AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 5
On Transportation and Information Technology

Assemblymember Bob Blumenfield, Chair

WEDNESDAY, APRIL 29, 2009, 4:00 PM
STATE CAPITOL, ROOM 127

ITEMS TO BE HEARD

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ITEM 2660 DEPARTMENT OF TRANSPORTATION (CALTRANS)

The mission of the California Department of Transportation (Caltrans) is to improve mobility across California through safety, mobility, delivery, stewardship, and service.

ISSUE 1: UPDATE ON FEDERAL STIMULUS FUNDS

On March 25, 2009, Budget sub-Committee 5 held an informational hearing on the American Recovery and Reinvestment Act (ARRA) and examined ways in which the state could maximize receipts of ARRA funds. On March 26, 2009 the Legislature passed and the Governor signed AB 20 X3 (*Chapter 21, Statutes of 2009-10 Thrid Extraordinary Session, Bass*) to appropriate $2.6 billion in ARRA funds for transportation. The legislation directed: $935 million to State Operations and Protection Program (SHOPP) projects (with $310 million of this available for short-term loans to Proposition 1B projects); $77 million to Transportation Enhancement projects such as bicycle and hiking trails ($29 million state funds); and the remainder of $1.6 billion to regional transportation agencies, cities, and counties. The Department should be prepared to update the Committee on the status of those funds.

According to the Department:

- The $625 million available for SHOPP projects has been fully allocated. As of April 22nd, $294 million of that $625 million had been obligated for 37 projects. Caltrans is monitoring this funding daily to ensure all the funds are obligated within the required timelines. The California Transportation Commission has already approved a supplemental list of projects to receive funding if the initial list achieves savings or are unable to utilize all the funds appropriated.

- The $310 million available for loans to stalled Prop. 1B projects has been disbursed to 4 high priority projects consisting of Route 905 in San Diego County, 405 in LA County, 215 in San Bernardino County, and 24 in Contra Costa and Alameda Counties.

- Of the $29 million in state controlled TE funds, only $2.1 million has been allocated. The Department indicates these funds should be fully allocated by December 2009 (see further discussion on these funds below).

<u>Section 28.00 letter:</u> On April 2, 2009, the Administration submitted a Section 28.00 letter to the Joint Legislative Budget Committee (JLBC) to augment Caltrans' federal trust fund budget by $32.3 million to distribute federal grants for public transit. California is expected to receive a total of $1.1 billion in ARRA funds for transit (this amount is in addition to the $2.6 billion appropriated by AB 20 X3). This request allocates formula based funding which Caltrans is responsible for administering to the locals. Nearly all the rest of the $1.1 billion will be administered directly to the locals without state involvement.

Technical Adjustment to Federal Funds Appropriation: The revised 2008 Budget Act and the adopted 2009 Budget Act included $200 million in funds anticipated from federal stimulus to offset any decrease in SHOPP that would occur because the budget package included a shift of transportation funds from tribal gaming to the General Fund. The ARRA appropriation in AB 20 X3 was not adjusted to reflect the funding that had already been provided in the prior legislative actions. The Department has indicated it concurs with the need for this technical adjustment.

COMMENTS

In addition to the funds discussed above, there were $1.5 billion in competitive grants, for which California could receive up to $300 million. Caltrans should update the sub-committee on the status of funds appropriated via AB 20 X3, the funds requested through their Section 28.00 letter, and other related ARRA funds.

Caltrans should also indicate whether further action will be necessary from the Legislature for ARRA funds, and if they anticipate any future section 28.00 letters.

TE FUNDING:
AB 20 X3 specified that Transportation Enhancement (TE) funding provided through ARRA should be used first on projects that can be constructed by the California Conservation Core (CCC) or their affiliates and second on bicycle and pedestrian projects. It is staff's understanding that Caltrans has only identified enough projects meeting these criteria to utilize approximately 30-35% of their $29 million in TE funds. And of these projects, only one is a bicycle project.

The Committee may wish to ask:

- What kind of outreach was done to find projects meeting the specified criteria for these funds?

