



LEGISLATION COMMITTEE

October 1, 2015

10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Karen Mitchoff, Chair
Supervisor Federal D. Glover, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. **REVIEW and APPROVE Record of Action from the May 7, 2015 meeting.**
4. **RECEIVE the report on legislative policy related to pension reform and PROVIDE direction to staff, as needed.**
5. **ACCEPT the report on the legislative highlights from 2015 and provide direction to staff, as needed.**
6. **ACCEPT the report "Bills of Interest to Contra Costa County" and provide direction to staff, as needed.**
7. **ACCEPT the report on federal issues of interest to the County and provide direction to staff, as needed.**
8. The next meeting is currently scheduled for November 5, 2015.
9. Adjourn

The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Lara DeLaney, Committee Staff
Phone (925) 335-1097, Fax (925) 646-1353
lara.delaney@cao.cccounty.us



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

3.

Meeting Date: 10/01/2015
Subject: Record of Action
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: N/A
Referral Name: Record of Action
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting. Any handouts or printed copies of testimony distributed at the meeting will be attached to this meeting record.

Referral Update:

Attached for the Committee's consideration is the Record of Action for its May 7, 2015 meeting.

Recommendation(s)/Next Step(s):

APPROVE Record of Action from the May 7, 2015 meeting with any necessary corrections.

Attachments

Record of Action - May 7, 2015



LEGISLATION COMMITTEE

RECORD OF ACTION

May 7, 2015

10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Karen Mitchoff, Chair
Supervisor Federal D. Glover, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

Present: Karen Mitchoff, Chair

Absent: Federal D. Glover, Vice Chair

Staff Present: Jeff Carman, Fire Chief

Jackie Lorrekovich, Fire Protection District Administrative Services

William Walker, M.D., Contra Costa Health Services

Chad Godoy, Agricultural Commissioner

Paul Buddenhagen, Employment and Human Services

Lindy Lavender, District IV Representative

Lara DeLaney, Senior Deputy County Administrator

Vana Tran, County Administrator's Office

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No public comment.

3. APPROVE Record of Action from the April 2, 2015 meeting with any necessary corrections.

The Record of Action was approved as submitted.

AYE: Chair Karen Mitchoff

Passed

4. CONSIDER recommending a position of "Support" to the Board of Supervisors for AB 662 (Bonilla): Expanding Access for Individuals with Physical Disabilities.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff
Passed

5. CONSIDER recommending a position of "Oppose" to the Board of Supervisors for AB 1223 (O'Donnell) Emergency Medical Services: Noncritical Cases.

The Committee directed staff to review the recent amendments. If the amendments were not satisfactory, the Committee would recommend an "Oppose unless amended" position. If the amendments were sufficient to remove the staff recommendation of "Oppose," the Committee directed staff to "watch" the bill.

AYE: Chair Karen Mitchoff
Passed

6. CONSIDER recommending a position of "Support" to the Board of Supervisors for AB 1321 (Ting): Nutrition Incentive Matching Grant Program.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff
Passed

7. CONSIDER recommending a position of "Oppose" to the Board of Supervisors for SB 239 (Hertzberg) Local Services: Contracts: Fire Protection Services.

The Committee voted unanimously to recommend a position of "Oppose."

AYE: Chair Karen Mitchoff
Passed

8. CONSIDER recommending a position of "Support" to the Board of Supervisors for SB 120 (Anderson) Sales and Use Taxes: First Responder Equipment.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff
Passed

9. CONSIDER recommending a position of "Support" to the Board of Supervisors for AB 1436 (Burke) In-Home Support Services: Authorized Representatives.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff
Passed

10. CONSIDER recommending to the Board of Supervisors a position of "Support" for AB 1262.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff

Passed

11. CONSIDER recommending a position of "Support" to the Board of Supervisors for AB 762 (Mullin) Day Care Centers: Integrated Licensing.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff

Passed

12. CONSIDER recommending a position of "Support" to the Board of Supervisors for SB 238 (Mitchell) Foster Care: Psychotropic Medication.

The Committee voted unanimously to recommend a position of "Support."

AYE: Chair Karen Mitchoff

Passed

13. ACCEPT the report on Federal Issues and provide direction to staff, as needed.

The Committee accepted the report as given.

AYE: Chair Karen Mitchoff

Passed

14. ACCEPT the "Bills of Interest" report and provide direction to staff, as needed.

The Committee accepted the report as given.

AYE: Chair Karen Mitchoff

Passed

15. The next meeting is currently scheduled for June 4, 2015.

The Committee confirmed the date of the next meeting.

AYE: Chair Karen Mitchoff

Passed

16. Adjourn

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

4.

Meeting Date: 10/01/2015
Subject: Legislative Policy Referral Regarding Pension Reform
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2015-16
Referral Name: Legislative Policy Referral Regarding Pension Reform
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

At its July 28, 2015 meeting, the Board of Supervisors considered and approved the response to Civil Grand Jury Report No. 1503, "Time for a New Look at Pension Costs," and referred the matter in relation to legislative policy to the Legislation Committee.

The Board Order related to this matter is *Attachment A*. The Grand Jury Report No. 1503 is *Attachment B*. The response to the report is *Attachment C*.

Referral Update:

The Civil Grand Jury Report No. 1503 examines the cost of pension and retiree health benefit obligations on the County and suggests that "...the County has not challenged the prevailing assumption that California law prohibits it from negotiating reductions in pension benefits for its employees who entered service before 2013. We believe that assumption is in error... The Board of Supervisors should without delay seek such a change or clarification in California law." (p. 1)

The Report attempts to address the question "Why have the County's retirement obligations grown so large?," and includes as one of its reasons "California Law Apparently Preventing the County from Negotiating Reductions in Future Pension Benefit Rates for Existing Employees. One sensible way to reduce retirement obligations arising from past increases in pension benefit rates would be for the County and its employees to negotiate through collective bargaining reductions in pension benefits to be earned in future time periods. However, in contrast to wage and other benefit negotiations, the County has not negotiated reductions in future pension benefits for current employees through collective bargaining because of obstacles arising from highly inflexible court decisions unique to California and a minority of other states." (p. 7)

The Report indicates that "...the California Supreme Court has issued rulings that severely restrict the ability of the County to make changes to benefits not yet earned under its pension plans." It cites Allen vs. City of Long Beach, decided by the Supreme Court in 1955, as an example of a case that removed tools that would have allowed the County to manage and adjust its pension obligations. "That case held that not only was a public employer prohibited from terminating a

pension plan for current employees; it must also assure that any alterations in the pension plan "which results in disadvantage to employees should be accompanied by comparable new advantages." This meant that after the Allencase public employers in California were on a one-way legal elevator that only went up. In contrast to wage and other employee benefits, any pension benefit granted to a current employee could not be reduced in future periods even though such benefits had not yet been earned." (p. 10)

The report goes on to say that public agencies in California have adopted the view that the "vested pension contract right the Court found in the Allencase could not be challenged by collective bargaining." However, the Report questions that assumption suggesting that "collective bargaining [the Meyers-Milius-Brown Act was passed in 1968] did not exist for public employees at the time the Allencase was decided [in 1955]." p. 11

The Report also suggests that the California Supreme Court based its decision in the Allencase on the Contracts Clause of both the California and the U.S. Constitutions, but "nothing in that prohibition [that prohibits California from passing laws that impair contract obligations] prevents the party to whom the contract obligation is owed from agreeing voluntarily to amend or waive that obligation." The Report goes on to suggest that "Federal courts would have the final say on whether the U.S. Constitution extends the same protection to future, unearned pension rights that the California Supreme Court found in its Allendecision." (p. 11)

Mr. Michael Moore, a member of the 2014-15 Civil Grand Jury has requested time to present additional information to the Committee and will be in attendance at the meeting, as will a representative of the County Counsel office.

Pension Reform Efforts

The battle over California's public employee pensions could soon move from the courtroom to the ballot box. A group of pension reform advocates, led by former San Jose Mayor Chuck Reed and former San Diego Councilman Carl DeMaio, recently filed a statewide initiative for the 2016 ballot that would give voters a direct say on pension benefits. Dubbed the "Voter Empowerment Act of 2016," the initiative would amend the state constitution to require voter approval of any new defined benefit retirement plans and place a 50 percent cap on government subsidies of retirement benefits provided to government employees.

The proposed state constitutional amendment would apply to all public employee pensions throughout the state. It needs 580,000 signatures from California voters to qualify for the 2016 ballot.

The four major provisions of the proposed state constitutional amendment, which would take effect in 2019, include:

1. Requiring voter approval of any defined benefit pensions for new government employees;
2. Requiring voter approval of any increase in pensions for existing government employees;
3. Prohibiting any taxpayer subsidy of government retirement benefits in excess of 50 percent of the cost – unless voters expressly approve a higher contribution;
4. Prohibiting politicians and government agencies from delaying, impeding, or challenging any voter-approved state and local ballot measures regarding compensation and retirement benefits.

The authors of the initiative said they will "commission a legal review" of the ballot summary issued by Attorney

An article about the initiative is included in *Attachment D*. The initiative itself is included in *Attachment E*.

The new initiative effort comes after courts have struck down recent attempts to address the pension problem. Last year, voters in Ventura County collected thousands of signatures for a measure that would have allowed the County to opt out of the current defined-benefit system and replace it with a 401(k)-type system, but a county judge ruled that residents could not vote to leave a pension system created by the state.

In 2012, San Jose voters overwhelmingly approved a measure that would have given city employees a choice between a less-generous pension or staying in the current system but contributing a larger portion of their salaries toward paying down the pension debt. A Santa Clara County Superior Court Judge overturned that measure for violating the “vested rights” of public employees.

Recommendation(s)/Next Step(s):

RECEIVE the report on possible legislative policy reform and PROVIDE direction to staff, as needed.

Fiscal Impact (if any):

The fiscal impact of pursuing legislative policy with regard to pension reform is unknown at this time.

Attachments

Attachment A

Attachment B

Attachment C

Attachment D

Attachment E



Contra Costa County

To: Board of Supervisors
From: David Twa, County Administrator
Date: July 28, 2015

Subject: Response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs"

RECOMMENDATION(S):

APPROVE the response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs" and DIRECT the Clerk of the Board to forward the response to the Superior Court no later than August 15, 2015.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

On May 18, 2015 the 2014/15 Civil Grand Jury filed the above-referenced report. The attached response clearly specifies:

Whether a finding or recommendation is accepted or will be implemented; if a recommendation is accepted, a statement as to who will be responsible for implementation and by what target date; a delineation of the constraints if a recommendation is accepted but cannot be implemented within a six-month period; and the reason for not accepting a finding or recommendation.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **07/28/2015** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor

ABSENT: Federal D. Glover, District V Supervisor

Contact: Lisa Driscoll, County Finance Director (925) 335-1023

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: July 28, 2015

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

The Board of Supervisors is required to respond to Findings 1-7 and Recommendations 1-3. The Board of Directors of the Contra Costa County Fire Protection District is required to respond to Findings 1, 2, 4, 6 and Recommendations 1-3. Please see the attached combined response to the report.

CONSEQUENCE OF NEGATIVE ACTION:

In order to comply with statutory requirements, the Board of Supervisors/Board of Directors for the Contra Costa County Fire Protection District must provide a response to the Superior Court no later than August 15, 2015. The Board must take timely action in order to comply with the statutory deadline.

CHILDREN'S IMPACT STATEMENT:

Not Applicable.

CLERK'S ADDENDUM

Speakers: Frank Darling, resident of Orinda; Vincent Wells, President Firefighters' Local 1230; David Van Etten, resident of Lafayette.

APPROVED the response to Civil Grand Jury Report No. 1503 "Time for a New Look at Pension Costs"; REFERRED the matter in relation to legislative policy to the Legislative Committee; DIRECTED the Clerk of the Board to forward the response to the Superior Court no later than August 15, 2015; and DIRECTED the concept of a establishing a task force/committee to review options to reduce the pension obligation burden be revisited in one year.

ATTACHMENTS

Grand Jury Report No. 1503

Response to Grand Jury Report No. 1503

**A REPORT BY
THE 2014-2015 CONTRA COSTA COUNTY GRAND JURY**

725 Court Street
Martinez, California 94553

Report 1503

Time for a New Look at Pension Costs

**The County Could Save Nearly \$100 Million a Year through a
Sensible and Fair Approach to Pension Reform.**

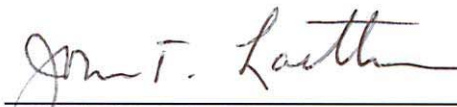
APPROVED BY THE GRAND JURY:

Date: 5-18-15


SHERRY RUFINI
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5-18-15


JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contact: Sherry Rufini
Foreperson
925-957-5638

Contra Costa County Grand Jury Report 1503

Time for a New Look at Pension Costs

The County Could Save Nearly \$100 Million a Year through a Sensible and Fair Approach to Pension Reform.

TO: Contra Costa County Board of Supervisors
Contra Costa County Fire Protection District Board of Directors

SUMMARY

The biggest financial challenge facing the County is managing the cost of its pension and retiree health benefit obligations. The cost of pension benefits alone has doubled as a percentage of the budget since 2000. Pension and retiree health benefits combined now cost the County over \$375 Million per year. This compares to a total of \$183 Million as recently as ten years ago. These costs are legal debts. They take priority over funds otherwise available for other County services. As a result the County has over the past ten years cut back a wide variety of County services and reduced staffing levels in the Sheriff's Department and County Fire Department. Despite these huge costs, the County has not challenged the prevailing assumption that California law prohibits it from negotiating reductions in pension benefits for its employees who entered service before 2013. We believe that assumption is in error. A sensible and fair change or clarification in California law governing pension benefits not yet earned by current public employees would enable the County to save nearly \$100 Million a year. The Board of Supervisors should without delay seek such a change or clarification in California law.

BACKGROUND

In the past several years the staggering load of pension costs on city, county, and state governments has been headline news. Indeed, the cities of Detroit, Stockton, and Vallejo filed for bankruptcy protection, in large part due to retirement obligations they could no longer afford. Why have city, county, and state officials around the country apparently failed to manage their pension and other retirement obligations responsibly? In the words of Warren Buffett, a big reason was a simple failure to "... fully grasp the magnitude of liabilities they are incurring by relatively painless current promises." He was pointing out that unlike writing a check for \$100,000 today to cover a current bill,

promising to pay a \$100,000 pension far into the future hardly feels like a burden at all—even though in the case of a “pension promise,” the final payment will be far higher due to future salary increases, cost of living adjustments, and longer life expectancies. Another important reason, as one of our witnesses put it, is because public officials face constant pressure to “overpromise and underfund” when grappling with pension issues. That is, they increase such benefits as a relatively painless way to resolve labor negotiations while seeking ways to minimize contributions to the pension funds that are necessary to assure the benefits will be paid when due. The “pain” in such cases falls on future officials and their constituents who will have to pay the pension bills then coming due.

In California and Contra Costa County (“County”) these pressures led to a “perfect storm” in 1999 and 2002 that dramatically increased pension liabilities around the state. First, based on the very strong stock market gains of the late 1990’s, the state passed legislation in 1999 that authorized large retroactive pension benefit increases for state employees. These increases were major financial windfalls for state employees. The employees had not been required to contribute to the cost of these increased benefits during their previous career years. Yet they received full service credit for pension benefits in many cases pegged at 50% higher levels for each year of service and offering lower retirement ages for the enhanced benefits. The law was sponsored by the state’s largest pension fund, the California Public Employees Retirement System (“CALPERS”). CALPERS assured lawmakers that continued stock market gains in the pension fund would fully cover the cost of the new benefits without the need for higher contributions to the fund. This view proved to be mere wishful thinking after the “dot.com” crash of 2001 ushered in an era of sharply reduced stock market returns.

California counties followed the 1999 CALPERS-sponsored legislation with a bill of their own to authorize similar retroactive pension benefits and financial windfalls for their employees. The County, in common with other counties and cities throughout the state, then felt obliged for competitive reasons in 2002 to match the state’s retroactive pension benefit increases. The result was a large increase in its unfunded pension liabilities. The new benefits had not been funded through past contributions, and the long period of stock market gains of the late 1990’s did not return. The County was then woefully ill prepared to withstand the huge losses in its pension fund that arose during the Great Recession of 2008 – 2009. The consequence has been a major financial challenge for the County, with its obligations for pension and other retirement expenses forcing cuts in County services, layoffs, and a pay scale for its employees that is below that of many neighboring cities, counties and other public agencies.

The story of how city, county, and state pension and other retirement obligations became so large and burdensome has important lessons for all of us. Many of the pressures that have made the problem so large continue to this day. To its credit, the County has begun to address the issue and has achieved some success in reducing its level of retirement obligations with the cooperation of its employees. However, the County should take further decisive steps to bring pension and retirement liabilities

under control. These costs endanger the County's ability to deliver essential public services and to assure its employees that their retirement benefits are financially secure.

The focus of this report is what additional actions the Grand Jury believes the County should take to reduce the cost of its pension obligations in a fair and responsible manner.

DISCUSSION

1. How big are the County's pension and other retirement debts?

To assure it will have sufficient funds available when needed to cover its pension and retirement obligations when they come due, the County makes payments into pension and retirement funds each year to be kept in reserve for paying those obligations. To determine what these funding levels should be, the County works with actuaries who calculate the required funding levels. These levels are based on expected employee retirement dates, expected life spans, and the level of benefits that an employee will be entitled to receive. However, the County has not contributed enough to its pension and retirement funds to cover the full cost of its projected obligations. The following figures provide a financial snapshot of the immense gaps that remain before the County will have fully funded its pension and other retirement obligations.

- **\$1.26 Billion.** This is the County's current shortfall in its pension funding. The County currently covers the shortfall by increased annual payments to its pension fund in an amount set by the fund's actuaries. These payments come at the cost of cutting other items in the County budget. The only other options the County has for reducing this shortfall are hoping for increased investment returns from its pension funds, or seeking tax increases. If this amount came due today as a property tax assessment applied equally to all taxable parcels in the County, each homeowner in Contra Costa County would need to pay \$3,494.

In addition to its pension liabilities, the County and its largest fire district, the Contra Costa County Fire Protection District ("CCCFPD") carry a major obligation to their employees for other retirement benefits, principally health benefits. These benefits are called "other post-employment benefits" ("OPEB"). The County and CCCFPD have the following gaps in funding for these benefits:

- **\$923.8 Million.** The amount actuaries retained by the County have calculated the County should have already set aside in its OPEB funds to cover its OPEB liability to current and retired employees.
- **\$129.4 Million.** The amount the County has currently available in its OPEB funds to cover the OPEB liability, as computed by the actuaries.
- **\$794.4 Million.** The County's current deficit in its OPEB funding. Although the County's actuaries calculate that the County should be contributing \$88.5 Million

a year to the OPEB fund in order to retire this shortfall over the next 24 years, the County only contributes \$20 Million a year, due to budget constraints. The County also continues to pay directly a significant portion of the current health costs incurred by its retirees. In its fiscal year ending June 30, 2014 this direct payment amounted to \$57.3 Million. The \$794 Million shortfall is a debt that corresponds to an additional \$2,205 for each taxpaying homeowner in the County.

Besides its accrued unfunded pension liabilities, the County has outstanding a total of \$276,830,000 in "Pension Obligation Bonds" or "POBs." These are bonds the County issued in 2001 and 2003 for the purpose of making additional contributions to its pension fund in order to reduce the County's unfunded pension liabilities. Accordingly, these bonds should be viewed as additional pension obligations of the County. The \$276.8 Million of pension bond obligations outstanding reflects a further debt of \$769 for each homeowner if allocated equally to each parcel in the County. See the Appendix, item 1, for further information on Pension Obligation Bonds, including the potential risks to the County in relying too heavily on such bonds to finance its pension obligations.

The County has oversight responsibilities for the CCCFPD, which has a separate set of pension obligations to its employees and retirees. The County supervisors serve as the governing board of the CCCFPD in addition to their duties on the Board of Supervisors. The CCCFPD performs an essential public safety service, including the operation of 23 fire stations. As a special district it is, however, primarily dependent on property tax revenues. This has led to the CCCFPD running a serious deficit (\$6 - \$10 Million a year) for a number of years and dipping deeply into its reserve funds. As a consequence the CCCFPD has not been able to afford necessary equipment modernization and other capital improvements for a number of years. Pension costs are a major factor contributing to the deficit. CCCFPD pension liabilities are as follows:

- **\$180.2 Million.** CCCFPD's current deficit in its pension funding.
- **\$107.4 Million.** CCCFPD's outstanding balance owed on pension obligation bonds.

As shown above, the County and CCCFPD carry an enormous financial load in the form of funding shortfalls arising from their pension and OPEB liabilities. The County and CCCFPD's combined shortfalls in funding total \$2.6 Billion. If that combined load came due today in the form of an equal property tax assessment on all Contra Costa County taxable parcels, the charge would be \$7,273 for each homeowner in the County.

2. How much does it cost the County each year for pension and OPEB expenses?

The County (including CCCFPD) now budgets over \$375 Million annually to cover its pension and OPEB costs. The following chart, which includes only pension costs,

shows how this annual payment has grown dramatically in recent years. In 1999-2000, the pension costs amounted to \$67 Million, about five percent (5%) of all County revenues. Today, the recommended budget for pension costs is \$329 Million, over 11% of all revenues. The leveling off of projected expenses shown in the chart starting in fiscal year ("FY") 2015 -2016 assumes that the County retirement fund will be successful in achieving its projected 7.25% return on invested funds.

Actual and Projected* Retirement Expenses



These large increases in the County budget for retirement costs have been a major factor in County decisions to cut spending for health services, public safety (both sheriff and fire), and public works. The County has also had to defer important building maintenance and upgrade projects, including the construction and staffing of an emergency operations center. All of these projects and services have been "crowded out" in large part because of the County's obligation to keep its pension and other retirement obligations properly funded.

3. What sort of a pension plan does the County offer its employees and how is it paid for?

The County offers its employees a "defined benefit" pension plan. Unlike most plans in private industry, this means that the employee will be entitled to receive on retirement an annual pension based on his or her final or three-year average salary. The amount of the pension is calculated based on the employee's years of service multiplied by a percentage for each year of service. For example, a 3% at 55 pension benefit means that an employee with 25 years of service at age 55 could retire at that age with a pension equal to 75% of his or her salary (25 x 3%). In contrast to the "defined contribution" plans now prevalent in private industry (where only the amount of the employer's contribution is guaranteed), the amount of the pension benefit is guaranteed by the County. It does not change based on the investment results of the pension fund.

The pension payments gain added value from certain cost of living escalators (also known as “COLAs”), generally capped at 2% or 3% per year, that provide important inflation protection for the retiree.

The County’s guarantee of each retiree’s yearly pension benefit is the key to understanding why pension costs are now such a large and growing cost for the County. To fund these pension obligations, the County and its employees each contribute an amount each year to a pension fund managed by the Contra Costa County Employee Retirement Association (“CCCERA”). The contribution has two components. The first is the “normal cost,” as determined by CCCERA’s actuaries, to fund the amount of the pension benefit earned by the employee each year. The second is an amount paid to reduce the “unfunded accrued liability,” the sum required to fund the employee’s already accrued benefits that are not fully funded. The County and the employee share the expense of the “normal cost,” although for employees hired before January 1, 2013 the County pays a larger percentage of the normal cost. However, the County bears 100% of the cost of the unfunded pension liability (actuaries refer to this as the “unfunded actuarial accrued liability” or “UAAL”). Because it is solely responsible for the UAAL liabilities in its pension plans, the County on average contributes about three times as much as its employees each year to fund the cost of their pension benefits.

