Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

Senator Jim Beall, Chair
Senator Hannah-Beth Jackson
Senator Jim Nielsen

Day: Thursday, May 16, 2013
9:30 a.m. or Upon Adjournment of Session
Room: 2040

Consultant: Mark Ibele

Agenda

Transportation

Proposed Vote-Only Calendar:

Proposed Discussion / Vote Calendar:

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2660 Department of Transportation

Issue Proposed for Discussion / Vote:

1. **Planning Program—Zero Based Budget (Governor's Budget BCP #2).** The subcommittee discussed this issue at its March 14 hearing and held it open. The Governor's Budget proposes to zero base budget (ZBB) Caltrans' Division of Transportation Planning. To accomplish this, the Governor, requests a net increase of 10 positions and $8.4 million, for 2013-14. The proposal consists of a five position reduction and an eight position redirection in the traditional planning program; staff workload adjustments for efficiencies that reduce positions by 19 in planning and increase positions by 36 in the Project Initiation Documents (PIDs) activities to accommodate workload; and, a reduction of two positions in other units. The net result is an increase in the program of 10 positions.

   Background and Detail. Caltrans' Division of Transportation Planning (DOTP) is responsible for implementing statewide transportation planning. DOTP includes five core programmatic areas: community planning, regional and interregional planning, system and freight planning, state planning and project scoping. DOPT is responsible for a wide variety of activities, including but not limited to review of local and tribal development proposals, general plans, provision of input to federal and regional entities regarding regional transportation plans, review of air quality and climate change scenarios, development of long-range highway system plans, preparation of the 25-year state transportation plan, and development of PIDs for both State Highway Operations and Protection Program (SHOPP) and non-SHOPP projects.

   The first ZBB effort in DOTP began in 2009 and established an initial workload baseline for 2010-11. In 2009, the LAO raised several concerns with the PIDs program, specifically that Caltrans had not based staffing on workload, that it had no criteria for selecting SHOPP PIDs, and that there were gaps in the way it managed its PIDs work. The 2009 Budget Act required Caltrans to convene a stakeholder working group and identify options to streamline the process. Since that time, Caltrans has made efforts to address the LAO's concerns. It has reduced its inventory of completed PIDs by aligning completed PIDs with updated/revised SHOPP priorities. Caltrans now aligns staffing levels based on PID inventory and identified SHOPP PIDs based on the 10-Year SHOPP Plan. Caltrans has also undertaken efforts to streamline the development process for certain kinds of PIDs. Nevertheless, LAO continues to have concerns with the program, as noted below.

   The Governor's Budget proposes an increase of 35 positions for SHOPP PID work, driven by the mix of projects in the 2013 10-Year SHOPP plan, and including the work associated with developing PIDs for projects due in the 2014 and 2016 SHOPP programming cycles. The primary reasons for the increase are that: (1) Caltrans no longer maintains a large inventory of completed PIDs, (2) the Department is behind in PIDs development due to a shortfall of personnel dollars, and (3) the mix of projects has shifted compared to prior fiscal years. The proposal also includes a net increase of one position for non-SHOPP PID work.

In addition to the positions request, the Governor is seeking an increase in State Highway Account (SHA) funding to true-up the PIDs personnel dollars. The program is currently experiencing a $6.2 million shortfall in its 2012-13 base that developed because, while Caltrans had adequate authorized staffing levels to handle ongoing workload, the personnel dollars were inadequate to fully fund those positions at the classifications hired by Caltrans. This proposal would align personnel dollars with existing classifications in the 2012-13 SHA PIDs program base, and accomplish this using $2.1 million in savings elsewhere in DOTP and an additional $4.1 million in SHA funding.

The overall ZBB of DOTP would partially offset the increased staffing in the PIDs program through the reduction of 24 positions elsewhere within DOTP. These reductions are the product of aligning staffing with workload, creating efficiencies where feasible and redirecting staff where appropriate. This includes a reduction of one position due to efficiencies created by moving from a one-year to a two-year BCP cycle for the PIDs program. An additional reduction of two positions is to be realized outside of DOTP from efficiencies achieved from the consolidation of the Division of Transportation Systems Information with the Division of Research and Innovation. This proposal results in a requested net increase of 10 positions overall.

