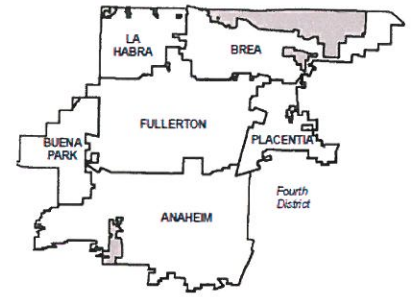




**SHAWN NELSON**  
SUPERVISOR, FOURTH DISTRICT  
ORANGE COUNTY BOARD OF SUPERVISORS

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December 11, 2013

Dear Friends,

On behalf of the Orange County Board of Supervisors, I am sending you a copy of the "County of Orange Legislative Platform for 2014," adopted by the Board on December 10, 2013. This document communicates the key legislative priorities and policies for the County in both Sacramento and Washington D.C., and provides policy direction and guidance to County agencies/ departments and staff.

We hope that you will find the document helpful in understanding the County's perspective on the major issues facing us this coming year. My colleagues and I look forward to working with many of you in the near future.

If you or members of your staff have questions regarding the attached Platform, please contact Cymantha Atkinson, Manager of Government & Community Relations at (714)-834-7219.

Very truly yours,

Shawn Nelson  
Chairman, Board of Supervisors

Enclosure

cc: Members, Board of Supervisors  
Members, Orange County State and Federal Legislative Delegation  
City Managers, Orange County Cities  
Michael B. Giancola, County Executive Officer  
CEO's Executive Team  
County of Orange Agency/ Department Heads and Legislative Coordinators  
Cymantha Atkinson, Government & Community Relations  
Jesus Perez, CEO/ Legislative Affairs  
James McConnell, Washington, D.C., Legislative Advocate  
Platinum Advisors, Sacramento Legislative Advocates  
Matt Cate, Executive Director, CSAC  
Jolena L. Voorhis, Executive Director, UCC



# COUNTY OF ORANGE LEGISLATIVE PLATFORM FOR 2014

Adopted by the Board of Supervisors  
December 10, 2013

Shawn Nelson  
Chairman of the Board of  
Supervisors, Fourth District

Janet Nguyen  
Supervisor, First District

John M. W. Moorlach  
Supervisor, Second District

Todd Spitzer  
Supervisor, Third District

Patricia C. Bates, Vice-Chairwoman  
Supervisor, Fifth District

**COUNTY OF ORANGE  
LEGISLATIVE PLATFORM  
FOR 2014**

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# COUNTY OF ORANGE

2014 State and Federal  
Outlooks

**COUNTY OF ORANGE**  
**2014 STATE AND FEDERAL OUTLOOKS**

**STATE LEGISLATIVE OUTLOOK**

***Overview***

The 2013-14 legislative session kicked off with more than 30 new legislators and a supermajority of Democrats that will have the opportunity to serve under the new term-limits law, which now allows a maximum of 12 years of service in the State Legislature. Like many new legislative sessions, several topics were recurring throughout the year, such as pension, health care and CEQA reform, and prison overcrowding. In preparing for the second half of the Legislative session, the County of Orange must position itself to identify critical problems to be addressed in 2014, prioritize essential policy statements and create a plan to continuously protect existing resources. The 2014 State outlook provides a forecast of essential subject areas that likely will be debated, negotiated and possibly solved in 2014.

In 2014, legislative leadership will be transitioning with both Senate Pro Tem Darrell Steinberg and Assembly Speaker John Pérez termed out. The Assembly and Senate are still experiencing the effects of legislators transitioning from State government to local government positions. Therefore, the Assembly currently has three vacancies (AD45, 52 and 54) that are expected to be filled in early 2014 after special elections in December 2013. Both houses maintain a supermajority of Democrats.

**GENERAL GOVERNMENT**

***Revenues***

The State Controller's office confirmed that the first three months of the fiscal year, General Fund revenues reached \$20.2 billion -- about \$100 million more than the Budget Act estimate. Personal income revenues for the remaining months of 2013 were up by \$458 million, and sales tax revenues were up \$170 million above projections.

The California State Auditor released a report at the end of 2013 notifying the Governor and Legislature of high-risk areas needing legislative attention in 2014:

***The State Budget***

Although experts agree that the State has a surplus, there is disagreement about its size and how to prioritize spending. Constraints to the budgeting process, including State constitutional amendments passed by initiative and federal mandates complicate how funds may be spent. The State has a history of budget shortfalls being addressed through short-term solutions. Over the last 12 years, 59% of deficits were closed by

increasing revenue or making cuts, while the other 41% were addressed by increasing debt, shifting funds or deferring expenditures. California's population grew 4.36% between the 2005-06 and 2011-12 budget years; however, the low-income population increased at a disproportionate rate. In the same time period, the number of people eligible for MediCal grew by 17%.

#### *Funding for the California State Teachers' Retirement System (CalSTRS)*

The CalSTRS board does not have the authority to adjust contribution rates and has suffered low returns due to the economic recession. As a result, between 2001 and 2012, the plan funding ratio decreased from 98% to 67%. A ratio of 80% is considered fiscally sound. Currently, members contribute 8%, employers contribute 8.25% and the State contributes about 2%. To avoid depleting funds and reaching a 100% funding ratio in 31 years, contributions would have to increase by an additional 14.62% of total salaries.

#### *Retiree Health Benefits for State Employees*

The State has an unfunded liability of almost \$64 billion for retiree health benefits. The liability increased from \$59.9 billion in 2010 to \$63.85 billion in 2012 due to a growing number of retirees and increases in health care premiums. The State covers only the current year costs of the benefits and has not set aside funds for future obligations. San Jose Mayor Chuck Reed submitted an initiative proposal to enact the Pension Reform Act of 2014. Title and summary are expected to be complete by December 5, at which time, the signature gathering process will start to place this proposal on the November 2014 ballot. The proposal would amend the California Constitution to remove the contractual right that pension and retiree health care benefits cannot be changed once the employee is hired.

The County of Orange should continuously refine its legislative priorities to reflect the Board's current positions relating to pension reform and the budget.

#### *Dissolution of RDAs*

When local redevelopment agencies (RDAs) were dissolved by the state last year, millions of dollars that would have gone towards the creation of desperately needed affordable homes throughout California were lost. RDA's were funded by incremental property tax earnings in redevelopment areas, 20% of which was required to go towards creating affordable homes. With the dissolution of RDAs, one of the best tools for providing homes that everyday working people can afford was suddenly gone. Among other cities and counties grappling with the financial aftermath of RDA dissolution is faced with a deficiency in funding to assist in their efforts to comply with the state Regional Housing Needs Assessment requirements along with the 10-year Plan to End Homelessness. The 2014 legislative session is expected to continue to bring many alternatives for direct funding as well as cost-savings to backfill this deficiency in local affordable housing funds.

## **PUBLIC PROTECTION**

Prison overcrowding will be a priority for the state to address in 2014. A three- judge panel is ordering the State of California to reduce the number of inmates due to unreasonable living conditions impacting the health of inmates. The Court extended the date by which the State is required to reduce the prison population (to about 110,000 inmates) from January 27, 2014, to February 24, 2014. Until otherwise directed by the Court, the State may not send more inmates out of state to comply with that order; however, the Administration recently signed two contracts to house 3,700 inmates in Kern County and San Bernardino County at an annual cost of \$58.5 million. Governor Brown has requested that the ordered prison population reduction to 137.5% of design capacity not be implemented until January 1, 2017.

In late 2013, a newly formed Assembly Select Committee on Justice Reinvestment heard testimony from representatives of the Legislative Analyst's Office (LAO) and Prison Law Office. The hearing provided lawmakers with a baseline of prison population growth over time and its impact on health care in prisons.

### *2011 Realignment*

The State has very little data about the success and progress of the public safety, health and human-services programs realigned from the State to Counties in 2011. Although reporting is required on various data, realignment's recent implementation curbs the amount of information available. The Department of Social Services issued its first report in April 2013, but the information is of limited use without having access to long-term trends examining expenditures and outcomes.

The State created the Board of State and Community Corrections in July 2012 to collect realignment data as well as data on the impact of State and community correctional, juvenile justice and gang related policies and practices. Limitations of the information are evident in that some of it is voluntary; each county has its own system for tracking offenders, counties may have different interpretations of definitions and there may be missing or overlapping data. Some notable concerns exist with the realignment of low-level offenders to counties:

- a. Many counties have limited jail capacity.
  - i. The average daily population of jails went from 72,285 in October 2011 to 80,864 in September 2012 – an increase of 12%.
  - ii. In September 2012, 21 counties had an average daily population greater than the jail's rated capacity and 18 counties had at least one jail with a court ordered population cap.
  - iii. Between October 2011 and September 2012, the number of prisoners released from jail each month due to overpopulation increased by 13.5 %, and inmates released monthly to early supervision programs increased from 3,527 to 5,700 – or 62%.

- b. Jails aren't designed to hold prisoners for more than a year and lack programs found in state prisons to help rehabilitate inmates.
- c. Long-term medical and mental health care has presented challenges in many jails.

## **INFRASTRUCTURE & ENVIRONMENT**

### *CEQA*

Senate Pro Tem Steinberg did not accomplish all of the California Environmental Quality Act (CEQA) reforms as intended. Senate Pro Tem Steinberg didn't accomplish all of the California Environmental Quality Act (CEQA) reforms he had originally intended, but did manage to pass legislation making it easier to build a new Kings arena in downtown Sacramento. SB 743 will streamline the judicial review of lawsuits related to the project. SB 743 also addresses the findings of an Alameda Superior Court decision that found provisions of AB 900 unconstitutional. AB 900 was the CEQA streamlining effort from a couple years ago that attempted to accelerate judicial review of CEQA cases by moving the cases to the Appellate Court level. In addition, SB 743 was amended to include provisions of Senator Steinberg's CEQA modernization bill, SB 731. The provisions added to SB 743 would change the standard for determining traffic impacts for infill projects by eliminating the level of service standard currently used and it would develop standards based on vehicle miles travelled. Despite the changes in SB 743, we anticipate more CEQA reform measures in 2014.

### *Transportation*

In its Statewide Transportation System Needs Assessment for the years 2011-2020, the California Transportation Commission projected that \$536 billion was needed to maintain, manage, and expand the State's transportation infrastructure – \$290 billion more than what the State plans to spend. A workgroup of state and local transportation stakeholders have convened to prioritize needs, determine how to measure outcomes, and evaluate the costs and benefits of policy options to better use existing funding.

### *AB 32 Scoping Plan*

The California Air Resources Board held its only workshop on the recently released discussion draft of the AB 32 Scoping Plan Update in late 2013. Adoption of the updated plan will be scheduled for spring 2014.

The discussion plan continues to focus on the same six areas – Energy, Transportation-Land Use-Fuels & Infrastructure, Agriculture, Water, Waste Management and Natural & Working Lands. The contents of the final plan will influence the priorities for allocating cap-and-trade auction revenue.

### *Water*



The 2012 infrastructure report by the American Society of Civil Engineers estimated an additional annual investment of \$4.6 billion is needed for the next 10 years to address preventative maintenance, rehabilitation and repair of California's water infrastructure. The Department of Finance is working on a five-year infrastructure plan, which hasn't been completed since 2008 due to the Department's focus on the State Budget.

A revised water bond was expected to be voted on but has been delayed until 2014. The bond, originally set for the ballot in 2010 and again in 2014, was delayed due to concerns about voter reception. The goal now is for the measure to scale back the \$11 billion bond proposal currently on the November 2014 ballot to a more palatable \$6-8 billion package.

## **HEALTH**

### *Covered California Launch*

On October 1, California's Health Care Exchange, known as Covered California, opened its website and phone lines to allow eligible individuals to enroll in health plans and determine whether they are eligible for subsidies. Pre-enrollment for health coverage through Covered California opened on October 1 and will continue through March 31. Coverage begins on January 1, 2014 for those who enroll by December 15<sup>th</sup>. Covered California is estimating that between 500,000 and 700,000 people eligible for subsidies will sign up for coverage during open enrollment, with that number increasing to between 840,000 and 1.2 million by January 1, 2015. Ultimately, Covered California expects that up to 4 million Californians will be eligible for subsidies.

Individuals who will be newly eligible for Medi-Cal may also pre-enroll now, but the opportunity for enrollment will not close. At the end of 2014, Covered California is estimating that more than 1 million new individuals will enroll in Medi-Cal, many of them because their current insurance plans would cost more. About 550,000 consumers who would have otherwise received expensive insurance through their employers or purchased their own on the private market will be newly eligible.

Although there are many challenges facing the Exchange, one of the larger hurdles will be to enroll enough healthy individuals to balance the number of sicker people enrolling for coverage. Should healthy people fail to enroll, insurance companies will be forced to raise their rates, which could have the effect of pushing healthier people who are already enrolled to dis-enroll. As part of the effort to spread information and encourage enrollment, Covered California is utilizing a range of organizations and methods to provide the public with opportunities to enroll. Traditional media including newspapers, magazines, television and the internet are carrying Covered California's message, but grassroots efforts are also an important piece of convincing people to enroll.

Republican Assemblyman Brian Nestande, representing Riverside and San Bernardino counties, intends to introduce legislation next year that would require lawmakers to obtain coverage through Covered California if they opt-in to the Legislature's health care

benefits. Although he opposed the Affordable Care Act, he believes that legislators should experience the same care as their constituents.

