

AMENDED IN ASSEMBLY APRIL 8, 2010
AMENDED IN ASSEMBLY MARCH 17, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2591

Introduced by Assembly Members Feuer and John A. Perez

February 19, 2010

An act to add Sections 9143.5, 9145, 10247.5, 13335.3, and 13335.5 to, and to add Chapter 1.5 (commencing with Section 16330) to Part 2 of Division 4 of Title 2 of, the Government Code, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2591, as amended, Feuer. State finance: budget process.

Under existing law, duties and responsibilities are imposed upon the Governor and the Director of Finance relating to the preparation and submission of the annual state budget to the Legislature, including, among other things, providing a complete plan of all proposed expenditures and estimated revenues for the ensuing fiscal year. Existing provisions of the California Constitution prohibit the Legislature from sending to the Governor for consideration, and prohibit the Governor from signing, a Budget Bill that would appropriate from the General Fund a total amount that, when combined with specific appropriations and transfers, exceeds the General Fund revenues for that fiscal year estimated as of the date of the Budget Bill's passage.

This bill would make statutory changes to implement and conform to constitutional changes proposed by ACA 4 and would become operative only if ACA 4 is approved by the voters.

ACA 4 would require the Legislature to establish a schedule of review of all state programs in which each state program would be reviewed once per every 10 years. This bill would establish the process for review of the performance of all state programs at least once every 10 years.

ACA 4 would make void a statute, and would prohibit submission to the electors of a constitutional amendment or revision proposed by the Legislature, that would result in either a net increase in qualified state costs or a net decrease in state revenue in excess of \$25,000,000 annually, unless the statute or measure also contains provisions, as defined in statute, to offset the increase in costs or loss in revenue. This bill would require the Legislative Analyst to make specified determinations regarding a bill or measure that would result in an annual net increase in qualified state costs, as defined, or a net decrease in state revenue, in excess of \$25,000,000. The bill would provide that a statute or measure is in compliance with the provisions of ACA 4 if the Legislative Analyst determines that the increase in qualified state costs or decrease in state revenues that would be imposed by the bill enacting the statute or measure does not exceed the amount by which state revenues exceed state expenditure obligations, as specified.

ACA 4 would require the state budget submitted to the Legislature by the Governor each year to contain performance measurement standards for state agencies and programs. This bill would establish performance-based budgeting for every state agency in the executive branch for which an appropriation has been made. The state agency would be required to prepare a complete and detailed budget setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year. The bill would require the Governor's Budget to be based on this method beginning with the 2014-15 fiscal year.

ACA 4 would permit nonrecurring revenue to be expended only to pay for one-time expenditures. This bill would require that nonrecurring revenue, as defined, be used only for one-time expenditures, as defined, in the Budget Bill for the ensuing year, and would specify the process for estimating, evaluating, and determining the existence of nonrecurring revenue.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 9143.5 is added to the Government Code, to read:

9143.5. (a) Within one year of the operative date of the act that added this section, the Legislature shall establish a process, including the use of a new or existing joint committee, for reviewing the performance of all state programs at least once every 10 years. The process shall include a schedule with deadlines for the review of programs. It shall provide for the review of programs the expenditures for which total one-third or more of all expenditures by July 1, 2015, and for the review of programs the expenditures for which total two-thirds of all expenditures by January 1, 2018. For purposes of this section, “expenditures” includes, *in addition to state program costs*, statutory exemptions, deductions, credits, or exclusions from taxes or fees that would otherwise apply.

(b) Six months prior to the deadline for review of each program, the joint committee shall refer the initial program review to the appropriate policy committees of each house of the Legislature. For programs with common objectives, the reviews may be combined. Within 90 days of the deadline, the policy committees shall make recommendations regarding the program to the joint committee. The joint committee’s review may be based on the recommendations of the policy committees, as well as recommendations that may be made by the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, the Legislative Analyst, the Bureau of State Audits, or the public. In preparing proposed legislation for a program being reviewed, the joint committee shall propose one or more of the following:

- (1) Modifications to the program that will reduce costs.
- (2) Modifications to the program that will improve outcomes.
- (3) Termination of the program.