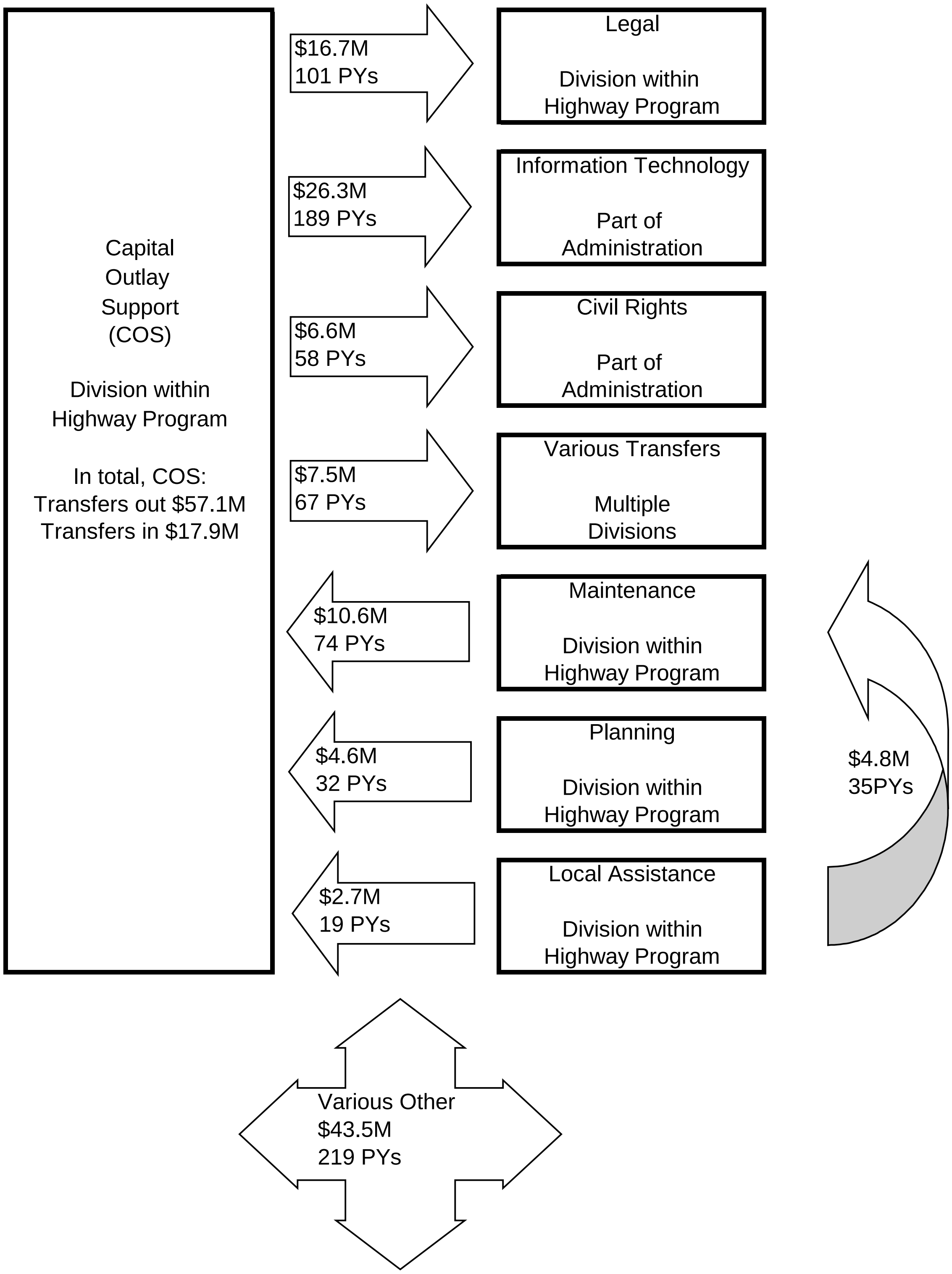
- What has Caltrans done to ensure that regional agencies are prioritizing the appropriate projects?