## FEDERAL LEGISLATIVE OUTLOOK, 113th CONGRESS, 2nd SESSION

### **Overview**

Optimists hope that a spirit of cooperation will replace the bitterness of the 2 ½ -week closure of the Federal Government in October 2013, which resulted in negative publicity for Congress in general and the Republican Party in particular. The hyper-partisan atmosphere that has prevailed in Washington for the last four years has taken a toll on Americans' faith in government. In any event, the agreement that led to reopening the government and avoiding a default on the National Debt will be short-lived, and must be renewed or extended early in 2014. Both sides agree that either Congress and the Administration cooperate or they will be forced to relive the events of the fall of 2013.

The temporary agreement enacted in October had three components requiring congressional action in the short term: House and Senate Budget Committees must report back by December 13, 2013, on a possible agreement on final budget spending for Fiscal Year 2014; new funding of government operations must be enacted before the current Continuing Resolution expires on January 15, 2014, on which date Round II of Sequestration also kicks in; and, the next ceiling on the National Debt will be reached and must be extended before February 7, 2014.

### **National Issues**

Congressional Democrats implicitly agreed to House Republicans' discretionary spending limits—\$986 billion—for FY 2014 as part of the October agreement. This is some \$70 billion less than the amount the Democratic Senate's Budget Committee approved in the spring of 2013. Nonetheless, this figure is still \$19 billion above the statutory spending ceiling set by the Budget Control Act of 2011 (P.L. 112-25). The October 2013 charge to the House and Senate Budget Committees to arrive at an agreement by December 13 is broad enough to encompass authority to review, and propose reform of, federal mandatory spending programs. Two-thirds of the federal budget is mandatory spending—Social Security, Medicare, Medicaid, interest on the National Debt, veterans' benefits and federal welfare programs.

December 13 may be too close in time to permit the House and Senate committees to come to agreement on reining in spending on mandatory programs. Democrats have agreed to discuss changes in mandatory spending, but only in conjunction with increased revenue. To Republicans, "increased revenue" translates as tax increases, which is something they will not countenance.

The expiration of the Continuing Resolution (CR) on January 15 coincides with the date when Round II of Sequestration begins, unless the spending levels required by the Budget Control Act of 2011 (BCA) are met, or the law itself is amended. Discretionary spending for 2014 is capped by BCA at \$967 billion—\$19 billion above the spending

level contained in the CR agreed to in October. While Republicans would ordinarily be expected to support the lower spending figures mandated by the BCA, that may not be the case this time. The Continuing Resolution enacted in October provides for domestic discretionary spending at the BCA-mandated level. The defense discretionary spending level, however, is above the BCA-mandated level. Thus the remaining \$19 billion in spending cuts must come primarily from the Pentagon's budget—to the great dissatisfaction of Republican Members of Congress.

The third leg of the budgetary stool is the next cap on the National Debt ceiling, which will be reached on February 7. President Obama believes—and demonstrated in the fall of 2013—that he must not negotiate on paying federal obligations authorized by acts of Congress in the past. He has the firm support of the financial community in this regard. While the next solution to raising the National Debt ceiling has yet to be proposed, there is little appetite, after October 2013, among the majority in Congress for going over the default precipice.

Until these three fiscal issues are addressed and resolved, it is unlikely that the President's Budget for 2015 will be prepared or delivered to Congress, nor will Congress be able to begin to address funding priorities for 2015 and beyond. Once these three issues are resolved, Congress may be willing to take a serious look at mandatory spending programs and the need to overhaul the federal tax code. However, 2014 is also a congressional election year with all 435 seats in the House of Representatives and one-third of the Senate up for election, and thus the will to do anything substantive beyond what is absolutely required is tamped down by the realities of political survival.

### **Orange County Issues**

Orange County has fared better in its federal agenda than many local jurisdictions during the Great Recession and the federal budget battles of the past four years. One reason is that with the elimination of congressional earmarks many federal funding decisions have been made at the administrative level by career civil servants, rather than by congressionally-directed spending. As a result, federal funds have gone to projects based on merit rather than the political power of a project's congressional sponsor. Orange County's public works projects and policy requests have fared well because they have measured up to objective scrutiny by staff of the departments and agencies administering the programs in question.

Lobbying by Members of the Board of Supervisors of the Corps of Engineers and the Office of Management and Budget (OMB), together with a visit to Prado Dam by the Assistant Secretary of the Army for Civil Works, has resulted in a substantial improvement in the amount of funds going to the Corps for the Santa Ana River Mainstem Project. The President's budget for FY 2015 will be released in late winter 2014. If OMB recommends a reasonable amount of funding for the project, the County will work to see that recommendation enacted in the 2015 appropriations bills. If an insufficient amount is recommended, the County will lobby OMB and the Corps for

increased funding through both the appropriations process and development of the Corps' FY 15 work plan.

Re-designation of John Wayne Airport (JWA) as a Port of Entry is a priority for 2014 and one that will require the support of the Congressional Delegation and the local business community. The Department of Homeland Security, Customs and Border Protection (CPB) faces budgetary constraints along with all departments of the Federal Government. Assuming the costs associated with Port of Entry status is not something CBP is seeking. However, passenger levels at JWA justify its reclassification.

Representative Loretta Sanchez, the sponsor of the County's pension reform legislation, remains committed to trying to move her bill in 2014, as do co-sponsors, Representatives John Campbell and Ed Royce. Any chance of success depends on action on a comprehensive tax reform package, as individual bills of this sort rarely advance on their own. California's Senators would like to see a legislative solution that addresses pension reform issues and concerns statewide, if not nationwide, which could be difficult to craft legislatively. Tax reform in an election year is also a heavy lift; but, in the current partisan climate any opportunity for bi-partisan cooperation may be seized upon.

The rollout of the federal health insurance exchanges in late 2013 provided an inept and ill-prepared start to the Affordable Care Act (ACA). The County will be responsible for the health care for those persons not covered by the expansion of ACA who otherwise are being enrolled in CalOptima. The coordination between the County and CalOptima will be of interest to Congress and the Congressional Delegation. Comparisons between the operation of Covered California and the federal exchanges will also be of interest.

If Congress is unable to agree on replacing sequestration, then federal grant programs such as local emergency shelter and homeless assistance, workforce training programs, welfare assistance, student loans among many others will be cut. Even with reform or elimination of sequestration, legislation to move towards a balanced federal budget or, at least, continuing to reduce the size of the annual budget deficit could reduce formula grant programs and eliminate many categories of competitive grants.

Efforts to streamline the 404 permitting process and speed up the process of other environmental permits are being taken more seriously by both the Republican House and Democratic Senate than for many years in the past. Enactment of a new Water Resources Development Act (WRDA) holds potential for movement in these areas. Other WRDA reforms could help move along the Westminster-East Garden Grove Feasibility Study.

The Second Session of the 113<sup>th</sup> Congress has a narrow window of opportunity to move ahead on fiscal, budgetary, and authorizing priorities before fulltime electoral politics becomes the order of the day.



# COUNTY OF ORANGE

## 2014 Legislative Priorities and Policy Statements

**COUNTY OF ORANGE**  
**2014 LEGISLATIVE AND ADMINISTRATIVE PRIORITIES AND**  
**POLICY STATEMENTS**

The County of Orange Board of Supervisors recognizes the need to promote and protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County of Orange reviews and establishes priorities and policy statements at the beginning of each legislative year. The Legislative Priorities set forth the County's goals for the current Legislative Session and the Policy Statements provide general direction to the Legislative advocates as they advance County interests during the year.

The four primary guiding principles for the overall legislative platform, which cross department and agency lines, include the following:

- Protect Local Government Funding – In the event local revenue is jeopardized or reallocated, the State must provide alternative funding sources to local governments.
- Fiscal Parity - Establishing a dependable and predictable revenue stream with distribution formulas for local revenues that address parity with other counties;
- Cost Recovery - Seek revenue-neutral funding alternatives, without tax increases, to fully-fund cost reimbursement for all federal and/or state mandated programs
- Operational Efficiency – ensure that proposed changes to state law do not negatively impact the County's operational efficiency in providing quality public services, and promote regulatory reform and measures that reduce burdensome and unnecessary regulations.

## **1. GENERAL GOVERNMENT**

### **OVERVIEW**

The agencies/departments comprising this program are Assessor, Auditor-Controller, Board of Supervisors, Clerk of the Board, Clerk-Recorder, County Counsel, County Executive Office, Human Resources, Internal Audit, Office of the Performance Audit Director, Registrar of Voters, and Treasurer-Tax Collector.

### **LEGISLATIVE AND ADMINISTRATIVE PRIORITIES**

#### **State**

- Support a more equitable reallocation of property tax revenue to County of Orange government that provides funding for countywide public services reflecting an allocation that is in line with similarly urbanized counties.

- Local elected officials should be able to develop pension systems that meet the needs of their workforce and demonstrate sound fiduciary management.
- Support legislation that allows for flexibility and local control over addressing employee and labor relations issues.
- Support legislation that attracts a quality workforce within the County's ability to pay.
- Pursue revisions to the current Commission on State Mandates process.
- Supports legislation that extends the time period for processing vote-by-mail ballots from the 7th business day prior to an election, as currently mandated by state law, to a time specific that is no later than 15 days prior to an election in order to account for the significant increase in vote by mail ballots cast in Orange County.

## **No Federal Priorities**

## **POLICY STATEMENTS – GENERAL GOVERNMENT**

### Revenues and Taxation

- The establishment of equitable, consistent, dependable, and predictable revenue streams with distribution formulas for local revenues that address equity are necessary for the stability of services provided by local government. Proposed funding allocations to counties must be based upon common factors (population, poverty statistics, caseload, or other objective measures of need) applied evenly among counties. Below are other criteria to consider:
  - Per capita
  - Caseload
  - Situs (dedicated taxes)
  - Realignment Equity
  - Cost of Living in High Cost Counties
  - Other Objective Measures of Need
  - Unmet Needs/Service Gaps
- The shifting of tax revenues from the County to the State or other local entities harms Orange County's ability to serve its residents.
  - Protect local property tax revenues and oppose any measure aimed at reducing the protections afforded to local governments under Proposition 1A;



- Protect Proposition 63 funds from the State or others seeking to appropriate these funds to backfill or subsidize programs not currently allowed;
- Protect/increase AB 109 funding based on the County's service levels and population.
- Support legislation aimed at protecting local and state revenues for existing and new communities.
- Oppose legislation proposing to reduce the voter threshold necessary to enhance revenues as a means of balancing the State's budget.

#### Economic Growth and Development

- Promote the attraction of new and retention of existing businesses in Orange County.
- Support tourism and its role in creating jobs and economic benefits in Orange County.

#### Elections

- Support legislation that aims to promote and increase voter registration and access to the ballot for as many eligible votes as possible.
- Support legislation that protects against unfunded election mandates, provides adequate funding to administer election services, and establishes a consistent funding mechanism for new voting systems.

#### Employee Relations and Retention

- Monitor legislation that impacts County employees' terms and conditions of employment.
- Oppose legislation that negatively impacts the County's ability to recruit and retain a quality workforce, or imposes unreasonable/unsustainable salary and employee benefit costs or additional unreimbursed costs on the County.

## **2. PUBLIC PROTECTION**

### **OVERVIEW**

The agencies/department comprising this program are District Attorney, Probation, Public Defender, Public Guardian, Public Administrator, and Sheriff-Coroner.

### **LEGISLATIVE AND ADMINISTRATIVE PRIORITIES**

#### **State**

- Advocate for full State funding of all costs associated with Public Safety Realignment. Each public protection department must have sufficient funding to carry out statutory responsibilities.
- Support revisions to AB 109, “Public Safety Realignment Formulas” that more equitably covers the actual costs the County incurs for incarcerating inmates on behalf of the state.
  - Seek funding to support both in-custody programming and facilities in order to enhance the County’s rehabilitation and treatment programs for inmates.
  - Support revisions to AB 109, or “clean-up” language, to address various unexpected consequences, such as in-custody medical costs of AB 109 inmates, and long-term County jail commitments due to sentence enhancements.
  - Seek additional support and funding for in-custody medical care and expenses.
  - Support measures that prevent or minimize early release of inmates.
- Seek and support measures and legislation that aims at preventing early release of inmates.
- Pursue efforts to ensure criminal sentences are fully carried out.
- Pursue a test claim with the Commission on State Mandates regarding AB 109 funding. Coordinate these efforts with urban counties.
- Pursue options to retain Sexual Violent Predator (SVP) State funding through reimbursement to counties. This SVP funding has now been eliminated due to the recent Commission on State Mandates decision. Prevent SVP program from becoming an unreimbursable state mandate. Join with San Diego and/or other counties/agencies that will pursue litigation in this matter.
- Support legislation aimed at increasing penalties for Driving Under the Influence (DUI) and resources for programs which will assist in Driving Under the Influence of Drugs (DUID) Prevention efforts.

- Seek and support additional financial resources, which would allow for more persons with mental illness who exhibit criminal tendencies to be provided with an alternative to the treatment received under a Lanterman-Petris-Short Act (LPS) Conservatorship.

## **No Federal Priorities**

### **POLICY STATEMENTS – PUBLIC PROTECTION**

- Support a public safety system that includes local law enforcement services, crime prevention, prosecution of crime, and confinement of high-risk adults, Evidence Based Practice programs aimed at rehabilitation and lowering the recidivism rate.
- Seek and support reforms to streamline the appeals process in criminal cases, including those cases involving special circumstances.
- Support funding for probation monitoring, Evidence Based Programming and other Evidence Based Practices that are cost effective, in the supervision of adults and juveniles placed on court ordered formal probation. Support options to promote community safety and reduce recidivism shall be pursued.
- Support legislation or administrative action which would emphasize the importance of the Public Guardian's and Public Administrator's judicial responsibility under Probate Code section 7600-7604, which authorizes deputies to perform duties to protect individuals and potential victims on behalf of the department.
- Support legislation which would reaffirm the Public Guardian and Public Administrator's existing authority under Probate code Section 2900-2903, that authorizes the Public Guardian and Public Administrator to access vital information from financial institutions that will allows the deputies to properly administer their cases.
- Homeland security and emergency response efforts should be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each. Support continued funding to enhance and maintain local homeland security infrastructure.

