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Legislative Bulletin

2010 FEB -4 PM 3:26

A Publication of the County Executive Office/Legislative Affairs

February 9, 2010
Item No. 37
Vol. XVI, No. 4

County of Orange Positions on Proposed Legislation

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

The 2010 Legislative Platform was adopted by Board of Supervisors' Minute Order dated November 24, 2009.

On February 9, 2010, the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

1. SUPPORT – County Participation in the “Reentry in California” Committee Process
2. APPROVE AND ADOPT RESOLUTION – OC Public Works – Catalyst Projects for California Sustainable Communities Program
3. SUPPORT AND AMEND – SB 879 (Cox) Construction Projects: Alternative Bidding Procedures: Design-Build
4. Receive and File Legislative Bulletin

SACRAMENTO LEGISLATIVE REPORT

SACRAMENTO UPDATE

On Tuesday, February 2, 2010, Governor Schwarzenegger sent a letter to the California Congressional Delegation requesting additional federal dollars after the release of the federal budget on February 1, 2010, which provided only \$1.5 billion of the \$6.9 billion in new money the Governor wants.

The Governor wrote that the President's budget "represents only a down payment on what we are owed," but described the plan as "the first step in a lengthy and complicated process that can result in the fair and equitable treatment of California's taxpayers with your help."

In his letter, the Governor requested additional funds to pay for housing illegal immigrant inmates. The President's budget provided \$330 million for all states, and California would receive \$90.5 million of that State Criminal Alien Assistance Program (SCAAP) money. But the Governor has penciled an additional \$880 million in SCAAP funds into his budget, which is not included in the recently released federal budget proposal.

The governor asked for additional Medicare reimbursements worth about \$1 billion that he believes the state is owed for past billing errors. In addition, he asked for more help in giving states more authority to slash social services after recent court decisions blocked \$1.4 billion in cuts.

On another note, State Senator Abel Maldonado (R-Santa Maria) moved closer to becoming California's next Lieutenant Governor when the Senate Rules Committee voted 4-0 to fill a vacancy created when John Garamendi was elected to Congress. This vote sends the appointment to the full Senate. If neither the Senate nor the Assembly vote to reject Maldonado's appointment, he will assume office on February 22, 2010, and hold it for ten months remaining in the current term.

Senator Maldonado is also running for Lieutenant Governor in this year's election. One of his expected opponents, Senator Aanestad (R-Grass Valley) recused himself from participating in the Senate Rules Committee vote.

AB 1590 (Solorio) Surplus State Lands – UPDATE

Sponsor: Assembly Member Jose Solorio
Status: January 31, 2010, Failed Deadline pursuant to Rule 61(b)(3).
(Last location was Assembly Third Reading on January 28, 2010)

On December 8, 2009, the Board of Supervisors adopted a support position on AB 1590, *Orange County Fair: sale of state property*. This bill was amended on January 27, 2010, *Surplus State Lands*, and it no longer referenced the direct sale of the Orange County Fairgrounds. The amended version addressed the intent of the Legislature that, for any sale, lease, or exchange of state-owned property, the Department of General Services make every effort to maximize revenue to the state. However, this bill now is dead. It missed the January 31, 2010, deadline, which was last day for each house to pass bills introduced in that house in 2009, pursuant to Rule 61(b)(3). Assembly Member Solorio is planning to introduce a new bill in the coming weeks with the original AB 1590 language.

ACTION ITEMS

Reentry in California

Assembly Member Isadore Hall III is chairing a select committee concerning "Reentry in California" and the first meeting is scheduled for February 10, 2010, but may be moved to the first week of March. It is important that local participation be provided to this committee. The California Reentry Program is endeavoring to be a comprehensive, multi-faceted program aimed at meeting the vital needs of

prisoners facing parole. "Reentry" aims to provide social service referrals, connect parolees with resources, and contact information for services in their communities. The Orange County Criminal Justice Coordinating Committee voted on January 15 to request that the County send a letter to Speaker Perez and Assembly Member Hall requesting the inclusion of local input into this process.

CEO Legislative Affairs Comments

CEO Legislative Affairs recommends that your Honorable Board support sending a letter to Assembly Member Isadore Hall III requesting County participation in the "Reentry in California" committee process. The County's participation will offer an opportunity to have input in the critical reentry activity presently contemplated by the State of California. The County of Los Angeles has made a similar request.

Input from the County may include the CEO or designee, Chief Probation Officer or designee, Sheriff-Coroner or designee and Director of the Health Care Agency or designee, Brett O'Brien, Drug Abuse and Alcohol Abuse Program Manager.