ISSUE 2: CROSS ALLOCATIONS (SECTION 26.00 VIOLATIONS)

Staff has discovered, and Caltrans confirms, that the Department has been shifting funds among programs scheduled in the budget act without Section 26.00 reporting. Scheduling in the budget act is binding on Department expenditures, but budget Control Section 26.00 does allow funding shifts among scheduled items with 30-day legislative reporting. Caltrans calls its process "cross-allocation" and indicates it promotes effective management when the type of work to be performed by a division and related to that divisions' primary function, is better performed by experts in another division. For example, the 2007 Budget Act scheduled $1.6 billion for Highway Transportation – Capital Outlay Support (COS), and $78 million for Highway Transportation – Legal; however, Caltrans cross-allocated $16.7 million and 101 positions from COS to Legal. As such, the budget indicated a budget of $78 million and 172 positions for the Legal division, but in reality, Caltrans cross-appropriated to achieve a real budget of $95 million and 273 positions for Legal.

While this practice no doubt makes internal budget management easier for Caltrans, there is no legal authority for the Administration to shift funds in this manner without following the process laid out in Budget Control Section 26.00. While the final expenditures may be justified by achieving the ends intended in the legislatively approved budget, the methodology and lack of transparency are unacceptable.

The chart on the following page (developed by Senate Budget Staff) shows the "cross appropriations" or shifts among divisions scheduled in the 2007-08 Budget Act.


Capital
Outlay
Support
(COS)
Division within
Highway Program
In total, COS:
Transfers out $57.1M
Transfers in $17.9M
$16.7M
101 PYs
Legal
Division within
Highway Program
$26.3M
189 PYs
Information Technology
Part of
Administration
$6.6M
58 PYs
Civil Rights
Part of
Administration
$7.5M
67 PYs
Various Transfers
Multiple
Divisions
$10.6M
74 PYs
Maintenance
Division within
Highway Program
$4.6M
32 PYs
Planning
Division within
Highway Program
$2.7M
19 PYs
Local Assistance
Division within
Highway Program
$4.8M
35PYs
Various Other
$43.5M
219 PYs

COMMENTS

Caltrans should be prepared to recommend a method of remedy for this situation. In 2007-08 Caltrans shifted more than $123 million and 794 positions without proper approval. The Department knows what all funds are intended for at the time of budgeting. The Committee may wish to ask why funds needed for something like legal assistance aren't just included in legal assistance from the start. Line items could also be budgeted for "reimbursement," allowing funds to be provided to the division that needs the service, but still show as a reimbursement in the expert division providing the work. For changes needed mid-year, the Section 26.00 process allows such transfers to occur.

Alternatively, the Administration could request provisional language to allow Caltrans to shift specified amounts under specific circumstances without legislative reporting required.

If such "cross-allocations" truly cannot be addressed through changes to the schedule in the initial formation of the budget, the Administration should propose a method they intend to use to address this concern.

ISSUE 3: FINANCE LETTER – TORT PAYMENTS

The Administration requested a permanent increase of $20.0 million (State Highway Account) to fund tort payments. In a Section 26.00 letter dated April 3, 2009, the Department of Finance reported to the Joint Legislative Budget Committee (JBLC) that Caltrans has requested a shift of funding among programs of $17.7 million in order to pay higher-than-budgeted tort claims in 2008-09. While the budget for tort claims has remained unchanged in recent years at $53.6 million, Caltrans has had to shift budget resources in four of the past five years to pay tort claims. The historical tort budget funding and actual expenditures (in millions) are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	$41.4	$65.1	$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06	41.4	66.7	25.3
2006-07	53.6	51.5	-2.1
2007-08	53.6	72.9	19.3
2008-09*	53.6	71.3	17.7
2009-10*	73.6	73.6	0

* Estimate

COMMENTS

Caltrans is sued for approximately $1 billion involving accidents on the State Highway System every year. There are approximately 175,000 accidents every year, about 1,500 of which involve fatalities and nearly 1/3 of which involve injuries.

In each of the past 2 years, Caltrans has had to request significant amounts of funding through the Section 26.00 process. Given this recent history, an increase in funding for this purpose seems reasonable. Increased settlements are partly driven by increasing health care costs, salaries, and wages. <u>The Committee may wish to ask the Department if it makes more sense to budget on the high side or low side of the estimated need, and where they consider this request to fall.</u> The budget does include language allowing any unencumbered costs in this item to be made available for the SHOPP.

