencies, in return for which they would gain an extension of their time limits. Since the program would be voluntary, it is impossible to predict the proposal's effect on the state's GF or on counties' property taxes.

### **SB 79/AB 103 (Not yet passed by Legislature) – Enterprise zones**

The Legislature also has not passed SB 79/AB 103, which would do two things: eliminate enterprise zones and require multi-state corporations to use the single sales factor formula to calculate taxes instead of giving them the option to do so.

### **SB 82 – State cash resources/deferrals**

The Governor has signed SB 82, which allows the state to defer certain payments to local agencies and schools. It allows the state to defer social services payments to counties, not to exceed \$1 billion, including CalWORKs assistance payments. Counties with population of less than 50,000 are exempt from the deferrals.

## **EMPLOYEE RELATIONS**

### **SB 69 (Remains unsigned by Governor) – Budget bill (Unemployment Insurance Fund and veterans provisions)**

The Governor has not yet signed the main budget bill (Senate Bill 69), which includes the \$362.3 million transfer from the Unemployment Compensation Disability Fund to the GF.

A \$13.4 billion deficit in the Unemployment Insurance Fund (UI Fund) is expected by the end of 2011, due to an imbalance between annual employer contributions and benefit payouts. To continue paying benefits out of the UI Fund without interruption, the California Employee Development Department borrowed funds from the Federal Unemployment Account starting in January 2009. A \$362.3 million interest payment on this loan is due in September 2011. The transfer of funds contained in SB 69 will cover this interest payment with the funds being repaid from the GF over the next four fiscal years.

Also included in the unsigned SB 69 is the \$7.1 million in GF savings scored by delaying the openings of the Veterans Homes of California in Redding and Fresno by three months and phasing in levels of care. The Budget Conference Committee restored funding for County Veterans Services Offices and the Operation Welcome Home Program that had been cut in the Governor's budget proposal.

### **SB 80 – General government trailer bill (CalPERS and unemployment benefit provisions)**

SB 80, signed by the Governor on April 1, will require the California Public Employees' Retirement System (CalPERS), beginning in 2012-13, to negotiate with health benefit plans to add a core health plan option to its existing portfolio of health plans and/or implement other measure to achieve ongoing savings in CalPERS' Health Benefit Program. CalPERS currently does not have specific information available regarding the core health plan or whether it will be offered to contracting agencies.

Also included in SB 80 is the adoption in statute of the federal option of a three-year look-back related to the determination of state eligibility for FED-ED extended unemployment benefits. In 2010, Congress adopted legislation allowing states to compare current unemployment rates to the rates for the corresponding period in the three preceding years (previously only two), which will enable California to remain eligible for FED-ED longer. If the three-year look back had not been adopted, California would not have been eligible, triggering a \$1-2.6 billion in loss of benefits to unemployed Californians.

## **HEALTH AND HUMAN SERVICES**

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### **AB 97 – Health trailer bill**

AB 97 contains the major provisions related to the health budget.

Please note that the Maddy EMS provisions were amended out of the bill. However, the Legislature indicated that they would continue to work on changes to Maddy funds to achieve \$55 million in budget savings beginning in 2011-12. Please anticipate that there may be EMS Maddy provisions included in a bill sometime later this year.

The main provisions of AB 97 include:

#### **Medi-Cal**

**A 10 percent rate reduction to Medi-Cal providers.** These reductions affect most Medi-Cal providers, including, but not limited to: physicians, optometrists, hearing aid dispensers, emergency and nonemergency medical transportation providers, home health providers, and pharmacies.

**A "soft cap" on the number of physician office and clinic visits for physician services provided by a physician, or under the direction of a physician, to seven visits per year.** This cap does not apply to: pregnancy care, mental health care, children, and long-term care in a skilled nursing facility or ICF-DD. Physician and clinic visits exceeding seven per year must be certified by the physician attesting that the care met at least one of the following: 1) will prevent the need for emergency department care; 2) will prevent the need for inpatient hospital care; 3) will avoid disruption to ongoing medical therapy; or, 4) constitutes a diagnostic work-up in progress that would prevent the need for hospital care. This soft cap applies to both managed care and fee-for-service Medi-Cal.

# ACTION

**Over-the-Counter Cough and Cold Products.** Elimination of Medi-Cal coverage of over-the-counter cough and cold products for adults.

**Hearing Aids.** Maximum annual dollar cap of \$1,510 on hearing aids for adult Medi-Cal beneficiaries.

**Enteral Nutrition Products.** Elimination of Medi-Cal coverage of over-the-counter enteral nutrition products that are consumed orally for adults. Medi-Cal would still cover these products for adults who must be tube-fed. This bill authorizes the DHCS to provide exemptions for patients for whom these products prevent serious disability or death.

**Mandatory Co-Payments.** Dependent on approval of a federal waiver, institution of mandatory co-payments for all Medi-Cal enrollees, including children, people in long-term care facilities, and pregnant women.

