

AGENDA

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

ASSEMBLYMEMBER BOB BLUMENFIELD, CHAIR

TUESDAY, APRIL 30, 2013

1:30 P.M. - STATE CAPITOL ROOM 447

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ACA 4

Date of Hearing: April 30, 2013

ASSEMBLY COMMITTEE ON BUDGET
Bob Blumenfield, Chair
ACA 4 (Olsen) – As Amended: January 23, 2013

SUBJECT: Legislative Procedure

SUMMARY: Imposes a requirement in the State Constitution to require bills to be in print for 72 hours prior to adoption by either house. Specifically, this bill:

- 1) Prohibits either house from passing a bill unless it has been made available in print and on the internet for 72 hours prior to the vote.
- 2) Provides an exception for urgency bills related to a declared emergency, as specified in the Constitution.
- 3) Allows bills to be heard by committees after the contents of the bill have been available on the internet for 15 days.

EXISTING LAW prohibits any bill (other than the budget bill) from being heard or acted on by a committee or off the floor in either house until the 31st day after being introduced unless the house dispenses with this requirement by a roll call vote with three fourths of the members concurring.

COMMENTS: The stated goal of this measure is to enhance transparency by requiring all final legislation to be in print for 72 hours prior to floor action in either house of the Legislature. It is unclear whether any benefits from this additional requirement would out-weigh the considerable downsides posed by the process consequences of the measure.

California's legislative work is more transparent now than at any point in history. This year marks the twentieth anniversary of AB 1624 (Bowen), which required any legislative bill, analysis, history, and voters to be made available via the internet. Prior to the enactment of this bill, this information was only available through the Capitol Bill Room and various small publications that charged a fee to provide this information. Today anyone with access to the internet can see the latest version of a bill, for free, at any time in a system that is updated daily.

Most bills considered by the Legislature are already in print for 72 hours prior a vote. Bills considered by the Legislature that are in print in final form for less than 72 hours are usually due to one of three scenarios: the bill is part of a hard fought, complicated compromise; the bill is part of the budget package or; the bill has technical problems and needs to be amended prior to final floor action.

California's most significant compromises have been forged in a crucible of pressure and heat from all sides that creates the resolve for action. Often in such circumstances, powerful special interests may not be satisfied with the final agreement. However, requiring a 72-hour in-print rule essentially creates a three-day "time out period" on all legislation. This time can allow the resolve for action to dissipate, and special interests can exert pressure and work to block carefully-crafted agreements. Thus, the 72 hour in print rule required by this measure would be akin to requiring juries to wait three days after making a decision to vote on the final verdict, the waiting period allows courage and willpower to be undermined by second thoughts and doubt.

History provides many examples of transformative political documents that have not been in print for long periods because their adoption was the result of urgency and political resolve to forge compromise. After a lengthy debate and numerous redrafts, the final version of the Declaration of Independence was printed on July 1, 1776 and was adopted the next day on July 2, 1776. Likewise, the framers of California's first Constitution were still making language changes and debating the State's boundaries less than two days before its adoption in English and Spanish on October 13, 1849.

The annual budget process often contains major policy provisions necessary to balance the budget or to implement key budget priorities, which often requires strong political resolve. One obvious example was the February 2009 budget package, which was recognized as an example of historic, courageous action that saved the state from fiscal insolvency. That budget agreement was being updated and technically corrected up through the final hours prior to the vote (including, ironically, the insertion of SCA 4 (Maldonado), which set up the Open Primary). This agreement was not in print for 72 hours, but it did save the state from insolvency and earned the four Legislative Leaders the prestigious Profiles in Courage Award by the John F Kennedy Library Foundation in 2010.

This measure 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 passage of a budget on time 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 15th of each year, giving the Legislature slightly more than four weeks from when it receives the May Revision on May 14th 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 would also make the small technical changes at the end of session more difficult to accommodate. These include a common practice of eliminating an urgency clause from a measure, to allow a measure to be adopted with only a majority vote. In addition, bills often amend the same sections of code and technical changes are necessary so that the measures don't chapter out the provisions of a different bill. Under the provision of this measure, either of these changes would trigger a 72-hour in-print requirement, which will mean it will add complexity to the final days of each legislative session.

Therefore, while this measure has the admirable goal of increasing transparency, California has a relatively transparent legislative process and a long history of important agreements that were quickly passed. Moreover, adding new time requirements may actually strengthen special interests ability to upset legislative agreements and harm the already condensed budget process.

The provisions contained in this measure were also contained in Proposition 31 of November 2012, which was rejected by voters with 39.5 percentage of the electorate voting in favor of the measure.

REGISTERED SUPPORT / OPPOSITION:

Support

Board of Supervisors County of Madera
California Common Cause
California Contract Cities Association
California Newspaper Publishers Association
City of Gilroy
City of Goleta
City of Scotts Valley
City of South San Francisco
City of Rancho Cucamonga
League of California Cities
Orange County Taxpayers Association
Rural Counties
Town of Danville

Opposition

None on File.

