Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Monday, May 21, 2012
10 a.m.
Room 112

Consultant: Mark Ibele

Part 2
State and Local Finance / Business Development / Administration

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9620 Cash Management and Budgetary Loans

Department Overview: This budget item appropriates funds to pay interest costs on General Fund borrowing used to overcome cash flow imbalances during the fiscal year. Because receipts and disbursements occur unevenly throughout the fiscal year, the General Fund borrows in most years, even though each budget is balanced when enacted and funds are repaid within the fiscal year.

Issue Suggested for Vote Only:

May Revision Proposal: The January Governor's Budget includes $39 million for interest costs on budgetary borrowing from the General Fund in 2012-13. The May Revision calls for a decrease in this budget item as a result of paying off fewer budgetary loan amounts. The decrease is $21 million for a total of $18 million. The costs for 2011-12 will also decline, from the January figure of $52 million to $35 million. The two-year savings will be $48 million.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve May Revision loan repayment plan.

Vote:

0950 and 0971 State Treasurer's Office, Boards and Commissions

Department Overview: The Governor's Budget includes stable funding for the State Treasurer and 12 related Boards, Committees, and Authorities. Only three January budget change proposals were submitted for these entities and none include General Fund costs – the requests were approved by the Subcommittee at the March 8 hearing. The Governor submitted two new requests on April 1, and those requests are summarized below. No concerns have been raised with these proposals, and they are recommended for approval as vote only issues.

Issues Suggested for Vote Only:

April Finance Letter Requests: The Governor's Budget includes the following three budget augmentation requests:

1. **Credit Fees.** The Treasurer's Office (STO) requests budget trailer bill language to delete the sunset date for language that places a 3-percent cap on amounts appropriated for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement on bonds payable from the State's General Fund. After the June 30, 2013 sunset, the cap will fall to 2 percent. The cap was temporarily raised to 3 percent in budget legislation adopted in 2009. The Treasurer indicates that market conditions necessitate retention of the 3-percent cap and that allowing this higher-cap ensures the best overall terms possible for State borrowing.

2. **Loan Repayment.** The California Alternative Energy and Advanced Transportation Authority (CAEATFA) requests budget bill language to allow a repayment deferral of a $2.4 million loan made to the CAEATFA's California Alternative Energy Authority fund from the Renewable Resource Trust Fund – the loan would be fully repaid by June 30, 2014, instead of the current due date of June 30, 2013. The loan supported the implementation of SB 71 (Statutes of 2010, Padilla), which established a sales tax exemption for equipment used to manufacture alternative or renewable energy products (such as solar panels, photovoltaic cells or wind turbines).

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests.

Staff Recommendations: Approve the trailer bill request of the Treasurer and the budget request of CAETFA.

Vote:

8885 Commission on State Mandates

Department Overview: The Commission on State Mandates (COSM) is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State. The Legislature created the seven-member commission in 1984 as a quasi-judicial body and instructed it to act deliberatively in resolving the complex legal questions associated with determinations of state mandated costs. COSM is made up of the Director of Finance, the State Controller, the State Treasurer, the Director of the Office of Planning and Research, a public member with experience in public finance, and two additional members of local public bodies appointed by the Governor and approved by the Senate.

Budget Overview: This budget item appropriates the funding for staff and operations costs of COSM. (The item also includes appropriations for non-education mandate payments to local governments addressed later in this agenda.) State operations and administrative costs are approximately $1.6 million and the number of personnel years would remain stable, compared to the current year, at 11.0. The budget for COSM as part of the January budget and a subsequent May Revision request are recommended for vote only.

Issues Suggested for Vote Only:

1. **January Budget Proposal.** The Governor's Budget includes a minor budget enhancement for COSM. COSM has requested an augmentation for the 2012-13 fiscal year for the funding of law library updates, other OE&E items, increases in rent, and the purchase of 11 computers. The request is for an increase of $52,000 in the baseline budget and $7,000 one-time for the computer purchase.

