



COUNTY OF ORANGE LEGISLATIVE PLATFORM FOR 2013

Adopted by the Board of Supervisors
November 20, 2012

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**COUNTY OF ORANGE
LEGISLATIVE PLATFORM
FOR 2013**

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COUNTY OF ORANGE

2013 State and Federal
Outlooks

COUNTY OF ORANGE
2013 STATE AND FEDERAL OUTLOOKS

STATE LEGISLATIVE OUTLOOK

Overview

The 2013-14 Legislative Session convenes on December 3, 2012, with a 38 freshmen Assembly Members and nine new State Senators, eight of which served in the Assembly. Many new Assembly Members are former business executives, teachers, or local elected officials.

The year of 2013 will also be the first year that members will serve under the new Term Limits law, passed in 2010. Under the new provision, members who have never served in the State Legislature are allowed up to 12 years total service in either the Assembly or Senate. In the past, members could serve only up to six years in the Assembly and up to eight years in the Senate. With the new law in place, it will likely help stabilize Legislative experience and knowledge, especially with regard to committees and staff.

Starting on December 3, 2012, Democrats will have a super majority (two-thirds) in both the State Assembly and the State Senate in the 2013-14 Legislative Session. Democrats now have the ability to put constitutional amendments on the ballot as well as pass tax and fee bills without any Republican votes. The breakdown for 2013-14 is fifty-four Democrats and twenty-six Republicans in the Assembly and twelve Republicans and twenty-eight Democrats in the Senate.

California continues to lead the nation in deficit spending. In addition to the State budget deficit, other policy issues relating to the environment, health, and retirement are likely to be top priorities for legislative leadership in the 2013-14 Legislative Session.

Budget

The 2012–13 State spending plan assumes total budget expenditures of \$130.7 billion from the General Fund and special funds. This consists of \$91.3 billion from the General Fund and the Education Protection Account (which was created with the passage of Proposition 30), as well as \$39.4 billion from other special funds. Together, spending from these funds is assumed to increase by about seven percent over 2011-2012.

Due to the State budget deficit, many believe the Legislature may consider adopting reform measures such as “performance based budgeting,” which would be aimed at establishing an effective and efficient way to deliver essential services, given the projected revenues for the State.

It will be important for the County of Orange to ensure all realignment of services and programs to the County from the State have a permanent funding source. Looking ahead to the 2013-14 Legislative Session, ballot measures passed on November 6, 2012, will have an impact on the State budget.

Proposition 30 passed on November 6, 2012, which raises \$6 billion annually from increasing income taxes on high earners for seven years and the sales tax by ¼ cent for four years with revenues to the General Fund, including education.

According to the Legislative Analyst's Office, new State revenues from tax increases would result through 2018-19. Over the five fiscal years in which the tax increase will be in effect (2012-13 through 2016-17), the average annual State revenue gain from this measure is estimated at around \$6 billion.

However, revenues from Proposition 30 could change significantly from year to year, either higher or lower than projected because the personal income tax rate is volatile.

Proposition 39. This measure, which passed with 60 percent of the vote, ceases the practice of multi-state businesses being able to choose the method for determining their state taxable income and instead these companies will have to use the single sales tax factor. Also, with the passage of Proposition 39, the Clean Energy Job Creation Fund will be created to support energy efficiency projects.

Proposition 39 will have a direct impact on the State Budget since it will require multi-state businesses to pay income taxes based on the percentage of their sales made in California. It is projected that revenues will rise \$1 billion annually, and according to the rules of Proposition 98, about 40 percent of this revenue will automatically go to schools and approximately 60 percent will go to the General Fund.

Environment

AB 32 Implementation – Cap and Trade: In 2012, the Governor signed into law two bills that create a process for programming and spending Cap and Trade auction revenue, which is estimated to generate \$660 million in the first year and then climb to nearly \$3 billion annually. AB 1532 by Speaker Pérez directs the Department of Finance to develop, in consultation with California Air Resources Board (CARB) and other state agencies, a three year expenditure plan. The first plan must be submitted to the Legislature by May 1, 2013, and it will be updated every three years thereafter. The funds must be appropriated in the Budget, and the Department of Finance must issue an annual status report.

SB 535 requires the AB 1532 investment plan to allocate at least 25 percent of the auction revenue to benefit disadvantaged communities as identified by the Environmental Protection Agency. A disadvantaged community must be an area that is

disproportionately impacted by pollution and has a concentration of low-income individuals.

The focus now shifts to the Department of Finance, which is in charge of developing the expenditure plan. AB 1532 identifies categories of eligible projects, but the bill does not limit use to those specified categories. The main constraint in the use of these funds is meeting the nexus requirement to reduce greenhouse gas emissions. Eligible funding categories include the following from the statute:

- The development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation.
- Funding to reduce greenhouse gas emissions through strategic planning and development of sustainable infrastructure projects, including, but not limited to, transportation and housing.
- Funding to reduce greenhouse gas emissions through investments in programs implemented by local and regional agencies, local and regional collaborative, and nonprofit organizations coordinating with local governments.

CEQA Reform: For several years, CEQA has been in the forefront of many environmental debates. Many believe it has become a political tool to delay or stop reasonable development projects. Counties have an important role as lead agencies of projects. Senator Michael Rubio, who is the nominated chair of the Senate Environmental Quality Committee, unveiled a CEQA reform proposal at the end of session in 2012. While this proposal was never put in print, Senate President Pro Tem Steinberg has made CEQA reform a priority in 2013.

A stakeholder group is planning to release a proposal at the beginning of the new 2013-14 session. It will be important for the County to review and monitor the new CEQA reform proposal to ensure input is provided to the negotiations.

Green Chemistry: In 2008, the Legislature passed AB 1879 and SB 509 to implement the green chemistry law – regulations administered by the Department of Toxic and Substances Control (DTSC) in a science based approach to identifying and evaluating the dangers of toxic chemicals in consumer products, rather than having multiple chemical-by-chemical bans. The revised regulations were released in July 2012 with final regulations set to go in effect before 2013. The new chairman of the Senate Environmental Quality Committee, Senator Mike Rubio (Kern County), sent a letter requesting that the Governor delay implementation of the Green Chemistry initiative.

The letter, signed by sixteen other legislators, cites concerns over the economic impact to companies that may need to replace certain chemicals in their products with safer options. The Senator is requesting a study showing the number of businesses affected; the number of jobs that may be lost; and, the costs of complying with the regulations. If

job loss occurs due to the implementation process, the County needs to react to potential impacts on the budget and on future environmental policy.

Health

Healthy Families Transition: In 2013, Diana Dooley, Secretary of the State's Health and Human Services Agency (HHS), will be administering the Transition Plan for the Healthy Families Program (HFP) to Medi-Cal. The strategic plan will include the Transition Timeline, an outline of the Qualitative Data Elements that the Administration is expecting from health plans that are accepting Healthy Families children (to determine continuity of care and provider network availability), and a Provider Network Review questionnaire that will determine whether enrollees will be able to keep their Primary Care Providers and what specialists are available in plan networks.

One of the elements in the strategic plan is a list of all of the federal approvals required prior to the transition of the first group of children beginning on January 2, 2013. There are six proposed State Plan Amendments and two Section 1115 Bridge to Reform Waiver approvals outlined. The transmittal materials indicate that the Department of Health Care Services has "begun engagement with Centers for Medicare & Medicaid Services (CMS) regarding needed federal approvals for the transition."

Pension Reform

The Legislature passed two pension reform bills – AB 340 (Furutani) and AB 197 (Buchanan) at the end of the 2011-12 Legislative Session. CSAC has sponsored webinars to review the provisions of the bills, and answer the numerous questions that have been raised by local governments. Primary focus areas are cost sharing, largely because the cost sharing provisions of the pension reform bills make a distinction between current employees and new employees, with the latter being those individuals who are hired after pension reform goes into effect on January 1, 2013. Other topics include employee re-hire, and the impact of existing MOUs.

COUNTY OF ORANGE
2013 STATE AND FEDERAL OUTLOOKS

FEDERAL LEGISLATIVE OUTLOOK, 113th CONGRESS, 1st SESSION

Overview

The 2012 election produced a “status quo” result on November 6. President Obama was re-elected to a second term, the Senate—defying earlier expectations—will remain in Democratic hands, while the House of Representatives continues under Republican control. Attention prior to 2013 and the start of the 113th Congress will focus on the lame duck session of the 112th Congress and how much—or how little—it is able to accomplish. Either the lame duck session will deal with issues surrounding the Fiscal Cliff or the new Congress will be forced to address these matters as its first order of business in January.

