



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Lindy Coe-Juell, Assistant to the City Manager

DATE: September 2, 2008

SUBJECT: Consideration of the State Budget and Legislative Update

RECOMMENDATION:

Staff recommends that the City Council receive and file the September 2008 Budget and Legislative Update from Tony Rice, the City's legislative advocate.

FISCAL IMPLICATION:

There are no fiscal implications associated with staff's recommendation.

BACKGROUND:

The City contracts with Tony Rice of Rice, Englander and Associates, for legislative advocacy and representation. One of the deliverables of the contract is to provide regular updates on the state budget and legislative activity.

DISCUSSION:

The September 2008 Budget and Legislative Update from Tony Rice is attached.

September 2, 2008

To: City of Manhattan Beach

Fm: Rice/Englander & Associates

RE: SACRAMENTO UPDATE

State Budget

At the time of this writing, there is no state budget, and no clear path on how a compromise proposal will be achieved. The longest the state has gone without a budget was in 2002, but it now appears inevitable that the state will surpass that record, if not shattering the record entirely. There continues to be a huge gulf between the parties on how to close the estimated \$15.2 billion deficit. Democrats continue to advocate for a tax increase, in conjunction with some targeted cuts to state services, while the Republicans remain steadfastly against a tax increase, preferring to close the deficit through a combination of cuts and “borrowing”, with borrowing generally referred to as the taking of local government revenues, most notably Proposition 1A and Proposition 42 funds.

On August 20, 2008, the Governor released a “compromise” budget intended to bridge the divide between the two parties. The major details of his proposal follow:

The Governor today is offering the Legislature a compromise proposal on a state budget that responsibly addresses California's remaining \$15.2 billion budget shortfall and reforms our broken budget system. The Governor's compromise proposal protects education funding, maintains important safety net programs, does not borrow funding from local government or transportation, and avoids massive out-year deficits. The key components of this compromise are as follows:

REAL BUDGET REFORM

A Strong Rainy Day Fund

Increases the size of California's Budget Stabilization Account (BSA) from 5 percent of General Fund expenditures to 12.5 percent —or approximately \$13 billion dollars today.

Requires annual transfers to the BSA of 3 percent of General Fund and eliminates the ability to suspend those annual transfers. In years when the BSA is full (at 12.5%), the annual transfer is reduced to 1.5 percent. During economic downturns, when funds can be drawn out of the BSA, the transfer would not occur.

In addition to the annual transfer of 3 percent of General Fund to the BSA, the compromise proposal requires that all current-year revenue above the amounts included in the Budget Act be transferred to the BSA, after first providing funding to education as required under Proposition 98. This would mean that any unexpected spike in revenues that occur during the fiscal year – normally recognized in the Governor’s May Revision – would be transferred to the BSA.

Funds could only be transferred out from the BSA under the following conditions: 1) actual revenues during the Fiscal Year must be below a specified level: prior year spending adjusted by population growth and per capita personal income growth; 2) funds transferred from the BSA back into the General Fund must be appropriated in a stand-alone urgency bill, subject to a 2/3rds vote of the Legislature. The amount transferred out of the BSA during a fiscal year would be limited to the amount which would bring revenues up to prior year spending adjusted by population and per capita personal income growth.

When the balance in the BSA reaches 12.5 percent, the excess would be available for one-time purposes only. One-time purposes would include: paying down debt, paying off outstanding General Obligation bonds, investing in infrastructure and capital outlay projects, paying for “settle-up” dollars owed to education, pre-paying health care liability for retired employees (OPEB), and tax relief.

Mid-Year Reduction Authority

Authorizes the Director of Finance to do the following when s/he determines, mid-year, that revenues have fallen below specified levels:

- o Reduce state operations budgets by up to 7 percent without modifying or suspending the law.
- o Freeze Cost of Living Adjustments (COLAs), rate increases or increases in state participation in local costs, as designated in the Budget Act, for up to 120 days.
- o Requires the governor to submit urgency legislation to permanently suspend COLAs and other rate increases. If the governor fails to act within the 120 days, or the Legislature fails to adopt the suspension, the COLAs and other rate increases are reinstated.

ADDITIONAL BUDGET CUTS

Makes an additional \$2 billion in cuts on top of the reductions adopted by the Conference Committee Report, for a total of \$9.9 billion in spending reductions in 2008-09 (total expenditure reductions over the two years would be \$11.3 billion).

Freezes spending year-over-year for the second year in a row, while protecting public safety, education funding, and important safety net services.

LOTTERY MODERNIZATION AND SECURITIZATION

Proposes a ballot measure to modernize the state Lottery and improve the performance of this underperforming state-owned asset.

