



Legislative Bulletin

DRAFT

A Publication of the County Executive Office/Legislative Affairs

November 3, 2020
Item No. 26

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 December 10, 2019, staff recommendations for formal County positions on legislation will be agendaized and presented in this document for Board action at regular Board of Supervisors meetings. When the Board takes formal action on a piece of legislation, the CEO will direct the County's legislative advocates to promote the individual bills as approved by the Board. The Legislative Bulletin also provides the Board of Supervisors with informative updates on State and Federal issues.

The 2019-2020 Legislative Platform was adopted by the Board of Supervisors' on December 4, 2018.

On November 3, 2020, the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

1. **Receive and File Legislative Bulletin**

INFORMATIONAL ITEMS

1. **County Position Matrix: CEO-LA**
2. **Sacramento Legislative Report**
3. **Washington DC Legislative Report**

INFORMATIONAL ITEMS

1. County Position Matrix: CEO-LA

The matrix below summarizes active bills the County has taken positions on in 2019-20.

State Legislation

As of Thursday, October 29, 2020

Bill Number	Author	Subject	Position	Date of Board Action	Status	Notes
<u>AB 434</u>	<u>Daly</u>	Housing Financing Programs: Uniform Procedures	Support	7.28.20	Chaptered #192	
<u>AB 2265</u>	<u>Quirk-Silva</u>	Mental Health Services Act: Use of funds for substance use disorder treatment	Support	5.19.20	Chaptered #144	
<u>SB 555</u>	<u>Mitchell</u>	Jails and Juvenile Facilities: Telephone Services: Store	Oppose	6.25.19	Vetoed	
<u>SB 803</u>	<u>Beall</u>	Mental Health Services: peer support specialist certification	Support	3.10.20	Chaptered #150	
<u>SB 1196</u>	<u>Umberg</u>	Price gouging	Support	5.19.20	Chaptered #339	

Federal Legislation

As of Thursday October 29, 2020

Bill Number	Author	Subject	Position	Date of Board Action	Status	Notes
<u>HR 2995</u>	<u>Levin</u>	Spent Fuel Prioritization Act	Support	6.25.19	House Energy and Commerce Committee	
<u>HR 4004</u>	<u>Bustos</u>	The "Social Determinants Accelerator Act of 2019"	Support	1.14.20	House Energy and Commerce Committee	
<u>HR 5516</u>	<u>Levin</u>	Commitment to Veteran Support and Outreach	Support	9.15.20	House Veterans Affairs Committee	
<u>S.923</u>	<u>Feinstein</u>	Fighting Homelessness Through Services and Housing Act	Support	5.7.19	Senate Health, Education, Labor and Pensions Committee	
<u>S. 3020</u>	<u>Baldwin</u>	Commitment to Veteran Support and Outreach	Support	3.10.20	Senate Veterans Affairs Committee	
<u>S. 4431</u>	<u>Feinstein</u>	Emergency Wildfire and Public Safety Act of 2020	Support	9.29.20	Senate Energy and Natural Resources Committee	

2. Sacramento Legislative Report

Prepared by Precision Advocacy Group LLC

September Revenues

The Department of Finance (DOF) and State Controller released reports on September's General Fund revenues, showing them in comparison to the 2020-21 Budget Act.

Tax Revenues	DOF September	DOF Fiscal YTD	Controller Fiscal YTD
Corporation	\$504 million above forecast	\$329 million above forecast	\$382.195 million above forecast
Personal Income	\$3.016 billion above forecast	\$6.667 billion above forecast	\$6.694 billion above forecast
Sales and Use	\$465 million above forecast	\$1.641 billion above forecast	\$113.205 million above forecast
Total Revenues	\$4.164 billion above forecast	\$8.713 billion above forecast	\$7.244 billion above forecast

Affordable Care Act

On October 21st, the Senate Health Committee held a [hearing](#) entitled, "Affordable Care Act (ACA) in jeopardy: what does it mean for California?" The Committee met to examine and discuss the potential ramifications should the U.S. Supreme Court strike down all or part of the ACA as will be determined in [California v. Texas](#), with oral arguments beginning November 10th.

The case stems from Congressional passage of the [2017 Tax Cuts and Jobs Act](#), where Congress set the individual mandate coverage penalty at zero dollars beginning January 1, 2019. This led to lower court decisions determining that the individual mandate is no longer constitutional because without a penalty, there is no longer an exercise of federal taxing power. Without taxing power, the courts have determined that the individual mandate is a command to purchase health insurance, which is an unconstitutional exercise of Congress' power to regulate interstate commerce.