The three components of the Fiscal Cliff include, firstly, the expiring tax cuts of 2001 and 2003 which were extended at the end of 2010 for an additional two years. Second is implementation on January 1, 2013 of the sequestration process adopted by Congress in 2011 (Public Law 112-25) which will go into effect, unless amended, as a result of Congress’ failure to achieve \$1.2 trillion in budgetary savings over the next ten years, thereby triggering automatic spending cuts of the same amount, to be made equally from defense and discretionary domestic programs. The third component of the fiscal cliff is the National Debt Ceiling and expiration of borrowing authority by the Federal Government which will occur at some point early in the new year.

National Issues

Ancillary to the immediate requirement of dealing with the Fiscal Cliff is the increasingly urgent need to deal with systemic reform of the budgetary and fiscal structure of the Federal Government as it relates to entitlement programs and the federal tax code. There is widespread recognition that this process must begin in 2013, and that the failure to do so will eventually lead to a Eurozone-style economic crisis.

Mandatory program spending is driven by the “big three” entitlement programs: Social Security, Medicare and Medicaid. (Interest on the National Debt is the fourth component of mandatory spending, but default on the debt has not yet been raised as a viable fiscal policy option other than by those advocating not raising the debt ceiling.) Social Security is perhaps the easiest of the three to deal with—by gradually raising the eligible retirement age and/or means testing the benefits paid out. Medicare is the most expensive of the three big entitlements and the most controversial, as the election campaign of 2012 has shown. The third component, Medicaid (or Medi-Cal as it is known in California), is the entitlement program of greatest concern to the County because its services are provided at the local level.

Republicans in Congress are in general agreement that Medicaid should be block-granted to the states. There is also Republican consensus that current program spending should establish the baseline for a block grant program with annual increases based on population growth and an inflation-plus formula. In 2012, we have already begun cautioning Members of our own delegation that any program of Medicaid block grants to the states must contain the requirement of a fair distribution formula to localities so as to preclude states from developing formulas that benefit one county or region over another area of the state based on arbitrary political decisions. This is not simply a California concern, as Republican Legislatures in New York, Florida and Texas have disadvantaged urban Democratic areas as much, or more, than the Democratic Legislature in California has sometimes shortchanged Orange County.

Reform of the tax code—both individual and corporate—is also necessary if the fiscal condition of the Federal Government is to be set to rights. Almost no one in Washington supports increasing tax rates, but there are huge partisan differences over the elimination of loopholes, the reduction of rates for various income brackets, and whether increased revenue is to be achieved through economic growth or by broadening the economic group paying the highest marginal rates.

How Congress and the Administration address these national issues in 2013 will depend on both the position of a re-elected President Obama and a House of Representatives which after the election seems to as ideologically polarized as was the House in the 112th Congress. The President may be more willing to compromise inasmuch as he will not face the voters again. House Speaker John Boehner, on the other hand, does have to balance a Republican Caucus made up of both traditional conservatives and Tea Party supporters.

Orange County Issues

The 2012 election will, of course, have an impact on federal programs of interest to the County. President Obama has said that he recognizes the need to address the continuing massive annual budget deficits and their impact on the accumulating National Debt. Both of these issues are high priorities in the House Republican Caucus.

Over the past four years—with a Democratic President and, at least, partial Republican control of Congress—the Army Corps of Engineers' construction budget has been reduced by one-third. This obviously impacts the rate of construction on the Santa Ana River Mainstem Project. It is hoped that an October 2012 visit to the project by the Assistant Secretary of the Army for Civil Works will result in an increased understanding by the Obama Administration of the need to finish the project sooner rather than later inasmuch as it is already 85 percent complete.

Federal grant programs such as local emergency shelter and homeless assistance, workforce training programs, welfare assistance, student loans and a myriad of other grant programs could be cut depending on decisions made on moving towards a balanced federal budget or, at least, reducing the size of the annual budget deficit.

Formula grants, even those with a dedicated revenue stream—such as the Highway Trust Fund or the Airport Improvement Program—could also be reduced or, in some circumstances, eliminated.

It is likely that full implementation of the Affordable Care Act (Obamacare) will now go forward in 2014, subject only to a few remaining judicial challenges to various parts of the act. Therefore, the County, in turn, will need to continue its preparation for an expansion of its Medi-Cal eligible population.

One local, non-fiscal federal issue is the County's pension reform effort. Despite the support of the local employees' union and Representative Loretta Sanchez, it became apparent in 2012 that approval of the County's hybrid plan was being stymied at the Department of the Treasury by the opposition of national labor unions. Efforts to secure federal administrative approval may thus depend on which party controls the White House come January 20, 2013. A legislative solution will depend on whether either of California's Senators is willing to be supportive.

Efforts to amend and streamline the 404 permitting process are more sensitive to the congressional balance of power than to the occupant of the White House. This reform effort will necessarily be part of a larger legislative package, which should it muster the votes to pass Congress, is unlikely to be vetoed by President Obama. Opposition in the Democratic Senate remains a greater roadblock to activity on this issue.

The 113th Congress has an extraordinarily critical agenda facing it when it assembles in January of 2013.



COUNTY OF ORANGE

2013 Legislative Priorities and Policy Statements

COUNTY OF ORANGE
2013 LEGISLATIVE PRIORITIES AND POLICY STATEMENTS

The County of Orange recognizes the need to protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County of Orange reviews and establishes priorities and policy statements at the beginning of each legislative year. The Legislative Priorities set forth the County's goals for the current Legislative Session and the Policy Statements provide general direction to the Legislative advocates as they advance County interests during the year.

LEGISLATIVE PRIORITIES

1. LOCAL GOVERNMENT FUNDING

In the event local revenue is jeopardized or reallocated, the State must provide alternative funding sources to local governments. For example, Orange County would be opposed to the State borrowing from local governments using Proposition 1A, or any other source of funding from the State.

2. FISCAL EQUITY

Establish an equitable, dependable and predictable revenue stream with distribution formulas for local revenues that address equity with other counties, and that any formula be based on one or more of the following factors:

- Per capita
- Caseload
- Situs (dedicated taxes)
- Realignment Equity
- Cost of Living in High Cost Counties
- Other Objective Measures of Need

3. COST RECOVERY

Local governments shall receive full cost reimbursement for all federal and/or state mandated programs. Unfunded or under-funded mandates are a burden which local government cannot afford. The County of Orange will pursue full cost recovery for all expenditures related to natural disasters.

POLICY STATEMENTS

1. Increasing taxes is an inappropriate means of balancing the State's budget.
2. The establishment of equitable, consistent, dependable, and predictable revenue streams with distribution formulas for local revenues that address equity are necessary for the stability of services provided by local government. Proposed funding allocations to counties must be based upon common factors (population, poverty statistics, caseload, or other objective measures of need) applied evenly among counties.
3. The shifting of tax revenues from the County to the State or other local entities harms Orange County's ability to serve its residents.
4. Counties must be given the authority, flexibility, and adequate funding to administer programs and service client needs within their local jurisdictions (no unfunded mandates). As examples, In-Home Supportive Services should be fully funded by the State and Federal governments to lessen the financial burden on local governments; and funding for property tax administration should be reinstated.
5. Realignment proposals must only include programs where counties have control over costs and program operations.
6. Federal maintenance of effort requirements as well as federal penalties and sanctions must remain the responsibility of the State and not passed on to local governments.
7. Homeland security and emergency response efforts shall be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each.
8. The State and/or Federal government shall provide full cost recovery for counties and cities for all mandates. State/or federally funded programs (such as Santa Ana River Project, State Child Health Insurance program (CHIP), medical research, housing, law enforcement, older adults and workforce investment, etc.) require adequate and continuous funding.
9. Support collaborative solutions in addressing regional issues and completion of vital flood control, beach erosion control, and watershed projects such as the Santa Ana River Mainstem Project (including Prado Dam), Santa Ana River Interceptor Line (SARI) relocation, Aliso Creek Mainstem Project, Orange County Beach Erosion Control Project, and other projects as may be appropriate.