Future proceeds of an improved state Lottery would be securitized (estimated to be approximately \$5 billion in 2009-10) with the additional revenues used to pay down debt and fill the rainy-day fund in the out-years.

LAW ENFORCEMENT FUNDING

Makes technical changes to expedite construction of prison beds under AB 900.

Restores funding to the May Revision level for most local law enforcement programs.

EDUCATION FUNDING

Funds the Proposition 98 guarantee at \$57.8 billion – \$1.2 billion higher than the current-year funding. This level of funding eliminates the proposed reductions in the Governor's May Revision and maintains funding to base categorical programs such as class size reduction, special education, child nutrition programs and child care; and provides a partial COLA of \$300 million.

TAX PACKAGE / TEMPORARY INCREASE / PERMANENT REDUCTION

Proposes a revenue package that includes a temporary increase and permanent reduction to the state sales tax. The package includes:

A temporary 1-cent sales tax increase for three years (excluding diesel, gasoline and jet fuel) followed by a permanent 1¼-cent reduction beginning in year 4. The additional ¼-cent reduction would be a permanent base sales tax reduction beginning when the 1-cent increase is no longer in effect.

A two-year suspension of the Net Operating Loss (NOL) tax deduction: Suspends for two years the ability of corporations to reduce their tax liability based on prior losses and phases in conformity to federal law over three years starting in 2010 by allowing losses to offset profits in two prior years; also extends the period for carrying forward losses from 10 to 20 years.

Modified Tax Amnesty Proposal to generate revenues while avoiding negative impacts on economic activity.

Better align accrual of revenues and accrual of spending.

ECONOMIC STIMULUS

Proposes an economic stimulus package to stem job losses, facilitate creation of new jobs, and improve tax revenues:

Expedites the allocation and disbursement of existing transportation, housing and water bond funds to stimulate economic growth and job creation immediately.

Authorizes new lease revenue bonds to accelerate capital outlay projects for higher education and the Courts.

Provides statutory authority to develop public-private partnerships with design-build authority to add new, and accelerate existing, infrastructure projects (Caballero (AB 1261) and Niello (AB 2600) bills).

Provides flexibility in overtime laws to allow employers and employees to agree on mutually acceptable flexible work schedules:

- o Allows employees to voluntarily work four 10-hour shifts without requiring overtime. All hours worked above 10 hours per day or 40 hours per workweek pay time and a half. All hours worked above 12 hours per workday and in excess of 8 hours on a fifth, sixth or seventh day in a workweek pay double time. Flexible work schedule must be voluntary for employee. Exemptions for union and government employees.

- o Creates a highly compensated employee exemption for California that conforms overtime rules to federal law (\$100,000 or more).

- o Exempts high-paid software engineers in the competitive technology industry from overtime rules; applies only to employees whose primary duty includes non-manual work.

- o Provides clarification to on-duty personnel such as armored car drivers, security guards, etc., regarding meal periods.

Targeted tax credits to retain jobs and encourage job expansion in California.

- o Runaway Hollywood production tax credit.

The Governor's intent was to take major portions of both the Republican's and Democrat's "on-the-record" proclamations and illustrate what a compromise might look like, all the while protecting local government funding which he has been steadfastly against. However, the tax increase is still a complete non-starter for the Republicans. In fact, that stand became even more firm on the Republican's behalf last week when all but one Republican member of the Legislature signed a no-tax pledge.

It should be noted that while the Governor is appears adamantly opposed to not taking local government revenues, there is one piece of his plan that would do just that, and has raised concerns for some cities throughout the state. Specifically, the Governor proposes the diversion of more than \$600 million from redevelopment agencies over a three year period of time to assist in closing the budget. While not of immediate concern to the City, we wanted to inform you of the intense lobbying by some cities to remove this portion of the Governor's plan from whatever final budget deal might occur.

Legislation

In all our years in Sacramento, we can not recollect a more "relaxed" end of session regarding legislation. Certainly, work is being done and there are a few high profile pieces of legislation being considered, but the budget drama has taken front and center stage this year like no other in recent memory, to the point of nearly brushing aside the usual ferocity of passing and killing legislation. The reasons for this appear twofold, 1) the budget deficit has effectively removed any chance of bills with fiscal implications to the state of being passed and/or signed, and 2) the Governor has publicly stated he will not sign any legislation until a budget accord is achieved. While no one knows for sure at this time whether the Governor intends to follow through on that proclamation should the budget drag into the final days of September (the Governor has until the end of September to either sign or veto all legislation sent to him), what is clear is that legislators are more concerned about sending legislation he may actually approve this year rather than sending him a deluge of bills regardless of the perceived fate, which has been typical in years past.

