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December 16, 2008

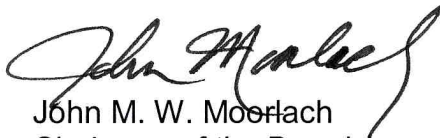
Dear Friends:

On behalf of the Orange County Board of Supervisors, I am sending you a copy of the "County of Orange Legislative Platform for 2009," adopted on November 25, 2008, and December 16, 2008. 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 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 year. My colleagues and I look forward to working with many of you in the coming months.

If you or your staff have any questions regarding the attached Platform, please contact Bruce Matthias, CEO/Legislative Affairs Director, at (714) 834-7010.

Very truly yours,



John M. W. Moorlach
Chairman of the Board

Enclosure

cc: Members, Board of Supervisors
Members, Orange County State and Federal Legislative Delegation
City Managers, Orange County Cities
Thomas G. Mauk, County Executive Officer
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COUNTY OF ORANGE LEGISLATIVE PLATFORM FOR 2009

Adopted by the Board of Supervisors
November 25, 2008 and
December 16, 2008

John M.W. Moorlach
Chairman of the Board
Supervisor, Second District

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Supervisor, First District

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Supervisor, Third District

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**COUNTY OF ORANGE
LEGISLATIVE PLATFORM
FOR 2009**

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COUNTY OF ORANGE

2009 State and Federal
Outlooks

COUNTY OF ORANGE
2009 STATE AND FEDERAL OUTLOOKS

STATE LEGISLATIVE OUTLOOK, 1ST SESSION

Overview

Along with the rest of the nation, California's economy has taken a significant dip in recent months. Unemployment and mortgage defaults are rising while the costs of gas, food, and healthcare continue to rise. This situation not only places a significant burden on Californians but it hits our state's budget hard. More families may be forced to rely on public assistance, putting increased pressure on a shrinking tax base. The hardest hit will be county governments since they provide the majority of social and health services for California. The Democratic leadership is already advocating in support of an additional Federal Stimulus Package to focus on State Aid to help boost the state's economy by focusing on energizing states' economies and creating jobs.

After four years in office, the Governor still prioritizes two critical issues of reform - budget and redistricting and for the first time in four years, it appears that members of the legislature, on both sides of the political aisle, finally agree that there needs to be change in both of these critical areas. In 2005 the negotiations with the legislature broke down and the Governor attempted to go straight to the voters with four ballot measures mandating his proposed reforms for a variety of policy areas of concern. All four measures failed and the Governor has not attempted any of the reform measures independently since that time.

The four new legislative leaders (Assembly Speaker Karen Bass, Assembly Republican Leader Mike Villines, Senate President Pro Tempore Steinberg, and Senate Republican Leader David Cogdill) share the consensus that there is a systemic budget problem that needs to be addressed. While this puts the budget process before the Legislature as a priority, there is no bipartisan agreement on a reform package.

The November election will bring 41 new members to Sacramento; the Democrats have picked up two seats in the Assembly and (as of this writing) at least one seat in the Senate. The challenge for Orange County and other local government agencies in the upcoming legislative session will be to educate the new members of the Legislature on the services the county provides and the severe impact on services to the most vulnerable that will result from further cuts to the counties. More specifically, our state outlook for 2009 includes a summary of budget reform proposals, prison reform (AB 900 implementation), K-14 Education, Economic Stimulus, and Greenhouse Gas Issues (Implementation of AB 32 and SB 375).

Budget

Budget negotiations continue to be essentially a fight among three forces: Republicans, who continue to argue that there will always be a way to close the budget deficit without raising taxes; Democrats, who continue to try to increase revenues to and reject program cuts; and the Governor, who wants to reform the budget process and avoid borrowing.

After an 85-day stalemate, the legislature passed a budget with no tax increases, no borrowing from local governments, over \$10 billion in additional cuts (including Redevelopment Agencies) and \$5 billion in increased revenues from creative tax schemes like suspending business tax credits and eliminating tax amnesties among others. The Legislative Analyst reminded the legislature that expenditures still exceed revenues.