(c) Proposed legislation of the joint committee shall be submitted to the committee on rules of each house for referral to the appropriate policy committee for public hearing and further action.

(d) The joint committee shall post on its Internet Web site its recommendations and the results of the Legislature’s action.

1 SEC. 2. Section 9145 is added to the Government Code, to
2 read:

3 9145. (a) Before a bill, or a measure that proposes to amend
4 or revise the California Constitution, that has been referred to the
5 fiscal committee of either house is read for a third time in either
6 house of the Legislature, *the fiscal committee of the respective*
7 *house of the Legislature shall determine whether the bill or*
8 *measure is subject to review by the Legislative Analyst pursuant*
9 *to this section. If the committee refers the bill or measure to the*
10 *Legislative Analyst for review,* the Legislative Analyst shall
11 determine whether the bill or measure would result in a net increase
12 in qualified state costs or a net decrease in state revenue. The
13 Legislative Analyst shall submit the analysis of the bill or measure
14 to the fiscal committees of each house of the Legislature and shall
15 place the analysis on his or her Internet Web site if he or she
16 determines that the bill or measure would result in either a net
17 increase in qualified state costs or a net decrease in state revenue
18 in excess of twenty-five million dollars (\$25,000,000) annually,
19 as adjusted for inflation pursuant to the California Consumer Price
20 Index.

21 (b) (1) ~~If a bill or measure, as determined by the Legislative~~
22 ~~Analyst, determines a bill or measure~~ would result in either a net
23 increase in qualified state costs or a net decrease in state revenue
24 in excess of twenty-five million dollars (\$25,000,000) annually,
25 as adjusted for inflation pursuant to the California Consumer Price
26 Index, the Legislative Analyst shall determine whether the bill or
27 measure, if enacted, would comply with the requirements of
28 subdivision (e) of Section 8 of Article IV, or Section 3.5 of Article
29 XVIII, as applicable, of the California Constitution.

30 (2) A statute or measure shall be deemed to comply with the
31 requirements of subdivision (e) of Section 8 of Article IV, or
32 Section 3.5 of Article XVIII, as applicable, of the California
33 Constitution if the Legislative Analyst determines that the net
34 increase in qualified state costs or net decrease in state revenues
35 that would be imposed by the bill enacting the statute or measure
36 proposing to amend or revise the California Constitution does not
37 exceed the amount by which state revenues exceed state
38 expenditure obligations for the prior fiscal year, the current fiscal
39 year, or any of the three succeeding fiscal years, whichever is least.

1 (c) If the Legislative Analyst makes a determination pursuant
2 to subdivision (b) that a bill, if enacted, or measure would not
3 comply with the requirements of subdivision (e) of Section 8 of
4 Article IV, or Section 3.5 of Article XVIII, as applicable, of the
5 California Constitution, and the Legislature, by two-thirds vote of
6 the membership of each house, makes a finding, based on its
7 financial analysis, that the bill or measure would result in a net
8 increase in qualified state costs or a net decrease in state revenue
9 in an amount equal to, or less than, twenty-five million dollars
10 (\$25,000,000) annually, as adjusted for inflation pursuant to the
11 California Consumer Price Index, the bill, if enacted, or measure
12 shall be deemed to be in compliance with subdivision (e) of Section
13 8 of Article IV, or Section 3.5 of Article XVIII, as applicable, of
14 the California Constitution.

15 (d) For purposes of this section, the determination by the
16 Legislative Analyst as to whether a bill or measure would result
17 in a net increase in qualified state costs or a net decrease in state
18 revenue may include consideration of the impact of program
19 changes attributable to cost savings or changes in revenues of other
20 state or local programs that are reasonably expected to occur as a
21 result of the implementation of the bill or measure. The Legislative
22 Analyst shall establish the time period for its analysis under this
23 section.