2. **May Revision Request.** As part of his May Revision, the Governor has requested the reappropriation of $79,000 to fund unanticipated costs of the commission. The costs are related to the accrued leave payout of a commission staff member who is retiring in 2012.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests.

Staff Recommendations: Approve the COSM budget requests.

<u>Vote:</u>

Issues Suggested for Discussion / Vote:

0954 ScholarShare Investment Board

Governor's Scholarship Program: As part of the Governor's May Revision, the administration proposes trailer bill language (TBL) to revert $63.1 million to the General Fund of moneys previously set aside for the Governor's Scholarship Program. The funds for contracts are allocated to TIAA-CREF for management and disbursement of approximately $85 million in funds, most of which will eventually be reverted to the General Fund. The $85 million represents unused funds from scholarship grants provided to high school students for performance on standardized tests in 2000 through 2002. This proposal will result in $20 million remaining in the reserve to assure funding for participants. A 3 percent discount rate is paid by the state to TIAA-CREF to continue with account administration and to offset the early reversion of funds.

Detail on the Governor's Scholarship Program: The Governor's Scholarship Program was established in 2000 and included two components: a $1,000 scholarship to students who demonstrated high academic achievement on the Standardized Testing and Reporting (STAR) program in the 9^{th}, 10^{th}, or 11^{th} grades; and a $2,500 scholarship to students who demonstrated high academic achievement specifically in math and science on the Advanced Placement (AP) test and other specified exams. Scholarships were awarded without regard to financial need. Due to budget difficulties, the program was repealed in 2003; however the State continued to honor program obligations for tests taken in 2000-2002. A total of about $313 million was provided from the General Fund for the creation of individual scholarship accounts for each recipient with the funds transferred outside the state treasury and managed by a private financial firm. Awardees can receive disbursements for qualified college expenses, and the funds are transferred directly to the college. Recipients have access to disbursement through age 30, after which time their funds revert to the state General Fund.

Issue 1 – Reversion to the General Fund of Excess Funds

Options for General Fund Relief: The majority of awarded funds have been disbursed for qualified college expenses, but about $85 million remains. Based on program activity, it appears that most awardees have either completed college, or entered the workforce without claiming a disbursement of their award. Under current law, the unused portion of the $85 million will revert to the General Fund over the next seven or eight years as recipients turn age 30. Alternatively, as proposed by the administration, statue could be amended to revert the funds sooner for General Fund relief.

Staff Comment: The option of early reversion of the funds is worthy of consideration given the General Fund shortfall for 2012-13. Maintaining a reasonable reserve as proposed under the policy should result in adequate coverage for existing participants.

Staff Recommendation: Approve trailer bill language to revert to the State General Fund $63.1 million Governor's Scholarship Program funds, allow for the payment of a management fee and maintain a prudent balance in the account.

Vote:

1730 Franchise Tax Board

Issue 1 – Measures to Enhance Tax Compliance

May Revision Proposal: The Governor has proposed two policy changes that would result in increased compliance with the state's income tax law and enhance the ability of the tax agency to collect outstanding tax liabilities. The two proposals relate to the ability of earnings withholds where the tax liability has not been paid and the establishment of a penalty for the fraudulent filing of a claim for a tax refund. The issues are described more fully below:

1. **Earnings Withholding.** Under current law, the state is authorized to issue a withholding order for taxes to collect an outstanding state tax liability, including any penalties, accrued interest, and costs in accordance with state law and regulation. Currently, "state tax liability" is defined to mean an amount for which the state has a state tax lien created pursuant to specified provisions. The proposal from the administration would streamline and reduce the costs associated with the earnings withhold process. Under the proposal, the term "state tax liability" would be expanded to include any liability under the Personal Income Tax Law, Corporation Tax Law, or specified franchise and income tax provisions that is due and payable and that remains unpaid. The proposal would save the administrative cost associated with recording a lien. It would also allow the tax agency to collect tax liabilities that are over 10 years old. (Tax debts over 10 years old expire unless renewed by recording a lien.) The change is expected to result in additional General Fund revenues of $11 million in the current year and $27 million in 2012-13.

