BUDGET ACTION BULLETIN
CALIFORNIA STATE ASSOCIATION OF COUNTIES

2011-12 State Budget
Week of May 29, 2011

June 3, 2011

TO: CSAC Board of Directors
County Administrative Officers
CSAC Corporate Associates

FROM: Paul McIntosh, CSAC Executive Director
Jim Wiltshire, CSAC Deputy Executive Director
Jean Kinney Hurst, Legislative Representative

RE: **Budget Action Bulletin No. 3**

Budget subcommittees finished their work discussing and voting on the Governor's May Revision proposals last week. This Budget Action Bulletin reviews the results of those actions relevant to counties.

Capitol staffers report that the Legislature will not be convening a new Budget Conference Committee to resolve differences between the actions of the Senate and Assembly because those differences are few and relatively minor. Those decisions will be made through a less formal process.

However, the most difficult decisions have yet to be resolved. The full budget committee in each house will meet at some point to send the refined budget plan to their respective Floors, but it is not yet clear when that will be. If the Legislature is going to pass the budget on time, it would seem that the budget committees would have to meet next week.

And there is some pressure on Legislators to pass a balanced budget on time. While the Constitution has always mandated a deadline of June 15, new language installed when voters approved Proposition 25 last year adds teeth to that deadline by depriving legislators of their compensation if they have not met it. State Controller John Chiang publicly confirmed yesterday that he will withhold legislators' salaries and per diem. Some had speculated that the Legislature met this requirement when they passed a budget bill earlier this year.

Finally, the Governor continues meeting with Republicans to try to gain their votes for his budget plan. Some from the Capitol report that the deal is nearly closed, and all that remains are some details and drafting of language. Whether or not those reports are overly optimistic remains to be seen.

ADMINISTRATION OF JUSTICE

Last week, the Assembly and Senate budget subcommittees on public safety heard a number of budget items in the justice arena. Many items are related to AB 109 which outlines the offender population shift for the public safety realignment. CSAC testified in both committees reaffirming our position that CSAC is supportive of realignment in the context of sufficient revenues and constitutional protections. Further, we reiterated our commitment to work with the Administration and other public safety stakeholders in good faith that the revenues and protections would be secured. Absent, revenues and protections the realignment outlined in AB 109 would be catastrophic for counties.

The California Department of Corrections and Realignment. The largest public safety component in the May Revision is the public safety realignment as reflected in AB 109. Counties will recall that AB 109 delineates the low-level offender population for which counties would assume responsibility; defines post-release community supervision, which is effectively counties' newly defined role in supervision of adult parolees; and gives counties responsibility – and ability to contract back – for the juvenile offender population placed with the Division of Juvenile Justice (DJJ). This item came before both the Assembly and Senate budget subcommittees as they grappled with how to make adjustments to the California Department of Corrections and Rehabilitation (CDCR) budget to account for the drop in population at the state level once realignment is implemented. The CDCR will need to reduce its staffing levels over time as the state prison and parole populations decline as well as reduce its contracts with community correctional facilities (CCF) to house offenders on behalf of the state. It is assumed that some of the bed space no longer occupied by the State will be available to counties if a county should wish to contract with a CCF to house a portion of its realigned inmate population.

Both subcommittees took action to reduce staffing levels at CDCR to account for the drop in prison population associated with more offenders remaining at the local level; reduce funding to the Board of Parole hearings to reflect their removal from the parole revocation process; shifted funds from CDCR's budget to allow the department to reduce its contracts with CCFs as the state's inmate population declines.

Court Security. Both houses adopted the May Revision increase from $485 million to $497 million to court security realignment funding in recognition of the court's role in the parole revocation process and the need for increased security due to the workload increase.

California Community Corrections Performance Incentive Act of 2009. In 2009, the Legislature passed SB 678 (Leno and Benoit, Chapter 608) which created an incentive-based program aimed at counties reducing the number of felony probationers being sentenced to serve in state prison. Under the program counties share a percentage of the state's savings in the reduced prison population that results from counties' success in diverting offenders from state prison. In 2010, counties sent 6,182 fewer felony probationers to state prison resulting in $178.4 million in state savings. Both budget subcommittees voted to distribute $87.5 million to counties to reflect their share in savings and $615,000 to the Administrative Office of the Courts to support their administrative costs associated with SB 678. Further, direction was given by the subcommittee to adopt trailer bill language clarifying that the baseline probation failure rate shall be calculated utilizing a weighted average and include data from 2006-2008.