## **3. COMMUNITY SERVICES**

### **OVERVIEW**

The agencies/departments comprising this program are Department of Child Support Services, Health Care Agency, OC Community Resources, OC Public Administrator, and Social Services Agency.

## LEGISLATIVE AND ADMINISTRATIVE PRIORITIES

### State & Federal

- Support legislative initiatives which promote public-sector performance management, with an emphasis on the process and compliance, that focus on producing results that benefit the public and give the public confidence that government has produced those results.
- Support In-Home Supportive Services (IHSS) legislation that guarantees full funding by the State and Federal governments to lessen the financial burden on local governments.
- Orange County will support measures that enable seniors and the adult disable population to stay in their own homes.
- Support legislation that ensures all mandates required of counties receive adequate funding to fully implement and maintain as mandated. Counties must be given the authority, flexibility, and adequate funding to administer programs and service customer needs within their local jurisdictions (no unfunded mandates). For example:
  - Revise the Federal criteria for receiving 340B drug-pricing to include all Orange County operated health care programs and/or Orange County-contracted providers. As a major provider to low income persons, the County would likely save up to \$4.8 million per year.
  - Integrate primary care and behavioral health care as the model of services for individuals living with Severe and Persistent Mental Illness by authorizing Medi-Cal reimbursement to Federally Qualified Health Centers for a maximum of two medical visits for one patient on the same day.
  - Advocate for shifting the oversight of Drug Medi-Cal (DMC) from DHCS to counties, which includes authority to certify, monitor and de-certify providers of this service.
- Support legislation that ensures Health Care Reform is cost-neutral to the Health Care Agency and Social Services Agency and allows these agencies to carry out their mandated services and County responsibilities with no increase in Net County Cost. HCA will continue to meet the County's obligations under California's Welfare and Institutions Code Section 17000 for a "medical safety-net program." Funding for this safety-net program has been reduced by the State through realignment.

Support State and Federal legislation to safeguard the ability of child welfare agencies to use Another Planned Permanency Living Arrangements (APPLA) for children under the age of 13 years.

- Orange County will support measures that protect the public against disease and disability, and promote health.

## **State**

- Support legislation aimed at reducing regulatory barriers, increasing costs savings and seeking alternative funding sources and incentives for the development of affordable housing and year-round emergency homeless shelter/multi-service centers and the counties ability to comply with their 10-year plan to end homelessness.
- Support additional funding for Older Californians Act and other programs that assist older adults and caregivers.
- Support funding for a new regional animal shelter in Orange County.
- Ensure that the implementation of State FY 13/14 Budget Trailer Bill regulations requiring the CalWORKs Program to increase Family Stabilization and create a Robust Assessment are fully funded with no increase to Net County Costs.
- Ensure that SNAP (CalFresh) administrative funding is commensurate with County workloads, regardless of program changes or reductions in grants to clients.
- Ensure that California Department of Education (CDE) Child Development Division (CDD) expansion funds are equally distributed to all county regions, including those which have been historically underfunded, until CDD funds within each county are equitable, based on their respective CDD income-eligible populations.
- Support efforts to ensure that the County Maintenance of Effort (MOE) for CalFresh and CalWORKs is protected and preserved.
- Ensure that implementation of the Katie A. Settlement Agreement is fully funded with no increase to Net County Costs.
- Continue to sponsor AB 1187 (Mansoor) and support legislative proposals which would authorize the use of either County funds or California Department of Education (CDE) non-maintenance of effort (non-MOE) funds for purposes of claiming the Title IV-E 50-percent federal match for foster child care.

## **Federal**

- Support additional federal funds to ensure the County's ability to comply with the federal mandate to implement the Affordable Care Act (ACA) and provide on-going funding for growth in Medi-Cal. Compliance with these federal mandates must be cost-neutral. ACA implementation should be fully funded to assist in hiring additional staff, purchasing equipment, procuring space, and expanding Call-In Centers.
- Support additional funding for Older Americans Act and other programs that assist older adults and caregivers.
- Support legislation and tax-neutral funding sources for affordable housing.
- Support Federal legislation and appropriations that require full renewal funding of all existing Housing Vouchers to ensure no reductions in the number of households assisted and adequate administrative funding for Public Housing Agencies to optimize utilization levels while meeting qualitative requirements for accuracy, timeliness, and quality control.
- Support full-funding of the Land and Water Conservation Fund (LWCF) State Assistance Program, which provides matching grants for funding trail projects on the Santa Ana River, Aliso Creek and other recreation amenities throughout the regional park system.
- Support legislation and funding for reimbursement from FEMA to local agencies for large animal rescue and housing during emergencies. For example, large animal rescue and housing is not currently reimbursable to local agencies through FEMA and should be addressed.

## **POLICY STATEMENTS – COMMUNITY SERVICES**

### **Social Services**

- Federal and state funding to support caseload growth must be continuous.
- Support measures that overall enhance the quality, affordability, capacity, accessibility, and safety of child care and development programs, as well as support legislation to allow counties and the State to utilize designated California Department of Education Child Development Division and Afterschool Safety and Education Services funds as the non-federal match to Title IV-E Child Care funds.

- Support measures that ensure equitable funding to support caseload growth for Adult Protection Services.
- Support Work Participation Rate legislation that ensures a scaled methodology to allow partial credit for those Welfare-To-Work (WTW) participants who work between 20 and 39 hours per week.
- Explore opportunities to realign the County's portion of costs for California Children's Service (CCS) back to State. Realignment proposals must only include programs for which counties have control over costs and program operations. Seek protections against any increased county program costs for CCS.
- Support legislation that safeguards the Single Allocation formula for CalWORKS, which provides an equitable revenue stream that is consistent.
- Support legislation that seeks to increase operating funding for County veterans service officers and reduce the federal veteran's claims backlog by creating a more efficient federal, state, and local government coordination for veteran's claims development.

#### Emergency Response

- Continue to support and strengthen intergovernmental planning and preparation coordination such as San Onofre Nuclear Generating Station (SONGS), Great California ShakeOut (Earthquake only drill), updated continuity plan, and Countywide subgroups.
- Support efforts to ensure that adequate funding is provided to local agencies tasked with responsibility for emergency preparedness and response efforts associated with nuclear facilities.
- 
- Homeland security and emergency response efforts should be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each.
- Provide adequate funding for the CDC's Cities Readiness Initiative (CRI), which requires the County to respond to a large-scale bioterrorist event by dispensing antibiotics to the entire population of the County within 48 hours.
- The County of Orange will pursue full cost recovery for all expenditures related to natural disasters.

- Support protection and continued maintenance and funding for operating generators for emergencies and flexibility of operation for essential public service providers to operate emergency generators, specialized rolling stock and other necessary equipment in anticipation of or during an emergency without the threat of suffering penalties.

## Housing

- Support policies and legislation which requires RHNA to achieve fair distribution of housing requirements and provide for the transfer of housing allocations when annexations or incorporations occurs.
- Support removal and minimization of barriers to housing production, including fiscal reform for local government to address disincentives for residential development.
- Support the removal of barriers to local flexibility in the administration and allocation of federal homeless assistance funding and housing assistance funding, so as to allow the County to direct these funds toward innovative programs that will meet the specific needs of its homeless and very low income renter populations.

## Workforce

- Workforce Investment Act (WIA). WIA reauthorization should allow Orange County to retain local control in the areas of service delivery design and oversight of Board leadership maintaining composition of a majority of locally appointed business representatives. Oppose any efforts to remove local control provisions allowed under existing legislation at the Federal or State level. WIA reauthorization should include new provisions that promote/incentivize regional planning, service delivery and administrative efficiencies.
- CalWORKS – Federal Maintenance of Effort requirements, as well as federal penalties and sanctions, should remain the responsibility of the State and must not be passed on to the local governments.

## Animal Control

- Support funding, programs, and/or legislation that work towards the goal of reducing pet overpopulation. Support and advocate for programs that increase the number of pets identified by tags and/or microchips.



## Healthcare Services

- Protect local decision-making and accountability for County Proposition 10 Commissions (Funding for Early Childhood Development) when statewide financial reporting and fiscal practices are established. Seek protection from any further reduction of funding for Proposition 10.

## 4. INFRASTRUCTURE & ENVIRONMENTAL RESOURCES

### OVERVIEW

The agencies/departments comprising this program are John Wayne Airport, OC Dana Point Harbor, OC Public Works, OC Community Resources and OC Waste & Recycling.

### LEGISLATIVE AND ADMINISTRATIVE PRIORITIES

#### State

- Protect the Highway Users Tax Account(HUTA), also referred to as “gas tax”, from being diverted to the State General Fund or for purposes other than County transportation
- Support development of a simplified habitat or water quality banking process for local governments to perform advance mitigation and receive credit for its sole use.
- Pursue maximizing the capacity and efficiency of all County’s Cogeneration (Cogen) and Central Utility Plant facility by providing its excess thermal and electric loads to other governmental agencies within the Santa Ana Civic Center and/or to County and other governmental agencies within the County of Orange geographical boundaries.
- Promote policies and legislation that clarify California Public Utilities Commission (PUC) Tariff Rule 20 that all related undergrounding costs are eligible under Rule 20. Ensure new CPUC tariffs do not shift utility costs from utility owners to counties.
- Oppose attempts to include publicly owned landfills in cap and trade. Support landfill methane capture and destruction as an approved offset category in CARB’s cap and trade program.
- Support legislation that protects John Wayne Airport and existing landfills from liabilities associated with new and encroaching development and other non-compatible land uses.

- Support legislation that allows post-recycled feedstock for conversion technology facilities to receive 100 percent diversion credits as it redirected from the landfill.
- Oppose legislation that exempts green waste, which is currently being used for beneficial reuse as Alternative Daily Cover (ADC) and/or Alternative Intermediate Cover (AIC), from diversion credit.
- Support a change in the California Water Code to bring ex parte communication for the members of the State Water Resources Control Board and Regional Water Quality Control Boards in line with other state boards and commissions.
- Support revisions to the limitation on a Water Board member's income so that individuals who receive income from an entity subject to National Pollutant Discharge Elimination System (NPDES) permit requirements may serve on the State Water Resources Control Board and Regional Water Quality Control Boards while recusing themselves from matters pertaining to any entity in which they have a direct or indirect financial interest.
- Support legislation that gives local governments and agencies greater flexibility to use design-build contracts (i.e. extend or delete current sunset provision, expand range of eligible projects, reduce minimum contract thresholds, etc.).
- Support consistent regulatory efforts and oversight within Orange County boundaries.

## Federal

- Support legislation to implement the provisions of MAP-21 in an equitable manner that promotes traditional funding levels, programming roles, and local discretion in allocation decisions
- Increase programs and funding opportunities for purchasing of coastal habitat and resource conservation, preservation and maintenance. Support federal funding for beach nourishment and erosion control for all Orange County shoreline from the mouth of the San Gabriel River to San Mateo Creek. Support sharing of Federal Outer Continental Shelf (OCS) revenues with coastal states to support conservation and wildlife protection programs.
- Support legislative or administrative changes to clarify the requirements for regulatory permits for the maintenance of flood control and drainage facilities, including mitigation requirements; and for streamlining the process when maintenance permits are required.

- Support expedited permit process for flood protection projects, including maintenance and operation work.
  - Support improvements to the Clean Water Action (CWA), Section 404 permit process.
  - Remove routine maintenance of public flood protection facilities from the Section 404 permit process when no endangered species habitat are present.
  - Extend the CWA general permit term for routine maintenance from five to ten years.
- Support enactment of the Water Resources Development Act in the current Congress, and the authorization of projects of benefit to the Orange County community.

## **POLICY STATEMENTS - INFRASTRUCTURE & ENVIRONMENTAL RESOURCES**

### Infrastructure

- Protect funding mechanisms in place that support construction of county infrastructure projects, capital improvements, maintenance, and preserve a sufficient Road Fund reserve.
- CEQA Reform:
  - Promote revisions to CEQA that seek to modernize, simplify and streamline the law, but not dismantle it or create new and equally complicated processes. The County supports the balance of sound environmental protection with the need to complete projects that promote economic prosperity and social equity.
  - Support statutory exemptions under CEQA for routine flood protection maintenance activities.
- Promote policies that support better coordination between the County and state and federal regulatory agencies.
- Support proposals that maintain the same level of funding for bridges as in previous years and oppose any formula that would discriminate against urban counties.

## Transportation:

- Support state and federal legislation and programs, which accelerate funding for transportation infrastructure projects and thereby create additional jobs and economic activity in Orange County.
- Support streamlining of the Caltrans review process for Federally funded projects, simplification of processes, and reduction of red tape, without compromising environmental safeguards.
- Support extension of the 241 Toll road, as it effects all transportation decisions as well as Air Quality Management Districts (AQMD) measurements for the County.
- Support efforts within the surface transportation reauthorization legislation, or other appropriate legislation, that direct state departments of transportation to give consideration to the condition and effectiveness of local evacuation routes in high risk areas when setting priorities for disbursement of highway funding.
- Oppose the proposed transfer of operational and financial responsibility for exit lane staffing from the Transportation Security Administration (TSA) to John Wayne Airport.