10. Orange County will support measures that protect the public against disease and disability and promote health.
11. Funding for alternatives to incarceration, including probation monitoring, that are cost effective and do not endanger the general public shall be pursued.
12. Housing:
 - a. Adequate housing is necessary for economic stability. Parity should be sought between the number of jobs and the availability of housing. The Regional Housing Needs Assessment (RHNA) should identify realistically the housing elements needed to achieve fair distribution of housing requirements and should provide for the transfer of housing allocations when annexation or incorporation occur. RHNA should never be used to punitively impact the funding of local government.
 - b. Support removal or minimization of barriers to housing production, including fiscal reform for local government to address disincentives for residential development.
 - c. Support the efforts of County water agencies to insure that an adequate water supply exists for potential development in unincorporated areas and the incorporated cities of Orange County.
 - d. Support the removal of barriers to local flexibility in the administration and allocation of federal homeless assistance funding, so as to allow the County to direct these funds toward innovative programs that will meet the specific needs of its homeless population.
13. Water Resources:
 - a. State – promote coordinated effort between state, County and regional agencies to allow for increased local control for project implementation.
 - b. Federal – increase programs and funding opportunities for purchasing of coastal habitat and resource conservation, preservation and maintenance. Support federal funding for beach nourishment and erosion control for all Orange County shoreline from the mouth of the San Gabriel River to San Mateo Creek. Support sharing of Federal Outer Continental Shelf (OCS) revenues with coastal states to support conservation and wildlife protection programs.
 - c. Local, State and Federal – support state and federal grants for Clean Water Act and Porter-Cologne Act and collaborate on watershed management strategies.
 - d. Support consistent regulatory efforts and oversight within Orange County boundaries.
14. Promote business retention (through insurance, healthcare, and workers' compensation reform) and consider incentives to attract new business.

15. Protect local decision-making and accountability for County Proposition 10 Commissions when statewide financial reporting and fiscal practices are established.
16. El Toro – The local land use decision made regarding MCAS, El Toro and its reuse should be upheld. The County of Orange is opposed to any attempt to change the land use and to the creation of a regional airport authority to place an airport at MCAS, El Toro.
17. Support policies that maximize local control over solid waste management and operational efficiencies at solid waste facilities, and minimize burdensome and duplicative regulation by the state. The County supports measures that maintain and expand existing diversion credits.
18. Implementation of the reauthorized Voting Rights Act should reexamine multilingual ballot requirements to ease unfunded mandates on counties. The regulations should have specific and reasonable fluency thresholds.
19. Support a public safety system that includes local law enforcement services, crime prevention, prosecution of crime, confinement of high-risk and juvenile offenders, and supervision of adults and juveniles placed on court ordered formal probation.
20. Support measures that enhance the quality, affordability, capacity, accessibility, and safety of child care and development programs.
21. Support Completion of the 241 Tollroad, as it affects all transportation decisions as well as Air Quality Management Districts (AQMD) measurements for the County.
22. Support legislative or administrative changes to clarify the requirements for regulatory permits for the maintenance of flood control and drainage facilities, including mitigation requirements; and for streamlining the process when maintenance permits are required.
23. Support legislation that educates, promotes incentives, and provides information to the residents, builders, and businesses of Orange County regarding the adoption, use, and economic benefits of green technology, recycled products and eco-friendly products.
24. Support legislation that ensures Health Care Reform is revenue-neutral to the Health Care Agency and Social Services Agency and allows these agencies to carry out its mandated services and County responsibilities with no increase in Net County Cost.

25. Pursue the possibility of maximizing the capacity and efficiency of the County's Cogeneration (Cogen) and Central Plant facility by providing its excess load to other governmental agencies within the Santa Ana Civic Center.
26. State water quality regulatory framework:
 - a. Support a change in the California Water Code to bring ex parte communication for the members of the State Water Resources Control Board and Regional Water Quality Control Boards in line with other state boards and commissions.
 - b. Support revisions to the limitation on a board member's income restrictions so that individuals who receive income from an entity subject to waste discharge requirements may serve on the State Water Resources Control Board and Regional Water Quality Control Boards but must recuse themselves from matters pertaining to any entity in which they have a direct or indirect financial interest.
27. Workforce Investment Act (WIA):
 - a. Support the reauthorization of the WIA.
 - b. Support WIA reauthorization provisions that allow Orange County to retain local control in the areas of service delivery design and expenditures.
 - c. Support WIA reauthorization provisions that promote and incentivize regional planning and service delivery.
 - d. Support a WIA reauthorization provision that continues to require oversight Boards to be led by a majority of locally appointed business representatives.
 - e. Oppose any efforts to remove local control provisions allowed under existing legislation at the Federal or State level.
28. Support legislation that promotes renewable energy and alternative technology projects by minimizing burdensome requirements.



COUNTY OF ORANGE

2013 County-Sponsored State Legislative Proposals

COUNTY OF ORANGE
2013 COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

STATE PROPOSALS

CONTRACTING LAW ENFORCEMENT SERVICES

This proposal would amend Government Code §53069.8 to allow a county or city to have the authority to contract with a homeowners' association for ongoing law enforcement services.

OC NEW RETIREMENT FORMULAS

This proposal would amend a provision of the County Employees Retirement Law of 1937 Act ("CERL") applicable only to OCERS, to clarify that OCERS sponsors may implement new retirement formulas in the same manner as other CERL systems and for there not to be any conflict with new state law.

FUNDING FOR ASSISTED OUTPATIENT TREATMENT

This proposal would make language changes to the Welfare and Institutions Code that would allow for Mental Health Services Act (MHSA) funds to be used for involuntary services under Laura's Law. The suggested language also provides authority for the Board of Supervisors to cap the number of patients, control funding, and provide the effective dates of Laura's Law in the County.

CHILD CARE FUNDING

This proposal would amend the Welfare and Institutions Code to expressly authorize the use of either County funds or California Department of Education (CDE) non-maintenance of effort (non-MOE) funds for purposes of claiming the Title IV-E 50-percent federal match for foster child care.

FAIR POLITICAL PRACTICES COMMISSION (FPPC) NEW REGULATION ON BEHESTED PAYMENTS

This proposal seeks to define behested payments in the Government Code, instead of the California Code of Regulations, so that the original intent of Government Code Section 82015 is carried out while not placing an undue impact on charitable organizations.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218

Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: CONTRACTING LAW ENFORCEMENT SERVICES

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Sheriff-Coroner

CODE SECTION AFFECTED:

Government Code §53069.8

DESCRIPTION OF CURRENT LAW:

While it is legally permissible for a county or city to contract with a private entity to provide supplemental law enforcement services for a special event or occurrence (Gov't Code § 53069.8), there is no current legal authority for a city or county to provide ongoing law enforcement services to a private entity in exchange for payment from that entity. In 68 Op Cal. Att'y Gen. 175 (1985) the California Attorney General concluded: "Neither cities nor counties, nor their respective heads of local law enforcement, have the authority to contract with private parties to provide on or off-duty law enforcement officers for regular ongoing private security services for an agreed compensation."

PROPOSAL:

To amend Government Code §53069.8 to allow a county or city to have the authority to contract with a homeowners' association for ongoing law enforcement services.

DISCUSSION:

Currently, state law limits the ability of a homeowners' association to pursue options for contracting for law enforcement services. Orange County's unincorporated areas are already patrolled by the Orange County Sheriff's Department (OCSD) for general law enforcement services. Due to their close relationship with the communities in the unincorporated areas, the OCSD has unique knowledge of the needs of each neighborhood in these areas. Providing private homeowners' associations with the ability to contract with a county or city for law enforcement services can enhance the type of service that will be provided, as well as save in costs.

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Cal Gov Code § 53069.8 (2011)

§ 53069.8. Providing law enforcement services to private individuals or entities

(a) The board of supervisors of any county may contract on behalf of the sheriff of that county, and the legislative body of any city may contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to:

(1) Private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis.

(2) Private nonprofit corporations that are recipients of federal, state, county, or local government low-income housing funds or grants to preserve the peace on an ongoing basis.

(3) Private entities at critical facilities on an occasional or ongoing basis. A "critical facility" means any building, structure, or complex that in the event of a disaster, whether natural or manmade, poses a threat to public safety, including, but not limited to, airports, oil refineries, and nuclear and conventional fuel powerplants.

(4) Homeowners' associations on an occasional or ongoing basis. "Association" has the same meaning as defined in subdivision (a) of Section 1351 of the Civil Code.

(b) Contracts entered into pursuant to this section shall provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city, as the case may be.

(c) (1) The services provided pursuant to this section shall be rendered by regularly appointed full-time peace officers, as defined in Section 830.1 of the Penal Code.

(2) Notwithstanding paragraph (1), services provided in connection with special events or occurrences, as specified in paragraph (1) of subdivision (a), may be rendered by Level I reserve peace officers, as defined in paragraph (2) of subdivision (a) of Section 830.6 of the Penal Code, who are authorized to exercise the powers of a peace officer, as defined in Section 830.1 of the Penal Code, if there are no regularly appointed full-time peace officers available to fill the positions as required in the contract.

(d) Peace officer rates of pay shall be governed by a memorandum of understanding.

~~(e) A contract entered into pursuant to this section shall encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined in Section 7582.1 of the Business and Professions Code.~~

~~(fe)~~ Contracting for law enforcement services, as authorized by this section, shall not reduce the normal and regular ongoing service that the county, agency of the county, or city otherwise would provide.

