BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name:	CEO
Department No.:	012
For Agenda Of:	May 24, 2022
Placement:	Departmental
Estimated Time:	30 Minutes
Continued Item:	No
If Yes, date from:	
Vote Required:	Majority

TO:	Board of Supervisors	
FROM:	Department Director(s)	Mona Miyasato, County Executive Officer
	Contact Info:	Nancy Anderson, Assistant CEO – Budget and Research

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SUBJECT: **Fiscal Year 2021-22 Third Quarter Budget Status Report and Cannabis Taxation, Compliance and Enforcement Update**

County Counsel Concurrence
As to form: N/A

Auditor-Controller Concurrence
As to form: N/A

Recommended Actions:

It is recommended that the Board of Supervisors:

a) Receive and file the Fiscal Year (FY) 2021-22 Third Quarter Budget Status Report as of March 31, 2022;

b) Direct staff to process the necessary budget revision and bring it back to the Board for adoption prior to June 30, 2022 to resolve an anticipated year-end budget shortfall for the Sheriff-Coroner Office related to overtime costs, funded from the Sheriff Overhire Program (in the Proposition 172 fund balance) not to exceed $2 million;

c) Direct staff to develop and propose a budget policy for consideration in December 2022 that addresses a longer-term fiscal plan regarding overtime costs, overhire ability, and other cost issues for the Sheriff-Coroner Office while ensuring accountability;

d) Provide other direction as appropriate; and

e) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA), because pursuant to sections 15378(b)(4) and 15378(b)(5) the recommended actions consist of organizational, administrative, or fiscal activities of government that will not result in direct or indirect physical changes in the environment.

Summary:

The FY 2021-22 budget status report for the third quarter ending March 31, 2022 provides a fiscal-year-to-date look at the County's financial position relative to the FY 2021-22 adjusted budget. The County's General Fund is currently projected to have a positive $13.5 million surplus with positive projections in most departments. Special Revenue and Other Funds are generally tracking to budget, with positive reportable variances in two funds for the third quarter.

The positive variance in the General Fund is primarily the result of net positive variances of $11.2 million in General Revenues, $2.0 million in Probation, $453 thousand in Public Defender, and $442 thousand in Auditor-Controller. These positive variances are partially offset by negative variances of $1.5 million in the Sheriff-Coroner Office and $293 thousand in the Community Services Department. The reportable variances are explained in the report.

THIRD QUARTER REPORT

The third quarter for the fiscal year includes activity through March 31, 2022. In this report, projected financial results for the fiscal year end are compared to the annual adjusted budget. The major differences (variances) between budgeted and actual amounts are discussed on the following pages.

This report highlights the variances that exceed the following thresholds:

1) General Fund departments (including Discretionary General Revenues) with projected variances greater than $300 thousand per department; shown in the Financial Summary Report (Attachment A) and;

2) Special Revenue and Other Funds with projected variances greater than $500 thousand per fund; shown in the Financial Summary Report (Attachment B).

Both Attachments A and B use actual revenues and expenditures for the first nine months of FY 2021-22, and then add departmental projections for the next three months to arrive at the "Projected Actual" columns. These annual Projections are then compared to Adjusted Budgets for both Sources and Uses to produce a "Net Financial Projected Variance" for the end of the fiscal year (shown in the far right column of the Attachment A and Attachment B reports).

BUDGET POLICY

Departments are responsible for maintaining expenditure levels within the Board-approved budget appropriations in accordance with Board adopted policy and procedure *'Budgetary Control & Responsibility'* as the following abbreviated excerpt states:

A. If expenditures are projected to exceed appropriations, the department head responsible for the budget shall perform one or more of the following steps in the following order:

    1) Lower the expenditure level to maintain overall expenditures within the total amount budgeted,
    2) Request a transfer from fund balance within the same department and fund under the department head's control (if available for appropriation),
    3) Prepare a transfer request from General Fund Contingency and an agenda item for the Board of Supervisors with a memo to the County Executive Office, providing adequate justification.

In addition, the County Budget Act, Section 29121, California Government Code, places liability for over-expenditure upon the department director authorizing the expenditure:

> Except as otherwise provided by law, obligations incurred or paid in excess of the amounts authorized in the budget unit appropriations are not a liability of the county or dependent special district, but a personal liability of the official authorizing the obligation.

