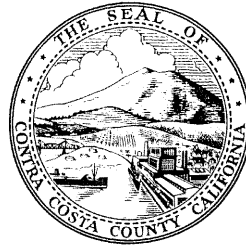


TO: BOARD OF SUPERVISORS

FROM: Legislation Committee,
Supervisor Mary N. Piepho, Chair
Supervisor Susan A. Bonilla



Contra Costa County

DATE: April 22, 2008

SUBJECT: Position on Bills 

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION

ACCEPT the report regarding the development of Contra Costa County Board of Supervisors positions on bills, and AUTHORIZE the Chair of the Board to communicate his/her position on a bill when there is no adopted Board policy on the matter, provided it is clearly indicated the position is that of the Chair and the full Board takes action on the bill on the next available agenda.

FISCAL IMPACT:

None.

BACKGROUND:

At its February 25, 2008 meeting, the Legislation Committee reviewed and accepted the following report that sets forth the protocol for bill position development, recommendation, adoption, and advocacy by the Board of Supervisors.

1. Relationship to Platform

The Contra Costa County Legislative Platforms are intended to guide the County on federal and state legislative and budgetary issues of interest or concern to the County. More specifically, the Legislative Platforms detail the legislative proposals the County wishes to sponsor and communicates the priority issues and policy positions of the County. Contra Costa County's state and federal Legislative Platforms were adopted by the Board on January 22, 2008. The platforms, however, are dynamic documents that may be updated or amended during the year as the need arises.

Based on the priorities and policies in the County's adopted federal and state Legislative Platforms, staff assesses issues, bills, and budget items that arise during the legislative sessions for conformity with the Legislative Platform. Note that Contra Costa County's Legislative program is coordinated by the CAO's office, with the exception of state transportation-related issues and bills, which are handled by the transportation planning division of Community Development (Steve Goetz and John Greitzer).

CONTINUED ON ATTACHMENT: ☒ YES

SIGNATURE:

RECOMMENDATION OF COUNTY ADMINISTRATOR X RECOMMENDATION OF BOARD COMMITTEE
APPROVE OTHER

SIGNATURE(S):

ACTION OF BOARD ON 4/22/08 APPROVED AS RECOMMENDED ☒ OTHER ☐

VOTE OF SUPERVISORS

✓ UNANIMOUS (ABSENT 0)
 AYES: _____ NOES: _____
 ABSENT: _____ ABSTAIN: _____

Contact:

L. DeLaney 5-1097

Cc:

Supervisor Mary N. Piepho
Supervisor Susan A. Bonilla

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF AN ACTION TAKEN AND ENTERED ON MINUTES OF THE
BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED

April 22, 2008
JOHN CULLEN, CLERK OF THE BOARD

JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISORS

BY:

BY: Katherine Smclair

DEPUTY

April 22, 2008

2. Protocol for Recommendations to Board of Supervisors

a. *Content Experts (Department staff, CSAC staff)*

County departments are often in the best position to provide detailed impact analyses of proposed bills and issues affecting the County. Impact analyses include both programmatic as well as fiscal impacts. With the responsibility of providing services to Contra Costa County residents, County departments have the greatest interest in ensuring that legislative matters impact their service delivery in the most positive way. However, County departments, each with their own interests, can have differing and possibly conflicting positions. As a result, policy positions should be coordinated through the CAO's office.


To protect their and the County's interests, County departments should do the following:

- Identify, monitor, and analyze legislative issues of concern to the department. The department should provide the analysis to the CAO's office (or Transportation Planning staff) at the earliest practical time. These analyses should briefly describe the issue and consider both programmatic and fiscal impacts to service delivery as well as impacts on those served.
- Should the CAO's office (or Transportation Planning staff) determine the issue conforms with a pre-existing policy position in the adopted Platform, the CAO's office and the department will work collaboratively to draft a Board Order with a position recommendation and a letter for signature by the Chair of the Board. Should the CAO's office (or Transportation Planning staff) determine the issue does not conform to a pre-existing policy, the issue will be placed on the following Legislative Committee, TWIC, or Board of Supervisors agenda.
- If a bill potentially affects more than one department, the CAO's staff (or Transportation Planning staff) will work to achieve a consensus position among those impacted before presenting the item for Board consideration.
- Once the Board of Supervisors has adopted a relevant policy and/or bill position, the CAO's office (or Transportation Planning staff) will collaborate to develop a position letter and coordinate advocacy efforts.
- While elected heads of County departments are not required to comply with the above guidelines, they are encouraged to do so with the common goal of best serving our County community.

