

## AGENDA

### ASSEMBLY BUDGET SUBCOMMITTEE NO. 6 ON BUDGET PROCESS, OVERSIGHT AND PROGRAM EVALUATION

ASSEMBLYMEMBER NANCY SKINNER, CHAIR

THURSDAY, AUGUST 22, 2013

UPON CALL OF THE CHAIR - STATE CAPITOL ROOM 444

---

| <u>FILE ORDER</u> | <u>BILL</u> | <u>AUTHOR</u> | <u>SUBJECT</u>                  | <u>PAGE</u> |
|-------------------|-------------|---------------|---------------------------------|-------------|
| 1                 | ACA 11      | Gorell        | State Budget                    | 2           |
| 2                 | SCA 3       | Leno          | Relating to Public Information  | 5           |
| 3                 | SB 335      | Yee           | Expenditures: Service Contracts | 8           |

Date of Hearing: August 22, 2013

ASSEMBLY COMMITTEE ON BUDGET  
Nancy Skinner, Chair  
ACA 11 (Gorell) – As Amended: August 5, 2013

SUBJECT: State Budget

SUMMARY: Increases the vote-threshold for some budget related-bills to a two-thirds vote threshold and makes other changes to the Legislative and budget process. Specifically, this measure:

- 1) Specifies that only one bill can be considered the "budget bill."
- 2) Creates a new category of bill, entitled "a bill that amends the budget bill." Stipulates that these type of bills.
  - a) Amend or augment the enacted budget bill.
  - b) May only be adopted by two-thirds vote.
- 3) Limits enactment of Trailer Bills or "bills that implement the budget bill" to within five days of the final passage of the budget bill.
- 4) Requires all budget bills to be in print for 72 hours prior to passage, except in a declared emergency as specified in Article XIII B of the State Constitution.
- 5) Specifies that the final action to resolve a Fiscal Emergency called by the Governor, per the provisions of Proposition 58 of 2004, would require a two-thirds vote.
- 6) Prohibits the Legislature from adopting bills during the month of July during the second year of a two-year session, so that the body may engage in oversight and programmatic review.

FISCAL EFFECT: Unknown

COMMENTS: This measure is intended to reintroduce the necessity of supermajority budget votes by limiting the voter-approved power for the Legislature to adopt a portion of the budget package with a majority vote to a five-day period each year. In addition, it requires certain bills related to the budget package to be adopted with a two-thirds supermajority.

In recent history, the super-majority vote requirement of the budget was used for a minority party of the Legislature to leverage policy concessions, which led to protracted budget fights that emphasized short-term solutions. The last budget package that was adopted by a super-majority in 2010 was adopted 100 days into the 2010-11 fiscal year, and had a structural deficit of over \$19 billion. Since the passage of Proposition 25 in 2010 set the budget vote threshold at a majority vote, the Legislature has adopted three budgets on-time and the State is projecting a structural surplus for the first time in over a decade. Recently, the State's credit rating was increased, in part because Proposition 25 of 2010 removed the dysfunctional process that made it difficult for the Legislature to adopt a fiscal plan.

If the provisions of ACA 11 were current in effect, significant portions of recent budget packages that were adopted with a majority vote would have instead required a super-majority vote for passage. This measure would restrict the ability to change the State's existing fiscal plan by majority vote, which is often necessary to facilitate the adoption of the budget itself. For example, typically the Education Trailer bill contains changes to amend the State's budget for the current year in order to adjust appropriations to conform with the Proposition 98 guarantee level. Recently, the 2013, Education Trailer bill amended the 2012-13 budget to appropriate funding for the Common Core standards (AB 86 Chapter 48 of 2013). (It is important to note, that the Constitution has always allowed education spending to be approved by majority vote, so this measure may even go further to restrict education spending than what existed prior to Prop 25). In recent years, changing the budget act for the current year was necessary to facilitate cash management, to change the repayment terms of special fund loans as in, and to extend liquidation periods for unspent bond funds. Under the terms of ACA 11, all of these actions would now require a two-third's vote to adopt. This means that some of the fundamental assumption on expenditures and accounting that underpin the budget itself would now be subject to a two-thirds vote threshold and thus making it harder to craft a budget package that could be fully adopted by majority vote.

