



Legislative Bulletin

DRAFT

A Publication of the County Executive Office/Legislative Affairs

January 23, 2024
Item No. 24

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 Program Guidelines adopted by the Board of Supervisors on January 25, 2022, 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 2023-2024 Legislative Platform was adopted by the Board of Supervisors on December 20, 2022.

On January 23, 2024, 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 tables below list the bills the Board of Supervisors has taken positions on in the 2023-24 legislative session.

State Legislation


As of Thursday, January 18, 2023

Bill No.	Author	Subject	Position	Date of Board Action	Status
<u>SB 44</u>	<u>Umberg</u>	Controlled substances	Support	1.24.23	Senate Public Safety Committee: Failed Passage
<u>SB 62</u>	<u>Nguyen</u>	Controlled substances: fentanyl	Support	3.28.23	Senate Public Safety Committee: Failed Passage
<u>AB 1058</u>	<u>Patterson</u>	Controlled substances: fentanyl	Support	3.28.23	Assembly Public Safety Committee: Failed Passage
<u>AB 684</u>	<u>Ta</u>	County veterans service officers: additional resources	Support	4.25.23	Assembly Appropriations Committee: Failed Passage
<u>AB 955</u>	<u>Petrie-Norris</u>	Controlled substances	Support	5.9.23	Assembly Rules Committee: Failed Passage
<u>AB 1168</u>	<u>Bennett</u>	Emergency Medical Services (EMS): prehospital EMS	Oppose	6.27.23	Senate Floor 2 Year Bill

Federal Legislation

As of Thursday, January 18, 2023

Bill No.	Author	Subject	Position	Date of Board Action	Status
<u>S 24</u>	Feinstein	Fighting Homelessness Through Services and Housing Act	Support	4.25.23	Senate Committee on Health, Education, Labor and Pensions
<u>HR 516</u>	Lieu	Fighting Homelessness Through Services and Housing Act	Support	4.25.23	House Committee on Financial Services
<u>HR 984</u>	Levin	Commitment to Veteran Support and Outreach Act	Support	4.25.23	House Committee on Veteran's Affairs
<u>HR 467</u>	Griffith	Halt All Lethal Trafficking (HALT) of Fentanyl Act	Support	6.06.23	Senate Judiciary Committee
<u>S 971</u>	Cassidy	Due Process Continuity of Care Act	Support	6.06.23	Senate Finance Committee
<u>HR 3862</u>	Levin	Spent Fuel Prioritization Act of 2023	Support	6.27.23	House Committee on Energy and Commerce

 Highlighted sections symbolize a status change.

2. Sacramento Legislative Report

Prepared by Precision Advocacy Group LLC

The deadline for the legislature to move two-year bills remaining in their house of origin out of policy committees was January 12. This means that the remaining bills from 2023 supported by Orange County are now considered dead, including, AB 955, AB 1058, SB 44, and SB 62.

Legislators have, however, begun introducing new legislation, and it appears likely that in several instances similar bills will be introduced this year and will have the opportunity to move through the legislative process. Legislators have until February 16 to introduce new legislation.

- AB 955 (Petrie-Norris) would have created a new crime for selling fentanyl on a social media platform. Assemblywoman Petrie-Norris has not yet introduced new legislation this year.
- AB 1058 (Patterson, Jim) would have increased the penalties for drug trafficking of fentanyl, an analog of fentanyl, or a substance containing fentanyl or an analog of fentanyl if the amount of fentanyl weighs more than 28.35 grams. Assemblyman Jim Patterson introduced AB 1804 this week that authorizes a judge, upon a finding of probable cause as that an individual is committing, has committed, or is about to commit offenses involving a substance containing fentanyl or its precursors or analogs that exceeds 1.67 gallons by liquid volume and 8 ounces of solid substance by weight of a substance containing fentanyl or its precursors or analogs, an order authorizing the interception of wire or electronic communications. Current law allows interception of wire or electronic communications in cases that exceed 10 gallons by liquid volume or 3 pounds of solid substance by weight, to issue an order authorizing the interception of wire or electronic communications.
- SB 44 (Umberg) would have required a court to provide a written advisory to a person convicted of specified drug offenses notifying the person of the danger of selling or administering illicit drugs and counterfeit pills and of the potential future criminal liability if another person dies because of that person's actions. Senator Umberg amended a different two-year bill, SB 21, this week to contain similar provisions. SB 21 previously pertained to remote court proceedings and is currently in the second house.
- SB 62 (Nguyen) would have imposed an additional term of 3 to 25 years upon a person who is convicted of specified drug offenses with respect to a substance containing fentanyl if the substance exceeds a specified weight. Senator Nguyen has not yet introduced new legislation this year.