~~(gf)~~ Prior to contracting for ongoing services under paragraph (2), ~~or~~ (3) **or (4)** of subdivision (a), the board of supervisors or legislative body, as applicable, shall discuss the contract and the requirements of this section at a duly noticed public hearing.

Approved as to form:
County Counsel

By Nicole Sims
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown

POTENTIAL OPPOSITION:

Unknown

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

Unknown

PERSONS RESPONSIBLE FOR TESTIMONY:

Nicole Sims

Deputy County Counsel

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE
CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218
Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: OC NEW RETIREMENT FORMULAS

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Members and Sponsors of the Orange County Employee Retirement System.

CODE SECTION AFFECTED:

Amend Government Code Section 31678.3

DESCRIPTION OF CURRENT LAW:

Section 31678.3(f), applicable only to the Orange County Employees Retirement System ("OCERS"), states that the Board of Supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.

PROPOSAL:

This proposal would amend a provision of the County Employees Retirement Law of 1937 Act ("CERL") applicable only to OCERS, to clarify that OCERS sponsors may implement new retirement formulas in the same manner as other CERL systems and for there not to be any conflict with new state law.

DISCUSSION:

AB 1992 (Correa) made certain changes to the County Employees Retirement Law of 1937. These changes only applied to OCERS.

The legislation created Government Code Section 31678.3 which permitted the County of Orange and districts belonging to the Orange County Employees Retirement System to adopt by resolution, and pursuant to a memorandum of understanding with the relevant bargaining units, certain enhanced benefit formulas applicable for the calculation of benefits for certain general or safety members. In exchange those bargaining units would be permitted to agree to pay a portion of the contributions attributable to past service liability involved in implementing enhanced retirement formulas. Government Code Section 31678.3 (f) states, "The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units," which applies only to Orange County."

Removing Government Code Section 31678.3 (f) would clarify that the sponsors belonging to the Orange County Employees Retirement System would be in the same position as other CERL retirement systems regarding implementation of retirement formulas for members. Further, removal of Government Code Section 31678.3 (f) would also permit the sponsors belonging to OCERS to not conflict with Government Code Section 7522.15, effective January 1, 2013, which requires the adoption of formulas contained in Government Code Sections 7522.20 and 7522.25 for new employees irrespective of the relevant bargaining unit's agreement.

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Ammend Section 31678.3 from the Government Code to read:

31678.3. (a) Notwithstanding any other provision of this chapter, a resolution adopted by a board of supervisors to make any formula for calculation of retirement benefits described in this section applicable to the employees of the county does not apply to make that formula applicable to the employees of any district within the county. The governing body of a district may elect, by resolution adopted by majority vote, to make any formula for calculation of retirement benefits described in this section applicable to the employees of the district irrespective of whether the board of supervisors has made that election with respect to employees of the county.

(b) Notwithstanding any other provision of this chapter, the board of supervisors or the governing body of a district may, by resolution adopted by majority vote, pursuant to a memorandum of understanding made under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 2), do any or all of the following:

(1) Apply Section 31621.8, 31676.17, 31676.18, or 31676.19 for the calculation of retirement benefits for general members to the employees in a bargaining unit comprised of general members.

(2) Apply Section 31664.1 for the calculation of retirement benefits for safety members to the employees in a bargaining unit comprised of safety members.

(3) Apply Section 31664 for the calculation of retirement benefits for safety members to the employees of the Probation Services Unit and the Probation Supervisory Management Unit.

(c) Any nonrepresented employees within similar job classifications as employees in a bargaining unit described in subdivision (b) or supervisors and managers thereof shall be subject to the same formula for the calculation of retirement benefits applicable to the employees in that bargaining unit.

(d) A resolution adopted pursuant to subdivision (b) may require members to pay a portion of the contributions attributable to past service liability, that would have been required if the benefits specified in the resolution, as adopted by the board of supervisors or the governing body of the district, had been in effect during the period of time designated in the resolution. Any payments required of represented employees shall first be approved in a memorandum of understanding made under the Meyers-Milias-Brown Act and executed by the board of supervisors or the governing body of the district and the employee representatives. The contributions paid by a member pursuant to this subdivision shall become part of the accumulated contributions of the member.

(e) This section shall only be applicable to members who retire on or after the effective date of the resolution described in subdivision (b).

~~(f) The board of supervisors or the governing body of a district may not unilaterally implement a retirement formula for any of its bargaining units.~~

~~(f)~~ (g) This section shall apply only in Orange County.

Approved as to form:
County Counsel

by Nikhil Daftary
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown at this time.

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

AB 1992 (2002-Correa)

PERSONS RESPONSIBLE FOR TESTIMONY:

Donna Grubaugh, Director, Legislative Affairs

County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218

Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: FUNDING FOR ASSISTED OUTPATIENT TREATMENT

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Health Care Agency

CODE SECTION AFFECTED:

Various Welfare and Institutions Code sections on Assisted Outpatient Treatment, also known as Laura's Law.

DESCRIPTION OF CURRENT LAW:

Existing law, known as Laura's Law, was enacted on January 1, 2003, and was renewed by AB 1569 (Allen). It established a discretionary program for counties allowing involuntary, court-imposed outpatient treatment for persons who are mentally ill and meet certain clinical criteria. Laura's Law is not effective in any county unless its Board of Supervisors (1) authorizes implementation by resolution and (2) makes a finding that no voluntary adult mental health program and no children's mental health program will be reduced as a result of implementation. The law permits the court to order involuntary outpatient treatment for a person 18 years and over who is severely mentally ill, who refuses voluntary treatment, and who appears to be at risk for self-harm or grave disability.

PROPOSAL:

CEO/Legislative Affairs requests language changes to the Welfare and Institutions Code that would allow for Mental Health Services Act (MHSA) funds to be used for involuntary services under Laura's Law. The suggested language also provides

authority for the Board of Supervisors to cap the number of patients, control funding, and provide the effective dates of Laura's Law in the County.

DISCUSSION:

Without these amendments to AB 1569, the preliminary cost estimate for Orange County is approximately \$5.7 million to \$6.1 million annually for the Health Care Agency, Public Defender, and County Counsel. There is no State funding appropriated for Laura's Law. County Counsel has opined that Mental Health Services Act (Proposition 63) funds may not be utilized since the program entails involuntary treatment. As a result, funds for the program would very likely have to come from a general fund budget augmentation.

AB 1569 contained much detail about notice, due process, right to counsel, and which services must be offered and how they must be provided. All specified services must be made available because the law does not provide for partial implementation.

However, if Laura's Law were amended to specifically allow funding under the Mental Health Services Act, the program could potentially be implemented without increasing Net County Cost. This would potentially allow HCA to provide Laura's Law services to the 120 clients per year that meet the program's eligibility criteria. Additionally, if the law were amended to allow for caps on the number served, HCA would be able to provide a pilot program to more fully evaluate the costs and implications of implementation.

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Amend W & I 5801, subd. (b)(5) to read as follows:

"The client should be fully informed and volunteer for all treatment provided, **unless ordered to undergo assisted outpatient treatment under Section 5346 or** unless danger to self or others or grave disability requires temporary involuntary treatment."

Amend W & I 5813.5 to read as follows:

"Subject to the availability of funds from the Mental Health Services Fund, the state shall distribute funds for the provision of services under Sections **5347, 5348, 5349.1,** 5801, 5802, and 5806 to county mental health programs..."

Amend W & I 5346 to read as follows:

(a)(5) The person has been offered an opportunity to participate in a treatment plan by the director of the local mental health department, or his or her designee, provided the treatment plan includes ~~all of the~~ services described in Section 5348, and the person continues to fail to engage in treatment.

Amend W & I 5348, subd. (a) to read as follows:

“For purposes of subdivision (e) of Section 5346, a county that chooses to provide assisted outpatient treatment services pursuant to this article shall **may** offer assisted outpatient treatment services including, but not limited to, ~~all of the~~ following:”

Amend W & I 5348, subd. (a)(2)(A) to read as follows:

“Consistent with the resolution authorizing the application of this article, Ddetermination of the numbers of persons to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.”

Add W & I 5348, subd. (e) to read as follows:

“Nothing in this section shall be construed as restricting the authority of the board of supervisors in a county that chooses to provide assisted outpatient treatment services pursuant to this article to limit the number of persons to be served under this article, to determine the funding and programs available for services under this article, or to fix the effective dates of the application of this article.”