The turmoil of the financial markets will continue to have a dramatic impact on the state revenues. With sales, personal income and corporate tax receipts down, since passing the budget on September 15th, the Governor continues to discuss the state's fiscal crisis with current legislative leaders. As home sales continue their slump and unemployment rises – California is experiencing its highest unemployment rates since 1996 – the budget and cash crisis will continue to grow. The Governor has reconvened a Special Session to consider additional mid-year reductions for November 5th. The state leaders continue to be seriously concerned about the state's short-term cash needs.

Once again, the County of Orange will need to position itself to make certain that monies the County is currently relying on are not shifted to the State to cover the state's fiscal crisis. Despite the perceived protections under Proposition 1A, it was made clear during the 2008 budget negotiations that "borrowing" local government revenues will remain an option for balancing the state budget in future years. In addition to protecting our existing revenues from the state, the county will need to join a state-wide local government effort to educate the Legislature with regard to the mortgage crisis' affect on our local revenues. With the first installment of reduced property tax bills due on December 10th, 2008, the county should expect to see local government-sponsored legislative proposals next year regarding these issues.

The California state budget process is dysfunctional because of the complex rules California has in budgeting. It is difficult to craft a \$100 billion budget for a state with 36 million people during economically stressed times. Combine the current economic stresses with a set of rules that give lawmakers few options, limited legislative experience due to term limits and no real accountability, and California has not only a budget stalemate, but an annual budget crisis.

Budget Reform Proposals

A variety of factors contribute to the dysfunctional budget process every year. Based on the public comments by both Democratic and Republican Leadership and the Governor's statement in September 2008 that he might push for a 2009 special election to deal with some structural reforms, we believe that there will be a number of legislative proposals introduced over the two-year session that will attempt to address the following:

Supermajority requirement: California is one of three states that require a two-thirds vote of the legislature for passage of the budget. This constitutional requirement forces a bipartisan solution to all budgets, and that has become increasingly difficult to craft. The Speaker of the Assembly has formally announced her position to push for change to this requirement next year.

Timeline: The Governor announces his budget proposal in January. The legislators are hard-pressed to review the multitude of programs, hear the concerns of various interest groups and produce a consensus for a budget in time for the July 1 fiscal year.

Proposition 13: The property-tax-limiting measure was passed by voters in 1978 who were losing their homes to skyrocketing property taxes. Proposition 13 has slightly slowed the rate of growth in local property taxes and the measure allows commercial property owners to avoid a reassessment when the property changes ownership under certain conditions.

Ballot-box Budgeting: Over the years, California voters have approved spending mandates without identifying a source of funding through the state-wide ballot initiative process; as an example, Proposition 98 controls education funding. Now nearly 90 percent of the state budget includes restricted funding.

Polarized Legislature: Since lawmakers are allowed to draw districts for themselves that are safe for both parties, many of them play to the extreme – such as the Republicans who are digging in against a tax increase or the Democrats who won't budge on various cuts.

Term Limits: Lawmakers are limited to 3 terms in the Assembly and 2 terms in the Senate. This has reduced the level of experience among the Legislators and has placed extra influence in the hands of Legislative staff and the lobbyists, two groups where longevity and experience are not cut short.

Open Primary: Even though the open primary is traditionally perceived as a positive mechanism for increasing voter participation, critics of the open primary believe that it leaves the party nominations vulnerable to manipulation and dilution.

Two budget reform measures that were part of the 2008-09 budget bill must be approved by the voters at a special election on a yet-to-be-determined date in 2009.

SCA 30, which was passed subsequent to SCA 13, directs the Secretary of State to modify SCA 13 to include a provision limiting the Legislature's ability to remove funds from the Budget Stabilization Fund. They rename the current Budget Stabilization Account in Proposition 58 the Budget Stabilization Fund (BSF) and increase the maximum size of the Fund from the current five percent of General Fund revenues to 12.5 percent. In the future, the State must contribute three percent of General Fund revenues to the Fund every year until the Fund has reached 12.5 percent of anticipated revenues.