2. **Fraudulent Refund Claim.** Under existing law, the FTB imposes certain penalties in connection with tax avoidance and partially conforms to federal law in this respect. The administration proposes that state law be changed to additionally conform to federal law and impose a penalty for filing a fraudulent claim for refund. The corresponding federal treatment imposes a penalty if a claim for refund is made for an excessive amount unless there is a reasonable basis for the claim. The penalty is equal to 20 percent of the excessive amount. The new policy is intended to further restrict the potential use of refund requests when the reason for refund is not substantiated. The estimated revenue impact is $1 million in 2011-12 and $3 million in 2012-13.

Staff Comments: The trailer bill proposals from the administration are reasonable efforts to make inroads in the state's existing income tax gap of an estimated $10 billion, while maintaining taxpayer rights. While a tax lien would still be an option for the agency (if for example, wage withholding was not feasible) the proposal would streamline the ability to satisfy established tax liabilities and reduce time and costs. It would also avoid having to place a tax lien on a taxpayer's property. The additional penalty proposed represents conformity with the federal treatment in this area.

Staff Recommendation: Staff recommends approval of the trailer bill language with respect to earnings withholding and fraudulent claims for refund.

Vote:

0509 Governor's Office of Business and Economic Development (GO Biz)

Department Overview: The Governor's Office of Business and Economic Development (GO Biz) is a new entity in State government. It was first established by Executive Order S-05-10 in April 2010, and established in statute effective January 1, 2012, via enactment of AB 29 (Statutes of 2011, J. Perez). The original organization was formed by borrowing positions and programs from other departments and agencies. With AB 29, and enactment of the 2012-13 budget, the entity will for the first time receive a specific stand-alone budget act appropriation. The office is intended to be a high-profile point-of-contact for businesses and the economic development community, and an advocate for California as a place to grow businesses and jobs.

Budget Overview: The Governor proposes total expenditures of $4.1 million General Fund and 28 positions for GO Biz, effective with the 2012-13 budget. Prior to the 2012-13 proposal, the organization borrowed positions from other departments, so the staffing and costs have not been transparent in the budget. With AB 29 and this budget request, the Administration is indicating that the current baseline staffing has been 22.3 positions and $3.3 million ($418,000 General Fund). For 2012-13, funding would increase by $761,000 and 5.7 positions. Additionally, while many of the borrowed positions were from special fund departments, the Administration indicates as a permanent stand-alone entity, it would be inappropriate to use special funds and that all funding should be General Fund – which results in a net new General Fund expenditure of $3.6 million (but a net special fund reduction of $3.3 million).

Reorganization Plan: The Governor's reorganization plan would further augment the staff and functions of GO Biz by incorporating existing business promotion offices within the BT&H Agencies. Specifically, total funding of $12.2 million ($2.5 million General Fund) and 40 positions would move from the BT&H Agency to Go Biz. The offices are: the Film Commission, the Infrastructure and Economic Development Bank, the Small Business Loan Guarantee Program, the Tourism Commission, and the Welcome Center Program. The Administration now indicates this reorganization plan will be submitted to the Little Hoover Commission prior to Legislative Action – so no reorganization budget change is proposed for GO Biz at this time, and not expected until the 2013-14 budget.

Issue 1 – Establishment of the Stand-Alone GO Biz Budget

Governor's Budget Request: The Governor's January Budget proposes a budget appropriation of $4.1 million General Fund and 28 positions for the first year of stand-alone budgeting of GO Biz. The expense is partially offset by reducing the budgets of various departments that had in the past loaned funding and positions for GO Biz - $2.9 million special funds and $418,000 General Fund and 23.3 positions are eliminated from these departments' budgets.

Prior Support for GO Biz: In a February 2010 report, the Little Hoover Commission concluded that the State should reestablish a more prominent role of leadership in the area of business development to fill the void created by the 2003 elimination of the Technology, Trade, and Commerce Agency. Governor Schwarzenegger soon thereafter shifted existing State staff to create such an entity by executive order. The Legislature approved the statutory framework for this organization with large bipartisan majorities by passing AB 29 in 2011.