4. Why have the County’s retirement obligations grown so large?

The County’s UAAL pension obligations are the “shortfalls in pension funding” referred to in the financial snapshot in section 1 above. They are the root cause why the County’s pension costs have risen dramatically in recent years, creating immense financial challenges for the County. The UAAL obligations have grown so large for three principal reasons:

1. Granting retroactive pension benefit enhancements in 2002. Granting retroactive pension benefit increases virtually assures that an unfunded liability will arise, because no regular contributions have been made in the past to fund such higher benefits. This took place in Contra Costa County in 2002, when the County agreed to fund new benefits from so-called “excess earnings” in the CCCERA retirement funds. The “excess earnings” reflected higher than expected investment returns during the “dot.com” era of the late 1990s. The 2002 retroactive benefit grant was an unexpected windfall for employees. It offered pensions at earlier retirement ages and with increased benefits. These new benefits encouraged early retirements and led to sharply increased unfunded liabilities. The “excess earnings” proved insufficient to cover the cost of these new benefits when market gains turned sharply lower after 2000. CCCERA then called on the County to increase its pension contributions to cover the deficits arising from the retroactive pension benefits that had not been properly funded.

2. The impact of the Great Recession of 2008-2009. Six years after it had begun to bear the cost of the retroactive pension benefit increases, the County was hit very hard by investment losses in its pension fund in 2008. At least half of the money projected to fund the County's retirement benefits arises from capital gains and dividends on its pension funds. Whenever the CCCERA pension fund fails to meet the projected investment return (currently 7.25%), a shortfall develops in the pension fund. The County is then obligated to fill the gap by means of increased contributions. In 2008, the CCCERA pension fund losses were very large (over 28% or \$1.47 Billion) resulting in very large additional bills to the County for increased contributions to cover the difference. See the Appendix, item 2 for additional information on how CCCERA calculates the unfunded liabilities for the County pension fund and the cost to the County when CCCERA does not earn its expected rate of return.
3. California Law Apparently Preventing the County from Negotiating Reductions in Future Pension Benefit Rates for Existing Employees. One sensible way to reduce retirement obligations arising from past increases in pension benefit rates would be for the County and its employees to negotiate through collective bargaining reductions in pension benefits to be earned in future time periods. However, in contrast to wage and other benefit negotiations, the County has not negotiated reductions in future pension benefits for current employees through collective bargaining because of obstacles arising from highly inflexible court decisions unique to California and a minority of other states.

5. Why is it so difficult for the County to manage its pension liabilities?

As noted above, the County and CCCFPD face a huge debt totaling over \$2.6 Billion for combined pension and OPEB obligations. The sheer size of these liabilities makes them a major financial challenge. To its credit, the County has taken important steps to address its retirement cost problems. However, it faces external circumstances in facing this challenge that are outside its control.

The County's pension funds with CCCERA are now so large (over \$5 Billion) that it faces a risk each year of incurring substantial additional obligations for pension contributions in the event CCCERA does not achieve its expected 7.25% return on those funds. For example, a slip of only one percent (1%) in the expected return (i.e., a gain of only 6.25% instead of 7.25%) would create an additional County UAAL debt of over \$52 Million. A slip of 10% (i.e., a loss of 2.75%, instead of a gain of 7.25%) would create an additional UAAL debt ten times larger, of over \$520 Million. Actuarial rules allow CCCERA to spread out these investment losses over five years, so the loss is not all realized in one year. The new UAAL debt in such a case would also not be payable immediately by the County. The County would be required to pay the new debt over a period of 18 years. Nevertheless, such investment losses are risks the County cannot control and that require the County to establish additional cash reserves in order to manage them prudently. See the Appendix, item 2 for further discussion of the UAAL

risks carried by the County.

With respect to its OPEB obligations, the County has taken steps to limit the growth of these costs. Through negotiations with its employees, it has “frozen” the dollar amount it contributes to the health benefits that comprise most of the OPEB costs. It is also developing lower cost health plan options for its employees. That has led to a significant drop in the OPEB UAAL liability from \$2.6 Billion in 2006 to \$794 Million as of January 1, 2014. However, \$794 Million is still a very large debt, and the County has only funded approximately 16.3% of this much-reduced OPEB liability. Because of the huge size of the OPEB debt, the County has adopted a plan to retire the debt over a period of 30 years, ending in 2038. The County’s annual \$20 Million contribution to the OPEB trust fund is well below the \$88.5 Million determined by its actuaries as necessary to fully fund its OPEB benefit obligations accruing each year. However, the County also continues to pay OPEB benefits for retirees on a “pay as you go” basis, which cost an additional \$57.3 Million in fiscal 2014. Accordingly, the \$20 Million set aside for future OPEB benefits each year (plus retiree benefits still paid on the “pay as you go” basis) will continue to draw significant County resources for many years. The County therefore has no current prospect of reducing either pension or OPEB costs by means of surpluses generated in its OPEB accounts.

The County has taken responsible actions in cooperation with its employees and CCCERA to reduce a portion of its pension costs. It has secured agreements from its employees for greater contributions from them toward the cost of their pension benefits. It has supported CCCERA’s efforts to counter so-called pension “spiking,” although further work remains to change a pension benefit culture that tolerated and at times encouraged such practices. In “spiking” cases certain retiring employees artificially increased their pension by adding to their final salary calculation unusual pay enhancements, such as a much larger than normal number of “on call” days or other additions not contemplated by the pension plan. Since the plan’s actuaries did not contemplate such enhancements, the costs associated with them were not properly funded. These “spiked” pension benefits represent windfalls for the employees and additional costs to the County because of its guarantee of the amount of each employee’s pension benefit.

The County has also supported CCCERA’s move to a more conservative 7.25% rate of return assumption (from an earlier 7.75%) in its pension fund investments, and has ceased offering “subventions” (i.e., subsidies paid by the County) for its employees’ designated share of their annual pension contributions. The move to the lower 7.25% rate of return has required increased contributions to the pension fund by both employer and employee to cover the cost of pension benefits. That is because the fund was no longer permitted to assume that a higher percentage of the pension benefits would be financed by investment returns. While the lower return assumption imposes higher costs on both the County and its employees, it is the more financially prudent course since future investment returns are never guaranteed.

Finally, the County has supported CCCERA's action to limit pensionable compensation for members joining the pension plan after January 1, 2013 to base pay only. This action has the effect of reducing the cost for the County and its employees of pension contributions that would otherwise be calculated against a higher salary base. It also reduces the size of the compensation base on which the County will be required to bear the risk of any shortfalls in the investment results of the CCCERA pension fund to finance the cost of the pension benefit. It is a more conservative financial position than that adopted by CALPERS, which has agreed to broaden the definition of pensionable compensation for its plans.

Another difficulty the County has in attempting to reduce pension costs responsibly is that other counties, cities and public agencies are not required to do the same. A less fiscally responsible jurisdiction may, for example, establish higher investment return assumptions for its pension fund or take other steps that lower the level of contributions required of employees to fund their pensions. This creates an enticement for County employees or candidates to seek job offerings in other cities and counties. An employee may find he or she would receive higher take-home pay by working at a comparable job with a comparable pension benefit in that jurisdiction. CALPERS, for example, serves as the pension fund for a large number of California cities and counties that compete with the County for key employees. CALPERS charges its employee members a lower pension contribution from their paycheck than does CCCERA for a comparable pension benefit. The CALPERS employer must make up the difference.

Accordingly, whatever steps the County takes to manage and reduce its pension liabilities must be done in a way that balances a vital competing interest. The County and its citizens have a fundamental interest in attracting and retaining a skilled and professional workforce. That means any remedies the County pursues to reduce the size of its pension obligations must account for competitive realities in the marketplace and be viewed as fair and reasonable by its employees.

6. What is the California legal problem peculiar to pensions?

A peculiar feature of California law governing pension benefits has seriously hampered the County in its efforts to reduce pension costs fairly and responsibly. It also restrained the state legislature in its most recent attempt at major pension reform in 2012.

In response to a broad public consensus that growing pension liabilities of cities and counties in California had become unsustainable, the state legislature in 2012 passed a major pension reform law, the "Public Employee Pension Reform Act," also known as "PEPRA." When Governor Brown signed PEPRA into law in September 2012, he described it as "sweeping bipartisan pension reform legislation that saves billions of taxpayer dollars by capping benefits, increasing the retirement age, stopping abusive practices and requiring state employees to pay at least half of their pension costs." While all true, this statement left out an important point. The major cost-saving reforms in PEPRA only apply to public employees hired on or after January 1, 2013. The

pension benefits for public employees hired before that date were largely unaffected. Most of the savings in pension costs offered by the PEPPA reforms will only occur gradually over the next 30 years as the new generation of public employees work through their careers and retire. In the meantime the County, like other public entities in California with large UAALs, faces the prospect of only very modest pension cost relief for the foreseeable future if no other pension reform steps are taken.

What is the legal problem? Unlike the rules governing private company pensions and the rules governing public employee pensions in most states, the California Supreme Court has issued rulings that severely restrict the ability of the County to make changes to benefits not yet earned under its pension plans. In a 1947 case, Kern vs. Long Beach, the Court ruled that public employers offering pension benefits to their employees have no right to eliminate the pension benefit to be earned in future work periods for any employees who started work when the pension system was in place. That contrasts with the general rule applicable to private employers. The private employer rule protects only pension benefits already earned on a year-to-year basis, and does not prevent an employer from making changes or even eliminating pension benefits for current employees in future time periods. The Kern court did, however, provide that the public employer "may make modifications and changes in the system. The employee does not have a right to any fixed or definite benefits, but only to a substantial or reasonable pension. There is no inconsistency therefore in holding that he has a vested right to a pension but that the amount, terms, and conditions of the benefits may be altered."

Had the California case law remained as set forth in the Kern case, the County would have retained important tools to manage and adjust its future pension obligations. However, a later Long Beach case, Allen vs. City of Long Beach, decided by the California Supreme Court in 1955, removed these tools. That case held that not only was a public employer prohibited from terminating a pension plan for current employees; it must also assure that any alterations in the pension plan "which result in disadvantage to employees should be accompanied by comparable new advantages." This meant that after the Allen case public employers in California were on a one-way legal elevator that only went up. In contrast to wages and other employee benefits, any pension benefit granted to a current employee could not be reduced in future periods even though such benefits had not yet been earned.

The opinion in the Allen case was very brief and did not provide a clear rationale for its finding that a fully vested contract right to an unalterable pension benefit arises on the very first day on the job by a public employee. Three points distinguish that case from circumstances today. First, the changes to the pension plan at issue in the Allen case were imposed by city ordinance and not by means of collective bargaining. The right of city and county employees to engage in collective bargaining was not enacted until 1968. Second, the changes the city sought to impose in the Allen case made no allowance for protecting pension benefits already earned by employees based on years they had previously worked. Third, in sharp contrast to today's circumstances, there

was no suggestion in the Allen case that the city would have any difficulty in paying for the higher pension benefits the court left in place. The ratio of active employees to retirees was much higher in 1955; pension benefit rates were lower; Proposition 13 restrictions on California public revenues were far in the future; lifespans were shorter and retirements occurred later in life. All of these economic factors made pension costs much more manageable than they are today.

The consequence of the Allen case and subsequent decisions that followed it has been severe from the standpoint of a city or county seeking to reduce its pension costs. Most public agencies in California have taken the view that the vested pension contract right the Court found in the Allen case could not be changed by collective bargaining. That is a questionable assumption since collective bargaining did not exist for public employees at the time the Allen case was decided. The Meyers-Milias-Brown Act was passed in 1968 and since that time has set the legal framework for collective bargaining between public employees and their employers. The Act provides that collective bargaining is to govern "all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment." Certainly, pension benefits are an element of compensation and a term of employment for public employees. It is therefore time to question seriously whether public employers and their labor organizations have been correct to exclude possible reductions in future, unearned pension benefits for current employees from collective bargaining negotiations.

The California Supreme Court based its decision in the Allen case on the protection extended to contract rights under the Contracts Clause of both the California and the U.S. Constitutions. Both Constitutions prohibit California from passing laws that impair contract obligations. Nothing in that prohibition prevents the party to whom the contract obligation is owed from agreeing voluntarily to amend or waive that obligation. Since a pension benefit to be earned in future time periods is clearly a term and condition of employment, the size and terms of that benefit obligation would appear to be a proper subject of collective bargaining under the Meyers-Milias-Brown Act. In such cases, the public employees' bargaining representatives would be authorized to modify and adjust future pension benefits to be earned, as is common and accepted practice in labor-management collective bargaining. A California appellate court in the 1998 case of Public Employees Association vs. City of Fontana emphasized the importance of the collective bargaining system created by the Meyers-Milias-Brown Act. Otherwise, noted the court, the "employer [would be required] to negotiate over working conditions with any number of employees, thereby defeating the Act's goals of ensuring stability in labor management relations and the right of employees to join and be represented by an employee organization."

The Constitutional protection for contract rights does not define how broad a contract right should be implied or found in a particular case. Federal courts would have the final say on whether the U.S. Constitution extends the same protection to future, unearned pension rights that the California Supreme Court found in its Allen decision. It is unlikely

a federal court would have reached the same result that the Allen Court did. A recent opinion by the Chief Bankruptcy Judge in the Eastern District of California, a federal court, had this to say about the California case law on pensions:

“The California Supreme Court has construed the Contracts Clause of the California Constitution to recognize an unusually inflexible ‘vested right’ in public employee pension benefits. In contrast, the United States Supreme Court takes a less rigid view of the extent of a ‘vested right’ in retiree benefits.” Opinion by Chief Judge Klein in the Stockton Bankruptcy Case, February 4, 2015. (Emphasis added.)

The failure to bring pension benefits to the bargaining table has also run counter to the wishes of many employees. In the County’s own experience, at least one bargaining unit was ready to negotiate reductions to future pension benefits not yet earned in exchange for reduced pension contributions and other benefits. However, the County took the legal position that such changes needed to be unanimously approved by all of the unit’s members because of the Allen line of cases. The County has also pursued a proposal with the support of certain of its employee groups that would have allowed individual employees on an optional basis to select a pension plan that had a lower benefit level in exchange for lower pension contributions and higher take-home pay. This proposal did not go forward, however, because of legal issues that arose for such an “optional” program under federal tax law.

7. How much could the County save through a sensible and fair change in California pension law?

A change or clarification to California law confirming that reductions in future, unearned pension benefits are subject to collective bargaining could greatly reduce the County’s enormous pension liabilities. At present, the County’s main tools for reducing pension costs are to hold down salary costs, negotiate greater contributions from employees toward the cost of their pensions, outsource services to the extent permitted under California law, and in extreme situations, lay off or furlough employees. These limited options force hardships on County employees and make it harder for the County to recruit and retain key employees. The peculiar features of the California public pension law have also led to an unusual and unfair situation in which unequal pension benefit scales exist for employees hired before or after January 1, 2013, even though they may be performing the very same jobs.

The savings the County could achieve by negotiating changes to future, not yet earned pension benefits for its employees hired before 2013 could be huge. Yet the reductions in future pension benefits could still preserve for all employees hired before 2013 a “substantial or reasonable pension,” in the words of the Kern case, and protect each employee’s pension benefits already earned. The “substantial or reasonable pension” guarantee for future periods could be based on the benefit rates incorporated into the PEPPRA legislation passed with large bipartisan majorities in the State legislature in 2012. Such a limited change in future benefit rates could still result in very

large financial savings for the County. After consulting with a qualified actuary, here are the savings we understand the County and CCCFPD could achieve each year in their pension costs if they were able through collective bargaining to set pension benefits to be earned by their pre-2013 employees in future time periods at the same rates that apply to their PEPRA employees (including 2% post-retirement COLA increases):

1. For each employee in a "Safety" category (i.e., fire or sheriff) a savings of 29% of pensionable compensation; a total of \$29,169,000 in savings annually based on 2014 payroll figures.
2. For each employee in other categories, a savings of 17% of pensionable compensation; a total of \$69,920,000 in savings annually based on 2014 payroll figures.

Thus, a change or clarification in California law governing future pension benefits for current employees followed by successful negotiations with its employee groups could result in over \$99 Million in annual pension cost savings. The annual potential savings would continue for a period of 18 years, for a theoretical aggregate savings to the County of well over \$1.5 Billion. The actual savings would depend on the rate of retirements and job changes among employees hired before 2013, changes in life expectancy tables, and future salary increases. The actual savings would also depend on the details of the altered pension benefits agreed with employees at the bargaining table. For example, the savings would be lower if the reduced future pension benefits were limited to employees with less than 20 years of service credit. The net savings would also depend, of course, on the amount of wage increases or other benefits negotiated with the employee bargaining units in exchange for the future pension benefit reductions.

Another proposal the County could put forward in such negotiations would be a suspension or elimination of COLA benefits to be earned in future employment periods for both pre-2013 and PEPRA employees. Again, COLA benefits already earned and paid for on a year-to-year basis would be fully preserved. Based on advice from a qualified actuary, a suspension of future COLA benefits would result in annual savings to members and the County of 7.4% a year for Safety employees and 3.6% each year for all other employees. That would mean annual dollar savings for the County based on 2014 salary figures of \$7.4 Million and \$14.8 Million, respectively, for pre-2013 employees alone.

Such pension benefit changes (if implemented through collective bargaining) may be of interest to sizable numbers of the County's employees hired before 2013, particularly younger employees. Many of these employees appear to prefer higher take-home pay rather than a larger, and less certain, pension benefit.

Limiting pension reform for pre-2013 employees to future, not yet earned benefits and assuring them through collective bargaining an opportunity to negotiate minimum future pension benefits linked to PEPRA benefit rates appears to be a sensible and fair path

forward to pension reform. These changes would protect pre-2013 employees' benefits that have already been earned. They would also assure them benefits for future periods (assuming they remain employed by the County) on a par with the benefit schedules approved by the state of California for all employees hired after January 1, 2013. Linking all future pension benefits earned to PEPRA rates would also be an important step in eliminating the benefit differentials that now exist between County employees in the same job classifications. PEPRA employees hired after January 1, 2013 earn smaller pension benefits than do their counterparts hired before that date who may be performing the same work.

8. How can the California legal problem be solved?

There are four avenues open to the County to seek pension reform tied to the collective bargaining rights and protections now guaranteed to public employees.

Legal Reform Through the Initiative Process. One such avenue is for the County to join groups seeking to change the public pension law by means of a state ballot initiative. The initiative would seek to overturn the inflexible rule against reductions in future pension benefits established by the Allen case.

Legal Reform Through "Friend of the Court" Briefs. Another avenue is for the County to file "friend of the court" (also known as "amicus curiae") legal briefs in pending court cases related to California public pension law. Such briefs could urge reconsideration of the Allen case and the line of cases that followed it. These cases have created major difficulties for cities, counties and their employees to deal with the vast pension costs that now confront most public agencies in California.

Amendment to the Meyers-Milias-Brown Act. The County could sponsor clarifying legislation to the Meyers-Milias-Brown Act, stating explicitly that the terms and conditions of employment subject to collective bargaining governed by the Act include pension benefits. The specific clarifying language could be quite simple, such as the following addition to section 3504 of the Act setting forth the authority of a labor organization: "The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, [pension benefits] and other terms and conditions of employment." (New language in brackets).

Commence Collective Bargaining of Future Pension Benefits. The County could simply place changes to future pension benefits for current employees on the collective bargaining table as a proper subject of negotiation. This action could prompt a legal challenge, but the County would be in a position to argue forcefully that the action is consistent with case law emphasizing the importance of the collective bargaining process for public employees in California.

The avenues open to the County for pension legal reform should be explored at the

earliest opportunity, given the enormous costs represented by pension obligations. By taking part at an early stage in a ballot initiative, for example, the County could have some influence in assuring the language of any such initiative is both effective from a financial standpoint and fair to its employees. Otherwise, such a ballot measure could be unfairly focused simply on reducing future pension benefits without fully preserving the collective bargaining rights of its employees. Timely action on pension reform is important in order to avoid more drastic remedies. Addressing the issue now forestalls the risk of a potentially more draconian and less fair remedy being sought in the future once the pension issue reaches an unavoidable and undeniable crisis level. See Appendix, item 4 for a note on possible risks to the County arising from federal Congressional action should reforms in California pension law be unduly delayed.

It would be wise to keep the County's employee groups informed as part of this process, so that they clearly understand the County's intentions in supporting any ballot initiative, amicus brief, or statutory reform action. Any ballot initiative should be drafted so as to require future pension benefit changes to be negotiated with a public entity's labor groups pursuant to existing collective bargaining procedures and duties to negotiate in good faith. To reassure its pre-2013 employees, the County could also seek to include language in any such initiative or otherwise adopt as a County policy a "minimum guarantee"—a guarantee that prospective pension benefit reductions would not fall below a specified minimum. A fair minimum could, as discussed above, be the pension benefits now provided by the County under the PEPRA law to employees joining the pension system after January 1, 2013.

The objective of the ballot initiative coupled with a "minimum guarantee" policy would be to gain for the County the needed legal flexibility to address its huge pension liabilities effectively and fairly. The financial savings could be great while still assuring pre-2013 employees that they would receive future benefit accruals that are no less than those in place for PEPRA employees, and fully protect all benefits already earned at the current rates. The same objectives and minimum guarantee policy could be pursued in any "friend of the court" legal brief filed by the County to persuade the California Supreme Court to revisit its Allen decision and allow cities and counties the flexibility contemplated by the earlier Kern case. The County could also emphasize its minimum guarantee policy as part of any action to seek an amendment to the Meyers-Milias-Brown Act clarifying that changes to future pension benefits for current employees are an authorized issue for collective bargaining.

While there are uncertainties and risks in the legal area in any of the four avenues to reform, there are greater risks and financial costs to the County in doing nothing to address the currently inflexible "vested rights" doctrine of California public pension law. The County could potentially free up nearly \$100 Million a year in resources that could be applied to improved human services, infrastructure repair and replacement, health care and public safety needs, as well as needed wage increases for its employees. The Board of Supervisors should act and move forward now in support of a reform or clarification in public pension law for the benefit of all the County's stakeholders: its

employees; its citizens with particular needs for County services; and of course, its taxpayers.

Conclusion.

The County and CCCFPD face major problems arising from pension and other post-retirement obligations to their employees:

1. Their combined pension and retiree health benefits cost over \$375 Million each year.
2. The percentage of their combined budget taken up by pension costs alone now exceeds 11%; double what it was in 1999.
3. Their outstanding debts for pension and OPEB benefits have reached \$2.6 Billion.
4. Part of this debt is in the form of pension obligation bonds, which must be repaid according to their terms. The remaining debt must be paid through increased contributions to the pension and OPEB funds or from increased investment earnings on those funds.
5. Increased contributions to the pension and OPEB funds must come either from budget cuts, increased revenues, tax increases or some combination of the three. Budget cuts mean service or salary cutbacks, deferred maintenance and postponed capital improvements, and in extreme cases, hiring freezes or job layoffs.

The County has taken important steps to reduce its pension and other retirement expenses, but has not taken an active role in seeking to change the California legal rule that blocks reductions in future, unearned public pension benefits for existing employees. Such a change tied to collective bargaining rights for its employees would be both fair and effective. The change could free up as much as \$100 Million a year for the County and CCCFPD through successful negotiations with their employees. A more flexible California law on future pension benefits offers a way forward for the County to bring its pension and other retirement obligations down to manageable size.

Without added flexibility under California pension law the County will remain shackled to an enormous cost burden but with only limited tools to relieve the pension stress on its financial resources. The remaining tools available to it, wage freezes or reductions, layoffs or higher taxes, lead to what are heavy burdens on the County, its citizens, and its employees. The County has already seen service and staffing cuts, deferred maintenance and delayed system upgrades that have hurt its citizens, imposed hardships on its employees and impacted the quality of life in the County. While we have seen improved economic conditions since 2009, the challenge of pension costs is simply too large a financial problem to expect a solution through improved economic conditions and higher tax revenues. Delaying a direct attack on the California pension law problem risks further years of service cuts, postponements of needed improvement projects for disaster preparedness and other County needs, burdens on employees

arising from understaffing and less than competitive wage rates, and uncertainties for employee retirement security arising from funding gaps in the pension and OPEB funds.