Amend W & I 5349 to read as follows:

“This article shall be operative in those counties in which the county board of supervisors, by resolution, authorizes its application and makes a finding that no voluntary mental health program serving adults, and no children's mental health program, may be reduced as a result of the implementation of this article. **Use of funds from the Mental Health Services Fund for the implementation of this article shall not be deemed a reduction in a voluntary mental health program serving adults or a children's mental health program. Notwithstanding any other provision of this article, the board of supervisors, in addition to any other powers, retains the authority to limit the number of persons to be served under this article, to determine the funding and programs available for services under this article, and to fix the effective dates of this article in the county.** Compliance with this section shall be monitored by the State Department of Health Care Services as part of its review and approval of county performance contracts.”

Amend W & I 5349.1, subd. (a) to read as follows:

“Counties that elect to implement this article, may ~~shall~~, in consultation with the State Department of Health Care Services, client and family advocacy organizations, and other stakeholders, develop a training and education program for purposes of improving the delivery of services to mentally ill individuals who are, or who are at risk of being, involuntarily committed under this part. This training, if developed, shall be provided to mental health treatment providers contracting with participating counties and to other individuals, including, but not limited to, mental health professionals, law enforcement officials, and certification hearing officers involved in making treatment and involuntary commitment decisions.”

Approved as to form:

County Counsel

by James Harman
Deputy County Counsel

POTENTIAL SUPPORT:

Numerous advocates in the mental health community support the use of MHSA funds for Laura’s Law. However, the issue has both proponents and opponents. So it is likely that the professional associations would remain neutral.

POTENTIAL OPPOSITION:

During the last legislative session, the County lobbyist approached the author (Allen) about amending AB 1569 to incorporate the proposed language. Assemblyman Allen refused to accept the amendment.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

This amendment language was proposed for AB 1569.

PERSONS RESPONSIBLE FOR TESTIMONY:

Mark Refowitz, Agency Director	Health Care Agency
Mary Hale, Deputy Agency Director	Health Care Agency
Donna Grubaugh, Director, Legislative Affairs	County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: SOCIAL SERVICES AGENCY
CONTACT PERSON: Gary Taylor/Anne Broussard
Phone: 714-541-7418 Fax: 714-245-6050
email address: Gary.Taylor@ssa.ocgov.com
Anne.Broussard@ssa.ocgov.com

SUBJECT: **CHILD CARE FUNDING**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Social Services Agency

CODE SECTION AFFECTED:

Amend Sections 11410(c) and 15200.5 of, and add Section 11410.5 to, the Welfare and Institutions Code, relating to foster care.

DESCRIPTION OF CURRENT LAW:

In order for Counties to receive the federal match for child care for foster children, California Welfare and Institutions Code Section 11410(c) requires Counties to use only County funds.

PROPOSAL:

Submit Legislation to amend Section 11410(c) and Section 15200.5, add Section 11410.5 of the Welfare and Institutions Code to expressly authorize the use of either County funds or California Department of Education (CDE) non-maintenance of effort (non-MOE) funds for purposes of claiming the Title IV-E 50-percent federal match for foster child care.

DISCUSSION:

Foster children should be placed with their relatives whenever possible. All too often relatives and nonrelative extended family members (NREFMs) who work fulltime are reluctant to accept foster children into their homes because they can't afford the cost of child care.

The Federal Government has attempted to address this problem by offering a 50-percent Title IV-E child care funding match for foster children. Due to budget constraints, 54 of California's 58 counties are not able to allocate the funding necessary to draw down the 50-percent federal match.

Need for Relative and Foster Placements: Child welfare agencies work to protect children and ensure safe and stable home environments. Out-of-home foster care placements are only utilized when all other remedial efforts have fallen short. When a child welfare agency has no choice but to remove a child from a dangerous home, both federal and state law require that every effort be made to place that child with a relative or a NREFM. In 2011, over 87,263 children were placed in out-of-home care statewide. Nearly half of those children were under the age of five. The trauma and hardships that children experience when being removed from their homes can be greatly reduced by placing them with loving relatives and NREFMs.

Relatives and NREFMs are an invaluable resource. In California more than 29,000 relatives, foster parents, and NREFMs were caring for foster children in 2011. In many counties, more than 50 percent of all foster children are placed with relatives. Many relatives and NREFMs already live in or near the child's community. Consequently, relative caregivers and NREFMs are better able to ensure that foster children continue attending their same neighborhood schools. Likewise, relative caregivers and NREFMs can more readily maintain a child's cultural ties and community connections.

Relative & Foster Parents in the Workforce: Most relative caregivers, NREFMS and foster parents are in the workforce. Many relative caregivers, NREFMS and foster parents need full-day child care in order to receive and maintain foster children in their homes. The average cost of quality child care in California averages over \$300 per week for infants and over \$200 per week for preschool age children. The cost is compounded when an entire sibling set needs day care. The cost rises even further when allowances are made to meet special medical requirements and developmental needs. For many relatives, NREFMs, and foster parents the high cost of quality child care proves prohibitive. All too often the cost of child care is the deciding factor against accepting children for placement.

Child Care and Development Priority Enrollment: California Education Code Section 8263 provides that children receiving child welfare protective services and those who are at risk of child abuse, neglect, or exploitation be given priority enrollment in state-subsidized child care and development programs.

Available CDE Child Care and Development Funds: The California Department of Education (CDE) has budgeted \$1.3 billion for child care and development programs, along with After School Education & Safety programs, that all qualify as the non-federal match portion for drawing down Title IV-E child care funds. By utilizing these unencumbered, non-MOE State allocated funds for child care purposes, the State would be able to serve twice as many children receiving child protective services.

This legislation is likely to have a better chance of success than in previous years. The State budget has been finalized on time. CDE general funded child care and development and after school education & safety program funds have already been identified and stabilized. No other State general funds would need to be designated.

Title IV-E Child Care: Title IV-E Child Care funding is an entitlement program; it is unlimited with no administrative cap.

FISCAL IMPACT:

No additional State General Fund or Net County Cost allocations would need to be designated as the non-federal match to Title IV-E. If only a fraction of the \$1.3 billion currently available in CDE child care related programs were utilized as the non-federal match to Title IV-E Child Care, the State of California would be able to bring in hundreds of millions of dollars to California in new federal funding to serve additional children. By leveraging non-MOE State CDE with federal funding, thousands of children receiving child protective services and children at-risk of abuse, neglect or exploitation could receive critical child care services at no cost to the State or Counties.

This legislation entails no displacement of currently funded children. Instead, with additional federal funding utilized for foster children, current State CDE funding to serve additional non-foster children may also become available. Non-MOE state funds used for child care and development programs and the after school education & safety program could be doubled if leveraged with federal Title IV-E child care funding. This change could be brought about at no additional cost to the State, the public, and the private agencies contracting with CDE to provide child care related services. No other State General Fund monies, besides CDE CDD program funds and after school education & safety program funds, would need to be utilized for drawing down Title IV-E child care funds.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

An act to amend Sections 11410 and 15200.5 of, and to add Section 11410.5 to, the Welfare and Institutions Code, relating to foster care.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11410 of the Welfare and Institutions Code is amended to read:

An act to amend Sections 11410 and 15200.5 of, and to add Section 11410.5 to, the Welfare and Institutions Code, relating to foster care.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11410 of the Welfare and Institutions Code is amended to read:

11410. (a) The department shall amend the foster care state plan required under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), to authorize counties that elect to subsidize child care for foster parents to use federal matching funds under Subtitle IV-E for that purpose.

(b) When approved by the federal government, counties electing to administer the Foster Parent Child Care Program shall follow the guidelines developed by the State Department of Social Services.

(c) Federal funds used by a county pursuant to this section shall be matched ~~only~~ **either** by county funds pursuant to Section 15200.5, **or by funds made available pursuant to Section 11410.5, or by a combination of net county cost funds, non-maintenance of effort (MOE) State Department of Education Child Development Division or the after-school education & safety program funds provided for the After School Education and Safety Program, or other local nonfederal funds, such as grants. State general funds, other than State Department of Education non-MOE child care and development or the after-school education & Safety program funds, shall not be used for purposes of a nonfederal match to funds for child care from Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).**

SEC. 2. Section 11410.5 is added to the Welfare and Institutions Code, to read:

11410.5. (a) The department shall amend the foster care state plan required under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.) (Title IV-E) to authorize the use of non-MOE state child care and development and the after-school education & safety program funds administered by the State Department of Education as the nonfederal match for Title IV-E child care for children receiving protective services, foster children, and children at risk of abuse or neglect.

(b) If Child Development Division or the after-school education & safety program funds are to be used as the nonfederal match for Title IV-E, the county shall do all of the following:

(1) Consult with the State Department of Education to ensure that the Child Development Division or the after-school education & safety program contractor is in good standing with the State Department of Education, all federal Title-E funds are used to enhance the State Department of Education, child development division contractor or the after-school education & safety program agency does not double charge for the same services.

(2) Contract with the local State Department of Education-contracted child care, or the after-school education & safety program agency that is willing to participate.