GENERAL FUND SUMMARY (Attachment A)

As of March 31, 2022, the General Fund had a projected year-end net positive variance of $13.5 million. This is the result of favorable results in most General Fund departments, partially offset by reportable negative variances in the Sheriff-Coroner Office and Community Services Department.

General Revenues (Department 991) projects a positive year-end variance of $11.2 million, 3.4% over total budgeted revenues, shown in detail in the table below. This variance is due primarily to higher than budgeted Transient Occupancy Taxes, Property Transfer Taxes, Sales and Use Taxes, and Property Taxes, offset by lower than budgeted Interest Income. Cannabis Cultivation and Retail Taxes are also projected to come in lower than budgeted, but are not contributing to the projected year-end variance, as explained later in this section.

Transient Occupancy Taxes are showing the largest positive variance as they project higher than budgeted by about $3.9 million, which continues to be driven by the public's pent-up demand for travel and the County's status as a highly desired tourist destination, despite the lingering effects of the pandemic and rising inflation. Property Transfer Taxes are also a major contributor to the positive variance as they project to exceed the budgeted amount by about $3.1 million due to the continued strength of a robust real estate market and the associated high demand for residential home purchases. Property Taxes are also benefitting from the strong real estate market and are projecting higher than budgeted by about $2 million, largely driven by increases in supplemental property taxes as property ownership changes occur and assessed values are adjusted. Sales and Use Retail Taxes also continue to weather the impacts of the pandemic and project a year-end surplus of $2 million over what was forecast at the time the FY 2021-22 budget was adopted. Recent data has shown modest retail growth in the quarter despite significant headwinds to consumers that include supply chain disruptions, the increasing cost of goods due to inflation, and the uncertainty surrounding the war in Ukraine. These unanticipated revenues are offset by reductions in Interest Income, which is projected to end the year below budget by about $1.1 million, driven by a sharp decline in the treasury pool interest rate since the onset of the pandemic.

Cannabis Cultivation Tax is currently projecting a negative variance of $7.6 million on a $18.4 million budget that was anticipated when the FY 2021-22 budget was adopted in June. This projected decrease continues to be attributable to the oversupply of wholesale cannabis product and resulting price compression that has persisted locally and state-wide as the newly legalized industry matures and significant numbers of new operators continue to get licensed and enter the market. Cannabis Retail Storefront Tax is also currently projected to end the year under budget by $625 thousand. This decrease is due to the timing of when each of the six retail operators are expected to complete the land use entitlement and business licensing processes. Staff had initially projected that one retail storefront operator would commence operations at the end of the current fiscal year, however that now appears unlikely and the associated tax revenue projections have therefore been revised accordingly. It is now anticipated that all six operators will complete the County's processes and commence operations at various times throughout FY 2022-23.

Given the projected shortfalls in Cannabis Cultivation and Retail Taxes, staff has assumed a corresponding decrease in the budgeted transfer to General County Programs, which totals approximately $8.2 million.

If this shortfall materializes as expected, it will be covered by prior year carryover, unspent funds in the current year, and the cannabis prudent reserve. Staff continues to monitor cannabis tax receipts closely and updates projections when new information becomes available.

Discretionary General Revenue Summary (in thousands):			
Source	**Adjusted FY 2021-22**	**Projected FY 2021-222**	**Variance Proj vs. Adjusted**
Property Taxes	$ 180,577	$ 182,587	$ 2,010
Sales and Use Retail State Tax	12,537	14,821	2,284
Cannabis Cultivation Tax	18,431	10,823	(7,608)
Cannabis Retail Tax	625	0	(625)
Transient Occupancy Tax	12,116	16,020	3,904
Property Transfer Tax	4,458	7,510	3,052
Interest Income	1,938	818	(1,120)
All Other Revenues	97,038	98,067	1,029
Total Discretionary Revenues	**$ 327,720**	**$ 330,646**	**$ 2,926**
Decrease to Cannabis Fund Balance	$ 19,056	$ 10,823	$ (8,233)
All Other Transfers	308,664	308,664	0
Projected Fiscal Year End Variance	**$ -**	**$ 11,159**	**$ 11,159**

