

FEDERAL AND STATE LEGISLATIVE UPDATES

FEDERAL BUDGET UPDATE

With a little over three months remaining before the October 1 start of federal Fiscal Year (FFY) 2019, the House of Representatives – and to a lesser degree, the Senate – has been making headway on the various appropriations bills that comprise the federal budget. To date, eight of the 12 FY19 spending measures have been introduced in the lower chamber, with six of the bills receiving clearance by the full Appropriations Committee. Additional markups, as well as House floor action, is expected to occur before Congress adjourns for its August break.

Across Capitol Hill, two spending measures have been approved by the Senate Appropriations Committee. Looking ahead, the panel is scheduled to consider the 10 remaining bills during the month of June, with floor action anticipated to occur in July.

It should be noted that House and Senate appropriators are writing this year's Budget to conform to the topline funding levels as set forth by the Bipartisan Budget Act (BBA, PL 115-123). The BBA, which was enacted earlier in 2018, authorizes Congress to exceed the FY19 spending caps that were mandated under the Budget Control Act (BCA, PL 112-25). Specifically, the BBA allows lawmakers to increase defense and domestic discretionary spending by \$85 billion and \$68 billion, respectively (when compared to the spending levels authorized by the BCA).

To follow are summaries and, where applicable, comparisons of several of the pending FFY 2019 appropriations measures.

Interior-Environment

The House Interior and Environment Appropriations Subcommittee approved by voice vote its FFY 2019 spending bill on May 15. All told, the legislation would provide nearly \$35.3 billion in funding for the Department of the Interior (excluding the Bureau of Reclamation), the Environmental Protection Agency, and a number of related agencies. The proposed spending is on par with the FFY 2018 enacted level.

Among other things, the bill would provide over \$1.5 billion for the Clean Water State Revolving Fund and \$1 billion for the Drinking Water State Revolving Loan Fund, a cut of \$150 million to each program. The measure also includes \$75 million for the Water Infrastructure Financing and Innovation Act (WIFIA) program, or an increase of \$12 million when compared to current spending.

In addition to providing funds for departmental operations, the legislation contains several policy riders, including language that would insulate the California WaterFix project from legal challenges. Notably, the provision would not only preclude State and federal judicial review of the final Environmental Impact Report/Environmental Impact Statement, it would shield the forthcoming Record of Decision – as well as any other agency decision or downstream determination – from the threat of litigation.

Inclusion of the WaterFix rider has been met with fierce opposition from a number of the members of the California congressional delegation, including several lawmakers from the Bay-Delta region. Those members, aided by key Delta area stakeholders – including the Delta Counties Coalition – will be working to ensure that the provision is not finalized as part of the FFY 2019 Budget.

Energy and Water Development

On May 16, the House Appropriations Committee approved the FFY 2019 Energy and Water (E&W) spending bill by a vote of 29-20. The legislation funds the Department of Energy, the U.S. Army Corps of Engineers, the Bureau of Reclamation, and several independent agencies.

The measure would provide \$44.7 billion in FFY 2019, or \$1.5 billion above current spending and \$8.2 billion more than President Trump's Budget blueprint. Notably, the Army Corps would see its budget increase by over \$450 million, while an additional \$75 million would be available for the Bureau of Reclamation.

Within the Corps' Budget, the House E&W bill would provide just over \$3 million for dredging activities in San Pablo Bay and Mare Island Strait, or the same level of funding as recommended by the Trump administration in its FFY 2019 Budget request. The measure also tracks the administration's request for \$3.66 million for the dredging of the Suisun Bay Channel.

Additionally, the legislation includes \$3.7 million for the Solano Project. Within the total, funds would be available for facility operations, management of the recreation area at Lake Berryessa, and various NEPA compliance activities.

The House bill also includes \$134 million for water storage projects authorized in the Water Infrastructure Improvements for the Nation (WIIN) Act. With regard to California, the funds could be used for the following projects: design and pre-construction work on the Shasta Reservoir project; feasibility study completions for the Sites Reservoir and the Temperance Flat Reservoir; and, initiation of a feasibility study to address subsidence on the Friant Kern Canal.

In the Senate, the Appropriations Committee approved its version of the E&W spending bill on May 24. The legislation, which was cleared on a 30-1 vote, has a cost of \$43.77 billion, or \$1 billion less than the House measure. It should be noted that the Senate bill tracks the House legislation's proposed funding levels for the Solano Project, San Pablo Bay and Mare Island Strait, and the Suisun Bay Channel.

Transportation-HUD

The House Appropriations Committee approved May 23 its FFY 2019 Transportation-Housing and Urban Development (T-HUD) spending measure by a vote of 34 to 17. In total, the legislation reflects an allocation of \$71.8 billion in discretionary spending – \$1.5 billion more than the FFY 2018 enacted level and \$23.8 billion above the Trump Administration's Budget request.