The Governor's Budget indicates that in an effort to ensure that staff is performing work at the correct classification level, California Department of Human Resources (CalHR) will perform a review of the division to ensure consistency in compliance with state staffing requirements.

LAO Perspective. The LAO has noted several concerns with the Governor's Budget proposal, as well as the overall PIDs program. The LAO avers that the Administration understates the efficiencies that result from streamlining the PIDs and indicates the presence of an additional savings of $2.9 million and 21 positions. It indicates that the department is unable to manage the current resources, as evidenced by the mismatch between funding levels and workload, and in addition, misattributes cost allocations between state funds and local reimbursements. Finally, the LAO urges that necessary budget adjustments pursuant to these issues occur in 2014-15. The LAO recommends modifying the current Caltrans request by reducing the PIDs program by $2.9 million and 21 positions.

Staff Comment. The proposal reflects the Administration's effort to streamline Caltrans' operations and realize efficiencies where possible. While the requested increase in PIDs resources is significant, it may not be unreasonable given that Caltrans has depleted its backlog of PIDs projects in recent years—the product of Proposition 1B and federal stimulus funding. Caltrans' efforts to streamline its PIDs program is ongoing, and although substantial progress has been made, the department's personnel expenses overrun in the PIDs program and other issues are of concern. If it were necessary to hire at a classification level above that for which the program was budgeted, it is unclear why the department did not request an increase. The position review by CalHR is warranted and should ensure that workload and resources are properly aligned going forward.

At the direction of the subcommittee, staff met with Caltrans and LAO to discuss the concerns associated with this proposal. Caltrans indicated that it believes the data and descriptive narrative in the BCP were being misinterpreted and the back-up that justified the positions should be used to determine the staffing needs for the local planning. The budget request stems from a thorough review of the resource needs using ZBB methodology that resulted in a determination that the current level of resources was insufficient. LAO's observations that the actual resource needs for streamlined documents are unknown and should be monitored are well taken, and Caltrans has agreed to report to LAO actual workload levels for PID preparation. A prudent approach at this juncture would be to approve the request and adopt supplemental reporting language so that the resource needs of PIDs can be monitored and oversight of the positions can continue. This action would conform to the Assembly action for this item.

Staff Recommendation. Approve budget request and supplemental reporting language regarding PIDs resources needs, thus conforming to the Assembly action.

Vote:

2720 Department of California Highway Patrol

Issues Proposed for <u>Vote Only:</u>

1. **California Highway Patrol Enhanced Radio System Phase I and II (Spring Capital Outlay Letters 1 and 2).** The department has requested a reappropriation of $6.7 million (Phase I) and $12.8 million (Phase II) for the enhanced radio system. Phase I includes $847,000 for design and $5.9 million for construction of the tower and vault replacement components of the system. Two of the selected sites experienced delays due to lease negotiations—including with the US Forest Service—that have taken longer than expected and are now anticipated to be completed in the budget year. For Phase II, the reappropriation request is for acquisition of one site, working drawing for three sites, and construction phases for six sites. The reappropriation is necessary to ensure that the projects continue to move forward in the light of unexpected delays. Site acquisitions have been delayed due to lease negotiations with various parties and the need to complete the National Environmental Protection Act review process.

   For both Phase I and Phase II, the reappropriation request is necessary for the construction phase to ensure CHP's ability to continue forward with the project and address deteriorating radio communications infrastructure and improve radio interoperability among various public agencies.

   Staff Comment. Staff has no concerns with this proposal.

   Staff Recommendation. Approve Capital Outlay Letters 1 and 2 for the reappropriation of funding for the CHP enhanced radio system.

   <u>Vote:</u>

2. **Statewide Advance Planning and Site Selection (Governor's Budget Capital Outlay BCP #12.02).** This issue was discussed at the subcommittee's April 18th hearing and the appropriation request was held open. The Governor's Budget calls for $1.5 million in funding (special funds) to begin studies to determine the replacement of up to five facilities and identify suitable parcels for these facilities. $400,000 is requested for the first activity and $1.1 million for the latter. In addition, the Administration requests budget bill language that would allow an augmentation of up to $10.0 million for parcel acquisition in the event that a parcel becomes available outside of the budget cycle. The budget bill language was rejected at the April 18th hearing.

