



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 20-513

Board Meeting Date: 7/7/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Michael P. Callagy, County Manager
Connie Juarez-Diroll, Legislative Officer

Subject: FY 2020-21 State Budget Act Analysis and 2020 State Legislative Mid-Session Report

RECOMMENDATION:

Accept this informational report on the recently enacted FY 2020-21 State Budget.

BACKGROUND:

On June 29, 2020 Governor Gavin Newsom signed SB 74 (the Legislature's two-house plan) and AB 89 (a "Budget Bill Jr." containing the guts of an agreement brokered with state legislators) along with 18 other associated trailer bills to enact the state's 2020-21 spending plan. The \$202.1 billion recessionary budget package in its totality largely rejects the cuts proposed in the Governor's May Revision, which would have imposed across-the-board reductions on everything from Medi-Cal to K-12 schools, and instead balances itself against a projected \$54.3 billion deficit (the first state deficit in eight years) on the potential of federal assistance, deferrals, and significant use of budget reserves.

The budget-related bills reflect a provisional compromise between the Legislature and the Governor given the ongoing nature of the pandemic, the delay in knowing how much tax revenue the state will receive due to the extended tax filing deadline, and continued uncertainty about whether any additional federal COVID-19 relief funding will be provided to the state. It is anticipated that the Governor and Legislature will need to revisit aspects of this budget in August following the reporting of state income tax receipts in mid-July.

DISCUSSION:

The following are select new key elements of the recently approved state budget of importance to the County:

State Budget Reserves

Under this budget, total state General Fund expenditures for the 2020-21 fiscal year are \$133.9 billion. In addition, the budget draws down \$8.8 billion in reserves, including \$7.8 billion from the state's Budget Stabilization Account (BSA), \$450 million from the Safety Net Reserve, and all of the

funds from a separate, smaller reserve for public schools. The state Constitution under Proposition 2 (2014) allows state leaders to withdraw up to one-half of the BSA in the first year of a fiscal emergency. For the current fiscal year (2019-20), the BSA balance is \$16.1 billion, meaning state leaders will draw down almost half of the total available funds, leaving \$8.3 billion for future use. State leaders also used half of the \$900 million in the Safety Net Reserve, leaving \$450 million for use in future years. The budget agreement also set aside \$2.6 billion in a separate reserve, the Special Fund for Economic Uncertainties (SFEU), for potential use in 2020-21. On June 25, 2020, the Governor declared a “budget emergency” that allowed funds to be drawn from the Rainy Day Fund.

Federal Funding Triggers

The Budget Act includes several instances of funding decisions contingent on the receipt of additional federal funding to the state. Thus, the final Budget Act provides a mechanism to restore funding and offset reductions to programs and services if the state receives \$14 billion in federal funding by October 15, 2020. The Budget language specifies that if federal funding is more than \$2 billion, but less than \$4 billion, then each of the trigger items will be adjusted proportionally. The list of items associated with the federal trigger, and one-time funding restorations, include in part:

- \$45 million for mixed-income housing through the California Housing Finance Agency
- \$203 million from the Infill Infrastructure Grant Program of 2019
- \$46 million for child support funding
- \$5.7 billion to reduce payment deferrals to K-12 schools
- \$79.1 million to reduce payment deferrals to community colleges
- \$471.6 million for University of California funding
- \$498.1 million for California State University funding
- \$2.8 billion to offset employee compensation reductions in this budget package
- \$250 million to backfill county realignment programs

1991 and 2011 Realignment Funding

The Budget Act provides \$1 billion in State General Fund for FY 2020-21 to backfill for reduced 1991 and 2011 Realignment revenues. Of this total, \$750 million is available upon enactment of the budget; however, the remaining \$250 million is subject to the federal trigger and will be made available if enough federal funds are received by October. Distribution of these funds between 1991 and 2011 Realignment and among the various accounts and subaccounts is not yet determined. However, intent language in AB 89/SB 121 specifies that this one-time safety net funding is to be used for health and human services programs, entitlement programs, and programs that serve vulnerable populations. Budget bill language requires the Department of Finance to work with the California State Association of Counties (CSAC) to develop a countywide allocation schedule for the funding.

