



Legislative Bulletin

DRAFT

A Publication of the County Executive Office/Legislative Affairs

January 23, 2018
Item No. 33

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 November 25, 2014, 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 2016-2017 Legislative Platform was adopted by Board of Supervisors' Minute Order dated November 22, 2016.

On January 23, 2018, the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

1. **APPROVE – 2018 Legislative Proposals**
2. Receive and File Legislative Bulletin

INFORMATIONAL ITEMS

1. Legislative Update: CEO-LA
2. Sacramento Legislative Report
3. Washington Legislative Report

RECOMMENDED ACTIONS

1. APPROVE – 2018 Legislative Proposals

Two new legislative proposals are presented for your consideration and approval. If approved by your Board they will be officially designated as “Orange County-Sponsored Bills” and CEO-LA will work with Platinum Advisors to identify members of our legislative delegation to author each proposal. The proposed 2018 County-sponsored legislative proposals are listed below, and a write up of each can be found in Attachment A.

- Funding Equity – this bill proposes to provide a county equity amount to the County, which would increase with property tax growth.
- Design Build – this bill would allow Orange County Public Works (OCPW) the option to utilize Design-Build Authority (DB), for procurement of design & construction services for County/OCPW horizontal public works projects.

The deadline for new bill introductions is February 16, 2018.

INFORMATIONAL ITEMS

1. Legislative Update: CEO-LA

The tables below lists bills on which the County took a position in 2017.

State Legislation


As of Thursday, January 18, 2018

| Bill Number | Author | Subject | Position | Date of Board Action | Status | Notes |
|-----------------------|----------------------|---|----------------|----------------------|---|-------|
| <u>AB 42</u> | <u>Bonta, D</u> | Bail: pretrial release | Oppose | 5/23/2017 | Assembly Floor – Inactive – 2 year bill | |
| <u>AB 285</u> | <u>Melendez R</u> | Drug and alcohol free residences. | Support | 4/25/2017 | Assembly Appropriations- Held on Suspense – 2 year bill | |
| <u>AB 572</u> | <u>Quirk-Silva D</u> | Sober Living Homes: Pilot Project: Orange County | Watch | 3/28/2017 | Senate Health – 2 year bill | |
| <u>AB 596</u> | <u>Choi R</u> | Diversion: Victim’s Right to Restitution | Support | 3/14/2017 | Assembly Public Safety – 2 year bill – Failed Deadline | |
| <u>AB 777</u> | <u>Harper R</u> | Vote by Mail Ballots: Fraudulent Signatures | Support | 3/14/2017 | Assembly Elections and Redistricting Committee – 2 year bill – Failed Deadline | |
| <u>AB 1095</u> | <u>Harper R</u> | Alcoholism or drug abuse recovery or treatment facilities | Support | 3/28/2017 | Assembly Health Committee- 2 year bill – Failed Deadline | |