The California State Association of Counties (CSAC) also provides a wealth of information and analyses about issues and bills that affect County operations and services. CSAC adopts and publishes annual Legislative Priorities and Platforms; a Legislative Bulletin is circulated generally twice a month; Budget Action Bulletins are developed as needed; a legislative tracking service is provided on their website; and CSAC staff are available for further discussion and insights on important issues and bills. County department staff are encouraged to review the analyses prepared by CSAC staff, respond to data and information inquiries, and consult with CSAC staff as appropriate.

b. *Political Reality Checks (Lobbyists, Associations)*

The County's Legislative Advocates (lobbyists) identify issues of possible concern to the County, assess the likelihood of satisfying the County's interests, advise the County on legislative affairs and represent the County's interests on the state and federal levels to legislators, the Governor's office and executive agencies. The federal and state advocates will coordinate advocacy activities with the CAO's staff and Transportation Planning staff.

 For federal matters, the County currently retains the firms of Alcade & Fay, represented by Paul Schlesinger and Charlotte Hrcir; for state matters, Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, represented by Cathy Christian, Alan Fernandes, and Jim Gross; and for transportation matters, California Strategies and Advocacy, represented by Mark Watts.

The roles and responsibilities of the County Legislative Advocates include:

- Communicating the County's general and specific concerns to legislators, the Governor, agencies, and other interested parties and relevant staff through meetings, hearing testimony and conversations where appropriate.
- Suggesting strategies and approaches to best satisfy the County's interests.
- Regularly reporting, through in-person meetings, conference calls and memoranda, on actions taken on behalf of the County, as well as other information of interest to the County. This includes the Year-End Reports.

The Board of Supervisors and Department Staff involvement and engagement in associations is another means for assessing the impacts of legislation and budget proposals on Contra Costa County finances, operations and services. The Board of Supervisors regularly participates on the boards and committees of the California State Association of Counties (CSAC), Urban Counties Caucus (UCC), the Bay Area Caucus, and the National Association of Counties (NACo). The publications and communications from these associations are regularly provided to County departments.

Many County departments also participate in professional organizations and associations. Examples include the California Welfare Directors Association (CWDA) and the California Association of Public Hospitals (CAPH). County departments are encouraged to participate in such organizations to affect pending legislation and other relevant issues when such advocacy is consistent with the Board's policies and positions. County departments are encouraged to communicate the positions of the professional organization or association to the CAO's office. When the position of the professional organization or association differs from that of the Board of Supervisors, the department should notify the CAO's office.

If the organization or association requests a letter of support/opposition for the organization's position, the department shall:

- contact the CAO's staff to discuss the requested action;
- determine whether there is existing County policy on the issue;
- verify that it does not adversely impact other County operations; and
- submit the item for the Board's consideration and action.

3. Board Order Format and Content


When a department, Board committee or advisory board/commission wishes to recommend a position on a bill to the Board of Supervisors, the submittal of the Board Order is handled by the legislative coordinator in the CAO's office. The CAO's staff works collaboratively with department staff on the analysis of the bill's impact on County operations and prepares the Board Order and position letter.

The Board Order follows the standard County format which includes a recommendation, a fiscal impact statement, background material, and attachments. In general, the attachments should include the actual bill text and any relevant analyses.

Position recommendations can include:

- Support
- Support and amend
- Support if amended
- Watch
- Oppose
- Oppose unless amended
- No position

4. Urgency Action Protocol

In cases of extreme urgency,  when the Board of Supervisors has an adopted policy position on an issue or bill, there is an established policy whereby the Chair of the Board of Supervisors may communicate a position on the matter prior to the Board taking action.

In such cases, department staff must alert the CAO's office who will advise the Board Chair on a position recommendation prior to Board action. Board policy allows the Board Chair to send a letter under his/her personal letterhead (or County letterhead, indicating the position is that of the Chair)

provided that all Board members are immediately alerted of the action and that an official Board position is considered at the next Board meeting.

In cases of extreme urgency when the Board of Supervisors does not have an adopted policy position that relates directly to an issue or bill, the Legislative Committee recommends the following:

- The Chair of the Board is authorized to communicate a position prior to the Board action under his/her own personal letterhead (or County letterhead), indicating the position is that of the Chair of the Board, provided that the Board take action at its next meeting.