## Water

- Support the efforts of County water agencies to insure that a reliable water supply exists to support planned future development in unincorporated areas and the incorporated cities of Orange County.
- Support collaborative solutions in addressing regional issues and completion of vital flood control, beach erosion control, and watershed projects such as the Santa Ana River Main stem Project (including Prado Dam), Santa Ana River Interceptor Line (SARI) relocation, Aliso Creek Mainstem Project, Surfside Sunset Newport Beach and other projects as may be appropriate.
- Support state and federal funding for Clean Water Act implementation and Porter-Cologne Act implementation and for state and federal agency collaboration with locals on watershed management strategies.

- Support the State playing a strong role in:
  - Financing water and flood protection infrastructure that is of demonstrated statewide significance and benefit including projects that enhance and optimize statewide equity reliability and quality.
  - Placing before the voters proposed water bond or water and flood protection infrastructure funding measure that are fiscally responsible and politically viable.
  - Transparency and accountability in all bond or funding measures.
- Support the reduction of regulatory burdens on regional flood protection projects and advanced treatment water recycling in California. Support for funding for regional flood protection projects, groundwater projects, advanced treatment water recycling, desalination and water storage in any state water bond proposal.
- Support for ecosystem restoration, increasing stormwater capture, and sediment management activities throughout Orange County and the Santa Ana River Watershed.
- Support for greater control of water pollution sources by state and federal agencies at the product approval or registration stage.

#### Parks, Beaches and Recreation

- Ensure recreation programs and amenities are available for public enjoyment. Unencumber public parks from CEQA review for recreation activity.
- Support State and Federal appropriations and Alternative Transportation Programs to expand and improve the County's regional trails and bikeways system.
- Preserve beach and coastal resources for recreation. Support Federal funding for beach nourishment and erosion control for all Orange County shoreline with priority given to projects that enhance County recreation facilities.

#### Energy:

- Support legislation that educates, promotes and creates incentives for the residents, builders, and businesses of Orange County regarding the adoption, use, and economic benefits of green technology, recycled products and eco-friendly products where economically feasible.

- Support legislation that promotes renewable energy and alternative technology projects by minimizing burdensome and or contradictory requirements and legal obstacles.

Waste and Recycling:

- Support policies that maximize local control over solid waste management and operational efficiencies at solid waste facilities, and minimize burdensome and duplicative regulation. The County supports measures that maintain and expand existing diversion credits.
- Support funding for organics recycling/repurpose infrastructure.



# COUNTY OF ORANGE

## 2014 County-Sponsored State Legislative Proposals

**COUNTY OF ORANGE**  
**2014 COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS (New)**  
**EXECUTIVE SUMMARY**

**STATE PROPOSALS**

**MEDI-CAL REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS (FQHC)**

This proposal is to authorize Medi-Cal reimbursement to FQHCs for a maximum of two medical visits for one patient on the same day. Current law only allows multiple billable visits in a single day if they are for medical and dental services. Mental health visits are currently coded for Medi-Cal billing purposes as a medical visit for which only one visit per patient per day is allowed. Prohibiting same-day services billing for separate practitioners has been identified as a barrier to improved access to mental health services for persons with public insurance. This proposal is to allow clinic primary care providers to make same day referrals for mental health treatment, thus increasing the chances that patients will actually make the appointments and get the services they need.

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM (OCERS) ALTERNATE TO THE APPOINTED BOARD MEMBER**

This proposal would amend a provision of the County Employees Retirement Law of 1937 Act ("CERL"), applicable only to Orange County, to permit an alternate for the Board appointed members. It would also allow the alternate appointed member to have the same rights, privileges, responsibilities, and access to closed sessions as the elected members of the Board and that they may hold positions on committees independent of the elected members and participate in deliberations whether or not the elected members are present.

**COUNTY SEARCHES: COSTS**

The proposal would allow the County to recover the actual cost of extraordinary search or rescue efforts from a resident who is 16 years of age or older and whose act in violation of any federal or state law or local ordinance, or any act or omission that shows wanton and reckless misconduct in disregard for their safety, was a contributing factor to the need for the County's search or rescue or for another county's search or rescue of that resident.



**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: HEALTH CARE AGENCY

CONTACT PERSON: Holly Fraumeni Phone: 916.443. 8891

Fax: 916.443.8819 email address: hcf@platinumadvisors.com

**SUBJECT: MEDI-CAL REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS (FQHC)**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

HCA and local community based providers.

CODE SECTION AFFECTED:

Section 14132.100 in the Welfare & Institutions Code

DESCRIPTION OF CURRENT LAW:

FQHC services are reimbursed by Medi-Cal on a fixed "per visit" rate rather than by individual services. Current law only allows billing for one medical visit per day.

PROPOSAL:

This proposal is to authorize Medi-Cal reimbursement to FQHCs for a maximum of two medical visits for one patient on the same day.

DISCUSSION:

Research has shown that individuals living with severe and persistent mental illness (SPMI) have, on the average, a 25+ year shorter life span due to multiple health conditions and risk factors. We also know that only one in four individuals with SPMI referred by primary care physicians to mental health setting ever make it to their appointment.

Integration of primary care and behavioral health care is the model of services for individuals living with SPMI. Current law only allows multiple billable visits in a single day if they are for medical and dental services. Mental health visits are currently coded for Medi-Cal billing purposes as a medical visit for which only one visit per patient per day is allowed. Prohibiting same-day services billing for separate practitioners has

been identified as a barrier to improved access to mental health services for persons with public insurance. This proposal is to allow clinic primary care providers to make same day referrals for mental health treatment, thus increasing the chances that patients will actually make the appointments and get the services they need.

#### FISCAL IMPACT:

This proposal would improve revenue for community clinics designated as FQHC's. With SPMI clients receiving more frequent and more appropriate care through community clinics, there would be reduced incidence of hospitalization, emergency services, and high levels of care. HCA would realize cost savings from these reductions.

#### PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Welfare & Institution Code Section 14132.100<sup>1</sup>

(a) The federally qualified health center services described in Section 1396d(a)(2)(C) of Title 42 of the United States Code are covered benefits.

(b) The rural health clinic services described in Section 1396d(a)(2)(B) of Title 42 of the United States Code are covered benefits.

(c) Federally qualified health center services and rural health clinic services shall be reimbursed on a per-visit basis in accordance with the definition of "visit" set forth in subdivision (g).

(d) Effective October 1, 2004, and on each October 1, thereafter, until no longer required by federal law, federally qualified health center (FQHC) and rural health clinic (RHC) per-visit rates shall be increased by the Medicare Economic Index applicable to primary care services in the manner provided for in Section 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to January 1, 2004, FQHC and RHC per-visit rates shall be adjusted by the Medicare Economic Index in accordance with the methodology set forth in the state plan in effect on October 1, 2001.

(e)(1) An FQHC or RHC may apply for an adjustment to its per-visit rate based on a change in the scope of services provided by the FQHC or RHC. Rate changes based on a change in the scope of services provided by an FQHC or RHC shall be evaluated in accordance with Medicare reasonable cost principles, as set forth in Part 413 (commencing with Section 413.1) of Title 42 of the Code of Federal Regulations, or its successor.

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

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<sup>1</sup> The proposed changes are in **bold** text.

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or rules.

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and Service Administration (HRSA).

(3) No change in costs shall, in and of itself, be considered a scope-of-service change unless all of the following apply:

(A) The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.

(B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

(C) The change in the scope of services is a change in the type, intensity, duration, or amount of services, or any combination thereof.

(D) The net change in the FQHC's or RHC's rate equals or exceeds 1.75 percent for the affected FQHC or RHC site. For FQHCs and RHCs that filed consolidated cost reports for multiple sites to establish the initial prospective payment reimbursement rate, the 1.75-percent threshold shall be applied to the average per-visit rate of all sites for the

purposes of calculating the cost associated with a scope-of-service change. "Net change" means the per-visit rate change attributable to the cumulative effect of all increases and decreases for a particular fiscal year.

(4) An FQHC or RHC may submit requests for scope-of-service changes once per fiscal year, only within 90 days following the beginning of the FQHC's or RHC's fiscal year. Any approved increase or decrease in the provider's rate shall be retroactive to the beginning of the FQHC's or RHC's fiscal year in which the request is submitted.

(5) An FQHC or RHC shall submit a scope-of-service rate change request within 90 days of the beginning of any FQHC or RHC fiscal year occurring after the effective date of this section, if, during the FQHC's or RHC's prior fiscal year, the FQHC or RHC experienced a decrease in the scope of services provided that the FQHC or RHC either knew or should have known would have resulted in a significantly lower per-visit rate. If an FQHC or RHC discontinues providing onsite pharmacy or dental services, it shall submit a scope-of-service rate change request within 90 days of the beginning of the following fiscal year. The rate change shall be effective as provided for in paragraph (4). As used in this paragraph, "significantly lower" means an average per-visit rate decrease in excess of 2.5 percent.

(6) Notwithstanding paragraph (4), if the approved scope-of-service change or changes were initially implemented on or after the first day of an FQHC's or RHC's fiscal year ending in calendar year 2001, but before the adoption and issuance of written instructions for applying for a scope-of-service change, the adjusted reimbursement rate for that scope-of-service change shall be made retroactive to the date the scope-of-service change was initially implemented. Scope-of-service changes under this paragraph shall be required to be submitted within the later of 150 days after the adoption and issuance of the written instructions by the department, or 150 days after the end of the FQHC's or RHC's fiscal year ending in 2003.

(7) All references in this subdivision to "fiscal year" shall be construed to be references to the fiscal year of the individual FQHC or RHC, as the case may be.

(f)(1) An FQHC or RHC may request a supplemental payment if extraordinary circumstances beyond the control of the FQHC or RHC occur after December 31, 2001, and PPS payments are insufficient due to these extraordinary circumstances. Supplemental payments arising from extraordinary circumstances under this subdivision shall be solely and exclusively within the discretion of the department and shall not be subject to subdivision (l). These supplemental payments shall be determined separately from the scope-of-service adjustments described in subdivision (e). Extraordinary circumstances include, but are not limited to, acts of nature, changes in applicable requirements in the Health and Safety Code, changes in applicable licensure requirements, and changes in applicable rules or regulations. Mere inflation of costs alone, absent extraordinary circumstances, shall not be grounds for supplemental payment. If an FQHC's or RHC's PPS rate is sufficient to cover its overall costs,

including those associated with the extraordinary circumstances, then a supplemental payment is not warranted.

(2) The department shall accept requests for supplemental payment at any time throughout the prospective payment rate year.

(3) Requests for supplemental payments shall be submitted in writing to the department and shall set forth the reasons for the request. Each request shall be accompanied by sufficient documentation to enable the department to act upon the request.

Documentation shall include the data necessary to demonstrate that the circumstances for which supplemental payment is requested meet the requirements set forth in this section. Documentation shall include all of the following:

(A) A presentation of data to demonstrate reasons for the FQHC's or RHC's request for a supplemental payment.

(B) Documentation showing the cost implications. The cost impact shall be material and significant, two hundred thousand dollars (\$200,000) or 1 percent of a facility's total costs, whichever is less.

(4) A request shall be submitted for each affected year.

(5) Amounts granted for supplemental payment requests shall be paid as lump-sum amounts for those years and not as revised PPS rates, and shall be repaid by the FQHC or RHC to the extent that it is not expended for the specified purposes.

(6) The department shall notify the provider of the department's discretionary decision in writing.

(g)(1) An FQHC or RHC "visit" means a face-to-face encounter between an FQHC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse-midwife, clinical psychologist, licensed clinical social worker, or a visiting nurse. For purposes of this section, "physician" shall be interpreted in a manner consistent with the Centers for Medicare and Medicaid Services' Medicare Rural Health Clinic and Federally Qualified Health Center Manual (Publication 27), or its successor, only to the extent that it defines the professionals whose services are reimbursable on a per-visit basis and not as to the types of services that these professionals may render during these visits and shall include a physician and surgeon, podiatrist, dentist, optometrist, and chiropractor. A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a comprehensive perinatal services practitioner, as defined in Section 51179.1 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services, a four-hour day of attendance at an adult day health care center, and any other provider identified in the state plan's definition of an FQHC or RHC visit.

(2)(A) A visit shall also include a face-to-face encounter between an FQHC or RHC patient and a dental hygienist or a dental hygienist in alternative practice.

(B) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of the services of a dental hygienist in alternative practice for the purposes of establishing its FQHC or RHC rate shall apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, shall bill these services as a separate visit. However, multiple encounters with dental professionals that take place on the same day shall constitute a single visit. The department shall develop the appropriate forms to determine which FQHC's or RHC rates shall be adjusted and to facilitate the calculation of the adjusted rates. An FQHC's or RHC's application for, or the department's approval of, a rate adjustment pursuant to this subparagraph shall not constitute a change in scope of service within the meaning of subdivision (e). An FQHC or RHC that applies for an adjustment to its rate pursuant to this subparagraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment for visits between an FQHC or RHC patient and a dental hygienist or a dental hygienist in alternative practice has been approved. Any approved increase or decrease in the provider's rate shall be made within six months after the date of receipt of the department's rate adjustment forms pursuant to this subparagraph and shall be retroactive to the beginning of the fiscal year in which the FQHC or RHC submits the request, but in no case shall the effective date be earlier than January 1, 2008.

(C) An FQHC or RHC that does not provide dental hygienist or dental hygienist in alternative practice services, and later elects to add these services, shall process the addition of these services as a change in scope of service pursuant to subdivision (e).