Prison Reform (AB 900 Implementation)

The corrections trailer bill, which was not included in the final budget package, contained language to address technical fixes to remove the uncertainty over the feasibility of the bond sale to support construction of jail beds, reentry facilities, and state infill beds. According to the Attorney General, statutory modifications are necessary to permit him to render a "clean" bond opinion, a step required before the Public Works Board can go to market with the bonds. Given the state of the credit markets, the timing of the bond sale continues to be unknown. In addition to the concerns over the feasibility of bond sales, in 2008 the Department of Corrections struggled to negotiate terms and conditions with Orange and other urban counties, for construction of reentry facilities within the county boundaries. One of the major issues of concern that remains unresolved includes the level of local involvement in the facility operations. As a result, several counties including Orange and Los Angeles removed their applications for the first phase of funding in October 2008. The County can expect that the Legislature and the Department of Corrections will continue to attempt to resolve these issues during the upcoming Legislative Session. The outcome of these negotiations will have a direct impact on jail construction funding for Orange County in future years.

K-14 Education

This year schools received \$41.9 billion from the General Fund via the minimum Proposition 98 guarantee. Total Proposition 98 funding for K-14 education programs increased year over year by \$1.5 billion. As a result of a steady decline in birth rates throughout the 1990s, attendance in public schools is declining. For 2007-08, K-12 average daily attendance (ADA) is estimated to be 5,947,000, a decrease of 6,400 from the 2006-07 fiscal years. For 2008-09, K-12 ADA will decrease by an additional 31,000 to 5,916,000. As the state's fiscal crisis has been mounting in recent weeks, legislative leaders have publicly noted the possibility of making significant cuts to K-12 schools, perhaps even suspending the Proposition 98 guarantee.

Economic Stimulus

There will be a great deal of discussion next year about economic stimulus legislation which will likely take many forms. The federal government's stimulus bill passed in October 2008 includes funds to be disbursed by the state and local governments to

assist with home foreclosures. The legislature will likely introduce legislation to implement and build off of the federal program. Additionally, the Governor and Legislature will continue to build on the public works programs begun with the passage of \$42 billion in General Obligation bonds in 1996 by proposing additional bonds for schools, roads, and environmental technology and mitigation. Lastly, historically Republicans have supported tax incentives as a means to promote economic development and job creation and we will likely see the introduction of such measures.

Greenhouse Gas Issues – Implementation of AB 32 and SB 375

The Governor signed SB 375 (Chaptered. 728, 2008) which provides the land use and transportation component of greenhouse gas regulation as partial implementation of the California Global Warming Solutions Act of 2006. Next year will be a very active year for the California Air Resources Board (CARB) in this area. The ARB recently released its AB 32 Scoping Plan that will be formally adopted by January 1, 2009. During the coming year, the ARB will be using the plan as its road map to start regulating business and government. As a result of the passage of SB 375, the CARB will form the Regional Targets Advisory Committee which will meet throughout 2009 to determine to whom and where greenhouse gas emission reduction targets will be applied. Participation and vigilance in this initial stage of land use regulation will be vital to urban counties such as Orange.

**COUNTY OF ORANGE
2009 STATE AND FEDERAL OUTLOOKS**

FEDERAL LEGISLATIVE OUTLOOK, 111TH CONGRESS

Overview

The election of Barack Obama as President and a widened Democratic majority in Congress sets the stage for one party control of Washington once again in 2009, but this time not under the Republican Party, but rather under the Democrats for the first time since 1994. The underlying economic crisis, which contributed to the Democratic victory, will be the focal point of congressional activity in the new Congress.

Either one large, or several smaller, economic stimulus packages will be proposed during 2009. In addition, the Democrats will try, once again, to bring some sort of order to the appropriations process, which has continued to be broken for the better part of this decade. The annual Federal budget deficit will explode as a result of the recession, the financial meltdown in the last quarter of 2008, and The Government's response to these events. However, even fiscal conservatives admit that this issue will have to take a backseat until current economic conditions improve.

The international situation will focus on the Democrats desire to wind down the war in Iraq as quickly as possible, while focusing on a deteriorating situation in Afghanistan.

National Issues

Congress' first order of business in 2009 will be to finalize the FY 2009 appropriations process left unfinished by the election campaign and the inability of Congress and the Bush Administration to find common ground on priorities for the fiscal year which began on October 1, 2008. The budget for Fiscal Year 2010, ordinarily expected to be delivered to Congress at the beginning of February, will be delayed a month or six weeks to allow the new Administration to include its budget priorities in the document.