5. Role of Board Committees, Advisory Boards and Commissions, and Community Based Organizations

a. Board Committees

The Board has established the following standing committees: Internal Operations (IO), Family and Human Services (FHS), Finance, Public Protection, Transportation, Water, and Infrastructure (TW&I), and Legislation. Capital Facilities meets as needed. The purpose of the standing committees is three-fold: (1) to study issues in more depth than is usually practical at a regular meeting of the Board; (2) to study issues in the context of a functional system of programs and services; and (3) to provide more opportunity for the public and other interested parties to have insight and input into the analytical and deliberative process that leads to formal recommendations.

The current standing committees cover the functional areas of County services. As such, the issues, policies, and bills relevant to the functional areas addressed by the standing committees should be directed to those committees for recommendation on action by the Board of Supervisors.

b. County Advisory Boards and Commissions

Like County departments, County Advisory Board and Commission members possess a high level of knowledge and expertise and can provide detailed impact analyses of issues affecting the County. As advisors, board and commission members are encouraged to alert the Board of Supervisors of relevant issues and bills. To that end, County Advisory Board and Commission members are encouraged to:

- Identify and analyze legislative issues of concern to board/commission subject areas. For issues of importance, the staff person to the board/commission should alert any relevant County department and the CAO's staff (or Transportation Planning staff) about the issue and provide an analysis. Public opinion and/or advocacy about the issue should not proceed without Board of Supervisors action on the issue.
- The analyses should briefly describe the issue and consider both programmatic and fiscal impacts to service delivery as well as impacts on those served. Should the CAO's office (or Transportation Planning staff) determine that the issue conforms with a pre-existing Board policy position, the CAO's staff and the board/commission staff will work collaboratively to draft a Board Order and position letter for signature by the Chair of the Board. Should the CAO's staff determine that the issue does not align with a pre-existing policy, the issue will be placed on the next Legislative Committee, standing committee, or Board agenda, as needed.

c. Community Based Organizations

Community based organizations (CBOs) can be effective partners in advocating for issues of mutual interest and should be engaged in position development and advocacy efforts as needed and as appropriate. CBOs are encouraged to alert the CAO legislative staff to bills and issues of mutual interest and communicate their positions on those matters. In addition, CAO staff will seek input from CBOs for the preparation of analyses and position formation, as appropriate.

6. Communication of Positions

It is the primary responsibility of the CAO's legislative staff and Transportation Planning staff, in coordination with the federal and state advocates, to advance the official County position on bills as they progress through the legislative process. However, this advocacy may require and include the participation of Board members, the CAO, Department heads, and other designated County staff as appropriate.



Advocacy activities and communication of official County positions may include direct interaction with members of the Legislature and their staff; Legislative Committees and their staff; State and federal agencies and administrations; statewide organizations; local or regional governmental bodies; and community organizations.

A Department or Advisory Board/Commission may not take any action that would imply the County's support or opposition to any pending legislation in the absence of, or inconsistent with, adopted Board positions.

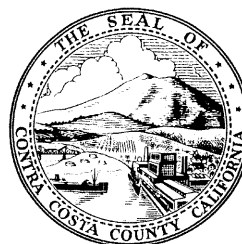
Any time a County employee appears before a state, federal or local body to express a personal opinion or make a public comment, that individual must state for the record that they are speaking as a private citizen and not as an employee of the County or a representative of the Department for which they work. Further, written personal opinions shall not appear on County or department stationery/letterhead.

These procedures do not apply to elected officials who have been independently elected to represent the County and its residents. However, elected Department heads are encouraged to continue the past practice of open communication with the CAO and CAO's staff on important state and federal issues. In addition, the support of our elected officials on behalf of County policy positions can be a persuasive factor when dealing with state and federal representatives, and efforts to maintain this cooperative spirit will be given high priority by the CAO and CAO's staff.

With regard to written correspondence:

- Following action by the Board of Supervisors on legislative matters, the CAO's staff (or Transportation Planning staff) shall coordinate with the Board Chair and federal/state advocates to forward copies of such action to appropriate state and federal representatives, committees, and agencies.
- Letters of support or opposition to legislation will be prepared and coordinated with departments by the CAO's staff in accordance with Board-adopted positions.
- Written correspondence on behalf of the County  elected officials at the federal, state, or local level shall be transmitted over the signature of the Board Chair.
- Only the Board of Supervisors can send position letters on a particular  piece of legislation. Of course individual Board members and other elected officials have the right to express their positions on bills on behalf of themselves (but not the County).

