Legislative Bulletin

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County of Orange Positions on Proposed Legislation

The Legislative Bulletin provides the Board of Supervisors with analyses of measures pending in Sacramento and Washington that are of interest to the County. Staff provides recommended positions that fall within the range of policies established by the Board. According to the County of Orange Legislative Affairs Procedures adopted by the Board of Supervisors on June 3, 2003, staff recommendations for formal County positions on legislation will be agendized and presented in this document for Board action at regular Board of Supervisors meetings. When the Board takes formal action on a piece of legislation, the CEO will direct the County's legislative advocates to promote the individual bills as approved by the Board. The Legislative Bulletin also provides the Board of Supervisors with informative updates on State and Federal issues.

The 2007 Legislative Platform was adopted by Board of Supervisors' Minute Orders dated November 14, 2006. On March 20, 2007, the Board of Supervisors approved the following actions:

RECOMMENDED ACTIONS

1. Oppose – AB 1355 (Houston) Counties: Sheriffs' Duties: Coastline, Harbors, and Inland Waterways
2. Oppose – AB 1457 (Huffman) Parks and Recreation: State Parks: Roads
3. Support – SB 662 (Wiggins) The Political Reform Act of 1974: Conflict of Interest Code
4. Oppose – AB 823 (Solorio) Orange County: Road Funds
5. Receive and File Legislative Bulletin

SACRAMENTO LEGISLATIVE REPORT

SACRAMENTO UPDATE

Governor Arnold Schwarzenegger signed SB 113 Thursday, establishing the first Tuesday in February, 2008 as the California presidential primary. The bill in its final form only expressed intent to reimburse counties for the cost of the primary election. Legislators say they will move a separate bill that will include funding to reimburse counties.

ACTION ITEMS

OPPOSE – AB 1355 (Houston) Counties: Sheriffs' Duties: Coastline, Harbors, and Inland Waterways – As Introduced on February 23, 2007

Author: Assembly Member Guy S. Houston
Status: Assembly, Committee Assignment Pending
Reviewed: Sheriff-Coroner and CEO/Legislative Affairs Staff

AB 1355 specifies that the Sheriff of each County is the sole and exclusive authority to provide security and safety for the coastlines, harbors, and inland waterways, if any, as specified, except in counties that, prior to July 1, 2008, have vested the duties associated with the security and safety of the county's coastlines, harbors, and inland waterways to a law enforcement or public safety entity other than the sheriff.

Sheriff's Department and CEO Legislative Affairs Comments

This bill by Assembly Member Guy S. Houston of Livermore is designed to focus responsibility for security and safety of California's coastlines, harbors and inland waterways under the Sheriff of each County. The Orange County Sheriff's Department supports the bill as a way to clarify who will deal with the safety and security of coastal areas from a regional standpoint. The Sheriff's Department cites natural disasters and terrorism as two potential threats that serve as justification for the legislation. They note that because County Sheriffs serve as mutual aid coordinators for their respective regions, the law should be clarified that they have authority for those coastal areas (up to three miles out) that do not have another local, regional or state agency specifically responsible for providing oversight.

However, the bill potentially impacts the Harbor Patrol issue that Orange County Supervisors have discussed over the past two years by expanding the requirement that the Sheriff provide all possible aid and assistance to vessels stranded on the coast and to the persons on board. The City of Newport Beach has also raised concerns about the bill and their interest in pursuing more authority to deal with boating and safety issues within the Newport Harbor area, which is in the incorporated limits of the City of Newport Beach. Huntington Harbour is located within the City of Huntington Beach. Only Dana Point Harbor in South Orange County and the Sunset Aquatic Park in the Huntington Beach area are operated by the County of Orange.

While the bill's current language allows an exception for counties that, prior to July 1, 2008, have vested the duties associated with the security and safety of the county's coastlines, harbors, and inland waterways to a law enforcement or public safety entity other than the sheriff, the Board might consider pursuing an amendment that would instead direct counties and the sheriff to open discussions with affected jurisdictions by July 1, 2008. The bill's July 1 date for the Sheriff to take over would be pushed back to 2009 in counties that could not reach agreement between local jurisdictions.

CEO/Legislative Affairs staff recommends that the Board of Supervisors adopt a "seek amendments" position on AB 1355 and work with the Sheriff and local jurisdictions to clarify roles and responsibilities for safety and security of Orange County's coastlines, harbors and inland waters and other services as may be appropriate. The Board of Supervisors adopted an "Oppose" position on AB 1355 after staff modified its recommendation to "Oppose" based upon local control issues and the County's ability to determine the best arrangement for Harbor Patrol and coastal protection issues.