Secondly, the leadership of Congress—Speaker Nancy Pelosi (D-San Francisco) and Senate Majority Leader Harry Reid (D-NV)—is committed to moving an economic stimulus bill. It is expected that stimulus legislation will include a large amount of public works project financing, in addition to some of the Obama tax policies advocated during the campaign. How, and when, the stimulus will be developed, assembled and debated remains up in the air. It is possible that a series of smaller, targeted bills will be developed throughout 2009, as opposed to one large measure at the start of the new Congress. Such a series of measures could include a timely reauthorization of transportation programs, which expire on September 30, 2009 (rather than the usual dawdling schedule which results in a bill a year or two after expiration of the old program.) The same could be in store for a new Water Resources Development Act (WRDA), which is optimally enacted every other year. In addition, many public works

proponents are advocating beefed up appropriations for programs and projects already authorized, but unfunded. There is a tremendous backlog of such unfunded public works.

The economic crisis and response to it will result in an explosion of the annual budget deficit, as well as the National Debt, which surpassed \$10 trillion in 2008, double what it was when George Bush became President. The FY 2009 budget deficit could be in the \$700 billion to \$1 trillion range—two or three times larger than ever before. Nonetheless, even conservative tax watchdog groups have said that now is not the time for government to cut back on spending for the financial system rescue and economic pump-priming public works programs.

Orange County Issues

Funding for Orange County projects and priorities will come in several different formats in the new Congress. The finalization of the FY 08 appropriations bills, mentioned above, will be accompanied—perhaps nearly simultaneously—with a new economic stimulus package. Congressional Democrats have signaled a desire to focus the stimulus legislation on public works projects capable of creating jobs in short order. This means construction jobs on projects having already completed their environmental clearances, rather than new public works authorizations. Given the large backlog of water and transportation projects, a new stimulus bill (or a series of smaller, targeted bills) could help the County on projects which have been underfunded heretofore or have been waiting to receive initial Federal funding. The third round of funding opportunities will come when the new Administration submits its FY 2010 budget to Congress in March.

The economic recession, which the congressional leadership believes could last into 2010, also gives impetus to moving faster rather than slower on reauthorization bills and other stimulus-related legislation. The current transportation (“TEA”) law expires on September 30. Over the past several cycles, it has been a year or two after the expiration before a new bill is enacted. In 2009, the drive may be there to reauthorize in a timely fashion. Likewise with the Water Resources Development Act (WRDA), which is supposed to be passed every other year, but waited seven years for enactment between 2000 and 2007. If the 2007 WRDA benefits from a stimulus bill reducing the backlog of Corps of Engineers and Bureau of Reclamation projects awaiting funding, then a authorization of water projects could be forthcoming in the 111th Congress. County priority projects could be included in both transportation and water measures.

Among other issues the County will also be following in 2009 will be reform of the Federal flood insurance program and its potential impact of reestablishing flood insurance requirements for large portions of Orange County. The Federal Aviation Administration’s reauthorization also did not make it entirely through the legislative process in 2008 and will need to be reintroduced.

The temporary moratoria on new Medicaid (Medi-Cal) rules, passed as part of the Iraq war supplemental appropriations in 2008, will expire in May 2009 and need to be revisited. In addition, the Ryan White AIDS authorization passed in 2006 was a three-year bill, rather than the usual five year one. Orange County benefitted from the formula adopted last time and will need to be alert to preserve that funding advantage in the next bill. The National Children's Study and Orange County's position as one of seven national vanguard sites will continue to seek full funding for this program to keep it underway at the optimum program level that has been established over the past three years.

The Orange County Congressional delegation will continue to hold their present committee assignments. Representative Loretta Sanchez, number two in seniority on the Homeland Security Committee, will continue as chair of the subcommittee with jurisdiction over ports. She will maintain a senior position on the House Armed Services Committee, as well. Congressman Ken Calvert will rise in seniority on the House Appropriations Committee, and its Energy and Water Subcommittee, despite the loss of Republican seats in the House, and this will help in funding efforts for the Santa Ana River and other County water projects. Representative Gary Miller retains his position on the Transportation and Infrastructure Committee, which will be of benefit in both the transportation and WRDA authorization processes likely to move forward in the 111th Congress. He is also a member of the Financial Services Committee which has jurisdiction over the flood insurance program.