Approve and Adopt Resolution – OC Public Works – Catalyst Projects for California Sustainable Communities Program

Requester: OC Public Works
Program: Catalyst Projects for California Sustainable Communities Program (RFP)

Approximately six development projects will be selected as Catalyst Projects in communities throughout California to incentivize sustainable communities and test innovate strategies designed to increase housing supply and affordability; improve jobs and housing relationships; stimulate job creation and retention; enhance transportation modal choices that reflect community values, preserve open space and agricultural resources; promote public health; eliminate toxic threats; address blighted properties; reduce green house gas emissions and increase energy conservation and independence. The Catalyst Projects for California Sustainable Communities Program will maximize California's ability to leverage public and provide financial resource including local, State and Federal funds.

This is a new program being put forward by the California Department of Housing and Community Development to stimulate sustainable community development. Projects selected to participate in the program will be eligible for specific grant funds which will require separate applications. Each of the six selected Catalyst Projects will be eligible for among other things: \$1M proposition 1C affordable housing funds, Cal-Trans' Community Based Transportation Grant program, Technical Assistance from State Agencies, Publicity and recognition as a Catalyst Project working in the interest of sustainability, etc.

CEO Legislative Affairs and OC Public Works Comments

CEO Legislative Affairs and OC Public Works are requesting that your Honorable Board approve and adopt a resolution, which is required for the selection of the Ranch Plan Planned Community as a Catalyst Project for California Sustainable Strategies Pilot Program in the Livable Communities category. In addition, OC Public Works is requesting authorization for the County to serve as lead applicant for Rancho Mission Viejo, the proponent of the Ranch Plan Planned Community. OC Public Works, Planned Communities section will collaborate with Rancho Mission Viejo on the application

submittal, which is due February 11, 2010, and responses to request for additional information. Additionally, there will be potential collaboration with OC Community Resources if the Ranch Plan Planned Community is selected as Catalyst Project.

County Counsel has reviewed the attached resolution.

SB 879 (Cox) Construction Projects: Alternative Bidding Procedures: Design-Build – As Introduced on January 12, 2010 – SUPPORT AND AMEND

Sponsor: Senate Member Dave Cox
Status: Senate Local Government
Hearing Date: Bill may be heard by committee after February 12, 2010 (31 days after introduction)
Reviewed by: Orange County Public Works, John Wayne Airport and CEO/Legislative Affairs

Current law (Public Contract Code Section 20133) authorizes counties to use alternative bidding procedures, known as design-build, on construction projects in the county in excess of \$2,500,000, in accordance with specific procedures. Each County that elects to use the design-build method on a public works project was required to submit a report to the Legislative Analyst's Office before December 1, 2009, containing a description of each public works project procured through design-build process and completed after November 1, 2004, and before November 1, 2009. The existing law authorizing design-build contracts for county construction projects is effective only until January 1, 2011, and as of that date expires.

Senate Bill (SB) 879 would repeal the required reporting provisions to the Legislative Analyst's Office and delete the repeal date, thereby making the county design-build provisions indefinite.

CEO/Legislative Affairs, OC Public Works, and John Wayne Airport Comments

CEO/Legislative Affairs, OC Public Works, and John Wayne Airport recommend your Honorable Board support and amend SB 879. This bill would make the counties' design-build authority permanent. In addition, the proposed bill would delete the reporting provisions for the county design-build public works projects, which would reduce the workload. Design-build saves time and resources for the public entity and removes the public entity from any liability to the contractor for faulty design. The precise cost saving information is unavailable at this time. CEO/Legislative Affairs, OC Public Works, and John Wayne Airport, recommend supporting the bill as written but would propose the following amendments to the current counties' design-build statutes:

- (a) To repeal the current \$2.5 million minimum price threshold for County design-build projects (i.e. there should be no cost limitations).
- (b) To eliminate the current language that limits county design-build contracts to buildings and related improvements and wastewater treatment facility (i.e. to allow design-build contracts for infrastructure projects such as highway, flood control facilities, harbor facilities, etc.).
- (c) To encourage the Legislature to explicitly authorize "two envelope system" of awarding contracts in which prequalified contractors develop a proposal containing technical qualification which is submitted in one envelope, with their price in a second envelope for bid evaluations. For those

finalist whose technical proposals are satisfactory, the public entity opens the second envelope and the contract is awarded to the proposal having the lowest cost.

- (d) To repeal the separate statutes in favor of a single law that applies to counties, cities, special districts and redevelopment agencies (i.e. to adopt an inclusive, uniform design-build status that applies to all public entities.