The measure would also make it more difficult to negotiate a final budget agreement between the Legislature and the Governor by imposing logistical hurdles that make it difficult to enact a final compromise. In the two budget packages enacted since Proposition 25 was approved in 2010, the Legislature has used a bill that amended the budget, which was unofficially referred to as a "Budget Bill Jr." to facilitate changes needed to reflect a final budget deal. This mechanism is used because of the logistical difficulty in amending the budget bill, which was 722 pages long in 2013. In addition to imposing a higher vote threshold on a "Budget Bill Jr." thus rendering it less useful for such last minute changes, the process imposes a 72 hour in print rule and a five day limitation to the use of trailer bills. These overlapping provisions significantly restrict the period of time that the Legislature can make changes to a majority vote package while at the same time removing existing tools that are used to expedite the process. Thus, the entire majority-vote budget package must be executed precisely to avoid a mine-field of traps intended to require a two-third's vote to resolve.

The "Budget Bill Jr." mechanism is also used to allow further discussion on issues related to the budget that required further development, such as the appropriation of funding for the High Speed Rail project, contained in SB 1029 (Senate Budget and Fiscal Review), Chapter 152, Statutes of 2012. This mechanism is useful to all additional consideration to budget proposals that needed further fine-tuning after the budget was passed, but would such efforts, as well as technical clean up bills would require two-third vote for adoption per this measure. This measure would also restrict the Governor's ability to use the full twelve days to review the budget package, as currently provided in the Constitution, because the Legislature would only have the ability to adopt Trailer Bills with a majority vote for the five days after the budget was passed.

In addition, the Legislature has traditionally amended the budget act at the end of the fiscal year to reflect unexpected appropriations in order to true up the budget to actual expenditures. This Supplemental Appropriations Bill, also called a "deficiency bill" would also be subject to a two-thirds vote threshold under the provisions of this measure. In 2010, the Legislature did not pass a deficiency bill because it could not muster the two-third vote necessary due to a political leveraging gambit by the minority party in the Assembly. As a result, the State failed to pay several contractors and vendors for services provided and these individuals were forced to submit claims to the Victim's Compensation Board to finally be reimbursed for services provided.

This not only further undermined the State reputation as a creditor but also created problems with the fund condition of the Victim Witness Account, which took years to recover.

The provisions of this measure further restrict the ability of the majority party to resolve a Proposition 58 Special Session by imposing a two-third vote threshold to the proclamation that ends the session. Currently, the Legislature can adjourn for the session with a majority vote, so this would impose a higher threshold to effectively adjourn Fiscal Emergency Special sessions. It seems inconsistent to require a higher vote threshold to resolve an emergency financial situation than it would to pass the budget itself.

The provisions requiring the budget bills to be in print for 72 hours would also severely narrow and hamstring the annual budget process. The passage of Proposition 25 in November of 2010 sent a clear signal to the Legislature that the on-time passage of a budget is a top budget priority for the public; the measure even included financial penalties for members of the Legislature if the budget was not passed by the deadline. California's Constitution requires that the Legislature adopt the budget on or before June 15<sup>th</sup> of each year, giving the Legislature slightly more than four weeks from when it receives the May Revision on May 14<sup>th</sup> to when it must enact the budget. This bill would require about ten percent of that time-period to be set aside for the bills to be in print on the floor at the end of the process.

How would the Legislature accommodate this loss of time? Because the current May-June process is already compacted, it is difficult to envision how the process would accommodate this requirement. Should the time to analyze and hear the May Revision proposals be shortened by three days, reducing the chance for the public to participate in crafting of the budget and requiring members to vote on provisions with less information? Or should the Senate and the Assembly have three less days to reconcile their respective budgets into one unified version of a budget package? Perhaps the drafting process could be shortened for the trailer bills and the over 800-page budget bill, but that would further tax the hundreds of staff in Department of Finance, Legislative Counsel, as well as the Legislature and the Administration that develop the final budget package, potentially resulting in significant errors in their work product.

Because the budget process is based on a finite schedule, there is no room to accommodate this print requirement without undermining the quality of the process and the budget legislation. Therefore, these costs should be considered when weighing the merits of this bill.

This measure also includes a provision to set aside the month of July every two years to conduct oversight. As part of this provision, the Legislature would not have the power to enact Legislation. Presumably, this prohibition is to encourage the Legislature to focus on this oversight effort. However, this also takes away the Legislature's main leverage to take action.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File.

Opposition

None on File.