California has passed more than [50 laws](#) implementing the ACA, including legislation establishing the health benefit exchange (Covered California), and adopting the optional Medi-Cal expansion. Since the ACA's implementation, California's uninsured rate has fallen from 17% to 7.1%. Medi-Cal provides coverage for 13 million individuals, 3.8 million of whom are eligible under the expansion. Over 1.5 million have coverage through Covered California, 85% of whom receive federal subsidies. An overview of the ACA in California as well as impacts of the potential elimination are outlined below.

Fiscal: California is projected to receive \$20 billion in federal support for the Medi-Cal expansion in 2020-21 and Californians receive nearly \$7 billion annually in federally funded premium subsidies to help purchase insurance through Covered California. Elimination of the ACA is expected to eliminate all of this funding, as well as \$46 million annually for public health programs which California uses for immunizations, epidemiological and lab capacity, chronic disease prevention, and tobacco use prevention and cessation.

ACA Health Insurance Reforms

- Imposed an individual mandate requiring health insurance.

- Prohibits insurers from instituting lifetime or annual limits on essential health benefits.
- Requires coverage for 10 essential health benefits.
- Requires acceptance of every employer and individual that applies or renews, and pays premiums.
- Prohibits insurance companies from imposing preexisting condition exclusions.
- Prohibits insurers from establishing rules based on health status factors.
- Limits variations in premiums.
- Provides dependent coverage to age 26.
- Prohibits excessive waiting periods before coverage is effective.
- Allows high deductible catastrophic coverage for certain individuals under 30.
- Requires preventative services without cost-sharing.

Medi-Cal Optional Expansion: California opted into the Medicaid optional expansion on January 1, 2014. It expanded eligibility to childless adults, streamlined enrollment into Medi-Cal, and increased benefits.

- The Medi-Cal optional expansion was funded entirely by federal funds for the first three years of the ACA implementation (2014-16). That funding declined to 95% in 2017, 94% in 2018, 93% in 2019, and 90% in 2020, where the law dictates it will remain.
- Medi-Cal enrollment increased from 7.9 million in 2012-13 to 13 million in 2019-20, with 3.8 million individuals eligible based on the expansion.
- The 2020-2021 Budget Act assumes that Medi-Cal caseload will peak at 14.5 million in July 2020, which is about 2 million above what it would have been without COVID-19.
- Many formerly incarcerated individuals are now accessing Medi-Cal coverage. Between 2012 and 2016, the percent of individuals released from the California Department of Corrections and Rehabilitation institutions enrolling in Medi-Cal increased from 25% to 61%.
- In 2019-20, 45% more adult Medi-Cal beneficiaries with severe mental health conditions received county services than in 2012-13.

Should the ACA be overturned, Californians receiving health coverage through the Medi-Cal expansion would lose that insurance.

Covered California: Since 2014, Covered California has offered commercial health insurance through private plans to small businesses and individuals who do not receive employer-based coverage.

- Around 1.2 million Californians received federal subsidies for Covered California coverage in 2019-20 which amounted to \$7.7 billion in the 2019-20 budget year. On average, federal subsidies reduce the cost of premiums by 78%, from \$841 per month to \$184 per month.
- Overturning the ACA would disrupt Covered California coverage. Policyholders would have to bear much more of the cost of premiums, many would likely drop coverage and become insured, and Covered California's ongoing viability would be uncertain.
- Congressional action in 2017 zeroing out the individual mandate penalty likely contributed to a 23.8% drop in the number of new consumers signing up for the exchange in 2019. Reducing the number of consumers in Covered California likely hurt the risk mix, and resulted in increased costs – an estimated \$400 million more in 2019. In response, Governor Newsom and the Legislature appropriated State General Funds for three years to support new state subsidies, and instituted a state level mandate to encourage people to get covered for 2020.
- In 2020, Covered California has reached peak enrollment of over 1.53 million. The highest previous enrollment was 1.3 million in October 2018.
- In 2021, all 11 carriers will continue offering products across the State and two companies will expand their coverage areas.

It is unlikely that Covered California could continue to be viable should the ACA be overturned.

Impact of COVID-19 on State Transportation Revenues

In September, the LAO published a [post](#) regarding the state of transportation revenues. As with all revenue sources during the pandemic, the ongoing fiscal outlook is highly dependent upon the trajectory of COVID-19. Reduced business activity and driving have resulted in a significant reduction in tax revenues that support funding for highways, local streets and roads, and transit.