One piece of legislation we wanted to inform you of because of its long term implications is SB 375 (Steinberg). This bill attempts to restructure growth patterns in cities across the state. After numerous and lengthy working groups, meetings, testimony, etc., the League of California Cities recently agreed to support the bill after numerous concessions to local governments were included in the bill. With the recent accord it appears now the bill will pass the Legislature and sent to the Governor for his consideration. A summary of the key portions of the legislation follow:

SB 375, as amended, Steinberg. Transportation planning: travel demand models:
sustainable communities strategy: environmental review.

(1) Existing law requires certain transportation planning activities by the Department of Transportation and by designated regional transportation planning agencies, including development of a regional transportation plan. Certain of these agencies are designated under federal law as metropolitan planning organizations.

Existing law authorizes the California Transportation Commission, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation.

This bill would require the commission to maintain guidelines, as specified, for travel demand models used in the development of regional transportation plans by metropolitan planning organizations. The bill would require the commission to consult with various agencies in this regard, and to form an advisory committee and to hold workshops before amending the guidelines.

This bill would also require the regional transportation plan for regions of the state with a metropolitan planning organization to adopt a sustainable communities strategy, as part of its regional transportation plan, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region. The bill would require the State Air Resources Board, working in consultation with the metropolitan planning organizations, to provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035 by September 30, 2010, to appoint a Regional Targets Advisory Committee to recommend factors and methodologies for setting those targets, and to update those targets every 8 years. The bill would require certain transportation planning and programming activities by the metropolitan planning organizations to be consistent with the sustainable communities strategy contained in the regional transportation plan, but would state that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy process. To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emission reduction targets, the bill would require affected metropolitan planning organizations to prepare an alternative planning strategy to the sustainable communities strategy showing how the targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The bill would require the State Air Resources Board to review each metropolitan planning organization's sustainable communities strategy and alternative planning strategy to determine whether the strategy, if implemented, would achieve the greenhouse gas emission reduction targets. The bill would require a strategy that is found to be insufficient by the state board to be revised by the metropolitan planning organization, with a minimum requirement that the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy, if implemented, would achieve the targets. The bill would state that the adopted strategies do not regulate the use of land and are not subject to state approval, and that city or county land use policies, including the general plan, are not required to be consistent with the regional transportation plan, which would include the sustainable growth strategy, or the alternative planning strategy. The bill would also require the metropolitan planning organization to hold specified informational meetings in this regard with local elected officials and would require a public participation program with workshops and public hearings for the public, among other things. The bill would enact other related provisions.

(2) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element.

Existing law requires the housing element to identify the existing and projected housing needs of all economic segments of the community.

Existing law requires the housing element, among other things, to contain a program which sets forth a 5-year schedule of actions of the local government to implement the goals and objectives of the housing element. Existing law requires the program to identify actions that will be undertaken to make sites available to accommodate various housing needs, including, in certain cases, the rezoning of sites to accommodate 100% of the need for housing for very low and low-income households.

This bill would instead require the program to set forth a schedule of actions during the planning period, as defined, and require each action to have a timetable for implementation. The bill would generally require rezoning of certain sites to accommodate certain housing needs within specified times, with an opportunity for an extension time in certain cases, and would require the local government to hold a noticed public hearing within 30 days after the deadline for compliance expires. The bill would, under certain conditions, prohibit a local government that fails to complete a required rezoning within the timeframe required from disapproving a housing development project, as defined, or from taking various other actions that would render the project infeasible, and would allow the project applicant or any interested person to bring an action to enforce these provisions. The bill would also allow a court to compel a local government to complete the rezoning within specified times and to impose sanctions on the local government if the court order or judgment is not carried out, and would provide that in certain cases the local government shall bear the burden of proof relative to actions brought to compel compliance with specified deadlines and requirements.

Existing law requires each local government to review and revise its housing element as frequently as appropriate, but not less than every 5 years.

This bill would extend that time period to 8 years for those local governments that are located within a region covered by a metropolitan planning organization in a nonattainment region or by a metropolitan planning organization or regional transportation planning agency that meets certain requirements. The bill would also provide that, in certain cases, the time period would be reduced to 4 years or other periods, as specified.

(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would exempt from CEQA a transit priority project, as defined, that meets certain requirements and that is declared by the legislative body of a local jurisdiction to be a sustainable communities project. The transit priority project would need to be consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets. The bill would provide for limited CEQA review of various other transit priority projects.

The bill, with respect to other residential or mixed-use residential projects meeting certain requirements, would exempt the environmental documents for those projects from being required to include certain information regarding growth inducing impacts or impacts from certain vehicle trips.

The bill would also authorize the legislative body of a local jurisdiction to adopt traffic mitigation measures for transit priority projects. The bill would exempt a transit priority project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction has adopted those traffic mitigation measures.

As always, please feel free to contact us with any questions you may have.