(h) If FQHC or RHC services are partially reimbursed by a third-party payer, such as a managed care entity (as defined in Section 1396u-2(a)(1)(B) of Title 42 of the United States Code), the Medicare Program, or the Child Health and Disability Prevention (CHDP) program, the department shall reimburse an FQHC or RHC for the difference between its per-visit PPS rate and receipts from other plans or programs on a contract-by-contract basis and not in the aggregate, and may not include managed care financial incentive payments that are required by federal law to be excluded from the calculation.

(i)(1) An entity that first qualifies as an FQHC or RHC in the year 2001 or later, a newly licensed facility at a new location added to an existing FQHC or RHC, and any entity that is an existing FQHC or RHC that is relocated to a new site shall each have its reimbursement rate established in accordance with one of the following methods, as selected by the FQHC or RHC:

(A) The rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or adjacent area with a similar caseload.

(B) In the absence of three comparable FQHCs or RHCs with a similar caseload, the rate may be calculated on a per-visit basis in an amount that is equal to the average of the per-visit rates of three comparable FQHCs or RHCs located in the same or an adjacent service area, or in a reasonably similar geographic area with respect to relevant social, health care, and economic characteristics.

(C) At a new entity's one-time election, the department shall establish a reimbursement rate, calculated on a per-visit basis, that is equal to 100 percent of the projected allowable costs to the FQHC or RHC of furnishing FQHC or RHC services during the first 12 months of operation as an FQHC or RHC. After the first 12-month period, the projected per-visit rate shall be increased by the Medicare Economic Index then in effect. The projected allowable costs for the first 12 months shall be cost settled and the prospective payment reimbursement rate shall be adjusted based on actual and allowable cost per visit.

(D) The department may adopt any further and additional methods of setting reimbursement rates for newly qualified FQHCs or RHCs as are consistent with Section 1396a(bb)(4) of Title 42 of the United States Code.

(2) In order for an FQHC or RHC to establish the comparability of its caseload for purposes of subparagraph (A) or (B) of paragraph (1), the department shall require that the FQHC or RHC submit its most recent annual utilization report as submitted to the Office of Statewide Health Planning and Development, unless the FQHC or RHC was not required to file an annual utilization report. FQHCs or RHCs that have experienced changes in their services or caseload subsequent to the filing of the annual utilization report may submit to the department a completed report in the format applicable to the prior calendar year. FQHCs or RHCs that have not previously submitted an annual utilization report shall submit to the department a completed report in the format applicable to the prior calendar year. The FQHC or RHC shall not be required to submit the annual utilization report for the comparable FQHCs or RHCs to the department, but shall be required to identify the comparable FQHCs or RHCs.

(3) The rate for any newly qualified entity set forth under this subdivision shall be effective retroactively to the later of the date that the entity was first qualified by the applicable federal agency as an FQHC or RHC, the date a new facility at a new location was added to an existing FQHC or RHC, or the date on which an existing FQHC or RHC was relocated to a new site. The FQHC or RHC shall be permitted to continue billing for Medi-Cal covered benefits on a fee-for-service basis until it is informed of its enrollment as an FQHC or RHC, and the department shall reconcile the difference between the fee-for-service payments and the FQHC's or RHC's prospective payment rate at that time.

(j) Visits occurring at an intermittent clinic site, as defined in subdivision (h) of Section 1206 of the Health and Safety Code, of an existing FQHC or RHC, or in a mobile unit as defined by paragraph (2) of subdivision (b) of Section 1765.105 of the Health and Safety Code, shall be billed by and reimbursed at the same rate as the FQHC or RHC

establishing the intermittent clinic site or the mobile unit, subject to the right of the FQHC or RHC to request a scope-of-service adjustment to the rate.

**(k) (1) For purposes of this subdivision, the following definitions shall apply:**

**(A) “Another health visit” means a face-to-face encounter between an FHQC or RHC patient and a clinical psychologist, licensed clinical social worker, dentist, dental hygienist, or registered dental hygienist in alternative practice.**

**(B) “Medical visit” means a face-to-face encounter between an FHQC or RHC patient and a physician, physician assistant, nurse practitioner, certified nurse midwife, visiting nurse, or a comprehensive perinatal services practitioner, as defined in Section 51179.7 of Title 22 of the California Code of Regulations, providing comprehensive perinatal services.**

**(2) A maximum of two visits, as defined in subdivision (g), taking place on the same day at a single location shall be reimbursed when one or more of the following conditions exist:**

**(A) After the first visit the patient suffers illness or injury requiring additional diagnosis or treatment.**

**(B) The patient has a medical visit and another health visit.**

**(3) (A) Notwithstanding subdivision (e), an FQHC or RHC that currently includes the cost of encounters with more than one health professional that take place on the same day at a single location as constituting a single visit for purposes of establishing its FQHC or RHC rate shall, by [fill in the date], apply for an adjustment to its per-visit rate, and, after the rate adjustment has been approved by the department, the FQHC or RHC shall bill a medical visit and another health visit that take place on the same day at a single location as separate visits.**

**(B) The department shall, by [fill in the date], develop and adjust all appropriate forms to determine which FQHC’s or RHC’s rates shall be adjusted and to facilitate the calculation of the adjusted rates.**

**(C) An FQHC’s or RHC’s application for, or the department’s approval of, a rate adjustment pursuant to this paragraph shall not constitute a change in scope of service within the meaning of subdivision (e).**

**(D) An FQHC or RHC that applies for an adjustment to its rate pursuant to this paragraph may continue to bill for all other FQHC or RHC visits at its existing per-visit rate, subject to reconciliation, until the rate adjustment has been approved.**



**(4) The department shall, by [fill in the date], submit a state plan amendment to the federal Centers for Medicare and Medicaid Services reflecting the changes described in this subdivision.**

(l) An FQHC or RHC may elect to have pharmacy or dental services reimbursed on a fee-for-service basis, utilizing the current fee schedules established for those services. These costs shall be adjusted out of the FQHC's or RHC's clinic base rate as scope-of-service changes. An FQHC or RHC that reverses its election under this subdivision shall revert to its prior rate, subject to an increase to account for all MEI increases occurring during the intervening time period, and subject to any increase or decrease associated with applicable scope-of-services adjustments as provided in subdivision (e).

(m) FQHCs and RHCs may appeal a grievance or complaint concerning ratesetting, scope-of-service changes, and settlement of cost report audits, in the manner prescribed by Section 14171. The rights and remedies provided under this subdivision are cumulative to the rights and remedies available under all other provisions of law of this state.

(n) The department shall, by no later than March 30, 2008, promptly seek all necessary federal approvals in order to implement this section, including any amendments to the state plan. To the extent that any element or requirement of this section is not approved, the department shall submit a request to the federal Centers for Medicare and Medicaid Services for any waivers that would be necessary to implement this section.

(o) The department shall implement this section only to the extent that federal financial participation is obtained.

Approved as to form:  
Orange County Counsel

by James Harman  
Deputy County Counsel

#### POTENTIAL SUPPORT:

This concept as proposed in AB 1445 (Chesbro) has the following organizations as registered supporters: California Primary Care Association (Sponsor)' Alliance for Rural Health, AltaMed Health Services, American College of Obstetricians and Gynecologists, California Association of Marriage and Family Therapists, California Association of Rural Health Clinics, California Chiropractic Association, California Hospital Association, California Psychiatric Association, California Psychological Association, California School Centers Association, California School Health Centers Association, California Society for Clinical Social Work, California State Association of Counties, California

State Rural Health Association, Community Clinic Association, County of San Bernardino, County of Contra Costa, County of Santa Clara, Disability Rights California, Eisner Pediatric & Family Medical Center, North Coast Clinics Network, Six Rivers Planned Parenthood, Urban Counties Caucus, 46 community clinics

**POTENTIAL OPPOSITION:**

The Department of Finance has historically opposed this proposal due to the increased state matching cost associated with reimbursing additional visits.

**RECENT LEGISLATIVE ACTION ON THIS ISSUE:**

The proposal was previously advanced in AB 1445 (Chesbro).

**PERSONS RESPONSIBLE FOR TESTIMONY:**

Mark Refowitz, Deputy Agency Director                      Health Care Agency

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Holly Fraumeni Phone: 916.443. 8891

Fax: 916.443.8819 email address: hcf@platinumadvisors.com

**SUBJECT: ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM (OCERS)  
ALTERNATE TO THE APPOINTED BOARD MEMBER**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Members and Sponsors of the Orange County Employee Retirement System.

CODE SECTION AFFECTED:

Amend Government Code Section 31520.1

DESCRIPTION OF CURRENT LAW:

This proposal would amend a provision of the County Employees Retirement Law of 1937 Act ("CERL") applicable only to OCERS, to clarify that OCERS sponsors may implement new retirement formulas in the same manner as other CERL systems and for there not to be any conflict with new state law.

PROPOSAL:

This proposal would amend a provision of the County Employees Retirement Law of 1937 Act ("CERL"), applicable only to Orange County, to permit an alternate for the Board appointed members. It would also allow the alternate appointed member to have the same rights, privileges, responsibilities, and access to closed sessions as the elected members of the Board and that they may hold positions on committees independent of the elected members and participate in deliberations whether or not the elected members are present.

## DISCUSSION:

County Employees Retirement Law of 1937 (CERL or '37 Act) does not provide for an alternate in the event that an **appointed** member of the board is absent. Currently, OCERS has an alternate for the elected board members, but the '37 Act does not contain authority for Orange County to appoint an alternate for the appointed members. Only one '37 Act county has authority for an alternate appointed member and that is Contra Costa County. This occurred pursuant to legislation sponsored by the County in 2005, AB 719. After the bill was enacted, the Contra Costa County sought voter approval in accordance with Article XVI, Section 17 of the California Constitution.

In Section 31520.1 of the Government Code, which is the section that defines OCERS' Board of Retirement, it states that the alternate seventh member has the same rights, privileges, responsibilities and access to closed sessions as the **elected** members of the board, and that they may hold positions on committees independent of the elected members and participate in deliberations whether or not the elected members are present. It is necessary to create this same standard for alternate appointed members of the board through legislation.

Once the legislation passes, the County must then obtain voter approval in Orange County. Below is an excerpt from the California Constitution which contains the voter ratification requirement.

**“(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991; shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.”**

## FISCAL IMPACT:

Unknown at this time.

## PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Add New Section 31520.13 to Government Code:

(a) Notwithstanding Section 31520.1, and subject to the limitations of subdivision (d), the board of supervisors may, by resolution adopted by majority vote, appoint an alternate member for the fourth, fifth, sixth, and ninth members. The alternate member shall be a qualified elector of the county who is not connected with the county

government in any capacity, The term of office of the alternate member shall run concurrently with the term of office of the ninth member. The alternate member shall vote as a member of the board only in the event the fourth, fifth, sixth, or ninth member is absent from a board meeting for any cause. If there is a vacancy with respect to the fourth, fifth, sixth, or ninth member, the alternate member shall fill that vacancy until a successor qualifies.

(b) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to the same compensation as the fourth, fifth, sixth, or ninth member for attending a meeting, pursuant to Section 31521, whether or not the fourth, fifth, sixth, or ninth member attends the meeting.

(c) The alternate member for the fourth, fifth, sixth, or ninth member shall be entitled to both of the following:

(1) The alternate member for the fourth, fifth, sixth, or ninth member shall have the same rights, privileges, responsibilities, and access to closed sessions as the fourth, fifth, sixth, or ninth member.

(2) The alternate member for the fourth, fifth, sixth, or ninth member may hold positions on committees of the board independent of the fourth, fifth, sixth, or ninth member and may participate in the deliberations of the board or any of its committees to which the fourth, fifth, sixth, or ninth member has been appointed whether or not the fourth, fifth, sixth, or ninth member are present.

(d) The alternate member appointed pursuant to subdivision (a) may not serve as an alternate for the fourth, fifth, sixth, or ninth member unless service by an alternate member for an appointed member is approved by the majority of the electors in the county.

(e) This section shall apply only to Orange County.

Approved as to form:  
County Counsel

by Nikhil Daftary  
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown at this time.

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

AB 719 (2005-Canciamilla)

PERSONS RESPONSIBLE FOR TESTIMONY:

Cymantha Atkinson, Manager, Gov't & Comm. Relations      County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Holly Fraumeni Phone: 916.443. 8891

Fax: 916.443.8819 email address: hcf@platinumadvisors.com

SUBJECT: **COUNTY SEARCHES: COSTS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Sheriff-Coroner

CODE SECTION AFFECTED:

Add Government Code Sections 26614.6 and 26614.7

DESCRIPTION OF CURRENT LAW:

California law provides that in limited situations, up to \$12,000 of the cost of an emergency response may be recovered from a person, who by his or her negligent operation of a vehicle, boat or plane while under the influence of drugs or alcohol, or by his or her intentionally wrongful conduct, caused the emergency response for a particular incident (Government Code Sections 53150 through 53159.). Government Code Section 53156 defines "intentionally wrongful conduct" narrowly to mean "conduct intended to injure another person or property."

California law also provides that the county of residence of a person searched for or rescued while in another county shall pay to the county conducting such search or rescue all of the reasonable expenses in excess of \$100 of such search and rescue within 30 days after submission of a claim by the county conducting the search or rescue (Government Code Section 26614.5.).

PROPOSAL:

The proposal would allow the County to recover the actual cost of extraordinary search or rescue efforts from a resident who is 16 years of age or older and whose act in violation of any federal or state law or local ordinance, or any act or omission that shows

wanton and reckless misconduct in disregard for their safety, was a contributing factor to the need for the County's search or rescue or for another county's search or rescue of that resident.