OPPOSE – AB 1457 (Huffman) – Parks and Recreation: State Parks: Roads – As Introduced on February 23, 2007

Author:	Assembly Member Jared Huffman
Status:	Assembly, Committee Assignment Pending
Reviewed:	CEO/Legislative Affairs Staff

Under current law, the State Department of Parks and Recreation has the authority to impose conditions and restrictions on the development of a specified roadway on Mulholland Scenic Corridor and Topanga State Park or other state-owned parkland. In order to impose conditions, the State Director of Parks and Recreation must find that geologic or other circumstances exist that cause or may cause substantial damage to state-owned park resources.

AB 1457 would prohibit a state or local agency from funding the construction of, seeking funding to construct, or authorizing or approving the construction of a road or portion thereof or making an improvement or extension to an existing road that will physically encroach upon, traverse, bisect, or impair the creational value of a state park property unless the Director determines that specific conditions are met. The bill also authorizes the department to recover costs incurred as a result of making the determinations by imposing a fee for those costs on the project proponent for the road. The bill would also authorize a person or class of persons to file a civil action to enjoin a person or entity, including a state or local agency, that is alleged to violate the prohibition.

CEO Legislative Affairs Comments

AB 1457 is designed to thwart the completion of the Foothill South toll road extension in Southern Orange County by requiring the State Director of Parks and Recreation to sign off on the road and attaching conditions to its construction. The bill also authorizes other persons to file civil actions designed to enjoin the Foothill Eastern Toll Road Authority from constructing the roads due to prohibitions contained in the bill. Even though the proposed right of way for the toll road extension impacts land leased from the Federal government by state parks, the bills covers leasehold land as well as land owned by the State Department of Parks and Recreation.

AB 1457 is similar to other bills proposed in the past designed to eliminate the proposed toll road extension. The author is from the Bay Area, but the principal co-author, Assembly Member Mike Feuer (D-West Hollywood), is the husband of Natural Resources Defense Council Lead Attorney Gail Ruderman Feuer, who has litigated numerous environmental issues related to South Orange County's toll roads in the past.

The environmental process as currently established by law should be allowed to move forward with the Foothill South Extension. The Agency is working through the process to secure permits from state and federal agencies that will include conditions that need to be met before the road can be built. Adding significant new legal and policy obstacles is counter-productive and increases costs to the public in both construction and eventual tolls that will need to be paid. The Foothill South Extension has been on the County's Master Plan of Arterial Highways since the Southeast Orange County Circulation Study (SEOCCS) was completed in the 1970s. The initial segment of the

Foothill-Eastern Toll Road was opened in the early 90s and the plan has always included the extension to Interstate 5 south of San Clemente.

Therefore, staff recommends that the Board oppose AB 1457.

SUPPORT – SB 662 (Wiggins) – The Political Reform Act of 1974: Conflict of Interest Code – As Introduced on February 23, 2007

Author:	Senator Patricia Wiggins
Status:	Senate Committee on Elections, Reapportionment, and Constitutional Amendments
Reviewed:	CEO Legislative Affairs and Clerk of the Board

The Political Reform Act (the Act) requires all public agencies in California to adopt a conflict of interest code that designates the officials within each agency who must disclose any financial interests they have that may be materially affected by their official actions. The Act designates "code reviewing bodies" that are tasked with the responsibility of reviewing and approving conflict of interest codes adopted by agencies within their jurisdiction in order to ensure that the codes meet the requirements of the Act; that is, to ensure that the right officials are making the right economic disclosure.

The Act designates the County Board of Supervisors as the conflict of interest code reviewing body for many types of local public agencies, including various types of school districts and the county office of education. The Board of Supervisors and its staff are required by law to conduct a thorough review of the content of conflict of interest codes and the internal organization of school districts so that the districts' codes "provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented," while "adequately differentiat[ing] between designated employees with different powers and responsibilities." (Gov. Code §87309)

CEO Legislative Affairs and Clerk of the Board Comments

Senate Bill 662 would assign conflict of interest code review responsibility to the county board of education, for school districts, joint powers authorities comprised of school districts and regional occupational programs. The Board of Supervisors would continue to act as code reviewing body for all the other local agencies with jurisdiction within the county that it currently serves, including county agencies, the myriad special districts, joint powers authorities and various other local entities.

CEO Legislative Affairs staff recommends the Board of Supervisors adopt a "Support" position on SB 662. This bill would assign code review responsibility to entities that have a thorough knowledge and often day-to-day contact with school districts and other local educational agencies. These proposed code reviewing bodies already have other oversight responsibilities over the school agencies, including budget oversight and certain audit authority. They are positioned to provide school agencies with a more efficient and a far better informed review of their conflict of interest codes than is the Board of Supervisors, thus ensuring that the right officials within school organizations are making the right economic disclosure. County Boards of Supervisors and their staff have no relationship with school districts, nor do they have any operational nexus with school districts. County employees are generally ignorant of the internal organization and decision making processes and operational relationships within school districts. In addition, this bill would support the aims of the Political Reform Act in preventing conflicts of interest from arising within school agencies by ensuring that school officials, who make or influence decisions that can affect financial interests, make timely and appropriate disclosure of their financial interests that may be affected by those decisions.