Senator Barbara Boxer, as chair of the Environment and Public Works Committee, will have jurisdiction over both WRDA and the highway portion of the TEA reauthorization, making her one the most influential Members of Congress on these bills. Senator Dianne Feinstein maintains her position as one of the Appropriations Committee's "cardinals" in the Senate with her chairmanship of the Interior Appropriations Subcommittee, as well as being a member of the Energy and Water Development Subcommittee.



COUNTY OF ORANGE

2009 Legislative Priorities and Policy Statements

COUNTY OF ORANGE
2009 LEGISLATIVE PRIORITIES AND POLICY STATEMENTS

The County of Orange recognizes the need to 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.

LEGISLATIVE PRIORITIES

1. **LOCAL GOVERNMENT FUNDING**
In the event local revenue is jeopardized or reallocated, the State must provide alternative funding sources to local governments. For example, Orange County would be opposed to the State borrowing from local governments using Proposition 1A.

2. **FISCAL EQUITY**
Establish an equitable, dependable and predictable revenue stream with distribution formulas for local revenues that address equity with other counties, and that any formula be based on one or more of the following factors:
 - Per capita
 - Caseload
 - Situs (dedicated taxes)
 - Realignment Equity
 - Cost of Living in High Cost Counties
 - Other Objective Measures of Need

3. **COST RECOVERY**
Local governments shall receive full cost reimbursement for all federal and/or state mandated programs. Unfunded or under-funded mandates are a burden which local government cannot afford.

4. **DETERMINE STATE FUNDING FOR COURT OPERATIONS AND FACILITIES**

POLICY STATEMENTS

1. Increasing taxes is an inappropriate means of balancing the State's budget.

2. The establishment of equitable, dependable, and predictable revenue streams with distribution formulas for local revenues that address equity are necessary for the stability of services provided to 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 to counties.
3. The shifting of tax revenues from the County to the State or other local entities harms Orange County's ability to serve its residents.
4. Counties must be given the authority, flexibility, and adequate funding to administer programs and service client needs within their local jurisdictions (no unfunded mandates). As examples, In-Home Supportive Services should be fully funded by the State and Federal governments to lessen the financial burden on local governments; and funding for property tax administration should be reinstated.
5. Realignment proposals must only include programs where counties have control over costs and program operations.
6. Federal maintenance of effort requirements as well as federal penalties and sanctions must remain the responsibility of the State and not passed on to local governments.
7. Homeland security and emergency response efforts shall be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each.
8. The State and/or federal government shall provide full cost recovery for counties and cities for all mandates. State/or federally funded programs (such as Santa Ana River Project, State Child Health Insurance program (S-CHIP), medical research, housing, law enforcement, older adults and workforce investment, etc.) require adequate and continuous funding.
9. 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 Mainstem Project (including Prado Dam), Santa Ana River Interceptor Line (SARI) relocation, Upper Newport Bay Ecosystem Restoration, Aliso Creek Mainstem Project, Orange County Beach Erosion Control Project, and other projects as may be appropriate.
10. Orange County will support measures that protect the public against disease and disability and promote health.

11. Funding for alternatives to incarceration that are cost effective and do not endanger the general public shall be pursued.
12. Housing:
 - a. Adequate housing is necessary for economic stability. Parity should be sought between the number of jobs and the availability of housing. The Regional Housing Needs Assessment (RHNA) should identify realistically the housing elements needed to achieve fair distribution of housing requirements and should provide for the transfer of housing allocations when annexation or incorporation occur. RHNA should never be used to punitively impact the funding of local government.
 - b. Support removal or minimization of barriers to housing production, including fiscal reform for local government to address disincentives for residential development.
 - c. Support the efforts of County water agencies to insure that an adequate water supply exists for potential development in unincorporated areas and the incorporated cities of Orange County.
13. Water Resources:
 - a. State – promote coordinated effort between state, County and regional agencies to allow for increased local control for project implementation.
 - b. Federal – 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.
 - c. Local, State and Federal – support state and federal grants for Clean Water Act and Porter-Cologne Act and collaborate on watershed management strategies.
14. Promote business retention (through insurance, healthcare, and workers' compensation reform) and consider incentives to attract new business.
15. Protect local decision-making and accountability for County Proposition 10 Commissions when statewide financial reporting and fiscal practices are established.
16. El Toro – The local land use decision made regarding MCAS, El Toro and its reuse should be upheld. The County of Orange is opposed to any attempt to change the land use and to the creation of a regional airport authority to place an airport at MCAS, El Toro.