FINDINGS

- F1. The County and CCCFPD currently have unfunded accrued pension and OPEB liabilities that exceed \$2.6 Billion. The cost to the County and CCCFPD to cover these and additional annual pension and OPEB liabilities require payments in excess of \$375 Million each year.
- F2. Pension costs alone now consume over 11% of the combined budgets of the County and CCCFPD. These costs have risen from a percentage slightly under 5% in 2000 and now constitute the largest financial challenge facing the County.
- F3. The cost of pension and OPEB obligations are debts that must be paid before the County can allocate available resources to other needs and services. This has contributed to the “crowding out” of other County services, the deferral of needed building maintenance projects, and the postponement of needed system improvements for the County.
- F4. Pension costs are difficult to manage because they vary directly with the investment results obtained by CCCERA on its pension funds. The County and CCCFPD are at risk each year of having to increase pension payments in the event CCCERA does not achieve its 7.25% assumed rate of investment return on the pension fund.
- F5. The County faces competitive pressures in retaining and recruiting a skilled and professional workforce. This limits its ability to seek greater contributions from its employees to the costs of the pension and OPEB obligations because other counties and cities may not seek the same contributions from their employees.
- F6. The County and CCCFPD have a severe handicap in reducing their pension obligations because of a highly inflexible rule under a long-standing California court precedent that the County believes severely limits their ability to negotiate reductions in future, unearned pension benefit rates with their current employees.
- F7. The County has not taken steps to challenge or change the California legal rule on changes to future pension benefits for existing employees, whether through the initiative process, clarifying legislation, or friend of the court legal briefs.

RECOMMENDATIONS

- R1. The County Board of Supervisors and the Board of Directors of CCCFPD should establish a task force to review all options available to reduce the burden of the

County and CCCFPD's pension obligations, including efforts to bring about a reform in California public pension law. The task force should:

- Confirm with the County's or CCCERA's actuaries what level of potential savings in pension costs could be achieved through negotiations with employees hired before 2013 for reductions in pension benefits for future employment periods.
 - Review with qualified legal counsel what strategies are available to seek a change or clarification in California law to assure changes to future pension benefits for current employees are proper subjects of collective bargaining. Such strategies might include participation in a state ballot initiative, the filing of "friend of court" legal briefs, sponsoring clarifying language for the Meyers-Milius-Brown Act, or including changes to future pension benefits for current employees as a subject for collective bargaining negotiations.
 - Recommend what limits the Boards should establish as a matter of policy on any such reductions in future pension benefits for current employees, such as a minimum benefit tied to PEPPA rates as set forth in this report.
 - Recommend a policy for keeping the County's and CCCFPD's employee groups informed of the Boards' intentions on any strategies for change so as to assure employees that any changes would be subject to collective bargaining and minimums set forth in the Boards' minimum benefit policy.
 - Recommend a policy for keeping County citizens fully informed of the potential costs of any changes in pension benefits negotiated with the County's and CCCFPD's employee groups.
- R2. The task force should be formed within 90 days and be required to report back to the Boards with its recommendations within 90 – 120 days.
- R3. Establish a special web page on the County web site where citizens can easily track by means of a pension "dashboard" the costs and size of the County's and CCCFPD's pension obligations and the progress on its plans to reduce their costs.

APPENDIX

1. Pension Obligation Bonds.

The proceeds of pension obligation bonds (POBs) are invested in the County's pension fund, thereby reducing the amount of the shortfall (the UAAL) in its current pension funding. Depending on market conditions the County may be able to postpone current payments otherwise due on its UAAL obligations if the POB payments do not fall due for some years in the future. That may of course create an incentive simply to postpone a

day of reckoning on the UAALs, because the total amount of the debt (UAAL plus POB) has not changed. However, when such bonds can be sold at interest rates less than the rate the county pension board charges the County for its UAAL obligation, the County is able to save on annual interest charges. It runs the risk, however, of losing money on the investment in the event the pension fund suffers an investment loss after the bond proceeds are transferred to the pension fund. The POBs are debts with a fixed principal amount and must be paid according to a fixed schedule. The UAAL debt, by contrast, is subject to some flexibility under rules set by the actuaries to "smooth out" the UAAL obligation over time. In some respects, then, the use of pension obligation bonds to fund the County's UAAL obligations resembles "margin" investing; i.e., investing with borrowed funds, which can increase gains if successful but also magnify losses if not successful. The County should use them only after careful consideration.

2. Unfunded Pension Fund Liabilities.

Currently, the County's unfunded actuarially accrued pension liability (its UAAL) is \$1.26 Billion. The UAAL would be higher had the County not issued the pension obligation bonds referred to above, which served to reduce the unfunded liability, at the cost of additional debt on the County's balance sheet. The UAAL obligation means the County is currently required to pay into the pension fund an additional 17.5% of each non-safety employee's compensation and 51.3% of each safety employee's compensation each year (\$125.6 Million in total) to make up the pension fund deficit. Further, the County faces the risk, particularly after five years of rising stock markets since the financial meltdown of 2009, of seeing the UAAL contribution increase should the pension fund fail to achieve a 7.25% return in 2015 or 2016. Specifically, a slip of only 1% in the assumed return (i.e., a gain of only 6.25 % instead of 7.25%) would create an additional County debt of 9.5% of payroll (\$52 Million) to CCCERA. A slip of 10% (i.e., a loss of 2.75% instead of the assumed 7.25% gain) would create an additional debt to CCCERA of 95% of payroll (\$520 Million).

In each of these cases the County would not be required to pay or recognize the debt in one year. Under CCCERA actuarial rules, the loss would be spread over five years, thereby reducing the amount of the loss that would be recognized in the first year. The adjusted or "smoothed" debt would be paid in installments over 18 years. Any loss remaining after the smoothing adjustment would raise annual pension contributions by 0.7% of payroll for each 1% slip in return below 7.25%. That is, an annual increase of \$3,847,000 if the smoothed debt remained at \$52 Million and an annual increase of \$38,470,000 if the smoothed debt remained at \$520 Million.

While in theory such losses should be balanced over time by returns in excess of the assumed 7.25% per annum, we question whether the 7.25% assumed rate of return is in fact realistic. The County's actual rate of return on its pension assets over the past ten years has been 6.89%, rather than 7.25%. The 6.89% figure included returns starting from a lower base after the massive losses incurred in 2008. It therefore is not an accurate measure of the compounded annual return on a dollar invested in 2005.

The compounded annual return would be lower. Further, the County's current UAAL, based on what may be an optimistic 7.25% assumption, totals approximately \$1.26 Billion. Accordingly, the County faces a long period of already large and growing retirement costs with substantial risks of unforeseen further cost increases. Such increases could arise in any year arising from drops in the investment returns on its pension funds, a likely prospect given experience that shows stock markets do not increase for indefinite periods. They also drop.

3. Pension Fund Rate of Return Assumptions.

Using a higher rate of return assumption for the pension fund means that the County and its members would be charged a lower "annual required contribution" to fund the pension benefit. In CCCERA's case, for example, the County and the members would reduce their regular contributions by an amount equal to 2% of pay for each 1% increase in the rate of return assumption. This is one of the reasons a strong temptation exists on the part of employers and employees to set overly optimistic assumptions for pension fund rates of return. A higher rate of return assumption would keep contribution rates lower for both the County and its employees, reducing the strain on both the County's and the employee's budget. The downside for the County, however, is that when returns fail to meet the assumed rate, the County will incur an additional UAAL debt, as calculated by the actuaries.

If the pension fund fails to meet the assumed rate of return in any year, it must make up the difference from one of two sources: drawing on reserves established in prior years when the returns exceeded the target rate or assessing the County for an additional contribution to make up the difference. The County is obligated to pay an additional amount each year to retire this liability over a period of 18 years. Other pension plans, including CALPERS, have longer periods, thereby taking on additional risk that the UAAL will not be fully funded by the time it is needed.

As noted in the text of the report, CALPERS charges its employee members a lower pension contribution rate for a like pension offered to a CCCERA employee member. From the employee's standpoint, it is clearly more attractive to have the higher take-home pay in the CALPERS plan because any shortfall in the pension funding will have to be made up by the employer and not by the employee. That assumes the employer manages to stay solvent and avoid the complete fiscal downfall that hit Stockton, Vallejo, and Detroit, putting them into bankruptcy. In that dire situation, employees should be very glad of the prudent financial management that protected their pension benefits.

4. Federal Funding Issues.

The peculiar features of California law related to pensions compared to the rest of the country bring added urgency to resolving the issue. California is one of a minority of states that prohibit reductions in future, unearned pension benefits. The California rule

also differs from the pension rules governing private employers set forth in the federal Employee Retirement Income Security Act (ERISA) legislation passed in 1974. Congress, which has shown increasing willingness in its “sequestration” and other legislation to cut back federal funding of state programs it views as excessive may turn its attention to the cost implications of the peculiar California protections for future pension benefits. Any pension-related restrictions the Congress might impose on federal funding streams for state and county programs could have a major impact on the County. Approximately 45.9% of its funding streams are from state and federal sources. Such funding typically pays the full cost of pension benefits (including full UAAL charges) of employees engaged in such programs. Federal funding restrictions tied to caps based on pension plan rules more generally followed in the country as opposed to the much more costly rule in California would have very serious financial consequences for the County.

SOURCES AND REFERENCE MATERIALS

For purposes of this report the Grand Jury interviewed or met with 13 different County, city, state, CCCERA, and employee organization officials or representatives who had responsibility for certain aspects of pension and retirement benefit issues. We reviewed a number of relevant reports and articles, including the following:

1. The County Consolidated Annual Financial Reports for Fiscal Years ended June 30, 2014 and June 30, 2013.
2. The County’s Recommended Budget for Fiscal Year 2014-2015.
3. The CCCERA Actuarial Valuation and Review as of December 31, 2013, prepared by its actuary, Segal Consulting.
4. Task Force Report to the Finance Committee on Other Post Employment Benefits Challenge, dated March 1, 2007; Report to the County Board of Supervisors dated September 25, 2007 transmitting Task Force Report on OPEB Strategic Plan.
5. Little Hoover Commission, report entitled “Public Pensions for Retirement Security,” published in February, 2011.

We also reviewed a number of California reported legal cases on pension or employee benefit issues, including those cited in the text of our report. These are the full case citations for the cases mentioned in our report:

1. Kern vs. City of Long Beach, 29 Cal.2d 848 (1947).
2. Allen vs. City of Long Beach, 45 Cal.2d 128 (1955).
3. San Bernardino Public Employees Association v. City of Fontana, 67 Cal. App. 4th 1215 (1998).
4. In re City of Stockton, California, Debtor; US Bankruptcy Court, Eastern District of California; Case No. 12-32118-C-9; Decision Filed February 27, 2015.

The words quoted from Warren Buffett in the Background section were from his prophetic memorandum dated October 14, 1975 to Katharine Graham, the then publisher of the Washington Post. It was included as an exhibit to the 2013 Annual Report of Berkshire Hathaway Inc. and can be found at the following link:
<http://www.berkshirehathaway.com/reports.html>.

The chart on page five of the report is from the County's Recommended Budget for Fiscal Year 2014 – 2015. The projected expenses shown in that chart assume the County is able to fill all of its vacant positions and that CCCERA earns at least 7.25% each year on its invested pension funds. Expenses will decrease if the vacant positions are not filled and will increase if the projected 7.25% return is not achieved each year.

The text of the Meyers-Milias-Brown Act can be found at California Government Code, sections 3500 – 3511.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Board of Supervisors	1-7	1-3
Board of Directors for the CCCFPD	1,2,4,6	1-3

BOARD OF SUPERVISORS AND BOARD OF DIRECTORS OF THE CCCFPD RESPONSE TO CONTRA COSTA COUNTY GRAND JURY REPORT 1503:

Time for a new Look at Pension Costs

Findings:

- F1. The County and CCCFPD currently have unfunded accrued pension and OPEB liabilities that exceed \$2.6 Billion. The cost to the County and CCCFPD to cover these and additional annual pension and OPEB liabilities require payments in excess of \$375 Million each year.

Response: The respondents agree with the finding.

- F2. Pension costs alone now consume over 11% of the combined budgets of the County and CCCFPD. These costs have risen from a percentage slightly under 5% in 2000 and now constitute the largest financial challenge facing the County.

Response: The respondents partially disagree with the finding. Although pension costs are large, the largest financial challenge facing the County is the issue of balancing the cost of salaries and benefits as components of total compensation to attract and retain employees.

- F3. The cost of pension and OPEB obligations are debts that must be paid before the County can allocate available resources to other needs and services. This has contributed to the "crowding out" of other County services, the deferral of needed building maintenance projects, and the postponement of needed system improvements for the County.

Response: The respondent partially disagrees with the finding. Other Post Employment Benefits (OPEB) liabilities are not 'debts'. Unlike pension liabilities, OPEB liabilities can be reduced rather than paid. In 2006, the County's OPEB liability was in excess of \$2.6 billion. The liability is currently under \$1 billion and was reduced by reducing the benefit, not paying the liability.

- F4. Pension costs are difficult to manage because they vary directly with the investment results obtained by CCCERA on its pension funds. The County and CCCFPD are at risk each year of having to increase pension payments in the event CCCERA does not achieve its 7.25% assumed rate of investment return on the pension fund.

Response: The respondents agree with the finding.

- F5. The County faces competitive pressures in retaining and recruiting a skilled and professional workforce. This limits its ability to seek greater contributions from its employees to the costs of the pension and OPEB obligations because other counties and cities may not seek the same contributions from their employees.

Response: The respondent agrees with the finding.

F6. The County and CCCFPD have a severe handicap in reducing their pension obligations because of a highly inflexible rule under a long-standing California court precedent that the County believes severely limits their ability to negotiate reductions in future, unearned pension benefit rates with their current employees.

Response: The respondents agree with the finding.

F7. The County has not taken steps to challenge or change the California legal rule on changes to future pension benefits for existing employees, whether through the initiative process, clarifying legislation, or friend of the court legal briefs.

Response: The respondent agrees with the finding.

Recommendations:

R1. The County Board of Supervisors and the Board of Directors of CCCFPD should establish a task force to review all options available to reduce the burden of the County and CCCFPD's pension obligations, including efforts to bring about a reform in California public pension law. The task force should:

- Confirm with the County's or CCCERA's actuaries what level of potential savings in pension costs could be achieved through negotiations with employees hired before 2013 for reductions in pension benefits for future employment periods.
- Review with qualified legal counsel what strategies are available to seek a change or clarification in California law to assure changes to future pension benefits for current employees are proper subjects of collective bargaining. Such strategies might include participation in a state ballot initiative, the filing of "friend of court" legal briefs, sponsoring clarifying language for the Meyers-Milias-Brown Act, or including changes to future pension benefits for current employees as a subject for collective bargaining negotiations.
- Recommend what limits the Boards should establish as a matter of policy on any such reductions in future pension benefits for current employees, such as a minimum benefit tied to PEPRA rates as set forth in this report.
- Recommend a policy for keeping the County's and CCCFPD's employee groups informed of the Boards' intentions on any strategies for change so as to assure employees that any changes would be subject to collective bargaining and minimums set forth in the Boards' minimum benefit policy.
- Recommend a policy for keeping County citizens fully informed of the potential costs of any changes in pension benefits negotiated with the County's and CCCFPD's employee groups.

Response: The recommendation will not be implemented at this time. Although neither the County nor the District are opposed to such a mission, the County and Fire District are

currently in negotiations with the majority of bargaining groups to restructure delivery of healthcare to employees. It is reasonable to believe that the result will impact competitive pressures in retaining and recruiting a skilled and professional workforce. Additionally, the District is in the midst of a significant restructuring of delivery of ambulance services. Neither the County nor the Fire District are currently in an administrative position to take on such an undertaking.

- R2. The task force should be formed within 90 days and be required to report back to the Boards with its recommendations within 90–120 days.

Response: The recommendation will not be implemented. See response to recommendation R1.

- R3. Establish a special web page on the County web site where citizens can easily track by means of a pension "dashboard" the costs and size of the County's and CCCFPD's pension obligations and the progress on its plans to reduce their costs.

Response: The recommendation will not be implemented at this time. The County and District's Budget and CCCERA's web sites include annual updates of pension obligation and funding process. The obligation changes are calculated annually, which does not warrant a web page "dashboard", which is more suited for launching applications quickly for items that change often such as a stock ticker or weather report. The County's current pension information page is three clicks from the main menu and CCCERA's is two clicks from the main menu. Should the County and/or District undertake an effort to reform California public pension law in the future, such a "dashboard" could be utilized to keep employees and the public apprised of the progress on its plans to reduce costs.

Calpensions

CalPERS, CalSTRS and other government pensions

Pension initiative ballot summary draws crossfire

The authors of an initiative giving voters the power to decide whether new government employees get pensions said they will “commission a legal review” of the ballot summary issued yesterday by Attorney General Kamala Harris.

Two previous pension reform initiatives were dropped after sponsors said Harris gave them ballot titles and summaries that were inaccurate and misleading, making voter approval unlikely.

The authors of *the new initiative* (<http://carldemaio.com/sites/default/files/Pension%20Initiative%206-2-15.pdf>), former San Jose Mayor Chuck Reed and former San Diego City Councilman Carl DeMaio, said “politicians and union bosses” opposing the initiative “continue to try to mislead the public on what the initiative does.”

But a news release from the two leaders of a bipartisan group backing the new initiative, which is aimed at the November ballot next year, did not cite a specific problem with the Harris summary of the initiative.

The initiative leaders previously have said they intended to file the initiative early to allow time for a legal challenge of the title and summary, if needed. Polling to see how the title and summary is received by voters also has been mentioned.

“Reed and DeMaio noted that the next step in their campaign will be to commission a legal review (of) the ballot measure ‘Title and Summary’ concocted by state politicians,” said their news release. “Once that review is completed, DeMaio and Reed will kick off their signature drive to qualify the measure.”

A coalition of public employee unions opposed to the initiative gave Harris, who is running for the U.S. Senate next year, some claim to the middle ground on her ballot summary by drawing fire from both sides.

“We strongly disagree with the attorney general’s elimination of the specific mention of teachers, nurses, police and firefighters in the title and summary,” Dave Low, chairman of Californians for Retirement Security, said in a news release. “They are the bulk of the public servants whose retirement security and death and disability benefits would be abolished by this heavy-handed measure.”

The elimination of death and disability benefits was used in television ads a decade ago that helped persuade former Gov. Arnold Schwarzenegger to drop his support for a measure to switch new state and local government employees to 401(k)-style plans.

In an apparent response, the new initiative says it shall not be “interpreted to modify or limit any disability benefits provided for government employees or death benefits for families.”



(<https://calpensions.files.wordpress.com/2015/08/harris.jpg>)

Kamala Harris

Reed dropped a different

pension reform initiative last year after losing a court battle to change a Harris ballot summary. One of his complaints was that the summary “singles out a few specific public occupations” held in high regard by voters.

The first sentence of the initiative summary last year: “Eliminates constitutional protections for vested pension and retiree healthcare benefits for current public employees, including teachers, nurses, and peace officers, for future work performed.”

Low’s complaint is that the occupations are not specific in the first sentence of the initiative summary this year: “Eliminates constitutional protections for vested pension and retiree healthcare benefits for current public employees, including those working in K-12 schools, higher education, hospitals, and police protection, for future work performed.”

But the new Harris summary repeats what once again may be the main issue. Another of Reed’s complaints last year was that the summary incorrectly said the initiative eliminates the vested pension rights of current workers.

A superior court judge found that the initiative summary was not “false and misleading,” ruling that the previous Reed initiative was an attempt to overturn the “California rule.”

The rule results from a series of state court decisions widely believed to mean that the pension offered on the date of hire becomes a vested right, protected by contract law, that can only be cut if offset by a comparable new benefit.

And it may be important to voters. A labor polling firm found that “California voters reject the idea of reducing or eliminating retirement benefits for current public employees,” calling it a “visceral negative response,” the *Sacramento Bee* reported (<http://www.sacbee.com/news/politics-government/the-state-worker/article2586853.html>).

Most pension reforms are limited to new hires, which takes years to yield savings. Cutting pensions earned by current workers in the future gets immediate savings, urgently sought by reformers who say pensions are taking money needed for other programs.

Reed and the union coalition *have already clashed* (<http://calpensions.com/2015/07/13/unions-say-initiative-allows-future-pension-cuts/>) over whether the new initiative would allow voters to reduce or eliminate pensions earned by current workers in the future, while protecting pensions already earned.

Reed has argued that the new initiative is not intended to overturn the California rule. The union coalition disagrees, pointing to a provision that gives voters the right to determine the “compensation and retirement benefits” of government employees.

The official analysis of the new initiative sent to Harris by nonpartisan Legislative Analyst Mac Taylor and Brown’s finance director, Michael Cohen, said the issue is unclear and could end up in the courts.

“Many of the measure’s provisions could be subject to a variety of legal challenges,” said their initiative analysis. “For instance, it is not clear to what extent allowing voters to use the power of initiative or referendum to determine elements of compensation for existing employees would change governmental employers’ contractual obligations under the California rule.”

The new initiative, the “Voter Empowerment Act of 2016,” would require voter approval of pensions for new state and local government employees hired on or after Jan. 1, 2019.

Some of the other provisions in the initiative require voter approval of a government employer paying more than half the cost of retirement benefits for new employees and voter approval of any pension increase for current employees.

“Costly government pension deals are devastating our public services — and this simple initiative gives voters the ability to stop sweetheart and unsustainable pension deals that politicians concoct behind closed doors with union bosses,” said the Reed-DeMaio news release.

“That’s why the politicians and union bosses oppose this initiative — and why they continue to try to mislead the public on what the initiative does. Despite their attempts to mislead, we are very confident the voters will understand the plain English requirements of this measure and overwhelmingly pass it in November 2016.”

Low’s news release said: “While the (Harris) statement accurately reflects that this Tea Party-backed measure is a back-door way of repealing constitutionally-vested and promised rights to retirement security and health care and breaks contracts negotiated through collective bargaining, it falls far short of describing the chaos and uncertainty that would occur if it were to pass, including the undermining of the financial stability of the state’s major retirement systems.

“The measure also purports to protect death and disability, but contradicts itself by repealing the very structure on which these benefits are provided for police, firefighters and other public workers. This type of extreme measure will be unacceptable to California voters and is doomed to fail.”

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

PUBLIC EMPLOYEES. PENSION AND RETIREE HEALTHCARE BENEFITS.

INITIATIVE CONSTITUTIONAL AMENDMENT. Eliminates constitutional protections

for vested pension and retiree healthcare benefits for current public employees, including those

working in K-12 schools, higher education, hospitals, and police protection, for future work

performed. Adds initiative/referendum powers to Constitution, for determining public employee

compensation and retirement benefits. Bars government employers from enrolling new

employees in defined benefit plans, paying more than one-half cost of new employees'

retirement benefits, or enhancing retirement benefits, unless first approved by voters. Limits

placement of financial conditions upon government employers closing defined benefit plans to

new employees. Summary of estimate by Legislative Analyst and Director of Finance of fiscal

impact on state and local government: **Significant effects—savings and costs—on state and**

local governments relating to compensation for governmental employees. The magnitude

and timing of these effects would depend heavily on future decisions made by voters,

governmental employers, and the courts. (15-0033.)

(<https://calpensions.files.wordpress.com>

[/2015/08/ts1.png](#))

Attorney general's title and summary of proposed pension initiative

Reporter Ed Mendel covered the Capitol in Sacramento for nearly three decades, most recently for the San Diego Union-Tribune. More stories are at Calpensions.com. Posted 12 Aug 15

This entry was posted on August 12, 2015 at 7:29 am and is filed under [Initiative](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can skip to the end and leave a response. Pinging is currently not allowed.