| | | | | | | |
|----------------|-----------------------|--|----------------|-----------|---|--|
| AB 1207 | <u>Brough R</u> | Radioactive material: transportation | Support | 4/25/2017 | Senate Rules – 2 year bill | |
| AB 1250 | <u>Jones-Sawyer D</u> | Counties: Contracts for Personal Services | Oppose | 6/6/2017 | Senate Rules - 2 year bill | |
| AB 1372 | <u>Levine D</u> | Crisis Stabilization units: psychiatric patients | Support | 4/25/2017 | Senate Floor – Inactive – 2 year bill | |
| SB 10 | <u>Hertzberg D</u> | Bail: pretrial release | Oppose | 5/23/2017 | Assembly Appropriations – 2 year bill | |
| SB 34 | <u>Bates R</u> | Residential Treatment Facilities | Support | 5/9/2017 | Senate Appropriations – Held on Suspense – 2 year bill | |
| SB 67 | <u>Bates R</u> | Sentencing: Driving Under the Influence | Support | 3/14/2017 | Senate Appropriations - Held on Suspense – 2 year bill | |
| SB 69 | <u>Bates R</u> | Sex Offenders: GPS Monitoring: Removal | Support | 2/28/2017 | Senate Public Safety Committee - 2 year bill - Failed Passage | |
| SB 75 | <u>Bates R</u> | Violent Felonies | Support | 3/14/2017 | Senate Public Safety Committee - 2 year bill – Failed Deadline | |
| SB 176 | <u>Bates R</u> | Controlled Substances: Fentanyl and Carfentanil | Support | 2/28/2017 | Senate Public Safety Committee – 2 year bill – Failed Deadline | |
| SB 264 | <u>Nguyen R</u> | High-occupancy toll lanes: Interstate 405 Improvement Project high-occupancy toll lanes. | Oppose | 4/25/2017 | Senate Transportation and Housing Committee – 2 year bill- Failed Deadline | |
| SB 284 | <u>Nguyen R</u> | Criminal Procedure: Misdemeanor Citations | Support | 2/28/2017 | Senate Public Safety Committee – 2 year bill – Failed Deadline | |
| SB 409 | <u>Nguyen R</u> | Veterans Homes: Resident with Complex Mental Behavioral Health needs | Support | 3/28/2017 | Assembly Appropriations - Held on Suspense – 2 Year Bill | |
| SCA 12 | <u>Mendoza D</u> | Counties: Governing Body: County Executive | Oppose | 6/6/2017 | Assembly Desk – 2 Year Bill | |

Federal Legislation

| Bill Number | Author | Subject | Position | Date of Board Action | Status | Notes |
|---------------|---------------|--|----------------|----------------------|--|-------|
| <u>HR 472</u> | <u>Issa R</u> | Safe Recovery and Community | Support | 3/28/2017 | Subcommittee on the Constitution and Civil Justice | |
| <u>HR 474</u> | <u>Issa R</u> | Interim Consolidated Storage Act of 2017 | Support | 6/6/2017 | House Committee on Energy and Commerce | |

 - Highlighted sections symbolize a status change

*Orange County Sponsored Legislation

2. Sacramento Legislative Report

Prepared by Amy Jenkins & Nicole Wordelman

LAO Budget Overview: The Legislative Analyst's Office (LAO) released their quick [overview](#) of the governor's 2017-18 budget proposal, to be followed by additional in-depth recommendations as budget subcommittees begin meeting – likely in February. This first pass at the budget doesn't contain any major revelations, but is generally approving of the Administration's recommendations. Their advice to the Legislature is that remaining conservative in spending is likely wise, and they should evaluate their specific priorities before moving forward.

- In building reserves, the Legislature needs to determine whether to approve the governor's proposal to bring the Rainy Day Fund to its constitutional maximum, or choose a different amount in preparation for an anticipated recession.
- The LAO believes that revenues are likely to be higher when the May Revision is released, but notes that the federal tax legislation introduces additional uncertainty. In November, the LAO's revenue estimates for 2017-18 and 2018-19 combined were \$3.4 billion higher than the Administration's January budget proposal.
- The infrastructure spending proposed by the Administration contains some ongoing costs resulting from debt service on lease revenue bonds. \$343 million in lease revenue bonds for the construction of trial courts and \$1.3 billion for state office buildings could be paid for in a different manner.
- The LAO recommends examining the governor's infrastructure proposals to determine whether those chosen are of the highest priority compared to the Legislature's priorities.
- In terms of the \$134 million proposed for voting equipment, the LAO suggests that the Legislature consider using it in a way that incentivizes switching to the SB 450 vote center model.

Orange County Bills of Interest

[AB 42](#) (Bonta) Bail: pretrial release – Oppose

Assembly Floor – Inactive File

Revises the pretrial release system by limiting pretrial detention to specified persons, eliminating the use of bail schedules, and establishing pretrial services agencies tasked with conducting risk

assessments on arrested person and preparing reports with recommendations for conditions of release.

