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Agenda

June 12, 2020

9:00 A.M. - State Capitol – Senate Chamber

BILL	**AUTHOR**	**SUBJECT**
1. AB 75	Committee on Budget	Budget Act of 2019: Augmentation
2. AB 76	Committee on Budget	Education Finance: Apportionments
3. AB 85	Committee on Budget	Revenues

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Senator Holly Mitchell, Chair
2019 - 2020 Regular

Bill No:	AB 75	**Hearing Date:**	June 12, 2020
Author:	Committee on Budget		
Version:	June 10, 2020 As amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Hans Hemann		

Subject: Budget Act of 2019: Augmentation

Summary: This bill makes a supplemental appropriation to the Budget Act of 2019.

Background: Specifically, this bill appropriates $115,419,000 General Fund to multiple state agencies for costs incurred during the 2019-2020 fiscal year.

Proposed Law:

1. Appropriates $4.8 million General Fund to augment the 2019 Budget Act for the California Department of Forestry and Fire Protection (CAL FIRE). The amount includes the cost of back pay of cash-in-lieu-of benefits pursuant to a settlement with Bargaining Unit 8. The Ninth Circuit Court of Appeals ruled that "cash-in-lieu of benefits" payouts should be included in the base salary amounts that are used to calculate employees' overtime compensation. Accordingly, CAL FIRE and California Department of Human Resources (CalHR) reached a settlement with Bargaining Unit 8 to provide back pay to affected employees. The $4.8 million settlement agreement covers the calculated cost of planned and unplanned overtime hours for the period of November 2015 to June 2018. According to the Department of Finance, the overtime pay calculation has been corrected and CAL FIRE will absorb the additional incremental cost associated with this calculation change within its existing baseline overtime budget.

2. Appropriates $9.702 million General Fund to augment the 2019 Budget Act for the California Department of Corrections and Rehabilitation (CDCR) to conduct remediation work to control Legionella bacteria at the California Health Care Facility (CHCF) in Stockton. In April 2019, two inmates housed at CHCF tested positive for exposure to Legionella bacteria. One inmate passed away and a post-death analysis confirmed the presence of Legionella in the patient. CDCR consulted with the United State Centers for Disease Control, the California Department of Public Health and a contracted environmental consultant with water quality expertise. CDCR declared an emergency in accordance with Public Contract Code section 1102 and took action to control the Legionella bacteria at CHCF. The costs included $8.5 million for operating expenses and equipment including shower trailer rentals, in-line water filters, a water testing contract, chlorination equipment rental, bottled water and other miscellaneous supplies for water fixture flushing and other maintenance activities.

An additional cost of $1.2 million was incurred for overtime for plant operations staff and custody staff.

3. Appropriates $11.7 million General Fund to augment the 2019 Budget Act for the Department of General Services (DGS) to conduct ongoing response and recovery operations related to the 2018 Camp Fire in Butte County. Most of department's costs were reimbursed through Government Code section 8690.6, the Disaster Response-Emergency Operations Account (DREOA) and federal reimbursements from FEMA. However, due to the severity of the fire and the prolonged nature of the response and recovery efforts, DGS incurred additional costs that crossed fiscal years. The $11.7 million includes contract work for relief activities that continued into 2019 including janitorial services, security services, RVs, canopies and tents, water truck services, tank and grey water removal services, heating, propane tank and delivery services, and standby medical and airport services.

4. Appropriates $40.3 million General Fund to augment the 2019 Budget Act for the California Department of Food and Agriculture (CDFA) with an extended encumbrance to June 30, 2021. There are 77 fairs in California. Of those, 53 fairs are state-affiliated and have state civil servant employees. Due to the COVID-19 pandemic and the inability to conduct revenue-generating activities, many fairs, if not all, are facing significant financial difficulty. According to the Administration, to address the loss of revenue, all of the fairs are developing financial plans which may include laying off employees. The state expects the layoff process to begin in June 2020. The $40.3 million appropriated in this item is the estimated cost of employee compensation for the fairs that do not have sufficient funds or reserves to cover employee compensation costs during the layoff process. Under the projection, fair managers were expected to be laid off immediately. The remaining state civil servants are expected to go through the layoff process, incurring approximately 6 months of payroll expense. According to the Administration, fairs have lost approximately $98 million in revenue between March and June 2020. As a result, fairs are either using their reserves to pay their employees or are having to layoff staff or a combination of both. In the end, the state is financially responsible for the employee compensation of the state civil servants and the $40.3 million is the estimated cost of that obligation.