One Response to “Pension initiative ballot summary draws crossfire”

Tough Love Says:

August 13, 2015 at 11:35 pm

At the very least in the 1-st sentence, the LAST 4 words “for future work performed” SHOULD HAVE followed the FIRST word “Eliminates”.

I believe that this placement was intentional, not just poor sentence construction.

Mr. Reed should, along with other issues he finds misleading, try to have a Judge order the correction noted.

Voter Empowerment Act of 2016

SECTION 1. TITLE.

This measure shall be known and may be cited as “The Voter Empowerment Act of 2016.”

SECTION 2. STATEMENT OF FINDINGS AND PURPOSE.

- (a) Government has an obligation to provide essential services that protect the safety, health, welfare, and quality of life enjoyed by all Californians. Unfortunately, state and local governments face a severe financial crisis due to unsustainable compensation and retirement benefits granted to government employees by state and local politicians. Without reform, California taxpayers face a future of a massive public debt requiring the elimination or reduction of even basic essential services.
- (b) Almost all of these disastrous financial decisions were made without the approval or consent of the voters.
- (c) State and local politicians, government agencies, and courts have blocked common-sense efforts to address this financial crisis. Consequently, the need to empower voters and clarify their rights with respect to compensation and retirement benefits for government employees is a matter of statewide concern.
- (d) Therefore, the people hereby amend the Constitution to reserve to themselves the power to approve or reject compensation and retirement benefits of government employees.

SECTION 3. ARTICLE XVI of the California State Constitution is amended to add the following section:

Sec. 23 Notwithstanding any other provision of this Constitution or any other law:

- a) Voters have the right to use the power of initiative or referendum provided in Article II, to determine the amount of and manner in which compensation and retirement benefits are provided to employees of a government employer.
- b) Government employers shall not enhance the pension benefits of any employee in a defined benefit pension plan unless the voters of that jurisdiction approve that enhancement.

- c) Government employers shall not allow new government employees to enroll in a defined benefit pension plan unless the voters of that jurisdiction approve enrollment in such a plan for new employees.
- d) Government employers shall not pay more than one-half of the total cost, including unfunded liability costs, of retirement benefits for new government employees unless the voters of that jurisdiction have approved paying that higher amount for such new employees.
- e) Government agencies and retirement boards must fully and faithfully implement voter approved initiatives that affect government employee compensation and retirement benefits approved by voters, whether placed on the ballot by a government agency or by voters.
- f) Challenges to the legality or application of an initiative and referendum affecting government employee compensation and retirement benefits may only be brought in the courts of California exercising judicial power as provided in Article VI or in the courts of the United States.
- g) Retirement boards shall not impose termination fees, accelerate payments on existing debt, or impose other financial conditions against a government employer that proposes to close a defined benefit pension plan to new members, unless voters of that jurisdiction or the sponsoring government employer approve the fees, accelerated payment, or financial conditions.
- h) Nothing in this section shall alter any provisions of a labor agreement in effect as of the effective date of this Act, but this Section shall apply to any successor labor agreement, renewal or extension entered into after the effective date of this Act.
- i) Nothing in this section shall be interpreted to modify or limit any disability benefits provided for government employees or death benefits for families of government employees, even if those benefits are provided as part of a retirement benefits system. Nothing in this section shall be interpreted to require voter approval for death or disability benefits.
- j) Nothing in this section shall be interpreted to reduce the retirement benefits earned by government employees for work performed.
- k) For the purpose of this section, the following definitions shall be applied:
 - 1) A “new government employee” means an employee hired by a government employer commencing on or after January 1, 2019, regardless of any prior employment status with that or any other government employer. An employee on disability leave from a government employer on January 1, 2019 shall not be

considered a new employee if he or she subsequently return to that same government employer.

2) "Government employer" means the state, or a political subdivision of the state including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, special districts, boards, commissions, the Regents of the University of California, California State University, and agencies thereof.

3) A "defined benefit pension plan" means a plan that provides lifetime payments to retirees and survivors based upon a formula using factors such as age, length of service and final compensation.

4) "Retirement benefits" includes defined benefit pension plans, defined contribution plans, retiree healthcare plans, or any form of deferred compensation offered by government employers.

5) A "benefit enhancement" means any change in a defined benefit pension plan that increases the value of an employee's benefit including, but not limited to, increasing a benefit formula, increasing the rate of cost of living adjustments, expanding the categories of pay included in pension calculations, reducing a vesting period, lowering the eligible retirement age, or otherwise providing an economic advantage for government employees in a defined benefit plan, except for the disability component of any defined benefit plan.

Section 5. General Provisions

a) This Act is intended to be comprehensive. It is the intent of the People that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

b) If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

c) This Act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate its purposes.

d) Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in his or her absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, and on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The fees and costs of defending the action shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

5.

Meeting Date: 10/01/2015
Subject: End of Session Legislative Wrap-up
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2015-18
Referral Name: End of Session Legislative Wrap-up
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Legislation Committee regularly receives a report that recaps legislation of interest to counties at the end of each legislative session. This report includes information provided by the California State Association of Counties (CSAC) as well as the Urban Counties Caucus (UCC), of which Contra Costa County is a member.

Referral Update:

The Legislature adjourned at Midnight on September 11. The following are highlights from the final days of the 2015 session in addition to key achievements this year. The Governor has until October 11, 2015, to take action on all bills on his desk.

End-of-session legislative highlights of importance to counties include:

- **Marijuana Regulation:** Three medical marijuana regulatory bills (SB 643-McGuire; AB 266-Bonta; and AB 243-Wood) made their way through the Legislature on the last night of session. While these measures were not perfect, they did include many aspects that county organizations requested, including various local control protections, explicit county taxation authority, mechanisms for funding environmental clean-up, employer protections for workplace use of medical marijuana, and a strict licensure scheme involving a requirement for both a state and local licenses, with a local license being required first. These bills were packaged together and the passed by the Legislature in the final hours of session.
- **Local Governance Authority Maintained:** SCA 8 (Mendoza) sought to increase the number of supervisors in the most populous counties, following statewide voter approval. CSAC successfully lobbied against this measure as it was taken up in the final hours of session. CSAC opposed SCA 8 due to the significant new cost pressures on counties and loss of local control. *The measure failed passage in the first house.*
- **Local Government Finance and RDA:** SB 107 (Budget Committee) was the final iteration of a redevelopment agency dissolution proposal that represented a compromise between the Administration and the Assembly leadership. This bill was very similar to CSAC supported AB 113 that included several key local government finance clean-up provisions for specific

counties including ending negative bailout, correcting tax equity allocations, and forgiving ERAF calculation errors. SB 107 was signed by the Governor.

- **Medicaid Waiver: SB 36** (Hernandez) was passed after a unanimous vote on the Senate Floor in the waning hours of the session. Originally a vehicle for authorizing the terms and conditions of a new Section 1115 Medicaid public hospital waiver, it was amended to allow the state to request extensions of the existing Bridge to Reform Waiver since negotiations on the new waiver have not yet concluded. CSAC supported this bill.
- **Continuum of Care Reform: AB 403** (Stone) was passed by the Assembly today to concur in Senate amendments and was sent to the Governor. The bill is a landmark piece of legislation regarding the Administration's Continuum of Care Reform effort to revamp the State's foster youth group home system. CSAC worked with county affiliates and the Department of Social Services to add clarity to the bill. However, it remains a work in progress and the implementation phase – which will take years – will begin this fall. CSAC maintained a Support in Concept position.
- **Climate Change: SB 350** (de León) passed in the final hours of the Legislative Session and is expected to be signed by the Governor. The measure will enact the Clean Energy and Pollution Reduction Act of 2015 which establishes targets to increase retail sales of renewable electricity to 50% by 2030 and double the energy efficiency savings in electricity and natural gas uses by 2030. The bill was amended earlier this week to strip the provision that would have established a statewide goal to codify the Governor's Executive Order to reduce greenhouse gas emissions by reducing the state's petroleum use from cars by 50 percent. Despite SB 350 passing, the Legislature failed to pass an expenditure plan for cap and trade revenues for FY 15-16.
- **Groundwater: SB 226** (Pavley) and **AB 1390** (Alejo) both won final approval in the Legislature and are aimed at improving the groundwater basin adjudication process. SB 226 now includes related and necessary changes to the Sustainable Groundwater Management Act (SGMA) and provides for state intervention in groundwater adjudications. AB 1390 addresses all the procedural aspects of an accelerated adjudication process. CSAC and RCRC were opposed to SB 226 and AB 1390 but succeeded in obtaining amendments to both bills that resulted in the two organizations removing their opposition.
- **Drone Liability: SB 168** (Gaines) was a last minute bill that moved quickly through the legislative process that would provide immunity for first responders who damage a civilian drone directly interfering with ambulance services, firefighting-related services, and search and rescue operations. CSAC partnered with UCC and the League of Ca. Cities to support this measure.
- **Collective Bargaining:** CSAC was instrumental in blocking a last minute attempt by unions to introduce legislation that would mandate union representative participation in new employee orientations. The bill would have required immediate reopening of collective bargaining agreements and was a purported preemption to the *Friedrichs v. California Teachers Association* decision by the United States Supreme Court. That ruling could affect a union's collection of "fair share" from employees.
- **Open Data: SB 272** (Hertzberg) CSAC worked diligently with Senator Bob Hertzberg on his open data legislation, SB 272. After several rounds of amendments, CSAC and a broad coalition were able to remove opposition to the bill, which requires local government agencies to create catalogs of the information systems used to manage data and make that information available to the public under the California Public Records Act.

More Work to Be Done: There were a number of significant issues of importance to counties that unfortunately failed to receive the two-thirds vote necessary for passage. Those include an

elusive transportation funding package, a managed care organization (MCO) tax and a Proposition 218 amendment to allow local governments to impose fees for storm water and flood control. Although the Governor called special sessions to tackle both transportation funding shortfalls for the state and local systems and the MCO tax, and despite some last minute negotiations, a compromise was not reached on either issue. Both special sessions are expected to remain open and conference committees were formed to allow for further discussions after the regular session ends. Many believe that a vote on these revenue issues must occur before the end of this year in order to occur at all because of the difficulty of securing tax votes during an election year (2016).

Recently, Speaker Toni Atkins and Senate President pro Tempore Kevin de León announced the appointment of legislators to serve on conference committees formed in the transportation infrastructure and health care special sessions. Readers will recall that while the Legislature could not reach agreement on an extension of the Managed Care Organization tax or new funding for transportation infrastructure during the last week of the regular session, both houses took procedural votes to facilitate the formation of conference committees to continue working on these issues in the special sessions.

In the transportation special session, the Senate appointed Senators Beall (D-San Jose), Leyva (D-Chino), Allen (D-Santa Monica), Cannella (R-Ceres), and Gaines (R-Roseville) to the conference committee. On the Assembly side, the representatives will be Assembly Members Gomez (D-Northeast Los Angeles), Burke (D-Inglewood), Melendrez (R-Lake Elsinore), Mullin (D-South San Francisco), and Obernolte (R-Big Bear Lake). Beall and Gomez will serve as co-chairs. While the timing of any action by the conference committee is unclear, an initial hearing may be held toward the beginning of October.

In the health care special session, Senator Hernandez (D-West Covina) will serve as co-chair. The Senate also appointed Senators Leno (D-San Francisco), Mitchell (D-Culver City) and Nielsen (R-Gerber), leaving one Republican vacancy to be filled. However, unlike the transportation special session, the Assembly did not announce their conference committee appointees for the health care special session.

State Budget: As the Legislature gavelled to close, state revenues continue to surge above adopted budget estimates in the start of the 2015-16 fiscal year. All three main state revenue sources – personal income tax, sales and use tax, and corporation tax revenue – show strong returns that are 5% above anticipated revenues for this time of year. The Administration is already working to develop the Governor's 2016-17 Budget proposal, which will be released by January 10, 2016.

Looking back to the 2015-16 Budget, counties did well in some significant areas, including full repayment of the pre-2004 mandate debt owed to local governments and the first payment in lieu of taxes (PILT) funds made in twenty years. A total of \$765 million in pre-2004 mandate debt will be repaid statewide to local agencies by the end of the 2015, with approximately \$533 million going to counties for services already rendered. Payments on the principle were distributed earlier this summer and final interest payments are slated for October 2, 2015. In addition, \$9.6 million in Public Records Act mandate reimbursement was included in the budget for local agencies statewide. Further, a number of additional funding priorities were secured as part of the \$115 billion adopted state budget including nearly \$245 million for county administration of the Medi-Cal program and the creation of a new Earned Income Tax Credit for the poorest Californians.

The bills that the Urban Counties Caucus has been actively engaged with are included in *Attachment A*. The bills that Contra Costa County has been tracking and advocating on are included in a subsequent agenda item.

Recommendation(s)/Next Step(s):

ACCEPT the report on legislative highlights from the past legislative session and provide direction to staff, as needed.

Attachments

Attachment A: UCC Bill List

UCC Bill List – 2015
Updated September 18, 2015

AB 45 (Mullin) – Household Hazardous Waste

This bill would require each jurisdiction that provides for the residential collection and disposal of solid waste to increase the collection and diversion of household hazardous waste in its service area on or before July 20, 2020 by 15% over a baseline amount to be determined in accordance with regulations.

UCC Position: Oppose.

Status: Held in the Assembly Appropriations Committee – 2-year bill.

AB 57 (Quirk) – Telecommunications

This bill would provide that a sitting application for a wireless telecommunications facility is deemed approved, if the city or county fails to approve or disapprove the application within the time periods established by the commission and all required public notices have been provided regarding the application.

UCC Position: Oppose

Status: Enrolled.

AB 193 (Maienschein) – Mental Health: Conservatorship Hearings

This bill would authorize the Probate Court to recommend a Lanterman-Petris-Short Act (LPS) conservatorship to a county conservatorship officer and compel that officer to submit a report to the Probate Court within 30 days.

UCC Position: Oppose.

Status: Enrolled.

AB 243 (Wood) – Medical Marijuana

This bill would make changes regarding medical marijuana cultivation including environmental protections, local and state licensing provisions, creating a state grant program, and defining cannabis as an agricultural product. Part of a three-bill package.

UCC Position: Support.

Status: Enrolled.

AB 247 (Waldron) – Animal Control Officers

This bill would require animal control officers to complete a course in the exercise of powers of arrest as well as require continuing education requirements.

UCC Position: Oppose Unless Amended.

Status: Held in the Assembly Appropriations Committee – 2 year bill.

AB 259 (Dababneh) – Personal Information: privacy

This bill would require a public agency that is the source of a data breach to provide at least 12 months of appropriate identity theft protection and mitigation services at no cost to the consumer if the breach exposed, or may have exposed a person's name in combination with a social security number or driver's license number.

UCC Position: Oppose Unless Amended.

Status: Held in the Senate Appropriations Committee – 2 year bill.

AB 266 (Bonta) – Medical Cannabis

This bill would create the Bureau of Medical Marijuana within the Department of Consumer Affairs which would be the lead agency to oversee medical marijuana regulation with other state departments having designated responsibilities. This bill would establish licensing provisions by requiring a local license or permit and then a state license in order to operate. This bill includes local control provisions including the ability of counties to regulate, license, and enforce medical cannabis; drug free workplace provisions; licensing framework including limitations on the number of licenses; testing and labeling of various cannabis products; and the elimination of the cooperative model.

UCC Status: Support.

Status: Enrolled.

AB 280 (Brown) – Small Claims Court: Jurisdiction

This bill would raise the limit of small claims that a local government may submit to small claims from \$5,000 to 10,000. This bill would also eliminate the provision relating to the transfer of small claims actions where the opposing party is represented by counsel.

UCC Position: Support.

Status: Pending in the Assembly Judiciary Committee – 2 year bill.

AB 363 (Steinorth) – Ballot processing

This bill would allow county election officials to begin transporting ballots from polling places to the designated counting place prior to the polls closing.

UCC Position: Support.

Status: Enrolled.

AB 547 (Gonzalez) – Elections: Special Elections: all-mailed ballot elections

This bill would allow San Diego County or any local agency in the county to conduct a special election to fill a congressional or legislative vacancy by mail under certain conditions.

UCC Position: Support.

Status: Enrolled.

AB 823 (Bigelow) – Counties: Ordinances

This bill would make changes to the requirements for county Boards of Supervisors to provide notice of ordinances for public inspection.

UCC Position: Support.

Status: Signed, Chapter Ch. 39.

AB 851 (Mayes) – Local Government: organization: disincorporations

This bill would establish procedures for a disincorporation, which includes the city providing a written statement which certifies information regarding its indebtedness and revenues available, and provides procedures for the successor agency including land use guidelines, financial responsibilities, and other governmental procedures to ensure an orderly transition of services and responsibilities.

UCC Position: Support.

Status: Enrolled.

AB 879 (Burke) – Juveniles: Court proceedings notices

This bill would allow counties, the courts, and individuals to opt-in to an electronic notice system for notices of scheduled court hearings.

UCC Position: Support

Status: Signed, Chapter 219.

AB 971 (Chang) – Payment of Expenses

This bill would require the State to pay for all costs necessary to conduct a special election on or after January 1, 2015.

UCC Position: Support.

Status: Held in the Assembly Appropriations Committee – 2 year bill.

AB 1051 (Maienschein) – Human Trafficking

This bill would add human trafficking as an offense that may be used to establish a pattern of criminal gang activity.

UCC Position: Support.

Status: Held in the Senate Appropriations Committee – 2 year bill.

AB 1119 (Rendon) – Public Utilities: municipal corporations: rights of way

This bill would clarify that the term municipal corporation includes counties related to utility projects.

UCC Position: Support.

Status: Enrolled.

AB 1146 (Jones) – Skateboard Parks

This bill would extend existing provisions related to liability at skateboard parks to other wheeled recreational devices.

UCC Position: Support.

Status: Signed, Chapter 221.

AB 1193 (Eggman) – Mental Health Services: assisted outpatient treatment

This bill would remove the provision that authorized a county to elect to participate in the program and instead require each county that has not heard Laura’s Law by January 1, 2017 to conduct a hearing on the adoption of Laura’s Law by January 1, 2018.

UCC Position: Oppose Unless Amended.

Status: Held in the Assembly Appropriations Committee – 2 year bill.

AB 1236 (Chiu) – Electric Vehicles

This bill would require cities and counties to adopt an ordinance to create a new expedited permitting and inspection process for electric vehicle (EV) charging stations.

UCC Position: Oppose.

Status: Enrolled.

AB 1238 (Linder) – Certified copies of marriage, birth and death certificates

This bill would allow jurisdiction to provide constituents with the option to verify their identity through a secured electronic identification process when requesting their vital records. This bill also provides that any system or product used to process the electronic request and establish the requester’s identity must comply with the California Uniform Electronic Transactions Act and all other laws to guard against identity theft.

UCC Position: Support/Co-Sponsor.

Status: Pending in the Assembly Rules Committee – 2 year bill.

AB 1300 (Ridley-Thomas) – Mental Health: Involuntary Commitment

This bill would make several changes to the Lanterman-Petris-Short Act (LPS) and the protections and procedures in place for individuals who are suffering from a mental health emergency. These changes include revising when the 72-hour clock starts for involuntary holds, and allowing emergency rooms to release those in crisis earlier and without adequate evaluation by a mental health professional.

UCC Position: Oppose.

Status: Pending in the Assembly Appropriations Committee – 2-year bill.

AB 1301 (Jones-Sawyer) – Voting Rights: Preclearance

This bill would establish a state preclearance system which would require local agencies that make changes to election procedures to get approval from the Secretary of State.

UCC Position: Neutral.

Status: Enrolled.

AB 1315 (Alejo) – Public Contracts: water pollution prevention plans: delegation

This bill would prohibit a public entity, charter city, or charter county from delegating to a contractor the development of a plan, as defined, used to prevent or reduce water pollution or runoff on a public works contract.

UCC Position: Oppose.

Status: Held in the Assembly Appropriations Committee – 2 year bill.

AB 1335 (Atkins) – Building Homes and Jobs Act

This bill would establish a permanent source for affordable housing by assessing a \$75 fee on real estate transaction documents, excluding home sales.

UCC Position: Support if Amended.

Status: Pending on the Assembly Floor – 2 year bill.

AB 1347 (Chiu) – Public Contracts: Claims Resolution Process

This bill would establish, for contracts entered into on or after January 1, 2016, a claim resolution process applicable to all public entity contracts. The bill would require a public entity, upon receipt of a claim sent by registered mail, to review it and, within 30 days, provide a written statement addressing what parts of the claim are disputed and what parts are undisputed. The bill would require disputed parts of the claim to be subject to nonbinding mediation.

UCC Position: Neutral.

Status: Enrolled.

AB 1424 (Mullin) – Community Mental Health Board

This bill would allow a consumer of mental health services who has obtained employment with an employer as part of his or her recovery to be on the community mental health board as long as the position in which he or she has no interest, influence, or authority over any financial or contractual matter concerning the employer.

UCC Position: Support.

Status: Signed, Chapter 127.

AB 1504 (Alejo) – Elections: all mailed ballots

This bill would expand the pilot project to Monterey and Sacramento counties, which would provide more data and information to the Legislature regarding this proposed change in election procedures. Conducting elections by all-mail ballot would provide a significant cost savings as well as be more convenient for voters.

UCC Position: Support

Status: Enrolled.

SB 25 (Roth) – Local Government Finance: VLF adjustments

This bill would provide an adjustment in the amount of vehicle license fees (VLF) for those newly incorporated cities and cities with annexed properties that were impacted by SB 89.

UCC Position: Support.

Status: Enrolled.

SB 36 (Hernandez) – Medi-Cal

This bill would authorize the Director of the Department of Health Care Services (DHCS) to request temporary extensions to the existing Medi-Cal demonstration project.

UCC Position: Support.

Status: Enrolled.

SB 107 (Cmte on Budget) – Redevelopment

This bill would make changes to the redevelopment dissolution process, and provide local government omnibus provision to help counties including the four cities in Riverside, negative bail out, and other long-standing county finance issues.

UCC Position: Support.

SB 122 (Jackson, Hill) – CA Environmental Quality Act: record of proceedings

This bill would require the lead agency, at the request of a project applicant and consent of the lead agency, to prepare a record of proceedings concurrently with the preparation of a negative declaration, mitigated negative declaration, EIR, or other environmental document.

UCC Position: Neutral.

Status: Held in the Assembly Appropriations Committee – 2 year bill.

SB 181, 182, 183 (Committee on Governance and Finance) – Validating Acts

These bills help to remedy minor errors or omissions in procedural acts of counties, cities, special districts and school districts.

UCC Position: Support.

Status: SB 181 – Signed by Governor, Ch. 4. SB 182 - Chaptered. Ch. 256.

SB 183 – Chaptered. Ch. 45.

SB 196 (Hancock) – Elder Abuse: protective orders

This bill would allow either an Adult Protective Services (APS) agency or a public conservator to file for a protective order under certain circumstances. This bill would also provide that an APS agency or public guardian may file for a protective order when an individual lacks capacity and a conservatorship is being sought.

UCC Position: Support

Status: Signed, Chaptered. Ch. 285.

SB 201 (Wieckowski) – California Public Records Act

This bill would require a court to apply the provisions of the California Public Records Act (CPRA) in certain cases involving a third party intervention.

UCC Position: Oppose Unless Amended.

Status: Pending in the Senate Judiciary Committee -- 2-year bill.

SB 237 (Anderson) – Animal Control Officers

This bill would require every person appointed as an animal control officer prior to July 1, 2016 to complete a course in the exercise of the powers of arrest and to serve warrants no later than July 1,

2017. This bill would also require every person appointed as an animal control officer to complete 40 hours of continuing education once every three years.

UCC Position: Oppose Unless Amended.

Status: Held in the Senate Appropriations Committee – 2 year bill.