Probation is projecting a positive year-end variance of $2.0 million, 2.7% on a total budget of $74.9 million, primarily due to staffing vacancies, resulting in projected salary savings of $3.0 million by year-end. The department is working to fill these vacancies. Additionally, there are savings in Professional and Special Services ($480 thousand) due to lower-than-budgeted community-based organization service (CBO) contracts spending, resulting from a combination of ongoing pandemic impacts, declining numbers of youth under supervision, lower referrals, and CBO staffing challenges. Overall, staffing vacancies and decreased CBO contract costs are resulting in a decreased drawdown from Restricted Fund Balance by $2.4 million.

Public Defender and **Auditor-Controller** are projecting positive year-end variances of $453 thousand (2.6% on a total budget of $17.2 million) and $442 thousand (4.4% on a total budget of $10.0 million), respectively, primarily due to staffing vacancies.

Sheriff-Coroner Office is continuing to project a negative year-end variance, estimated at $1.5 million, 0.8% on a total budget of $178.6 million, primarily due to overtime costs in excess of budget. Non-reimbursable overtime costs through the third quarter were $8.1 million and are projected to exceed $10 million by year end, or over $6.0 million in excess of budget. Most of this overage is being absorbed by salary and benefit savings as a result of numerous funded vacancies within the department. The remaining projected variance of $1.5 million assumes reimbursement of pandemic direct response costs incurred ($678k) and is attributable to overtime costs not absorbed by salary savings, incurred by the department in support of the training academies throughout the year.

Mitigating Overtime Budget Issues

Budgeting for overtime has been an ongoing challenge for the department for several years. Inconsistent staffing levels resulting from difficulties recruiting and retaining employees and leaves of absence has resulted in budget gaps and the burden on existing staff to meet current scheduling coverage. Of the $6 million overage for overtime discussed above, approximately $2.6 million can be traced to overtime costs to fill behind deputies in academy and field or custody training. This consists of 25,427 training hours for Sheriff Deputies and 11,461 training hours for Custody Deputies. The trainee positions are not able to staff a post until 10 months (Sheriff Deputy) or 8 months (Custody Deputy) after hire due to academy and custody/field training time required.

The other $3.4 million of the $6 million overtime overage is related to several factors including approximately 3,000 hours of overtime necessary to backfill for deputies participating in mandatory annual advanced trainings; occurrence of emergency and seasonal events requiring additional staffing; and the number of position vacancies due to retirements and other separations. In March, 18 retirement separations occurred, as compared to 4 at the same time in the prior year. The impact of these retirements and other separations, combined with the early opening of the Northern Branch Jail, has resulted in an increase in mandatory overtime from an average of 10 hours per pay period in the first half of the year, to 1,478 hours on average per pay period since. The high number of vacancies currently in the Custody division in particular (26 Custody Deputy vacancies), while providing temporary cost savings in salaries and benefits, will require additional overtime until the positions are filled and fully staffed, following academy and field/custody training. In addition to vacancies across the Custody and Law Enforcement divisions, 24 deputies are currently on worker's compensation leave, which contributes to the need for overtime, but without any corresponding salary and benefit savings.

In accordance with policy, if a budget is anticipated to exceed appropriations, action must be taken to remedy the shortfall. A potential source for the budget gap is the set-aside funding for the Sheriff Overhire Program. The set-aside of $2 million is for the department to hire up to 12 additional positions if 97% of existing positions are filled, to help maintain consistent staffing and ultimately reduce overtime costs. With the inherent challenges in staffing, however, the ability for the department to reach nearly full staffing capacity has been limited. Staff recommends use of this funding, held in the Proposition 172 fund, to resolve any outstanding budget shortfall caused by overtime costs incurred in support of the training academies and field training, prior to June 30. In prior years, surplus in other General Fund departments was typically used to balance a year-end deficit in the Sheriff-Coroner Office budget. However, the more clearly defined academy and training overtime issue described above, as well as the availability of the $2 million set-aside to address the deficit, means releasing these funds will preserve additional General Fund surplus for future Board discretionary use.