(3) Claim the full child care costs of federally eligible Title IV-E children, at a rate commensurate with regional child care and development costs.

(4) Provide the full federal Title IV-E funding to the local contractor. The local contractor shall use the funds provided to the county pursuant to subdivision (a) as the nonfederal match and enroll and serve children identified by the county as children receiving protective services, foster children, and children at risk of abuse or neglect.

SEC. 3. Section 15200.5 of the Welfare and Institutions Code is amended to read:

15200.5. **(a)** Notwithstanding ~~the provisions of~~ subdivision (c) of Section 15200, **and except as provided in subdivision (b),** the county shall **may choose to** be responsible for 100 percent of the nonfederal share of payments to needy children eligible for AFDC-FC under the conditions of Section 11402.5, and for payments made to foster parents pursuant to Section 11410.

(b) A county also may use funds made available pursuant to Section 11410.5 for the nonfederal share of payments made to foster parents pursuant to Section 11410.

Approved as to form:
County Counsel

By Dana J. Stits
Deputy County Counsel

POTENTIAL SUPPORT:

The following statewide agencies supported the Legislation in 2009-2010: The California Welfare Directors Association, California State Association of Counties, children's advocacy organizations such as the California Association for the Education of Young Children, the California Child Care Coordinators Association, Counties, Administrators in the California Department of Education, and all major statewide child care and development organizations have supported this measure in the past. Several Orange County State-subsidized Child Care agencies including Hands Together and the National Pediatric Support Services provided letters of support and provided live testimony before the Legislature at several committee hearings in support of SB 1099 (2009-10).

POTENTIAL OPPOSITION:

No one opposed SB 1099 (2009-10) legislation.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

Senator Lou Correa proposed SB 1099 (2009-10). It was successful through several Committees including Education. However, the bill stalled in the Senate Appropriations Committee when the May Revision proposed to eliminate all child care funding.

PERSONS RESPONSIBLE FOR TESTIMONY:

Anne Broussard Social Services Agency
As well as numerous State Subsidized Agencies throughout Orange County and the State of California.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: (714) 834-7218

Fax: email address: Donna.Grubaugh@ocgov.com

**SUBJECT: FAIR POLITICAL PRACTICES COMMISSION (FPPC) NEW
REGULATION ON BEHESTED PAYMENTS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Elected Officials.

CODE SECTION AFFECTED:

Government Code Section 82015(b)(2)(B)(iii),

DESCRIPTION OF CURRENT LAW:

The Fair Political Practices Commission (FPPC) recently enacted Section 18215.3 of Title 2 of the California Code of Regulations concerning "Behested Payments" reporting. The new rule is an attempt to further refine the existing law regarding gifts "made at the behest of elected officials" as found in Government Code section 82015 by codifying previously given FPPC advice.

PROPOSAL:

This proposal seeks to define behested payments in the Government Code, instead of the California Code of Regulations, so that the original intent of Government Code Section 82015 is carried out while not placing an undue impact on charitable organizations.

DISCUSSION:

Under Government Code section 82015(b)(2)(B)(iii), an elected official must report any contribution of \$5,000 or more (or multiple payments aggregating \$5,000 or more from the same source during a calendar year) for governmental, charitable or legislative purposes if the contribution is “made at the behest of” the elected official. The new regulation further defines “made at the behest of” to mean any payment “made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of the elected officer . . . or his or her agent.” Cal. Code Regs. tit. 2, § 18215.3(a).

The new regulation also creates an exception for payments made in response to a fundraising solicitation from a charitable organization requesting a payment where the solicitation does not “feature an elected officer.” Cal. Code Regs. tit. 2, § 18215.3 (b).

Section 18215.3 (b) states that a solicitation “features an elected officer” when either (1) the item mailed “includes the elected officer’s photograph or signature, or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color” or (2) the elected officer is listed in a “roster or letterhead listing the governing body contains a majority of elected officers.” Cal. Code Regs. tit. 2, § 18215.3(b)(1) and Cal. Code Regs. tit. 2, § 18215.3(b)(2). By defining behested payments in this manner, the regulation negatively impacts charitable organizations and their ability to partner with elected officials in serving the community. Further it defines behested payments in a manner in which a payment may be deemed to be made at the behest of an elected official despite the official having not taken any action to seek the payment or donation to the charitable organization.

The new regulation also creates an exception for government to government payments. Under Section 18215.3 (c), a payment is not made at the behest of the elected official if “the elected officer . . . makes a request for a payment 1) from a local, state, or federal governmental agency and 2) that payment will be used in the regular course of official agency business of the elected officer.”

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE:

At the Board of Supervisor’s direction, language is to be drafted by County Counsel.

POTENTIAL SUPPORT:

A proposal concerning behested payments would likely be supported by elected officials and charitable organizations throughout the State.

POTENTIAL OPPOSITION:

A proposal concerning behested payments would likely be opposed by the FPPC since it would impact its recently enacted regulation.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

Unknown at this time.

PERSONS RESPONSIBLE FOR TESTIMONY:

TBD



COUNTY OF ORANGE

2013 County-Sponsored Federal
Proposals

COUNTY OF ORANGE
2013 COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

DISCOUNT DRUG PRICING

Section 340B makes discount pricing available for covered outpatient drugs for certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals. It is also available to certain programs that provide services for targeted indigent populations. As one example, 340B pricing is available for HIV/AIDS patients receiving their drugs through the AIDS Drug Assistance Program (ADAP).

This proposal would revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

FLEXIBLE USE OF CONTINUUM OF CARE HOMELESS ASSISTANCE FUNDING

This proposal would modify current McKinney-Vento Act, ELIGIBLE ACTIVITIES, to include emergency shelter and emergency assistance as eligible activities to enable local communities the flexibility to use Continuum of Care Homeless Assistance funding to address local needs (emergency housing, prevention, discharge planning, etc.).

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: HEALTH CARE AGENCY

CONTACT PERSON: David Thiessen Phone: (714) 834-7652

Fax: (714) 834-7644 email address: dthiessen@ochca.com

SUBJECT: **DISCOUNT DRUG PRICING**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Health Care Agency

CODE SECTION AFFECTED:

The 340B Drug Pricing Program resulted from enactment of Public Law 102-585, the Veterans Health Care Act of 1992, which is codified as Section 340B of the Public Health Service Act.

DESCRIPTION OF CURRENT LAW:

Section 340B makes discount pricing available for covered outpatient drugs for certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals. It is also available to certain programs that provide services for targeted indigent populations. As one example, 340B pricing is available for HIV/AIDS patients receiving their drugs through the AIDS Drug Assistance Program (ADAP).

PROPOSAL:

Revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

DISCUSSION:

The Federal Government is a major purchaser of pharmaceuticals and has substantial leverage to obtain discounted drug prices. Under section 340B of the Public Health Services Act, these discounted prices are available to Federally Qualified Health Centers, qualified Disproportionate Share Hospitals, and certain other entities. Health Care Agency (HCA) spends significant funds on pharmaceuticals and access to 340B drug pricing for the Agency would bring about a substantial savings. While a thorough analysis of the formulary is yet to be completed, for other programs it is likely that the savings, including that from other county-sponsored healthcare programs such as Behavioral Health, would amount to up to \$10 million per year. As a major provider of care for low income persons, HCA should be made eligible for 340B discount drug pricing.

FISCAL IMPACT:

Two major program areas that could potentially benefit from access to 340B pricing include Medical Services Initiative and Behavioral Health Services. Savings will vary greatly depending on the mix of generic and name brand drugs that are utilized in the HCA formulary. This will require a detailed analysis. In addition, potential savings will depend on the extent to which clients are able to gain access to the discounted medications at local pharmacies. Assuming wide availability within the community, the potential savings could be up to \$10 million per year.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

340B Drug Pricing Program Statute

[*602] SEC. 602. LIMITATIONS ON PRICES OF DRUGS PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) In GENERAL. Part D of title III of the Public Health Service Act is amended by adding the following subpart:

"(4) Covered entity defined. In this section, the term 'covered entity' means an entity that meets the requirements described in paragraph (5) and is one of the following:

"(A) A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).

"(B) An entity receiving a grant under section 340A.

"(C) A family planning project receiving a grant or contract under section 1001.

"(D) An entity receiving a grant under subpart II of part C of title XXVI (relating to categorical grants for outpatient early intervention services for HIV disease).

"(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI.

"(F) A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act.

"(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

"(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

"(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.

"(J) Any entity receiving assistance under title XXVI (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(K) An entity receiving funds under section 318 (relating to treatment of sexually transmitted diseases) or section 317(j)(2) (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that -- "(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under this title; "(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and "(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

"(M) A local government entity receiving funds from a State for the provision of health, mental health or substance abuse treatment services under title XIX of the Public Health Service Act, including local government entities providing services under an approved Federal waiver under section 1115 of the Social Security Act.