SB 238 (Mitchell) – Foster Care: psychotropic medication

This bill would allow county social workers and other key parties to provide more comprehensive oversight for children in the child welfare system who are prescribed psychotropic medications.

UCC Position: Support

Status: Enrolled.

SB 266 (Block) – Flash Incarceration

This bill would authorize county probation departments to use “flash incarceration” for a person on probation or mandatory supervision.

UCC Position: Support.

Status: Pending in the Assembly Public Safety Committee – 2 year bill.

SB 272 (Hertzberg) – The California Public Records Act: local agencies: inventory

This bill would require local agencies to create a catalog of enterprise systems including system name and vendor name for all data systems.

UCC Position: Neutral.

Status: Enrolled.

SB 321 (Beall) – Motor Vehicle Fuel Taxes: rates: adjustments

This bill would provide for a smoothing process related to the Board of Equalization’s (BOE) annual adjustment of the price of gas excise tax.

UCC Position: Support.

Status: Inactive File – 2 year bill.

SB 331 (Mendoza) – Public Contracts: Negotiations

This bill would require cities and counties that have adopted a Civic Openness in Negotiations (COIN) ordinance to comply with specified disclosure requirements regarding contract negotiations with private entities.

UCC Position: Oppose.

Status: Enrolled.

SB 364 (Leno) – Residential Real Property: withdrawal of accommodations

This bill would allow San Francisco to prohibit, by ordinance or ballot measure, a rental housing owner from removing a building from the market pursuant to the Ellis Act unless all owners in the property have held their ownership interest for at least five years.

UCC Position: Support

Status: Failed in the Senate Transportation and Housing Committee on April 15, 2015 -- 2-year bill.

SB 478 (Huff) – Child Abuse and Neglect Reporting Act: mandated reporters: pilot program

This bill would authorize certain county welfare agencies to develop a pilot program for Internet-based reporting of child abuse and neglect.

UCC Position: Support.

Status: Enrolled.

SB 512 (Hill) – Criminal History Information: Health Services Personnel

This bill would allow local criminal justice agencies to provide summary criminal history information to city and county health services personnel who are engaged in efforts to identify and treat individuals who have alcohol abuse, substance abuse, or mental health issues for the purpose of providing assessment treatment, rehabilitation or other health care to those individuals.

UCC Position: Support.

Status: Held in the Senate Appropriations Committee – 2 year bill.

SB 604 (Hall) – CA Insurance Guarantee Association: Definitions

This bill would clarify existing law to provide that self-insured government entities are not liable for the workers' compensation benefits for employees of contracted temporary service agencies when their insurer becomes insolvent.

UCC Position: Support.

Status: Pending in the Senate Insurance Committee -- 2 year bill.

SB 614 (Leno) – Medi-Cal: mental health services

This bill would establish a Peer and Family Support Specialist Certification Program to be administered by the Department of Health Care Services (DHCS).

UCC Position: Support

Status: Assembly Inactive File – 2 year bill.

SB 643 (McGuire) – Medical Marijuana

This bill is part of a three bill package on medical marijuana. This bill would provide that the Department of Consumer Affairs would have the sole authority to create, issue, renew, discipline, suspend or revoke licenses for the transportation, distribution and sale of medical marijuana within the state. This bill would provide that the Department of Food and Agriculture would have the authority over licenses related to cultivation of medical cannabis. This bill also includes county taxing authority, local control provisions related to the ability to regulate and license, and the ability for local jurisdictions to assess fees and taxes.

UCC Position: Support.

Status: Enrolled.

SBx1 1 (Beall) – Transportation Funding

This bill would provide funding to transportation by increasing various taxes to fund transportation and providing funding to both the state and local systems.

UCC Position: Support.

Status: Pending in the Senate Appropriations Committee.

SCAx1 1 (Huff) - Transportation

This measure would prohibit the Legislature from borrowing revenues from fees and taxes imposed by the state on vehicles or their use of operation and from those revenues.

UCC Position: Support.

Status: Pending in the Senate Appropriations.

SCA 8 (Mendoza) – Charter Counties: BOS: Redistricting

This bill would provide that in a county with a population of two million, beginning with the 2020 United States Census, the county charter must provide that the governing body consist of seven or more members. In addition, the expenditures for the governing body and its staff may not exceed the amount provided in previous fiscal years. This bill would also require that a county charter provides that Supervisors must reside within the district that they are elected to represent, on or after January 1, 2021.

UCC Position: Oppose Unless Amended.

Status: Failed on the Senate Floor – 2 year bill.



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

6.

Meeting Date: 10/01/2015
Subject: Contra Costa County Bills of Interest
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2015-17
Referral Name: Countra Costa County Bills of Interest
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Legislation Committee regularly receives a report of the bills of interest that the County is tracking and/or taking a position on.

Referral Update:

The most recent report of the "Bill of Interest" to Contra Costa County is attached.

Recommendation(s)/Next Step(s):

ACCEPT the "Bills of Interest" report and provide direction to staff, as needed.

Attachments

Attachment A

Bill Status Report Master File 2015

CA AB 11	AUTHOR:	Gonzalez [D]
	TITLE:	Employment: Paid Sick Days: In-Home Supportive Services
	INTRODUCED:	12/01/2014
	DISPOSITION:	Pending - Carryover
	LOCATION:	Assembly Appropriations Committee
	SUMMARY:	Revises the definition of an employee under the Healthy workplaces, Healthy Families Act of 2014 to include providers of in-home support services.
	STATUS:	05/28/2015 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee.
	Commentary:	Entitles IHSS workers to accrue one hour of sick leave for every 30 hours worked
CA AB 22	AUTHOR:	Rodriguez [D]
	TITLE:	Office of Emergency Services: Oil-by-Rail Spills
	INTRODUCED:	12/01/2014
	DISPOSITION:	Pending - Carryover
	LOCATION:	Senate Appropriations Committee
	SUMMARY:	Requires the Curriculum Development Advisory Committee to review the curriculum and courses of instruction offered by public and private programs that train firefighters in response methods for oil-by-rail spills. Requires the Office of Emergency Services to compile a list of those curriculum and courses of instruction.
	STATUS:	08/27/2015 In SENATE Committee on APPROPRIATIONS: Held in committee.
	Commentary:	Sent LOS for 8/17 hearing.
	Position:	Support
CA AB 35	AUTHOR:	Chiu [D]
	TITLE:	Income tax: Credit: Low-Income Housing: Allocation
	INTRODUCED:	12/01/2014
	DISPOSITION:	To Governor
	LOCATION:	Enrolled
	SUMMARY:	Amends existing law establishing a low-income housing tax credit program to which the State Tax Credit Allocation Committee provides procedures and requirements for the allocation of State insurance, income, and corporation tax credits amount among low-income housing projects. Increases the aggregate housing credit dollar amount that may be allocated among such projects.

Bill Status Report Master File 2015

Modifies the definition of percentage relating to qualified low-income buildings in all listed tax laws.

STATUS:

09/15/2015 Enrolled.

Commentary:

Consistent with platform. Send LOS to author 6/4/15. Sent LOS to Comm for 7/1/15, 8/17 hearing.

Position: Support

CA AB 43

AUTHOR: **Stone [D]**

TITLE: **Personal Income Taxes: Credit: Earned Income**

INTRODUCED: 12/01/2014

DISPOSITION: Pending - Carryover

LOCATION: Senate Appropriations Committee

SUMMARY:

Provides for an earned income credit under the Personal Income Tax Law to an eligible individual that is equal to specified percentages of the earned income tax credit allowed by federal law, that would only be allowed in those taxable years in which an appropriation is made by the Legislature. Provides that in those years in which the appropriation is made, the credit is refundable.

STATUS:

08/27/2015 In SENATE Committee on APPROPRIATIONS: Held in committee.

Commentary:

Consistent with Platform. Sent LOS for 5/11, 7/15, 8/17 hearings.

Position: Support

CA AB 45

AUTHOR: **Mullin [D]**

TITLE: **Household Hazardous Waste**

INTRODUCED: 12/01/2014

DISPOSITION: Pending - Carryover

LOCATION: Assembly Appropriations Committee

SUMMARY:

Requires each jurisdiction providing for the residential collection and disposal of solid waste to increase the collection and diversion of household hazardous waste in its service area over the baseline. Provides the increase is to be determined in accordance with Department of Resources Recycling and Recovery regulations. Authorizes the adoption of a model ordinance for a comprehensive program for the collection of waste. Requires an annual report to the Department on progress in achieving compliance.

STATUS:

05/20/2015 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Watch. CSAC has an "oppose" position on the bill.

Bill Status Report Master File 2015

CA AB 57	<p>AUTHOR: Quirk [D] TITLE: Wireless Telecommunications Facilities INTRODUCED: 12/02/2014 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Provides that a collocation or siting application for a wireless telecommunications facility is deemed approved if the application is not approved or disapproved within the reasonable time periods specified in application decisions of the Federal Communications Commission, all required public notices have been providing regarding the application, and the applicant has provided a notice to the city or county that the reasonable time period has lapsed. STATUS: 09/03/2015 *****To GOVERNOR. Commentary: Veto request sent to Governor 9/9/15. Position: Oppose</p>
CA AB 59	<p>AUTHOR: Waldron [R] TITLE: Mental Health Services: Assisted Outpatient Treatment INTRODUCED: 12/09/2014 DISPOSITION: Pending - Carryover LOCATION: Assembly Judiciary Committee SUMMARY: Deletes the repeal date of the Assisted Outpatient Treatment Demonstration Project Act of 2002. Authorizes professional staff of an agency or facility that provided treatment of a person who is released from intensive treatment or postcertification treatment, to evaluate whether the person meets the criteria for assisted outpatient treatment, and to petition the Superior Court therefor. STATUS: 04/28/2015 In ASSEMBLY Committee on JUDICIARY: Failed passage. 04/28/2015 In ASSEMBLY Committee on JUDICIARY: Reconsideration granted. Commentary: No impact. Position: Watch</p>
CA AB 65	<p>AUTHOR: Alejo [D] TITLE: Local Law Enforcement: Body-Worn Cameras INTRODUCED: 12/17/2014 DISPOSITION: Pending - Carryover LOCATION: Assembly Appropriations Committee SUMMARY:</p>

Bill Status Report Master File 2015

Requires the Board of State and Community Corrections to develop a grant program to make funds available to local law enforcement entities to purchase body-worn cameras and related data storage and equipment, and to hire personnel to operate the program. Creates the Body-Worn Camera Fund. Diverts moneys from court fines, forfeitures, and penalties on criminal offenses to the Fund.

STATUS:

05/28/2015 In ASSEMBLY Committee on APPROPRIATIONS:
Held in committee.

Commentary:

Assembly Bill 65, by Assembly Member Luis Alejo, would require the Board of State and Community Corrections to develop a grant program to make funds available to local law enforcement entities to purchase body-worn cameras and related data storage and equipment, and to hire personnel necessary to operate a local body-worn camera program.

President Obama in December announced a three-year, \$263 million funding package called the "Body Worn Camera Partnership Program" (Program). The money will be used to match 50 percent spending by local law enforcement agencies and states on body cameras and equipment storage, as well as expanded training for law enforcement and an increase in the number of cities where the United States Department of Justice facilitates local law enforcement engagement with the community.

CA AB 86

AUTHOR: **McCarty [D]**
TITLE: **Peace Officers: Department of Justice: Investigation**
INTRODUCED: 01/06/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Appropriations Committee
SUMMARY:

Requires the Attorney General to appoint a special prosecutor to direct an independent investigation if a peace officer uses deadly physical force upon another person and that person dies as result of that use of deadly force. Grants such prosecutor sole authority to determine whether criminal charges should be filed. Makes the special prosecutor responsible for prosecuting any charges filed.

STATUS:

05/28/2015 In ASSEMBLY Committee on APPROPRIATIONS:
Held in committee.

Commentary:

watch bill

Position: Watch

CA AB 150

AUTHOR: **Melendez [R]**
TITLE: **Theft: Firearms**
INTRODUCED: 01/15/2015

Bill Status Report Master File 2015

DISPOSITION: Pending - Carryover
LOCATION: Assembly Appropriations Committee
SUMMARY:

Makes the theft of a firearm grand theft in all cases, punishable by imprisonment in the state prison. Makes buying or receiving a stolen firearm a misdemeanor or a felony.

STATUS:
 05/28/2015 In ASSEMBLY Committee on APPROPRIATIONS:
 Held in committee.

Commentary:
 Watch

CA AB 157

AUTHOR: Levine [D]
TITLE: Richmond-San Rafael Bridge
INTRODUCED: 01/20/2015
DISPOSITION: To Governor
LOCATION: To Governor
SUMMARY:

Authorizes the lead agency to complete the design work for the project simultaneously with the environmental review conducted pursuant to the California Environmental Quality Act if the Metropolitan Transportation Commission and the Department of Transportation develop a project to open the third lane on the Richmond-San Rafael Bridge to automobile traffic on the eastbound level and to bicycle traffic on the westbound level.

STATUS:
 09/14/2015 *****To GOVERNOR.

Commentary:
 Sending a Chair letter. Need BOS action 8/25.

CA AB 171

AUTHOR: Irwin [D]
TITLE: Department of Veterans Affairs: Veterans Services
INTRODUCED: 01/22/2015
DISPOSITION: Pending - Carryover
LOCATION: Senate Inactive File
SUMMARY:

Requires the Department of Veterans Affairs to develop an allocation formula based upon performance standards that encourage innovation and reward outstanding service by county veterans service officers. Requires those funds to be allocated in accordance with that formula. Requires an annual report on the impact of the subvention funds on each county that receives those funds. Deletes obsolete provisions. Makes conforming changes.

STATUS:
 09/01/2015 In SENATE. From third reading. To Inactive File.

Commentary:
 Consistent with Board policy--Veterans Issues #154. Sent letter of support for 3/10/15 and 5/28/15, 6/23/15, 7/6/15 hearings.

Bill Status Report Master File 2015

Position: Support

CA AB 190

AUTHOR: Harper [R]
TITLE: Solid Waste: Single-Use Carryout Bags
INTRODUCED: 01/27/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Natural Resources Committee
SUMMARY:

Imposes prohibitions and requirements regarding single-use carry-out bags on convenience food stores, foodmarts, and entities that are engaged in the sale of limited line of goods, or goods intended to be consumed off premises, and that hold a specified license with regard to alcoholic beverages. Provides that a law that would be created through the election process requires a reusable grocery bag sold by certain stores to a customer at the point of sale to meet specified requirements.

STATUS:

04/13/2015	In ASSEMBLY Committee on NATURAL RESOURCES: Failed passage.
04/13/2015	In ASSEMBLY Committee on NATURAL RESOURCES: Reconsideration granted.

Commentary:
Watch

CA AB 191

AUTHOR: Harper [R]
TITLE: Solid Waste: Single-Use Carryout Bags
INTRODUCED: 01/27/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Natural Resources Committee
SUMMARY:

Repeals the requirement that a store that distributes recycled paper bags make those bags available for purchase for not less than a specified amount.

STATUS:

04/13/2015	In ASSEMBLY Committee on NATURAL RESOURCES: Failed passage.
04/13/2015	In ASSEMBLY Committee on NATURAL RESOURCES: Reconsideration granted.

Commentary:
Watch

CA AB 203

AUTHOR: Obernolte [R]
TITLE: State Responsibility Areas: Fire Prevention Fees
INTRODUCED: 01/29/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Inactive File
SUMMARY:

Requires the State Board of Forestry and Fire Protection to amend emergency

Bill Status Report Master File 2015

regulations to establish a specified fire prevention fee and to annually adjust said fee. Extends the time when the fire prevention fee is due and payable from the date of assessment by the State Board of Equalization. Authorizes the petition for redetermination of the fee to be filed within a specified number of days after service of the notice of determination.

STATUS:

07/13/2015 In ASSEMBLY. To Inactive File.

Commentary:

Referred by CAO to Leg Com. Leg Com referred to BOS for support, 5/5/15. BOS supported. Sent LOS for 5/28 hearing.

Position: Support

CA AB 279

AUTHOR: **Dodd [D]**

TITLE: **Disclosure of Information: Franchise Tax Board**

INTRODUCED: 02/11/2015

DISPOSITION: Enacted

LOCATION: Chaptered

SUMMARY:

Amends existing law that requires, upon the request of the Franchise Tax Board, each city that assesses a city business tax or requires a city business license to annually submit to the Board specified information relating to the administration of the city's business tax program.

STATUS:

08/12/2015 Signed by GOVERNOR.

08/12/2015 Chaptered by Secretary of State. Chapter No. 180

Commentary:

Support requested by TT Rusty Watts. May go to BOS on 3/31.

CA AB 304

AUTHOR: **Gonzalez [D]**

TITLE: **Sick Leave: Accrual and Limitations**

INTRODUCED: 02/12/2015

DISPOSITION: Enacted

LOCATION: Chaptered

SUMMARY:

Amends the Healthy Workplaces, Healthy Families Act of 2014. Delays the requirement an employer provide an employee with notice of the amount of paid sick leave available, or paid time off an employer provides in lieu of sick leave. Permits an employer who provides unlimited sick leave to its employees to satisfy requirements by indicating the term unlimited on a wage statement. Provides limits. Makes changes about eligibility for accrued sick leave and the calculation of paid sick leave using total wages.

STATUS:

07/13/2015 Chaptered by Secretary of State. Chapter No. 67

Commentary:

HR is tracking this bill.

Bill Status Report Master File 2015

CA AB 396	<p>AUTHOR: Jones-Sawyer [D] TITLE: Rental Housing Discrimination: Criminal Records INTRODUCED: 02/19/2015 DISPOSITION: Pending - Carryover LOCATION: Assembly Appropriations Committee SUMMARY: Makes it unlawful for the owner of rental housing accommodation to deny the rental or lease of a housing accommodation without first satisfying specified requirements relating to the application process. Prohibits inquiring or requiring an applicant to disclose a criminal record during the initial application assessment phase. Authorizes the request for a criminal background check and to consider that record in deciding whether to rent or lease. Requires a certain disclosure. Provides for owner liability. STATUS: 05/27/2015 In ASSEMBLY Committee on APPROPRIATIONS: Not heard. Commentary: Watch. Phil Kader sent over.</p>
CA AB 428	<p>AUTHOR: Nazarian [D] TITLE: Income Taxes: Credit: Seismic Retrofits INTRODUCED: 02/19/2015 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Amends the Personal Income Tax and the Corporation Tax laws to allow a tax credit under both laws for a percentage of the qualified costs paid or incurred for any seismic retrofit construction on a qualified building. Provides the procedures to be accomplished by the taxpayer in regards to obtaining credit certifications. Provides credits will be allocated on a first-come-first-served basis. Provides for an aggregate cap for each calendar year. Relates to performance indicators and data collection. STATUS: 09/17/2015 *****To GOVERNOR.</p>
CA AB 474	<p>AUTHOR: Brown [D] TITLE: Public Social Services: SSI/SSP INTRODUCED: 02/23/2015 DISPOSITION: Pending - Carryover LOCATION: Assembly Budget Committee SUMMARY: Requires the State maximum for the State Supplementary Program for the Aged, Blind and Disabled (SSP) grant for individual to be readjusted and increased so that the SSP payment and federal Social Security Income (SSI) payment, when combined, equals a specified percentage of the federal poverty level.</p>

Bill Status Report Master File 2015

STATUS:

04/28/2015

From ASSEMBLY Committee on HUMAN SERVICES:
Do pass to Committee on BUDGET. (7-0)

Commentary:

Board approved support position on 5/5/15 along with support for restoration of SSI/SSP funding in State Budget.

Position:

Support

CA AB 546**AUTHOR:****Gonzalez [D]****TITLE:****Peace Officers: Basic Training Requirements****INTRODUCED:**

02/23/2015

DISPOSITION:

Enacted

LOCATION:

Chaptered

SUMMARY:

Requires the Commission on Peace Officer Standards and Training, when evaluating a certification request from a probation department for a training course, to deem there to be an identifiable and unmet need for the training course.

STATUS:

08/13/2015

Signed by GOVERNOR.

08/13/2015

Chaptered by Secretary of State. Chapter No. 200

Commentary:

Chief Kader has asked for support. Referred to Leg Com. Leg Com referred to BOS for support, 5/5/15. BOS supported. Sent LOS for 6/23/15, 7/6/15 hearing.

Position:

Support

CA AB 551**AUTHOR:****Nazarian [D]****TITLE:****Rental property: Bed Bugs****INTRODUCED:**

02/23/2015

DISPOSITION:

Pending - Carryover

LOCATION:

Senate Inactive File

SUMMARY:

Prescribes the duties of landlords and tenants with regard to bed bugs. Requires the landlord to provide a prospective tenant and all other tenants information about bed bugs. Prohibits a tenant from bringing items onto a property the tenants knows or reasonable should know are infested with bed bugs. Requires a tenant to notify the landlord. Requires the landlord to acquire pest control services. Prohibits the renting or leasing of a unit that has infestation. Provides for eviction requirements.

STATUS:

09/08/2015

In SENATE. From third reading. To Inactive File.

Commentary:

Tanya Drlik, Integrated Pest Management Coordinator in HSD wanted BOS support.

Bill Status Report Master File 2015

CA AB 637

AUTHOR: Campos [D]
TITLE: Physician Orders for Life Sustaining Treatment
INTRODUCED: 02/24/2015
DISPOSITION: Enacted
LOCATION: Chaptered

SUMMARY:

Authorizes the signature of a nurse practitioner or physician assistant acting under the supervision of the physician and within the scope of practice authorized by law to create a valid Physician Orders for Life Sustaining Treatment form.

STATUS:

08/17/2015 Signed by GOVERNOR.
 08/17/2015 Chaptered by Secretary of State. Chapter No. 217

Commentary:

The California Medical Association (CMA), of which the Alameda-Contra Costa Medical Association (ACCMA) is a component, is sponsoring AB 637 (Campos) in this session of the legislature, AB 637 allows nurse practitioners (NPs) and physician assistants (PAs) under physician supervision to sign Physician Orders for Life Sustaining Treatment (POLST) forms.

Commentary001:

To Leg Com for support on 4/2. Leg Com referred to BOS for support, 5/5/15. BOS supported. Sent LOS for 6/10 hearing.

Position: Support

CA AB 647

AUTHOR: Eggman [D]
TITLE: Beneficial Use: Storing of Water Underground
INTRODUCED: 02/24/2015
DISPOSITION: Pending - Carryover
LOCATION: Senate Natural Resources and Water Committee

SUMMARY:

Declares that the diversion of water to underground storage constitutes a beneficial use of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made, or if the water is so stored consistent with a sustainable groundwater management plan, statutory authority to conduct groundwater recharge, or a judicial decree and is for specified purposes. Requires applying for a permit or petition for a change. Requires including specified conditions.

STATUS:

06/30/2015 From SENATE Committee on NATURAL RESOURCES AND WATER with author's amendments.
 06/30/2015 In SENATE. Read second time and amended. Re-referred to Committee on NATURAL RESOURCES AND WATER.

Commentary:

SJC supports. Consistent with Water Platform. Sending letter of support.

