



June 17, 2011

For only the second time in 25 years, the Legislature adopted a State Budget before the constitutional deadline of June 15th. The spending plan was contained in the previously adopted budget bill, [SB 69](#), and a supplemental plan, [AB 98](#), that made additional cuts in some areas and restored previous cuts to other programs due to the unexpected increase in income tax revenue. In recent years, the Legislature has adopted a “get out of town” budget utilizing accounting gimmicks and internal borrowing. This year’s sequel was similar in this regard. As a result, Governor Brown followed through on his commitment to a balanced budget and vetoed the spending plan less than 24-hours after its passage. “I don’t want to see more billions in borrowing, legal maneuvers that are questionable, and a budget that will not stand the test of time,” Brown said in his [veto](#) announcement. In his official veto [message](#), the governor wrote, “Unfortunately, the budget I have received is not a balanced solution.” Now it is up to State Controller John Chiang to determine if the Legislature fulfilled their Proposition 25 responsibility so they can continue to receive their salaries and per diem of about \$400 per day. Controller Chiang has previously stated that a “smoke and mirrors” budget will not satisfy his interpretation of Prop. 25’s requirements. His final decision is still pending.

The Assembly and Senate also adopted a number of budget trailer bills that have not yet been sent to the governor. Trailer bills contain the fine points of the budget and as usual, contained last minute provisions that set off alarm bells around the state, including rural communities. For example, a \$150 fee on homeowners in the State Responsibility Areas to fund fire prevention by the State Board of Forestry and the Department of Forestry and Fire Protection was adopted in [ABX1 29](#) (Bob Blumenfield, D-Van Nuys). This measure is virtually identical to [SB 1617](#) (Christine Kehoe, D-San Diego) that was introduced but was never approved in 2008, except the fee was only \$50 per habitable structure. Farm Bureau opposed SB 1617 because there was no guaranteed return to source for the landowner fees, meaning fees charged in one area of the state could be used exclusively in another area hundreds of miles away.

[ABX1 22](#) (Blumenfield) is a trailer bill that would recalculate the cost shares for Department of Motor Vehicles (DMV) administration funded from different fees and taxes collected on vehicles. This accounting change will allow the administrative costs paid by Vehicle License Fee (VLF) tax to be reduced and the administrative costs paid from vehicle registration fees to be increased. As a result, the amount of VLF directed to local governments would increase by \$300 million to support public safety realignment. Vehicle registration fees would be increased by \$12 per vehicle to cover the new cost share from registration fees.

[ABX1 23](#) (Blumenfield) would allow a tax increase without a two-thirds vote. Known as the Single Flip in budget lingo, the bill allows the state to increase the sales tax by one-quarter percent with more

“creative accounting”. Current law requires an additional state quarter-cent sales and use tax imposed in 2004 to be dedicated to the payment of debt service on the Economic Recovery Bonds (ERBs) that were approved by the voters in the same year. This dedicated tax was to remain in effect until the ERBs have been paid off or until sufficient funds to pay off the bonds have been irrevocably provided. In a previous funding swap known as the "Triple Flip", a quarter-cent of the local Bradley-Burns uniform sales and use tax was suspended during a revenue exchange period that allowed the state to keep a quarter-cent from the cities sales and use tax in return for a reduction in the previous shift of local property taxes to the state. Existing law also provides for the automatic reinstatement of the local tax rate at the conclusion of the revenue exchange period.

As if this was not complicated already, the Legislature got “creative” yet again. Ending the suspension of the local quarter-cent rate will result in an overall increase of a quarter cent in the total combined state and local sales and use tax rate during the remaining repayment period of the ERBs. If the temporary one cent sales tax expires on June 30, 2011, which looks very likely, the sales tax rate on July 1, 2011 would be reduced by three-quarters of a cent instead of the full cent.

ABX1 23 was approved by a majority vote despite the recently adopted Proposition 26 that requires any legislation that increases a tax imposed by the state to be approved by a two-thirds vote. Since the Bradley-Burns tax is a locally-imposed tax the new section of the constitution is not applicable.

This accounting change eliminates the annual diversion of about \$1.1 billion of local property tax revenues from K-14 education to cities and counties, resulting in state General Fund savings. Also, due to a three month lag in payment, state General Fund expenditure savings is estimated to be \$900 million in 2011-12. The state’s savings will increase to about \$1.1 billion plus growth in 2012-13 and ongoing until 2016 when the ERBs will be finally paid off.

Perhaps the most controversial budget trailer was [SB X1 23](#) (Committee on Budget and Fiscal Review) that would greatly expand local taxing authority including local income taxes and excise taxes among many others. The bill, previously SB 653 (Darrell Steinberg, D-Sacramento), was approved in the Senate by a bare majority, 21 to 16. Thankfully, the bill was held in the Senate and never transmitted to the Assembly for its consideration. Subsequent adoption of SBX1 23 by the lower house is still a looming threat over the continuing budget negotiations. The roll call on SBX1 23 was as follows: “AYES”: Alquist, Calderon, Corbett, De León, DeSaulnier, Evans, Hancock, Hernandez, Kehoe, Leno, Lieu, Liu, Lowenthal, Negrete McLeod, Pavley, Price, Simitian, Steinberg, Vargas, Wolk, and Yee; “NOES”: Anderson, Berryhill, Blakeslee, Cannella, Correa, Dutton, Emmerson, Fuller, Gaines, Harman, Huff, La Malfa, Runner, Strickland, Walters, and Wyland; “NO VOTE RECORDED”: Padilla, Rubio, and Wright.