#### DISCUSSION:

California law does not allow a county to recover the actual cost of search or rescue of a resident who is 16 years of age or older if the need for the search or rescue of that resident was necessitated by the use of extraordinary methods and if any of the following was a contributing factor to the need for the search or rescue: (1) any act in violation of any federal or state law or local ordinance; or (2) any act or omission by the person searched for or rescued that shows wanton and reckless misconduct in disregard for his or her safety. California law also does not allow a county that is billed for the search or rescue of one of its residents who is 16 years of age or older by another county to, in turn, seek reimbursement from that resident if the need for the search or rescue of that resident was necessitated by the use of extraordinary methods and if any of the following was a contributing factor to the need for the search or rescue: (1) any act in violation of any federal or state law or local ordinance; or (2) any act or omission by the person searched for or rescued that shows wanton and reckless misconduct in disregard for his or her safety.

The proposed legislation is modeled after former Government Code Sections 26614.6 and 26614.7 (Stats. 1995, c. 338 (A.B. 1461) and Stats. 1995, c. 339 (A.B. 867)), which sunset on January 1, 1999. AB 1461 (Bordonaro) - Provided that any county and/or city receiving a bill for search and rescue services may seek reimbursement of the actual cost incurred from that resident, up to \$5,000, if that resident is 16 years of age and older, as defined. AB 867 (Brown) - Provided that a person who is searched for or rescued by a county, shall pay for all reasonable expenses exceeding \$100 within 30 days after being billed for those services, when the need for search or rescue was caused by an intentional act or acts, as defined.

#### FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

#### **Add Section 26614.6 to the Government Code, relating to County searches:**

Section 1. Section 26614.6 is added to the Government Code to read:  
26614.6. (a) Notwithstanding Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code, whenever a county or city and county is billed for a search or rescue of one of its residents who is 16 years of age or older by



another county or city and county, the county or city and county receiving the bill may in turn seek reimbursement for the actual cost incurred from that resident if the need for the search or rescue necessitated the use of extraordinary methods and any of the following was a contributing factor to the need for the search or rescue:

(1) Any act in violation of any federal or state law or local ordinance.

(2) Any act or omission by the person searched for or rescued that shows wanton and reckless misconduct in disregard for his or her safety.

(b) The county or city and county shall not collect charges from those persons who the county or city and county determines are unable to pay the charges.

**Add Section 26614.7 to the Government Code, relating to County searches:**

Section 1. Section 26614.7 is added to the Government Code to read:

26614.7. (a) Notwithstanding Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code, when a person 16 years of age or older living within a county or city and county is searched for or rescued, that person shall pay the county or city and county conducting the search or rescue for the actual cost incurred for the search or rescue within 30 days after being billed for those charges if the need for the search or rescue necessitated the use of extraordinary methods and any of the following was a contributing factor to the need for the search or rescue:

(1) Any act in violation of any federal or state law or local ordinance.

(2) Any act or omission by the person searched for or rescued that shows wanton and reckless misconduct in disregard for his or her safety.

(b) The county or city and county shall not collect charges from those persons who the county or city and county determines are unable to pay the charges.

Approved as to form:  
County Counsel

by Nicole Sims  
Deputy County Counsel

POTENTIAL SUPPORT:

California State Firefighters' Assn.; California State Sheriffs' Assn.;

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

AB 1461 (Bordonaro) and AB 867 (Brown) in 1995

PERSONS RESPONSIBLE FOR TESTIMONY:

Cymantha Atkinson, Manager, Gov't & Comm. Relations      County Executive Office



# COUNTY OF ORANGE

2014 County-Sponsored Federal  
Proposals

**COUNTY OF ORANGE**  
**2014 COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS**  
**EXECUTIVE SUMMARY**

**FEDERAL PROPOSALS**

**ELIMINATE THE MEDICAID INMATE EXCEPTION RULE FOR PRE-ADJUDICATED INMATES (*New Proposal*)**

This proposal would allow Medicaid eligible pre-adjudicated inmates to receive Medicaid benefits while incarcerated.

**DISCOUNT DRUG PRICING (*Continuing Proposal*)**

This proposal would revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

**FLEXIBLE USE OF CONTINUUM OF CARE HOMELESS ASSISTANCE FUNDING (*Continuing Proposal*)**

This proposal would modify the current McKinney-Vento Act language to enable local communities the flexibility to use Continuum of Care Homeless Assistance funding to address local needs (emergency housing, prevention, discharge planning, etc.).

**HOUSING CHOICE VOUCHER MOVING TO WORK PROGRAM (*Continuing Proposal*)**

This proposal is to request the U.S. Department of Housing and Urban Development (HUD) to expand opportunities for Public Housing Agencies (PHAs) to evaluate and consider the benefits to implement, and if feasible locally, apply to be considered for the Moving to Work (MTW) Program. If HUD releases another MTW application opportunity, direct OC Community Services to research the feasibility of MTW program for Orange County and report back to the Board with recommendations.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION (*New Proposal*)**

AGENCY/DEPARTMENT: HEALTH CARE AGENCY

CONTACT PERSON: James McConnell Phone: 917.434.3603

Fax: 202.331.1598 email address: jmccconnell@tfgnet.com

SUBJECT: **ELIMINATE THE MEDICAID INMATE EXCEPTION RULE FOR PRE-ADJUDICATED INMATES**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Health Care Agency

CODE SECTION AFFECTED:

United States Code, Title 42, Section 1396d

DESCRIPTION OF CURRENT LAW:

Federal law does not allow for federal Medicaid funding – Federal Financial Participation (FFP) – to pay for medical care provided to individuals who are “inmates of a public institution.” This is commonly referred to as the inmate exception.

PROPOSAL:

Allow Medicaid eligible pre-adjudicated inmates to receive Medicaid benefits while incarcerated.

DISCUSSION:

There is a specific Affordable Care Act provision related to the exchanges that could significantly impact county jails, which states that “...an individual shall not be treated as a qualified individual, if at the time of enrollment; the individual is incarcerated, other than incarceration pending disposition of charges.” This provision will likely allow eligible individuals in custody pending disposition of charges to enroll in a **health insurance plan** offered through an exchange prior to conviction, or maintain coverage if they are already enrolled. A substantial number of individuals that enter into county jail custody have serious medical and behavioral health needs and would benefit greatly from treatment to address these conditions. Additionally, as counties are responsible for

providing health care services for county jail inmates and the overwhelming majority of individuals in jails lack any type of health insurance coverage, this provision could potentially reduce county jail health costs. In 2014 the ACA also expands Medicaid eligibility to include all individuals under age 65—including adults without children—who have incomes up to 133% of the federal poverty level (FPL). Many individuals involved in the criminal justice system will fall into this category of adults who will be newly eligible for Medicaid, because a large majority of jail inmates are young, low-income males who did not previously qualify for the program. However, unless future administrative actions change existing federal rules, while these individuals will be eligible to enroll in the program they will not be able to receive Medicaid benefits in 2014. Presently some county jail inmates meet Medicaid's eligibility requirements and are eligible to enroll in the program, but they are not covered by Medicaid. **This is because federal law does not allow for federal Medicaid funding—Federal Financial Participation (FFP)—to pay for medical care provided to individuals who are “inmates of a public institution,” which is commonly referred to as the “inmate exception.” This results in counties covering the full cost of jail inmates’ health care services rather than eligible detainees receiving coverage through Medicaid.**

Individuals pending disposition of charges should not be considered as inmates of a public institution and these individuals should have the opportunity to apply for coverage either through plans on the exchanges or **Medicaid**. Centers for Medicare & Medicaid Services (CMS), however, has stated that issues related to FFP not being available to incarcerated individuals were beyond the scope of their rulemaking, and has asserted that: “An individual is considered an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities, regardless of adjudication status.”

#### FISCAL IMPACT:

The fiscal impact of this proposal is difficult to project because the system is not currently designed to account for Federal Financial Participation in health care costs for this population. The Health Care Agency (HCA) believes this proposal would result in many of the medical and mental health care services provided to pre-adjudicated inmates in the County jail facilities being eligible for federal Medicaid funding (i.e. physician visits and evaluations, pathology and laboratory services, pharmaceuticals, specialty physician consults). These services are currently funded primarily by County General Funds. Based on current inmate population statistics and costs, HCA believes the fiscal impact of this proposal could result in a County General Fund net savings of approximately \$400,000 - \$600,000.



**COUNTY OF ORANGE**  
**2014 COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS**

**SUMMARY OF CONTINUING PROPOSALS**

**DISCOUNT DRUG PRICING**

Section 340B makes discount pricing available for covered outpatient drugs for certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals. It is also available to certain programs that provide services for targeted indigent populations. As one example, 340B pricing is available for HIV/AIDS patients receiving their drugs through the AIDS Drug Assistance Program (ADAP).

This proposal would revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

*Update and Approach:* In 2013, Congress refused to open the Affordable Care Act (ACA) for review and amendment and any legislative proposals related to health issues were affected by this decision. California's Senators reviewed this request and had questions and observations: 12 of the 58 counties in the state have county hospitals but the other 46 counties do not have the same discount drug pricing issues. One difference was the lack of federally-qualified health centers in Orange County, which are required to have community-based boards of directors rather than being privately-operated facilities. The Senators would like to see Orange County develop more federally-qualified centers as the preferred way to become eligible for section 340B discount drug pricing. Apart from that, health-related legislation in 2014 is still likely only with regard to ACA amendments. Republicans would like to re-open ACA in order to gut it. Democrats and the Administration would like to legislatively fine tune aspects of ACA, but fear opening the legislation to amendment will result in a wholesale Republican attack on the overall law.

*Recommended Action:* *Directed Orange County Washington Lobbyist to seek an author/sponsor* HCA Director will be in Washington in early March 2014 for NACo Legislative Conference. Meetings are planned with California Senators' staff, and others, to further discuss the issue and possible approaches to alleviating Orange County's problems.

**FLEXIBLE USE OF CONTINUUM OF CARE HOMELESS ASSISTANCE FUNDING**

This proposal would modify current McKinney-Vento Act, ELIGIBLE ACTIVITIES, to include emergency shelter and emergency assistance as eligible activities to enable local communities the flexibility to use Continuum of Care Homeless Assistance funding to address local needs (emergency housing, prevention, discharge planning, etc.).



Update and Approach: The McKinney-Vento Act is a permanently authorized law, which means it remains in force unless, and until, amended. Congressional Republicans have expressed an interest in opening the act up for amendment in order to turn homeless assistance programs into block grants to the states and to reduce the amount of federal funding available for homeless assistance programs. Congressional Democrats and the Obama Administration are opposed to opening McKinney-Vento to amendment for any purpose.

Recommended Action: Keep alert to any discussions concerning congressional willingness to open the McKinney-Vento Act to amendment, without reducing funding under the Act or block granting the program to the states. Work to permit greater local flexibility in the administration of the Act, especially if this could be accomplished through the administrative regulatory process rather than through congressional legislation. If NACo and/or CSAC were actively engaged in this effort it would be helpful.

#### HOUSING CHOICE VOUCHER MOVING TO WORK PROGRAM

This proposal is to request the U.S. Department of Housing and Urban Development (HUD) to expand opportunities for Public Housing Agencies (PHAs) to evaluate and consider the benefits to implement, and if feasible locally, apply to be considered for the Moving to Work (MTW) Program. If HUD releases another MTW application opportunity, direct OC Community Services to research the feasibility of MTW program for Orange County and report back to the Board with recommendations.

Update and Approach: Only Congress has the power to authorize additional slots in the Moving to Work (MTW) program. In the past, Congress has both picked the Public Housing Agencies (PHA's) to participate and has authorized HUD to select PHA applicants themselves. Congress is now barred from doing so under the earmark moratorium in effect. When the selection process is left to HUD, as is now the case, the department issues a notice with criteria for admission and evaluates the applications in a competitive process. Only Public Housing Agencies can participate in MTW. The existing program allows Congress to authorize additional slots, but not to select specific sites. It is possible that slots may be added in 2014. However, securing those slots will be difficult, if not unlikely, because budget cuts and sequestration will leave no available funding for new slots even if they have been authorized. Currently, no slots are available. Until slots are authorized by Congress and funding is made available, HUD will not chose sites or be looking for new sites.

Recommended Action: Keep alert for congressional legislation to expand the MTW program. Work proactively with HUD on a potential MTW site in Orange County should Congress expand the program, giving HUD authority to add additional MTW sites. If NACo and/or CSAC were actively engaged in this effort it would be helpful.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: HEALTH CARE AGENCY

CONTACT PERSON: James McConnell Phone: 917.434.3603

Fax: 202.331.1598 email address: jmccConnell@tfgnet.com

SUBJECT: **DISCOUNT DRUG PRICING**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Health Care Agency

CODE SECTION AFFECTED:

The 340B Drug Pricing Program resulted from enactment of Public Law 102-585, the Veterans Health Care Act of 1992, which is codified as Section 340B of the Public Health Service Act.

DESCRIPTION OF CURRENT LAW:

Section 340B makes discount pricing available for covered outpatient drugs for certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals. It is also available to certain programs that provide services for targeted indigent populations. As one example, 340B pricing is available for HIV/AIDS patients receiving their drugs through the AIDS Drug Assistance Program (ADAP).

PROPOSAL:

Revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

## DISCUSSION:

The Federal Government is a major purchaser of pharmaceuticals and has substantial leverage to obtain discounted drug prices. Under section 340B of the Public Health Services Act, these discounted prices are available to Federally Qualified Health Centers, qualified Disproportionate Share Hospitals, and certain other entities. Health Care Agency (HCA) spends significant funds on pharmaceuticals and access to 340B drug pricing for the Agency would bring about a substantial savings. While a thorough analysis of the formulary is yet to be completed, for other programs it is likely that the savings, including that from other county-sponsored healthcare programs such as Behavioral Health, would amount to up to \$10 million per year. As a major provider of care for low income persons, HCA should be made eligible for 340B discount drug pricing.