Bill Status Report Master File 2015

CA AB 662	<p>AUTHOR: Bonilla [D] TITLE: Public Accommodation: Disabled Adults: Changing INTRODUCED: 02/24/2015 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Requires a person, private firm, organization or corporation that owns or manages a commercial place of public amusement to install and maintain an adult changing station for a person with a physical disability. Extends the compliance period for certain renovation projects. Requires the facility to ensure that the entrance to each such station has conspicuous signage indicating its location, and, if the facility has a central directory, ensure that the directory indicates the location of such station. STATUS: 09/17/2015 *****To GOVERNOR. Commentary: Support requested by AM Bonilla staff. Kathy Gallagher concurs. Send to Leg Com for 5/7 meeting. BOS adopted Support position at 6/9 meeting. Sent LOS for 6/30/15, 8/17/15 hearings. Sent LOS to Governor 9/15/15. Position: Support</p>
CA AB 762	<p>AUTHOR: Mullin [D] TITLE: Day Care Centers: Toddler Programs INTRODUCED: 02/25/2015 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Amends the State Child Day Care Facilities Act. Requires a day care center with a toddler program to extend the program to service children within a specified age range. Makes changes related to guidelines the State Department of Social Services is required to develop. STATUS: 09/09/2015 *****To GOVERNOR.</p>
CA AB 1051	<p>AUTHOR: Maienschein [R] TITLE: Human Trafficking INTRODUCED: 02/26/2015 DISPOSITION: Pending - Carryover LOCATION: Senate Appropriations Committee SUMMARY: Adds human trafficking as an offense that may be used to establish a pattern of criminal gang activity. STATUS: 08/27/2015 In SENATE Committee on APPROPRIATIONS: Held in committee. Commentary:</p>

Bill Status Report Master File 2015

Sent LOS for 4/28, 5/28, 7/7, 8/17 hearings. Consistent with policy: 131. SUPPORT legislation that will combat the negative impact that human trafficking has on victims in our communities, including the impact that this activity has on a range of County services and supports, and support efforts to provide additional tools, resources and funding to help counties address this growing problem.

Position: Support

CA AB 1056

AUTHOR: Atkins [D]
TITLE: Second Chance Program
INTRODUCED: 02/26/2015
DISPOSITION: To Governor
LOCATION: To Governor
SUMMARY:

Requires the Board of State and Community Corrections to administer a competitive grant program that focuses on community-based solutions for reducing recidivism. Establishes minimum criteria for the program. Requires establishing a related committee to adopt guidelines for the submission of proposals for the program, including threshold or scoring criteria, or both. Requires the guidelines to prioritize proposals. Creates a fund for such grants. Requires the Board to administer the moneys in the fund.

STATUS:

09/16/2015 *****To GOVERNOR.

Commentary:

CSAC has continued to work with the author's office on amendments that would remove the requirements around the ESC. Unfortunately, the author has not yet amended the bill to address CSAC's concerns.

Counties are encouraged to review the provisions of AB 1056 and to contact CSAC with any comments.

CA AB 1159

AUTHOR: Gordon [D]
TITLE: Product Stewardship: Pilot: Batteries and Sharps Waste
INTRODUCED: 02/27/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Appropriations Committee
SUMMARY:

Establishes the Product Stewardship Pilot Program. Requires producers and product stewardship organizations of consumer products that are home-generated sharps waste or household batteries to develop and implement a product stewardship plan to the Department of Resources Recycling and Recovery. Provides for administrative fees. Establishes the Product Stewardship Penalty Subaccount in the Integrated Waste Management Fund for deposit of fees. Requires audits and reporting requirements.

STATUS:

Bill Status Report Master File 2015

05/20/2015 In ASSEMBLY Committee on APPROPRIATIONS: To
Suspense File.

Commentary:

Platform would support. Sent LOS to author on 5/08/15. Letter to hearing on 5/20.

Position: Support

CA AB 1223

AUTHOR: O'Donnell [D]

TITLE: Emergency Medical Services: Ambulance
Transportation

INTRODUCED: 02/27/2015

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Authorizes a local emergency medical services agency to adopt policies and procedures relating to ambulance patient offload time. Requires the Emergency Medical Services Authority to develop a statewide standard methodology for the calculation and reporting by a local agency of ambulance patient offload time.

STATUS:

09/16/2015 *****To GOVERNOR.

Commentary:

Send to Leg Com for 5/7 meeting.

CA AB 1236

AUTHOR: Chiu [D]

TITLE: Local Ordinances: Electric Vehicle Charging Stations

INTRODUCED: 02/27/2015

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Amends the Electric Vehicle Charging Stations Open Access Act. Requires a city, county or city and county to approve and application for installation of electric vehicle charging stations through the issuance of specified permits unless the proposed installation would have an adverse impact upon the public health or safety. Provides a decision appeal. Creates an expedited and streamlined electric vehicle charging stations permitting process. Allows referencing a certain guidebook in ordinance preparation.

STATUS:

09/17/2015 *****To GOVERNOR.

Commentary:

Jason Crapo in DCD is reviewing.

CA AB 1262

AUTHOR: Wood [D]

TITLE: Telecommunications: Universal Service

INTRODUCED: 02/27/2015

DISPOSITION: Enacted

Bill Status Report Master File 2015

LOCATION: Chaptered

SUMMARY:

Requires that, of the moneys collected for California Advanced Services Fund on and after a specified date, a specified amount is to be deposited into the Rural and Urban Regional Broadband Consortia Grant Account and used for specified purposes, and a specified amount is to be deposited into the Broadband Infrastructure Revolving Loan Account and used for specified purposes.

STATUS:

09/02/2015 Signed by GOVERNOR.

09/02/2015 Chaptered by Secretary of State. Chapter No. 242

Commentary:

From Leg Com on 5/7. BOS adopted Support position at 6/9 meeting. Sent LOS for 6/16, 6/29 hearing.

Position: Support

CA AB 1321

AUTHOR: Ting [D]

TITLE: Nutrition Incentive Matching Grant Program

INTRODUCED: 02/27/2015

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Establishes the Nutrition Incentive Matching Grant Program in the Office of Farm to Fork. Creates the Nutrition Incentive Matching Grant Account in the Farm to Fork Account to collect matching funds received from a specified federal grant program and funds from other public and private sources to encourage the purchase and consumption of fresh fruits, nuts, and vegetables of the State by nutrition benefit clients. Requires moneys in the account be awarded in the form of grants to qualified entities.

STATUS:

09/16/2015 *****To GOVERNOR.

Commentary:

Received a request to support. Chad to send materials. Leg Com supported at 5/7 meeting. BOS adopted Support position at 6/9 meeting. Sent LOS for 7/7, 8/17 hearings.

CA AB 1335

AUTHOR: Atkins [D]

TITLE: Building Homes and Jobs Act

INTRODUCED: 02/27/2015

DISPOSITION: Pending - Carryover

LOCATION: Assembly Third Reading File

SUMMARY:

Enacts the Building Homes and Jobs Act. Imposes a fee on the recording of every real estate instrument, paper, or notice to be recorded. Requires fee revenues be sent to the Department of Housing and Community Development for deposit in the Building Homes and Jobs Fund to be expended for affordable

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owner-occupied workforce housing and for supporting affordable housing, home ownership opportunities, and other housing-related programs, and admin costs. Establishes a Fund Governing Board.

STATUS:

06/04/2015 In ASSEMBLY. Assembly Rule 69(d) suspended.

Commentary:

This bill would impose a fee of \$75 to be paid at the time of recording every real estate instrument, paper or notice and would require that revenues from that fee be sent to the Department of Housing and Community Development for the Building Homes and Jobs Fund. This bill is similar to SB 391 (DeSaulnier) from last year. Send LOS to author 6/4/15.

Position:

Support

CA AB 1347

AUTHOR: **Chiu [D]**

TITLE: **Public Contracts Claims**

INTRODUCED: 02/27/2015

DISPOSITION: To Governor

LOCATION: Enrolled

SUMMARY:

Establishes, for state and local public contracts, a claim resolution process applicable to all claims by contractors in connection with public works. Specifies the procedures that are required of a public entity upon receipt of a claim sent by certified mail. Relates to failure of a public entity to respond to a claim within a specified time. Provides for a mutually agreed waiver and commencement of a civil action. Authorizes nonbinding mediation. Provides for a certain contractor claim procedure.

STATUS:

09/16/2015 Enrolled.

Commentary:

This bill would establish a claim resolution process applicable to all public entity contracts. This bill is similar to AB 2471 (Frazier) from last year.

Commentary001:

CSAC recommends Oppose; PW concurs. Sending to BOS for 4/14 action.

CA AB 1362

AUTHOR: **Gordon [D]**

TITLE: **Local Government Assessments Fees and Charges**

INTRODUCED: 02/27/2015

DISPOSITION: Pending - Carryover

LOCATION: Assembly Local Government Committee

SUMMARY:

Defines stormwater for purposes of the Proposition 218 Omnibus Implementation Act to mean any system of public improvements or service intended to provide for the quality, conservation, control, or conveyance of waters that land on or drain across the natural or man-made landscape.

STATUS:

03/23/2015 To ASSEMBLY Committee on LOCAL

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GOVERNMENT.

Commentary:

Consistent with Platform. PW putting LOS on BOS agenda for 4/21 for info.

Position: Support

CA AB 1401

AUTHOR: Baker [R]

TITLE: Veterans: Student Financial Aid

INTRODUCED: 02/27/2015

DISPOSITION: Enacted

LOCATION: Chaptered

SUMMARY:

Relates to copies of the enrollment fee waiver application and the Free Application for Federal Student Aid available to each member of the State National Guard, the State Military Reserve, and the Naval Militia not having a baccalaureate degree. Requests the Adjutant General include information regarding the federal Post-9/11 GI Bill and the State National Guard Education Assistance Award Program.

STATUS:

09/03/2015 Signed by GOVERNOR.

09/03/2015 Chaptered by Secretary of State. Chapter No. 254

Commentary:

Sent letter of support for 4/28, 5/13, 6/23, 7/6 hearings.

Position: Support

CA AB 1436

AUTHOR: Burke [D]

TITLE: In-Home Support Services: Authorized Representatives

INTRODUCED: 02/27/2015

DISPOSITION: To Governor

LOCATION: Enrolled

SUMMARY:

Authorizes an applicant for, or recipient of, in-home supportive services to designate in writing a person to act as an authorized representative for purposes of the In-Home Supportive Services program. Provides that the representative has a legal responsibility to act in the applicant or recipient's best interest. Excludes persons with conviction for fraud. Requires the development of a form, with the county to retain the original of the form. Includes domestic, personal care and paramedical services.

STATUS:

09/16/2015 Enrolled.

Commentary:

BOS adopted Support position at 6/9 meeting. Sent LOS to author and for 6/23, 7/6 hearing. 9/17 sending letter to governor.

Position: Support

CA SB 4

AUTHOR: Lara [D]

Bill Status Report Master File 2015

TITLE: Health Care Coverage: Immigration Status

INTRODUCED: 12/01/2014

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Relates to individuals under a specified age enrolled in restricted-scope Medi-Cal to be enrolled in the full-scope benefits, if otherwise eligible, if a specified determination regarding immigration status is made. Requires monthly updates to specified legislative committees. Requires such individuals to enroll in a Medi-Cal managed care health plan.

STATUS:

09/18/2015 *****To GOVERNOR.

Position: Watch

CA SB 11

AUTHOR: Beall [D]

TITLE: Peace officer Training: Mental Health

INTRODUCED: 12/01/2014

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Requires the Commission on Peace Officer Standards and Training to review the training module relating to persons with a mental illness, intellectual disability, or substance abuse disorder in its basic training course, and develop additional training to better prepare law enforcement officers to recognize, deescalate, and appropriately respond to person with such conditions. Requires the Commission to establish and keep the course updated in a specified manner. Provides which officers must take the course.

STATUS:

09/08/2015 *****To GOVERNOR.

Commentary:

Doug Sibley requested Leg Com review; Sent to BOS on 6/9/15 agenda. Sent LOS for 6/30, 7/14, 8/19 hearings.

CA SB 32

AUTHOR: Pavley [D]

TITLE: Global Warning Solutions Act of 2006

INTRODUCED: 12/01/2014

DISPOSITION: Pending - Carryover

LOCATION: Assembly Natural Resources Committee

SUMMARY:

Requires the State Air Resources Board to approve a specified statewide greenhouse gas emission limits that are the equivalent to a specified percentage below the 1990 level to be achieved by 2030. Revises current provisions of existing law regarding the implementation of the next update of a greenhouse gas scoping plan under existing law. Requires reports regarding reaching these limits.

STATUS:

Bill Status Report Master File 2015

09/10/2015 Re-referred to ASSEMBLY Committee on NATURAL RESOURCES.
 09/10/2015 From ASSEMBLY Committee on NATURAL RESOURCES with author's amendments.
 09/10/2015 In ASSEMBLY. Read second time and amended. Re-referred to Committee on NATURAL RESOURCES.

Commentary:

SB 32 (Pavley) - This bill would require the State Air Resources Board to approve a statewide greenhouse gas emission limit equivalent to 80% below the 1990 level to be achieved by 2050. The bill would also authorize the board to adopt interim greenhouse gas emissions level targets to be achieved by 2030 and 2040 through policy changes made by the legislature and other agencies.

CA SB 36

AUTHOR: Hernandez [D]
TITLE: Medi-Cal: Demonstration Project
INTRODUCED: 12/01/2014
DISPOSITION: To Governor
LOCATION: To Governor
SUMMARY:

Authorizes the Director of Health Care Services, if federal assurances regarding a demonstration project under the Medi-Cal program that includes better care coordination for seniors and persons with disability and to reduce the number of uninsured individuals, to request temporary extension until the approved effective date of the project. Provides the required actions to be performed by the Department of Health Care Services subsequent to federal approval.

STATUS:

09/18/2015 *****To GOVERNOR.

Commentary:

Waiver to implement a successor 1115 Medicaid Waiver demonstration program

CA SB 120

AUTHOR: Anderson [R]
TITLE: Sales and Use Taxes: First Responder Equipment
INTRODUCED: 01/15/2015
DISPOSITION: Pending - Carryover
LOCATION: Senate Appropriations Committee
SUMMARY:

Excludes, in the sale of any public safety first responder vehicle that is purchased by a local public agency and in the sale of any equipment on a public safety first responder vehicle that is purchased by a local public agency, from the terms gross receipts and sales price amounts of the gross receipts or sale price of an individual item in excess of a specified amount. Defines local public agency as a fire protection district or a fire department of a city, county, municipal corporation, or district.

STATUS:

Bill Status Report Master File 2015

05/28/2015 In SENATE Committee on APPROPRIATIONS: Held in committee.

Commentary:

Support requested by Chief Carman. Send to Leg Com for 5/7 meeting. BOS adopted Support position at 6/9 meeting.

Position: Support

CA SB 124

AUTHOR: Leno [D]

TITLE: **Juveniles: Solitary Confinement**

INTRODUCED: 01/16/2015

DISPOSITION: Pending - Carryover

LOCATION: Assembly Appropriations Committee

SUMMARY:

Prohibits a person confined in a juvenile facility who is an imminent danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled from being subject to solitary confinement. Requires the person be transported to, and evaluated at, a designated facility. Provides procedures governing solitary confinement. Relates to the membership of a regional juvenile justice commission. Requires an inspection of detention facility and records. Relates to Internet Web site posting.

STATUS:

08/27/2015 In ASSEMBLY Committee on APPROPRIATIONS:
Held in committee.

Commentary:

Chief Kader supports. CPOC supports.

CA SB 163

AUTHOR: Hertzberg [D]

TITLE: **Wastewater Treatment: Recycled Water**

INTRODUCED: 02/04/2015

DISPOSITION: Pending - Carryover

LOCATION: Assembly Rules Committee

SUMMARY:

Declares the discharge of treated wastewater from ocean outfalls is a waste and unreasonable use of water in light of certain conditions. Requires such facility to achieve a specified percentage of reuse of the actual annual flow for beneficial purposes. Prohibits such discharge except as backup discharge. Provides procedures for related exemption requests. Requires a prescribed plan to meet these provisions.

STATUS:

09/08/2015 Re-referred to ASSEMBLY Committee on RULES.

Commentary:

Watch

CA SB 196

AUTHOR: Hancock [D]

TITLE: **Elder Abuse: Protective Orders**

INTRODUCED: 02/10/2015

Bill Status Report Master File 2015

DISPOSITION: Enacted
LOCATION: Chaptered
SUMMARY:

Authorizes a county adult protective services agency to file a petition for a protective order on behalf of an elder or dependent adult has suffered abuse and has impaired ability to appreciation and understand the circumstances that place him or her at risk or who has provided authorization for the agency to act on his or her behalf. Imposes specified requirements of the agency in referring the adult to the public guardian. Clarifies the definition of abuse of an elder or dependent adult.

STATUS:
 09/09/2015 Chaptered by Secretary of State. Chapter No. 285

Commentary:
 Sending LOS to Governor (9/3/15).

Position: Support

CA SB 238

AUTHOR: Mitchell [D]
TITLE: Foster Care: Psychotropic Medication
INTRODUCED: 02/17/2015
DISPOSITION: To Governor
LOCATION: To Governor
SUMMARY:

Requires the Judicial Council to amend and adopt rules of court and develop appropriate forms for the implementation of specified provisions. Specifies the contents of such rules of court. Requires a report on the number of such medications authorized. Requires specified related training on aspects of taking and administering such medications. Requires foster care public health nurses to receive this training.

STATUS:
 09/11/2015 *****To GOVERNOR.

CA SB 239

AUTHOR: Hertzberg [D]
TITLE: Local Services: Contracts: Fire Protection Services
INTRODUCED: 02/17/2015
DISPOSITION: To Governor
LOCATION: To Governor
SUMMARY:

Permits a public agency to exercise new or extended services outside jurisdictional boundaries as per a fire protection contract only if the agency receives a specified approval. Requires, prior to entering into a proposal, the agency enter into an agreement for the performance of new or extended services per such contract with, or provide notice of such contract to, each affected public agency and employee organization representing firefighters in the affected area and conduct a public hearing.

STATUS:
 09/11/2015 *****To GOVERNOR.

Bill Status Report Master File 2015

Commentary:

Chief Carman recommends an "Oppose." Send to Leg Com for 5/7 meeting. BOS adopted Oppose position at 6/9 meeting. Sent LOO for 7/15, 8/19 hearings.

Position: Oppose

CA SB 266

AUTHOR: Block [D]
TITLE: Probation and Mandatory Supervision: Incarceration
INTRODUCED: 02/19/2015
DISPOSITION: Pending - Carryover
LOCATION: Assembly Public Safety Committee
SUMMARY:

Allows a court to authorizes the use of flash incarceration to detain the offender in county jail for not more than a specified number of days for a violation of conditions of probation or mandatory supervision. Provides these provisions would not apply to persons convicted of certain drug offenses.

STATUS:

06/16/2015 In ASSEMBLY Committee on PUBLIC SAFETY: Not heard.

Commentary:

Bill sponsored by CPOC. Chief Kader supports. To BOS on 5/5/15. Board supported. Sent LOS for 6/16 and 6/30 hearings.

Position: Support

CA SB 277

AUTHOR: Pan [D]
TITLE: Public Health: Vaccinations
INTRODUCED: 02/19/2015
DISPOSITION: Enacted
LOCATION: Chaptered
SUMMARY:

Eliminates the exemption from existing specified immunization requirements based upon personal beliefs. Allows an exemption from future requirements deemed appropriate by the State Department of Public Health for either medical reasons or personal beliefs, and provides details. Exempts pupils in specified programs. Provides an temporary exclusion is only for a child who has been exposed to a specified disease and whose proof of status does not show proof of immunization against one of specified diseases.

STATUS:

06/29/2015 *****To GOVERNOR.
 06/30/2015 Signed by GOVERNOR.
 06/30/2015 Chaptered by Secretary of State. Chapter No. 35

Commentary:

Referred by Supv. Piepho 03.05.15. Referred to Leg Com 04.02.15. Referred to Board 05.05.15. Board voted 3-1 to support. Sent letter to author on 5.15.15 and 6.09.15 to committee hearing.

Position: Support

Bill Status Report Master File 2015

CA SB 313

AUTHOR: Galgiani [D]
TITLE: Local Government: Zoning Ordinances: School Districts
INTRODUCED: 02/23/2015
DISPOSITION: Pending - Carryover
LOCATION: Senate Inactive File
SUMMARY:
 Conditions the authorization to render a city or county zoning ordinance inapplicable to a proposed use of school district property upon compliance with a notice requirement regarding a schoolsite on agricultural land. Requires the governing board of a district to notify a city or county of the reason the board intends to take a specified vote. Requires the vote to be based upon findings that such an ordinance fails to accommodate the need for renovation or expanding an existing school, or for a new school.
STATUS:
 06/02/2015 In SENATE. To Inactive File.
Commentary:
 Consistent with Platform. John C. sending letter of support.
Position: Support

CA SB 608

AUTHOR: Liu [D]
TITLE: Homelessness
INTRODUCED: 02/27/2015
DISPOSITION: Pending - Carryover
LOCATION: Senate Transportation and Housing Committee
SUMMARY:
 Enacts the Right to Rest Act, which would afford persons experiencing homelessness the right to use public space without discrimination based on their housing status. Describes basic human and civil rights that may be exercised without being subject to criminal or civil sanctions or harassment, including the right to use and to move freely in public spaces, the right to rest in public spaces and to protect oneself from the elements.
STATUS:
 04/07/2015 In SENATE Committee on TRANSPORTATION AND HOUSING: Heard, remains in Committee.
Commentary:
 This bill would enact the Right to Rest Act which would allow persons experiencing homelessness the right to use public spaces without discrimination based on their housing status. This bill would describe basic human and civil rights that may be exercised without being subject to criminal or civil sanctions or harassment, the right to rest in public spaces, the right to eat in any public space and the right to occupy a motor vehicle. This bill is very similar to the Ammiano bill which created a homeless bill of rights (AB 5, 2013).

Bill Status Report Master File 2015

CA SB 621	<p>AUTHOR: Hertzberg [D] TITLE: Mentally Ill Offender Crime Reduction Grants INTRODUCED: 02/27/2015 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Authorizes the funds from a mentally ill offender crime reduction grant administered by the Board of State and Community Corrections to be used to fund specialized diversion programs that offer appropriate mental health and treatment services. STATUS: 09/08/2015 *****To GOVERNOR. Commentary: Consistent with Board policy #97: SUPPORT continued and improved funding for substance abuse treatment and mental health services including those that provide alternatives to incarceration and Laura's Law. Sent letter of support for 4/7/15, 4/20/15, 5/28/15, 6/31/15 hearings. Sent LOS to Governor on 9/3. Position: Support</p>
CA SB 643	<p>AUTHOR: McGuire [D] TITLE: Medical Marijuana INTRODUCED: 02/27/2015 DISPOSITION: To Governor LOCATION: To Governor SUMMARY: Sets forth standards for a physician and surgeon prescribing medical cannabis, and the Medical Board of the State prioritize its investigative and prosecutorial resources to identify and discipline physicians and surgeons that have improperly recommended excessive cannabis to patients. Prohibits a recommending physician or surgeon from receiving certain remuneration for a licensed facility. Requires the appointment of a Chief of the Bureau of Medical Marijuana Regulation. Authorizes a county cannabis tax. STATUS: 09/18/2015 *****To GOVERNOR. Commentary: This bill would express the Legislature's intent to enact legislation that would, among other things, reaffirm and clarify aspects of the Medical Marijuana Program Act, regulate the cultivation of medical marijuana, and authorize and appropriate adequate funding for the Board of Equalization to undertake a study, as specified, in order to make recommendations on the best way to levy and collect fees to regulate the cultivation and sale of medical marijuana.</p>
CA SB 762	<p>AUTHOR: Wolk [D] TITLE: Competitive Bidding: Pilot Program: Design-Build INTRODUCED: 02/27/2015</p>

Bill Status Report Master File 2015

DISPOSITION: To Governor

LOCATION: To Governor

SUMMARY:

Establishes a pilot program to allow specified counties to select a bidder on the basis of best value for construction projects that are in excess of a specified amount. Establishes procedures and criteria for the selection of the best value contractor. Requires that bidders verify specified information. Requires the board of supervisors of a participating county to submit a report to specified legislative committees. Amends the term best value to have the objective criteria evaluated.

STATUS:

09/15/2015 *****To GOVERNOR.