In the coming weeks, we will report on additional legislation related to fentanyl moving through the legislative process.

LAO Overview of the Governor's 2024-25 Budget Proposal

The Legislative Analyst's Office (LAO) released its overview of the governor's budget proposal last week, including some high-level recommendations to the legislature as it moves forward through the budget process this year. As budget deliberations proceed, the LAO will offer additional more specific feedback for the legislature's consideration. In the meantime, county departments are doing their own analysis to determine potential impacts to the county to share with delegation members and members of the budget committees.

One standout difference between the governor's proposed budget presented on January 10, and the LAO's fiscal outlook from December, is the variance in estimates of the budget shortfall. While the LAO estimates the 2024-25 shortfall to be \$68 billion, the governor's estimate was \$37.9 billion. The

explanation of the differing numbers is largely due to differences in the consideration of baseline changes.

The largest disparity in terms of baseline changes is in how reductions to schools and community colleges are counted. Specifically, the administration defines a \$15 billion reduction to school and community college spending, relative to the enacted level in 2023, as a baseline change. Therefore, the \$15 billion is not counted as part of the shortfall in the governor's proposal. However, the LAO does count the \$15 billion as part of the shortfall because the reduced funding is not automatic under current law. The reduction will require legislative action. In addition to the \$15 billion in school funding, the administration does not include \$1.6 billion in proposed spending delays for competitive transit grant funds, a change in childcare budgeting methodology that results in nearly \$900 million in savings, and a change in the distribution of funds in the school facilities program delaying \$700 million in spending as changes that impact the shortfall if the legislature does not adopt them. The LAO includes all these elements in their calculations.

After accounting for differences in how the budget shortfall was determined, the LAO estimates that the actual differences between their estimates and the administration's, is about \$10 billion, with the key difference being that the governor's revenue estimates are about \$15 billion higher. The governor also sets aside \$3.4 billion for unexpected costs and proposes over \$2 billion in new discretionary proposals.

The governor's budget proposal contains \$41 billion in spending related solutions, \$13 billion in reserve withdrawals, \$4 billion in cost shifts, and about \$400 million in revenue-related solutions.

Spending related solutions include reductions, delays, fund shifts, and reversions, most of which are one-time and temporary. \$8 billion in spending reductions includes nearly \$800 million to state departments' operation budgets, \$500 million to continue an existing two-week delay in Medi-Cal payments, a \$500 million reduction to the school facilities aid program, and a \$350 million reduction to legislative district projects approved last year.

Delays included in the governor's budget proposal total about \$8 billion, which results in higher spending in out years:

- \$5 billion in 2025-26,
- ~\$2 billion in 2026-27, and
- ~\$1 billion in 2027-28.

Some of the proposed delays are likely to create fiscal pressure for future state funding. The delay of \$2.7 billion for specific state and local transportation projects, for instance, is much harder to claw back when state agencies and local jurisdictions have expended resources on planning, financing, and implementation.

The governor's budget proposal includes \$6 billion in fund shifts including using nearly \$4 billion in revenue from the managed care organization (MCO) tax to offset General Fund costs in Medi-Cal and shifting \$1.8 billion in costs from the state General Fund to the Greenhouse Gas Reduction fund.

The governor proposes withdrawal of about half of the reserve, \$10.2 billion, and the entire discretionary balance, \$1.8 billion. The governor also proposes withdrawing the entire safety net reserve which was designed to help cover costs of increasing caseload in Medi-Cal and CalWORKs in the event of an economic downturn.