"(5) Requirements for covered entities. -- "(A) Prohibiting duplicate discounts or rebates.
-- "(i) In general. A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

Approved as to form:
County Counsel

by Massoud Shamel
Deputy County Counsel

POTENTIAL SUPPORT:

It is possible that other counties could benefit from this proposal and would be willing to provide their support. It is also possible that the professional associations such as CSAC, CHEAC, CMHDA, and other national organizations would support this proposal.

POTENTIAL OPPOSITION:

No known opposition.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None.

PERSONS RESPONSIBLE FOR TESTIMONY:

Mark Refowitz, Agency Director	Health Care Agency
David Souleles, Deputy Agency Director	Health Care Agency
Holly Veale, Acting Deputy Agency Director	Health Care Agency

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: OC COMMUNITY RESOURCES/OC COMMUNITY SERVICES

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SUBJECT: FLEXIBLE USE OF CONTINUUM OF CARE HOMELESS ASSISTANCE FUNDING

AFFECTED DEPARTMENT(S)/AGENCY(IES):

OC Community Services

CODE SECTION AFFECTED:

McKinney-Vento Act, SEC.423. [42 USC 11383]. "ELIGIBLE ACTIVITIES"

DESCRIPTION OF CURRENT LAW:

The McKinney–Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 *et seq.*) is a United States federal law that provides federal money for homeless shelter programs.

PROPOSAL:

Modify current McKinney-Vento Act language to enable local communities the flexibility to use Continuum of Care Homeless Assistance funding to address local needs (emergency housing, prevention, discharge planning, etc.).

DISCUSSION:

The current law only allows Continuum of Care Homeless Assistance funding to address transitional housing, permanent housing and supportive services. The Continuum of Care funding is the largest source of funding available to Orange County to address homeless issues. Agencies throughout Orange County receive approximately \$16 million a year in Continuum of Care funding. A smaller portion of

Emergency Solutions Program funding, approximately \$200,000 a year, is available to the County under McKinney-Vento Act funding, however, is not enough to address a major goal of the County’s Ten-Year Plan to End Homelessness—Providing Year-Round Emergency Shelter(s).

By allowing emergency housing and/or emergency assistance activities to be funded through the Continuum of Care Homeless Assistance funding, the County could have more discretion/flexibility to address homeless issues.

FISCAL IMPACT:

This revision would neither increase nor decrease funding to the County, but would allow flexibility in using funds allocated to the County by the Federal Government.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

- Revise current McKinney-Vento Act, specifically, SEC.423. [42 USC 11383]. ELIGIBLE ACTIVITIES, to include emergency shelter and emergency assistance as eligible activities as follows:

“(a) IN GENERAL. – Grants awarded under section 11382 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

- (1) Construction of new housing units to provide **emergency**, transitional or permanent housing.
- (2) Acquisition or rehabilitation of a structure to provide emergency, transitional or permanent housing or to provide **emergency assistance and/or** supportive services.
- (3) Leasing or property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing **emergency**, transitional or permanent housing, **emergency assistance**, or providing supportive services..”

.....
“(c) Use restrictions

- (1) Acquisition, rehabilitation, and new construction

A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for not less than 15 years.

(2) Other activities

A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for the duration of the grant period involved.

(3) Conversion

If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

(4) Emergency Housing and Assistance

“No more than 25 percent of the assistance provided to the recipient under section 11382 for projects under paragraphs (1), (2) and (3) of subsection (a) may be used for emergency housing and assistance.”

Approved as to form:
County Counsel

By Jacqueline Guzman
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown

POTENTIAL OPPOSITION:

Unknown

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None

PERSONS RESPONSIBLE FOR TESTIMONY:

Karen Roper/Julia Bidwell

OC Community Resources/OC Community
Services



COUNTY OF ORANGE

2014 Federal Energy and Water
Development Projects

COUNTY OF ORANGE
2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECTS
EXECUTIVE SUMMARY

The following is a summary on each of the County's six projects of significance, which are listed in priority order. While the County is hopeful that all projects can receive funds, the realities of the continued economic climate, limited fiscal resources, the current congressional policy on prioritizing projects make it likely that few, if any, will receive federal funding.

SANTA ANA RIVER MAINSTEM PROJECT

The Santa Ana River Mainstem Project, including Prado Dam (Project), was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996. The Project involves construction, acquisition of property rights, relocations, and environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, along with the Department of the Army, for implementing the Project. To date, the Federal Government and the flood control districts of the impacted counties have spent over \$1 billion on the Project. Major project accomplishments include the completion of Seven Oak Dam, raising of the Prado Dam embankment, and construction of many miles of bank protection.

ALISO CREEK, ORANGE COUNTY, CA (SECTION 5158)

The planned project, incorporates and expands upon the Aliso Creek Mainstem Project (a separate project, see below) by proposing a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek Watershed. The stabilization and ecosystem restoration component will include: restoring the slope of the stream to minimize erosion and allow for fish passage upstream; re-establishing aquatic habitat; reinstating the natural slopes of the stream banks; and removing invasive plants and re-vegetating with native plants. The water quality treatment and beneficial use component of the project includes bioengineering to restore the natural cleansing function. The study will also examine diverting nuisance runoff to a treatment facility, and the potential beneficial reuse for irrigation. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

WESTMINSTER, EAST GARDEN GROVE, CA

This cost-share study between U.S. Army Corps of Engineers and Orange County (shared 50/50) is to address flood damages along the East Garden Grove-Wintersburg

Channel and associated aging levee system affect residences and businesses in 11 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program while thousands of additional property owners, valuable coastal habitat and water quality are in jeopardy from flooding impacts. Significant progress has been made on the study and, with continued federal support, it is anticipated that the study could be completed in the next fiscal year.

SAN JUAN CREEK, SOUTH ORANGE COUNTY, CA

A feasibility study for this project is required by the U.S. Army Corps of Engineers (Corps) for implementing capital projects. Currently, the project has now moved into what the Corps calls a “spin-off” study. This study, which is shared 50/50 between the Corps and Orange County, is focused on flood control and ecosystem restoration alternatives for the watershed in the cities of Dana Point and San Juan Capistrano. Significant progress has been made on the study and could be completed in the following fiscal year with continuing federal support.

SERRANO-BORREGO CORRIDOR FEASIBILITY STUDY

A feasibility study for Serrano-Borrego Corridor (Corridor) is needed to analyze specific projects for ecosystem restoration, as well as protect the Upper Newport Bay from harmful upstream impacts. The recently drafted Newport Bay-San Diego Creek Watershed Feasibility Study has identified a number of potential projects in the Serrano-Borrego Corridor to address hydrologic changes from rapid development, making the Corridor the top priority project from the Study. Serrano and Borrego Creeks contribute a large quantity of sediment to the Upper Newport Bay Ecological Reserve, affecting water quality and habitat in this rare coastal wetland providing critical habitat for a variety of migratory waterfowl traveling along the Pacific Flyway, shorebirds, and endangered species of birds and plants.

ALISO CREEK MAINSTEM, ORANGE COUNTY, CA

The goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem. It is also intended to produce an implementation document for authorization by Congress, as well as serve as an aid to local, state, and federal agencies involved in management and regulatory decisions that can impact the watershed.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Santa Ana River Mainstem Project
Exact Location/Address:	Santa Ana River within Orange, Riverside and San Bernardino Counties

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Interim Director
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

The Santa Ana River Mainstem Project (Project) is being constructed to address what the U.S. Army Corps of Engineers identified in the 1980's as 'the worst flood threat west of the Mississippi River – which then impacted three million people and 110,000 acres located in the three Southern California counties of Orange, Riverside, and San Bernardino. It was estimated that a significant flood event on the Santa Ana River would cause a loss of 3,000 lives and \$15 billion in economic losses (1987-8 price levels).

The Project, which was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996, involves construction, acquisition of property rights, relocations, environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, with the Department of the Army, for implementing the Project. To date, the Federal Government and the flood control districts of the impacted counties have spent over \$1.1 billion on the Project. Major project accomplishments include the completion of Seven Oaks Dam, raising of the Prado Dam embankment, and construction of many miles of bank protection. Continued funding is necessary to complete the Project and ensure the level of protection as planned. Project completion is even more important now than when it started in 1990, given the significant growth in population, land and structures value, and dependency on affected transportation routes.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Aliso Creek, Orange County, CA (Section 5158)
Exact Location/Address:	Laguna Niguel, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange, CA 92865
Telephone:	714-955-0601
Email:	maryanne.skorpanich@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Rapid urbanization of the Aliso Creek Watershed has led to a variety of erosion and water quality problems. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms, as well as dry weather. In response to this, federal, state, and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water and wastewater infrastructure, and mitigate on-going environmental degradation to Aliso Wood Canyon Wilderness Park and beaches downstream.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This study was sponsored by the Corps, County, municipalities, and water districts within the Aliso Creek Watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems, as well as

opportunities. The identified problems included water quality, instability of the creek, loss of ecosystems, and damage from flooding.