It is anticipated that the County will receive approximately \$20 million as a result of this backfill.

Finally, the Budget Act indicates that the funding is contingent on county adherence to federal guidance, the state’s stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, any subsequent executive orders or statutes, and all California Department of Public Health orders, directives, and guidance issued in response to the COVID-19 public health emergency. Counties will be required to certify compliance to the Department of Finance, after which the Director of Finance will order the State Controller to allocate

funding to the county. The County submitted its certification form to the state on July 1, 2020.

Federal COVID-19 Relief Funding/CARES Act

The final budget includes \$1.289 billion in funding for counties to help pay for the costs of responding to the COVID-19 pandemic, including both direct costs (e.g., homelessness, public health, public safety and other public services) and second-level economic effects. The funds were provided by Congress in the CARES Act through the Coronavirus Relief Fund (CRF) and must be utilized in accordance with U.S. Department of Treasury guidance. Allocations will be based on the share of each county's population relative to the total population of the state.

Separate from county allocations, cities will receive \$500 million from the CRF. These funds will also be distributed as follows:

- \$225 million to cities with a population of 300,000 or greater that did not receive a direct allocation from the federal CARES Act, allocated proportionally based on population.
- \$275 million to cities with a population of 300,000 or fewer, allocated proportionately based on population with a minimum of \$50,000.

Funding to local governments is contingent upon compliance with the state's stay-at-home order, Executive Orders, and Department of Public Health orders and guidance issued in response to the COVID-19 emergency. Local governments will be required to certify compliance with the Department of Finance.

Homelessness

The enacted budget includes \$300 million in funds for cities, counties and Continuums of Care (CoCs) via last year's Homeless Housing Assistance and Prevention Program (HHAP) through the Homeless Coordinating and Financing Council. Allocations include:

- \$90 million to CoCs
- \$130 million to each city with a population of more than 300,000 as of January 1, 2020
- \$80 million to counties

Project Roomkey to Project Homekey

The budget includes \$500 million in federal CARES Act funds to support the acquisition of hotels and motels secured under Project Roomkey. Funds will be administered through the Department of Housing and Community Development (HCD). In addition, \$50 million is set aside by HCD to assist in the acquisition and operation of hotels, motels, and other properties purchased under Project Roomkey.

Trailer bill language to implement Project Roomkey provides a CEQA exemption for Project Roomkey if certain conditions are met. The trailer bill expressly exempts Project Roomkey projects from Article 34 of the California Constitution, which requires a vote of the public prior to building certain types of affordable housing—a remnant of 1950s-era policymaking aimed at making it more difficult to build public housing.

Elections

The budget includes \$65.5 million in federal CARES Act and Help American Vote Act (HAVA) funds to counties for costs associated with conducting the November 2020 election and voter education and

outreach, including additional ballot printing, mailing and postage, equipment needs, additional staffing, communication, and outreach. The budget also provides state General Fund augmentation of \$35 million for the November 2020 election and provides the Secretary of State authority to spend the federal funds.

Excess Educational Revenue Augmentation Fund (ERAF):

In May 2020, the Department of Finance (DOF) released the education omnibus trailer bill (AB 77) which contained an amendment to the Revenue & Taxation Code directed at five Bay Area counties (Marin, Napa, San Francisco, San Mateo, and Santa Clara) that are involved in a disagreement with the DOF regarding calculations by local auditor-controllers related to two issues (certain Charter school payments and RDA dissolution calculations). The amendment sought to do the following: 1) task the DOF with developing guidance for counties regarding the apportionment of property tax; 2) apply the guidance retroactively to FYs 2017-18 and 2018-19; and 3) impose civil penalties against any county that calculates and apportions ERAF in a way that differs from DOF guidance. Under this claw back provision, it was estimated that the County could owe approximately \$15-20 million per year in Excess ERAF funds to the state.

With the able assistance of the County's state delegation-Senators Hill and Wiener and Assembly Members Mullin and Berman who sought changes to the original proposal through direct advocacy with the DOF and the leadership of their respective houses-and in coordination with delegates from the other four affected counties, the County's advocates were successful in securing changes to most egregious parts of AB 77. The amendments include: 1) removal of the imposition of civil penalties; and 2) shifting responsibility for the development of guidance to counties from the DOF to the State Controller's Office. The bill also narrows the retroactivity timeframe in some instances, based on the information contained in certain State school reports as of February 2020. The bill which has not acted on by the Legislature prior to recessing is expected to be taken up in mid-July when it returns from summer break.