Analysis Prepared by: Christian Griffith / BUDGET / (916) 319-2099

Date of Hearing: August 22, 2013

ASSEMBLY COMMITTEE ON BUDGET  
Nancy Skinner, Chair  
SCA 3 (Leno) – As Amended: August 15, 2013

SENATE VOTE: 37-0

SUBJECT: Public Information.

SUMMARY: Proposes amendments to the California Constitution (Constitution) to require local agencies to comply with the California Public Records Act (CPRA) and the Ralph M. Brown Act (Brown Act) and exempt the state from reimbursing local agencies for related costs. Specifically, this bill:

- 1) Proposes an amendment to the Constitution to require each local agency to comply with the CPRA and the Brown Act, and to comply with any subsequent statutory enactment amending either act, enacting a successor act, or amending any successor act that contains findings demonstrating that the statutory enactment furthers the purposes of Section 3 of Article I of the Constitution.
- 2) Proposes an amendment to the Constitution that provides that the Legislature may, but need not, reimburse local agencies for legislative mandates contained in the CPRA or the Brown Act.

EXISTING LAW provides that the people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

Provides that statutes, court rules, or other authorities must be broadly construed if they further the people's right of access, and narrowly construed if they limit the right of access. A statute, court rule, or other authority that limits the right of access must be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

Requires the state to reimburse local governments for the cost of new programs or higher levels of service mandated by the Legislature or any state agency. Provides the following exceptions: mandates requested by the affected local agency; legislation defining a new crime or changing an existing definition of a crime; or mandates enacted prior to 1975, or executive orders or regulations initially implementing such legislation.

Establishes standards for local public agencies' open and public meetings pursuant to the Brown Act. Requires the meetings of local governments' legislative bodies to be "open and public," ensuring the people's access to information so they may retain control over the public agencies that serve them.

Provides for public access to public agencies' records pursuant to the CPRA. Requires, with specified exceptions that public records be open to inspection and that every person has the right to inspect any public record.

FISCAL EFFECT: One-time General Fund costs of about \$220,000 to include an analysis of this measure, and arguments for and against the measure, in the state voter pamphlet.

Unknown future state General Fund savings, from relieving the state from reimbursement for mandated costs related to the CPRA and the Brown Act.

COMMENTS: This bill proposes amendments to the Constitution that would require local agencies to comply with the CPRA and the Brown Act, and would exempt the state from reimbursing local agencies for these costs. If enacted, SCA 3 would appear on the ballot in the next statewide election in June of 2014.

The Commission on State Mandates (Commission) issued a Statement of Decision on May 11, 2011 (Case No.: 02-TC-10 and 02-TC-51), determining that a number of provisions in the CPRA impose reimbursable state-mandated programs on local agencies. Although the core provisions of the CPRA were enacted in 1968, and are thus not subject to state-reimbursement, this test claim found that certain provisions enacted after 1975 are reimbursable state-mandated activities, including the following:

- 1) Providing a copy of public records in an electronic format used by the agency;
- 2) Notifying a requesting party whether records are public and subject to disclosure within 10 days, and the reasons for that determination;
- 3) Providing a reason to a requesting party if an extension of the 10-day period is necessary due to unusual circumstances;
- 4) Providing assistance to the public in identifying and locating public records; and,
- 5) Redacting or withholding home address and telephone contact information of school district employees from public records that are subject to disclosure.

The Commission adopted Parameters and Guidelines (P&Gs) on this test claim on April 19, 2013, which provides guidance to local agencies seeking reimbursement, but has not adopted a statewide cost estimate. The statewide cost estimate provides the Legislature with an estimate of the projected annual General Fund costs associated with the mandate.

The Governor's 2013-14 Budget proposed to suspend a number of mandates, including the CPRA mandate. As part of the budget trailer bills, the Legislature approved AB 76 (Committee on Budget), which recast certain provisions of the CPRA as best practices and thereby made local agency compliance optional with respect to specified provisions that were deemed to be reimbursable state mandates. In response to concerns, a substitute bill, SB 71 (Committee on Budget and Fiscal Review), that included all of the provisions of AB 76, excluding those related to the CPRA mandate and an additional mandate related to local agency ethics training, was passed by the Legislature. The Governor signed SB 71 and vetoed AB 76.