5. Appropriates $17,000 General Fund to augment the 2019 Budget Act to reimburse Mariposa County for the costs related to the homicide case of "People v. Cary Stayner." This claim has been approved by the State Controller, pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3 of Title of the Government Code, which allows qualified counties to seek state reimbursement for homicide trial costs.

6. Appropriates $48.9 million General Fund to augment the 2019 Budget Act for multiple departments that incurred costs associated with the 2019 wildfires and the public safety power shutoffs (PSPS). The Governor issued an emergency proclamation on October 25, 2019 for the counties of Sonoma and Los Angeles in

response to the Kincade and Tick Fires, respectively. In addition, the Governor issued another emergency proclamation on October 27, 2019, in anticipation of the public safety power shutoffs initiated by the Investor-Owned Utilities due to the extreme fire and wind conditions. As a result, Department of Finance directed all departments to report costs associated with the two emergencies.

a. This bill augments the following departments for costs incurred for the 2019 wildfires:
    i. Department of Transportation - $6.8 million for off-state highway system asset repair and traffic controls during the evacuations.
    ii. Department of the California Highway Patrol - $1.286 million for traffic management overtime costs related to the wildfires.
    iii. Department of Motor Vehicles - $19,000 for customer support to assist in replacement of important government records, claims for insurance, and other purposes related to losses suffered from the wildfires.
    iv. Department of Parks and Recreation - $58,000 for the mobilization and deployment for fire response coordination and overtime costs for assistance with patrols for areas impacted by the fires.
    v. Emergency Medical Services Authority - $389,000 for the deployment of the California Medical Assistance Team (CalMAT) to provide care to patients and state personnel (e.g. firefighters) and overtime costs for staffing and logistical support.
    vi. Department of Social Services - $83,000 for the State Emergency Food Reserve.
    vii. Department of Corrections and Rehabilitation - $122,000 for wildfire suppression activities, including the use of CDCR state employee strike teams and equipment for both direct wildfire suppression and structure protection.
    viii. Department of General Services - $6.457 million for overtime for emergency staff, laundry and shower units, sanitation rentals and transport, bio-cleaning for shelters, water and fuel infrastructure, comfort kits, unarmed security services, and other equipment and commodities.
    ix. California Military Department - $2.979 million for the deployment of staff and resources to assist with evacuations, patrols, and providing/distributing life sustaining goods to populations affected/displaced by the fires.

b. This bill augments the following department for the costs incurred for the 2019 public safety power shutoffs:
    i. Department of Social Services - $6 million for county Adult Protective Services social workers to conduct wellness checks of seniors during the public safety power shutoff and resources to reimburse and replenish the State Emergency Food Reserve, which provides shelf stable and ready to eat food for immediate use in response to emergencies.

c. This bill augments the following department for the costs incurred for 2019 wildfires and public safety power shutoffs:
    i. Office of Emergency Services (Cal OES) - $24.717 million
        1. The PSPS-related costs were for the State Operations Center and regional response activity costs incurred by Cal OES for activations in response to the power shutoff events.
        2. Cal OES' wildfire costs were made up of two components: (1) reimbursing local California fire companies for incident responses that were directed by Cal OES, but were outside of the mutual aid agreements; and (2) reimbursing the costs for out of state engines that provided mutual aid through the Emergency Management Assistance Compact (EMAC). Oregon, Washington, Montana, Utah, New Mexico, and Idaho each responded—sending a combined total of 150 engines to assist the state in suppressing the fires.

