



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 agendaized 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 May 1, 2007, the Board of Supervisors approved the following actions:

RECOMMENDED ACTIONS

1. OPPOSE – AB 1237 (Hancock) – Solid Waste: Solid Waste Facilities
2. SUPPORT – AB 1348 (Spitzer) – Sexually Violent Predators: Conditional Release Program
3. OPPOSE - AB 1610 (Nunez) – Solid Waste: Fees
4. OPPOSE – SB 1020 (Padilla) – Solid Waste: Diversion
5. SUPPORT IF AMENDED – AB 1458 (Duvall) – Boating: Vessel Operator Certificates and Funding
6. Receive and File Legislative Bulletin

SACRAMENTO LEGISLATIVE REPORT

SACRAMENTO UPDATE

Toll Road Bill

The bill to forbid construction of roads through State Parks has been converted into a two-year bill after the author, Assembly Member Jared Huffman (D-San Rafael), pulled the bill from a scheduled

hearing last week before the Assembly Water, Parks and Wildlife Committee. AB 1457 would effectively preclude a planned extension of the Foothill South Toll Road in Southern Orange County. The County of Orange and the Transportation Corridor Agencies among others are opposed to the bill. The move followed a meeting between transportation advocates and other stakeholders and the bill's author.

Santa Ana River Water Rights Hearings

County of Orange staff members and former Public Works Director Herb Nakasone will be traveling to Sacramento this week to give testimony at State Water Board hearings concerning water rights permits for the Santa Ana River. The hearings will be conducted for requests by the San Bernardino Municipal Water District and the Western Municipal Water District of Riverside County to secure water rights to operate water conservation programs at the Seven Oaks Dam in San Bernardino County, which is part of the Santa Ana River Mainstem Project. The debate will focus on creating a balance between the flood control activities of the facility and the interest in having water conservation programs for the two water districts. The flood control districts of Orange, Riverside and San Bernardino Counties will offer testimony in the hearing asking that if water rights are granted, the two water districts should be required to obtain the approval of the Army Corps of Engineers and the local sponsors (the flood control districts) prior to implementation of a water conservation program at Seven Oaks Dam and the water districts must enter into an agreement with the local sponsors as a condition of implementing a water conservation program. The agreements would stipulate that water conservation operations will not impact flood control operations at the dam and that the water districts will pay for any increase in cost to operations at the dam. One agreement has already been worked out with The Orange County Water District involving Prado Dam.

Corrections Reform Package

Senate and Assembly leaders apparently coalesced around a compromise on prison reform last Wednesday. The Assembly passed AB 900 (Solorio and Aghazarian with Principal Senate Co-Author Machado) 69 to 0 Thursday morning with Senate action scheduled for Thursday afternoon. The agreement seeks to balance the need for more state prison beds with more inmate rehabilitation and greater oversight or management of the California Department of Corrections and Rehabilitation. Those three issues represent a balance of the different perspectives among members of the State Legislature. A theme in committee hearings on the Governor's prison reform proposal has been efforts of the CDCR to implement other past directives of the Legislature designed to strengthen rehabilitation programs and thwart prison overcrowding.

The deal agreed to Wednesday would create two phases of jail construction both at the state and local level. The proposal adds 53,000 total beds, including 13,000 local jail beds that would be built with a 25 percent local match. Both the state and local construction efforts include a "trigger" requirement that defers a certain percentage of new bed construction until phase one construction is underway or in place. Preferences for funding would be given to counties who assist the state in siting re-entry facilities. The proposal relies on significant increases in rehabilitation programs and strategies in an effort to reduce recidivism and burgeoning state inmate populations. It does not include transferring state prison inmates with sentences under three years back to County jails and precludes early release of state inmates.

As more details emerge and potential County impacts are identified, further reports will be provided to the Board of Supervisors.