[AB 285](#) (Melendez) *Drug and alcohol free residences – Support*

Held on the Assembly Appropriations Committee Suspense File in 2017. Unlikely to move forward in this legislative session.

Establishes state oversight of sober living homes, which can then choose to be certified on a voluntary basis.

[AB 572](#) (Quirk-Silva) *Alcoholism or drug abuse treatment facilities: Orange County pilot program – Watch*

Held in the Senate Health Committee in 2017.

Establishes a pilot program in Orange County to investigate complaints against licensed adult alcoholism or drug abuse recovery or treatment facilities within the County.

[AB 596](#) (Choi) *Diversion: victim's right to restitution – Support*

Set in the Assembly Public Safety Committee for January 9th, but not heard. Unlikely to move forward in this legislative session.

Closes a loophole that allows drug charges to be dismissed and not treated as a conviction, when a defendant completes a diversion program. The bill states that a sentence to a diversion program under Penal Code 1000 will qualify as a conviction for the purposes of Marsy's Law, ensuring that a victim is always able to receive the restitution they are owed.

[AB 777](#) (Harper) *Vote by mail ballots: fraudulent signatures – Support*

Dead

This bill would increase the maximum fine against persons who illegally forge the signatures of voters on Vote-by-Mail ballot envelopes, from \$1,000 to \$10,000.

[AB 1095](#) (Harper) *Alcoholism or drug abuse recovery or treatment facilities – Support*

Failed in Assembly Health Committee in 2017. Unlikely to move forward in this legislative session.

The bill's intent is to prevent the overconcentration of sober living homes which can change the character of neighborhoods and prevent social integration of those living in the homes. Democrats on the committee expressed concerns over legal hurdles, as individuals recovering from substance abuse disorders are a protected class and have civil rights protections.

[AB 1207](#) (Brough) *Radioactive material: transportation – Support*

Senate Rules Committee

Requires the State Energy Resources Conservation and Development Commission to conduct a study by January 1, 2019, to assess the efficacy of the regulations adopted by the California Department of Public Health in minimizing the risks to public health and safety resulting from the transportation of hazardous radioactive materials.

[AB 1250](#) (Jones-Sawyer) *Counties and cities: contracts for personal services – Oppose*

Senate Rules Committee

Would establish standards for the use of personal service contracts by counties, creating a prohibition on counties' abilities to contract with businesses, non-profits, and economic development organizations to provide local services that a county either does not have the expertise or internal capacity to provide directly.

[AB 1372](#) (Levine) *Crisis stabilization units: psychiatric patients – Support*

Senate Inactive File

Permits a certified crisis stabilization unit designated by a mental health plan to provide medically necessary crisis stabilization services to individuals beyond the service time of 24 hours in those

cases in which the individual needs inpatient psychiatric care or outpatient care and crisis stabilization beds or outpatient services are not reasonably available.

[SB 10](#) (Hertzberg) *Bail: pretrial release – Oppose*

Assembly Appropriations Committee

Revises existing pretrial release procedures by limiting pretrial detention to specified persons, eliminating the use of bail schedules, and requiring each county to establish a pretrial services agency.

[SB 34](#) (Bates) *Residential Treatment Facilities – Support*

Held on the Senate Appropriations Suspense File in 2017. Unlikely to move forward in this legislative session.

Would require the Department of Health Care Services to develop guidelines for preparing a report to the Legislature regarding the siting of residential alcohol or drug abuse recovery or treatment facilities, and subsequently require the Department to prepare the report.

[SB 67](#) (Bates) *Sentencing: driving under the influence – Support*

Held on the Senate Appropriations Suspense File in 2017. Unlikely to move forward in this legislative session.

Would specify that a felony conviction for a DUI remains a felony for the purpose of acting as a prior conviction if the court reduces the conviction to a misdemeanor.