Commentary:

This bill would establish a pilot program to allow counties to select the lowest responsible bidder on the basis of best value. This bill would allow that if the board of supervisors deems it to be in the best interest of the county they may, on the refusal or failure of the successful bidder to execute a contract, award it to the second lowest responsible bidder. Best value is defined as a procurement process whereby the lowest responsible bidder may be selected on the basis of objective criteria with the resulting selection representing the best combination of price and qualifications.

CA AB 9 a

AUTHOR: Levine [D]

TITLE: Richmond-San Rafael Bridge

INTRODUCED: 08/17/2015

DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

Requires the Department of Transportation to implement an operational improvement project that temporarily restores the third eastbound lane on State Highway Route 580 from the beginning of the Richmond-San Rafael Bridge in the County of Marin to Marine Street in the County of Contra Costa to automobile traffic and that temporarily converts a specified portion into a bi-directional bicycle and pedestrian lane. Requires temporary lanes until they can be safely removed.

STATUS:

08/17/2015 INTRODUCED.

Commentary:

Sending Chair LOS. To BOS for concurrence 8/25

CA AB 16 b

AUTHOR: Bonta [D]

TITLE: Cigarette and Tobacco Projects: Electronic Cigarettes

INTRODUCED: 08/26/2015

DISPOSITION: Pending

LOCATION: Assembly Public Health and Developmental Services Committee

Bill Status Report Master File 2015

SUMMARY:

Expands the definition of tobacco projects to include electronic cigarettes, thereby subjecting manufacturers, importers, distributors, wholesalers, and retailers of electronic cigarettes to the specified licensing requirements. Imposes an additional tax on the distribution of cigarettes. Imposes a related floor stock tax. Requires distributors to pay a cigarette indicia adjustment tax. Provides that tax revenues will be deposited in a specified fund to fund health care and prevention programs.

STATUS:

08/27/2015 To ASSEMBLY Committee on PUBLIC HEALTH AND DEVELOPMENTAL SERVICES.

Commentary:

Sending LOS from Chair, 09/08/15

CA AB 18 b

AUTHOR: Bonilla [D]

TITLE: Taxation: Cocktails for Healthy Outcomes Act

INTRODUCED: 08/31/2015

DISPOSITION: Pending

LOCATION: Assembly Second Reading File

SUMMARY:

Amends the Fee Collection Procedures Law. Imposes a surtax on every individual for each purchase of a cocktail from an on-sale licensee for consumption or other use on the licensed, in-state premises. Requires a licensee to separately state and collect the surtax from an individual. Requires related revenues be deposited in a specified fund for funding developmental disability services. Excludes from gross receipts subject to tax the amount of surtax imposed by this legislation.

STATUS:

09/11/2015 From ASSEMBLY Committee on FINANCE: Do pass.
(6-3)

Commentary:

Sent LOS from Chair of BOS, 9/1/15.

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

7.

Meeting Date: 10/01/2015
Subject: Federal Issues Update
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2015-07
Referral Name: Federal Issues Update
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

Contra Costa County's federal lobbyist, Paul Schlesinger of Alcalde & Fay, regularly provides updates on federal issues of interest to the County. These updates are routinely provided to the Legislation Committee for their review and direction to staff, as needed.

Referral Update:

Papal Visit Makes History

It was a historic week in the nation's capital as Pope Francis on September 24 became the first pontiff to address a joint session of Congress. Following the pope's momentous speech - in which he called on lawmakers to tackle such issues as racial equality, climate change, immigration, and the death penalty - House and Senate leaders quickly took steps to avert a potential government shutdown.

In other developments, House Speaker John Boehner (R-OH) unexpectedly announced on September 25 that he will step aside as speaker and resign his House seat at the end of October. The speaker's announcement comes amid a growing conservative rebellion within the House GOP conference, punctuated by threats from some 30 Republicans who signaled their intent to force a no-confidence vote in Boehner's leadership. While it is unclear who will replace Boehner as speaker, it is widely assumed that Majority Leader Kevin McCarthy (R-CA) will assume the top leadership position in the House.

Stop Gap Funding Measure Introduced

With the current fiscal year (FY) ending next week on September 30th, the Senate has taken the first steps toward passing a Continuing Resolution (CR) to fund the federal government beyond the start of FY 2016 on October 1st. On Sept. 22, the Senate Appropriations Chairman Thad Cochran (R-MS) unveiled a two-and-a-half month long CR to fund the federal government through December 11, 2015. The CR would continue federal funding for nearly all government programs/agencies at the topline discretionary funding level for FY 2016 as enumerated by the

Budget Control Act (BCA). Included below is a brief listing of the bill's key components, and we have also attached the bill text (*Attachment A*) and a section-by-section analysis prepared by the Senate Appropriations Committee (*Attachment B*).

Senate Majority Leader Mitch McConnell (R-KY) has scheduled a cloture vote for Thursday, which Senate Democrats are expected to block due to the CR's inclusion of language that would defund Planned Parenthood. The decision to include the controversial Planned Parenthood language, as well as the move to have the Senate act first on a CR, is reportedly an effort to demonstrate that a CR defunding Planned Parenthood would be unable to pass the Senate. Once this is demonstrated, expectations are that Senator McConnell would then move to advance a "clean" CR free of any controversial riders; however, the timing remains unclear as Senator Ted Cruz (R-TX) has indicated that he may filibuster a "clean" CR.

If the Senate were to pass a clean CR, it still remains unclear as to whether House Speaker John Boehner (R-OH) would have the 218 votes required to pass the bill. Just yesterday, a group of 11 Freshman House Republicans wrote a "Dear Colleague" letter to the GOP conference in which they expressed their support for a short-term CR despite their preference to pass each of the 12 appropriations bills for FY 2016, and they stated their opposition to a government shutdown if no agreement is reached by September 30th.

The exact path forward for the CR remains unclear at this time, and this situation will likely remain fluid leading up to the Senate's scheduled cloture vote at 2 p.m. Thursday.

We will continue to update you as this process moves forward.

It should be noted that Speaker Boehner's impending resignation will likely quell some of the recent unrest in the conservative wing of the House Republican conference and may serve to lessen the threat of a government shutdown. While conservatives still plan to push for inclusion of the Planned Parenthood language in the House CR, Republican leaders will likely rely on Democratic votes to push a clean stopgap funding bill through the lower chamber.

SCAAP Funding Announced

In other developments, the Bureau of Justice Assistance this week announced fiscal year 2015 SCAAP awards. In total, 50 California counties are set to receive roughly \$12.8 million (individual county awards can be viewed [here](#)), with the State of California receiving nearly \$44.2 million. California's combined total represents roughly 34.5 percent of the more than \$165 million that was made available for SCAAP.

All told, Congress appropriated \$185 million for SCAAP in fiscal year 2015; however, as it has done in recent years, the Department of Justice (DOJ) exercised its authority to reallocate 10 percent of SCAAP funds to other departmental activities (the maximum amount allowable under the law). Although the reprogramming of SCAAP funds has been criticized by counties and States, DOJ has been authorized by Congress to shift a certain portion of funds from SCAAP and other grant programs to other Agency purposes, including various administrative activities.

With an eye toward fiscal year 2016 spending, CSAC sent a letter this week to members of the California congressional delegation urging them to support additional funding for SCAAP in any potential year-end funding package. Specifically, the correspondence urges the delegation to seek at least \$220 million for SCAAP, which represents the level of funding that was included in the

House Commerce-Justice-Science (CJS) appropriations legislation (HR 2578). In addition, the letter urges members to oppose any effort to expand DOJ's reprogramming authority.

FY 2016 SHORT-TERM CONTINUING RESOLUTION HIGHLIGHTS

- Keeps the government operating through December 11, 2015.
- Provides funding at annual rate that conforms to the topline discretionary spending limit established by the Budget Control Act for FY 2016 – \$1.017 trillion.
- Provides Overseas Contingency Operations funding at a rate of \$74.758 billion.
- Includes \$700 million in emergency funding for wildland fire suppression.
- Includes small number of funding anomalies to address unique circumstances that arise during the CR period, such as:
 - Supporting claims processors for veterans' disability claims at the rate necessary to address backlog;
 - Maintaining launch schedule for the joint polar satellite;
 - Paying ongoing rental assistance contracts in the rural housing program; and
 - Accommodating increased demand for 7(a) small business loans.
- Includes extensions of certain expiring authorities for the duration of the CR (except as otherwise noted):
 - Internet Tax Freedom Act;
 - E-Verify; and
 - Federal Aviation Administration (6 months).
- Prohibits for one year any funding for Planned Parenthood or its affiliates unless the clinic certifies it will not perform or fund abortions, and redirects the estimated \$235 million in mandatory savings to increase funding for community health centers.

Recommendation(s)/Next Step(s):

ACCEPT the report on federal issues and provide direction to staff, as needed.

Attachments

Attachment A

Attachment B

AMENDMENT NO. _____ Calendar No. _____

Purpose: Making continuing appropriations for the fiscal year
ending September 30, 2016, and for other purposes

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H. J. Res. 61

Hire More Heroes Act of 2015.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COCHRAN

Viz:

1 Strike out all after the enacting clause and insert the
2 following:

3 The following sums are hereby appropriated, out of any
4 money in the Treasury not otherwise appropriated, and
5 out of applicable corporate or other revenues, receipts, and
6 funds, for the several departments, agencies, corporations,
7 and other organizational units of Government for fiscal
8 year 2016, and for other purposes, namely:

9 SEC. 101. (a) Such amounts as may be necessary,
10 at a rate for operations as provided in the applicable ap-
11 propriations Acts for fiscal year 2015 and under the au-
12 thority and conditions provided in such Acts, for con-
13 tinuing projects or activities (including the costs of direct

1 loans and loan guarantees) that are not otherwise specifi-
2 cally provided for in this Act, that were conducted in fiscal
3 year 2015, and for which appropriations, funds, or other
4 authority were made available in the following appropria-
5 tions Acts:

6 (1) The Agriculture, Rural Development, Food
7 and Drug Administration, and Related Agencies Ap-
8 propriations Act, 2015 (division A of Public Law
9 113–235), except section 743 and title VIII.

10 (2) The Commerce, Justice, Science, and Re-
11 lated Agencies Appropriations Act, 2015 (division B
12 of Public Law 113–235).

13 (3) The Department of Defense Appropriations
14 Act, 2015 (division C of Public Law 113–235), ex-
15 cept title X.

16 (4) The Energy and Water Development and
17 Related Agencies Appropriations Act, 2015 (division
18 D of Public Law 113–235).

19 (5) The Financial Services and General Govern-
20 ment Appropriations Act, 2015 (division E of Public
21 Law 113–235).

22 (6) The Department of Homeland Security Ap-
23 propriations Act, 2015 (Public Law 114–4).

1 (7) The Department of the Interior, Environ-
2 ment, and Related Agencies Appropriations Act,
3 2015 (division F of Public Law 113–235).

4 (8) The Departments of Labor, Health and
5 Human Services, and Education, and Related Agen-
6 cies Appropriations Act, 2015 (division G of Public
7 Law 113–235), except title VI.

8 (9) The Legislative Branch Appropriations Act,
9 2015 (division H of Public Law 113–235).

10 (10) The Military Construction and Veterans
11 Affairs, and Related Agencies Appropriations Act,
12 2015 (division I of Public Law 113–235).

13 (11) The Department of State, Foreign Oper-
14 ations, and Related Programs Appropriations Act,
15 2015 (division J of Public Law 113–235), except
16 title IX.

17 (12) The Transportation, Housing and Urban
18 Development, and Related Agencies Appropriations
19 Act, 2015 (division K of Public Law 113–235).

20 (13) Section 11 of the Consolidated and Fur-
21 ther Continuing Appropriations Act, 2015 (Public
22 Law 113–235).

23 (b) The rate for operations provided by subsection (a)
24 is hereby reduced by 0.2108 percent.

1 SEC. 102. (a) No appropriation or funds made avail-
2 able or authority granted pursuant to section 101 for the
3 Department of Defense shall be used for: (1) the new pro-
4 duction of items not funded for production in fiscal year
5 2015 or prior years; (2) the increase in production rates
6 above those sustained with fiscal year 2015 funds; or (3)
7 the initiation, resumption, or continuation of any project,
8 activity, operation, or organization (defined as any project,
9 subproject, activity, budget activity, program element, and
10 subprogram within a program element, and for any invest-
11 ment items defined as a P-1 line item in a budget activity
12 within an appropriation account and an R-1 line item that
13 includes a program element and subprogram element with-
14 in an appropriation account) for which appropriations,
15 funds, or other authority were not available during fiscal
16 year 2015.

17 (b) No appropriation or funds made available or au-
18 thority granted pursuant to section 101 for the Depart-
19 ment of Defense shall be used to initiate multi-year pro-
20 curements utilizing advance procurement funding for eco-
21 nomic order quantity procurement unless specifically ap-
22 propriated later.

23 SEC. 103. Appropriations made by section 101 shall
24 be available to the extent and in the manner that would
25 be provided by the pertinent appropriations Act.

1 SEC. 104. Except as otherwise provided in section
2 102, no appropriation or funds made available or author-
3 ity granted pursuant to section 101 shall be used to ini-
4 tiate or resume any project or activity for which appro-
5 priations, funds, or other authority were not available dur-
6 ing fiscal year 2015.

7 SEC. 105. Appropriations made and authority grant-
8 ed pursuant to this Act shall cover all obligations or ex-
9 penditures incurred for any project or activity during the
10 period for which funds or authority for such project or
11 activity are available under this Act.

12 SEC. 106. Unless otherwise provided for in this Act
13 or in the applicable appropriations Act for fiscal year
14 2016, appropriations and funds made available and au-
15 thority granted pursuant to this Act shall be available
16 until whichever of the following first occurs: (1) the enact-
17 ment into law of an appropriation for any project or activ-
18 ity provided for in this Act; (2) the enactment into law
19 of the applicable appropriations Act for fiscal year 2016
20 without any provision for such project or activity; or (3)
21 December 11, 2015.

22 SEC. 107. Expenditures made pursuant to this Act
23 shall be charged to the applicable appropriation, fund, or
24 authorization whenever a bill in which such applicable ap-

1 appropriation, fund, or authorization is contained is enacted
2 into law.

3 SEC. 108. Appropriations made and funds made
4 available by or authority granted pursuant to this Act may
5 be used without regard to the time limitations for submis-
6 sion and approval of apportionments set forth in section
7 1513 of title 31, United States Code, but nothing in this
8 Act may be construed to waive any other provision of law
9 governing the apportionment of funds.

10 SEC. 109. Notwithstanding any other provision of
11 this Act, except section 106, for those programs that
12 would otherwise have high initial rates of operation or
13 complete distribution of appropriations at the beginning
14 of fiscal year 2016 because of distributions of funding to
15 States, foreign countries, grantees, or others, such high
16 initial rates of operation or complete distribution shall not
17 be made, and no grants shall be awarded for such pro-
18 grams funded by this Act that would impinge on final
19 funding prerogatives.

20 SEC. 110. This Act shall be implemented so that only
21 the most limited funding action of that permitted in the
22 Act shall be taken in order to provide for continuation of
23 projects and activities.

24 SEC. 111. (a) For entitlements and other mandatory
25 payments whose budget authority was provided in appro-

1 priations Acts for fiscal year 2015, and for activities under
2 the Food and Nutrition Act of 2008, activities shall be
3 continued at the rate to maintain program levels under
4 current law, under the authority and conditions provided
5 in the applicable appropriations Act for fiscal year 2015,
6 to be continued through the date specified in section
7 106(3).

8 (b) Notwithstanding section 106, obligations for man-
9 datory payments due on or about the first day of any
10 month that begins after October 2015 but not later than
11 30 days after the date specified in section 106(3) may con-
12 tinue to be made, and funds shall be available for such
13 payments.

14 SEC. 112. Amounts made available under section 101
15 for civilian personnel compensation and benefits in each
16 department and agency may be apportioned up to the rate
17 for operations necessary to avoid furloughs within such de-
18 partment or agency, consistent with the applicable appro-
19 priations Act for fiscal year 2015, except that such author-
20 ity provided under this section shall not be used until after
21 the department or agency has taken all necessary actions
22 to reduce or defer non-personnel-related administrative ex-
23 penses.

24 SEC. 113. Funds appropriated by this Act may be
25 obligated and expended notwithstanding section 10 of

1 Public Law 91–672 (22 U.S.C. 2412), section 15 of the
2 State Department Basic Authorities Act of 1956 (22
3 U.S.C. 2680), section 313 of the Foreign Relations Au-
4 thorization Act, Fiscal Years 1994 and 1995 (22 U.S.C.
5 6212), and section 504(a)(1) of the National Security Act
6 of 1947 (50 U.S.C. 3094(a)(1)).

7 SEC. 114. (a) Each amount incorporated by reference
8 in this Act that was previously designated by the Congress
9 for Overseas Contingency Operations/Global War on Ter-
10 rorism pursuant to section 251(b)(2)(A) of the Balanced
11 Budget and Emergency Deficit Control Act of 1985 or as
12 being for disaster relief pursuant to section 251(b)(2)(D)
13 of such Act is designated by the Congress for Overseas
14 Contingency Operations/Global War on Terrorism pursu-
15 ant to section 251(b)(2)(A) of such Act or as being for
16 disaster relief pursuant to section 251(b)(2)(D) of such
17 Act, respectively.

18 (b) The reduction in section 101(b) of this Act shall
19 not apply to—

20 (1) amounts designated under subsection (a) of
21 this section; or

22 (2) amounts made available by section 101(a)
23 by reference to the second paragraph under the
24 heading “Social Security Administration—Limita-

1 tion on Administrative Expenses” in division G of
2 Public Law 113–235; or

3 (3) amounts made available by section 101(a)
4 by reference to the paragraph under the heading
5 “Centers for Medicare and Medicaid Services—
6 Health Care Fraud and Abuse Control Account” in
7 division G of Public Law 113–235.

8 (c) Section 6 of Public Law 113–235 shall apply to
9 amounts designated in subsection (a) for Overseas Contin-
10 gency Operations/Global War on Terrorism.

11 SEC. 115. During the period covered by this Act, dis-
12 cretionary amounts appropriated for fiscal year 2016 that
13 were provided in advance by appropriations Acts shall be
14 available in the amounts provided in such Acts, reduced
15 by the percentage in section 101(b).

16 SEC. 116. Notwithstanding section 101, amounts are
17 provided for “Department of Agriculture—Domestic Food
18 Programs—Food and Nutrition Service—Commodity As-
19 sistance Program” at a rate for operations of
20 \$288,317,000, of which \$221,298,000 shall be for the
21 Commodity Supplemental Food Program.

22 SEC. 117. Amounts made available by section 101 for
23 “Department of Agriculture—Rural Housing Service—
24 Rental Assistance Program” may be apportioned up to the
25 rate for operations necessary to pay ongoing debt service

1 for the multi-family direct loan programs under sections
2 514 and 515 of the Housing Act of 1949 (42 U.S.C. 1484
3 and 1485): *Provided*, That the Secretary may waive the
4 prohibition in the second proviso under such heading in
5 division A of Public Law 113–235 with respect to rental
6 assistance contracts entered into or renewed during fiscal
7 year 2015.

8 SEC. 118. Amounts made available by section 101 for
9 “Department of Commerce—National Oceanic and At-
10 mospheric Administration—Procurement, Acquisition and
11 Construction” may be apportioned up to the rate for oper-
12 ations necessary to maintain the planned launch schedules
13 for the Joint Polar Satellite System.

14 SEC. 119. (a) The first proviso under the heading
15 “United States Marshals Service—Federal Prisoner De-
16 tention” in title II of division B of Public Law 113–235
17 shall not apply during the period covered by this Act.

18 (b) The limitation in section 217(c) of division B of
19 Public Law 113–235 on the amount of excess unobligated
20 balances available under section 524(c)(8)(E) of title 28,
21 United States Code, shall not apply under this Act to the
22 use of such funds for “United States Marshals Service—
23 Federal Prisoner Detention”.

24 SEC. 120. (a) The authority regarding closeout of
25 Space Shuttle contracts and associated programs provided

11

1 by language under the heading “National Aeronautics and
2 Space Administration—Administrative Provisions” in the
3 Omnibus Appropriations Act, 2009 (Public Law 111–8)
4 shall continue in effect through fiscal year 2021.

5 (b) This section shall be applied as if it were in effect
6 on September 30, 2015.

7 SEC. 121. (a) Notwithstanding section 1552 of title
8 31, United States Code, funds made available, including
9 funds that have expired but have not been cancelled, and
10 identified by Treasury Appropriation Fund Symbol 13–09/
11 10–0554 shall remain available for expenditure through
12 fiscal year 2020 for the purpose of liquidating valid obliga-
13 tions of active grants.

14 (b) For the purpose of subsection (a), grants for
15 which the period of performance has expired but are not
16 finally closed out shall be considered active grants.

17 (c) This section shall be applied as if it were in effect
18 on September 30, 2015.

19 SEC. 122. The following provisions shall be applied
20 by substituting “2016” for “2015” through the earlier of
21 the date specified in section 106(3) of this Act or the date
22 of the enactment of an Act authorizing appropriations for
23 fiscal year 2016 for military activities of the Department
24 of Defense:

12

1 (1) Section 1215(f)(1) of the National Defense
2 Authorization Act for Fiscal Year 2012 (Public Law
3 112–81; 10 U.S.C. 113 note), as most recently
4 amended by section 1237 of the Carl Levin and
5 Howard P. “Buck” McKeon National Defense Au-
6 thorization Act for Fiscal Year 2015 (Public Law
7 113–291).

8 (2) Section 127b(c)(3)(C) of title 10, United
9 States Code.

10 SEC. 123. (a) Funds made available by section 101
11 for “Department of Energy—Energy Programs—Ura-
12 nium Enrichment Decontamination and Decommissioning
13 Fund” may be apportioned up to the rate for operations
14 necessary to avoid disruption of continuing projects or ac-
15 tivities funded in this appropriation.

16 (b) The Secretary of Energy shall notify the Commit-
17 tees on Appropriations of the House of Representatives
18 and the Senate not later than 3 days after each use of
19 the authority provided in subsection (a).

20 SEC. 124. Notwithstanding any other provision of
21 this Act, except section 106, the District of Columbia may
22 expend local funds under the heading “District of Colum-
23 bia Funds” for such programs and activities under the
24 District of Columbia Appropriations Act, 2015 (title IV
25 of division E of Public Law 113–235) at the rate set forth

1 under “District of Columbia Funds—Summary of Ex-
2 penses” as included in the Fiscal Year 2016 Budget Re-
3 quest Act of 2015 (D.C. Act 21–99), as modified as of
4 the date of the enactment of this Act.

5 SEC. 125. Notwithstanding section 101, no funds are
6 provided by this Act for “Recovery Accountability and
7 Transparency Board—Salaries and Expenses”.

8 SEC. 126. Amounts made available by section 101 for
9 “Small Business Administration—Business Loans Pro-
10 gram Account” may be apportioned up to the rate for op-
11 erations necessary to accommodate increased demand for
12 commitments for general business loans authorized under
13 section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

14 SEC. 127. Sections 1101(a) and 1104(a)(2)(A) of the
15 Internet Tax Freedom Act (title XI of division C of Public
16 Law 105–277; 47 U.S.C. 151 note) shall be applied by
17 substituting the date specified in section 106(3) of this
18 Act for “October 1, 2015”.

19 SEC. 128. Section 101 shall be applied by assuming
20 that section 7 of Public Law 113–235 was enacted as part
21 of title VII of division E of Public Law 113–235.

22 SEC. 129. The authority provided by section 831 of
23 the Homeland Security Act of 2002 (6 U.S.C. 391) shall
24 continue in effect through the date specified in section
25 106(3) of this Act.

14

1 SEC. 130. Section 401(b) of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of 1996 (8
3 U.S.C. 1324a note) shall be applied by substituting the
4 date specified in section 106(3) of this Act for “September
5 30, 2015”.