ACTION ITEMS

OPPOSE – AB 1237 (Hancock) – Solid Waste: Solid Waste Facilities – As Introduced on February 23, 2007

Author: Assembly Member Loni Hancock
Status: Assembly Natural Resources Committee
Reviewed: CEO/ Legislative Affairs Staff and Integrated Waste Management

The Integrated Waste Management Act requires the California Integrated Waste Management Board (CIWMB), in writing, to either concur or object to the issuance, modification, or revision of a solid waste facility permit within 60 days from the date of the Board's receipt of a completed proposed solid waste facility permit. If the Board fails to concur or object within the 60-day period, the Board is deemed to have concurred with the completed permit request.

AB 1237 would extend the time period in which the Board could concur or object from 60 days to 90 days. If the Board fails to concur or object within this new time period, the Board, instead, will be deemed to have objected to the completed permit request. AB 1237 also requires that at least one monthly inspection by the Local Enforcement Agency (LEA) as well as one joint inspection by CIWMB and LEA every 18 months be completed at all permitted facilities. At least one of these inspections is to be unannounced. This Bill also eliminates the need for a public hearing requirement prior to an enforcement action being assigned by the CIWMB.

CEO Legislative Affairs and Integrated Waste Management Department (IWMD) Agency Comments

If AB 1237 were to pass this could have serious detrimental affects on IWMD operations. Each of the three active landfills within the County has a Solid Waste Facility Permit (SWFP). Should IWMD need to amend a SWFP quickly, for major reasons (e.g., key landfill design parameters) or minor reasons (e.g., landfill operating hours), a determination could take 90 days or be automatically rejected if not reviewed within that timeframe. This could delay landfill design and/or construction and result in inefficient operations. It could also prevent IWMD from a timely response to external factors beyond the County's control and result in regulatory compliance issues including but not limited to violations and fines.

IWMD has a fiduciary responsibility to the residents of Orange County to provide reliable and safe waste disposal. IWMD administers contracts on behalf of the County which guarantee that County landfills will be open and available to accept waste generated within the County. Delays in SWFP approvals could prevent IWMD from fulfilling these responsibilities. CEO Legislative Affairs and the Integrated Waste Management Department recommend the Board oppose AB 1237 for the stated operational reasons that would surely affect the ability to accept waste.

SUPPORT – AB 1348 (Spitzer) – Sexually Violent Predators: Conditional Release Program – As Introduced on February 23, 2007

Author: Assembly Member Todd Spitzer
Status: Assembly Public Safety Committee
Reviewed: CEO/ Legislative Affairs Staff and Probation Department

Current law requires that prior to release from the custody of the Department of Corrections and Rehabilitation (CDCR) of a person who has been convicted of certain sex crimes, the director to refer that person to the State Department of Mental Health (DMH) for evaluation if that person may be a sexually violent predator. If deemed so, DMH is required to forward a request for the filing of a petition to the counsel designated by the county in which the person was convicted. The law authorizes civil commitment of the person to the DMH as a sexually violent predator for treatment in a secure facility, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged. A court, however, is authorized to order the conditional release of a person confined as a sexually violent predator for supervised treatment in a community setting if the court determines that the person would not be a danger to others.

Assembly Bill 1348 would prohibit placement of sexually violent predators on conditional release unless the court finds that the person has successfully completed all phases of the department's inpatient treatment program with progress in the treatment program.

CEO Legislative Affairs and Probation Department Comments

CEO Legislative Affairs and the Probation Department recommend your Honorable Board adopt a support position on AB 1348. Under Jessica's Law, the court can authorize the conditional release of a person confined as a sexually violent predator for supervised treatment in a community setting. The provision proposed in AB 1348 work to ensure the public will have an extra layer of protection by ensuring a sexually violent predator completes all phases of treatment by the DMH prior to release.

OPPOSE – AB 1610 (Nunez) – Solid Waste: Fees – As Introduced on February 23, 2007

Author: Assemblyman Fabian Nunez
Status: Assembly Appropriations Committee
Reviewed: CEO/Legislative Affairs Staff and Integrated Waste Management

The California Integrated Waste Management Act of 1989 requires each operator of any disposal facility in the state to pay a quarterly fee to the State Board of Equalization, as specified, for all waste disposed of at each disposal site. Existing law requires the State Board of Equalization to set the fee at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but not more than \$1.40 per ton.