Pursuant to the bill, \$46 billion from the Highway Trust Fund would be available for the Federal-aid Highway program, which is \$1 billion above the FFY 2018 level and on par with the funding authorized by the Fixing America's Surface Transportation (FAST) Act. In addition, the legislation would provide an extra \$4.25 billion in discretionary highway funding – a total increase of \$2.76 billion for roads and bridges over current spending.

The measure also would provide \$750 million for the multimodal BUILD program (formerly known as TIGER grants), or a 50 percent cut in funding. The bill includes language to ensure a balanced allocation of BUILD program funding among rural, suburban, and urban areas; of the total investment, \$250 million would be set aside for port projects.

With regard to community planning and development, the measure includes \$7.6 billion for various HUD activities and programs, or \$115 million below the FFY 2018 enacted level. The bill would fund the Community Development Block Grant program at \$3.3 billion, equal to the FFY 2018 spending level. Additionally, the legislation would provide \$1.2 billion for the HOME Investment Partnerships Program, which represents a \$162 million cut.

Homeless Assistance Grants would be slated for an increase under the House bill, with the program receiving \$2.5 billion (+\$33 million). The measure includes language targeting the funding to address geographic areas that have seen an increase in homelessness and to provide assistance to victims of domestic violence.

Commerce-Justice-Science

The House Appropriations Committee approved its FFY 2019 Commerce-Justice-Science (CJS) spending bill on May 17 by a vote of 32-19. The legislation would provide \$62.5 billion in total discretionary funding for the Departments of Commerce and Justice, NASA, and related agencies. The proposed investment represents a \$2.9 billion increase over FFY 2018.

The bill would provide \$2.9 billion, or roughly level funding, for State and local law enforcement and criminal justice grant programs. Within the aforementioned total, \$255 million is allocated for the State Criminal Alien Assistance Program (SCAAP), an increase of \$15 million. If enacted, the funding boost would build upon the \$30 million increase that SCAAP received in the current fiscal year.

In addition, the legislation would increase funding for the Byrne-Justice Assistance Grant program (+26 million) and the Violence Against Women Act (+\$1 million). The bill would provide level funding (\$225.5 million) for the Community Oriented Policing Services (COPS) program; within the COPS account, the legislation specifies several carve outs, the effect of which would reduce the amount of funding available for core hiring grants. The legislation also includes \$380 million for comprehensive opioid abuse reduction activities, or a proposed \$50 million increase in spending.

On the cannabis policy front, the Appropriations Committee adopted an amendment offered by Congressman David Joyce (R-OH) that would prohibit federal funding from being used to prosecute individuals or businesses that are acting in compliance with State legal medical marijuana laws. While the language, often referred to as the Rohrabacher-Farr rider, has been included in previous spending bills dating back to FFY 2015, this is the first time it has been offered and accepted during committee consideration. Appropriators also approved an amendment offered by Congressman Andy Harris (R-MD) that urges the Drug Enforcement Administration to expeditiously process medical marijuana research applications.

Finally, the committee rejected an amendment offered by Congressman Jose Serrano (D-NY) that would block the U.S. Census Bureau's controversial question regarding citizenship. For their part, Democrats have expressed concern that the question will depress response rates and result in an undercount of the population. Such an outcome would impact the distribution of federal grant program dollars and potentially skew the number of congressional seats each State is allotted in future elections. Representative Serrano has indicated that he will offer the amendment during consideration on the House floor, although Republicans on the Rules Committee could block its consideration.

Agriculture

The House and Senate have approved their respective versions of the FFY 2019 Agriculture appropriations legislation (House vote, 31-20; Senate vote, 31-0). Both bills would provide roughly \$145.1 billion in combined discretionary and mandatory funding in FFY 2019, or less than a one percent cut when compared to the current fiscal year.

It should be noted that much of the spending covered by the Agriculture Appropriations bill is mandatory, including funding for the Supplemental Nutrition Assistance Program (SNAP). Both the House and Senate legislation includes \$73.2 billion in required spending for SNAP, or \$794 million below last year's level due to declining program enrollment.

STATE BUDGET UPDATE

On May 11, 2018, the Governor released his May Revision to his Proposed 2018-2019 State Budget. The May Revision proposes a \$137.6 billion General Fund Budget and \$199.3 billion in all funds and transfers, which largely reflects the increase in anticipated surplus compared to Governor's January Budget proposal. However, the Governor's May Revision also emphasizes the intensified risk to California's economic outlook due to several factors, including a stock market correction, an eventual national recession, and geopolitical risks that affect national growth. Furthermore, the full impacts of the federal tax reforms that took effect earlier this year are still unknown.