24 (e) For purposes of this section and Section 10247.5, and
25 subdivision (e) of Section 8 and paragraph (2) of subdivision (a)
26 of Section 12 of Article IV, and Section 3.5 of Article XVIII, of
27 the California Constitution, the following terms have the following
28 meanings:

29 (1) “Qualified state costs” means costs to the state, whether paid
30 from General Fund or special fund sources. “Qualified state costs”
31 does not include the following:

32 (A) Costs incurred for the payment of principal and interest on
33 a general obligation bond.

34 (B) The restoration of funding to an agency or program that was
35 reduced in a prior fiscal year or years in order to balance the budget
36 or address a forecasted deficit if any of the following apply:

37 (i) The bill or measure restores reductions in appropriations
38 made pursuant to a declaration of fiscal emergency under
39 subdivision (f) of Section 10 of Article IV of the California
40 Constitution.

(ii) The bill or measure restores reductions in appropriations made prior to the operative date of the act adding this section if the Legislature makes a finding that the reductions in the program's or agency's funding were necessary in order to balance the Budget or to address a mid-year deficit and that expanding the program or agency is limited to restoring the program's or agency's funding to the level that existed prior to the reductions.

(iii) The bill or measure restores reductions in appropriations made on or after the operative date of the act that added this section if the Legislature makes a finding that at the time the reductions were made, the reductions in the program's or agency's funding were necessary to balance the Budget or to address a forecasted deficit, and that at the time the funding is restored, the expansion of the program or agency is limited to restoring the program or agency's funding to the level that existed prior to the reductions made pursuant to paragraph (4) of subdivision (f) of Section 10 of Article IV of the California Constitution:

(C) Increases in a program's or agency's funding contained in the Budget Bill or in a budget implementation bill which are limited to the fiscal year for which the bill was enacted.

(D) Growth in a program's or agency's funding attributable to increases in the cost of living or workload, including an increase contained in a memorandum of understanding approved by the Legislature.

(E) Growth in a program's or agency's funding required by federal law or a California law that is in effect on the operative date of the act that added this section.

(F) A bill or measure containing a requirement described in paragraph (5) of subdivision (b) of Section 6 of Article XIII B of the California Constitution.

(2) "A net increase in qualified state costs" means ongoing expenditures for a program or agency and does not include a one-time expenditure made by a program or agency.

(3) "Additional revenue" means revenue to the state that results from specific changes made by federal or state law and that the state agency responsible for collecting the revenue has quantified and determined to be a sustained increase.

SEC. 3. Section 10247.5 is added to the Government Code, to read:

10247.5. Before a bill or measure is read for a third time in either house of the Legislature, the digest of the Legislative Counsel on the bill or measure shall reflect the determination made by the Legislative Analyst pursuant to Section 9145 whenever the Legislative Analyst determines that the bill or measure would result in a net increase in qualified state costs or a net decrease in state revenue in excess of twenty-five million dollars (\$25,000,000) annually, as adjusted for inflation pursuant to the California Consumer Price Index.

SEC. 4. Section 13335.3 is added to the Government Code, to read:

13335.3. (a) The purpose of performance-based budgeting is to inform policy, fiscal, and oversight decisions by the Governor and Members of the Legislature; to focus managers, supervisors, and rank and file workers on achieving desired goals; and to communicate to the public the value of public programs, progress toward desired results, and the choices available to improve the expenditure of public funds.

(b) Every state agency for which an appropriation has been made shall submit to the department a complete and detailed budget at the time and in the form prescribed by the department, setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.

(c) The Budget submitted to the department and proposed by the Governor shall use performance-based budgeting methods that make clear to policymakers and the public the value and results of existing operations and any proposed changes.

(d) A performance-based budget shall identify and update all of the following:

- (1) The mission and goals of the agency.
- (2) The activities and programs focused on achieving those goals.
- (3) Performance metrics that reflect desired outcomes for existing and proposed activities and a targeted performance level for the following year.
- (4) Prior-year performance data and an explanation of any deviation from previous-year targets.
- (5) Proposed changes in statute, including the creation of incentives or elimination of disincentives that could improve outcomes or hold down costs.

