AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 6
ON BUDGET OVERSIGHT AND PERFORMANCE EVALUATION

Assemblymember Bob Blumenfield, Chair

MONDAY, MAY 7, 2012

STATE CAPITOL, ROOM 4202
UPON ADJOURNMENT OF FULL BUDGET COMMITTEE

Date of Hearing: May 7, 2012

ASSEMBLY COMMITTEE ON BUDGET
Bob Blumenfield, Chair
AB 1556 (Cook) – As Amended: April 16, 2012

SUBJECT: Financing of county jail facilities.

SUMMARY: Appropriates $16 million from AB 900 lease revenue bond funds to San Bernardino County. Specifically, this bill:

1) Makes a statutory change that allows San Bernardino County to qualify for an additional payment of $16 million in bond funds authorized under the Local Jail Construction Financing Program.

2) Specifies that any such awards shall be made by December 31, 2012.

3) Specifies that any amount received by a qualified county shall be deposited into the county's General Fund.

EXISTING LAW authorizes the Department of Corrections and Rehabilitation, participating counties, and the State Public Works Board (SPWB) to acquire, design, and construct local jail facilities approved by the Corrections Standards Authority. Existing law authorizes the SPWB to issue revenue bonds, notes, or bond anticipation notes in specified amounts to finance the acquisition, design, or construction, and a reasonable construction reserve, of approved local jail facilities, as specified.

Authorizes a participating county that has received a conditional award under one specified jail facilities financing program to relinquish its conditional award, provided that no state moneys have been encumbered in contracts let by the county, and reapply for a conditional award under a separate financing program that requires the county to contribute 10% of the total project costs. Moneys derived under the separate financing program are continuously appropriated for the acquisition, design, or construction of approved jail facilities.

FISCAL EFFECT: This bill would have no new net impact on the state. However, considering that the bond funds authorized by the Local Jail Construction Financing Program have already been conditionally awarded, altering the use of this authority would result in at least one county losing all or a part of their conditional award. This bill does not specify which county or counties this would impact.

COMMENTS: The purpose of this bill is to provide $16 million to San Bernardino County from the Local Jail Construction Financing Program. The author of this bill contends that without this measure, San Bernardino County will continue to be the only county barred from leveraging the enhanced funding structure as provided under AB 94 (Budget Committee) Chapter 23, Statutes of 2011. The author also argues that the funding appropriated in this measure would address the difference between the county share of costs San Bernardino incurred (twenty-five percent) and the county share identified for counties that accessed phase two of the program (ten percent).

According to the Department of Finance (DOF), San Bernardino is not the only county that accessed the Jail Construction funding at the 25 percent county match. San Diego, Solano, San Luis Obispo, and San Joaquin Counties all accessed Jail Construction funds at the 25% match level, the same as San Bernardino. This measure would not offer relief to these counties.

In addition, this bill would allow San Bernardino to have the lowest county share of cost for the Local Jail Construction Financing program, of only 5.9 percent. San Bernardino County was initially awarded $100 million, which is the maximum allowed under the Local Jail Construction Financing Program, to use toward their county jail construction project which was estimated to cost roughly $125 million. However, as a result of lower than expected construction costs, San Bernardino's entire project costs came in at roughly $84 million. This change in costs resulted in San Bernardino's share of costs being reduced from roughly $25 million to roughly $21 million.

This bill will, in effect, allow San Bernardino County to reduce its portion of an $84 million county jail construction cost from twenty-five percent ($21 million) to just under six percent ($5 million). Ultimately, this bill will give San Bernardino County the lowest local cost sharing rate in the state (5.9 percent).

Finally, according to the the DOF and the CDCR, the Local Jail Construction Financing Program funding has been fully allocated. Therefore this measure could only be implemented by reducing the allocations of this funding to other counties. The bill does not offer a process to identify which counties would lose funding.

Related Legislation. AB 900 (Solorio), Chapter 7, Statutes of 2007, created "The Public Safety and Offender Rehabilitation Services Act of 2007," which authorized $7.4 billion in lease-revenue bond financing for construction of 40,000 new state prison beds and 13,000 new county jail beds, phased-in and contingent upon a series of rehabilitation programming benchmarks; authorized the Department of Corrections and Rehabilitation (CDCR) to temporarily house up to 8,000 inmates in out-of-state facilities for up to three years; and, required CDCR to implement and significantly enhance anti-recidivism programming including substance abuse treatment, mental health care, and academic and vocational education.

AB 111 (Budget Committee), Chapter 16, Statutes of 2011, included necessary statutory and technical changes to implement changes to the Budget Act of 2011 and made changes that made it easier for locals to access jail construction funding.