TO: BOARD OF SUPERVISORS

FROM: LEGISLATION COMMITTEE
Supervisor Mary N. Piepho, Chair
Supervisor Susan A. Bonilla

Contra Costa County

DATE: October 14, 2008

SUBJECT: **Legislative Advocacy by Mandated Advisory Bodies**

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION:

APPROVE an amendment to the Board-adopted policy on the role of advisory boards and commissions in legislation position development and advocacy to provide for legislative advocacy by mandated advisory bodies in adherence to a specified protocol, as recommended by the Legislation Committee of the Board of Supervisors.

FISCAL IMPACT:

No fiscal impacts associated with this action.

BACKGROUND:

At its February 25, 2008 meeting, the Legislation Committee considered and discussed the County's policies and procedures with regard to "Positions on Bills." These policies and procedures were then adopted by the Board of Supervisors on April 22, 2008 as the County's protocol for bill position development, recommendation, adoption, and advocacy.

Subsequent to the adoption of these policies and procedures, staff was advised of advocacy activity by various advisory boards and commissions that may have been inconsistent with the protocol. The protocol includes the following excerpt with respect to the role of advisory boards and commissions and the communication of County positions. (Areas of concern have been highlighted and italicized for the purposes of this report.)

5. Role of Board Committees and Advisory Boards and Commissions**b. County Advisory Boards and Commissions**

Like County departments, County Advisory Board and Commission members possess a high level of knowledge and expertise and can provide detailed impact analyses of issues affecting the County. As advisors, board and commission members are encouraged to alert the Board of Supervisors of relevant issues and bills. To that end, County Advisory Board and Commission members are encouraged to:

CONTINUED ON ATTACHMENT: YES

SIGNATURE:

<u> </u>	RECOMMENDATION OF COUNTY ADMINISTRATOR	<u> X </u>	RECOMMENDATION OF BOARD COMMITTEE
<u> </u>	APPROVE	<u> </u>	OTHER

SIGNATURE(S):

ACTION OF BOARD ON October 14 2008APPROVED AS RECOMMENDED X OTHER

VOTE OF SUPERVISORS

 X UNANIMOUS (ABSENT IV)
 AYES: NOES:
 ABSENT: ABSTAIN:

Contact:

L. DeLaney 5-1097

Cc:

Legislation Committee (Supvs. Piepho & Bonilla)

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT
 COPY OF AN ACTION TAKEN AND ENTERED ON MINUTES OF
 THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED October 14 2008

DAVID TWA, CLERK OF THE BOARD OF SUPERVISORS

BY:

, DEPUTY

- Identify and analyze legislative issues of concern to board/commission subject areas. For those issues of importance, the staff person to the board/commission should alert any relevant County department and the CAO's staff (or Transportation Planning staff) about the issue and provide an analysis. **Public opinion and/or advocacy about the issue should not proceed without Board of Supervisors action on the issue.**
- The analyses should briefly describe the issue and consider both programmatic and fiscal impacts to service delivery as well as impacts on those served. Should the CAO's office (or Transportation Planning staff) determine that the issue conforms with a pre-existing Board policy position, the CAO's staff and the board/commission staff will work collaboratively to draft a Board Order and position letter for signature by the Chair of the Board. Should the CAO's staff determine that the issue does not conform with a pre-existing policy, the issue will be placed on the next Legislative Committee, standing committee, or Board agenda, as needed.

6. Communication of position to legislative delegation and legislative committee members

It is the primary responsibility of the CAO's legislative staff and Transportation Planning staff, in coordination with the federal and state advocates, to advance the official County position on bills as they progress through the legislative process. However, this advocacy may require and include the participation of Board members, the CAO, Department heads, and other designated County staff as appropriate.

Advocacy activities and communication of official County positions may include direct interaction with members of the Legislature and their staff; Legislative Committees and their staff; the Administration and State and federal agencies; statewide organizations, as well as local or regional governmental bodies.

A Department or Advisory Board/Commission may not take any action that would imply the County's support or opposition to any pending legislation in the absence of, or inconsistent with, adopted Board positions.

Any time a County employee appears before a state, federal or local body to express a personal opinion or make a public comment, that individual must state for the record that they are speaking as a private citizen and not as an employee of the County or a representative of the Department for which they work. Further, written personal opinions shall not appear on County or department stationery/letterhead.

These procedures do not apply to elected officials who have been independently elected to represent the County and its residents. However, elected Department heads are encouraged to continue the best practice of open communication with the Board of Supervisors, CAO and CAO staff on important state and federal issues. In addition, the support of our elected officials on behalf of County policy positions can be a persuasive factor when dealing with state and federal representatives, and efforts to maintain this cooperative spirit will be given high priority by the CAO and CAO's staff.