1 (e) The Governor shall provide on his or her Internet Web site
2 a summary of each state agency's mission, goals, prior-year
3 performance, and future-year objectives.

4 SEC. 5. Section 13335.5 is added to the Government Code, to
5 read:

6 13335.5. (a) Not later than the 2014–15 fiscal year, and each
7 fiscal year thereafter, the Budget submitted by the Governor to the
8 Legislature required by Section 12 of Article IV of the California
9 Constitution shall use performance-based budgeting methods.

10 (b) The amount of each appropriation made in the Budget Act
11 for the 2014–15 fiscal year, and each fiscal year thereafter, for
12 expenditure by any state agency shall be determined after
13 considering performance-related data. The Budget Act introduced
14 by the Governor also shall include performance standards, which
15 may be amended by the Legislature. These standards shall apply
16 to each state agency and allow the public and policymakers to
17 understand the effectiveness and efficiency of each program.

18 (c) The ~~Legislative Analyst's Office~~ *Analyst* shall review the
19 adequacy of performance metrics and progress toward targeted
20 outcomes ~~in its review of~~ the Governor's budget proposal.

21 (d) A task force consisting of the director, the Controller, and
22 the chairpersons and vice chairpersons of the Senate Committee
23 on Budget and Fiscal Review and the Assembly Committee on
24 Budget shall do all of the following:

25 (1) Review and comment on guidelines and procedures drafted
26 by the department for use by state agencies in developing
27 performance-based budgets pursuant to Sections 13320 and
28 13335.3. The guidelines shall describe how state employees will
29 be involved in establishing and implementing performance
30 standards.

31 (2) Review and comment on a training program developed by
32 the department for appropriate executive branch personnel to ensure
33 the successful implementation of performance-based budgeting
34 and management by state agencies.

35 (3) Review and comment on a plan prepared by the department
36 for systematically phasing in the requirements of Sections 13320
37 and 13335.3. The plan shall ensure that by the 2012–13 fiscal year
38 performance-based budgeting methods are used in preparing,
39 reviewing, and enacting one-third or more of the total General

1 Fund expenditures proposed in the Governor’s Budget for that
2 fiscal year.

3 (e) For purposes of this article, “state agency” means any
4 agency, department, or other entity of the executive branch of the
5 state required to submit a budget pursuant to Article 2
6 (commencing with Section 13320).

7 *SEC. 6. Sections 1 to 5, inclusive, of this act shall become*
8 *operative only if ACA 4 is approved by the voters, and they shall*
9 *become operative upon the operative date of that measure.*

10 ~~SEC. 6. Chapter 1.5 (commencing with Section 16330) is added~~
11 ~~to Part 2 of Division 4 of Title 2 of the Government Code, to read:~~

12
13 ~~CHAPTER 1.5. NONRECURRING REVENUE~~
14

15 ~~16330. For purposes of this chapter and Section 12 of Article~~
16 ~~IV of the California Constitution, the following definitions apply:~~

17 ~~(a) “Nonrecurring revenue” means General Fund proceeds of~~
18 ~~taxes received in a fiscal year from any source that exceed both~~
19 ~~the amount that the state received from that source in the~~
20 ~~immediately preceding fiscal year and the amount the state expects~~
21 ~~to receive from that source in each subsequent fiscal year.~~

22 ~~(b) (1) “One-time expenditure” means any of the following:~~

23 ~~(A) A transfer by statute to the Budget Stabilization Fund.~~

24 ~~(B) An appropriation for one-time infrastructure or other capital~~
25 ~~outlay purposes.~~

26 ~~(C) An appropriation to retire, redeem, or defease outstanding~~
27 ~~general obligation or other bonded indebtedness of the state.~~

28 ~~(D) The return to taxpayers within the current or immediately~~
29 ~~following fiscal year by a one-time revision of tax rates, or by~~
30 ~~rebates.~~