6 SEC. 131. Section 610(b) of the Departments of
7 Commerce, Justice, and State, the Judiciary, and Related
8 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)
9 shall be applied by substituting the date specified in sec-
10 tion 106(3) of this Act for “September 30, 2015”.

11 SEC. 132. Subclauses 101(a)(27)(C)(ii)(II) and (III)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1101(a)(27)(C)(ii)(II) and (III)) shall be applied by sub-
14 stituting the date specified in section 106(3) of this Act
15 for “September 30, 2015”.

16 SEC. 133. Section 220(c) of the Immigration and Na-
17 tionality Technical Corrections Act of 1994 (8 U.S.C.
18 1182 note) shall be applied by substituting the date speci-
19 fied in section 106(3) of this Act for “September 30,
20 2015”.

21 SEC. 134. Section 810 of the Federal Lands Recre-
22 ation Enhancement Act (16 U.S.C. 6809) is amended by
23 striking all that follows after “shall terminate” and insert-
24 ing “September 30, 2017.”.

15

1 SEC. 135. In addition to the amount otherwise pro-
2 vided by section 101 for “Department of Agriculture—
3 Forest Service—Wildland Fire Management”, there is ap-
4 propriated \$700,000,000 for an additional amount for fis-
5 cal year 2016, to remain available until expended, for ur-
6 gent wildland fire suppression activities: *Provided*, That
7 such funds shall only become available if funds previously
8 provided for wildland fire suppression will be exhausted
9 imminently and the Secretary of Agriculture notifies the
10 Committees on Appropriations of the House of Represent-
11 atives and the Senate in writing of the need for these addi-
12 tional funds: *Provided further*, That such funds are also
13 available for transfer to other appropriations accounts to
14 repay amounts previously transferred for wildfire suppres-
15 sion: *Provided further*, That such amount is designated by
16 the Congress as an emergency requirement pursuant to
17 section 251(b)(2)(A)(i) of the Balanced Budget and
18 Emergency Deficit Control Act of 1985, except that such
19 amount shall be available only if the President subse-
20 quently so designates such amount and transmits such
21 designation to the Congress.

22 SEC. 136. The authorities provided by sections 117
23 and 123 of division G of Public Law 113–76 shall continue
24 in effect through the date specified in section 106(3) of
25 this Act.

16

1 SEC. 137. (a) The authority provided by subsection
2 (m)(3) of section 8162 of the Department of Defense Ap-
3 propriations Act, 2000 (40 U.S.C. 8903 note; Public Law
4 106–79) shall continue in effect through the date specified
5 in section 106(3) of this Act.

6 (b) For the period covered by this Act, the authority
7 provided by the provisos under the heading “Dwight D.
8 Eisenhower Memorial Commission—Capital Construc-
9 tion” in division E of Public Law 112–74 shall not be in
10 effect.

11 SEC. 138. Section 3096(2) of the Carl Levin and
12 Howard P. “Buck” McKeon National Defense Authoriza-
13 tion Act for Fiscal Year 2015 is amended by inserting “for
14 fiscal year 2015” after “\$37,000,000”.

15 SEC. 139. Funds made available in prior appropria-
16 tions Acts for construction and renovation of facilities for
17 the Centers for Disease Control and Prevention may also
18 be used for construction on leased land.

19 SEC. 140. Subsection (b) of section 163 of Public
20 Law 111–242, as amended, is further amended by striking
21 “2015–2016” and inserting “2016–2017”.

22 SEC. 141. Section 101 shall be applied by assuming
23 that section 139 of Public Law 113–164 was enacted as
24 part of division G of Public Law 113–235, and section
25 139 of Public Law 113–164 shall be applied by adding

1 at the end the following: “and of the unobligated balance
2 of amounts deposited or available in the Child Enrollment
3 Contingency Fund from appropriations to the Fund under
4 section 2104(n)(2)(A)(i) of the Social Security Act and
5 the income derived from investment of those funds pursu-
6 ant to 2104(n)(2)(C) of that Act, \$1,664,000,000 is re-
7 scinded”.

8 SEC. 142. Section 114(f) of the Higher Education
9 Act of 1965 (20 U.S.C. 1011c(f)) shall be applied by sub-
10 stituting the date specified in section 106(3) of this Act
11 for “September 30, 2015”.

12 SEC. 143. Notwithstanding any other provision of
13 this Act, there is appropriated for payment to Tori B.
14 Nunnelee, widow of Alan Nunnelee, late a Representative
15 from the State of Mississippi, \$174,000.

16 SEC. 144. Of the discretionary unobligated balances
17 of the Department of Veterans Affairs from fiscal year
18 2015 or prior fiscal years, or discretionary amounts appro-
19 priated in advance for fiscal year 2016, the Secretary of
20 Veterans Affairs may transfer up to \$625,000,000 to “De-
21 partment of Veterans Affairs—Departmental Administra-
22 tion—Construction, Major Projects”, to be merged with
23 the amounts available in such account: *Provided*, That no
24 amounts may be transferred from amounts that were des-
25 ignated by the Congress as an emergency requirement

1 pursuant to the Concurrent Resolution on the Budget, the
2 Balanced Budget and Emergency Deficit Control Act of
3 1985, or the Statutory Pay-As-You-Go Act of 2010: *Pro-*
4 *vided further*, That no amounts may be transferred until
5 the Secretary submits to the Committees on Appropria-
6 tions of the House of Representatives and the Senate a
7 request for, and receives from the Committees written ap-
8 proval of, such transfers: *Provided further*, That the Sec-
9 retary shall specify in such request the donor account and
10 amount of each proposed transfer, the fiscal year of each
11 appropriation to be transferred, the amount of unobligated
12 balances remaining in the account after the transfer, and
13 the project or program impact of the transfer.

14 SEC. 145. Notwithstanding section 101, amounts are
15 provided for “Department of Veterans Affairs—Depart-
16 mental Administration—General Operating Expenses,
17 Veterans Benefits Administration” at a rate for operations
18 of \$2,697,734,000.

19 SEC. 146. Notwithstanding section 101, section
20 226(a) of division I of Public Law 113–235 shall be ap-
21 plied to amounts made available by this Act by sub-
22 stituting “division I of Public Law 113–235” for “division
23 J of Public Law 113–76” and by substituting “2015” for
24 “2014”.

1 SEC. 147. Section 209 of the International Religious
2 Freedom Act of 1998 (22 U.S.C. 6436) shall be applied
3 by substituting the date specified in section 106(3) of this
4 Act for “September 30, 2015”.

5 SEC. 148. Amounts made available by section 101 for
6 “Broadcasting Board of Governors—International Broad-
7 casting Operations”, “Bilateral Economic Assistance—
8 Funds Appropriated to the President—Economic Support
9 Fund”, “International Security Assistance—Department
10 of State—International Narcotics Control and Law En-
11 forcement”, “International Security Assistance—Depart-
12 ment of State—Nonproliferation, Anti-terrorism,
13 Demining and Related Programs”, and “International Se-
14 curity Assistance—Funds Appropriated to the President
15 Foreign Military Financing Program” shall be obligated
16 at a rate for operations as necessary to sustain assistance
17 for Ukraine to counter external, regional aggression and
18 influence, including for the costs of authorized loan guar-
19 antees.

20 SEC. 149. Section 1334 of the Foreign Affairs Re-
21 form and Restructuring Act of 1998 (22 U.S.C. 6553)
22 shall be applied by substituting the date specified in sec-
23 tion 106(3) of this Act for “October 1, 2015”.

24 SEC. 150. (a) Funds made available by section 101
25 for “Department of Housing and Urban Development—

1 Management and Administration—Administrative Sup-
2 port Offices” may be apportioned up to the rate for oper-
3 ations necessary to maintain the planned schedule for the
4 New Core Shared Services Project.

5 (b) Not later than 3 days before the first use of the
6 apportionment authority in subsection (a), each 30 days
7 thereafter, and 3 days after the authority expires under
8 this Act, the Secretary of Housing and Urban Develop-
9 ment shall submit to the Committees on Appropriations
10 of the House of Representatives and the Senate a report
11 specifying each use of the authority through the date of
12 the report.

13 SEC. 151. (a) Section 48103(a) of title 49, United
14 States Code, shall be applied: (1) by substituting the
15 amount specified in such section with \$1,610,000,000; and
16 (2) by substituting the fiscal year specified in such section
17 with the period beginning October 1, 2015, and ending
18 on March 31, 2016.

19 (b) Section 47104(c), 47107(r)(3), and 47115(j) of
20 title 49, United States Code, shall each be applied by sub-
21 stituting “2016” for “2015”.

22 (c) Section 47141(f) of title 49, United States Code,
23 shall be applied by substituting “March 31, 2016” for
24 “September 30, 2015”.

1 (d) For purposes of calculating funding apportion-
2 ments and meeting other requirements under sections
3 47114, 47115, 47116, and 47117 of title 49, United
4 States Code, for the period beginning on October 1, 2015,
5 and ending on March 31, 2016, the Administrator of the
6 Federal Aviation Administration shall—

7 (1) first calculate funding apportionments on
8 an annualized basis as if the total amount available
9 under section 48103 of such title for fiscal year
10 2016 were \$3,220,000,000; and

11 (2) then reduce by 50 percent—

12 (A) all funding apportionments calculated
13 under paragraph (1); and

14 (B) amounts available pursuant to sections
15 47117(b) and 47117(f)(2) of such title.

16 (e) Section 409(d) of the Vision 100—Century of
17 Aviation Reauthorization Act (49 U.S.C. 41731 note)
18 shall be applied by substituting “March 31, 2016” for
19 “September 30, 2015”.

20 (f) Nothing in this section shall affect the availability
21 of any balances of contract authority provided under sec-
22 tion 48103 of title 49, United States Code, for fiscal year
23 2015 or any prior fiscal year.

24 (g) Section 186(d) of the Vision 100—Century of
25 Aviation Reauthorization Act (117 Stat. 2518) is amended

1 by inserting “and for the period beginning on October 1,
2 2015, and ending on March 31, 2016,” after “fiscal years
3 2012 through 2015”.

4 (h) This section shall be in effect through March 31,
5 2016.

6 SEC. 152. (a) Notwithstanding section 106, sections
7 4081(d)(2)(B), 4261(j), 4261(k)(1)(A)(ii), and
8 4271(d)(1)(A)(ii) of the Internal Revenue Code of 1986
9 shall each be applied by substituting “March 31, 2016”
10 for “September 30, 2015”.

11 (b) Notwithstanding section 106, section 4083(b) and
12 subsections (d)(1) and (e)(2) of section 9502 of such Code
13 shall each be applied by substituting “April 1, 2016” for
14 “October 1, 2015”.

15 (c) Subparagraph (A) of section 9502(d)(1) of such
16 Code is amended by inserting “or any Act making con-
17 tinuing appropriations for the fiscal year 2016” before the
18 semicolon at the end.

19 SEC. 153. (a) Congress finds the following:

20 (1) State and county health departments, com-
21 munity health centers, hospitals, physicians offices,
22 and other entities currently provide, and will con-
23 tinue to provide, health services to women. Such
24 health services include relevant diagnostic laboratory
25 and radiology services, well-child care, prenatal and

1 postpartum care, immunization, family planning
2 services (including contraception), cervical and
3 breast cancer screenings and referrals, and sexually
4 transmitted disease testing.

5 (2) Many such entities provide services to all
6 persons, regardless of the person's ability to pay,
7 and provide services in medically underserved areas
8 and to medically underserved populations.

9 (3) All funds that are no longer available to
10 Planned Parenthood Federation of America, Inc.
11 and its affiliates and clinics pursuant to this section
12 will continue to be made available to other eligible
13 entities to provide women's health care services.

14 (4) Funds authorized to be appropriated, and
15 appropriated, by subsection (e) of this section are
16 offset by the funding limitation under subsection (b)
17 of this section.

18 (b) For the one-year period beginning on the date of
19 the enactment of this Act, subject to subsection (c) of this
20 section, no funds authorized or appropriated by Federal
21 law may be made available for any purpose to Planned
22 Parenthood Federation of America, Inc., or any affiliate
23 or clinic of Planned Parenthood Federation of America,
24 Inc., unless such entities certify that Planned Parenthood
25 Federation of America affiliates and clinics will not per-

1 form, and will not provide any funds to any other entity
2 that performs, an abortion during such period.

3 (c) Subsection (b) of this section shall not apply to
4 an abortion—

5 (1) if the pregnancy is the result of an act of
6 rape or incest; or

7 (2) in the case where a woman suffers from a
8 physical disorder, physical injury, or physical illness
9 that would, as certified by a physician, place the
10 woman in danger of death unless an abortion is per-
11 formed, including a life-endangering physical condi-
12 tion caused by or arising from the pregnancy itself.

13 (d) The Secretary of Health and Human Services and
14 the Secretary of Agriculture shall seek repayment of any
15 Federal assistance received by Planned Parenthood Fed-
16 eration of America, Inc., or any affiliate or clinic of
17 Planned Parenthood Federation of America, Inc., if it vio-
18 lates the terms of the certification required by subsection
19 (b) of this section during the period specified in subsection
20 (b) of this section.

21 (e) There is authorized to be appropriated, and ap-
22 propriated, \$235,000,000 for the community health center
23 program under section 330 of the Public Health Service
24 Act (42 U.S.C. 254b), in addition to any other funds made
25 available to such program, for the period for which the

25

1 funding limitation under subsection (b) of this section ap-
2 plies.

3 (f) None of the funds authorized or appropriated pur-
4 suant to subsection (e) of this section may be expended
5 for an abortion other than as described in subsection (c)
6 of this section.

7 (g) Nothing in this section shall be construed to re-
8 duce overall Federal funding available in support of wom-
9 en's health.

10 This Act may be cited as the "Continuing Appropria-
11 tions Resolution, 2016".

CR Section-by-Section Analysis

General Terms and Conditions

Sec. 101. Provides for the continuation of appropriations at the levels of, and under the terms and conditions of, the fiscal year 2015 Acts, reduced by 0.21 percent of both defense and non-defense discretionary programs.

DOD Production Rates

Sec. 102. Prohibits DOD from starting new programs, entering into multi-year contracts, or increasing production rates.

Terms and Conditions

Sec. 103. Specifies that funds in section 101 shall be available to the extent and in the manner that would be provided in the pertinent appropriations Act.

No New Starts

Sec. 104. Provides for neither new starts nor resumption of activities for which funds were not available during 2015.

Continuation of Authorities

Sec. 105. Continues all authorities, requirements, and limitations from 2015 appropriations Acts through the date in section 106. Allows for valid obligations and expenditures during the period of the CR.

Expiration Date

Sec. 106. Continues appropriations through December 11, 2015, or the enactment of the pertinent appropriations Act.

Attribution of Appropriations

Sec. 107. Provides that expenditures for activities funded in this CR be charged to the relevant account when the applicable appropriations Acts become law.

Waiver of Apportionments

Sec. 108. Waives the normal time limitations for submission and approval of apportionments of accounts funded in annual appropriations Acts.

Limits high initial rates of operation

Sec. 109. Limits disbursements for programs that otherwise would have high initial rates of operation or would complete disbursements at the beginning of the fiscal year if those actions would impinge on final Congressional funding prerogatives.

Limitation on Spending Authority

Sec. 110. Directs that the Act be implemented so only the most limited funding action be taken in order to provide for continuation of projects and activities.

Appropriated Entitlement and Other Mandatory Spending

Sec. 111. Provides for up to 30 days after the expiration of the CR authority to make payments for appropriated entitlements and other mandatory spending.

Furlough Avoidance

Sec. 112. Permits agencies to apportion funds up to a rate for operation necessary to avoid furloughs, but this authority shall not be used until the agency has taken all necessary action to reduce or defer non-personnel-related administrative expenses.

National Security Waiver Authority

Sec. 113. Provides waiver authority routinely carried in CRs for the expenditure of funds in the absence of certain national security authorizations.

Designation of Funds for Which Cap Adjustments Are Made

Sec. 114. Provides a designation for amounts incorporated by reference for which a cap adjustment for overseas contingency operations and disaster relief is permissible under the Budget Control Act of 2011. Exempts these amounts, plus base and cap adjustment funding for the Social Security Administration's continuing disability reviews and redeterminations and for the Health and Human Services Department's Health Care Fraud and Abuse Control Account, from the across-the-board reduction in section 101.

Advance Appropriations

Sec. 115. Applies through the duration of the CR the across-the-board reduction in section 101 to advance appropriations made in prior years that first become available in fiscal year 2016.

Commodity Supplemental Food Program Funding

Sec. 116. Provides through the duration of the CR a higher rate for operations for the commodity supplemental food program to cover higher food package costs in 2016.

Rental Assistance Program Apportionment Authority

Sec. 117. Allows the Department of Agriculture funding flexibility to pay ongoing debt service for multi-family direct loan program rental assistance contracts under sections 514 and 515 of the Housing Act of 1949. Also permits renewal

through the duration of the CR of rental assistance contracts entered into or renewed in 2015 that exhausted funds within the 12-month contract period.

Satellite Apportionment Authority

Sec. 118. Allows NOAA funding flexibility to maintain launch schedules for the Joint Polar Satellite System.

Federal Prisoner Detention

Sec. 119. Turns off the language in the 2015 bill requiring a \$1.1 billion transfer from the Assets Forfeiture Fund to the United States Marshals Service, while modifying temporarily the general limitation on transfers from the Assets Forfeiture Fund to allow transfers to the Marshals Service to cover projected detention costs during the period of the CR.

Space Shuttle Program Closeout

Sec. 120. Allows the liquidation of valid obligations of existing amounts that will expire but have not yet been cancelled to support closeout activities of the Space Shuttle Program.

Broadband Technology Opportunities Program Closeout

Sec. 121. Allows the liquidation of valid obligations of existing amounts that will expire but have not yet been cancelled to support ongoing telecommunications infrastructure grants.

Defense Authorization Extensions

Sec. 122. Extends authority that otherwise expires for the Office of Security Cooperation in Iraq and for awards for combatting terrorism.

Uranium Enrichment Decontamination and Decommissioning Fund Apportionment Authority

Sec. 123. Allows DOE funding flexibility to avoid disruption of continuing clean-up projects or activities, particularly at the Portsmouth Gaseous Diffusion Plant.

DC Local Funds

Sec. 124. Allows through the duration of the CR the District of Columbia to spend its locally-generated revenue for fiscal year 2016 on and after October 1, 2015.

Recovery Accountability Transparency Board

Sec. 125. Provides a rate for operations for the Recovery Accountability Transparency Board of zero. The Board is scheduled to sunset on September 30, 2015, and is not funded in the House or Senate bills for 2016. The Board was funded at \$18 million in 2015.

SBA 7(a) Business Loans Apportionment Authority

Sec. 126. Allows SBA funding flexibility to accommodate demand for commitments for 7(a) small business loans.

Internet Tax Freedom Act Extension

Sec. 127. Extends through the duration of the CR authority that otherwise expires on October 1, 2015, for the Internet Tax Freedom Act.

Technical Allowance for Estimating Differences

Sec. 128. Provides that section 7 of the 2015 Omnibus is a term and condition under section 101. Section 7 allows for the Office of Management and Budget to adjust the discretionary spending limits by no more than 0.2 percent due to estimating differences with the Congressional Budget Office.

Homeland Security R&D Extension

Sec. 129. Extends through the duration of the CR authority needed to obtain leading edge Homeland Security R&D or prototypes using “other transactions” agreements for work with non-traditional Government contractors.

E-Verify Extension

Sec. 130. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the E-Verify employment authorization program.

EB-5 Regional Centers Extension

Sec. 131. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the EB-5 Immigrant Investor Visa Program.

Nonminister Religious Worker Visa Program Extension

Sec. 132. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the special immigrant status granted to religious workers other than ministers.

Conrad-30 Waiver Program Extension

Sec. 133. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for rural doctors employment visas.

Recreation User Fees Extension

Sec. 134. Extends through September 30, 2017, user fee collection authority under the Federal Lands Recreation Enhancement Act.

Fire Transfer Repayment Funding

Sec. 135. Appropriates \$700 million in emergency funding, to remain available until expended, for urgent wildfire suppression activities at the Department of Agriculture. Such funding may be used for transfer to other landscape management program accounts to repay amounts previously transferred for wildfire suppression.

Oil and Gas Special Pay Authorization Extension

Sec. 136. Extends through the duration of the CR authority that otherwise expires at the end of fiscal year 2015, for establishing higher rates of pay for certain highly skilled employees in the petroleum engineering and geoscience fields working on both offshore and onshore oil and gas development at the Department of the Interior. These special pay authorities allow the agency to compete with industry in the hiring and retention of key personnel.

Eisenhower Memorial Commission Extension

Sec. 137. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the Eisenhower Memorial Commission, while continuing the construction limitation for the Memorial imposed in 2015 and prior years.

Payment in Lieu of Taxes Technical Fix

Sec. 138. Clarifies language enacted in the National Defense Authorization Act for Fiscal Year 2015 to ensure that \$37 million in PILT payments made on October 1, 2015, are intended to be 2015 payments.

CDC Leased Facility

Sec. 139. Allows use of prior-year CDC funds for construction of a replacement freezer building on leased land.

Highly Qualified Teachers Extension

Sec. 140. Extends through the 2016-2017 school year a provision that allows the Department of Education to include teachers who are pursuing alternative routes to certification in the definition of a highly qualified teacher under the No Child Left Behind Act of 2001.

Children's Health Insurance Program Rescission

Sec. 141. Incorporates and continues a rescission of Children's Health Insurance Program funds contained in the 2015 short-term CR, and maintains changes in mandatory programs in the Labor-HHS subcommittee at the 2015 enacted level.

National Advisory Committee on Institutional Quality and Integrity

Sec. 142. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the Department of Education's National Advisory Committee on Institutional Quality and Integrity.

Death Gratuity Funding for Representative Nunnelee

Sec. 143. Appropriates a \$174,000 death gratuity to the widow of Representative Alan Nunnelee.

Denver Replacement Medical Center Transfer Authority

Sec. 144. Allows \$625 million in transfers from VA prior-year discretionary balances and 2016 discretionary advance appropriations to the Construction, Major Projects account to cover costs for completion of the Denver Replacement Medical Center. Requires a request from VA and Appropriations Committees' approvals for such transfers.

VA Funding to Reduce Backlog of Disabilities Claims

Sec. 145. Provides through the duration of the CR a higher rate for operations for Veterans Benefits Administration general operating expenses to continue progress on the disability claims backlog.

VA Rescission and Reappropriation

Sec. 146. Continues a rescission made in 2015 and prior years that routinely accompanies an appropriation for veterans' medical care to extend the availability of funds from one year to two years.

U.S. Commission on International Religious Freedom Extension

Sec. 147. Extends through the duration of the CR authority that otherwise expires on September 30, 2015, for the U.S. Commission on International Religious Freedom.

Ukraine Apportionment Authority

Sec. 148. Allows funding flexibility for selected international activities, including the costs of authorized loan guarantees, so as to sustain assistance for Ukraine to counter external, regional aggression and influence.

U.S. Advisory Commission on Public Diplomacy Extension

Sec. 149. Extends through the duration of the CR authority that otherwise expires on October 1, 2015, for the U.S. Advisory Commission on Public Diplomacy.

New Core Apportionment Authority

Sec. 150. Allows HUD funding flexibility to transfer key financial management and procurement responsibilities to the Department of Treasury on October 1, 2015, as part of the scheduled third release of its New Core shared services project.

Federal Aviation Administration Extension

Sec. 151 and Sec. 152. Extends through March 31, 2016, trust fund expenditure authority, airport grants contract authority and aviation excise taxes that otherwise expire on October 1, 2015.

Prohibition on Funding for Planned Parenthood

Sec. 153. Prohibits for one year any funding for Planned Parenthood or its affiliates unless the clinic certifies it will not perform or fund abortions, and redirects the estimated \$235 million in mandatory savings to increase funding for community health centers.