Although the provisions could have been worse without the assistance of our delegation, the County continues to have serious concerns regarding the revised trailer bill. First, the affected counties have been applying the law in good faith and their calculations have been subject to audit by the State Controller in prior years. Second, it is fundamentally unfair to enact a law which requires immediate compliance with retroactive guidance while at the same time granting such guidance the force of law. Third, all property tax appointments have been made and new deadlines set for finalization of the FY 2017-18 and FY 2018-19 calculations are unrealistic given that the County missed one of the deadlines through no fault of its own. Finally, excess ERAF funds are distributed to local agencies, impacting their ability to provide critical public services like public safety, fire and flood protection, as well as social services, libraries, and more.

The Controller's Office estimates that the fiscal impact to the County and the other County taxing entities will be approximately \$10 million for FY 2019-20, but additional analysis will be necessary once the State Controller issues the aforementioned guidance.

ERAF, and Excess ERAF specifically, will continue to be under assault for years to come. In response, the County Manager's Office will continue its vigorous defense of these local dollars.

The following important budget issue remains unresolved and will require additional negotiation in the coming weeks:

Closure/Realignment of the Division of Juvenile Justice

The structure surrounding the closure, or realignment of the state's Division of Juvenile Justice (DJJ) is not included in the public safety trailer bills (AB 88 and SB 118). Since the release of the Governor's May Revision proposal, it is clear that closing DJJ is a priority for the Administration and Legislature. However, the absence of a final agreement signals that the Governor and Legislature will need more time to agree on a framework and sufficient funding for implementation. It is expected that the Senate budget subcommittee with jurisdiction over corrections and public safety matters could begin to hold a hearing on the issue when they return from summer recess.

RECOMMENDATION:

Accept this informational report on the 2020 State Legislative Mid-Session.

BACKGROUND:

After adjourning on March 16 due to the COVID-19 pandemic, the California State Assembly returned to session on May 4 and the Senate one-week later. When they did, however, it was not "business as usual" as they imposed new protocols for policy committee hearings that sought to balance the need to return to legislative business with facilitation of safe in-person participation in the deliberative process. Revised Assembly and Senate legislative calendars also included new deadlines for policy and fiscal committees to hear bills and pass them out of their house of origin. To that end, house calendars differed until July 13 when legislative calendars sync up again.

Many of the bills introduced at the beginning of the session did not advance as members pulled them in response to a request from leadership to pare back bill lists to essential measures. Nevertheless, legislators continue to work on a long list of items of potential impact to counties in the areas of elections, health, housing and homelessness, public safety, and wildfire and emergency management. Legislators also introduced a long list of COVID-19 related bills ranging from liability to personal protective equipment.

In addition to the state budget and regular bills, the Legislature took final action to determine legislative measures for the November 2020 ballot. While Thursday, June 25 was the constitutional deadline for sponsors to remove measures from the ballot, the Legislature gave itself the opportunity to consider measures through July 1 via the newly amended SB 300 (Umberg, Chapter 26, Statutes of 2020) which also calls for a special election to be consolidated with the November 3, 2020 general election. A full list of the propositions that will appear on the November 3, 2020 is included in this report.

The Legislature will return from summer recess on July 13 and have until August 31 to send bills to the Governor. The Governor has until September 31 to sign or veto bills.

DISCUSSION:

The attached 2020 Legislative Activity Report provides details of state and federal legislation currently being tracked by the County Manager's Office. The tracker also indicates if the Board has acted on the measure based on existing County legislative policy. As the Legislature returns to more normal activity and the list of bills becomes clearer, the County Manager's Office will pick up the pace of legislative activity for the County.

PERFORMANCE MEASURE:

| Measure | FY 2018-19 Anticipated | FY 2019-20 Projected |
|--|-------------------------------|-----------------------------|
| State/Federal Measures analyzed and acted on | 150 | 200 |