[SB 69](#) (Bates) *Sex offenders: GPS monitoring: removal – Support*

Dead

Creates a felony penalty for any convicted sex offender who willfully removes or disables their GPS tracking device.

[SB 75](#) (Bates) *Violent felonies – Support*

Failed in the Senate Public Safety Committee in 2017. Unlikely to move forward in this legislative session.

Would define vehicular manslaughter, human trafficking involving a minor, assault with a deadly weapon, solicitation of murder, rape under various specified circumstances, and grand theft of a firearm as violent felonies for purposes of imposing sentence enhancements.

[SB 176](#) (Bates) *Controlled substances: fentanyl and carfentanil – Support*

Dead

Amends the Health and Safety Code to include fentanyl and carfentanil alongside heroin and cocaine in the category of drugs that are subject to sentence enhancements by weight, targeting those distributing, trafficking, and selling mass quantities of fentanyl and carfentanil.

[SB 264](#) (Nguyen) *High-occupancy toll lanes: Interstate 405 Improvement Project high-occupancy toll lanes – Oppose*

Dead

Changes previously agreed upon allocation requirements for the net excess toll revenues from the HOT lanes on the Interstate 405 Improvement project.

[SB 284](#) (Nguyen) *Criminal procedure: misdemeanor citations – Support*

Dead

Would give law enforcement the option to book and hold violators of misdemeanor property crimes like burglary, theft, and shoplifting.

[SB 409](#) (Nguyen) *Veterans homes: residents with complex mental and behavioral health needs – Support*

Held on the Assembly Appropriations Suspense File in 2017. Unlikely to move forward in this legislative session.

Requires the California Department of Veterans Affairs to develop a plan to accommodate more residents suffering from complex mental and behavioral health needs into state veterans' homes.

[SCA 12 \(Mendoza\) Counties: governing body: county executive – Oppose](#)

Assembly Desk

Establishes a larger board and an elected county executive in each county with a population of more than 5 million residents at a decennial United States census, beginning with the 2020 United States census.

3. Washington DC Legislative Report

Prepared by Potomac Partners DC

Shutdown Looming? This week both the House and Senate were in session with a legislative agenda focused on passing a short-term Continuing Resolution (CR) to avert a potential lapse in Federal funding. The current CR will expire on January 19th. On Tuesday, congressional appropriators introduced another short term CR ([H.J.Res. 125](#)) that will extend the current funding through February 16th. The fiscal year 2018 Budget negotiations continue to drag out over partisan policy fight on immigration and defense versus non-defense spending levels. As an incentive to help pass the next CR, House Republicans included a six-year extension of the Children's Health Insurance Program (CHIP). The measure would extend the following provisions through 2023:

- The Child Enrollment Contingency Fund for states with a funding shortfall and enrollment that exceeds a target level.
- An option for qualifying states to use CHIP funds to cover the difference between CHIP and Medicaid match rates if they cover CHIP-eligible children through Medicaid.
- The Medicaid and CHIP "[Express Lane](#)," which streamlines CHIP and Medicaid enrollment based on eligibility for other federal programs.
- A [childhood obesity demonstration project](#), with a \$30 million total appropriation over the fiscal 2018 through 2023 period.
- The [Pediatric Quality Measures Program](#), for which \$90 million would be provided for fiscal 2018 through 2023.
- [Outreach and enrollment grants](#), with a \$120 million appropriation from fiscal 2018 through 2023. The measure also would let parent mentors, who are trained to assist families with uninsured children, receive the grants.

Language in the current House CR would also delay three health-related taxes imposed by the Affordable Care Act.

1. **MEDICAL DEVICE TAX:** The 2.3 percent tax on the sale of medical devices would be delayed for 2018 and 2019. The tax initially took effect in 2013 and was suspended for 2016 and 2017. The tax applies to devices such as hip implants and pacemakers sold by a manufacturer, producer, or importer. There is a retail exemption for items typically purchased by the general public, such as hearing aids and contact lenses.