SB 662 is supported by the California Association of Clerks and Election Officials (Sponsor), the California State Association of Counties, and the California Teachers Association. Currently, the only opposition to the bill is by the California County Superintendents Educational Services Association.

OPPOSE – AB 823 (Solorio) Orange County: Road Funds – As Introduced on February 22, 2007

Author: Assembly Member Jose Solorio
Status: Assembly, Pending Committee Assignment
Reviewed: CEO/Legislative Affairs

AB 823 requires the County of Orange to report annually to the Governor, Members of the Legislature, the California Transportation Commission, the Southern California Association of Governments, and the Orange County Transportation Authority (OCTA) about the County's expenditure of fuel excise tax and gasoline sales tax funds, and to identify the surplus of funds from each of these sources that remains unspent at the end of each fiscal year. The bill would also make legislative findings and declarations regarding the authorization for a county to share its revenues with a city.

CEO/Legislative Affairs Comments

This bill by former Santa Ana City Council Member Jose Solorio targets both traditional Article XIX gas tax funds and fuel excise tax funds the County receives through the Traffic Congestion Relief Plan implemented by Proposition 42 to boost transportation revenues across the State. It only requires the County of Orange to report such expenditures to the Governor, Legislature and others. Among the bill's declarations is language that cites city incorporations that have resulted in the County maintaining 7.4 percent of the roadway network in Orange County. The bill further asserts that as a result of the current state formula for providing gas tax funds to counties and cities, Orange County has a surplus of gas tax and Proposition 42 funds in reserve while incorporated cities within Orange County are experiencing a major backlog of maintenance needs for their city roads.

AB 823 ignores several facts related to transportation funding and expenditures across the County of Orange. First, under the County bankruptcy settlement agreement, the County of Orange has transferred $23 million per year of gas tax funds to the Orange County Transportation Authority in exchange for $38 million in transit funds that go to pay off the bankruptcy debt. The County also provides Harbors, Beaches and Parks, Flood Control District and Orange County Development Agency funds to pay off bankruptcy debt. The $23 million in gas tax funds given to OCTA is passed on to cities through an agreement with the Transportation Authority. Second, cities receive significant road maintenance funds through the Measure M expenditure plan that was passed by Orange County voters in 1990. Last year's Measure M extension provides even greater funding to cities for road maintenance needs. Third, the County of Orange formerly administered the Arterial Highway Financing Program that was designed to provide gas tax funds to cities to help them build and complete the County Master Plan of Arterial Highways. OCTA took over those programs following consolidation efforts undertaken after the County bankruptcy in 1995.

The County of Orange continues to experience a deficit in terms of transportation needs versus revenues available to fulfill those needs. Many of the projects on the County's transportation capital projects list require acquisition of additional grant funding and accumulation of gas tax funds over several years, making an annual snapshot of gas tax expenditures an unreliable measure of "surplus" funds. The same reporting requirements are not extended to cities in Orange County; yet, many have unspent balances due to lead time required for transportation projects, environmental delays, and community impediments to implementation.

AB 823 targets County of Orange revenues and is designed to build a case that the County receives more than its fair share of gas tax and fuel excise tax funds.

For these reasons, staff recommends the Board of Supervisors adopt an "oppose" position on AB 823.

WASHINGTON LEGISLATIVE REPORT

WASHINGTON UPDATE

The House Transportation and Infrastructure Committee sent the Water Resources Development Act (WRDA) re-authorization to the House floor yesterday. The Committee moved the bill very quickly, and based it upon the bill previously passed in 2005 that languished for a year before the Senate passed a version last fall. The conference process in 2006 failed to yield a bill, so the House committee committed to moving an identical bill from 2005 this year with no new projects. That means the bill sent to the House floor on Thursday did not include the increase in authorized funding for the Santa Ana River Mainstem Project to accommodate the relocation of the Santa Ana River Intercept (SARI) line. Congressman Gary Miller will seek to have the language added in a so-called manager's amendment when HR 1495 is considered by the full House before lawmakers break for their two-week April recess.

Meanwhile, on the Senate side, the Environmental and public Works Committee chaired by California Senator Barbara Boxer is expected to mark up a WRDA bill on March 29. Senator Boxer has also committed to not including new projects in a Senate WRDA bill, but language for the SARI line was included in last year's Senate version. Last Year's conference draft also included the Aliso Creek SUPER Project the Board has supported, but its inclusion is also in doubt. Both House Committee Chairman James Oberstar (D-Minnesota) and Boxer have committed to moving new projects in a second WRDA bill with gearings expected to begin this year.

A copy of the 2007 County of Orange Legislative Platform is available at: http://www.oc.ca.gov/ under OC Links.

If you or your staff have any questions or require additional information on any of the items in this bulletin, please contact Bill Hodge at 714.834.7010.