AB 94 made technical changes to AB 111 and allowed participating counties that received phase I conditional awards to relinquish the awards and reapply, provided that no state moneys had been encumbered. AB 94 also reduced county contribution of project costs from 25 percent to 10 percent and specified that participating counties shall not receive awards greater than $100 million.

REGISTERED SUPPORT / OPPOSITION:

Support

County of San Bernardino
San Bernardino County Sheriff's Department

Opposition

None on file.

Analysis Prepared by: Marvin Deon / BUDGET / (916) 319-2099

Date of Hearing: May 7, 2012

ASSEMBLY COMMITTEE ON BUDGET
Blumenfield, Bob, Chair
AB 1690 (Nestande) – As Amended: March 29, 2012

SUBJECT: State Budget

SUMMARY: Prohibits the Governor from assuming any new revenues associated with new program or taxes in the January budget submission. This bill also requires the Governor's Budget submission to contain a list of loans and long-term liabilities. Specifically, this bill:

1) Excludes revenues generated from laws, program, or executive actions not in effect at the time the budget is submitted to the Legislature from being counted as revenue in the Governor's January Budget submission.

2) Requires the Governor's January Budget Submission include:

   a) a list of loans made to the General Fund and a summary of each loan;

   b) a list of all General Fund obligations to pay deferred or suspended expenditures or to transfer funds to a Special Funds; and,

   c) a list of "key liabilities" related to debt, infrastructure, retirement and other liabilities.

3) Requires the Governor's January Budget specify the percentages and amounts of General Fund revenues that must be "set aside to pay off the key liabilities."

EXISTING LAW: California's Constitution requires the Governor to submit a balanced budget within the first ten days of each calendar year. The contents of the budget submission are articulated in various statutory provisions of the Government Code.

FISCAL EFFECT: Small cost associated with the creation and maintenance of new budget documents.

COMMENTS: The author's intent in crafting this bill is to draw more attention to the issue of "key liabilities" within the budget discussion. The term "key liabilities" is derived from a letter the Legislative Analyst's Office sent to Assemblymember Juan Arambula in 2009.

The bill contains two divergent provisions regarding the Governor's January budget submission.

1)"Key Liabilities." The bill requires reporting of loans, deferrals, and other liabilities. The bill further requires that revenue be identified for the purposes of paying off liabilities. While the intents of this reporting is to essentially replicate the 2009, LAO Letter to Assemblymember Juan Aramabula in the budget submittal. This reporting appears to echo an approach taken by Governor Brown in his 2012-13 January Budget, which included a discussion of the "Wall of Debt" on page 11 of the Budget Summary. This suggests that the bill is not necessary to evoke the discussion regarding the California's debts, as it is already a central theme in budget discussions.

In addition, the bill appears to pair the budget, an annual spending plan, with long-term liabilities, which may not have any impact on the budget for decades. The California Constitution requires the adopted budget to be balanced. Therefore any debt service obligations, loan repayments, or deferrals remittances due in the budget must be contained within the overall spending plan and the State must have sufficient revenue to cover these expenses. This bill would require reporting of these payments in a redundant section in the budget submission.

The bill uses the term "key liability", a term that was first used by in the "2009 LAO Letter to Assemblymember Juan Arambula" to identify potential long terms liabilities for the state. The bill does not define "key liabilities" and thus any list of liabilities would be a subjective list of possible future costs for the State. Many of the liabilities listed by LAO in 2009 were estimates of possible exposure to the State General Fund, which designates potential risk to the State rather than certain future obligations. This bill would create a list of "key liabilities" and then require dedicated revenues for these liabilities, which would suggest that these were clear State General Fund obligations. By making such a list, this bill may actually reduce efforts by State partners to minimize these future liabilities, as it would suggest that the items on the list are both clearly a state responsibility and that the budget includes a mechanism to pay them off.

2)Revenues. The bill contains language that restricts the ability of the Governor to assume revenues in the January Budget that are derived from programs that are not in effect when the budget is submitted in January. This provision appears to directly contradict Article IV Section 12 of California's Constitution, which states, "If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided."

Even if this contradiction could be resolved, restricting the Governor's ability to assume revenues in the January Budget submission would effectively undermine the legitimacy of the January Budget document. In the current process, the Governor's January Budget submission offers a framework for how to align expenditures and revenues in the budget year. Under the provisions of this bill, the Governor could only assume revenues from programs and bills currently in effect. For example, if this provision was applied to the 2012-13 budget, the Governor could not assume the revenue from the approval of the tax initiative, which is expected to generate over $4 billion in revenue and is a major foundational component of his plan. Thus, the January budget submission would no longer serve as a serious framework document for the budget discussions.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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