California State Senate

COMMITTEE
ON
BUDGET AND FISCAL REVIEW

ROOM 5019, STATE CAPITOL
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Transportation and Resources Issues

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Governor's Proposal	2009-10 ($ in thousands)	2010-11 ($ in thousands)	Comments
Fuel Tax Swap. The Governor proposes to eliminate the 6-percent state sales tax on gas and diesel, and increase the fuel excise tax by 10.8 cents per gallon. Current law would otherwise provide $2.8 billion from the sales tax – with $1.6 billion for transit and $1.3 billion for highways and roads. (The full $1.3 billion for highways and roads and $315 million of the transit amount compose the Proposition 42 transfer.) The Governor's proposal would result in new excise tax revenue of $1.9 billion, with $1.3 billion to keep highway and road revenue at current levels and $603 million for GF relief. There is a net tax cut of $1.0 billion which is a loss to transit. $326 million in carry-over transit funds would also be directed to GF reimbursement.	$57,000 GF Reimburse-ment	$929,000 GF Reimburse-ment ($1,258,000) Street and Highway funding shift from Prop 42 to new excise tax $976,000 net tax cut at pump $1,586,000 ongoing annual loss of transit revenue	DOF scores a GF loss from the transit lawsuit of $1.0 billion in 2009-10, and $1.4 billion in 2010-11. In building the workload budget, DOF deletes all GF relief, but believes $57 million in 2009-10 and $326 million in 2010-11 could be restored with legislation (GF relief from transit funds). The fuel tax swap is separable from the above, and would provide an additional $603 million in 2010-11 GF relief (GF relief from highway and road funds). Prop 42 revenue is included in the Prop 98 calculation for education, while the new excise tax would not be included – so this proposal reduces the 2010-11 Prop 98 minimum guarantee by $836 million. There are multiple alternatives to this proposal, including retention of existing Prop 42 and transit revenue with a stand-alone increase in the excise tax, or a smaller-scale swap that would retain some existing portions of transit revenue.

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OVERSIGHT: Expenditure of Federal Stimulus, or ARRA, funds. California received about $2.6 billion in ARRA funds for roads and highways. ABX3 30, Statutes of 2009 (Speaker Bass), appropriated $1.6 billion of these funds to local entities, and $1.0 billion to Caltrans.
The chosen allocation was selected to spread the federal funds widely across the state and to categories of projects where projects were "ready to go."

In November, the LAO reported on the use of funds. Key sequential measures are: "certification," which is project approval from the feds; "obligation," which is approval to spend from state and/or local transportation commissions; "advertisement," which is putting the project out to bid; "award," which is an implemented contract with a private construction firm; and "outlay," which is expenditure.

To avoid the risk of losing any federal funds, all ARRA funds must by certified by March 2, 2010. The second measure of performance is the speed at which projects are brought to construction where the stimulus benefit is realized.

According to Caltrans, this is the status for the week of January 11, 2010:

State (of $963 million total):
Certified: $963 million (100%)
Obligated: $963 million (100%)
Advertised: $936 million (97%)
Awarded: $771 million (80%)
Outlay: $175 million (18%)

Local (of $1,605 million total):
Certified: $1,501 million (94%)
Obligated: $1,150 million (72%)
Advertised: $880 million (55%)
Awarded: $727 million (45%)
Outlay: $38 million (2%)

Governor's Proposal	2009-10 ($ in thousands)	2010-11 ($ in thousands)	Comments
Beverage Container Recycling Program Overhaul. The Governor proposes to: • Begin repaying outstanding Beverage Container Recycling Fund (BCRF) loans to the GF, including $54.8 million in current year and $98.2 million in budget year. Loan repayments would alleviate the final six months of the current year 100-percent proportionate reduction to BCRF beneficiaries and fully fund processing payments through 2013-14 (by which time all outstanding loans to the BCRF—totaling $452 million—would be repaid). • Accelerate distributor remittance of the California Recycling Value (from 90 days to 60 days) for a one-time revenue increase of $95 million. • Make extensive programmatic changes.	54,800 (GF impact) TBL	98,200 (GF impact)	The current beverage container recycling rate is approximately 80 percent, compared to a historic average of between 60 and 70 percent over the past decade. This means fewer unredeemed containers and less revenue to support programmatic priorities (many of which receive annual statutory appropriations). Due to an inadequate fund balance, effective October 20, 2009, the department enacted a 100-percent proportionate reduction (consistent with existing law) to program funding, including: processing payments; handling fees; local conservation corps and market development grants; and quality incentive and curbside supplemental payments. Proposed programmatic changes include: (1) effective January 1, 2010, processing payments and handling fees become "core function payments" with all other expenditures optional; (2) redefine "convenience zone" (results in about 500 fewer sites); (3) effective January 1, 2014, shift processing payment (subsidy) costs from manufacturers and the BCRF balance to distributors, and, by extension, to consumers.