Additionally, it is recommended that staff work with the Sheriff-Coroner Office to develop and propose a budget policy for next fiscal year that will best address the longer-term fiscal plan regarding overtime costs, overhire ability, and other cost issues while ensuring accountability. Recommendations to the department from KPMG on this area would be further reviewed and considered as part of the policy development.

Community Services is currently projecting an overall negative variance of $293 thousand, 0.9% on a total budget of $34.1 million, driven by an accounting error in the Parks Division. Camping revenues that should have been realized during the first quarter of FY 2021-22 were erroneously posted to FY 2020-21, resulting in an overall positive variance of $485 thousand for the Department in FY 2020-21, and those monies were returned to the General Fund. To correct for the accounting error and resulting negative variance, an adjusting transfer from the County's Unassigned Fund Balance for General County Programs will be applied at fiscal year-end.

SPECIAL REVENUE AND OTHER FUNDS SUMMARY (Attachment B)

Social Services (Fund 0055) is projecting a positive year-end variance of $1.3 million, 0.7% on a total budget of $176.8 million, which is driven by unanticipated revenues and underspending. 2011

Realignment revenues are projected to exceed budgeted amounts due to strong sales tax collection. Additionally, the Department is projecting to underspend in Salaries and Employee Benefits due to staffing vacancies. Unanticipated revenues and savings will reduce the amount of fund balance that the Department will use in the current year, thereby increasing the total fund balance available to cover the costs of eligible—largely realigned—programs in future years.

Court Activities (Fund 0069) is currently showing a positive year-end variance of $623 thousand, 0.4% on a total budget of $15.3 million, primarily due to higher revenues in Fines, Forfeitures, and Penalties, and in Charges for Services, as Courts' ability to collect has improved as the situation with COVID-19 has stabilized. However, the reflected positive variance is expected to decrease significantly before the end of the fiscal year as delayed billing from the Matador trials, which began this fiscal year, are expected to be received in the Fourth Quarter.

ADVANCE CONSTRUCTION RESERVE ACTIVITY

Beginning in FY 2021-22, the budget includes the temporary transfer of General Fund cash to Public Works (Fund 0017) for costs associated with high cost bridge construction that requires cashflow in advance of federal reimbursement. The Board has approved an estimated cashflow need for two bridge projects currently in progress. The status of those transfers will be reported in each quarterly update to the Board.

Project	Board Date	Approved Maximum	Transferred To-Date	Net Remaining	Period of Cashflow Need
Floradale Bridge	6/8/2021	$6,800,000	($5,270,600)	$1,529,400	2021-2024
Foothill Bridge	1/11/2022	$6,000,000	-0-	$6,000,000	2022-2025
Totals		**$12,800,000**	**($5,270,600)**	**$7,529,400**	

To the extent that federal reimbursements are received throughout the projects, that cash will be used first prior to any General Fund transfer. The Board approved a new Budget Development policy in December 2021 to establish an Advance Construction Reserve in General County Programs to set aside the maximum amount estimated for the projects and track the activity. Staff will process a budget revision request as cashflow is needed for the project.

CANNABIS TAXATION, COMPLIANCE AND ENFORCEMENT ACTIVITY (Attachment C)

During the third quarter, the County collected $858 thousand in cannabis gross tax receipts. The County completed four enforcement actions against illegal cannabis activities: 78 plants and 41 pounds of cannabis product were confiscated totaling an estimated street value of $80 thousand. The County also issued four new cannabis business licenses.

To date, the County has approved enough cultivation acreage in land use entitlements to exceed the acreage cap in the unincorporated inland area. There are currently eight operators with approved land use entitlements on the waiting list for this area requesting a total of over 265 acres. The acreage cap in Carpinteria is predicted to be committed in July 2022. Operators submitted a total of 193 business license applications through the third quarter, of which 36 have been issued. The majority of these pending business license applications remain in process, largely due to: 1) applicants that have been approved for a land use entitlement, but have not yet been issued a final, un-appealable entitlement, as many applications are being appealed after approval, and 2) applicants that have not yet obtained required building permits to construct new buildings, or change the use of existing buildings. Further details can be found in Attachment C.

Attachments:
A – Financial Summary Report – General Fund
B – Financial Summary Report – Special Revenue and Other Funds
C – Cannabis Taxation, Compliance and Enforcement, Third Quarter FY 2021-22

Authored by:

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