California collected more tax revenue during the month of April than in any previous month of the 2017-18 fiscal year so far. Moreover, total April revenues of \$18.03 billion were higher than estimates in the governor's FY 2018-19 Proposed Budget by 5.3 percent. While the Governor's revenue estimates have increased substantially since January, a large portion of these revenue increases are offset by formula-driven constitutional spending requirements and other increases resulting from caseload changes and federal requirements. After satisfying these higher spending requirements, the Legislative Analyst's Office (LAO) estimates that the Governor had \$4.1 billion in discretionary resources to allocate in the May Revision. The Governor proposes a total reserve balance of \$17 billion, which is slightly larger than the reserve balance proposed in January. The Governor also uses available discretionary resources for spending on largely one-time purposes.

The following are highlights of the Proposed State Budget:

Health and Social Services

In-Home Supportive Services (IHSS) Program

The In-Home Supportive Services (IHSS) program provides assistance and services to eligible older or disabled individuals to help them remain safely in their home. The Governor's May Revision estimates that IHSS costs will increase by \$105.6 million General Fund in 2017-18 and \$174.7 million General Fund in 2018-19. These result from 13 increases in overtime, hours per case, and costs per case. The increases are partially offset by slower caseload growth, which has been adjusted to more than 544,000, slightly down from 545,000 in January. The May Revision estimates that with the updated revenue projections, redirections from Health and Mental Health Realignment funding, and State General Fund commitments, there will be no net fiscal impact to counties through 2019-20.

Health Care

- The May Revision includes some revisions of the State's portion of Medi-Cal costs for 2018-19, including the addition of nearly \$250 million in enhanced federal funding for the Children's Health Insurance Program (CHIP) and increases in State costs for the Managed Care Organization Tax and Hospital Quality Assurance Fees. Overall, the May Revision anticipates \$830.5 million in increased State General Fund costs for the Medi-Cal program in 2018-19.
- Approved in 2016, the California Healthcare, Research, and Prevention Tobacco Tax Act of 2016 (Proposition 56) raises the tax on cigarettes from \$0.87 to \$2.87 per pack and expands this tax to electronic cigarettes. Estimated revenues for 2018-19 are \$1.3 billion. The Proposed Budget allocated \$649.9 million in 2018-19, an increase of \$232.8 million, for supplemental payments and rate increases based on those approved in the 2017 Budget package. Of the increased amount, about \$163 million is for physician payments and \$70 million is for dental payments. 1991 State-Local Realignment Health Account Redirection

Social Services

The Proposed Budget included \$24.2 billion (\$8.6 billion General Fund) for DSS in 2018-19.

The Governor's Budget proposed \$238.2 million (\$179.7 million General Fund) to continue the implementation of Continuum of Care reforms. Assumptions on caseload movement were revised to more accurately reflect the pace of implementation. In 2018-19, County Child Welfare and Probation departments will work to increase the availability of home-based family care and

determine the local need for short-term Residential Therapeutic Programs as group home licenses expire and residential congregate care placements decline.

CalWORKS

The CalWORKS program is California's version of the federal Temporary Assistance for Needy Families (TANF) program, which provides temporary cash assistance to low-income families with children to meet basic needs and welfare-to-work services so families may become self-sufficient. Counties have flexibility in program design, services, and funding to meet local needs.

Total TANF expenditures are \$7.4 billion (State, local, and federal funds) in 2018-19, including \$5.1 billion for CalWORKS program expenditures and \$2.3 billion in other programs, such as for Cal Grants, Department of Education Child Care, Child Welfare Services, Foster Care, Department of Developmental Services programs, the Statewide Automated Welfare System, Work Incentive Nutritional Supplement, California Community Colleges Child Care and Education Services, and the Department of Child Support Services. The average monthly CalWORKS caseload is estimated to be 401,000 families in 2018-19, an 11% decrease from the 2017 Budget Act projection.

The following adjustments are proposed:

- \$26.7 million for a voluntary Home Visiting pilot program, which will continue through 2021 for young, first-time parents in the CalWORKS program. Home visitors will help parents navigate and connect to resources in the CalWORKS program and other available services, and report case progress and outcomes to the County. DSS will work with counties to establish outcome measures so the initiative can be evaluated for effectiveness. \$158.5 million in one-time TANF funds is reserved for the pilot's costs through calendar year 2021.
- The Proposed Budget included a one-time augmentation of \$187 million for the County single allocation until a revised budgeting methodology is adopted to address the cyclical nature of the caseload changes and impacts to County services. The Brown Administration will continue to work with County representatives and the County Welfare Directors Association to develop recommendations for revising the methodology by the May Revision.
- County savings related to federal health care reform are estimated to be \$657.1 million in 2017-18 and \$530.5 million in 2018-19. The Proposed Budget included a one-time General Fund decrease of \$231.2 million in the CalWORKS program resulting from additional 2015-16 County savings. The Statewide indigent health savings were higher than previously estimated based on the preliminary reconciliation of 2015-16, and the Proposed Budget assumed reimbursement of this amount from the counties in 2018-19. The estimated savings will be updated in the May Revision based on audited data from the counties. These additional County savings are redirected to the CalWORKS program to offset General Fund costs.