   Background. Working with the Department of General Services (DGS), the CHP was able to categorize its 111 total offices according to seismic risk. Risk was based on engineering studies of risk resulting from a seismic event and expressed on a 1-7 scale, with 7 representing a condition that would necessitate immediate evacuation and 1 indicating only nugatory structural impacts. Facilities with a 5 or 6 denotation would likely be unsafe during or following a seismic event. The studies indicated that 80 of CHP facilities are of seismic level 5 and 6.

Site searches for CHP facilities have been problematic in the past due to constraints and demands. It has proven to be difficult to locate parcels of the required 3-5 acres, with appropriate freeway access, and unhindered by traffic, rail or other impediments. This has been particularly troubling in urban areas in Los Angeles, San Diego and the San Francisco Bay Area. Acquisition of land, and subsequent construction, has often been delayed as a result of these limitations. This has been a large part of the motivation for CHP to pursue the current proposal of combining advance planning, site selection, and potential purchase.

Area office replacements can be procured in one of a few ways. The most common are ‘build-to-suit’ leases and direct capital outlay. With the build-to-suit procurement method, CHP contracts with a private developer to construct a facility and agrees to lease the facility from the developer for a predetermined number of years. At specified times during the built-to-suit lease, CHP has the option to purchase the facility from the developer. With the direct capital outlay procurement method, DGS uses funds from the Motor Vehicle Account (MVA) to both purchase the property and contract with a private developer to design and build the CHP facility. Under direct capital outlay, the state owns the facility and does not have ongoing lease payments.

Staff Comment. There is no question that much of CHP’s infrastructure is deficient, necessitating repair or replacement. Improvements cannot be accomplished all at once, for both capacity and financial reasons. Therefore, there must be a prioritization for carrying-out the required capital replacement program. The CHP has provided a document that indicates the facilities with a 5 or 6 denotation; however, additional information regarding the department’s plan for replacement, the order in which the 80 some odd facilities should be replaced, and the criteria (in addition to seismic rating) used for the prioritization has not be made available. In particular, this budget proposal does not indicate which five offices will be replaced and how they were chosen.

In addition, the Administration has proposed to use capital outlay for the five unspecified offices, whereas, previously it has argued that build-to-suit (discussed above) is more appropriate. It is not apparent why the Administration proposed last fall to replace three area offices with build-to-suit leases and now proposes to use a capital outlay method to replace five offices. Staff recognizes that there may be circumstances that favor one approach or the other; however, the Administration has not been able to explain what criteria it uses to select between capital outlay and build-to-suit approaches.

Last fall, in a letter response to a notification from DGS of its intent to execute three separate build-to-suit lease agreements on behalf of the CHP, the Chair of the Joint

Legislative Budget Committee (JLBC) raised several issues, including the (1) absence of an updated CHP facilities plan that outlines its facility needs and priorities, and (2) lack of an assessment of the relative benefits of financing projects with the build-to-suit process or capital outlay. While the department has indicated that facility needs and priorities will be addressed in the 2013 Five-Year Infrastructure Plan, no systematic analysis has been made available to the Legislature regarding capital outlay and build-to-suit approaches. The JLBC expressed that such an assessment is essential to ensure that the most cost–effective method is chosen when building new CHP facilities.

Given the very real need for replacement or retrofitting of CHP infrastructure and the specific land requirements that make suitable properties hard to secure, the committee may want to consider approving the $400,000 for advance planning and $1.1 million for site selection, allowing these activities to run concurrently. Following the April 18th hearing, staff received additional information on the capital outlay process and the future plans. Based on these discussions, staff recommends approval of the request. DOF acknowledged the value of establishing guidelines regarding when capital outlay and build to suit are appropriate methods of infrastructure acquisition and agreed to participate with Department of General Services (DGS) in a process to develop these guidelines. At its April 18 hearing, the subcommittee approved supplemental reporting language that requires DOF, in consultation with DGS, to develop guidelines for using capital outlay or build-to-suit procurement methods. DOF and LAO could be directed to work with staff to develop suitable supplemental reporting language.