Corrections Standards Authority. Both subcommittees voted in favor of removing the Corrections Standards Authority (CSA) from under the authority of the CDCR and renaming it the Board of State and Community Corrections. If adopted in the final budget it will continue to retain its current role in local corrections but have the added responsibility to guide the state and counties through realignment and will serve a leadership role in the area of criminal justice policy.

Division of Juvenile Justice. Both subcommittees approved technical clean-up language to AB 1628 of 2010 which shifted the responsibility of juvenile state parolees to county probation. The language adopted will allow the DJJ to transfer responsibility for juvenile parolees from the state to counties regardless of the committing court. The enacting legislation, AB 1628, transferred wards committed by a juvenile court not realizing that some juvenile parolees were committed by a superior court.

Government Reorganization. Both subcommittees took action to approve the Governor's recommendation to eliminate the Office of Gang and Youth Violence and the California Council on Criminal Justice. However, the Assembly and Senate subcommittees both believe there is a role for the California Rehabilitation Oversight Board which provides oversight to CDCR's rehabilitation programs and services and therefore both rejected this element of the Governor's proposal.

GOVERNMENT FINANCE AND OPERATIONS

State Controller Oversight. Both houses' budget subcommittees on state administration and fiscal review considered proposals to increase the State Controller's budget by about $3.5 million to strengthen oversight of local agencies. The request was in two parts.

The first part proposed just over $2 million for 16.4 ongoing positions to strengthen existing oversight. These activities include reviewing local agency financial reports and following up any unfiled or seemingly false or incomplete filings with audits. The Controller's office currently provides only minimal review of these documents, and they report increased numbers of citizen complaints since the City of Bell scandal, which they report not having the resources to analyze. The Controller admits not knowing how much actual work or how many positions will be required to fulfill these duties.

Both the Senate and Assembly subcommittees approved half of the funding to support 8.2 positions, and adopted language requiring annual reports on the outcomes of the program.

The second part proposed just under $1.5 million for 11.8 positions for increased oversight related to bills pending in the Legislature. The bills, AB 229 and AB 276, would expand Controller oversight of local agencies.

Both the Senate and Assembly subcommittees rejected this proposal, deferring to the legislative policy process.

HEALTH AND HUMAN SERVICES

MEDI-CAL

Healthy Families Program Shift to Medi-Cal. The Administration is proposing to transition children currently enrolled in the Healthy Families Program (HFP) into the Medi-Cal program. The proposal implements the Medicaid expansion for children up to 133 percent of the federal poverty level (FPL) required under federal health reform early and takes the additional step of transitioning all Healthy Families children to Medi-Cal. Under federal law, children up to 150 percent of FPL are exempt from premium cost sharing.

The Administration is estimating the proposal will save $31.2 million General Fund (GF) in 2011-12.

> ***Assembly action:***
> Adopt May Revision to shift HFP children up to 133 percent FPL to Medi-Cal. Adopt trailer bill language to require the Department of Health Care Services (DHCS) to submit a transition plan to the Legislature at least 90 days before implementation.

For HFP children 133 percent FPL to 250 percent FPL, adopt trailer bill language to:

- Shift children to Medi-Cal no later than January 1, 2013.
- Implementation may not occur until 90 days after DHCS has submitted an implementation plan to the fiscal and policy committees of the Legislature.
- Implementation may begin as early as January 1, 2012, subject to submission of the required implementation plan.
- The implementation plan must be developed in consultation with stakeholders, including the Legislature.
- The implementation plan must include information regarding: 1) assurances of network adequacy, including dental, mental health, and vision; 2) assurances of provider continuity and access; 3) plan capitation rate development and plan and medical group fiscal solvency; 4) enrollment and eligibility timeframes and standards, including enrollment simplification; 5) notification, outreach, and education to families; and 6) process for ongoing stakeholder consultation and making information publicly available, such as implementation benchmarks, enrollment data, contract terms, and quality measures.
- Adopt May Revision proposal to shift Access for Infants and Mothers (AIM) to the DHCS.
- Adopt trailer bill language to eliminate MRMIB and shift the remaining programs to DHCS by January 1, 2013 or sooner if the HFP children have fully shifted to the Medi-Cal program and require the department to submit a transition plan to the Legislature at least 90 days before implementation.