**County Administration of Medi-Cal.** Suspension of the cost-of-living adjustment (COLA) for the 2011-12 budget year for counties for their administration of eligibility functions for the Medi-Cal Program.

**Adult Day Health Care (ADHC).** Elimination of Adult Day Health Care (ADHC) as a Medi-Cal optional benefit. This bill also establishes guidelines for the DHCS to make funds included in the Budget Act available to assist with transitioning ADHC beneficiaries to other services and for more narrowly-defined services to be provided under a new program, Keeping Adults Free from Institutions (KAFI).

**Healthy Families Program.** Increase of family monthly premiums and increase mandatory co-payments on hospital services in the Healthy Families Program.

#### **SB 72 – Human services trailer bill**

The major provisions of the human services trailer bill include the following:

**Child Support.** Suspends, for one year, the county share of child support funds that are recovered by the government in cases where the custodial family has received cash assistance. Those funds will instead be retained by the state. This change results in \$24 million GF savings in the 2011-12 fiscal year.

#### **CalWORKS**

- Effective June 1, 2011 or 90 days after enactment of this legislation, whichever is later, reduces the number of months parents or caregiver relatives can receive aid from 60 to 48. Also makes related changes, including deletion of self-sufficiency



reviews and revised time limit and sanction policies that would otherwise take effect on July 1, 2011 as enacted by AB 8 X4 (Chapter 8, Statutes of 2009-10 Fourth Extraordinary Session).

- Effective June 1, 2011 or 90 days after enactment of this legislation, whichever is later, reduces the Maximum Aid Payment in effect on July 1, 2009 by an additional eight percent.
- Effective June 1, 2011 or 90 days after enactment of this legislation, whichever is later, further reduces, by five percent increments (for a maximum total reduction of 15 percent), grants for children in cases without an aided adult who have received assistance for more than 60, 72, and 84 months, respectively. This change is anticipated to result in \$100 million ongoing, annual GF savings.
- Lowers funding for these purposes in the counties' single allocation by \$427 million GF in the 2011-12 fiscal year. Correspondingly, extends and expands upon exemptions from welfare-to-work requirements for parents of very young children (i.e., one child up to the age of 35 months or two children under the age of six years). Also grants counties flexibility to redirect between and among specified funding for employment assistance, substance abuse treatment, or mental health services during that same year.
- Suspends for one year the case management services and sanctions otherwise available under the CalLearn program for pregnant and parenting teenagers. These teenagers would instead be eligible for regular welfare-to-work services that are available in their counties.
- Amends the state's current policy of disregarding the first \$225 of earned income and 50 percent of each dollar earned beyond \$225 when calculating a family's monthly grant. Instead disregards the first \$112 of earned income and then 50 percent of all other relevant earnings.
- Makes cost-neutral changes to expand the state's participation in an existing subsidized employment program and align the program more closely with operation of a related program that existed under the federal American Recovery and Reinvestment Act of 2009's (Public Law 111-5) Emergency Contingency Fund. As a result, the state would participate in half of the costs of the subsidized employment participant's wages, up to the amount that the state would instead have paid for the family's assistance grant; and,

## **In-Home Supportive Services (IHSS)**

- Requires applicants for and recipients of IHSS to obtain certification from a licensed health care professional, as specified, declaring that the applicant or recipient is unable to perform one or more activities of daily living independently, and that without one or more IHSS services, the applicant or recipient is at risk of placement in out-of-home care.
- Requires the Department of Health Care Services (DHCS) to assess and determine whether it would be cost-efficient for the state to exercise the Community First Choice Option made available under section 1915(k) of the federal Social Security Act (42 U.S.C. Sec. 1396n(k)). This new state plan option becomes available October 1, 2011. States that take up the option receive a six percentage point increase in federal matching payments for costs associated with the covered home and community-based services programs.
- Suspends the mandate for local IHSS Advisory Committees, but also still provides \$3,000 for each local committee. This means that IHSS Advisory Committees are optional, but no longer required by the state.

**Medication Dispensing Pilot Project.** Creates a Medication Dispensing Pilot Project. SB 72 requires DHCS to identify individuals who receive Medi-Cal benefits on a fee-for-service basis and who are at high risk of not taking their medications as prescribed. To the extent necessary, also requires the DHCS to procure automated medication dispensing machines to be installed in participants' homes and monitored as indicated. Further requires the DHCS to report on and evaluate the pilot project. Also allows the DHCS to terminate the pilot project under specified circumstances. These changes are anticipated to result in \$140 million ongoing, annual GF savings.

If DOF determines that data reported regarding the pilot project does not demonstrate the ability to achieve annualized net savings of \$140 million GF (after offsetting administrative costs), the Director shall notify the Legislature by April 10, 2012, and request the passage of legislation by July 1, 2012 that provides alternative options for achieving any additional savings needed to reach this target. If the pilot and any subsequent legislation requested by DOF are not anticipated to result in \$140 million annualized GF savings, requires the Department of Social Services to implement an across-the-board reduction in IHSS services beginning October 1, 2012, with specified exceptions.