Approval of this item includes a corresponding change in BBL to reflect the updated amount.

ISSUE 4: GARVEE BOND FUNDING

The January Governor's Budget proposed an appropriation of $769 million to fund the full multi-year debt repayment for Grant Anticipation Revenue Vehicles (GARVEE) bonds that Caltrans would like to issue in 2009-10.

GARVEE bonds are revenue bonds backed by future federal transportation funding. The use of GARVEE bonds accelerates projects that would otherwise be delayed because of insufficient transportations funds, saving construction-inflation costs, and delivering the project faster to travelers. The Administration proposed to use GARVEE financing to advance three State Highway Operations and Protection Program (SHOPP) projects. The appropriation was pulled from the 2009 Budget Act because it was unclear at that time: (1) whether federal stimulus funds would reduce the need for GARVEE financing; and (2) whether additional revenue would materialize from a proposed increase in the gasoline and diesel excise tax.

Existing statute allows the California Transportation Commission to authorize GARVEE projects up to a level where GARVEE debt service reaches 15 percent of annual federal funding. GARVEEs have been appropriated in two prior state budgets. The 2004 Budget Act appropriated $783 million for GARVEE debt service, and the 2008 Budget Act appropriated $181 million for GARVEE debt service. These two bond sales provided $657 million and $143 million, respectively, to fund SHOPP and STIP projects throughout the state. Debt service for the two prior debt issuances is still low; less than 3 percent of base federal funding in 2009-10.

COMMENTS

Upon request, the Administration re-evaluated this proposal, and has revised their request. The new request is for $675 million in bonding authority, $94 million less than the original proposal. These funds are intended to fund two SHOPP projects:

- San Francisco US 101 Doyle Drive (this will only provide partial funding for this project)
- Bridge replacement project in Long Beach, at Schuyler Heim Bridge

This proposal would accelerate project delivery of these two projects helping to avoid cost inflation while they wait for sufficient funding.

ISSUE 5: WORKFORCE DEVELOMENT CENTERS

The January Governor's budget requested a permanent increase of $1 million (half federal funds, half State Highway Account) in grants to local non-profits for workforce development training in the transportation area. This would be in addition to a one-time federal grant of $1.2 million that Caltrans recently received for this purpose. As a new program, the $1.0 million in the BCP was excluded from the 2009 Budget Act (SB 1 X3).

The Department indicates the $1 million would be used to fund 5 workforce development centers ($200,000 each). These centers would provide pre-apprentice level training to up to 300 people each year. The training would teach "soft skills" such as how to show up to work on time, how to dress properly for a job, how to properly wear a hardhat, and how to use a tape measure. Some basic carpentry skills and other skills, such as truck driver training, would also be taught. Graduates would receive job placement assistance. For graduates that are placed in union apprenticeship programs with private businesses, Caltrans would also pay their first installment of union dues. The request specifically includes $25,000 for union dues and fees for private-sector workers.

<u>LAO Comment:</u> The LAO recommends rejecting this proposal because the activities are beyond the scope of Caltran's core mission and duplicative of other state labor training programs. Additionally, the LAO raises concern over whether this expenditure would be a constitutionally allowable use of SHA dollars.

COMMENTS

Caltrans indicates that these services may be provided in coordination with existing training and job placement services provided by the state. This begs the question of why the state should put Caltrans in the business of job training, when we already have the Employment Training Panel, California Workforce Investment Board, grants through the Workforce Investment Act, and numerous programs through the Community College system. As more agencies and departments attempt to administer their own workforce development programs, the ability for the state to effectively manage and coordinate these efforts gets more difficult often leading to inefficiencies and duplications of effort.

Additionally, these funds would otherwise be available for the SHOPP, creating construction jobs immediately. This proposal would shift those funds away from that purpose.