<u>Senate Action:</u>
Adopt the May Revision fiscal calculations and "placeholder" Budget Bill Language, as well as placeholder trailer bill language to enable discussions to continue and for a comprehensive framework to be developed over the course of 2011-12. A key component of includes identifying markers that demonstrate readiness to implement this proposal. Before children are transitioned to Medi-Cal, fulfillment of these identified "trigger" conditions must be demonstrated.

Public Hospital Certified Public Expenditures. The Administration proposes a trailer bill to authorize DHCS to obtain federal approval to transfer federal funds from within the Health Care Coverage Initiative portion of the Medicaid Waiver ("Bridge to Reform" Medicaid Section 1115 Demonstration Waiver) to the Safety Net Care Pool to be expended for uncompensated care provided by the State. In order to achieve the full $400 million in savings, the state is proposing to use surplus certified public expenditures (CPEs) from public hospitals on a volunteering basis in the current year. The budget includes $98 million in GF savings to reflect the use of the local CPEs.

__Assembly and Senate Actions__
The Assembly and Senate adopted placeholder language on the CPE proposal and indicated a desire to craft a compromise that ensures the voluntary nature of the CPE structure.

Managed Care Fee on Intergovernmental Transfers. The state is proposing a fee on the intergovernmental transfers (IGTs) used by counties to operate Medi-Cal managed care plans. The fee would be equal to 20 percent of the transferred funds to offset state GF costs by $34.2 million in 2011-12. The remaining 80 percent would be used to match federal funds to provide rate increases.

Both houses approved the fee on IGTs used by counties.

MENTAL HEALTH SERVICES FOR EDUCATION PUPILS (AB 3632)

The May Revision proposed that AB 3632 no longer be realigned to counties, but instead be realigned to school districts.

As such, the Administration is proposing to rebench the Proposition 98 guarantee to reflect the shift in responsibility to schools. This rebenching includes $221.8 million to reflect the shift of responsibility for providing mental health services, including out-of-home residential services, required under federal law from county mental health agencies and county welfare agencies to school districts. The May Revision continues to reflect the $98.6 million in Mental Health Services Act funds (Proposition 63) to county mental health agencies on a <u>one-time basis</u> in 2011-12. School districts would be able to contract with counties to provide services using these Proposition 63 funds but schools will become responsible for any costs exceeding this amount.

__Assembly and Senate Actions__
The Assembly adopted language to shift these services to schools beginning January 1, 2012. The Senate adopted the Governor's proposal to shift AB 3632 services to schools, effective July 1, 2011.

SOCIAL SERVICES

CalWORKs. The Assembly subcommittee took action to undo the graduated cuts to CalWORKs payments for child-only cases. Please recall that this cut was part of the 2011-12 budget signed into law by the Governor in March. The Assembly restored $86 million GF in 2011-12. The Senate did not take the same action; therefore, this item will need to be reconciled.

Foster Care Rate Increases. The Governor's May Revision budget reflects a Foster Care rate increase of $10.7 million in 2011-12 to increase payment rates for foster family homes as well as prospective Adoption Assistance Payment, Kinship Guardianship Assistance Payments, and Non-Related Legal payment rates due to a recent lawsuit (*Foster Parent Association, et al vs. John A. Wagner, et al*).

Assembly and Senate Actions

Both the Senate and Assembly Budget Subcommittees approved the $10.7 GF million increase in 2011-12 and directed the Department of Social Services (DSS) to report back on ways in which the state can absorb proposed cost of living increases that would begin in 2012-13.

Child Care. Both the Senate and Assembly budget subcommittee voted to restore base funding for CalWORKs Stage One Child Care, which will be $32 million for 2011-12.