## FISCAL IMPACT:

Two major program areas that could potentially benefit from access to 340B pricing include Medical Services Initiative and Behavioral Health Services. Savings will vary greatly depending on the mix of generic and name brand drugs that are utilized in the HCA formulary. This will require a detailed analysis. In addition, potential savings will depend on the extent to which clients are able to gain access to the discounted medications at local pharmacies. Assuming wide availability within the community, the potential savings could be up to \$10 million per year.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

### **340B Drug Pricing Program Statute**

[\*602] SEC. 602. LIMITATIONS ON PRICES OF DRUGS PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) In GENERAL. Part D of title III of the Public Health Service Act is amended by adding the following subpart:

"(4) Covered entity defined. In this section, the term 'covered entity' means an entity that meets the requirements described in paragraph (5) and is one of the following:

*"(A) A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).*

*"(B) An entity receiving a grant under section 340A.*

*"(C) A family planning project receiving a grant or contract under section 1001.*

*"(D) An entity receiving a grant under subpart II of part C of title XXVI (relating to categorical grants for outpatient early intervention services for HIV disease).*

*"(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI.*

*"(F) A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act.*

*"(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.*

*"(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.*

*"(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.*

*"(J) Any entity receiving assistance under title XXVI (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).*

*"(K) An entity receiving funds under section 318 (relating to treatment of sexually transmitted diseases) or section 317(j)(2) (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).*

*"(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that -- "(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under this title; "(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and "(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.*

**"(M) A local government entity receiving funds from a State for the provision of health, mental health or substance abuse treatment services under title XIX of the Public Health Service Act, including local government entities providing services under an approved Federal waiver under section 1115 of the Social Security Act.**

"(5) Requirements for covered entities. -- "(A) Prohibiting duplicate discounts or rebates.  
-- "(i) In general. A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

Approved as to form:  
County Counsel

by Massoud Shamel  
Deputy County Counsel

POTENTIAL SUPPORT:

It is possible that other counties could benefit from this proposal and would be willing to provide their support. It is also possible that the professional associations such as CSAC, CHEAC, CMHDA, and other national organizations would support this proposal.

POTENTIAL OPPOSITION:

No known opposition.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None.

PERSONS RESPONSIBLE FOR TESTIMONY:

Mark Refowitz, Agency Director	Health Care Agency
David Souleles, Deputy Agency Director	Health Care Agency
Holly Veale, Acting Deputy Agency Director	Health Care Agency

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: OC COMMUNITY RESOURCES/OC COMMUNITY SERVICES

CONTACT PERSON: James McConnell Phone: 917.434.3603

Fax: 202.331.1598 email address: jmccconnell@tfgnet.com

**SUBJECT: FLEXIBLE USE OF CONTINUUM OF CARE HOMELESS ASSISTANCE FUNDING**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

OC Community Services

CODE SECTION AFFECTED:

McKinney-Vento Act, SEC.423. [42 USC 11383]. "ELIGIBLE ACTIVITIES"

DESCRIPTION OF CURRENT LAW:

The McKinney–Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 *et seq.*) is a United States federal law that provides federal money for homeless shelter programs.

PROPOSAL:

Modify current McKinney-Vento Act language to enable local communities the flexibility to use Continuum of Care Homeless Assistance funding to address local needs (emergency housing, prevention, discharge planning, etc.).

DISCUSSION:

The current law only allows Continuum of Care Homeless Assistance funding to address transitional housing, permanent housing and supportive services. The Continuum of Care funding is the largest source of funding available to Orange County to address homeless issues. Agencies throughout Orange County receive approximately \$16 million a year in Continuum of Care funding. A smaller portion of Emergency Solutions Program funding, approximately \$200,000 a year, is available to

the County under McKinney-Vento Act funding, however, is not enough to address a major goal of the County's Ten-Year Plan to End Homelessness—Providing Year-Round Emergency Shelter(s).

By allowing emergency housing and/or emergency assistance activities to be funded through the Continuum of Care Homeless Assistance funding, the County could have more discretion/flexibility to address homeless issues.

**FISCAL IMPACT:**

This revision would neither increase nor decrease funding to the County, but would allow flexibility in using funds allocated to the County by the Federal Government.

**PROPOSED SPECIFIC LANGUAGE:** (As approved by County Counsel)

- Revise current McKinney-Vento Act, specifically, SEC.423. [42 USC 11383]. ELIGIBLE ACTIVITIES, to include emergency shelter and emergency assistance as eligible activities as follows:

“(a) IN GENERAL. – Grants awarded under section 11382 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

- (1) Construction of new housing units to provide **emergency**, transitional or permanent housing.
- (2) Acquisition or rehabilitation of a structure to provide emergency, transitional or permanent housing or to provide **emergency assistance and/or** supportive services.
- (3) Leasing or property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing **emergency**, transitional or permanent housing, **emergency assistance**, or providing supportive services..”

.....  
“(c) Use restrictions

- (1) Acquisition, rehabilitation, and new construction

A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for not less than 15 years.

(2) Other activities

A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for the duration of the grant period involved.

(3) Conversion

If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

**(4) Emergency Housing and Assistance**

**“No more than 25 percent of the assistance provided to the recipient under section 11382 for projects under paragraphs (1), (2) and (3) of subsection (a) may be used for emergency housing and assistance.”**

Approved as to form:  
County Counsel

By Jacqueline Guzman  
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown

POTENTIAL OPPOSITION:

Unknown

RECENT LEGISLATIVE ACTION ON THIS ISSUE:



None

PERSONS RESPONSIBLE FOR TESTIMONY:

Karen Roper/ Julia Bidwell

OC Community Resources/ OC Community Services

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION  
2013-2014 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: OC COMMUNITY SERVICES

CONTACT PERSON: James McConnell Phone: 917.434.3603

Fax: 202.331.1598 email address: jmccconnell@tfgnet.com

**SUBJECT: HOUSING CHOICE VOUCHER MOVING TO WORK PROGRAM**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

OC Community Services -  
Orange County Housing Authority

CODE SECTION AFFECTED:

Housing Act of 1937 and Code of Federal Regulations: 24CFR, Part 982.

DESCRIPTION OF CURRENT LAW:

The Housing Act of 1937 and Code of Federal Regulations: 24CFR, Part 982 are the law and regulations under which local Housing Authorities administer the Housing Choice Voucher Program, more commonly known as the "Section 8" Program in reference to Section 8 of the Housing Act. Although current regulations for the Housing Choice Voucher Program allow some limited local discretionary policies, they contain a number of provisions and requirements that include administrative burdens and complexity that cannot be waived.

PROPOSAL:

Request the U.S. Department of Housing and Urban Development (HUD) to expand opportunities for Public Housing Agencies (PHAs) to evaluate and consider the benefits to implement, and if feasible locally, apply to be considered for the Moving to Work (MTW) Program. If HUD releases another MTW application opportunity, direct OC Community Services to research the feasibility of MTW for Orange County and report back to the Board with recommendations.

MTW allows PHAs to design and test innovative, locally designed housing and self-sufficiency strategies for low-income families by permitting PHAs to combine assistance received under Sections 8 and 9 of the United States Housing Act of 1937 into a single agency-wide funding source and by allowing certain exemptions from existing public housing and Housing Choice Voucher (HCV) program rules.

MTW also allows Section 8 only PHAs, like the Orange County Housing Authority (OCHA), to redesign rental assistance programs to achieve greater administrative efficiencies, enhance supportive services provided to tenants, and transition tenants to successful self-sufficiency

## DISCUSSION:

Nationwide, more than 2.1 million households are receiving monthly housing assistance in HUD's federally funded Housing Choice Voucher Program administered by more than 2,400 local PHAs. Of these assisted households:

- 23% receive housing assistance for less than 2 years
- 24% receive housing assistance between 2 to 5 years
- 48% receive housing assistance between 5 to 20 years
- 5% receive housing assistance longer than 20 years

PHA's have not received any significant increases in Housing Choice Voucher (HCV) allocations for applicants on their waiting lists since 2003. For these reasons, most public housing agencies, like OCHA, have record numbers of applicants waiting for assistance. For example, OCHA accepted over 50,000 applications during a two-week enrollment period in February 2012. This represents about five applicants per assisted household - for the 9,740 of OCHA's total 10,367 Housing Choice Vouchers that are available to waiting list applicants. The balance of 627 Vouchers are reserved for targeted programs including Veterans Affairs Supportive Housing, Family Unification, and Non-elderly Disabled Vouchers, which would be excluded from an MTW program. Due to the economy, only about 40 assisted households leave the program each month and this level of turnover will severely limit the number of Vouchers that can be issued to waiting list applicants from one to more than 15 years.

According to HUD, the limited number of PHAs that have been selected for the MTW demonstrations are permitted to seek exemption from many existing Public Housing and Housing Choice Voucher program rules found in the United States Housing Act of 1937 in pursuit of the three MTW statutory objectives:

- Reduce cost and achieve greater costs effectiveness in Federal expenditures;

- Give incentives to families with children where the head of household is working, is seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and
- Increase housing choices for low-income families.

One of the major provisions that agencies can elect to implement include establishing a term-limit for receiving housing assistance. Such term-limits would apply to families and non-elderly/non-disabled single persons who would be expected to become self-sufficient within an established number of years, at which time housing assistance would end. Federal law prohibits elderly and disabled households from inclusion in term-limits.

The MTW program concept is very similar to OCHA's existing, highly successful Family Self Sufficiency (FSS) Program which provides intense case management and a wide variety of supportive services. The Board has continued to approve OCHA's FSS Program due to its success in transitioning families from Section 8 to self-sufficiency and success.

Currently, 39 PHAs nationwide have been authorized to administer their Vouchers through an MTW program. Expanding the number of agencies that can be authorized to participate in MTW will allow local PHAs greater flexibilities to design and administer housing assistance that addresses local community needs for housing resources and efforts to increase self-sufficiency, resulting in less reliance on public assistance.

#### FISCAL IMPACT:

The MTW program does not increase or decrease funding from HUD; however, agencies have the ability to leverage funds and program policies to assist a higher number of households. For example, enhancing self-sufficiency support in conjunction with time limits enables more households to successfully graduate from the program and thereby makes these resources available for more applicants on the waiting list. In addition, the administrative flexibilities enable housing authorities to reduce operating costs and reinvest these cost savings to provide enhanced tenant services and increased affordable housing opportunities.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

PROPOSAL: Request the U.S. Department of Housing and Urban Development (HUD) to expand opportunities for Public Housing Agencies (PHAs) to evaluate and consider the benefits to implement, and if feasible locally, apply to be considered for the Moving

to Work (MTW) Program. If HUD releases another MTW application opportunity, direct OC Community Services to research the feasibility of MTW for Orange County and report back to the Board with recommendations

Approved as to form:  
County Counsel

By N/A  
Deputy County Counsel

#### POTENTIAL SUPPORT:

Public Officials: Mayors, Council Members, public assistance administrators, members of the public are likely to support this proposal.

#### POTENTIAL OPPOSITION:

Advocates for public assistance and welfare may have some opposition.

#### RECENT LEGISLATIVE ACTION ON THIS ISSUE:

In 2011, Senate Bill S. 117: *Moving to Work Charter Program Act of 2011* was introduced by Senator David Vitter (Louisiana) that would direct HUD to increase the number of MTW agencies to 250 by 2014. In addition, Congressman Steve Chabot (Ohio) introduced H.R. 4145: the *Section 8 Reform, Responsibility, and Accountability Act of 2012*, which has language to expand MTW “to include significantly more PHAs.” This proposal also includes the following:

- Places a five-year limitation on section 8 rental assistance, disregarding any month during which such individual was a member of a disabled or elderly family so assisted.
- Prohibits such assistance on behalf of any family, unless each member of the family who is 18 years of age or older performs at least 20 hours of work activities per week.
- Requires the Secretary of Housing and Urban Development (HUD) to exempt from such prohibition any individual family member who meets certain requirements.

Senate Bill S. 117 was referred to Committee on January 25, 2011, and H.R. 4145 was referred to Committee on March 6, 2012, and no further action has occurred.

PERSONS RESPONSIBLE FOR TESTIMONY:

Karen Roper/John Hambuch and/or members of the Orange County Housing Authority management team can provide testimony.

In addition, NAHRO and other national housing organizations can coordinate presentations in Washington D.C. that would include numerous housing experts and PHAs that have implemented an MTW program, in addition to agencies that are interested in participation.



# COUNTY OF ORANGE

2015 Federal Energy and Water  
Development Projects

**COUNTY OF ORANGE**  
**2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECTS**  
**EXECUTIVE SUMMARY**

The following is a summary on each of the County's six projects of significance. While the County is hopeful that all projects can receive funds, the realities of the continued economic climate, limited fiscal resources, the current congressional policy on prioritizing projects make it likely that few, if any, will receive federal funding.

**SANTA ANA RIVER MAINSTEM PROJECT**

The Santa Ana River Mainstem Project, including Prado Dam (Project), was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996. The Project involves construction, acquisition of property rights, relocations, and environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, along with the Department of the Army, for implementing the Project. To date, the Federal Government and the flood control districts of the impacted counties have spent over \$1.6 billion on the Project. Major project accomplishments include the completion of Seven Oak Dam, raising of the Prado Dam embankment, and construction of many miles of bank protection.