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

AB 716

Date of Hearing: April 30, 2013

ASSEMBLY COMMITTEE ON BUDGET
Blumenfield, Bob, Chair
AB 716 (Quirk-Silva) – As Amended: April 2, 2013

SUBJECT: Governor's Five-Year Infrastructure Plan

SUMMARY: Expands the Five-Year Infrastructure plan that is submitted as part of the budget to include housing and priorities for the coordination of investment and requires the Strategic Growth Council to hold a public hearing on the bill prior to its submission to the Legislature. Specifically, this bill:

- 1) Expands the definition of infrastructure for the purposes of the state's 5-year infrastructure plan to include housing.
- 2) Requires the 5-year infrastructure plan to set out priorities for coordination of investment.
- 3) Requires the Strategic Growth Council (SGC) to hold a public hearing on the 5-year infrastructure plan and submit comments to the Legislature prior to the Governor submitting the plan to the Legislature.
- 4) Requires the SGC's comments to identify how the plan components improve air and water quality, improve natural resource protection, increase the availability of affordable housing, improve transportation, meet the goals of the California Global Warming Solutions Act of 2006 (AB 32), encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner.

FISCAL EFFECT: Possibly small, absorbable costs associated with the Strategic Growth Council's role in reviewing, hearing, and commenting on this bill.

COMMENTS: In the 14 years since AB 1473 (Hertzberg), Chapter 606, Statutes of 1999 was chaptered, the Five-Year Infrastructure Plan has only been produced five times, the last time in 2008. The Department of Finance reports that it expects to release a 2013 edition as part of the May Revision budget package.

The Five-Year Infrastructure Plan's title implies that the document is a comprehensive vision for the State's priorities, but the document itself is more of an overall infrastructure needs assessment, which aggregates the States needs in every policy area. Most of the content in the 2008 Five-Year infrastructure plan was devoted to two distinct sections. First, the plan contained a litany of various infrastructure needs for every state department, with a heavy emphasis on state properties. This section was followed by a discussion about various options to finance and program maintenance and infrastructure needs, including a comparison of bond financing versus pay-as-you-go funding. Second, due to the passage of several bonds propositions in 2006, the 2008 plan placed a heavy emphasis on how the projected needs matched with the newly approved bond funds.

In recent years, the budget discussions have evolved to include a longer-term outlook on the State's fiscal health. One of the central themes of the Governor Brown's budget is the "Wall of Debt," a framework in which the Governor describes various debts and liabilities. In addition, in 2011 the Legislature adopted SB 15 (DeSaulnier) to require both the budget and the May Revision to contain a five-year projection of revenues and expenditures. Finally, the 2012 budget focused upon solving the structural deficit that had historically persisted in the State. While there has been a great deal of discussion about State liabilities in the last few years, there has not been much discussion about State assets, which is essentially our infrastructure and property. Thus, the 2013 edition of the Five-Year Infrastructure plan will be important in informing the budget process and planning for future years. Due to State's prolonged period of poor fiscal health, the maintenance on State properties has been deferred and it is anticipated that this plan will provide an updated picture of the overall condition of State properties. Additionally, with the exhaustion of various infrastructure bonds balances projected in the near-future, this plan will provide some ideas regarding the Administration's approach for future infrastructure financing.

This bill attempts to align future five-year infrastructure plans with the State's stated priorities for land-use, carbon emission reduction, and other priorities involving State infrastructure. The bill also expands the definition of infrastructure to include housing needs. Previous legislation, AB 857 (Wiggins), Chapter 1016, Statutes of 2002, (Government Code Section 13102) attempted to use the infrastructure plan as a mechanism to align state planning and priorities for funding projects.

This previous attempt to align the State's vision for macro-level planning in the Five-Year Infrastructure plan was not successful. In the 2008, the Department of Finance complied with the provisions of AB 857 by including a paragraph under each department that explained how the department's needs matched the priorities outlined in the plan. For example, under the \$4.2 billion of deficiencies for California Department of Corrections and Rehabilitation (CDCR), the report stated, "The CDCR plan is consistent with the state's planning priorities and is focused on rehabilitating and improving existing infrastructure and promoting infill development. The CDCR's individual projects are evaluated for their effect on the environment and projects are modified to minimize negative effects on a case-by-case basis."

Such responses became essentially a boilerplate field that was filled in for every department, rather than the focused discussion envisioned by AB 857 when it was passed in 2002. This bill could end up setting up a similar requirement, which would undermine its value.

One alternative would be to request the Strategic Growth Council provide a separate report that outlines the goals of State infrastructure. For example, in 2007 and 2008, Schwarzenegger Administration issued a separate report, the "Strategic Growth Plan" which reflected the administration's vision for infrastructure planning at a more macroscopic level. During these years, the introduction to the Five-Year Infrastructure said this plan was part of the "larger vision" of the Strategic Growth Plan. A "larger vision" document might be more appropriate in achieving the analysis and useful comments envisioned by this bill.

REGISTERED SUPPORT / OPPOSITION:

Support

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

The Non-Profit Housing Association of Northern California
American Planning Associate, California Chapter

Opposition

None on File

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