



Contra
Costa
County

To: Board of Supervisors
From: Silvano B. Marchesi, County Counsel
Date: February 24, 2009
Subject: Initiation of Litigation

RECOMMENDATION(S):

CONSIDER whether to join litigation filed by Sacramento County against the State Controller and other State officials, challenging their deferral of various required social services payments to counties.

FISCAL IMPACT:

None.

BACKGROUND:

On February 13, 2009, the State Controller took action to defer payment to counties relating to specified social services programs, to “preserve cash” for legal claims against the State of California. Such payments are mandated by State law and have been appropriated by the Legislature. The Controller has stated that these payments will be paid in March, after 30 days, but future deferrals will be considered on a month-to-month basis.

The impact on Contra Costa County so far totals \$9,602,858, including deferral of the following payments:

☒ APPROVE ☐ OTHER
☒ RECOMMENDATION OF CNTY ADMINISTRATOR ☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/24/2009** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Gayle B. Uilkema, District II Supervisor
Mary N. Piepho, District III Supervisor
Susan A. Bonilla, District IV Supervisor
Federal D. Glover, District V Supervisor

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: February 24, 2009

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

By: Jane Pennington, Deputy

Contact: Silvano Marchesi, (925)
335-1800

cc:

\$153,600: Adoptions Administration
\$27,338: Adoptions Assistance
\$253,906: Adult Protective Services

BACKGROUND: (CONT'D)

\$150,912: CalWIN Project
\$722,242: CalWorks Administration
\$4,623,962: CalWORKS Assistance
\$45,713: Cash Assistance Program for Immigrants
\$1,074,119: Child Welfare Services IV-E
\$279,340: Child Welfare Services IV-B
\$210,858: Other Child Welfare Service funding
\$681,960: Food Stamps
\$34,902: Foster Care Administration
\$611,888: Foster Care Assistance
\$18,200: Independent Living Program
\$700,139: In-Home Supportive Services
\$30,200: Licensing

This County does not have sufficient resources to cover the State's share of benefit payments to welfare recipients. This County has insufficient resources to cover, for a length of time, the deferral of its costs to administer these and other programs. Nevertheless, counties are charged, under state law, with carrying out the programs that are subject to these deferrals. At least as to some of the programs subject to deferred payments, the County will be faced with a statutory duty to carry out the programs and insufficient funds to do so.

Sacramento County has filed suit in Sacramento County Superior Court to challenge this deferral. The county has asked other counties to join its litigation, and about 28 counties have done so to date.

The litigation seeks the following remedies:

- a. Writ of mandate requiring the Controller to release any previously appropriated state and/or federal funds that he has previously withheld for either assistance or administrative costs.
- b. Writ of mandate requiring the Controller, the State Treasurer, and others to issue warrants to the County for which funds have been appropriated for the identified programs (as identified in the Budget Act) that are not currently exhausted or otherwise legally encumbered and/or to determine whether any current appropriation is available for specified purposes and, if so, to approve payment from such appropriation.
- c. A judicial declaration that the Controller is statutorily obligated to promptly and fully allocate appropriations to counties.
- d. A judicial declaration that the County satisfies its legal duty by providing assistance/services with any federal funds allocated for such assistance/services and with the County share of cost as statutorily determined, and that the County has no legal duty to backfill any state or federal funds that are deferred by the Controller.
- e. A temporary restraining order and injunction, enjoining the State Controller from withholding state and/or federal funds until appropriate Notices of Action have been

issued by the State, advising recipients of reductions in benefits or assistance.