Staff Recommendation. Approve the appropriation request of $1.5 million.

Vote:

Issues Proposed for Discussion / Vote:

1. **Santa Fe Springs Area Office Replacement Facility (Governor's Budget Capital Outlay BCP #12.01 and Spring Capital Outlay Finance Letter #3).** This issue was discussed at the subcommittee's April 18 hearing and held open at the request of the Department of Finance. The Governor's Budget proposed funding of $21.4 million (special funds) for the construction phase of the Santa Fe Springs area office. After the budget was released, it was determined that the identified property was no longer suitable for the project. The Spring Letter requests that the Governor's Budget be decreased by $21.4 million to adjust for this delay in the project. Because new property must now be identified, the Department of California Highway Patrol (CHP) requests a reappropriation of $4.9 million for acquisition and preliminary plans funding for the Santa Fe Springs area office.

Background: The project has been delayed previously because of difficulties in locating a suitable site for the area office. The initial approval and appropriation occurred in 2007-08. In 2010-11, $1.3 million was approved for working drawings. In 2010, a site was identified and working drawing proceeded; however, this site later fell through and the working drawings effort was suspended. The CHP has now identified four potential sites for the project, the working drawings phase has resumed and acquisition is anticipated in 2013. The most recent delay in the project was caused by a determination that the property identified in the Governor's Budget would not be suitable due to costly road improvements required to accommodate CHP's commercial truck and bus citation clearance activities.

The current facility has been occupied for 45 years, is occupied well in excess of capacity, and no longer meets CHP's operational requirements. In addition, the building has structural, electrical, plumbing, and other deficiencies. The facility was designed for 60 male officers, and now has 135 male and females officers assigned. By way of comparison, offices with similar numbers of personnel are three times as large. The limited physical site precludes additions or renovations to the building. The structure is identified seismically as a 5 or 6 according to the DGS/CHP survey.

Staff Comment: Staff agrees with the necessity of approving funding for this proposal. The numerous delays are largely the result of CHP's specific location and property requirements. The necessity of the replacement facility has not changed.

Staff Recommendation: Approve the Spring Capital Outlay Finance Letter, reducing the Governor's Budget by $21.4 and reappropriating $4.9 million for planning and property for the Santa Fe Springs Area replacement facility.

Vote:

2665 High-Speed Rail Authority

Issue Proposed for Vote-Only:

1. **Financial Consulting Services (Governor's Budget BCP #2).** This item was heard at the Subcommittee's March 14 hearing and held open pending the receipt of additional data regarding the consultant's cost. The Governor's Budget proposes additional funding for the continuation of the financial consulting services for the High Speed Rail Authority (HSRA). The funding request is for $3.8 million (Prop 1A bond funds) and pays for an additional year with the current financial consultant KPMG. The consultant's duties would include providing financial advisory services to HSRA to develop analyses to support financial planning efforts and potential procurements for the project, including: options analyses, finance plans for specific corridors, credit enhancement opportunities, and the impact of phasing. These duties relate to the 2012 Business Plan, Central Valley procurement support, funding analysis, Phase 1 procurement support, and Caltrain electrification.

   Background. The HSRA hired the current financial consultant in June 2011 to assist with the development of the business and funding plans of the high-speed rail project. In addition to assisting with the funding and financing aspects of the project, the financial consultant assisted with the development and validation of the ridership and revenue projections found in the 2012 Business Plan and the review and analysis of financial statements for construction firms submitting proposals in response to the HSRA request for qualifications for the initial construction segment.

   LAO Perspective. External financial consultancy provides some specialized and intermittent services that would be difficult for state staff to perform; however, the LAO finds that some of the identified tasks (such as revising the existing financial plans and writing several chapters of the next iteration of the business plan) would be more appropriate for, and less costly, if performed by existing state staff. Consequently, the LAO recommends the Legislature reduce funding for financial services consulting by $1.25 million in Proposition 1A bond funds—from $3.75 million to $2.5 million (the amount of the 2012–13 appropriation).

   Staff Comment. The initial workload analyses and data provided by the HSRA to date did not provide a convincing basis upon which to provide a 50 percent increase in the contract amount from the prior year. Subsequent data and information provided by the department indicated the increased workload that would be expected of the consultant in 2013-14, justifying the increased resources required.