This Constitutional amendment will clarify through the ballot process that local agencies are responsible for costs of complying with the constitutional provisions that guarantee public access to the operations and records of local agencies included in the CPRA and the Brown Act. This amendment will address the concerns over how costs for local agency compliance with best practices for open government are distributed between state and local agencies.

REGISTERED SUPPORT / OPPOSITION:

Support

California Newspaper Publishers Association

Opposition

Association of California Water Agencies

Analysis Prepared by: Genevieve Morelos / BUDGET / (916) 319-2099

Date of Hearing: August 22, 2013

ASSEMBLY COMMITTEE ON BUDGET  
Nancy Skinner, Chair  
SB 335 (Yee) – As Amended: August 5, 2013

SENATE VOTE: 28-10

SUBJECT: State Contract Expenditure Reporting

SUMMARY: Requires the FI\$Cal accounting system, which is currently under development, to report information on all contracts over \$5,001 for agencies and departments that use the system. Specifically, this bill: Stipulates that contract information for all contracts in departments that use FI\$Cal must be searchable and sortable and contain the name of the contractor, a description of services, the total projected costs of the contract, the amount paid to the contractor in the current and prior years, the effective date of the contract, and the procurement method.

FISCAL EFFECT: Committee staff believe any costs associated with this bill have already been accounted for in the current project costs for the FI\$Cal project.

COMMENTS: FI\$Cal, the State's effort to modernize the State's accounting and budgeting practices and install modern automation tools is well underway. This bill intends to set reporting requirements upon the new system that are consistent with prior legislative intent around the goals of the project to provide accessible information on State expenditures.

In creating the FI\$Cal project, the Legislature set some broad goals and priorities for the information contained in the new system. This bill builds upon those goals, by appropriately refining the expectations regarding the project.

Currently, the State operates the State Contracting and Procurement Reporting System (SCPRS), which provides information on State contracts. This data cannot be easily analyzed or sorted, which makes it difficult to analyze and search. The data is also hard to aggregate because a single vendor name may be coded inconsistently by different account clerks. This limitation has been recognized during Assembly budget oversight hearings in the recent past, when information regarding State contract expenditures were scrutinized.

The FI\$Cal system will solve these problems with its improvements to procurement. The system has already developed a single chart of accounts, which will be rolled out across 140 departments and a centralized vendor management file that will improve the standardization of the data. The system itself is designed to produce reports that have the sortable functionality that is similar to the requirements of this bill. When the system is fully operational in 2016, the type of information required in this bill will be available within the FI\$Cal system. Therefore, this bill appears to be consistent with the efforts already underway with the FI\$Cal project. Many of the potential costs of this bill, such as changing the State Contracting Manual, will need to be undertaken to implement the FI\$Cal project itself, so the additional specificity on reporting articulated in this bill should have no additional costs.

FI\$Cal project staff restate that not all State agencies will use the contract procurement components of FI\$Cal and thus the data requested in this bill will not be provided for those departments. In particular, data for Lottery, Corrections, DMV, Caltrans, and Water Resources will not have contract data available in FI\$Cal. However, these departments would technically "use the FI\$Cal system" for other functionality, like budgeting. The author's office states that the intent of the bill is consistent with this clarification and there is no expectation that this bill would require an increase in the scope of the project to require new functionality for departments.

Currently the \$616.8 million FI\$Cal project is on schedule and has met its significant project milestones. The project has implemented its "Pre-Wave" activities to develop the templates and architecture of the system and then will begin rolling out the project through three "Waves" of departments over the next three years.

The information gathered through the requirements of this bill may not be sufficient to capture true contract expenditures for State vendors. Most state appropriations can be encumbered for up to three years, which means contractors can have pending unpaid invoices that would not be reported in the current and prior year data, as required in the bill. Very large projects, like the IT contracts for efforts like the FI\$Cal system contract or the High Speed Rail Authority's contracts for construction, often have longer appropriation periods to accommodate the complexity and duration of the project. Thus, if this bill is enacted, further reporting could be required to provide a comprehensive picture of contract expenditures.

The Legislature may need to revisit FI\$Cal reporting language to align the expectations of reporting with the capabilities of the system. While the requirements in this bill appear to be broad enough to fit within the expected functionality of the system, it will be worth revisiting to ensure that the system is providing data efficiently to the public and the Legislature itself.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME (Sponsor)

Opposition

None on File.

Analysis Prepared by: Christian Griffith / BUDGET / (916) 319-2099