## **Supplemental Security Income/State Supplementary Payment (SSI/SSP)**

Reduces to the minimum amount required by federal maintenance of effort requirements, as specified, the State Supplementary Payment (SSP) portion of grants for individuals. As a result, the maximum combined Supplemental Security Income (SSI)/SSP grant for most individuals would be reduced from \$845 to \$830.

### **AB 99 – Changes to Proposition 10**

AB 99 contains the provisions to shift \$1 billion in First 5 (Proposition 10) funds to the Medi-Cal program to support medical services for children 0-5 years of age. The bill specifies that, of this \$1 billion, \$50 million is to come from the state reserves and \$950 million is to come from County First 5 Commissions. Each county commission is to transfer 50 percent of its reserves to the state by no later than June 30, 2012. The bill exempts the small rural counties (those with less than \$600,000 in annual Proposition 10 revenue). This bill also makes findings and declarations establishing the fact that this action does not in any way violate the existing Proposition 10 statute, particularly as it pertains to the non-supplantation requirement, in light of the state's fiscal emergency and inability to maintain funding for core medical services for young children at this time.

### **AB 100 – Changes to Proposition 63**

AB 100 contains the provisions to shift Mental Health Services Act (Proposition 63) funds to the state on a one-time basis in 2011-12. The measure shifts \$862 million in Proposition 63 reserves to the state for support of the following mental health programs administered by the California Department of Mental Health:

- \$183.6 million for the Mental Health Managed Care (MHMC) program, beginning July 1, 2011, based on a formula to be determined by the state in consultation with the California Mental Health Directors Association (CMHDA);
- \$98.6 million for mental health services for special education students, as required by the "AB 3632 Program" (for 2011-12 costs), upon completion of the distribution of funds for MHMC; and,
- \$579 million for the Early Periodic Screening Diagnosis & Treatment Program (to be allocated to counties on a quarterly basis, upon completion of the distribution of the first 50 percent of funding for county MHSA services).

Additionally, the measure reduces the State Administration cap on MHSA funds from 5 percent to 3.5 percent and makes numerous reductions in state staff, eliminates the review of County MHSA Plans by both the California Department of Mental Health and

the Oversight & Accountability Commission, and makes other changes to the program to achieve savings at the state level.

AB 100 also specifies that MHSAs funding for counties will be distributed as follows:

- 50 percent of the funding (up to \$488 million) upon completion of the distribution of funds for AB 3632 Program services, beginning August 1, 2011; and,
- 50 percent on a monthly basis by April 30, 2012.

### **SB 70 – Education finance trailer bill (Mental Health Services for Special Education Students (AB 3632) provisions)**

The Legislature’s K-12 budget trailer bill (SB 70), which was signed into law by the Governor on March 24, includes \$76.6 million in funding for schools to pay for mental health-related services required by students’ Individual Education Plan (IEP) programs for 2010-11. This funding was included because the AB 3632 mandate on counties was suspended for the 2010-11 fiscal year.

## **HOUSING, LAND USE AND TRANSPORTATION**

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### **AB 105 – Transportation trailer bill**

The Governor signed AB 105, the transportation budget trailer bill that does a number of important things for transportation and counties.

First, it validates the “gas tax swap” (swap) legislation initially passed by the Legislature in March 2010. Recall that the swap repealed the sales tax on gasoline (Prop 42 and spillover) and replaced it with a 17.3-cent increase in the gasoline excise tax (HUTA) and a 1.75 percent increase in the sales tax on diesel, which corresponded to the amount of revenue the sales tax on gasoline was generating at the time the legislation was passed.

Due to the passage of Proposition 22 and Proposition 26 this validation is necessary to preserve the state GF savings agreed to under the swap, achieved by the transfer of truck weight fees from the State Highway Account to the GF which are backfilled by a portion of the 17.3-cent excise tax revenues that otherwise would have gone directly to debt service. It also continues \$1.5 billion in critical transportation funding for state highways, local streets and roads and transit. Under the swap, and the validation of the taxes contained in AB 105, counties remain whole into the future with respect to transportation funding.

AB 105 also included the two technical changes requested by CSAC. The first technical fix extends the use-it-or-lose-it period for expenditure of Prop 1B local streets and roads

funds by one year due to previous HUTA deferrals. New use-it-or-lose-it deadlines are as follows:

- For allocations made in 2007-08, the use-it-or-lose-it is now June 30, 2012;
- For allocations made in 2008-09, the use-it-or-lose-it is now June 30, 2013; and,
- For allocations made in 2009-10, the use-it-or-lose-it is now June 30, 2014.

The second technical fix relates to ensuring that Prop 42 provisions, such as maintenance of effort, use-it-or-lose-it and limitations on project eligibility types, do not apply to the new HUTA funds under the swap. Therefore, all HUTA or gas tax monies will be treated equally.

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*If you would like to receive the Budget Action Bulletin electronically, please e-mail Stanicia Boatner, CSAC Senior Legislative Assistant at [sboatner@counties.org](mailto:sboatner@counties.org). We're happy to accommodate you!*

**ACTION**