These fees are deposited in the Integrated Waste Management account, which may be expended by the State Board of Equalization, upon appropriation by the Legislature, for specified purposes regarding the regulation of solid waste.

CEO/Legislative Affairs and Integrated Waste Management Department (IWMD) Comments

AB 1610 increases the maximum fee that may be levied from \$1.40 to \$2.00 for no specified reason. IWMD currently pays the maximum or \$1.40 per ton. Any increase in this amount would require IWMD to find offsets to balance its budget or endeavor to negotiate amendments to the County's waste disposal agreements to pass on the additional costs.

IWMD's FY 07/08 budget estimate for disposal fees payable to the State Board of Equalization is \$6.7 million. This bill could increase IWMD's liability to the State to \$9.6 million, an increase of \$2.9 million. CEO Legislative Affairs and the Integrated Waste Management Department recommend the Board oppose AB 1610 for the reason of increasing IWMD's disposal fees of \$2.9 million.

OPPOSE – SB 1020 (Padilla) – Solid Waste: Diversion – As Amended on April 16, 2007

Author: Senator Alex Padilla
Status: Senate Appropriations Committee
Hearing Date: April 30, 2007
Reviewed: CEO/ Legislative Affairs Staff and Integrated Waste Management

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board (CIWMB), requires each city, county and regional agency to develop a source reduction and recycling element (SRRE) of an integrated waste management plan containing specific components. The SRRE part of the plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling and composting.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

CEO Legislative Affairs and Integrated Waste Management Department (IWMD) Comments

SB 1020 would increase the current 50% diversion rate requirement, on or after January 1, 2012, to no less than 75% of all solid waste, through source reduction, recycling and composting, thereby imposing a state-mandated local program by imposing new duties upon local agencies with regard to the management of solid waste. This unfunded mandate would impose great strain on IWMD's ability to control costs and maintain an effective and efficient landfill service for our customers. CEO Legislative Affairs and Integrated Waste Management Department recommend the Board oppose SB 1020 for the reason of raising prices 25% for diversion.

SUPPORT IF AMENDED – AB 1458 (Duvall) – Boating: Vessel Operator Certificates and Funding – As Amended on April 9, 2007

Author: Assembly Member Mike Duvall
Status: Assembly Appropriations Committee
Reviewed: CEO/Legislative Affairs

Existing law requires money in the Harbors and Watercraft Revolving Fund to also be available to the department of Parks and Recreation for the operation and maintenance of units of the state park system that have boating-related activities, and for boating safety and enforcement programs for waters within the jurisdiction of the Department of Parks and Recreation. AB 1458 purports to delete the requirement for money in the fund to be available to the Department of Parks and Recreation for those purposes.

The bill also would prohibit a person from operating a vessel that is propelled by an engine, regardless of whether the engine is the principal source of propulsion unless the person has a vessel operator certificate developed and issued by the Department of Boating and Waterways. The bill would also implement that requirement commencing in 2011 pursuant to a schedule imposing the requirement over time depending on a person's age.

CEO Legislative Affairs Comments

The main portion of this bill that attracts County interest deals with the annual transfer of money from the Harbors and Watercraft Revolving Fund to the State Department of Parks and Recreation. The Revolving Fund supports Orange County projects such as the Dana Point Harbor Revitalization Plan and the Surfside/Sunset Sand Replenishment Program. The Board of Supervisors is on record opposing a proposed transfer of \$27 million from the Revolving Fund in the Governor's January budget proposal. So far, the Senate and Assembly Budget Sub-Committees have kept the proposed transfer on the discussion calendar, holding out hope that the transfer will be eliminated during budget deliberations on the 2007-08 State Budget.