Cost shifts included in the governor's budget proposal include deferring one month of state employee payroll from June to July resulting in \$1.6 billion in one-time savings, redirecting a \$1.3 billion supplemental pension payment for actuarially required contributions to the California Public Employee Retirement System, and \$1.2 billion in special fund loans.

\$400 million in revenue-related solutions are proposed, including narrowing businesses' ability to reduce their tax bill by counting previous losses against their current income which would generate about \$300 million in additional revenue in 2024-25.

The governor's proposal includes reserves of \$14.5 billion by the end of 2024-25, and \$3.9 billion in the Proposition 98 Reserve for school and community college programs, leaving about \$11 billion available to address a budget problem next year.

Like the LAO's estimates, the governor's budget proposal includes operating deficits of \$37 billion in 2025-26, \$30 billion in 2026-27, and \$28 billion in 2027-28.

The LAO's overarching response to the governor's budget proposal is that it is likely overly optimistic and currently lacks necessary detail. The governor's revenue numbers, for instance, include 8% growth in tax revenues in 2023-24. In the coming months, the administration will remedy much of the lack of detail by proposing trailer bill language which is required to be publicly available by February 1.

To mitigate budget challenges, the LAO recommends the legislature plan for lower revenues, maintain a similar reserve withdrawal to that proposed by the governor, develop a plan for school and community college funding, maximize reductions in one-time spending, apply a higher bar for any discretionary proposals, and contain ongoing service levels.

US Supreme Court to Hear City's Appeal with Major Impacts to Homeless Encampments

Last Friday, the U.S. Supreme Court agreed to hear an appeal by the City of Grants Pass, Oregon asking them to overturn a 2018 federal appeals court ruling that limited cities' ability to restrict sleeping and camping in public spaces. Since that ruling, judges have either delayed or outright halted camping bans from being enforced in cities including San Francisco, Sacramento, and Chico because the cities failed to provide what the courts deem as adequate shelter.

California is home to an estimated 171,000 homeless people, nearly one-third of the country's homeless population. In a 2023 Public Policy Institute of California (PPIC) poll, nearly all California adults and likely voters say homelessness is a big problem (70% adults, 76% likely voters) or somewhat of a problem (26% adults, 23% likely voters) in their part of California.

The plaintiffs of the case argue that because there are no homeless shelters in Grants Pass and that the only housing programs "serve only a small fraction of the city's homeless population," local homeless residents are left with "nowhere to sleep but outside." They say that these rules violate the Eighth Amendment prohibition on cruel and unusual punishment, "effectively punishing the city's involuntarily homeless residents for their existence" in the city.

In an amicus brief, Governor Gavin Newsom had urged the court to take on the case, writing that while local governments "work on long-term approaches" to help address the dual crisis of housing and homelessness, they needed "the flexibility" of the laws to "address immediate threats to health and safety in public places — both to individuals living in unsafe encampments and other members of the public impacted by them."

Responding to a 9th U.S. Circuit Court of Appeals ruling in the case of Coalition on Homelessness v. San Francisco last week, Newsom said, "this latest action by the court will only create further delays and confusion as we work to address homelessness. It offers a troubling invitation to continued litigation that will hamper efforts to address encampments and provide people with the resources they need."

Upcoming Hearings

Agendas are typically posted on the committee websites in the [Assembly](#) and [Senate](#) a few days prior to the hearings. To view hearings after they take place, you may access them in the [Assembly](#) or [Senate](#) media archives where they are generally available within a few hours of committee adjournment.

Tuesday, January 23, 2024, 9:30 a.m.

Assembly Budget

Governor's Proposed 2024 Budget

Tuesday, January 23, 2024, 1:30 p.m.

Senate Budget And Fiscal Review

Overview of the Governor's 2024-25 Proposed Budget

Wednesday, January 24, 2024, 1:30 p.m.

