

STAFF REPORT (revised 3/29/11*)

AGENDA ITEM: Update on the OHMVR Program Budget for Fiscal Year 2011/12

STAFF: Daphne Greene, Deputy Director, OHMVR Division
Phil Jenkins, Chief, OHMVR Division

DATE: April 5, 2011

Issue: Staff will provide an update on actions taken by the Assembly, Senate, and Governor related to the OHV Trust Fund since the OHMVR Commission met last on March 14th.

Background: At the OHMVR Commission meeting on March 14th, OHMVR Division staff provided an overview and status update of the state's Budget Bill process of the Governor, Senate, and the Assembly pertaining to the OHV Trust Fund.

March 4th: The Budget Conference Committee adopted a budget that included cutting \$10 million from the OHV Trust Fund - \$5 million from the Local Assistance budget (grants program) and \$5 million from the Operations budget. The entire \$10 million would be transferred to the General Fund.

March 14th: Budget Bills AB 95 and SB 84 were amended to reflect the intent to make changes to the Budget Act of 2010 rather than pass the bills as part of the Budget Act of 2011.

March 17th: The Assembly and Senate voted on and passed the following trailer bill language:

AB 95 requires the state controller to withhold \$833,000 from the monthly transfer from the Motor Vehicle Fuel Account to the OHV Trust Fund, and instead transfer that amount to the General Fund. This change in statute is achieved through an amendment to the Revenue and Taxation Code, Section 8352.6 (a)(2). This transfer totals slightly less than \$10 million voted upon by the Budget Conference Committee on March 4th. The transfer will be an ongoing monthly take.

SB 84 allows the loan of \$21 million from the OHV Trust Fund reserves and transfers the monies to the state General Fund. This loan is included in a long list of loans borrowed to cover the cost of not proceeding with the sale and leaseback of 11 state properties proposed by the previous Administration. During this process, the language of both AB 95 and SB 84 was changed in accordance with Joint Rule 23.5.**

AB 95 and SB 84 were moved forward to the Governor for his signature.

The attached letter and report from the Department of Finance, dated January 25, 2011 includes a complete list of previous loans.

March 24th: Governor Jerry Brown signed 13 Budget Bills, including AB 95 and SB 84, to reduce California's \$26.6 billion budget deficit by approximately \$11.2 billion. As part of the Budget Act of 2010, the Budget Bills went into effect immediately upon the Governor's signature.

At the March 14th OHMVR Commission meeting, the OHMVR Commissioners voted to approve the writing of two letters: one to the Governor and certain members of the legislature, expressing their concern regarding the \$21 million loan and the proposed \$10 million take. In addition, a motion was approved to write a letter to the Attorney General asking for a legal opinion as to the fungibility of the various OHV monies that come into the program and whether they can be transferred to the General Fund.

Discussion: Much uncertainty remains about how the outstanding \$12.6 million deficit will be solved. Governor Brown has proposed extending existing taxes or making deeper cuts.

The Legislative Analyst Office (LAO), which advises the Legislature on budget issues, released a memo on February 10th (attached) in response to a request by Senator Leno who asked the LAO what the Legislature could do if voters or lawmakers reject a ballot tax initiative or other revenue generation ideas. The LAO offered \$13.5 billion in alternatives.

On page A1:4, the LAO offered the option of an \$88 million reduction to the OHV Program. The LAO Director emphasized that his office was not necessarily recommending the alternatives identified in the memo, but illustrating the types of solutions that would be required under the scenario provided by Senator Leno.

The annual income to the OHV Trust Fund averages \$85 million.

Commission action: To be determined by the Commission.

* **Please note:** This report has been updated to more accurately reflect the various budget bills and actions taken by the legislature.

** Joint Rule 23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage, and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, further action may not be taken on the bill, except that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect the amendment. When the bill is reprinted, it shall be returned to the same place on the file that it occupied when it failed to receive the necessary votes.