ISSUE 6: DIESEL RETROFIT AND REPLACEMENT

The Administration submitted a January budget for $53.4 million (State Highway Account) and 7 positions to replace or retrofit 1,161 vehicles and pieces of equipment, including both on-road and off-road vehicles. Caltrans indicates this budget augmentation is necessary to comply with State Air Resources Board (ARB) and South Coast Air Quality Management District (SCAQMD) regulations. This funding was pulled from the 2009-10 approved budget to allow further review in the sub-Committee. The funding was pulled because this process of retrofitting and replacing vehicles may cost around $260 million over five years. Additionally, there seems to be some confusion between Caltrans and the Air Resources Board (ARB) about what exemptions might be available and feasible for Caltrans due to the high cost.

In July of 2007 the ARB adopted the mandate for off-road diesel vehicles to require affected fleets to achieve, in essence, 8% replacement and 20% retrofitting of the fleet.

In December of 2005 the ARB adopted the mandate for on-road, heavy duty diesel vehicles to use the "best available control technology" by specified dates with 100% compliance by 2011.

In July 2002 the SCAQMD implemented the heavy duty truck rule 1196 requiring affected fleet operators to procure alternative-fueled trucks in lieu of diesel-fueled vehicles when replacing those vehicles.

<u>LAO Comments:</u>

<u>ARB:</u> The Legislative Analyst indicates that compliance with diesel rules is much more costly than planned. The ARB had estimated the total cost for the entire state fleet would be $60 million. Caltrans now estimates it will cost them $260 million ALONE to comply with these regulations (the $260 million includes compliance costs for all three regulations listed above). Additionally, in some cases, such as for off-road vehicles, even new replacement vehicles must be retrofitted with particulate matter traps. Because most such devices are too large to easily fit onto the department's trucks, Caltrans is requesting staff to modify and rebuild some of its vehicles. Caltrans concluded, based on its discussions with ARB that this expensive and difficult process is the only way to achieve compliance. It is not clear, however, if this need to rebuild vehicles to comply with the regulation would qualify Caltrans for an exemption based on technological infeasibility. LAO points out the existing exemption guidelines would require Caltrans to apply for an exemption of each individual vehicle, unless ARB found the technology does not exist to complete the necessary retrofits, and thus amended its regulations. ARB has not appeared receptive to this option.

<u>SCAQMD:</u> The South Coast Air Quality Management District (SCAQMD) regulations require that Caltrans use alternative energy source vehicles (such as natural gas) for vehicles *replaced* in the district. Natural gas vehicles cost about $100,000 more than an ARB-compliant new diesel truck. The ARB regulations will now require Caltrans to either retrofit or replace a significant portion of its fleet over the next few years. Because of the interaction with the SCAQMD, Caltrans must *retrofit* their vehicles in SCAQMD rather than *replace* them, because the natural gas replacements are cost prohibitive. The more cost effective and environmentally friendly action, however, would be for Caltrans

to replace those vehicles with new diesel vehicles which cost less and burn cleaner. Because the SCAQMD rules won't allow replacement with new diesel vehicles, Caltrans must instead *retrofit* those vehicles.

<u>LAO recommendations:</u> The LAO recommends that Caltrans and the ARB report at the hearing:

- Any changes to the statewide and regional air quality regulations that should be made to allow the state to reach its air quality goals in a cost-effective manner.

- Any legislation needed to allow the state to take a more cost-effective approach to comply with these air quality rules. This could include changes in the way the ARB and SCAQMD implement their air quality rules.

- How Caltrans can comply with these air quality requirements, over multiple years, in the most cost-effective manner.

- The steps Caltrans can take that are technologically feasible to comply with these air quality rules and what actions are not technologically feasible.

<u>UPDATED REQUEST:</u>
After discussions with ARB and changes that have occurred since submittal of the Governor's 2009-10 budget, Caltrans believes $5.4 million of their request can be deferred to future years. This leaves a total budget request of $48 million.

The deferral stems from two primary issues:

1) In discussions with ARB Caltrans determined that some retrofit control devises they installed prior to the mandate count for double credit, decreasing the necessary retrofits in the budget year by $2.2 million.

2) Replacement equipment was received after the time measurements were required to determine NOx emission averages, thereby affecting the required replacement levels for the year. Those pieces of equipment reduced necessary expenditures in the budget year by $3.2 million.