The Assembly restored all the child care cuts enacted in March ($440 million). Please recall that the child care cuts include the following:

- **Income eligibility:** Reduce income eligibility for subsidized child care from 75 percent of the State Median Income (SMI) to 70 percent of SMI.
- **Age eligibility:** De-prioritize 11- and 12-year olds, but prioritize them for before and after school programs. Includes exempted children who are in non-traditional hours of care and children who are disabled, at risk of abuse, or homeless.
- **Subsidy reduction and Co-pay:** 10 percent increase in the family fee.
- **Across-the- Board Reduction:** A 15 percent across-the-board reduction, excluding CalWORKs Stages 1 and 2.
- **Reimbursement - License-exempt:** Reduce license-exempt providers from 80 percent to 60 percent of the licensed provider rate (RMR).
- **Reimbursement:** Approve a reduction of up to 10 percent for the Title 5 Standard Reimbursement Rate, based on final Prop 98 funding package.

LEADER and CWS/Web Project Reductions. The Governor proposed to suspend funding for the CWS/Web Project to save the state $3.1 million in 2011-12. He proposed to suspend funding indefinitely, citing possible upcoming changes to the federal Administration for Children and Families requirements for adopting a statewide automated child welfare information system.

Assembly and Senate Actions

Both the Senate and Assembly Budget Subcommittees approved the requested decreases for the CWS/Web Project for one year of expenditure authority (2011-

12), and directed stakeholders, including counties, to provide an update to the Legislature by January 10, 2012 on the status of the project.

The Governor has proposed to indefinitely suspend state funding for Los Angeles County's Eligibility, Automated Determination, Evaluation and Reporting Replacement (LEADER Replacement) system – a decrease in state costs of $26.2 million in 2011-12.

<u>Assembly and Senate Actions</u>
Both the Senate and Assembly chose to reject the indefinite suspension of LEADER funding; instead, they chose to sweep $14. 1 million GF that was budgeted for LEADER in the current year and approved a one-year delay in development for 2011-12 for another $13 million in savings.

In-Home Supportive Services. The May Revise adjustment for Public Authorities cuts state funding by another $7.5 million on top of the January reduction of $2.5 million – for a total cut of $10 million from the 2010-11 appropriation. The proposed 2011-12 appropriation for Public Authority administration is $17.2 million (federal, state & county funds) – down from the 2010-11 appropriation of $27.2 million. Governor Brown also proposed to reduce county administration of IHSS by an additional $5 million GF.

<u>Assembly and Senate Actions</u>
Both the Senate and Assembly Budget Subcommittees rejected the Governor's proposal on Public Authority administration funding [restoring $7.5 million ($2.2 million GF)]and directed the Department of Social Services, in conjunction with counties and the public authorities, to develop a new rate-setting methodology for public authority administrative costs beginning in 2012-13.

Both houses rejected the IHSS county administration cut.

PUBLIC HEALTH

Maddy Fund Shift. The March budget bill (SB 69) had referenced a reduction of $55 million GF by shifting a portion of Maddy Funds to the State to offset GF support within the Medi-Cal Program. However, the necessary statutory changes to affect this change *did not occur* in trailer bill language. Thus, the Governor's May Revision increases by $55 million the state's expenses because the shift was not enacted. Both houses approved the May Revision proposal.

First 5 (Proposition 10) Funding. The Governor's May Revision restored $1 billion GF for the Medi-Cal program that would have been funded by shifting local First 5 funds per AB 99 (Statues of 2011). A number of county First 5 Commissions filed lawsuits against the state challenging the fund shift. While the Administration is choosing to fund Medi-Cal instead of using First 5 moneys, it will still continue to defend the legal challenges.

Assembly and Senate Actions

The Assembly restored $950 million to local First 5 Commissions and repealed the provisions contained in AB 99, contingent upon the Local First 5 Commissions entering into voluntary MOUs to offset $500 million of GF costs at the local level. The Assembly maintains the $50 million GF savings from the state First 5 Commission.

The Senate approved the May Revision proposal.

AIDS Drug Assistance Program (ADAP). The Governor proposed decreasing funding by $17.3 million GF in 2010-11 and $20.2 million in 2011-12 for the ADAP. He would achieve this by modifying the eligibility requirements of the Comprehensive AIDS Resources Emergency/Health Insurance Premium Payment Program (CARE/HIPP), enrolling more clients in the Pre-Existing Condition Insurance Plan through the new California Health Care Exchange, and using an unspecified amount of funds from the Safety Net Care Pool.