Structure of GO Biz: The Administration budgets GO Biz in three components:

- **CalBIS:** $1.7 million and 11.4 positions would be for the California Business Investment Services Program (CalBIS), which would serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.

- **Office of Small Business Advocate:** $459,000 and 2.8 positions would be for the Office of Small Business Advocate, which would serve small employers with advocacy and technical assistance.

- **GO Biz:** $1.9 million and 12.4 positions for the remaining functions of communications and policy, international trade and export promotion, and administration.

Most GO Biz staff would be located in Sacramento, but the organizational plan calls for two employees in the San Francisco Bay Area, two employees in Los Angeles, and one employee in the Inland Empire.

Appropriate Staffing and Funding for GO Biz: Given prior support for the GO Biz concept, review of the budget request may focus more on the size of the office and staffing level, instead of the value of having such an office. When AB 29 was adopted, the bill analysis anticipated a budget in the range of $2.3 million, but $4.1 million is requested by the Governor. Additionally, the budget request sets position funding at the highest step for each pay range instead of the more common mid-point level. The Administration indicated that it would reexamine the funding for positions in the budget request, and should be able to explain their position at the hearing.

Staff Comment: This issue was held open at the March 8 hearing at the request of the Department of Finance so the funding level could be reviewed for consistency with other funding requests. The Administration has since completed this review and indicates the funding level could be reduced by $299,000.

Staff Recommendation: Approve the budget request, but reduce the funding level by $299,000 to conform to a recalculation of costs performed in coordination with the Department of Finance and resulting in a final funding level would be $3.8 million.

Vote:

Redevelopment

Background: As a result of legislation adopted last year, (AB 26 X1) and subsequent decisions by the State Supreme Court, redevelopment agencies (RDAs) were dissolved as of February 1, 2012. Between when the Governor proposed the elimination of RDAs as part of his 2011-12 Governor's Budget, RDAs engaged in activities including the transfer of assets. Former RDAs maintained substantial resources and assets that may have been improperly conveyed to cities or other entities. In addition, some payments have been included in lists of "enforceable obligations," and payable from property taxes, when they should not have been. The purpose of the RDA legislation was to redirect property taxes to local governments and convey assets in a manner to maximize the value for purposes of schools, counties, cities and special districts. The Administration has proposed trailer bill language that attempts to address the asset transfers that have occurred counter to law and allow corrections for unqualified enforceable obligations. In addition, the language clarifies some aspects of the original RDA legislation.

Property Taxes and Assets: In his January budget, the Governor assumed that approximately $2.1 billion of additional property taxes (formerly tax increment flowing to RDAs) would be available for K-12 education. For the May Revision, the estimate of the amount over the two-year period has been lowered to about $1.8 billion. This is due to enforceable obligations paid for out of property taxes coming in higher than expected. In addition, in the May Revision, the Governor proposes to sweep existing unencumbered cash and cash equivalent assets from former RDAs held in the Capital Projects Fund, the Debt Service Fund, the Low-Mod Housing Fund, and other funds. This results in an additional $1.4 billion in 2012-13 (and an additional $600 million in 2013-14) for education. The Low-Mod Housing Funds constitute about a quarter of the total cash assets.

Issue 1 – Trailer Bill Language Governing Redevelopment Wind-Down

Proposed Language: The draft trailer bill proposes language that provides a framework for successor agencies to transfer cash assets not obligated or reserved for other purposes to cities, counties, special districts and local schools, consistent with the state Constitution. As part of this, the language addresses remedies for inappropriate transfers of assets and unqualified obligations paid from property taxes, clarifies parts of the original RDA legislation, and corrects inconsistencies and ambiguities.

- **Remedies for Inappropriate Actions.** For General Fund purposes, the most important aspects of the proposed language allows county auditor-controllers, Department of Finance and the State Controller to require the return of funds improperly spent or transferred to a public entity. If the funds are not returned in a timely fashion, they can be recovered through an offset of sales tax and use taxes or property taxes. In addition, the language allows payments on improperly claimed enforceable obligations to be recovered from future property tax allocations.