   Staff Recommendation. Approve as budgeted.

   Vote:

Issues Proposed for <u>Discussion and Vote:</u>

1. **Budget Statement Consolidation (Committee Issue—Proposed Budget Bill Language).** Under existing law, pursuant to SB 1029 (Chapter 152, Statutes of 2012) the HSRA budget for certain capital outlay components (environmental clearance and preliminary engineering) are differentiated by segment, as presented in items 2665-304 and 2665-305. That is, funds may be expended according to the schedule for each isolated segment of the project. The HSRA has suggested a budget consolidation approach which would combine the segments and allow for increased budget flexibility. The proposal would enable the HSRA to better adapt to changing project conditions as planning continues. It would also simplify accounting and the process and payment of invoices, which can currently involve splitting costs among the various segments and items of appropriation.

   Staff Comment. The proposed budget bill language would facilitate the HSRA's ability to manage the project financially and reduce administrative tasks. The budgetary consolidation of segments would not affect the requirement to report semi-annually to the Legislature on the actual expenditures by segment. In addition, none of the additional reporting language required of the HSRA would be affected by the budget consolidation proposal. The HSRA worked with DOF in constructing the proposed budget bill language and staff has reviewed the language

   Staff Recommendation. Approve the proposed budget bill language consolidating capital outlay planning items.

   <u>Vote:</u>

2. **Additional Administrative Support Staff (Spring Finance Letter #1).** The HSRA has requested $4.8 million (prop 1A bond funds) and a net 44 positions to support administration and programmatic functions of the HSRA. Of the total request, $826,000 is for a baseline adjustment to bring the HSRA funding for authorized positions in line with salaries paid to current staff, $631,000 for additional office space for increased staffing, and the remainder for salaries and benefits for the requested positions. The annual cost of the request is $5.5 million but is discounted based on a staggered hiring process over a three month period beginning in July and ending in September. The requested positions will increase the HSRA's control over the high-speed rail project, effectively manage its administrative and programmatic operations, and perform essential functions in-house.

   Background. In accordance with the staff management plan, required under SB 1029, the HSRA has three areas of guiding principle for its organizational structure and staffing:

- Governance and oversight shall be provided by the HSRA Board and government employees.
- Accelerating delivery of California's high-speed rail project through cost effective and innovative practice is in the public interest.
- Administrative functions may be supported through partnerships arranged with other governmental agencies.

The request is in keeping with the department's overall staff goals to bring staffing in-house using agency employees. The request, combined with the HSRA existing staff, the January administration and oversight request (approved by the subcommittee at its March 14 hearing), and the Program Management Plan furthers the process of concentrating expertise in-house. The additional resources will provide a much needed administrative support for the HSRA. In previous years, the HSRA has focused on planning, environmental and design activities, but is now engaged in new activities associated with construction and right-of-way acquisition. This increase in workload will result in the HSRA taking over activities previously addressed using contractors and other agencies, new workload related to a substantial increase in both the number and the frequency of the claims submitted to the federal government, and workload driven by increased accounting and reporting requirements.

Staff Comments. As the proposal essentially begins to follow through on the HSRA's staff management plan, staff has no concerns with the proposal.

Staff Recommendation. Approve the budget request.

Vote:

3. **Program Management Staff for Project Delivery Functions (Spring Finance Letter #2 and Budget Bill Language).** The HSRA has requested approval of 41 new positions and $265,000 (Prop 1A bond funds) to bring project management and oversight activities in-house. The positions will be funded primarily by redirecting $4.1 million expenditure authority originally proposed in the Governor's Budget for project management and oversight contracts. The Governor's Budget proposal was approved by the subcommittee at its hearing on March 14 (except for the accompanying proposed budget bill language). This current proposal would render the budget bill language proposed in the January budget unnecessary and provide for a conversion of the funding for the contract to be used for direct staffing. This current proposal also includes budget bill language for the HSRA (and the Department of Transportation, Item 2660) to provide for optional reimbursement authority for up to $10 million for both the HSRA and the Department of Transportation to allow for effective use of existing state staff.