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Emergency Response Initiative (ERI) – GF Backfill. The Governor proposes a one-time $200 million GF reduction to the Department of Forestry and Fire Protection's (DFFP) fire protection budget, to be backfilled with revenue from the ERI, which includes a 4.8 percent statewide surcharge on all residential and commercial property insurance. Assumes March enactment and partial-year revenues in 2010-11, with full-year revenues of $475 million beginning in 2011-12 when $200 million would be restored to DFFP baseline budget and ERI proceeds would be used to partially fund the E-Fund ($150 million), provide enhanced local mutual aid ($150 million), augment fire crews, and purchase new equipment among other things.		-200,000 (GF Impact)	The Governor made a similar proposal in last year's May Revise. In that instance, the Conference Committee adopted the Governor's first-year expenditure plan but opted to fund it using an alternative State Responsibility Area (SRA) fee. This item requires Special Session action in order to provide the lead time to achieve the Governor's revenue estimate in the budget year. However, besides the proposed 2010-11 backfill, all other proposed expenditures occur in the out years and could be deliberated at a later date. Note: This proposal also affects the California Emergency Management Agency (identified as the lead agency) and the Department of the Military.

Governor's Proposal	2009-10 ($ in thousands)	2010-11 ($ in thousands)	Comments
Fund Parks with Tranquillon Ridge Oil Revenue. Assuming approval of a new, 14-year oil lease in state-controlled waters at Tranquillon Ridge, the Governor proposes to backfill $22 million in previous GF reductions to the Department of Parks and Recreation (Parks), and to supplant an additional $118 million GF annually beginning in 2010-11 by providing $140 million from oil revenues. The proposal would eliminate the need for partial park closures, and includes budget bill and trailer bill language with the intent of ensuring Parks be held harmless should annual revenues fall short of $140 million. An advanced royalty payment would provide $79 million in GF solution in the current fiscal year. The Administration estimates state royalty revenues of $1.8 billion over the 14-year life of the lease.	-79,000 (GF Impact) TBL	-140,000 (GF Impact) BBL	This proposal is based on a confidential agreement between PXP (oil company) and Environmental Defense Center (based in Santa Barbara), in which PXP would receive the first new oil lease in state-controlled waters in 40 years in exchange for, among other things: (1) a 14-year limit on the lease; (2) a $100 million advanced royalty payment to the state; and (3) environmental mitigation, including removal of an onshore processing operation and several offshore platforms. Last year, the State Lands Commission (SLC) decided against the oil lease proposal on January 29, 2009, on the grounds that it was not in the best interests of the state. However, the Governor put it in the May Revise and the Senate subsequently approved it (ABx4 23). The bill was later defeated in the Assembly. Questions and concerns about the proposal include: (1) enforceability of the lease terms; (2) downside risks to the revenue estimate; (3) downside risks to the timeline (SLC, Coastal Commission, and federal approval required); and (4) "agreement" remains undisclosed.

Governor's Proposal	2009-10 ($ in thousands)	2010-11 ($ in thousands)	Comments
CEQA Exemption for Certain Construction Projects. The Governor proposes to grant the Business, Transportation, and Housing Agency (BTH) the authority to exempt from legal challenge (under the California Environmental Quality Act—CEQA) the environmental impact reports (EIRs) of 25 construction projects annually for five years. Additionally, the proposal: (1) specifies the number of projects to be selected from designated regions of the state; (2) requires at least one public hearing per region to receive public comment as well as an opportunity for formal legislative comment; (3) permits the BTH to grant exempted status before an EIR is completed if the lead agency expects it to be completed within one year of the enactment of this proposal; and (4) calls for BTH to finalize the exempted list within 210 days of enactment.	TBL		This proposal is part of the Governor's "Jobs Initiative" and, according to the Administration, is intended to expedite the ground breaking of construction projects and create jobs. The BTH would be required to consider each of the following in its selection process: • Number and quality of jobs to be created • Amount of capital investment made by the project • A balance between public and private projects Up to five alternative projects could be selected for each region in the event that the EIR of a selected project is not certified within 12 months.

