

ALADS Legislative Corner

By

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It was historical, perhaps like “Black Friday,” which marked the beginning of the “Great Depression,” was historical. Ninety-one days after their constitutional budget deadline, the Legislature finally passed a state budget, only to have the governor announce that he would VETO it! Legislative leadership, on *both* sides of the aisle, promptly announced they would “override” the governor’s VETO (a VETO override requires the same 2/3rds vote that is needed to pass a budget), and the governor responded that he would VETO all bills – or at least “hundreds” of bills – awaiting action if there was a budget override. Negotiations are ongoing.

The VETO fight concerns a package of budget reforms requested by the governor but not actually delivered by the Legislature. Lawmakers approved modest budget reforms that increase the size of the Budget Stabilization Fund and provide the governor with some mid-year spending reduction authority. However, the governor had made two other budget reform demands that were not met: (1) transfers out of the Fund would be allowed when revenues fell below projected spending and (2) the Legislature could only avoid the three percent deposit into the Fund if money is being removed or if the Fund has reached its 12.5 percent cap. In short, legislators want fiscal flexibility in dealing with the budget, while the governor wants to ensure the “rainy day” Budget Stabilization Fund can really pay for a “rainy day.”

In passing this year’s budget, the Legislature made little attempt to “put lipstick on the pig.” They balanced the budget, which was \$15.2 billion in the red, with \$7.1 billion in cuts (mainly 10% “across the board” cuts for most programs), increasing payroll taxes by 10% (refundable in 2010), closing other “tax loopholes,” such as the infamous “yacht tax,” which netted \$1.9 billion, “borrowing” \$4.7 billion, and “shifting” and “transferring” (budget sleight of hand) the remaining \$2.7 billion. There was \$1.2 billion set aside for the “rainy day” Budget Stabilization Fund, the operation of which now is at the center of the current VETO controversy.

In all candor, this budget drama has played out the way it has because the key parties have spent more time posturing than communicating, refusing to compromise to find viable fiscal solutions, but, instead, enacting a “get out of town” budget that no one likes. This is a budget that just defers the state’s fiscal woes until the next fiscal year when, in all likelihood, we will have a budget problem which will likely be much worse. We will likely go through this budgetary “kabuki dance” yet again! The reason for my pessimism is institutional. Although it goes back to Proposition 13, more recently it has been rooted in both the governor’s and the Legislature’s inability to deal with revenue lost with the repeal of the car tax in 2002 which left the state with a \$4.5 billion deficit. We have never been able to close that fiscal gap – even when the economy was robust.

Now that the economy is recessionary, with revenues from income and sales tax down and the fixed costs of government rising (borrowing really does cost money), coming up with a fiscally responsible budget which addresses this chronic shortfall seems nearly impossible (to which this year's budget marathon is testament). Fixing a broken budget and, more importantly, a broken budget process should be the first order of legislative business in 2009. To do so requires real leadership, open bipartisan communication, and honest compromise – something scarcely seen in Sacramento. Budget reform is something we are not likely to see next year with a Legislature dealing with the partisan issue of reapportionment (unless Prop 11 passes and removes reapportionment from legislative control), but occasionally I am surprised by the institution. It's a tall order for each house's leadership and the Governor.

Here is a quick summary of this year's budget package. You can get full details of all the budget and trailer bills either by going to my website at www.timyaryan.com or to the Legislative Counsel's website at www.leginfo.ca.gov.

2008 Budget Bills Passed by the Legislature

<i>AB 1781</i>	Conference Committee Report (the "Budget Bill")
<i>AB 88</i>	Supplemental Budget Bill
<i>AB 268</i>	Transportation Trailer Bill
<i>AB 519</i>	Education Trailer Bill
<i>AB 1183</i>	Health Trailer Bill
<i>AB 1279</i>	Human Services Trailer Bill
<i>AB 1338</i>	Resources Trailer Bill
<i>AB 1389</i>	General Government Trailer Bill
<i>AB 1452</i>	Revenue Package #1 (requires 2/3 vote)
<i>ABx3 36</i>	Revenue Package #2 (majority vote)
<i>AB 1526</i>	Proposition 49 (After School Programs) Changes
<i>AB 1654</i>	Lottery: Modernization
<i>AB 1741</i>	Lottery: Securitization
<i>SCA 12</i>	Lottery: Constitutional Change
<i>SCA 13</i>	Budget Reform Constitutional Amendment
<i>AB 10</i>	High Tech Overtime
<i>AB 186</i>	Rural Crime Program Extension
<i>AB 158</i>	Indian Gaming Special Distribution Fund
<i>AB 1805</i>	Mental Health Services for Special Education Students
<i>AB 2026</i>	Surplus State Property
<i>AB 2246</i>	Fresno Joint Powers Charter School
<i>AB 2784</i>	Medi-Cal: Hospital Reimbursement

None of the supplemental appropriations for the 2007– 2008 Budget Year passed. In addition, the Corrections Trailer Bill and the bond for the Corrections Receiver were not taken up. Two measures failed in the Senate – a bill to create a Film Commission to

award grants to movie studios and a bill related to citing of the Sentinel Power Plant. I will keep you advised as to any additions or deletions to the budget and trailer bill list after the Governor and Legislature have taken their final action on the budget.