Total Transportation Revenues

- January 2020 estimates for 2019-20: \$12.3 billion
- 2020-2021 State Budget Act estimates for 2019-20: ~\$11.68 billion – \$619 million (5%) lower than January, primarily attributed to an estimated \$556 million reduction in gasoline excise tax.
- January 2020 estimates for 2020-2021: \$12.8 billion
- 2020-2021 State Budget Act estimates for 2020-2021: \$11.6 billion – \$1.2 billion lower than January. 75% of the reduction is due to lower revenue projections for the gasoline excise tax and diesel tax.
- Current revenue estimates assume lower fuel consumption, fuel prices, and paid vehicle registrations. Impacts of this are largely offset by annual inflation adjustments to the fuel excise taxes and vehicle fees. The gasoline excise tax increased by 3.2 cents per gallon on July 1, 2020.

Fuel Taxes: The current gasoline excise tax is set at 50.5 cents/gallon and the diesel excise tax is set at 38.5 cents/gallon. Rates are adjusted annually in July for inflation.

- Total Vehicle Miles Traveled (VMT) in April 2020 were 41% lower than in April 2019, however VMT reflected some recovery in June 2020, however remained 19% lower than in June 2019.
- Diesel fuel prices fell 16% from February 2020 to May 2020, gasoline prices fell 20% during the same time period. Prices for both diesel and gasoline fuel increased in June, but not to pre-pandemic levels.
- State fuel taxes are used to fund highway maintenance and rehabilitation, local streets and roads, and California Department of Transportation (Caltrans) administration. In addition, a portion of gasoline excise tax is used to backfill weight fee revenues used for transportation debt service costs.
- There is also a sales tax on diesel set at 10.5%, providing funding to local transit agencies, state-supported intercity rail, and other state mass transportation programs.

Vehicle Fees: Total paid vehicle registrations in April 2020 were 17% lower than in April 2019, reflecting a 13% reduction in renewals, and a 61% reduction in new registrations. Registrations increased in June 2020 and are more aligned with 2019, however new car registrations are still lower than last year.

Major Programmatic Impacts

- Large reserves will offset revenue losses for Caltrans highway rehabilitation work which will continue through the Highway Maintenance Program and the State Highway Operation and Protection Program (SHOPP).
- State Transportation Improvement Program (STIP) allocations are largely stable (\$586 million in 2020-21) as the program functions on a 5-year plan of projects that the California Transportation Commission approves every two years. Revenue estimates would result in less funding however losses are likely to be reflected in future STIP cycles.
- The 2020-2021 Budget Act estimated a local streets and roads funding increase from \$2.6 billion in 2019-20 to \$2.8 billion in 2020-21. This is \$256 million (9%) less than previously estimated for 2019-20 and \$231 million (8%) less than previously estimated for 2020-21.
- State Transit Assistance (STA) is anticipated to be relatively stable in 2019-20, however major declines in diesel sales tax revenues will impact the 2020-21 available funding. The 2020-21 Budget Act estimates that STA funding will be \$414 million in 2020-21, a \$265 million (39%) year over year reduction. Some of the losses will be offset by one-time federal CARES Act funding.

Below is a list of the governor's press releases as well as links to other relevant information linked in those press releases beginning October 20th.

October 27: [Western States Join California's Scientific Safety Review Workgroup to Ensure Safety of COVID-19 Vaccine](#)

October 26: [California Secures Federal Assistance to Support Response to Blue Ridge Fire in Orange, Riverside and San Bernardino Counties](#)

October 26: [California Secures Federal Assistance to Support Response to Silverado Fire in Orange County](#)

October 26: [Governor Newsom Files Historic Amicus Brief in Death Penalty Case, Arguing for Greater Protections Against Racial Bias in Jury Proceedings](#)

October 25: [Governor Newsom Issues Proclamation Declaring Larry Itliong Day](#)

October 23: [Governor Newsom Announces Appointments](#) - Deputy Director in the Office of Statewide Project Delivery at the California Department of Technology, Deputy Director of Broadband and Digital Literacy at the California Department of Technology, Northern California Regional Director at the California High-Speed Rail Authority, Assistant Director for the Office of Legislation at the California Department of Developmental Services, Commission on State Mandates, and the State Independent Living Council

October 23: [In San Jose, Governor Newsom Announces Approval of \\$200 Million in Additional Funding for Homekey and Releases \\$81.4 Million in Sixth Round of Awards, State on Track to Clear Most of Homekey Waitlist](#)