Senate Insurance

Oversight Hearing: California Department of Insurance: Sustainable Insurance Strategy

Governor's Press Releases

Below is a list of the governor's press releases beginning January 10.

January 16: [Governor Newsom Signs Tribal-State Gaming Compact 1.16.24](#)

January 16: [Governor Newsom Announces Appointments 1.16.24](#)

January 15: [Governor Newsom Proclaims Dr. Martin Luther King, Jr. Day 2024](#)

January 12: [Governor Newsom Announces Appointments 1.12.24](#)

January 12: [Governor Newsom Statement on U.S. Supreme Court Agreeing to Hear Case on Homelessness](#)

January 11: [Governor Newsom Statement on Court Ruling Obstructing Encampments Clearing](#)

January 11: [Governor Newsom, First Partner Siebel Newsom, and the California Museum Announce the 17th Class of the California Hall of Fame](#)

3. Washington DC Legislative Report

Prepared by Townsend Public Affairs, Inc.

Legislative Branch Activity

Lawmakers agree to temporarily extend government funding

Attempting to avert the first wave on government shutdown that is scheduled for Friday January 19, Speaker Mike Johnson and Senate Majority Leader Chuck Schumer reached a tentative deal to extend government funding at its current levels into early March.

They agreed to use Speaker Johnson's laddered approach, the first wave of shutdowns would occur on March 1 and the second wave on March 8 once legislation is officially passed. Congressional leaders believe this buys them more time to iron out the details of their previously announced topline spending agreement, and for Speaker Johnson to coalesce the Republican Conference.

On Tuesday evening, the Senate held a cloture vote, the first step in passing the stopgap funding bill in which it successfully passed 68-13. Once it clears the Senate the continuing resolution will move to

the House where it will be considered on the Floor presumably under a suspension of the rules to advance passage.

County Relevance

- All federal discretionary funding is tied up in negotiations around final FY24 appropriations.
- A government shutdown would impact federal services.

Congressional leaders unveil bipartisan tax legislation

Amidst government funding negotiations, immigration legislation, and another foreign aid package, key Congressional leaders announced a bipartisan, bicameral tax deal this week. Senate Finance Committee Chairman Ron Wyden and House Ways and Means Committee Chairman Jason Smith announced their agreement to a \$78 billion tax deal on Tuesday January 16.

The deal has quietly been discussed between staff members over the last couple of months, ultimately leading to both Republicans and Democrats being able to claim wins. A key initiative by the Senate Democrats is to expand the child tax credit raising the maximum credit to \$2,000 for families who owe less than that in taxes. It also allows for low-income families with multiple children to apply for more benefits faster by using the previous year's income to qualify for future benefits. Furthermore, Democrats fought to address the low-income housing tax credit by lowering the bond-financial threshold. Republicans fought for small businesses by proposing the return of upfront deductions for domestic research and development, and larger deductions for interest expenses and purchasing of machinery and equipment. These were created by the 2017 tax law championed by the Trump Administration that was popular within the Republican Conference. Both Sen. Wyden and Rep. Smith agreed to cut the pandemic-era retention tax credit by shortening the period in which new claims can be filed. They estimated these cuts will provide enough deficit reduction to cover the overall price of the legislation.

Also included in the tax deal is H.R. 5863 the Federal Disaster Tax Relief Act of 2023. H.R. 5863 would amend the Internal Revenue Code to provide tax relief to people affected by certain federally declared disasters. The bill would allow affected taxpayers to deduct losses arising from federally declared disasters without itemizing deductions on their tax returns and would exclude from gross income some compensation received for losses from wildfires. Key cosponsors are Rep. Katie Porter and other California Delegation members.

Sen. Wyden announced an aggressive passage deadline of January 29 which marks the beginning of the federal tax season. However, with the roll-out of the deal, came opposition from key Congressional members. Senate Finance Committee Ranking Member Mike Crapo and House Ways and Means Committee Ranking Member Richie Neal both oppose the deal in its current state. Therefore, building momentum towards passage becomes complicated as the legislation must overcome the filibuster and a slim House majority. However, there is an appetite for rank-and-file members to get it done, notably Senator Maggie Hasaan and Seante Bill Cassidy are teaming up to boost momentum, and Chairman Smith lobbying Congressmembers on both sides of the aisle. While passing the tax bill ahead of the 2024 tax season seems unlikely, there is a possibility of it becoming law as lawmakers see the legislation will be scored as a victory for Congress.