The Assembly and Senate adopted this proposal.

Health Care Surge Capacity Funding. The Governor proposed to transition the Department of Public Health's healthcare surge stockpiles and the Emergency Medical Services Authority's mobile field hospitals to "public and private organizations". To do so, he has included $1.8 million GF over two years ($1.3 million in 2011-12 and $560,000 in 2012-13) to support the storage, maintenance, and transportation costs of the transfer. The Assembly and Senate approved this proposal.

Immunization Funding. The Governor proposed to increase spending by $7.3 million GF to local health departments for influenza vaccine purchases and immunization programs for elder and at-risk Californians. The Assembly and Senate approved this proposal.

Drug Medi-Cal. Both the Senate Budget Subcommittee approved the movement of the Medi-Cal functions at the Department of Alcohol and Drug Programs (ADP) to DHCS, as contained in the Governor's May Revision proposal.

The question of what to do with the remaining ADP state functions was not acted on in either house; instead the budget subcommittees refer it to the policy committee process for consideration.

Elimination of Boards, Commissions, Task Forces and Offices. The Governor proposed eliminating the following health and human services-related state entities:

- **Health Care Quality Improvement and Cost Containment Commission.** This Commission, which is inactive, was tasked with researching and recommending changes for promoting high quality care and containing health care costs. The Assembly and Senate voted to eliminate the HCQICCC in statute.

- **Commission on Emergency Medical Services.** The Commission provides advice to the Emergency Medical Services Authority (EMSA) and approves regulations brought forward by EMSA. The Assembly and Senate approved this proposal.

- **California Health Policy and Date Advisory Commission**. The CHPDAC advised the Office of Statewide Health Planning and Development (OSHPD) on data collection and outcome reporting programs. The Senate Subcommittee No. 3 voted to eliminate the CHPDAC on a 3-0 vote, and did the Assembly.

- **Healthcare Workforce Policy Commission.** This Commission designates geographic areas that have a misdistribution of health care services and offers contract advice to the Office of Statewide Health Planning, which will take over its functions. The Senate Subcommittee No. 3 voted to eliminate the HWPC on a 3-0 vote, as did the Assembly.

- **Rural Health Policy Council.** The Council serves as an advisory body that examines rural health care policy. The membership is made up of Department Directors in the Health and Human Services Agency, and rural county supervisors sometimes participate. The Senate Subcommittee No. 3 voted to eliminate the RHPC on a 3-0 vote, as did the Assembly.

- **California Medical Assistance Commission.** The California Medical Assistance Commission is responsible for negotiating contracts with hospitals, on behalf of the Department of Health Care Services (DHCS) for specific services, under the Medicaid program in California (called Medi-Cal). CMAC would be eliminated on July 1, 2012. Remaining CMAC responsibilities would be transferred to DHCS following implementation of a revised hospital payment structure. The CMAC executive director would report to the Health and Human Services Agency Secretary as of July 1, 2012. The Assembly and Senate adopted this proposal.

- **Rehabilitation Appeals Board**. The Board currently hears appeals from consumers dissatisfied with decisions regarding their eligibility for services. The Board would be eliminated and appeals would be heard by hearing officers. The Senate and the Assembly voted to eliminate the RAB.

- **Continuing Care Advisory Committee**. Advises DSS concerning issues related to the continuing care industry. Instead, the Administration recommends DSS convening workgroups as necessary with stakeholder members. The Assembly and Senate voted to sunset the CCAC a year earlier than otherwise would occur.

- **Managed Risk Medical Insurance Board (MRMIB).** Eliminates MRMIB as of July 1, 2012 and the MRMIB executive director would report to the Health and Human Services Agency Secretary as of July 1, 2012. Healthy Families and the AIM program will transfer to DHCS in 2011-12. In 2012-13, the remaining programs (high risk health insurance purchasing pools and the County Children's Health Initiative Program) would transfer to DHCS. Both houses approved elimination of MRMIB.

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If you would like to receive the Budget Action Bulletin electronically, please e-mail Stanicia Boatner, CSAC Senior Legislative Assistant at sboatner@counties.org. We're happy to accommodate you!