2. **CADILLAC TAX:** The so-called Cadillac tax on high-cost insurance plans would be delayed for two more years, until 2022. It's currently scheduled to take effect in 2020 after being previously delayed.

3. **HEALTH INSURER FEE:** An annual fee imposed on health insurance providers would be suspended for 2019. The measure wouldn't affect the fee collection for 2018.

As of the writing of this report, House leadership have indicated that they are cautiously optimistic that the short-term CR can pass the House with little to no Democratic support. Prospects in the Senate remain uncertain. In order to avoid a filibuster, nine Democrats would need to vote in favor along with all 51 Republicans for the bill to be cleared for the President. No Senate Democrat has yet to indicate support for the measure.

Earmarks May Return: The return of earmarks for infrastructure projects is gaining momentum on Capitol Hill as House Rules Committee Chairman Pete Sessions (R-TX) began informally discussing reviving the project funding mechanism with the Chairmen of the House Appropriations and House Transportation and Infrastructure Committee. Proponents of earmarks have argued that the moratorium on earmarks has led to murky spending decisions by federal agencies. During a Members’ Day hearing, the Rules Committee released a Government Accountability Office (GAO) report that showed a lack of transparency into Obama-era transportation spending, showing that the Obama Administration’s Department of Transportation would sometimes decide which projects to fund with no public rationale. Chairman Sessions said that he might consider bringing back earmarks for one or two areas, like water and flood control infrastructure, to raise confidence before a full return to earmark spending is considered, which would greatly enhance Orange County’s ability to advance priority flood control projects. The Corps, which builds flood control and highway projects across the country, has a massive backlog. Lawmakers also complain that some of the projects are authorized, but are not appropriated funds.

Water Infrastructure: The House Transportation and Infrastructure Subcommittee on Water Resources and Infrastructure held a hearing entitled “*America’s Water Resources Infrastructure: Approaches to Enhanced Project Delivery*”. Witnesses included Major General Donald E. Jackson, Deputy Commanding General for Civil and Emergency Operations, United States Army Corps of Engineers and Mr. James C. Dalton, Director of Civil Works, United States Army Corps of Engineers (USACE). The purpose of the hearing was to hear from stakeholders and discuss the US Army Corps of Engineers’ Civil Works Program responsibilities and regulatory programs. According to the committee the USACE has a backlog of projects valued at \$96 billion (\$75 billion in project construction and \$21 billion for dam safety and operations and maintenance).

Additionally, the Senate voted along razor thin margins (60-38) to renew the Foreign Intelligence Surveillance Act (FISA) ([S. 139](#)) and limit debate on the proposal. The proposal, which passed the House last week, contains a controversial provision (Section 702) that grants law enforcement powerful spying tools and allows federal agencies to acquire secret warrants in FISA courts. The program was set to expire.

The status of relevant legislation for 2018 is as follows:

Legislation Tracking

| <u>Bill Number</u> | <u>Short Title</u> | <u>Latest Action</u> |
|------------------------------|--|--------------------------------------|
| HR 3053 | Nuclear Waste Policy Amendments Act | Awaits House Floor Action |
| HR 472 | Safe Recovery and Community Empowerment Act (addressing sober living homes) | Awaits Committee Action |
| S 2256 | Tax Extenders Act of 2017 | Referred to Senate Finance Committee |
| HR 4258 | Family Self- Sufficiency Act | Held Floor Debate |
| H.J.Res. 125 | Making an extension of continuing appropriations for fiscal year 2018, and for other purposes. | Introduced 1/16/18 |
| HR _____ | 2018 Omnibus Appropriations | Pending Release |

Other legislation scheduled to be debated on the House floor this week includes:

Legislation considered under Suspension of the Rules:

- 1) H.R. 4258 - Family Self-Sufficiency Act, as amended (Sponsored by Rep. Sean Duffy (R-WI) / Financial Services Committee)
- 2) H.R. 4279 - Expanding Investment Opportunities Act, as amended (Sponsored by Rep. Trey Hollingsworth (R-IN) / Financial Services Committee)
- 3) H. Res. 693 - The combined rule providing for consideration of the bill H.R. 3326 - World Bank Accountability Act of 2017 and of the bill H.R. 2954 - Home Mortgage Disclosure Adjustment Act
- 4) H.R. 3445 - AGOA and MCA Modernization Act, as amended (Sponsored by Rep. Ed Royce (R-CA) / Foreign Affairs Committee)
- 5) H.R. 3776 - Cyber Diplomacy Act of 2017, as amended (Sponsored by Rep. Ed Royce (R-CA) / Foreign Affairs Committee)
- 6) H.R. 1660 - Global Health Innovation Act of 2017 (Sponsored by Rep. Albio Sires (D-NJ) / Foreign Affairs Committee)
- 7) H.R. 3326 - World Bank Accountability Act of 2017 (Sponsored by Rep. Andy Barr (R-KY) / Financial Services Committee)
- 8) H.R. 2954 - Home Mortgage Disclosure Adjustment Act (Subject to a Rule) (Sponsored by Rep. Tom Emmer (R-MN) / Financial Services Committee)
- 9) H.R. 4712 - Born-Alive Abortion Survivors Protection Act (Subject to a Rule) (Sponsored by Rep. Marsha Blackburn (R-TN) / Judiciary Committee)

Legislation that has passed this week:

- 1) H.R. 770 - American Innovation \$1 Coin Act, as amended (Sponsored by Rep. Jim Himes (D-CT) / Financial Services Committee)
- 2) H.R. 4318 - Miscellaneous Tariff Bill Act, as amended (Sponsored by Rep. Kevin Brady (R-TX) / Ways and Means Committee)
- 3) S. 117 - Alex Diekmann Peak Designation Act of 2017 (Sponsored by Sen. Steve Daines (R-MT) / Natural Resources Committee)
- 4) H.R. 1107 - Pershing County Economic Development and Conservation Act (Sponsored by Rep. Mark Amodei (R-NV) / Natural Resources Committee)

- 5) H.R. 1532 - Poarch Band of Creek Indians Land Reaffirmation Act (Sponsored by Rep. Bradley Byrne (R-AL) / Natural Resources Committee)

- 6) H.R. 2897 - To authorize the Mayor of the District of Columbia and the Director of the National Park Service to enter into cooperative management agreements for the operation, maintenance, and management of units of the National Park System in the District of Columbia, and for other purposes (Sponsored by Rep. Eleanor Holmes Norton (D-DC) / Natural Resources Committee).

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.



LEGISLATIVE PROPOSAL

2017-18 Legislative Session

AGENCY/DEPARTMENT: CEO- Legislative Affairs

SUBJECT: Funding Equity

PROPOSAL SUMMARY: This proposal would provide a county equity amount to the County, which would increase with property tax growth.

PROBLEM: Property tax revenue is the County's largest income source for covering the costs for essential but discretionary and mandated programs and is used to fund critical services to a diverse and dynamic population. Because the formula for distributing local property taxes has not changed since 1978, Orange County receives the lowest percentage of property tax revenue of any county in California – about six cents on the dollar.

BACKGROUND INFORMATION: After the passage of Proposition 13 capped the ad valorem property tax rate on real property at 1%, the Legislature responded by permanently restructuring the allocation of property tax revenues. SB 154 (Rodda, 1978) gave counties, cities, special districts, and schools an amount of property tax revenues in proportion to what they received in the past. AB 8 (L.Greene, 1979) gave local governments their historic proportional shares of property taxes, plus some of the school districts' property tax revenues, while replacing schools' losses with General Fund subventions. In response to state budget deficits in the early 1990s, the Legislature reduced state General Fund spending on education by shifting property taxes from counties, cities, and special districts to an ERAF in each county to support schools.