31 ~~(E) An appropriation for unfunded liabilities for vested~~
32 ~~nonpension benefits for state annuitants.~~

33 ~~(F) Appropriations necessary to meet the outstanding balance~~
34 ~~of the maintenance factor owed by the state for one or more prior~~
35 ~~fiscal years pursuant to subdivision (d) of Section 8 of Article XVI~~
36 ~~of the California Constitution.~~

37 ~~(2) “One-time expenditure” does not include either of the~~
38 ~~following:~~

39 ~~(1) An appropriation necessary to meet the state’s obligation~~
40 ~~under Section 8 of Article XVI of the California Constitution,~~

1 including any maintenance factor allocation for the current fiscal
2 year required pursuant to subdivisions (d) and (e) of that section.

3 (2) ~~An appropriation necessary to balance the state budget for~~
4 ~~the fiscal year in which the nonrecurring revenue is received, the~~
5 ~~absence of which would produce a deficit for that fiscal year.~~

6 ~~16331. Based on an analysis of the General Fund proceeds of~~
7 ~~taxes received through April 30 of each year, the Franchise Tax~~
8 ~~Board and State Board of Equalization shall identify each source~~
9 ~~of General Fund proceeds of taxes that is higher than the tax~~
10 ~~proceeds received from that source in the preceding fiscal year.~~
11 ~~The Franchise Tax Board and the State Board of Equalization shall~~
12 ~~provide this information to the Legislature, the Governor, the~~
13 ~~Controller, and the public by May 15 of each year.~~

14 ~~16332. By May 31 of each year, the Legislative Analyst and~~
15 ~~the Director of Finance shall jointly do all of the following:~~

16 ~~(a) Estimate the amount of nonrecurring revenue deposited in~~
17 ~~the General Fund as of that date for the current fiscal year and~~
18 ~~provide this estimate to the Legislature, the Governor, the~~
19 ~~Controller, and the public. In determining this estimate, the~~
20 ~~Legislative Analyst and the Director of Finance shall consider, at~~
21 ~~a minimum, the Governor's estimate of nonrecurring revenue for~~
22 ~~the current fiscal year; historical growth in General Fund proceeds~~
23 ~~of taxes, including data provided by the Franchise Tax Board and~~
24 ~~the State Board of Equalization pursuant to Section 16331;~~
25 ~~economic conditions and projections; stock market trends,~~
26 ~~including data regarding capital gains and the exercise of stock~~
27 ~~options; and an evaluation of the revenue forecast for the prior~~
28 ~~fiscal year and the extent to which that forecast was accurate.~~

29 ~~(b) Determine whether the amount of nonrecurring revenue~~
30 ~~received during the prior fiscal year was less than the amount of~~
31 ~~nonrecurring revenue for that fiscal year that was appropriated~~
32 ~~pursuant to subdivision (a) of Section 16333, and provide a~~
33 ~~certification of that determination to the Legislature, the Governor,~~
34 ~~the Controller, and the public.~~

35 ~~16333. (a) By June 25 of each year, based on the estimate~~
36 ~~provided pursuant to subdivision (a) of Section 16332, the~~
37 ~~Legislature shall estimate the amount of nonrecurring revenue~~
38 ~~received for the current fiscal year. Except as provided in~~
39 ~~subdivision (b), nonrecurring revenue shall be used for one-time~~

1 expenditures only and shall be appropriated in the Budget Bill for
2 the ensuing fiscal year.

3 (b) ~~If the amount appropriated pursuant to subdivision (a) in a~~
4 ~~prior fiscal year exceeded the amount of nonrecurring revenue~~
5 ~~received during that fiscal year, the excess amount may be deducted~~
6 ~~from the amount of nonrecurring revenue available for~~
7 ~~appropriation in ensuing fiscal years pursuant to subdivision (a).~~

8 SEC. 7. ~~This act shall become operative only if ACA 4 is~~
9 ~~approved by the voters, and it shall become operative upon the~~
10 ~~operative date of that measure.~~