COMMENTS

Caltrans has made this proposal as their best effort to meet those regulations they believe are required for them. The LAO has pointed out, however, that the interaction of these regulations has created a scenario where Caltrans may have to move forward in an inefficient manner, costing more money to get less emission reductions. The ARB has also been asked to be present for this hearing so they can help explain the regulations and discuss proposed solutions.

SCAQMD has also been requested to be present at the hearing to discuss the interaction of their rules with ARB and how it is impacting Caltrans. SCAQMD should be prepared to answer the questions posed by the LAO above as well.

While this Committee and the Legislature have consistently expressed an interest in improving air quality and supporting such efforts, it is also in the best interest of the state to ensure we do this in the most efficient manner.

ARB, SCAQMD and Caltrans should all be prepared to address the issues raised by the LAO.

The Committee may wish to request continued discussions between staff, ARB, Caltrans, and SCAQMD to determine what options may be available to increase the efficiency of this proposal.

ITEM 2665 HIGH SPEED RAIL AUTHORITY (HSRA)

The California High-Speed Rail Authority's mission is to plan, design, build, and operate a high-speed train system for California.

ISSUE 1: FEDERAL STIMULUS FUNDING UPDATE

The federal American Recovery and Reinvestment Act (ARRA) includes over $8 billion for high-speed rail and other rail investments. California is ahead of other states in terms of having a completed Program Level Environmental Impact Report / Environmental Impact Statement (EIR/EIS), and in having $9 billion in state funds already approved for the project. As discussed in our prior hearing on these funds, we hope California can use these advantages to obtain a significant share of federal funds. In addition to the $8 billion in stimulus funds dedicated to high-speed rail, President Obama has proposed in his budget plans $1 billion annually for the next five years.

Congress directed the Secretary of Transportation to prepare a strategic plan for this portion of the ARRA funds. On April 16, 2009, the US DOT released this plan that gave additional insight into how grants will be prioritized to support high-speed rail development. The plan specified that funding will be broken into three categories:

1) Individual projects: Grants will be provided to complete projects that have established the environmental and preliminary engineering work and emphasize near-term job creation. Eligible projects include acquisition, construction of or improvements to infrastructure, facilities and equipment.

2) Corridor program: The corridor program will fund the development of phases or geographic sections of high-speed rail corridors that have environmental documentation and a prioritized list of projects.

3) Planning: The planning portion of funding is intended to establish a structured mechanism and funding stream for future corridor development activities and will create agreements for planning activities.

Further, the Strategic Plan specifies that program evaluation criteria will include:

- Public Benefits – The extent to which the project or corridor program provides specific, measurable, achievable benefits in a timely and cost-effective manner such as advancing other passenger rail goals, advancing strategic transportation goals, and contributing to economic recovery; and,
- Risk Mitigation – The extent to which the project or corridor program addresses critical success factors including institutional capacity to carry projects, realistic financial plans to cover capitol and operating costs, and adequate project management oversight.

HSRA should be prepared to discuss any significant information from the strategic plan that may affect California.

By June 17, 2009, the FRA will issue interim guidelines that will outline the specific selection criteria and other conditions governing the submittal of applications for stimulus funds for high-speed rail. Projects that are awarded grants must be under contract by 2012. The Committee may wish to ask if HSRA will be prepared to meet this timeline.

COMMENTS

HSRA should update the sub-Committee on their plans to apply for funds, or any discussions they've had with individuals in Washington D.C. to try to leverage funds.

This item is informational and requires no action.

ISSUE 2: 2009-10 BUDGET REQUEST AND FINANCE LETTERS

The Administration requested funding of $125.2 million for the HSRA (from the High-Speed Passenger Train Bond Fund). The 2009 Budget Act (SB 1 X3) reduced the HSRA budget down to base staff funding of $1.8 million, without prejudice to the merit of the request to allow for a full sub-Committee review of the proposal. Since the Safe, Reliable High-Speed Train bond Act for the 21st Century (Proposition 1A) was approved by voters in November 2008, the HSRA has $9 billion in bonding authority to begin implementation of the system.