- **Clarifications of Law.** The proposed language also makes clarifications of certain aspects of current law and adds additional detail for purposes of clarity. Among the most important of these are: clarification regarding the issuance of refinancing bonds and the maintenance of reserves, definition of enforceable obligations to exclude vague plans or commitments, definition of housing assets that would be transferred to the entity that assumes housing activities, treatment of pass-through payments to local governments, constitution and actions of oversight boards, and assets identified for public use.

- **Corrections and Clean-Up.** The original RDA legislation was extremely complex and detailed. As a result, there were certain areas where additional language is required to rectify inconsistencies or inaccuracies. The most important of these areas relate to the provision of payment schedules for enforceable obligations, definition of administrative costs, definition of property taxes, actions of successor agencies, and the timing of certain deposits.

Staff Comments: The state has been informed by various local governments regarding inappropriate and unauthorized transfer of assets by successor agencies. In addition, the Controller, in its on-going audits of RDA funds and assets has also uncovered instances of asset transfers and the use of funds that are not allowed under the law. With respect to enforceable obligations, the Department of Finance has continued to reject claims that it has determined are not truly legal obligations that should be paid from property taxes. The trailer bill language would provide the tools to begin to address these situations. There may be additional issues that the subcommittee would like addressed in the proposed trailer bill, including outstanding local economic development policy issues. In addition, the subcommittee may request that Department of Finance provide key descriptions to the provisions in the trailer bill.

Staff Recommendation: Hold open for additional discussions.

Vote:

8885 Commission on State Mandates

Background: The Governor's Budget proposes the continued funding of property tax and public safety mandates, discussed in Issue 1 below. In addition, the Governor's Budget achieves substantial savings by the continued suspension (and in some cases, repeal) of various mandates that are not associated with law enforcement or property taxes as discussed in Issue 2 below. Of the $4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for $828 million. This $828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of $375.7 million.

- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan, resulting in a savings of $295.1 million.

- **Deferred Payment Mandates.** 2 mandates noted above are still in place but the payment has been deferred, resulting in a savings of $57.9 million.

- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of $99.5 million. These costs must eventually be paid by 2021.

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.

- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service during the suspension.

Proposition 1A, adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by

2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

Issue 1 – Funded Mandates

Governor's Budget Request: The Governor's proposal includes the continued funding of certain mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee. In addition to the General Fund cost presented in the table below, the request includes an additional $2.5 million from special funds.

Proposed Funded Mandates

Mandate	2012-13 GF Cost ($000s)
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	**48,786**

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests. The mandates selected for funding continue the policy adopted in previous years by the Legislature.

Staff Recommendations: Approve the budget request for continued funding of selected local government mandates.

Vote:

Issue 2 – Suspended Mandates

Governor's Budget Request: The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed trailer bill language (TBL) that certain mandates be repealed. These are denoted by an asterisk in the list below. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Suspended Mandates

Mandate	2012-13 GF Savings ($000s)
Adult Felony Restitution*	0
AIDS/Search Warrant*	1,596
Airport Land Use Commission/Plans*	1,595
Animal Adoption*	46,296
Conservatorship: Developmentally Disabled Adults*	349
Coroners' Costs	222
Crime Victims' Domestic Violence Incident Reports II*	1,959
Deaf Teletype Equipment*	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Information*	0
Elder Abuse, Law Enforcement Training*	0
Extended Commitment, Youth Authority*	0
False Reports of Police Misconduct*	10
Filipino Employee Surveys*	0
Firearm Hearings for Discharged Inpatients*	157
Grand Jury Proceedings*	0
Handicapped Voter Access Information	0
Inmate AIDS Testing*	0
Judiciary Proceedings*	274
Law Enforcement Sexual Harassment Training*	0

Mandate	**2012-13 GF Savings ($000s)**
Local Coastal Plans*	0
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340
Mentally Retarded Defendants Representation*	36
Missing Persons Report*	0
Not Guilty by Reason of Insanity*	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services*	2,338
Personal Safety Alarm Devices*	0
Photographic Record of Evidence*	291
Pocket Masks*	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
Prisoner Parental Rights*	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
SIDS Autopsies*	0
SIDS Contacts by Local Health Officers*	0
SIDS Training for Firefighters*	0
Stolen Vehicle Notification*	1,117
Very High Fire Hazard Severity Zones	0
Victims' Statements-Minors*	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*	138,722
Total Suspended Savings	**375,669**

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost $376 million.