A list of all of the budget trailer bills is provided below:

- AB 96: Adult Day Health Care
- AB 102: Health
- AB 104: Department of Developmental Services
- AB 106: Human Services
- AB 112: Federal Funds for EDD
- SB 85 / AB 114: Education
- AB 115: Transportation
- SB 92 / AB 116: Public Safety
- AB 119: General Government

- AB 120: Resources
- AB 122 Supplemental Appropriation
- AB 19X1 Nursing Home Fee
- AB 21X1 Medi-Cal Managed Care
- SB 10X1/AB 22X1 Motor Vehicle Account
- SB 11X1/AB 23X1 Single Flip
- SB 14X1/AB 26X1 Redevelopment Part 1
- SB 15X1/AB 27X1 Redevelopment Part 2
- SB 17X1/AB 29X1 State Responsibility Area
- AB 34X1 Property Tax Postponement

The newly “vetoed” budget would have reduced State General Fund support at the State Water Resources Control Board and replaced the funding with more than \$13 million in new fees. Fee increases included \$1.4 million for the National Pollution Discharge Elimination System, \$1.8 million for the Irrigated Lands Regulatory Program (Ag Waivers), \$6.7 million for basin planning activities and \$3.2 million for Water Rights. Additionally \$1.23 million from the State General Fund would have been eliminated from the Department of Water Resources budget for the Watermaster Program, replacing the funding with fees.

The California Water Commission took action on draft agricultural water measurement regulations this week. After hours of testimony and questions at their May meeting, the commission directed staff to address issues of concern and bring recommendations back for consideration at this week’s meeting. Issues included: access to turnouts on private property, Central Valley Project contractors exemption from the water measurement requirements, huge cost differences between the proposed amendments the agricultural group presented and the staff’s proposal, and the associated impacts on small farmers. With minor edits to staff’s improved recommendations from the previous draft, the commission adopted the regulations. Farm Bureau has been actively engaged in the Agricultural Stakeholder Committee tasked with developing and amending these emergency regulations in accordance with [SBx7\\_7](#) (Darrel Steinberg, D-Sacramento).

The Senate Environmental Quality Committee will hear a measure on June 20<sup>th</sup> that would authorize a district attorney or a city attorney in a jurisdiction with a population that exceeds 750,000 to bring civil actions under the Porter-Cologne Water Quality Act. Currently the Porter-Cologne Water Quality Act authorizes each California regional water quality control board to delegate certain powers to its executive officer. That authorization excludes the executive officer from a delegation of power to ask the Attorney General for judicial enforcement. [AB 246](#) (Bob Wieckowski, D-Fremont) would delete that exclusion, and instead authorize a district attorney or a city attorney to pursue judicial enforcement only after approval by the Attorney General. Farm Bureau is opposed.

Card-check legislation ([SB 104](#), Darrell Steinberg, D-Sacramento) has been ordered enrolled, the last step before delivery to the Governor for signature or veto. The United Farm Workers union rallied in Sacramento on June 16 in support of SB 104, followed by a march to the state Capitol to “ceremonially deliver” the bill to the Governor. Once SB 104 is officially delivered to the Governor by the Legislature he has 12 days to sign or veto it.

[SB 829](#) (Mark DeSaulnier, D-San Francisco) has been opposed by Farm Bureau and other employer groups because it will undermine employers’ rights in dealing with Cal/OSHA citations by allowing private parties to interfere with the appeals process. It also imposes significant new costs and burdens on

employers, the Cal/OSHA Appeals Board and on Cal/OSHA. Further amendments to address our concerns are expected, and SB 829 is expected to be heard at the Assembly Labor and Employment Committee on July 6<sup>th</sup>.

The Senate Transportation and Housing Committee unanimously voted to extend the sunset date for the Highway 101 exemption for livestock ranchers in Humboldt, Del Norte and Mendocino counties. [AB 349](#) (Wes Chesbro, D-Eureka) would continue the exemption that allows licensed carriers of livestock utilizing semi-trailer combinations which do not exceed 70 feet in total length and kingpin to rear axle settings of 43 feet, access to Humboldt, Del Norte and Mendocino counties via Highway 101. AB 349 is now in the Senate awaiting hearing on the floor. Farm Bureau supports.

A bill that will impose higher pilot rates on vessels entering the San Francisco Bay failed passage but was granted reconsideration in the Senate Governmental Organization Committee. Farm Bureau and a large coalition of business and agricultural interests worked in opposition to [AB 907](#) (Fiona Ma, D-San Francisco) that will create a new special 50% charge on all larger vessels calling on the Port of Oakland. This rate increase will have the practical impact of leveling new costs on all California export cargo moving in or out of the ports of the San Francisco Bay and River system, particularly the Ports of Oakland, Stockton and West Sacramento. While the intent of AB 907 is limited to paying Pilots more and not aimed at California's exporters, it would result in making California even less competitive on an international level than it is now.

The ability to allow all eligible forms of renewable energy to participate in the net metering program passed through the Senate successfully. [SB 489](#) (Lois Wolk, D-Davis) will be heard in both the Assembly Utilities and Commerce Committee and the Natural Resources Committee on the same day, Monday, June 27. The California Public Utilities Commission (CPUC) recently voted to support the bill and it is hoped that this support will help counter the investor-owned utilities' opposition to it. An amendment clarifying how to define the eligible renewable energy facilities and removing language that would impact the CPUC's ability to implement the bill were made to the bill. Farm Bureau is in support.