**ALISO CREEK, ORANGE COUNTY, CA (SECTION 5158)**

The planned project, incorporates and expands upon the Aliso Creek Mainstem Project (a separate project, see below) by proposing a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek Watershed. The stabilization and ecosystem restoration component will include: restoring the slope of the stream to minimize erosion and allow for fish passage upstream; re-establishing aquatic habitat; reinstating the natural slopes of the stream banks; and removing invasive plants and re-vegetating with native plants. The water quality treatment and beneficial use component of the project includes bioengineering to restore the natural cleansing function. The study will also examine diverting nuisance runoff to a treatment facility, and the potential beneficial reuse for irrigation. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

**WESTMINSTER, EAST GARDEN GROVE, CA**

This cost-share study between U.S. Army Corps of Engineers and Orange County (shared 50/50) is to address flood damages along the East Garden Grove-Wintersburg Channel and associated aging levee system that affect residences and businesses in



11 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program while thousands of additional property owners, valuable coastal habitat and water quality are in jeopardy from flooding impacts. A feasibility study is required by the Corps for implementation of federally constructed capital improvements to the channel system.

#### SAN JUAN CREEK, SOUTH ORANGE COUNTY, CA

A feasibility study is required by the Army Corps of Engineers for implementation of capital improvements to the channels. This study, which is shared 50/50 between the Corps and Orange County, is focused on flood control and ecosystem restoration alternatives for the watershed in the cities of Dana Point and San Juan Capistrano. Significant progress has been made on the study and could be completed in the following fiscal year with continuing federal support.

#### SURFSIDE-SUNSET AND NEWPORT BEACHES

This is an on-going project by the U.S. Army Corps of Engineers (Corps) to mitigate damage to Orange County coastline caused by construction of Federal navigation and flood control works in Long Beach and Anaheim Bay. The project extends along the Orange County coast 17 miles from San Gabriel River mouth down coast to Newport Bay Harbor entrance. Periodic beach nourishment with no time limit on Federal aid was authorized by Public Law 87-874, as recommended by House document 602. The feeder beach at Surfside-Sunset receives approximately 1.6 million cubic yards of sand approximately every five years. Twelve stages of construction have been completed, including groins and beach fill, with the last beach replenishment (Stage 12) completed in 2009.

#### ALISO CREEK MAINSTEM, ORANGE COUNTY, CA

The goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem. It is also intended to produce an implementation document for authorization by Congress, as well as serve as an aid to local, state, and federal agencies involved in management and regulatory decisions that can impact the watershed.

## FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

### 1. PROJECT:

Project Name:	<b>Santa Ana River Mainstem Project</b>
Exact Location/Address:	Santa Ana River within Orange, Riverside and San Bernardino Counties, California

### 2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, P.E. Director/Chief Engineer
Organization:	OC Public Works/OC Engineering
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

### 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

The Santa Ana River Mainstem Project (Project) is being constructed to address what the U.S. Army Corps of Engineers identified in the 1980's as 'the worst flood threat west of the Mississippi River' – which then impacted three million people and 110,000 acres located in the three Southern California counties of Orange, Riverside, and San Bernardino. It is estimated that a significant flood event on the Santa Ana River would cause a loss of 3,000 lives and \$40 billion in economic losses.

The Project, which was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996, involves construction, acquisition of property rights, relocations, environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, with the Department of the Army, for implementing the Project.

To date, the Federal Government and the Orange County Flood Control District (OCFCD) have spent over \$1.6 billion on the Project. Major project accomplishments include the completion of Seven Oaks Dam, raising of the Prado Dam embankment, and construction of many miles of bank protection. Continued funding is necessary to complete the Project and ensure the level of protection as planned. Project completion is even more important now than when it started in 1990, given the significant growth in population, land and structures value, and dependency on affected transportation routes.

# FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

## 1. PROJECT:

Project Name:	Aliso Creek, Orange County, CA (Section 5158)
Exact Location/Address:	Laguna Niguel, CA

## 2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange CA 92865
Telephone:	714-955-0601
Email:	maryanne.skorpanich@ocpw.ocgov.com

## 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Rapid urbanization of the Aliso Creek watershed has led to a variety of erosion and water quality problems. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms as well as dry weather. In response to this, federal, state, and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water, and wastewater infrastructure and mitigate on-going environmental degradation to the Aliso Wood Canyon Wilderness Park and beaches downstream.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This Plan was sponsored by the Corps, County, municipalities, and water districts within the Aliso Creek Watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems as well as opportunities. The identified problems including water quality, instability of the creek, loss of ecosystems, and damage from flooding.

In 2002, the Corps completed the Aliso Creek Watershed Management Study which documented management measures that could address the various watershed problems. The management study provided solutions to a variety of water and land-related damages in the watershed that best met the federal and local need. The Aliso Creek Mainstem Ecosystem Restoration was one of the implementation projects recommended to proceed to the feasibility study phase. The Corps' contractor (Tetra Tech), who prepared the Aliso Creek Watershed Management Study, revised the project by adding a water quality and utility protection feature to address stakeholder input.

This project proposes a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek Watershed. The stabilization and ecosystem restoration component of the project will include: restoring the slope of the stream to minimize erosion and allow for fish passage upstream; re-establishing aquatic habitat; reinstating the natural slopes of the stream banks; removing invasive plants and re-vegetating with native plants; and reconnecting the stream to its floodplain to support a healthy riparian zone. The infrastructure protection component of the project will increase the stability of the channel to prevent undercutting pipelines and roads. The water quality treatment and beneficial use component of the project includes bioengineering to restore the natural cleansing function. The study will also examine diverting nuisance runoff to a treatment facility, and the potential beneficial reuse for irrigation.

Improvements anticipated from the study include relief from degradation of the creek and restoration of native habitat. Protection for important coastal wetlands downstream will benefit from improved water quality and ecosystem functioning. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

In WRDA 2007, Section 5158-Additional Assistance for Critical Projects provided a \$5,000,000 project limit for a Section 219 Environmental Infrastructure Project titled *Aliso Creek, Orange County, CA*. This program provides a more direct path to implementing a project that addresses long standing issues of concern. Advancing the project in a timely manner to construction would result in an overall savings in costs by reducing the amount of monies spent on studies, staffing resources, and emergency stop gap repairs. Under the Section 219 Environmental Infrastructure Account, the project can include more effective components to improve beach water quality.

Federal assistance would:

- Allow the local sponsor and Corps to execute a cost sharing agreement; and
- Expedite project implementation; construction to start as early as 2016.

# FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

## 1. PROJECT:

<b>Project Name:</b>	<b>Westminster, East Garden Grove, CA</b>
Exact Location/Address:	Includes 74 square miles in the cities of Anaheim, Stanton, Cypress, Garden Grove, Westminster, Fountain Valley, Los Alamitos, Seal Beach, Santa Ana, and Huntington Beach.

## 2. CONTACT INFORMATION

Local Contact Information:	
Name and Title:	Ignacio Ochoa, P.E. Director/Chief Engineer
Organization:	OC Public Works/OC Engineering
Address:	300 N. Flower St. Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	<a href="mailto:Ignacio.Ochoa@ocpw.ocgov.com">Ignacio.Ochoa@ocpw.ocgov.com</a>

## 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND

Flood damages along the East Garden Grove-Wintersburg Channel and its associated aging levee system affect residences and businesses in 10 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program. In addition, thousands of additional property owners, valuable coastal habitat, and water quality are also in jeopardy from flooding impacts.

Accordingly, the United States Army Corps of Engineers (Corps) and Orange County entered into a 50/50 cost share agreement to develop solutions for comprehensive flood protection, ecosystem restoration and water quality improvements. The watershed feasibility study began in 2005 through a cost-share agreement, and the study has received intermittent federal funding, resulting in delays. A feasibility study is required by the Corps for implementation of federally constructed capital improvements to the channel system.

## FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

### 1. PROJECT:

<b>Project Name:</b>	<b>San Juan Creek, South Orange County, CA</b>
Exact Location/Address:	San Juan Creek Watershed in the Cities of San Juan Capistrano and Dana Point

### 2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, P.E. Director/Chief Engineer
Organization:	OC Public Works/OC Engineering
Address:	300 N. Flower St. Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	<a href="mailto:Ignacio.Ochoa@ocpw.ocgov.com">Ignacio.Ochoa@ocpw.ocgov.com</a>

### 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND

Lower San Juan Creek and Trabuco Creek in the Cities of San Juan Capistrano and Dana Point have a history of flooding problems. The existing un-reinforced concrete slope linings placed in the 1960s have failed during a number of storm events, which were significantly lower than a 100-year flood event. In addition to structural inadequacies of the 1960s un-reinforced concrete slope lining, the two channels lack flood control capacity and will be overtopped in a 100-year flood event.

A feasibility study is required by the Army Corps of Engineers for implementation of capital improvements to the channels. The Army Corps of Engineers found that there was federal interest in the project during a reconnaissance study. The watershed feasibility study (study) began in 2005 through a 50/50 cost-share agreement between the County of Orange and the Army Corps of Engineers. The study has completed an Initial Feasibility Phase, a Public Meeting/Project Scoping Phase, and the Draft Project Baseline Conditions Report. The study has received intermittent federal funding, resulting in delays.

## FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

### 1. PROJECT:

<b>Project Name:</b>	<b>Surfside-Sunset and Newport Beaches</b>
Exact Location/Address:	Beaches in the cities of Seal Beach, Huntington Beach & Newport Beach, CA

### 2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Manager OC Watersheds
Organization:	County of Orange Public Works
Address:	2301 N. Glassell Street
Telephone:	714-955-0601
Email:	Maryanne.skorpanich@ocpw.ocgov.com

### 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND

This is an on-going project by the U.S. Army Corps of Engineers (Corps) to mitigate damage to Orange County coastline caused by construction of Federal navigation and flood control works in Long Beach and Anaheim Bay. Long term measured data collected by the Corps indicates localized severe shoreline erosion events in 1980, 1981, 1982, 1995, 1998, and 2010.

The project extends along the Orange County coast 17 miles from San Gabriel River mouth down coast to Newport Bay Harbor entrance. Periodic beach nourishment with no time limit on Federal aid was authorized by Public Law 87-874, as recommended by House document 602.

The feeder beach at Surfside-Sunset receives approximately 1.6 million cubic yards of sand approximately every five years. Twelve stages of construction have been completed, including groins and beach fill, with the last beach replenishment (Stage 12) completed in 2009. Funding is needed in FY15-16 for the Stage 13 project construction.

## FISCAL YEAR 2015 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

### 1. PROJECT:

<b>Project Name:</b>	<b>Aliso Creek Mainstem, Orange County, CA</b>
Exact Location/Address:	Laguna Niguel, CA

### 2. CONTACT INFORMATION

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange CA 92865
Telephone:	714-955-0601
Email:	Maryanne.skorpanich@rdmd.ocgov.com

### 3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND

Rapid urbanization of the Aliso Creek watershed has led to a variety of erosion and water quality problems. In response to this, federal, state and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water and wastewater infrastructure and mitigate ongoing environmental degradation to the downstream Aliso Wood Canyon Wilderness Park area. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms as well as dry weather.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This Plan was sponsored by the Corps, County, municipalities and water districts within the Aliso Creek watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems as well as opportunities. The identified problems including water quality, instability of the creek, loss of ecosystems, and damage from flooding.



In 2002, the Corps completed the Aliso Creek Watershed Management Study to examine management measures that could address the various watershed problems identified a “spin-off” feasibility study. The management study selected the measures that best meet the federal and local need. The Aliso Creek Mainstem Ecosystem Restoration Study was one of the recommended “spin-off” feasibility studies resulting from the management study.

In September 2004, a Federal Cost Sharing Agreement was executed that outlined a partnership between the Corps and the County of Orange to conduct a threeyear study, the Aliso Creek Mainstem Ecosystem Restoration Feasibility Study. The “spin-off” feasibility study outside of that conducted in the watershed management study is required to support a recommendation for Congress to authorize a Federal Project for implementation.

In 2010, the Corps completed the Baseline Without Project Conditions Report (F3 Report). The F3 Report included a review of existing and future without project conditions, definition of study objectives, and development of a preliminary array of ecosystem restoration alternatives.

The F4 Alternative Analysis Report is due to begin in winter 2013/14.

## Summary

The specific goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications (stream bank stabilization structures and appurtenant features for ecosystem restoration) to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem along the creek and tributaries to conditions found prior to initiation of the recent instability problem.

Various alternative ecosystem restoration alternatives will be analyzed in order to generate sufficient information to make a determination of which alternative generates the most cost-effective means to the greatest benefit to the ecosystem. An incremental analysis of alternatives will be conducted, and all plan selection criteria discussed. Detailed costs estimates will be generated. Constructability and implementation issues will be resolved. Any potential economic benefits of each alternative will be quantified and included as benefits of the various alternatives.

The feasibility study is intended to produce an implementation document for authorization by Congress. This study can also serve as an aid to local, state, and federal agencies involved in management and regulatory decisions that can impact the watershed. The feasibility phase will build on the efforts of the prior reconnaissance and watershed management (feasibility phase) studies, which

utilized both existing data, and also generated a model of existing and future “without-project” conditions.

The County is currently working with the Corps to integrate the Study into the new Corps Smart Planning Process and is submitting a Letter of Intent indicating support for allowing accelerated funding so that the project can move forward.

Federal Assistance would:

- Allow the local sponsor and Corps to update the cost share agreement; and
- Expedite study completion resulting in Chief’s Report in FY 15/16.