Background and Detail. As with the prior proposal, the request from HSRA is in keeping with the overall principle of bringing management administration and oversight into the HSRA organizational structure. The HSRA has been criticized for understaffing, which has impeded its ability to provide adequate oversight for the high speed rail project. With limited staff, the HSRA has had to rely heavily on the project management team, project oversight team, and regional consultant to help manage the project. The shift to state staffing will address this issue by including positions for transportation and planning, environmental planning, right-of-way acquisition, risk management project and contract management, engineering oversight, construction management, contract management and architectural and engineering contract administration. The hiring for the positions will be staggered over a three month period.

Staff Comments and Questions. The proposal is consistent with the HSRA management plan and should result in additional management and oversight capabilities.

> *<u>Questions:</u> (1) Under what circumstance would the reimbursement authority occur and involving what types of activities? (2) What is the reasoning behind the $10 million threshold?*

Staff Recommendation. Approve the budget request and budget bill language.

<u>Vote:</u>

4. **Loan from Public Transportation Account, State Transportation Fund (Spring Finance Letter #3 Budget Bill Language).** The HSRA has requested provisional language to allow for a loan of $26.2 million from the Public Transportation Account of the State Transportation Fund to the High-Speed Passenger Train Bond Fund to cover the state operations cost of the HSRA. In order to streamline and mitigate litigation risk, the HSRA is pursuing a validation action to affirm in court that the proposed project funding is consistent with the Proposition 1A Bond Act. A validation action is a process through which a public entity may choose to validate an action, including the authority underlying a bond issuance or the procedural elements that comprise certain financings, in order to erase any associated uncertainty. The public entity files a validation action in court, in effect, asking those who would contest the process or structure to come forward.

   Proposal Detail. The proposed budget bill language allows the Director of Finance to make the transfer and to order repayment in the event that (1) the fund or account from which the loan was made has a need for the moneys, or (2) there is no longer a need for the moneys in the fund or account that received the loan. The loan would be repayable along with interest calculated at the rate of the Pooled Money Investment Account.

Staff Comments and Questions. The validation action is a prudent step for the HSRA and the loan will facilitate the on-going tasks of the authority and prevent any possible delays. One concern is that the DOF affirm that activities funded by the Public Transportation Account would not at all be impeded by the loan and how that determination would be made.

Questions: *(1) Who will determine whether or not the fund or account is in need of the repayment from HSRA? (2) What are the determinants of 'need' in this situation? (3) Should the fund be required to maintain a minimum balance that could result in a restriction on the loan amount?*

Staff Recommendation. Adopt proposed budget bill language.

Vote:

5. **Process for Relocation of Utilities (Spring Finance Letter—Proposed Trailer Bill).** The HSRA has requested statutory changes that address the process and rules for the relocation of utilities outside of the right-of-way for the high speed rail project. The proposed trailer bill language has been modeled after existing language used by Caltrans for the relocation of utilities in other transportation projects. The HSRA indicates that without the trailer bill language, the project could experience delays or incur unnecessary costs. The HSRA indicates in its request that utility companies are familiar with the proposal and accept the current procedures with respect to other transportation projects.

Background and Detail. The HSRA had the statutory authorization to relocate utilities in order to conduct construction on the high speed rail project; however, no statutory framework exists for this process. Instead, the HSRA has relied upon reaching a mutual agreement with utility companies, but lacks the leverage to compel utility companies to negotiate. The result can be that the project would be subject to delays if agreements are not in place when construction is ready to commence.

The proposed solution would establish procedures for reimbursement or payment of utility relocation costs, clarifying the HSRA's utility relocation process on land acquired for the high speed rail project. The proposed trailer bill language would provide that HSRA will pay for the reasonable and necessary costs of removal and relocation of the utilities that are within the right-of-way. Costs of certain relocations with the right-of-way would also be covered by the HSRA. A credit would be made to the HSRA for improvements to the utility, salvage value of materials, and changes in the useful life of any replacement property.

Staff Comment. Staff has no concerns with the proposed language. The language would establish a process for relocating utilities similar to the process used by Caltrans.

Staff Recommendation: Approve placeholder trailer bill language.

<u>Vote:</u>