Public Safety Funding

Public safety funding issues were contained in AB 1781 (the budget conference committee report), AB 88 (the supplemental budget bill), and AB 1389 (the general government trailer bill). As noted, the Legislature failed to pass a corrections/public safety trailer bill, which does have implications for counties. The key public safety budget items are outlined below:

Citizens' Option for Public Safety (COPS) and Juvenile Justice Crime Prevention Act (JJCPA). AB 88, the supplemental budget bill, appropriates \$214.2 million or \$107.1 million for each program. This funding level reflects a 10 percent reduction to each program component, consistent with the Governor's January budget proposal.

Local Detention Facility Revenues, ("Booking Fees"). Also contained in AB 88 is an appropriation of \$31.5 million, pursuant to the provisions of AB 1805 (2006), to replace that which counties previously would have derived from the imposition of booking fees. The County Supervisors' Association of California (CSAC) has posted on its website AB 1805 implementation guidelines that address, in part, counties' authority to charge prorated booking fees when the state appropriates less than \$35 million.

Juvenile Probation and Camp Funding. AB 88 contains the \$181.3 million appropriation for camps, reflecting a 10 percent reduction over the 2007-08 funding level.

Rural and Small County Sheriffs. None of the budget bills or their trailer bills makes any changes to the continuous appropriation granting rural and small county sheriff's local assistance. Pursuant to existing law (Government Code Sections 30070 and 30071), the 37 smallest counties will continue to receive \$500,000 in 2008-09.

Department of Justice (DOJ) Forensic Laboratory Fees. AB 88, the supplemental budget bill, eliminates language in the budget conference report (AB 1781), which would have directed the DOJ to charge state and local agencies a fee-for-service for forensic laboratory tests. As a result, the \$32 million in state General Fund savings associated with this budget proposal is restored, and *DOJ will not be charging local agencies for these services.*

Mentally Ill Offender Crime Reduction Grant (MIOCR). The budget does not fund MIOCR grant programs.

California Multijurisdictional Methamphetamine Enforcement Teams (Cal-MMET). AB 88, the supplemental budget bill, appropriates \$19.5 million to support Cal-MMET activities. Further, the bill contains language requiring the Office of Emergency Services (OES) to develop a competitive grant process that would permit

counties to apply for the funding, which would be awarded in three-year cycles. The language further specifies that grants will be awarded to counties that “demonstrate the greatest need and the most reasonable solutions for addressing the local methamphetamine problem.” The size of the grants will range between \$200,000 and \$2.5 million.

Corrections Reform. As reported previously, the Legislature had sought a range of corrections reforms, primarily centered on parole reforms as well as credit earning/sentencing changes. We opposed these “reforms” which would have effected the release of over 22,000 unsupervised inmates from state prison. Those provisions were carried out in the corrections/public safety trailer bill, which was not part of the final budget package.

Court Security. The public safety/corrections trailer bill would have addressed changes to the process for funding court security services. Given that the trailer bill was not included in the package of budget and trailer bills sent to the Governor, there are no changes to existing law regarding court security.

In summary, funding for local law enforcement agencies was cut by roughly \$100 million, largely as a result of the 10% “across the board” cuts, the 34% reduction to CALMMET, and the elimination of the Mentally Ill Offender Crime Reduction (MIOCR) grants. On the positive side, proposals for “summary parole” or ‘direct discharge’ and release of over 22,000 plus state inmates to the community were defeated.

The “Arnold Recall.” As if there was not enough drama with the budget, CCPOA, the prison guards union, has filed a petition to recall Governor Schwarzenegger. The recall will go forward if sufficient signatures are gathered and CCPOA has the cash to spend to get signatures. However, many observers understand that there is a fierce internal fight for CCPOA leadership (Don Novey has long since retired) and some are saying that the recall effort is just a play by the current leadership to garner support. Other than CCPOA, there seems to be little political traction for this effort and little outside public support (less than 30% of those polled would support a recall effort). Stay tuned.

Next month, I’ll review relevant legislation of interest that was enacted in 2008 – that is, unless the governor vetoes all the bills. Until next time, stay safe!

Addendum

After negotiations were concluded successfully with the governor, the Legislature will likely pass a “revised Budget” tonight with the following changes:

The revised budget eliminates a proposed tax amnesty program, and the 10% withholding tax increase, decreasing anticipated revenue by \$1.6 billion

The revised budget makes up \$1.2 billion in lost revenue by increasing penalties on corporations that underpay taxes. Under this proposal, corporations who underpay their taxes by \$1 million or more would see penalties rise from 10 percent to 20 percent

The leaders agreed to lower the amount of the state's reserve "rainy day" fund from \$1.2 billion to \$800 million, making up the remaining \$400 million in lost revenue. They agreed to the Governor's three conditions on the administration of the fund..

After receiving the revised budget and making "blue pencil" cuts, the Governor is expected to sign the Budget and budget trailer bills early next week

Arnold Recall

Mike Jimenez was reelected President of CCPOA, and there was significant support for moving ahead with the Governor's Recall from the delegates at the CCPOA Convention. I expect CCPOA to begin signature gathering shortly