October 22: [Governor Newsom Announces Appointments](#) - Landscape Architects Technical Committee, Board of Vocational Nursing and Psychiatric Technicians, Board of Behavioral Sciences, and Board of Chiropractic Examiners

October 21: [Governor Newsom Announces Appointments](#) - Chief Deputy Tribal Advisor and Special Counsel for the Governor's Office of the Tribal Advisor, Director of the Division of Juvenile Justice at the California Department of Corrections and Rehabilitation, Warden of the Mule Creek State Prison at the California Department of Corrections and Rehabilitation, Warden of Chuckawalla State Prison at the California Department of Corrections and Rehabilitation, Dental Board of California, Dental Hygiene Board of California, Professional Fiduciaries Advisory Committee, Board of Psychology, and the Santa Ana Regional Water Quality Control Board

October 20: [Governor Newsom Announces CHP Commissioner Warren Stanley's Retirement, Names Amanda Ray New Commissioner](#)

October 20: [Governor Newsom Statement on Death of Riverside County Sheriff's Sergeant](#)

3. Washington DC Legislative Report

Prepared by Van Scoyoc Associates

CAPITOL HILL

Supreme Court Confirmation

On Monday, the Senate voted 52-48 to confirm Amy Coney Barrett to the U.S. Supreme Court as a replacement for the late Justice Ruth Bader Ginsburg. The confirmation establishes a 6-3 conservative majority in the Supreme Court. The Supreme Court is expected to soon consider cases on issues such as the legality of the Affordable Care Act and undocumented immigrants in the 2020 census.

Phase 4 Negotiations Continue

Negotiations between Speaker of the House Nancy Pelosi (D-CA) and Treasury Secretary Steve Mnuchin continue regarding the next COVID-19 stimulus package. Language of the bill and the size continue to be negotiated as the Trump administration argued this week for a \$1.9 trillion package and Democrats pushed for a \$2.4 trillion bill. Major issues of disagreement continue to be state and local aid, liability protections, and testing and tracing provisions. A deal on the next stimulus package will not be finished before Election

Day as U.S. senators left Washington for a pre-election break after the Supreme Court confirmation. The House is out of Washington until after the election, currently schedule to return on November 16, and the Senate is scheduled to return to Washington on November 9.

AGENCY ANNOUNCEMENTS

New Strategic Plan to Reduce Homelessness

The U.S. Interagency Council on Homelessness (USICH) unveiled a new strategic plan to reduce homelessness. According to the U.S. Department of Housing and Urban Development, the strategic plan, [“Expanding the Toolbox: The Whole-of-Government Response to Homelessness”](#), intends to share strategies to increase self-sufficiency by considering homelessness beyond a sole issue of housing and instead focus on the root causes of homelessness for each individual and family experiencing homelessness. The “Expanding the Toolbox: The Whole-of-Government Response to Homelessness” focuses on the following eight solutions:

- The importance and power of the dignity of work;
- Mental health and trauma informed care are critical;
- Affordable construction leads to affordable housing;
- Prevention will save money while reducing trauma;
- The need for population specific programming;
- Renewed focus on racial disparities;
- Promote alternatives to criminalizing people experiencing homelessness; and
- Importance of national emergency readiness.

Emergency Injunction Pauses Implementation of HUD’s “Disparate Impact” Rule

A federal judge in Massachusetts issued an injunction halting the U.S. Department of Housing and Urban Development’s new “Disparate Impact” rule, which was set to take effect this week.

The new rule would require plaintiffs to meet a higher threshold to prove unintentional discrimination and provide defendants with more opportunities to rebut claims.

The injunction applies nationwide and prevents HUD from implementing the new rule until the legal challenge is resolved. In granting the injunction, the judge wrote “the plaintiffs have shown a substantial likelihood of success on the merits” of their claim that the new rule is “arbitrary and capricious” and violates the Administrative Procedure Act.

DOJ Standards for Certification on Safe Policing for Safe Communities

On Wednesday, the Department of Justice announced Standards for Certification that are a result of President Trump’s [Executive Order 13929, Safe Policing for Safe Communities](#) that was signed in June. An independent credentialing body will certify that an applying law enforcement agency is in compliance with two mandatory safe policing principles in the [Principles on Safe Policing and Use of Force](#). Certification is now a prerequisite to a law enforcement agency’s eligibility for Department of Justice discretionary grant funding. Agencies will be required to obtain certification by January 31, 2021 in order to be eligible for federal funds in 2021.

If you or your staff have any questions or require additional information on any of the items in this bulletin, please contact Peter DeMarco at 714-834-5777.