County Relevance

- The proposed tax legislation does not include changes to the State and Local Tax deduction, commonly referred to as SALT cap. The 2017 tax law put a cap on the SALT deduction of \$10,000. Previously there was no limit.
- The disaster relief provisions would help residents impacted by natural disasters.

Update on Immigration and Foreign Aid Legislative Package

Majority Leader Chuck Schumer, Minority Leader Mitch McConnell, Speaker Mike Johnson, and House Minority Leader Hakeem Jeffries, commonly known as the Big Four, met with President Biden

on Wednesday January 17 as he reiterates the importance of a national security supplemental spending package directed towards Ukraine, Israel, and Taiwan. This marks the first Big Four meeting with Rep. Johnson as the Speaker of the House.

Ukraine aid has been supported in the past by Congressmembers and Senators, and there is still strong support in helping other U.S. allies. However, with Republicans successfully linking any additional aid to passage of a border reform bill, supplemental spending discussions have curtailed. Senator James Lankford, Senator Krysten Sinema, and Senator Chris Murphy have been the lead negotiators on potential border legislation in which each of them has stated progress has been made.

If immigration legislation passes in the Senate, Speaker Johnson insists he has no interest in bringing their bill to the House Floor for a vote. One reason being with the departure of Rep. Bill Johnson effective January 21, there is now only a two-seat majority for Republicans -- the slimmest majority in U.S. history. Speaker Johnson speculates any immigration legislation that is not H.R. 2 the *Secure the Border Act* will not have the votes to pass as it faces stiff opposition from the House Freedom Caucus. The cross-chamber clash has now been taken to the media as Leader McConnell has urged House lawmakers to take this deal as any hope of immigration reform "will be impossible" if Trump is reelected. It appears that House Republicans are the only caucus not on board with a compromise immigration reform deal.

Following the meeting, Senate leaders indicated they may try to bring a compromise immigration bill to the Senate floor next week.

[Executive Branch Activity](#)

[Biden Administrations proposes bank overdraft fee limits](#)

This week the Consumer Financial Protection Bureau (CFPB) announced a proposed rule to limit bank overdraft fees. According to a CFPB report, banks made \$9 billion in overdraft fees in 2022 thus sparking the needed regulation and consumer protections. Under the proposed rule, large financial institutions can either charge a flat overdraft fee or provide the same overdraft protections that credit cards and other loan providers do. The agency has not decided on the flat fee rate, but it is reported to be between \$3 and \$14. The new rule would apply to institutions with more than \$10 billion in assets which includes 175 banks and credit unions. The CFPB said they expect the rule to go into effect in October 2025.

[EPA to publish plan for EV charging station permits](#)

The Environmental Protection Agency (EPA) published their plan to accelerate the permitting of electrical vehicle charging stations. The EPA will use the Department of Energy's categorical exclusions to quickly permit new charging stations, modifications, operations, and removals if needed. Categorical exclusions are decisions made for projects that do not harm the environment and can be used by other agencies. Although the announcement aims to accelerate the process, the EPA will ensure that a proposed charging station will not threaten the environment, release hazardous substances, or require major expansions of waste storage or disposal.

[County Relevance](#)

- As the County expands EV charging infrastructure, the proposed rule may impact planning and design.

[Legislation introduced by Orange County Delegation](#)

Rep. Young Kim

- H.R. 6994 Restoring Our Unopened Trails for Enjoyment and Safety Act (ROUTES) - requires National Forest trails, roads, campgrounds, and recreation sites damaged and closed by natural

disasters like wildfires to be restored and reopened within two years of the disaster. To meet this deadline, certain actions to restore these sites would not be subject to an environmental assessment.

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.