In addition to the original request of $125.2 million, the Administration has requested an additional $14 million through April Finance Letters, bringing the total requests to $139.2 million from Proposition 1A bond funds. The Finance Letters were submitted to account for "updated workload estimates." Of the total request, $1.9 million is for state staff and operations and $138.0 million is for contract work. The eight requests are as follows:

<u>BCP #1 and April FL #10 – Program Management Services</u>: $26.6 million is requested for the project management team of contractors. The team is charged with directing, managing, and providing oversight for the regional engineering/environmental teams, as well as the developing the basic design of the statewide high-speed train system. In addition to the overall management of the regional teams, the Program Management Team is responsible, through their project engineering group, to review and oversee the site specific designs for the entire system.

<u>BCP #2 and April FL #11 – Preliminary Engineering and Design/Project-Level Environmental Review</u>: $105.3 million is requested for the anticipated 2009-10 phase of preliminary engineering and design/project-level environmental work. In addition, two state-worker positions are requested to review the design of bridges and structures for compliance with state and federal requirements.

<u>BCP #3 – Visualization Simulation Plan Development</u>: $255,000 is requested for visualization simulations (computer animation) to educate the public on potential impacts high-speed trains may have to their communities.

<u>BCP #4 – Ridership/Revenue Forecast</u>: $2.0 million is requested for a ridership and revenue forecast model. Two prior forecasts have been completed, most recently a study funded by the Metropolitan Transportation Commission (MTC), but this request would bring a model in-house to update the numbers for the project-level environmental work as well as the development of public private partnership packages.

<u>The Committee may wish to ask why 3 forecasts were necessary all for the same purpose.</u>

<u>BCP #5 – Financial Plan and Public Private Partnership Program (P3)</u>: The Authority requests $2.0 million to continue the work of the financial plan consultants as well as develop and commence the Public Private Partnership program which includes the preparation of bid packages for participation by the private sector in the building of the high-speed train system.

BCP #6 – Right-of-way Plan Development: $750,000 is requested to fund inter-departmental contracts for other state agencies for the development of a right-of-way plan.

BCP #7 – Program Management Oversight: $350,000 is requested for the Program Management Oversight consultants, which the Authority indicates are an extension of state staff. The consultants' work includes monitoring of the project to determine if the project is on schedule, within budget, proceeding in conformance with approved work plans, staffing plans, and other agreements and is being implemented efficiently and effectively.

With the importance of oversight throughout the entirety of the development, design and construction process, the Committee may wish to ask why these positions aren't in-house state staff.

BCP #8 – Department of Justice Services: $136,000 is requested to cover legal and litigation services provided via inter-agency contract with the Department of Justice.

COMMENTS

This BCP essentially begins the process of transforming the HSRA from a small budget-study organization, to a multi-billion dollar engineering and construction entity. A transition of this scale requires some discussion in regards to structure and authority for moving forward to implement this project.

This challenge is compounded by the fact that the high-speed rail project is a mega-project like the San-Francisco Oakland Bay Bridge. Few projects compare in scope and complexity to projects like these. Mega-projects often experience large cost escalations and schedule delays. With this great challenge in mind, the Legislature has explored different structural models to increase the chances of successful implementation. Last year's SB 53 (*Chapter 612, Statutes of 2008, Ducheny*) requires the California Research Bureau to analyze the state's rail management structure and report recommendations by May 1, 2009. Other bill's in the current legislative session look at consolidation of rail functions at Caltrans and the HSRA.

The Administration is not proposing any government reorganization in the area of rail. In terms of implementation of the high-speed system, the Administration proposes to contract for engineering and design, and then contract with other consultants for oversight of those original contracts. The rational for this model is that that Authority should avoid developing a large permanent organizational staff because the project is a one-time endeavor, requires highly specialized skills, and will require limited ongoing support. On the basis of this approach to project management, the HSRA is relying upon outside consultants to provide both technical and managerial services. While there are benefits to this approach, there are also down-sides. Authority and responsibility are diffused under this model. Control is de-centralized and can lead to a lack of coordination, and inefficiencies.

The Business Plan suggests the HSRA will be completing the preliminary engineering and environmental review over the next three years, after which right-of-way acquisition and construction will commence. However, the federal stimulus funds may accelerate the start of right-of-way acquisition.