WASHINGTON LEGISLATIVE REPORT

WASHINGTON UPDATE

Federal Fiscal Year (FY) 2011 Budget Request Released February 1, 2010

President Obama released his proposed budget for FY 2011. Including all categories of spending, both discretionary spending and mandatory programs (e.g. Social Security and Medicare,) the President's proposed budget equals about \$3.8 trillion, which is approximately \$100 billion above FY 2010. The budget goes to Congress, which is free to accept or reject any of the President's spending proposals.

Of the total budget, approximately \$1.4 trillion is discretionary spending subject to the annual appropriations process. A key feature of the President's budget proposal is to freeze all non-security (all funding except for the Defense Department, Veterans, and Homeland Security) discretionary spending at the FY 2010 level for three years. The non-security portion of the President's request totals \$520 billion. The President has proposed that the freeze be accomplished by selectively terminating or reducing programs, which it feels do not work or are low priority, allowing increases in high priority programs.

A partial list of the new opportunities for local governments include:

- Department of Health and Human Services/TANF Emergency Fund – There will be funding to expand the use of Recovery Act funds and provide states with flexibility in meeting the increased demand on employment in support services for families.
- Department of Justice/Byrne Criminal Justice Innovation Program – A new program to provide funding for innovative evidence-based approaches to fighting crime and improving public safety.
- Department of Transportation/President's Partnership for Sustainable Communities – Funding for state and local governments to invest in sustainable transportation infrastructure that integrates with housing development and other critical investments.

A partial list of programs proposed for termination include:

- Department of Homeland Security/Emergency Operations Center Grant Program - \$60 million.
- Department of Transportation/Surface Transportation Priorities - \$293 million in Congressionally directed projects.
- Environmental Protection Agency/Water Infrastructure Grants - \$157 million in Congressionally directed projects.
- Army Corps of Engineers/Water and Wastewater Projects - \$129 million in Congressionally directed projects.
- Department of Agriculture/Watershed and Flood Prevention Program - \$30 million.

A partial list of programs proposed for significant reduction include:

- Housing and Urban Development/HOME Investment Partnerships Program - \$175 million reduction to \$1.65 billion.
- Army Corps of Engineers/Low-Priority Construction Projects - \$214 million in Congressionally directed projects.

Summary of Army Corps of Engineers Budget Proposal:

The President's budget request for the civil works mission of the U.S. Army Corps of Engineers is \$4.9 billion, about \$550 million below the amount appropriated in FY 2010. The Budget for the construction program supports high-return investments for ongoing work in the three main mission areas of the Corps: commercial navigation; flood and storm damage reduction; and aquatic ecosystem restoration. The Budget also gives priority for funding dam safety work, projects that reduce significant risks to human safety and projects that will complete construction during 2011. The Budget proposed to replace the current excise tax on diesel fuel for the inland waterways with a new funding mechanism to meet the authorized non-Federal cost-share of inland waterways capital investments. It will also preserve the cost-sharing reform established by Congress in 1986, while supporting inland waterways construction, expansion, replacement, and rehabilitation work. The Budget supports the ongoing, high-performing ecosystem restoration efforts, including continued progress toward restoring Florida, Everglades, the California Bay-Delta, and the Louisiana coast. The President's Budget marked \$25 million for the Santa Ana River Mainstem Project.

Health Care Reform

Health care reform was the focus of the Democratic agenda for most of 2009. After the election of Senator Brown in Massachusetts, Democratic leaders have removed completion of the overhaul from their agenda indefinitely. They have yet to develop a time frame for passing this legislation or a strategy to do so. Still, Senate Democrats believe the best hope for passing health care reform is reconciliation. The House could pass the version of the health overhaul that the Senate passed December 24, along with a package of modifications that would use a parliamentary procedure requiring fewer votes for approval. But centrist Democrats in both chambers are nervous that using such a technicality will be unpopular with voters.

Instead, the House is planning to revive a piece of the legislation that would repeal an antitrust exemption for insurance companies. This is part of a new tactic to tackle pieces of health care reform that are perceived to be politically popular to vote on and create small victories. The thought is by repealing the federal antitrust exemption it would drive insurance prices down in regions where one health insurer dominates. Insurers believe that they already face tight regulation by the states and this is an unnecessary move by the House.

Speaker Pelosi has stated that she intends on eliminating the antitrust exemption, because she believes it has fostered anti-consumer and anti-competitive behavior by health insurance and medical malpractice insurance companies since it was first enacted in 1945. Under the current antitrust exemption, the obligation for regulating insurance industry practices has fallen to the states, which has created a hodgepodge of 50 different state regulatory regimes with variable enforcement. However,

Nebraska Democratic Senator Ben Nelson, a former state insurance commissioner, is opposed to this measure and the bill would face long odds in the Senate.