17. Support policies that maximize local control over solid waste management and solid waste facilities, and minimize burdensome and duplicative regulation by the state.
18. Implementation of the reauthorized Voting Rights Act should reexamine multilingual ballot requirements to ease unfunded mandates on counties. The regulations should have specific and reasonable fluency thresholds.
19. Support a public safety system that includes local law enforcement services, crime prevention, prosecution of crime, confinement of high-risk and juvenile offenders, and supervision of adults and juveniles placed on court ordered formal probation.
20. Support measures that enhance the quality, affordability, capacity, accessibility, and safety of child care and development programs.
21. Support Completion of the 241 Tollroad, as it affects all transportation decisions as well as Air Quality Management Districts (AQMD) measurements for the County.
22. Support advocacy to persuade the State Controller's office in finalizing Proposition 1B implementation guidelines to allow flexibility for the County to share its funding allocation with cities.
23. Support changes to allow for the continued maintenance of flood control facilities within the boundaries of streambeds with existing maintenance permits that have established a maintenance baseline condition without the imposition of new environmental mitigation measures.
24. Support legislation that educates, promotes incentives, and provides information to the residents, builders, and businesses of Orange County regarding the adoption, use, and economic benefits of green technology and eco-friendly products.



COUNTY OF ORANGE

2009 County-Sponsored State Legislative Proposals

COUNTY OF ORANGE
2009 COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

State Proposals – New

BALLOT ARGUMENTS

This proposal seeks to eliminate the phrase “authorized by the Board” so that a member or members of the Board could submit a ballot argument on a County measure without seeking and obtaining the authorization of the Board. This appears to be an uncontroversial ‘fix’ to current law that eliminates the appearance of a conflict with an elected official’s first amendment rights to free speech. Staff anticipates that this will become a part of a committee sponsored bill that will include a variety of minor fixes to the law.

CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

This proposal would be a clean-up bill that does three things: a) Amends Family Code Section 4506 back in to the provisions of Code of Civil Procedure Section 674 that only the last four digits of any person’s SSN can be listed on documents presented for recording. b) Amends various Health & Safety Code Sections to specify that only the last four digits of any Social Security number can be listed on birth and death certificates. c) Amends Civil Code Section 1798.89 to make it clear that recorders have the authority to reject documents as presented if they contain full Social Security numbers. This action is necessary as part of the state’s ongoing efforts to combat identity theft and as a cost-savings to counties.

EXEMPT CITIES, COUNTIES AND PUBLIC AGENCIES IN THE STATE OF CALIFORNIA FROM HABITAT MITIGATION PROJECT FINANCIAL ASSURANCE REQUIREMENTS

The proposal would amend the California Fish and Game Code by adding language to Section 2081(b)(4), to exempt a city, county or public agency with the authority to levy and collect taxes and fees, from the requirement to demonstrate adequate funding to implement compensatory habitat mitigation projects, therefore, relieving public agencies from this requirement that results in unnecessary fiscal impacts. Without action, the cost of future public works construction projects will continue to rise and may double the actual cost of the mitigation because the required financial assurance amount for each project can be as high as the actual cost of the mitigation project itself. As a result, funding may not be available for other essential public works projects.

REDUCING UNFUNDED PENSION LIABILITIES

The County of Orange presents this proposal as a way to address our state and local government's severe budget crisis. A balanced approach to restoring long-term fiscal responsibility must include limiting the cost of government employee pensions which have grown dramatically in recent years.

Current law allows retirement systems to pay a cost of living increase when the consumer price index increases. This proposal would apply to pension systems, or at a minimum all systems governed under the County Employees Retirement Law of 1937, and would require a system to suspend paying out annual cost-of-living adjustment (COLA) increases until the system is at least 80 percent funded. For example, a system's funded ratio (of actuarially accrued assets to actuarially accrued liabilities) must be equal to or greater than 80 percent in order to pay out a COLA.

This proposal seeks to reduce unfunded pension liabilities by encouraging pension systems to reach and maintain a minimum threshold (80 percent) of funding to fully fund the system's liabilities. Pension obligations are a substantial cost to government entities and provide a valuable benefit to employees, yet many pension funding ratios have decreased, or are decreasing. Strengthening the financial health of a system by trending the funded ratio upward is important for fiscal integrity, long-term stability, and viability of the system.