* HSRA graphic from Business Plan

Funding is projected to come from the following sources:

- $12 to $16 billion = Federal
- $9 billion = State
- $6.5-$7.5 billion = Public Private Partnerships
- $2-$3 billion = Local

LAO: The Legislative Analyst raised several concerns with the HSRA Business Plan, which was required by statute and released in November 2008. The LAO indicates that while the report includes, to some degree, each of the statutorily required elements, the information provided is very general and does not provide specifics that are included in typical business plans. The LAO lists details absent from the Business Plan in the table below and recommends that the Authority expand on its Business Plan to include the missing detail.

Business Plan Fails to Provide Many Details

Statutory Requirements	Sample of Missing Details
Description of the anticipated system	What are the expected service levels? What is the assumed train capacity?
Forecast of patronage, operation & capital costs	How are ridership estimates projected? What is the operating break-even point? How will costs be distributed by segment route?
Estimate of necessary federal, state, and local funds	How would funds be secured? What level of confidence is there for receiving each type of funding?
Proposed construction timeline for each segment	What is the proposed schedule, by segment, for completing design/environmental clearance? For beginning/completing construction
Discussion of risks and mitigation strategies	How would each type of risk impact the project? What specific mitigation strategies are planned to be deployed?

Source: Legislative Analyst's Office

The LAO recommends:

1) the Legislature withhold budget funding for 2009-10 until the additional information is provided;

2) the Legislature require the authority to adopt project selection and evaluation criteria to ensure that bond funds are used efficiently and that they deliver projects with immediate mobility benefits;

3) the Legislature enacts legislation directing the authority to provide an annual report to the Legislature at the time the Authority submits its annual budget.

The LAO also points out that the budget request provides very little justification for the actual amounts requested for each contract. No information is provided on the work to be accomplished over the budget year, nor how that work fits into the total development of the system. The Committee may wish to request more detailed justifications for these planned expenditures.

At the very least, the HSRA should be prepared to address how they've reviewed their structure and project oversight model and why they feel they are prepared to take over a multi-billion dollar project. Did the HSRA consider multiple structure models, such as consolidating HSRA and the Caltrans Division of Rail? This would allow the use of state staff in Caltrans for in-source design, engineering contract oversight, and project management.

<u>HSRA Response:</u>
In response to questions and concerns raised by the LAO and staff, the HSRA did provide information regarding the planned contracts and work to be completed pursuant to these requests. They point out that prior to April 7th, 2009, they did not have funds available to pay the contractors to prepare a detailed work program. Since that date, they have worked together with their consultant teams to put together a "work program" describing their scope of activities and products to be produced.

<u>Staff Comments:</u>
While staff appreciates the difficult situation the HSRA was in, it is still of great concern that the only information available to justify the expenditure of $123 million in public funds was developed over the past two weeks. Additionally, the documentation provided by the HSRA to staff consists of several hundred pages of information and background. While this is useful, a summary of the contract proposals and expectations may also be useful for the Committee.

<u>The Committee may wish to require regular updates from the HSRA to continue to monitor their progress in developing a working plan and to see how they plan to manage this project.</u>

<u>Budget Bill Language:</u>
There is the potential to utilize ARRA funds for the activities proposed in this request, which would allow these Proposition 1A bonds to be used on other aspects of the project. Because don't yet know how much funding will be received, Budget Bill Language has been proposed to permit the Department of Finance to reduce the Proposition 1A expenditure authority for these projects, and utilize Federal Funds as they are received. The exact wording of the language is still in fine-tuning with the Senate, LAO, and Administration, so staff recommends if these budget requests are adopted, the language below be included in concept.

> Notwithstanding any other provision of law, funds appropriated in this item from the High-Speed Passenger Train Bond Fund may be reduced and replaced by an equivalent amount of federal funds determined by the High-Speed Rail Authority to be available and necessary to comply with Section 8.50 and the most effective management of state high-speed rail transportation resources. Not more than 30 days after replacing the state funds with federal funds, the Director of Finance shall notify in writing the chairpersons of the committees in each house of the legislature that consider appropriations and the Chairperson of the Joint Legislature Budget Committee of this action.