Stimulus II/Jobs for Main Street

With Washington facing intense pressure to move on jobs – and with the window for serious legislating closing as the November elections draw near – some Democrats want to move the bill directly to the floor and show the country that the party is sensitive about the economic troubles. That is what is being done in the Senate, which has scheduled a vote on a jobs package for next week. Senate leaders have unveiled their jobs agenda, a plan they say will begin creating work for the nearly 7 million people who have lost employment since the start of the recession. Senator Majority Leader Harry Reid said the first of several jobs bills to the Senate floor on February 8 and hopes to pass it through the chamber by February 12, when lawmakers are scheduled to start the Presidents Day recess.

It is likely that the proposed jobs package will include small business credits to write off the costs of equipment purchases more quickly, a tax credit for hiring workers, bonds for state infrastructure projects, and a one-year extension of highway funding. Other provisions that could be added to the package in the future days include a "cash for caulkers" plan to encourage weatherizing of homes and popular business tax extenders. Democrats are also looking to funnel billions to state and local governments facing budget shortfalls to allow states to retain and hire firefighters, police officers and teachers, and fund summer youth jobs programs. Also, the jobs bill will likely extend the so-called "Build America Bonds" that were part of the 2009 economic stimulus package. State and local governments have issued more than \$64 billion in so-called "Build America Bonds" last year. Under the current stimulus bill, entities lose the ability to issue such bonds on December 31, 2010.

ACTION ITEMS

None at this time.

A copy of the 2010 County of Orange Legislative Platform is available at: <http://www.oc.ca.gov/> under OC Links. If you or your staff have any questions or require additional information on any of the items in this bulletin, please contact Donna Grubaugh at 714.834.7218.

RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF ORANGE, CALIFORNIA

February 9, 2010

WHEREAS, the State of California Department of Housing and Community Development is seeking development projects for the State's Catalyst Projects for California Sustainable Strategies Pilot Program (Catalyst Project) to incentivize sustainable communities and test innovative strategies that would meet the objectives of the Sustainable Communities and Climate Protection Act of 2008 (SB 375); and

WHEREAS, Rancho Mission Viejo (RMV) is the owner of a portion of the remaining 22,815 acres of the historic Rancho Mission Viejo property located adjacent to Ortega Highway (SR 74); and

WHEREAS, on November 8, 2004, the Orange County Board of Supervisors approved a comprehensive land use and conservation plan on the Rancho Mission Viejo property more commonly known as the Ranch Plan Planned Community (Ranch Plan); and

WHEREAS, the Ranch Plan approvals allow the development of a sustainable community that balances jobs to housing and future development with the preservation of two-thirds of the Ranch Plan as open space and agricultural resources, including a Sustainable Circulation Plan (supported by AB 956 which established the Ranch Plan as one of only two communities statewide approved for Neighborhood Electric Vehicle Use), Alternative Development Standards, Fire Protection Program, Planned Community Program Text Guidance Document, Regulation Compliance Matrix, Planning Handbook and Processing Flowcharts & Checklists. These documents have enhanced the Ranch Plan's ability to implement sustainable community strategies

through transportation modal choices that comply with the goals and objectives of SB 375; and

WHEREAS, California Public Utilities Commission approval of the Energy Efficiency filing by San Diego Gas and Electric (Applications 08-07-021, 022, 023, and 031) include the Ranch Plan as a pilot program for sustainable practices; and

WHEREAS, the County and RMV have entered into an Implementation Agreement with U.S. Fish & Wildlife Service for a Multi-Species Habitat Conservation Plan providing assurances relative to impacts of the project on federally listed species; and

WHEREAS, the Ranch Plan has a Special Area Management Plan through the Army Corps of Engineers (ACOE) and a Master Streambed Alteration Agreement through the California Department of Fish & Game that facilitate implementation of the Ranch Plan and its attendant housing and jobs; and

WHEREAS, the Rancho Plan will dedicate 60 acres of flat, graded land for the development, operation and management of affordable housing for the benefit of Low and Very-Low Income households; and

WHEREAS, this Board recognizes that current economic and fiscal conditions constrain the ability of the local land development industry to meet the goals and objectives of SB 375, and supports the State of California's Catalyst Project, which aims to incentivize compliance with SB 375 by addressing barriers to implementation of sustainable communities; and

NOW, THEREFORE, BE IT RESOLVED that this Board of Supervisors hereby authorizes this Resolution of Support for the selection of the Ranch Plan as a Catalyst Project for California Sustainable Strategies Pilot Program in the Livable Communities category.

Resolution No. YY-___, Item No. <Clerk to complete upon adoption>
Catalyst Projects for California Sustainable Strategies Pilot Program