Fiscal Effect: Appropriates $115,419,000 General Fund to address shortfalls in the Budget Act of 2019. Balances of the appropriated funds as of June 30, 2020 as specified, would revert to the General Fund except as provided for the augmentation for CDFA.

Support: None on file.

Opposed: None on file.

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SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Holly Mitchell, Chair
2019 - 2020 Regular

Bill No:	AB 76	**Hearing Date:**	June 12, 2020
Author:	Committee on Budget		
Version:	June 10, 2019 As amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Elisa Wynne		

Subject: Education Finance: Apportionments

Summary: This bill makes necessary changes to implement the 2020-21 budget related to Proposition 98.

Proposed Law: Specifically, this bill:

1. Defers $1,850,377,000 in payments for K-12 education from June 2020 to July 2020, reducing apportionments for the Proposition 98 Guarantee by this amount in 2019-20 and instead counting those apportionments for the 2020-21 Proposition 98 Guarantee.

2. Defers $330,128,000 in payments for the California Community Colleges from May and June 2020 to July 2020, reducing apportionments for the Proposition 98 Guarantee by this amount and instead counting these apportionments for the 2020-21 Proposition 98 Guarantee.

3. Appropriates $406,664,000 in Proposition 98 General Fund for the purposes of funding the Local Control Funding Formula in the 2019-20 fiscal year. These funds would count against Proposition 98 settle-up obligations in the 2013-14 and 2018-19 fiscal years.

Fiscal Effect: This bill appropriates $406.7 million Proposition 98 General Fund for K-12 education.

Support: None on File.

Opposed: None of File.

Comments: This bill provides the necessary statutory changes to enact the 2020-21 budget related to K-12 education.

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SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Senator Holly Mitchell, Chair
2019 - 2020 Regular

Bill No:	AB 85	**Hearing Date:**	June 12, 2019
Author:	Committee on Budget		
Version:	June 10, 2019 As amended		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Joe Stephenshaw and Meron Tesfaye		

Subject: Revenues

Summary: This is the Revenue trailer bill for the 2020-21 budget. It contains various statutory changes necessary to implement the Budget Act of 2020.

Proposed Law:

1. Used Car Dealer Sales Tax Remittance

    a. Requires any licensed car dealers in the state, except new vehicle dealers as specified, to collect and remit sales tax on cars sold to the Department of Motor Vehicles on behalf of the California Department of Tax and Fee Administration (CDTFA).

    b. Establishes that vehicle dealers have an obligation to both submit registration applications and remit sales tax to the Department of Motor Vehicles (DMV) and file a return with CDTFA as specified in existing code.

    c. Provides that a failure to submit a timely application to the DMV by the dealer results in penalty fees as specified in existing code.

    d. Provides that a failure to pay sales tax due after submitting an application to the DMV and failure to file returns to CDTFA in a timely manner, results in penalty and interest on unpaid amounts as specified in existing code.

    e. Requires that a car dealer, except a new vehicle dealer as specified, submit the applicable sales tax based on the sales price of the vehicle as required by existing Sales and Use Tax Law code to the DMV within 30 days of sale.

    f. Allows the DMV to withhold the registration or the transfer of registration of any vehicles sold by a dealer, until the dealer pays any tax and penalties owed for any transactions on or after January 1, 2021. However, if the applicant for registration provides proof of sales tax remittance to the dealer for the vehicle to be registered, the DMV may process registration or transfer of registration for the vehicles for which sales taxes have not been paid by the dealer.

g. Requires the DMV to transfer all collection of sales tax and penalty monies to CDTFA within 30 days of receiving sales tax payments accompanied by a schedule prescribed by CDTFA.

h. Requires that CDTFA reimburse the DMV for all associated costs in carrying out the provisions described above.

i. Allows for disregarding of dollar fractions in the computation of the used car sales tax by the DMV in a manner specified under existing code. Tax payment will still be in full compliance with requirements of Sales and Use Tax Law.

j. The statutory changes above apply to sales of vehicles on or after January 1, 2021.