The amendment sought would be to include language that affirmatively precludes the opportunity to transfer funds from the Harbors and Watercraft Revolving Fund in the Department of Boating and Waterways to the State Department of Parks and Recreation. With the amendment, staff recommends the Board support AB 1458.

WASHINGTON LEGISLATIVE REPORT

WASHINGTON UPDATE

Orange County Delegation Members Representatives Gary Miller and Loretta Sanchez were unsuccessful in their efforts to convince Transportation and Infrastructure Committee Chairman James Oberstar (DFL-Minn) to include the Santa Ana River Intercept (SARI) Line increase language in the manager's floor amendment to the Water Resources and Development Act (WRDA) re-authorization. Action now shifts to the Senate side where California Senator Barbara Boxer's Environment and Public Works Committee is marking up its version of WRDA re-authorization with the expressed intent to bring it to the Senate Floor by the Memorial Day recess. Efforts to secure SARI language have been thwarted thus far by the House commitment to stick with the WRDA re-authorization bill they passed in 2005 as opposed to including new language or projects. On the Senate side, the SARI language was actually included in the Senate-passed WRDA re-authorization that evaporated last year when the conference process failed to yield a bill before Congress adjourned.

The edict over keeping the bills “clean” of new projects and language is also thwarting efforts to secure changes that would allow better management of flood control facilities by allowing so-called evergreen permits to perform on-going maintenance of such facilities. Both the House and the Senate committees have indicated their intent to begin mark-up of new re-authorization bills later this year after the successful passage of the WRDA re-authorization currently pending in Congress.

On the appropriations side, the Energy and Water Appropriations Sub-Committee of the House is awaiting passage of a fiscal year 2008 budget resolution before mark-up can begin on appropriations bills. If a budget resolution is not passed by Congress before May 15, then the committees are free to begin mark-up on their bills. This is the bill that would include funding for the Santa Ana River Mainstem Project, the Newport Back Bay Ecosystem Restoration Project and other County-sponsored watershed, water quality and flood control projects.

County of Orange - Sponsored Bills Status/Update

AB 332 (DeVore) Elections: Recall Petitions: Signature Certification. Introduced: 02/13/2007
Location: 02/20/2007– Assembly Elections and Redistricting Committee.
Calendar: 05/01/2007 1:30 p.m. - Room 127 ASM E & R

AB 405 (Duvall) Redevelopment: Tax Increment Revenues. Introduced: 02/15/2007
Location: 04/25/2007– Assembly Appropriations Suspense File
Status: 04/25/2007 – From Appropriations to Appropriations Suspense File

AB 745 (Silva) Local Agency Formation Commissions. Introduced: 02/22/2007
Location: 04/26/2007 – Assembly Elections and Redistricting Committee.
Calendar: 05/01/07 1:30 p.m. – Room 444 ASM E & R

AB 1042 (Spitzer) Property Taxation: Applications for Changed Assessment: Electronic Filing.
Introduced: 02/22/2007
Location: 03/12/2007– Assembly Revenue and Taxation Committee
Calendar: 05/07/2007 1:30 p.m. – Room 126 ASM R & T

SB 497 (Ackerman) Political Reform Act of 1974: Conflict of Interest: Electronic Filing of Statements of Economic Interest. Introduced: 02/22/2007
Location: 02/28/2007 – Senate Elections, Reapportionment and Constitutional Amendments.
Status: 04/18/2007 – Hearing postponed by committee.

SB 547 (Correa) Property Tax Revenue Allocations. Introduced: 02/22/2007
Location: 04/18/2007- Senate Appropriations Committee
Calendar: 05/07/2007 10 a.m. – John L. Burton Hearing Room (4203), SEN APPR.

SB 644 (Correa) Court Records: Social Security Numbers. Introduced: 02/22/2007
Last Amend: 03/29/2007
Location: 04/23/2007– Senate Inactive File
Status: 04/23/2007 – Placed on inactive file on request of Senator Correa.

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.