With regard to written correspondence:

- Following action by the Board of Supervisors on legislative matters, the CAO's staff (or Transportation Planning staff) shall coordinate with the Board Chair and federal/state advocates to forward copies of such action to appropriate state and federal representatives, committees, and agencies.
- Letters of support or opposition to legislation will be prepared and coordinated with departments by the CAO's staff in accordance with Board-adopted positions.
- ***Written correspondence on behalf of the County to elected officials at the federal, state, or local level shall be transmitted over the signature of the Board Chair.***
- ***Only the Board of Supervisors can send position letters on a particular piece of legislation.*** Of course individual Board members and other elected officials have the right to express their positions on bills on behalf of themselves (but not the County).

DISCUSSION:

The amendment would clarify that state or federally mandated advisory boards or commissions may engage in legislation position development and advocacy according to the following protocol:

- **Positions may be taken only insofar as they are not inconsistent with Board-adopted policies or positions; Staff of the mandated advisory body must review the position recommendation for consistency with the Board-adopted State/Federal Platforms and advise the board/commission if an inconsistency exists; and**
- **Positions must be consistent with an adopted advisory body platform that is included in the Board-adopted State and Federal legislative platforms; and**
- **Positions must be communicated in a manner that clearly states through the use of a disclaimer/disclosure on any stationery and in the body of the letter that the advisory board or commission is advisory to the Board of Supervisors and that any comments, recommendations, opinions, and positions made by the board or commission or its individual members do not represent the official position of the County or any of its officers; and**
- **Position letters must be distributed by the CAO’s staff, who will include in its distribution the Board of Supervisors and any relevant Board committee.**

With this amendment to the Board-adopted protocol on position development and advocacy for advisory boards or commissions that are state or federally mandated, these boards or commissions can continue to perform their advocacy efforts in a manner that is consistent with the positions and priorities of the Board of Supervisors and not purporting to represent the positions of the Board of Supervisors or its members.

The state and/or federally mandated advisory bodies to which this protocol would apply include:

1	Advisory Council on Aging, Contra Costa County
2	Airport Land Use Commission
3	Assessment Appeals Board
4	CCC Law Library Board of Trustees
5	Economic Opportunity Council
6	First 5 Contra Costa Children & Families Commission
7	In-Home Supportive Services Authority Advisory Committee
8	Local Child Care & Development Planning Council
9	Mental Health Commission, Contra Costa County
10	Merit Board
11	Relocation Appeals Board of Contra Costa County
12	Workforce Development Board

With regard to the County’s requirements in state law for reporting lobbying or advocacy activities of advisory body members or staff to those advisory bodies/commissions, staff reviewed the matter with its state lobbyist, Nielsen Merksamer. An attorney for the firm provided the following information:

California Government Code 86116 provides that “Every person described in Section 86115 shall file periodic reports containing the following information: . . .

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action including overhead expenses and **all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.**”

FPPC Regulation 18616 provides further: "(f) Other Payments to Influence Legislative or Administrative Action. All persons who file periodic reports under Government Code section 86116 shall report the total of all other payments to influence legislative or administrative action made by the filer during the reporting period. The total amount reported shall include the following: (1) Compensation of Employees Other Than Lobbyists. This shall include a **proportionate share of the compensation paid to employees other than lobbyists who are engaged for 10 percent or more of their compensated time in a calendar month in or in connection with the activities described in subdivision (a)(4) of this regulation.** Such employees include those providing research services and those preparing materials to be used by a lobbyist or to be used in direct communication or in soliciting or urging others to engage in direct communication for the primary purpose of influencing legislative or administrative action. Compensation includes gross wages paid plus any benefits which are in lieu of wages such as the granting of stock options or the purchase of annuities. It does not include, however, routine fringe benefits, such as the employer's contribution to health plans, retirement plans, etc., which are made on behalf of all employees nor does it include the payment of the employer's payroll taxes."

Because staff who support the mandated advisory bodies/commissions are not expected to spend 10% or more of their compensated time in any one month in activities related to influencing legislative or administrative action, it is unlikely that there will be reportable expenditures for these advisory body advocacy activities. However, staff will be requested to provide the information if there are reportable expenditures.

Staff also discussed with its lobbyists whether Contra Costa County would be required to report matters lobbied by unpaid volunteer advisory board members on its quarterly lobby report (Form 635). It was not clear from the statute, regulations, or FPPC material, so we called FPPC Technical Assistance, who confirmed the answer was "yes." Therefore, in order for the matters to be reported correctly, the position letters must be distributed through the CAO's office, which coordinates the preparation of the quarterly lobby reports.