2. Menstrual Hygiene and Diaper Sales and Use Tax Exemption

   a. Extends the gross receipt sales and use tax exemption for the sale of, or the storage, use, or other consumption of, diapers for infants, toddlers, and children and menstrual hygiene products from January 1, 2022 to July 1, 2023.

   b. Extends the annual appropriation totaling estimated dollar amount of sales and use tax revenues to be transferred from the General Fund to the Local Revenue Fund 2011 during the extended exemption period.

   c. Postpones the due date of the legislatively required report evaluating the effectiveness of the sales and use tax exemption to be done by the Legislative Analyst Office from on or before January 1, 2021 to on or before July 1, 2022.

3. Business Credit Cap

   a. Specifies that for each taxable year beginning on or before January 1, 2020, and before January 1, 2023, the total specified credits otherwise allowable under the Personal Income Tax Law and the Corporate Tax Law claimed may not exceed $5 million for each taxable year.

   b. Provides for an exemption for specified credits to the $5 million limit on total allowable tax credits described above.

   c. Specifies that the amount of any credit otherwise allowable that is not allowed solely due to the application of this bill limitation, shall be allowed an additional carryover period equal to the number of taxable years the credit was not allowed because of this limitation.

d. Makes similar/conforming changes to the Sales and Use Tax Law in relation to the Film and Television Tax Credit and laws governing the gross premium tax on insurers.

4. Film and Television Tax Credit Carryforward

   a. Extends the existing carry over period of the prior version of the film and television tax credit (Film and TV Credit 2.0) from six taxable years to nine taxable years.

5. Net Operating Loss Suspension

   a. Specifies that a net operating loss deduction shall not be allowed in respect to both corporate and income taxes for any taxable year beginning on or after January 1, 2020, and before January 1, 2023.

   b. Extends the carryover period for up to three years, as specified, for any net operating loss for which a deduction is denied pursuant to the changes made by this bill.

   c. Specifies that the suspension of the net operating loss deduction included in this bill does not apply to a taxpayer with a net business income or a modified adjusted gross income of less than $1 million.

6. Minimum Franchise Tax First Year Exemption

   a. Provides that every limited partnership, limited liability partnership and limited liability company that files, registers or organizes to do business in the state, is exempted from payment of the annual tax of $800 in its first taxable year.

   b. This exemption is applicable for taxable years beginning on or after January 1, 2021.

   c. This exemption expires on January 1, 2024.

   d. Makes the exemption contingent on an appropriation to the Franchise Tax Board (FTB) to fund the costs of administration.

7. Advanced Strategic Aircraft Credit

   a. Specifies that for taxable years beginning on or after January 1, 2020, and before January 1, 2026, the Advanced Strategic Aircraft Credit could be used to reduce the alternative minimum tax.

8. Individual Shared Responsibility Penalty

    a. Requires the non-coverage penalty to be collected along with other interest-bearing debt.

    b. Limits the maximum monthly penalty for a responsible individual with an applicable household size of five or more individuals to the maximum monthly penalty for a responsible individual with an applicable household size of 5 individuals.

    c. Specifies that the FTB may adopt regulations to implement the Individual Shared Responsibility Penalty.

Fiscal Effect: The provisions of this bill result in a net General Fund benefit of approximately $4.4 billion for the 2020-21 fiscal year, including:

- The provisions of this bill related to Used Car Dealer Sales Tax Remittance are projected to result in an increase of $12 million in revenue.

- The provisions of this bill related to the Net Operating Loss Suspension are projected to result in increased revenue of approximately $1.8 billion.

- The provisions of this bill related to the Tax Credit Limits are projected to result in increased revenue of approximately $2 billion in the budget year. There is also an interaction between these provisions and the Net Operating Loss Suspension provisions that are estimated to result in approximately $611 million in revenue.

- The provisions of this bill related to the Minimum Franchise Tax First Year Exemption are projected to result in a decrease of revenue of $50 million.

Support: None on file.

Opposed: None on file.

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