The county share of property tax revenues varies greatly throughout the state. In 2015-16 Orange County received only 6% of the property tax collected in the county and the statewide average was 14%.

SOLUTION:

Section 97.80 of the Revenue and Taxation Code

SECTION 1. Section 97.80 is added to the Revenue and Taxation Code, to read:

(a) Notwithstanding any other provision of law, for the 2018-19 fiscal year and for each fiscal year thereafter, the auditor of the County of Orange shall do both of the following:

(1) Increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to that county by the county equity amount.

(2)

(A) Decrease the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund by the county equity amount.

(B) If, for any fiscal year, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts in the county for that fiscal year by an amount equal to the difference between the county equity amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation

Fund for that fiscal year. This reduction for each school district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts in a county. For purposes of this subparagraph, "school districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(C) Any reduction in the amount of ad valorem property tax revenues deposited in the county's Educational Revenue Augmentation Fund as a result of subparagraph (A) shall be applied exclusively to reduce the amounts that are allocated from that fund to school districts and county offices of education, and shall not be applied to reduce the amounts of ad valorem property tax revenues that are otherwise required to be allocated from that fund to community college districts.

(b) For purposes of this section:

(1) For the 2019-20 fiscal year, "county equity amount" means _____dollars.

(2) For the 2020-21 fiscal year and for each fiscal year thereafter, "county equity amount" shall mean the sum of the following two amounts:

(A) The county equity amount for the prior fiscal year.

(B) The product of the following two amounts:

(i) The amount described in subparagraph (A).

(ii) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the County of Orange, as reflected in the equalized assessment roll for those fiscal years.

(c) For the 2018-19 fiscal year and for each fiscal year thereafter, ad valorem property tax revenue allocations made pursuant to Sections 96.1 and 96.5 shall not incorporate the allocation adjustments made by this section.

SEC. 2. The Legislature hereby finds and declares, with respect to Section 18 of this act, that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and that a special statute is necessary because of the unique inequities experienced from fiscal year to fiscal year by the County of Orange that, of all of the counties in the state, was allocated the lowest percentage of countywide ad valorem property tax revenues as determined by the Board of Equalization in its Annual Report for fiscal year 2015-16.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



LEGISLATIVE PROPOSAL

2017-18 Legislative Session

AGENCY/DEPARTMENT: OC Public Works (OCPW)

SUBJECT: Design-Build (DB)

PROPOSAL SUMMARY: This proposal would allow Orange County Public Works (OCPW) the option to utilize Design-Build Authority (DB), for procurement of design & construction services for County/OCPW horizontal public works projects.

PROBLEM: The traditional Design-Bid-Build (DBB) method of project procurement and delivery requires a significant investment of staff time, multiple contracts/contractors, and is subject to multiple contract modifications/extensions and accompanying cost overruns. The use of the DB alternative project delivery method can complete/deliver public works projects with greater cost and schedule predictability. DB consolidates design and construction services into one contract. DB is ideal when an integrated design- construction team is desired.

SOLUTION:

Sec. 1. Sections 22170-22173 of the Public Contract Code are added to read:

22170. (a) It is the intent of the Legislature that the following occur:

- (1) This chapter provides general authorization for Orange County to use design-build for public works infrastructure projects.
- (2) This chapter shall not be deemed to provide a preference for the design-build method over other procurement methodologies.

22171. For purposes of this chapter, the following definitions apply:

- (a) "Best value" means a value determined by evaluation of objective criteria that relate to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of Orange County and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.
- (b) "Construction subcontract" means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.

(c) "Design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity.

(d) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(e) "Design-build team" means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.

(f) "Orange County" means the following:

(1) The County of Orange, California; or

(2) The Orange County Flood Control.

(g) "Project" means a public works infrastructure project.

22172. (a) Notwithstanding any other law, Orange County, with approval of its governing body, may procure design-build contracts for public works projects in excess of one million dollars (\$1,000,000), awarding the contract either on the basis of low bid or best value.