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State Auditor Reports Energy Commission (CEC) Not Fully Prepared to Award and Monitor American Recovery and Reinvestment Act (ARRA) Funds.

A December 2009 Auditor's report contained the following findings regarding $226 million in CEC ARRA funds:

- Of the $113 million available in 2009-10, $40 million had been awarded, and $71,000 expended.
- Seven of eight subprograms to be funded were new and required adoption of program guidelines. Of the seven, two still lacked guidelines, and one of these was on indefinite hold (along with the $50 million that was allocated to it).
- The federal government could redirect any ARRA funds not obligated by September 30, 2010.
- CEC lacked adequate internal controls to oversee expenditures.

The CEC provided the following update to the Auditor's report:

- Of the $40 million identified as awarded by the Auditor, the Department of General Services has drawn down a $3.7 million loan to begin state building retrofits, while other awardees, the Employment Development Department and the Employment Training Panel, have begun projects but have not drawn down funding.
- Over 100 proposals totaling more than $850 million was received for energy efficiency retrofit programs (to which $110 million has now been allocated).
- Guideline approval is anticipated for the last subprogram in February 2010 (following public workshop in December 2009).
- $50 million originally allocated to School and Public Sector Matching Grants has been reallocated to Clean Energy Business Financing ($35 million) and energy efficiency retrofit programs ($15 million—contained in the $110 million figure above).
- CEC is soliciting two contracts to strengthen internal controls and oversight.

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Office of Historic Preservation (OHP) – American Recovery and Reinvestment Act (ARRA) Project Backlog. On January 4, 2010, the state Inspector General (IG) issued a letter to the Governor in which she identified a two-month backlog of projects awaiting OHP review. Due to ARRA, there has been an unprecedented increase in the number and type of projects on which the OHP is requested to consult and, according to the Inspector General, barring prompt corrective action, the backlog will grow exponentially as the bulk of federal funds have not yet moved forward. Administration officials responding to the IG's letter committed to erasing the backlog within 30 days.			According to Parks, federal regulation ("Section 106") requires certain projects to receive historic review; however, no formal approval is required by OHP (the process is usually consultative), and after 30 days, if no concerns are raised, the presumption is that the project is okay to move forward (no historic preservation concerns). Parks now indicates that a significant amount of the reported "backlog" were projects that were not prescreened by the responsible federal agency and did not require OHP review (for example, out of the 304 agency submittals logged for ARRA Section 106 review in 2009, 79 came from the Health Resources and Services Administration alone, and 73 of those did not require OHP review.) Still, OHP workload has increased due to ARRA, and in addition to 13 "baseline" review staff, OHP has borrowed 4 Caltrans reviewers and 3 part-time Parks reviewers. Additionally, the Governor placed review staff on self-directed furloughs at the end of 2009.

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Clean Water State Revolving Fund (CWSRF)—Conforming to Federal Requirements. In order to conform to federal law, the Governor proposes trailer bill language (TBL) to authorize the State Water Resources Control Board (SWRCB) to issue grants, forgive loan principal and provide other types of assistance from the Clean Water State Revolving Fund to the extent authorized by federal law. This proposed change would make California eligible to receive an estimated $145 million in federal funds to CWSRF projects. Additionally, it would clarify that all California cities and counties are eligible to receive loans under the CWSRF program.	TBL		The CWSRF program provides $200 - $300 million annually in below market financing to help California communities build wastewater treatment and recycling facilities, fund nonpoint source pollution projects, and develop and implement estuary protection and enhancement programs. Historically, the law authorized the SWRCB to make loans from the CWSRF, but not to provide "additional subsidies" such as grants, principal forgiveness, or other types of assistance from the CWSRF. However, Chapter 25, Statutes of 2009 (SBx3 27) specifically authorized various "additional subsidies" consistent with federal requirements associated with certain American Reinvestment and Recovery Act (ARRA) funds. The proposed TBL would provide a similar amendment consistent with a recent federal appropriation (HR 2996) that provides "additional subsidies" funding.