Actions in Other Subcommittees: The Senate Budget Committee adopted a process to allow examination of mandates selected for repeal by its appropriate subcommittees. The following actions have been taken in those subcommittees:

- **Suspensions.** At its May 10 hearing, Senate Budget Sub 5 approved the suspension of all public safety mandates noted in the table above, except for one mandate. (This remaining mandate relates to Crime Statistics Reports, and will also be addressed in Subcommittee 5.)

- **Reject Repeal TBL.** At its April 11 hearing, Senate Budget Sub 2 rejected the TBL to repeal the mandates for Airport Land Use Commission/Plans, Animal Adoption, Local Coastal Plans and SIDS Training for Firefighters. At its May 10 hearing Senate Budget Sub 2 took action to reject TBL to repeal the mandates for Conservatorship for Developmentally Disabled Adults, SIDS Autopsies, and SIDS Contacts by Local Health Officers.

- **Adopt Repeal TBL.** At its May 8 hearing, Senate Budget Sub 5 took action to approve TBL to repeal the mandate for Filipino Employee Surveys. At its March 8 hearing, Senate Budget Sub 3 took action to approve TBL to repeal the Perinatal Services.

Assembly Actions: Assembly Budget Subcommittee 4 considered mandates at its March 13 hearing. It took action to suspend those mandates noted in the table above, but reject the repeal TBL in its entirety. (It also approved funding the mandates noted in Issue 1, above.)

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the continued suspension of these mandates. The mandates selected have been suspended in previous years. Regarding the TBL to repeal, a careful review should be conducted. Some of the mandates were considered as part of the budget subcommittee process and actions taken. To the extent that this did not occur, these proposals could be referred to policy committee that considers and addresses the particular subject matter.

Staff Recommendations: Suspend mandates proposed for suspension as noted above that have not already been suspended by other Senate Budget Subcommittees. Reject TBL to repeal selected mandates, except for those two mandates noted above where repeal TBL was specifically approved in subcommittee.

Vote:

9210 Local Government Financing

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 “Prop 1A” borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

Issue 1 – Reimbursements to Amador County

Governor’s Request: In the January Budget, the Governor proposed a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. In an April 1 Finance Letter, the Governor rescinded the funding for Mono County indicating that updated data suggested the problem did not exist in that county for 2010-11. The Governor maintains the funding request of $1.5 million for Amador County. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background and Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Amador County, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs).** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.

- **Backfilling for the Vehicle License Fee (VLF) Tax Cut**. Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.

- **Problem for Amador**: The funding mechanism stopped fully working for Amador County (and initially Mono County) reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but 2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty.** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Amador has not seen net benefits. Individual county estimates of benefits or costs are not currently available, but Amador County has estimated the isolated effect of the property tax shift at $1.5 million.

- **No backfill guaranteed in the original legislation, but the Amador outcome was not anticipated.** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming “basic aid.” Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?

- **Budget challenges in most cities and counties.** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?

- **Timing of the Subvention.** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Question:

LAO: Is there any potential for other counties to fall into a position similar to Amador’s? What might be the potential costs to the state?

Staff Comment: The Subcommittee heard this issue on March 8, when the Administration was requesting $4.4 million for Amador and Mono counties. The issue was left open. The Administration has reduced the request in an April 1 Finance Letter and is currently requesting only $1.5 million for Amador County, indicating that Mono County did not lose funds in 2010-11.

Staff Recommendation: Given the state’s fiscal condition and the ongoing program reductions in other areas, staff recommends that the funding for this not be fulfilled in the budget year. Staff also recommends that LAO be directed to develop criteria whereby funding for such situations might be determined in the future.

<u>Vote:</u>