(b) Orange County shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for Orange County relating to the solicitation of a design-build project, to submit a proposal as a design-build entity, or to join a design-build team. This conflict-of-interest policy shall apply to each Orange County design-build contract authorized under this chapter.

22173. The procurement process for the design-build projects shall progress as follows:

(a) Orange County shall prepare a set of documents defining the scope of the project, generally called "performance specifications and plans." These performance specifications and any plans shall be prepared by a design professional duly licensed and registered in the state of California. If Orange County retains an architect or engineer to assist in the development of the scope or other project specific documents for a design-build project, that architect or engineer shall not be eligible to participate in the preparation of a submittal with any design-build entity for that project.

(b) Orange County shall initially use a Request for Qualifications (RFQ) to identify the most qualified design-build entities. Only those entities that are selected through the RFQ process will be allowed to submit proposals in response to Orange County's subsequent design-build Request for Proposal (RFP). Pursuant to Public Contract Code Section 22164, the RFQ shall include, but need not be limited to, the following elements:

- (1) Identification of the basic scope and needs of the project or contract.
 - (2) The expected cost range of the project or contract.
 - (3) The methodology that will be used to evaluate proposals.
 - (4) Whether the contract will be awarded on the basis of low bid or best value.
 - (5) Any other information deemed necessary by Orange County to inform interested parties of the contracting opportunity.
- (c) Based on the performance specifications and plans, Orange County shall prepare a Request for Proposals (RFP) inviting those design-build entities identified as most qualified through the RFQ process to submit competitive sealed proposals. Pursuant to Public Contract Code Section 22164 (d), the RFP shall include, but need not be limited to:
- (1) The scope, expected cost range, and other information deemed necessary by Orange County to inform interested parties of the opportunity.
 - (2) Significant factors that Orange County expects to consider in evaluating proposals, including but not limited to, technical design and construction expertise, acceptable safety record, cost or price, and all other non price- related factors.
 - (3) The methodology that will be used by Orange County to evaluate proposals. Specifically, if the contract will be awarded to the lowest responsive, responsible respondent, or whether the contract will be awarded on best value and other criteria, and significant objective factors that Orange County reasonably expects to consider in evaluating proposals, including cost or price, and non price-related factors.
 - (4) The relative importance of the weight assigned to each of the factors identified in the RFP. Specifically, whether evaluation factors other than cost or price are significantly more than, approximately equal to, or less important than cost or price.
 - (d) If Orange County reserves the right to hold negotiations with respondents, it must specify as such in the RFP, and must include applicable rules and procedures to be observed by Orange County to ensure that any negotiations are conducted in good faith.
 - (e) Evaluation of proposals and final selection of the design-build entity may be based on either a competitive bidding process resulting in lump-sum bids, with the award being made to the lowest responsible respondent, or based upon best value and other criteria.
 - (1) When the best value method is selected, competitive proposals must be evaluated using only the criteria and selection procedures identified in the RFP, and shall progress as specified by Public Contract Code Section 22164 (f).
 - (f) Upon completion of the proposal evaluations, the highest scored responsive respondents are determined and the award made to the responsible respondent whose

proposal is determined and documented to be most advantageous once award is authorized by the Orange County Board of Supervisors. The award and written decision will then be publicly announced.

(g) If Orange County chooses to reserve the right to hold discussions or negotiations with responsive respondents, such right shall be specified in the RFP. Applicable rules and procedures to be observed by Orange County shall be published separately or incorporated into the RFP to ensure that any discussions or negotiations are conducted in good faith.

(h) Pursuant to Public Contract Code Section 22167, if Orange County elects to award a design-build project, and if a performance and payment bond, issued by an admitted surety insurer is required in the solicitation of bids per the Public Contract Code, then retention proceeds withheld by Orange County from the design-build entity shall not exceed five (5) percent.