Public Safety

The Department of Corrections and Rehabilitation

The Budget estimated that there will be a 2.1% increase in the adult inmate population and a decrease in the adult parolee population of 0.6% compared to 2017 Budget projections.

\$16 million General Fund for the Statewide Prison to Employment Initiative which will provide services for regional and local planning and implementation to integrate reentry and workforce services to the formerly incarcerated. This initiative is designed to accelerate the alignment of correctional education, training, and increased workforce system collaboration.

\$3.8 million General Fund is included to establish two housing units to support a Young Adult Offender Pilot Program that would divert a limited number of young adult offenders who have committed specified crimes from adult prison to a juvenile facility.

The Budget included \$106.4 million to continue the Community Corrections Performance Incentive Grant program

The Budget included \$29 million General Fund for County Probation departments to supervise the temporary increase in the population of offenders on Post-Release Community Supervision as a result of the implementation of Proposition 57.

The Department of Finance estimates net savings of \$64.4 million for Proposition 47 when comparing 2017-18 Budget to 2013-2014. Ongoing savings are estimated to be approximately \$69 million. These funds will be allocated according to the formula outlined in the initiative.

The Administration is working with the AG's office on a funding proposal to be released in the Spring to implement SB 384 which replaces the existing lifetime sex offender registration system with a tiered registration system beginning on January 1, 2021.

Cannabis Regulation

With the passage of Proposition 64 and the Medical Cannabis and Regulatory Safety Act (MCRSA), California began licensing commercial cannabis activity in January 2018. As approved by Proposition 64, a new excise tax and cultivation tax is imposed on cannabis licensees. The cannabis excise tax is forecasted to generate \$185 million in 2017-18 and \$640 million in 2018-19. Recent reports indicate that the State only collected roughly \$34 million in the first quarter of 2018, leading many to speculate that California's cannabis revenues will not live up to projections.

Resource Management

Transportation

The 2018-19 Governor's Budget represents the first full year of new revenues from Senate Bill 1 (Beall and Frazier). According to the Governor's Budget Summary, over the next decade, the \$55 billion transportation package will provide \$15 billion for State highway repairs and maintenance, \$4 billion in State bridge repairs, \$3.3 billion for State trade corridors, and \$2.5 billion for the State's most congested commute corridors.

Local roads will receive more than \$15 billion in new funding for maintenance and repairs and \$2 billion in matching funds for local partnership projects. Transit and intercity rail will receive \$7.6 billion in additional funding, and local governments will have access to \$1 billion for active transportation projects.

Cap and Trade

The Governor's 2018-19 Proposed Budget acknowledged that the market for Cap and Trade auction allowances has rebounded since the passage of AB 398 (Garcia) [Chapter 135, Statutes of 2018].

The Proposed Budget noted that there will be \$1.25 billion in Cap and Trade auction proceeds available for appropriation in 2018-19, but does not offer a specific Cap and Trade Expenditure Plan as in past years.

Water

The Governor's 2018-19 Proposed Budget included the following adjustments to the Sustainable Groundwater Management Act (SGMA):

- \$61.8 million from SB 5 funds for DWR to support SGMA implementation by:
- Providing technical assistance to aid in the development and evaluation of plans
- Supplementing existing planning grants to support a groundwater sustainability agency's responsibility to define a path to achieve sustainable groundwater management
- Providing grants directly supporting the implementation of groundwater projects
- \$84 million from SB 5 funds for the State Water Board to support regional groundwater treatment and remediation activities that prevent or reduce contamination of groundwater that serves as a source of drinking water, including \$10 million for technical assistance for drought and groundwater investments.

The Proposed Budget also included \$98.5 million from SB 5 funds for multi-benefit flood control projects that achieve public safety and fish and wildlife improvements, as well as funding for a new Floodplain Management, Protection, and Risk Awareness Program to protect California's alluvial fan, coastal, and riverine floodplains. This funding seeks to support an integrated system-wide approach to flood management and implementation of the Central Valley Flood Protection Plan.

The Proposed Budget established a new special fund for the State Water Board to assist communities, particularly disadvantaged communities, in paying off the short-term and long-term costs of obtaining access to safe and affordable drinking water.

The Governor's Budget proposed \$4.7 million in 2018-19 for the State Water Board and the Department of Food and Agriculture to take steps toward implementation of this new program, including:

- Developing and implementing fee collection systems
- Conducting an assessment to estimate the level of funding needed to assist water systems to ensure the delivery of safe and affordable drinking water
- Developing and making available a map of high-risk aquifers used as drinking water sources