In 2002, the Corps completed the Aliso Creek Watershed Management Study, which documented management measures that could address the various watershed problems. The management study selected the measures that best meet the federal and local need. The Aliso Creek Mainstem Ecosystem Restoration Project was one of the implementation projects recommended to proceed to the feasibility study phase. The Corps' contractor (Tetra Tech), who prepared the Aliso Creek Watershed Management Study, revised the project by adding a water quality and utility protection feature to address stakeholder input.

This project proposes a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek Watershed. The stabilization and ecosystem restoration component of the project will include: restoring the slope of the stream to minimize erosion and allow for fish passage upstream; re-establishing aquatic habitat; reinstating the natural slopes of the stream banks; removing invasive plants and re-vegetating with native plants; and reconnecting the stream to its floodplain to support a healthy riparian zone. The infrastructure protection component of the project will increase the stability of the channel to prevent undercutting pipelines and roads. The water quality treatment and beneficial use component of the project includes bioengineering to restore the natural cleansing function. The study will also examine diverting nuisance runoff to a treatment facility, and the potential beneficial reuse for irrigation.

Improvements anticipated from the study include relief from degradation of the creek and restoration of native habitat. Protection for important coastal wetlands downstream will benefit from improved water quality and ecosystem functioning. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

In WRDA 2007, Section 5158-Additional Assistance for Critical Projects provided a \$5,000,000 project limit for a Section 219 Environmental Infrastructure Project titled *Aliso Creek, Orange County, CA*. This program provides a more direct path to implementing a project that addresses long standing issues of concern. Advancing the project in a timely manner to construction would result in an overall savings in costs by reducing the amount of monies spent on studies, staffing resources, and emergency stop gap repairs. Under the Environmental Infrastructure Account, the project can include more effective components to improve beach water quality.

Federal assistance would:

- Allow the local sponsor and Corps to execute a cost sharing agreement;
- Allow local sponsor to utilize \$8,000,000 of cost share funds before some grant monies expire; and
- Expedite project implementation; construction completed as early as 2014.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Westminster, East Garden Grove, CA
Exact Location/Address:	Includes 74 square miles in the cities of Anaheim, Stanton, Cypress, Garden Grove, Westminster, Fountain Valley, Los Alamitos, Seal Beach and Huntington Beach

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Interim Director
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Flood damages along the East Garden Grove-Wintersburg Channel and associated aging levee system affect residences and businesses in 11 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program while thousands of additional property owners, valuable coastal habitat and water quality are also in jeopardy from flooding impacts. Accordingly, the U.S. Army Corps of Engineers (Corps) and Orange County entered into a cost share agreement to develop solutions for more comprehensive flood protection with the additional objectives of ecosystem restoration and water quality improvement. The cost of the watershed study is shared 50/50 between the Corps and Orange County. Since inception of the project, significant progress has been made on the study. With continued federal support, it is anticipated that the study could be completed in Federal Fiscal Year 2014.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	San Juan Creek, South Orange County, CA
Exact Location/Address:	San Juan Capistrano, California

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Interim Director
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Lower San Juan Creek, through the City of San Juan Capistrano, has a history of flooding problems. To date, the flooding problems have been a result of breakage of the levee walls at multiple locations from flood events significantly less than a 100-year flood event. In addition to the structural inadequacies of the 1960s unreinforced concrete slope lining, the flood control channel is lacking in flood control capacity and will be significantly overtopped in a 100-year flood event.

A feasibility study for this project is required by the U.S. Army Corps of Engineers (Corps) for implementing capital projects. Currently, the project has now moved into what the Corps calls a “spin-off” study, which is a focused study of flood control and ecosystem restoration alternatives for the watershed in the cities of Dana Point and San Juan Capistrano. The cost of the spin-off study is shared 50/50 between the Corps and Orange County. Since inception of the project, significant progress has been made on the study. With continued Federal support, it is anticipated that the study could be completed in Federal Fiscal Year 2015.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Serrano-Borrego Corridor Feasibility Study
Exact Location/Address:	Serrano Creek between Trabuco Road and Dimension Ave. in the City of Lake Forest, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange, CA 92865
Telephone:	714-955-0601
Email:	maryanne.skorpanich@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Background: The U.S. Army Corps of Engineers recently completed the \$48 million, five-year Upper Newport Bay Ecosystem Restoration Project which included dredging 2.3 million cubic yards of sediment from the Bay. Serrano and Borrego Creeks contribute a large quantity of sediment to the Bay, affecting water quality (Sediment TMDL) and habitat in this rare coastal wetland. Severely eroding slopes are potentially endangering homes and infrastructure. Federal assistance is requested to support multiple local jurisdictions in solving this watershed-wide problem to minimize dredging costs in 20 years from now.

Summary: The recently drafted Newport Bay-San Diego Creek Watershed Feasibility Study (Serrano Creek and Borrego Wash are located within this watershed), identified priority projects to address hydrologic changes from rapid development creating problems such as environmental degradation, habitat loss, water pollution, and erosion. To date the study has identified a number of potential projects in the Serrano-Borrego Corridor, making this the top priority project recommended for spin-off from this Study. With federal funding, a Feasibility Study can be completed to analyze specific projects for ecosystem restoration.

National Significance: Upper Newport Bay Ecological Reserve is one of the last remaining coastal wetlands in Southern California. It plays a significant role in providing critical habitat for a variety of migratory waterfowl traveling along the Pacific Flyway, shorebirds, and endangered species of birds and plants. Implementation projects analyzed in this study will protect the Bay from harmful upstream impacts, as well as provide ecosystem restoration in the upper watershed.

FISCAL YEAR 2014 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Aliso Creek Mainstem, Orange County, CA
Exact Location/Address:	Laguna Niguel, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange, CA 92865
Telephone:	714-955-0601
Email:	maryanne.skorpanich@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Rapid urbanization of the Aliso Creek watershed has led to a variety of erosion and water quality problems. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms, as well as dry weather. In response to this, federal, state and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water and wastewater infrastructure and mitigate on-going environmental degradation to the downstream Aliso Wood Canyon Wilderness Park area.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This plan was sponsored by the Corps, County, municipalities and water districts within the Aliso Creek watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems as well as opportunities. The identified problems included water quality, instability of the creek, loss of ecosystems, and damage from flooding.

In 2002, the Corps completed the Aliso Creek Watershed Management Plan, which recommended the pursuit of certain improvement measures that could address the various identified watershed problems. One of the improvement measures highlighted in the Aliso Creek Watershed Management Plan was the Aliso Creek Mainstem Ecosystem Restoration Project.

In order to pursue this improvement project, a “spin-off” feasibility study (from the Aliso Creek Watershed Management Plan) was recommended to address in greater detail the best practices and alternatives for the Aliso Creek Mainstem Ecosystem Restoration Project. This “spin-off” feasibility study is called The Aliso Creek Mainstem Ecosystem Restoration Study.

In September 2004, a Federal Cost Sharing Agreement was signed between the Corps and the County of Orange to conduct the three-year Aliso Creek Mainstem Ecosystem Restoration Feasibility Study.

The specific goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications (stream bank stabilization structures and appurtenant features for ecosystem restoration) to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem along the creek and tributaries to conditions found prior to initiation of the recent instability problem.

Various ecosystem restoration alternatives will be analyzed in order to generate sufficient information to make a determination of which alternative generates the most cost-effective means to the greatest benefit to the ecosystem. An incremental analysis of alternatives will be conducted, and all plan selection criteria will be discussed, as well as detailed cost estimates generated. Constructability and implementation issues will also be resolved. Any potential economic benefits of each alternative will be quantified and included as benefits of the various alternatives.

The feasibility study is intended to produce an implementation document for authorization by Congress. This study can also serve as an aid to local, state, and federal agencies involved in future management and regulatory decisions that impact the watershed. The feasibility phase will build on the efforts of the prior reconnaissance and watershed management (feasibility phase) studies, which utilized both existing data to generate a model of existing and future “without-project” conditions.

The Corps recently completed the Baseline Without Project Conditions Report (F3 Report). The F3 Report included a review of existing and future without project conditions, definition of study objectives, and development of a preliminary array of ecosystem restoration alternatives.