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Assembly
California Legislature

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AGENDA

MAY 9, 2013

UPON ADJOURNMENT OF SESSION

STATE CAPITOL - ROOM 4202

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Date of Hearing: May 9, 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

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

Date of Hearing: May 9, 2013

ASSEMBLY COMMITTEE ON BUDGET
Bob Blumenfield, Chair
AB 111 (Budget Committee) – As Amended: May 7, 2013

SUBJECT: Budget Act of 2012

SUMMARY: This supplemental appropriations bill (deficiency bill) appropriates $32.9 million from the General Fund to the State Controller for allocation to the Department of Developmental Services ($32.4 million) and to the Department of Social Services ($505,000). This bill also authorizes the reappropriation of funds within the Office of Statewide Health Planning & Development and the Judicial Branch. Specifically, this bill:

1) Reappropriates unspent funds originally appropriated in fiscal years 2009-10 through 2012-13, and authorizes those funds to be available through June 30, 2018. Requires these funds to be used for the Mental Health Loan Assumption Program and Mental Health Workforce, Education, and Training programs.

2) Appropriates $7,380,000 General Fund to the Department of Developmental Services for 2012-13 specifically for the Sonoma Developmental Center Program Improvement Plan, in order to backfill for the loss of federal funding.

3) Appropriates $25,000,000 General Fund to the Department of Developmental Services for 2012-13 specifically for Regional Centers, to backfill for the loss of assumed funding of the same amount from First 5 California.

4) Appropriates $505,000 General Fund to the Department of Social Services for 2012-13 to reflect increased costs of providing a notice to recipients in the In Home Supportive Services (IHSS) program as a result of a recent legal settlement.

5) Reappropriates $50 million, from the Immediate and Critical Needs Account to support the acquisition of the new East County Courthouse in the County of Alameda.

6) Authorizes the Judicial Branch to enter into a lease-purchase agreement with the County of Alameda for a new Courthouse project upon: a) approval by the Director of Finance; b) providing a 30-day notification to the committees in each house that consider appropriations; and, c) providing a 30-day notification, without objection, to the Joint Legislative Budget Committee.

FISCAL EFFECT: Increases General Fund costs of $32,880,000 in fiscal year 2012-13.

COMMENTS: This bill contains funding necessary to address deficiencies in the 2012 Budget Act.

There are many valid reasons that departments sometimes do not, and at times cannot, fully expend funds in the fiscal year in which the funds were appropriated. Furthermore, statutory authorization is required to reappropriate these funds and allow them to be used for their intended purpose in subsequent years. This bill provides that authorization for the Office of Statewide Health Planning & Development and for the Judicial Branch.

This bill also provides General Fund backfill for unexpected losses in other types of funding. The Sonoma Developmental Center Intermediate Care Facility (ICF) has experienced a loss of federal funding as a result of the California Department of Public Health (DPH) decertifying the ICF due to systematic deficiencies. In response, DDS voluntarily terminated the Medicaid certification of four of the ten residential units at the ICF, resulting in the loss of federal funds. DPH and DDS have jointly entered into a Program Improvement Plan to provide a framework of improvements to meet federal certification requirements and continued federal financial participation. The Plan requires Sonoma Developmental Center to enter into a contract with an independent entity to perform a root cause analysis, develop action plans to correct identified deficiencies, and to report progress to DPH on a monthly basis.

General Fund also is being used to backfill for a loss of First 5 California funding reflecting the fact that the 2012-13 budget assumed $40 million in First 5 funds, however First 5 California approved only $15 million, leaving a $25 million gap.

Finally, this bill appropriates $505,000 to cover unanticipated costs resulting from a recent legal settlement affecting the IHSS program. The increased costs result from a requirement on the state to mail to recipients notification of an additional 4.4 percent reduction to authorized service hours.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nicole Vazquez / BUDGET / (916) 319-2099

Date of Hearing: May 9, 2013

ASSEMBLY COMMITTEE ON BUDGET
Bob Blumenfield, Chair
AB 112 (Budget Committee) – As Amended: May 7, 2013

SUBJECT: In-Home Supportive Services Program

SUMMARY: Codifies the terms of a settlement agreement reached between the state and plaintiffs resolving outstanding lawsuits affecting the In-Home Supportive Services program, replacing previously enacted reductions with an across-the-board hours reduction and an expected assessment on home care services to offset that reduction. Specifically, this bill:

1) Repeals provisions related to three budget reductions at issue in the two lawsuits settled by the litigation agreement, *Oster v. Lightbourne, et al.* (known as *Oster I* and *Oster II*) and *Dominguez v. Brown, et al*, which had been enjoined before taking effect, including the following:

   a) Provisions that had required the State Department of Social Services (DSS) to implement, under specified circumstances, a 20 percent reduction in authorized hours of service to each IHSS recipient, beginning January 1, 2012, except as specified.

   b) Provisions that had reduced the state contribution to IHSS provider wages and benefits from a maximum of $12.10 per hour to $10.10 per hour effective July 1, 2009.

   c) Provisions that had established a stricter threshold of need to receive IHSS hours based on a recipient's assessed functional index score, requiring IHSS recipients to have an overall functional index score equal to or greater than 2 on the 5-point scale in order to qualify for IHSS hours.

   d) Provisions that had established a stricter threshold of need to receive domestic and related care services (such as housework, meal preparation, and laundry), requiring a functional index ranking greater than 4 for each domestic and related care services activity in order to receive service hours to assist with the task.

2) Requires DSS, from July 1, 2013, to June 30, 2014, inclusive, to implement an 8 percent reduction in authorized hours of service to each IHSS recipient, as specified. The reduction is timed to take effect to avoid a pause between the current 3.6 percent reduction, ending on July 1, 2013, and this reduction, so that recipients will instead be impacted by an additional 4.4 percent reduction effective July 1, 2013. As part of this:

   a) Authorizes a county to administratively deny a request for reassessment based only on the reduction.

   b) Requires a specified notice to be mailed to the recipient at least 10 days before the additional reduction goes into effect.

3) Require DSS, beginning July 1, 2014, to implement a 7 percent reduction in authorized hours of service to each IHSS recipient, as specified. As part of this:

   a) Authorizes a county to administratively deny a request for reassessment based only on the reduction.

   b) Requires a specified notice to be mailed to the recipient at least 20 days before the reduced reduction, by one percent, goes into effect.

4) Requires the Director of Finance, within 30 days after receipt of specified certification from the State Department of Health Care Services (DHCS), to, among other things, estimate the total amount of additional funding that would be derived from an unspecified assessment for the next fiscal year and calculate, as a percentage, the amount by which the 7 percent reduction in authorized hours of service for each IHSS recipient is offset by General Fund savings from that specified assessment. Requires DHCS to perform these activities for the fiscal year that the funding is received and the following fiscal year, and on or before May 14, prior to the third fiscal year after the funding is received.

5) Creates the In-Home Supportive Services Reinvestment Fund, a continuously appropriated fund, to receive moneys to the extent that an unspecified assessment is implemented retroactively, and use those moneys to provide goods or services for one-time direct reinvestments benefiting IHSS recipients, as prescribed. This bill would require the Director of Finance to consult with specified plaintiffs to develop a plan to reinvest those funds, and require that plan to be submitted to the appropriate policy and fiscal committees of the Legislature. The bill requires the Director of Finance to provide specified notice to the Joint Legislative Budget Committee at least 30 days prior to allocating any of those funds, as prescribed.

6) Makes an appropriation and declares that the measure is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

EXISTING LAW provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes and avoid institutionalization.

FISCAL EFFECT: DSS estimates that the 8 percent reduction would save approximately $160 million General Fund in 2013-13 and that the 7 percent reduction would save approximately $159 million General Fund in 2014-15.

COMMENTS: In March 2013, DSS and DHCS reached a settlement agreement with plaintiffs that would resolve the outstanding lawsuits – *Oster v. Lightbourne, et al.* (known as *Oster I* and *Oster II*) and *Dominguez v. Brown, et al* – by repealing the enjoined reductions and implementing a new reduction plan intended to realize General Fund savings while lessening the magnitude of service cuts. The federal district court tentatively approved the settlement agreement on April 4th and the Legislature has been asked to enact legislation to effectuate the terms of this agreement.

The Legislature, not a party to the settlement agreement, may modify proposed language as it deems appropriate. This bill reflects the proposed language of the settlement agreement, with technical, non-substantive changes. Such changes include adding a section declaring the Legislature's intent to enact legislation in 2013 to authorize an assessment on home care services, including but not limited to, home health care and IHSS, consistent with the settlement agreement; and providing for notification to the Legislature of the use of one-time retroactive federal funds in the IHSS program. It is also important to note that this bill does not preclude another measure, mechanism, or option from being sought to offset or eliminate the 7 percent reduction.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nicole Vazquez / BUDGET / (916) 319-2099