ETHICS TRAINING FOR ADVISORY BOARDS, COMMITTEES AND COMMISSIONS

Current law requires ethics training for local agency officials in subjects of public meetings, public records, ethics, and contracting procedures.

This proposal, submitted by the Clerk of the Board, would clarify existing law to make it clear, which members of advisory boards, committees, and commissions who receive only parking and/or mileage within the jurisdiction for participation at the meeting and are not subject to Conflict of Interest filing requirements do not have to undergo training.

AB 1234 of 2005 required that members of advisory boards, committees, and commissions who receive compensation, stipends or reimbursement of expenses must attend training on topics such as public meeting law and ethics. Several purely advisory boards, commissions, and committees do not provide compensation or reimbursement of travel expenses to their members, but may provide de minimus reimbursement for parking and/or any required mileage within the jurisdiction for participation at their meetings.

UTILIZATION OF SPECIAL ASSESSMENT APPEALS BOARD PANELS FILED BY CERTAIN INDIVIDUALS

Pursuant to Revenue and Taxation Code Sections 1622.6 and 1612.7, when Assessment Appeals Board Members or Clerk of the Board staff file an assessment appeal on behalf of themselves or their immediate family members, it must be heard by a special Alternate Assessment Appeals Board that is appointed by an order of the Presiding Judge of the Superior Court in the county in which the appeal has been filed.

This proposal would amend the current Revenue and Taxation Code by adding language to section 1622.6 and adding section 1622.7 to expand the list of individuals that are required to utilize a special assessment appeals panel. The list would include Assessor deputies and staff, and County Counsel, who regularly appear before their local Assessment Appeals Board. It would also allow for the Clerk to utilize qualified assessment appeals board members from surrounding counties, rather than obtaining an order from the Presiding Judge of the Superior Court.

IN-HOME SUPPORT SERVICES

The Board of Supervisors, at the December 16, 2008, Board meeting, approved the addition of the following statement to the 2009 Legislative Platform:

Current economic conditions combined with very difficult State budget deficits are creating the need for deep budget cuts in many County of Orange departments. This situation applies to the County's Social Services Agency and the In-Home Support Services (IHSS) program. The Board of Supervisors directs County staff to work with County advocates at the State and Federal levels to effect changes in regulations and/or law to enable the County to operate the IHSS program in a more efficient and cost-effective manner.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY COUNSEL

CONTACT PERSON: Ben de Mayo Phone: 714-834-3303

Fax: 714-834-2359 email address: ben.demayo@coco.ocgov.com

SUBJECT: **BALLOT ARGUMENTS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):
Board of Supervisors; Registrar of Voters

CODE SECTION AFFECTED:
Amend Elections Code 9162

DESCRIPTION OF CURRENT LAW:

This section currently authorizes the Board of Supervisors or any member or members of the Board authorized by the Board to submit a ballot argument in favor or against any County ballot measure.

PROPOSAL:

Eliminate the phrase "authorized by the Board" so that a member or members of the Board could submit a ballot argument on a County measure without seeking and obtaining the authorization of the Board.

DISCUSSION:

This proposal would provide discretion to individual Board members to submit ballot arguments on County measures without the requirement that they acquire permission from the Board.

FISCAL IMPACT:

None

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)
Amend Elections Code 9162 to read:

The board of supervisors or any member or members of the board ~~authorized by the board~~, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of these voters and associations may file a written argument for or against any county measure. No argument shall exceed 300 words in length. The county elections official shall cause an argument for and an argument against the measure, and the analysis of the measure, to be printed, and shall enclose a copy of both arguments preceded by the analysis with each sample ballot. The printed arguments and the analysis are "official matter within the meaning of Section 13303.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the county elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any argument.

Approved as to form:
Orange County Counsel

by Ben de Mayo

POTENTIAL OPPOSITION/SUPPORT:

RECENT LEGISLATIVE ACTION ON THIS ISSUE: (Has this idea been proposed before?
None

PERSONS RESPONSIBLE FOR TESTIMONY

Members of the Board of Supervisors; County Counsel

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: ORANGE COUNTY CLERK-RECORDER

CONTACT PERSON: Jean Pasco Phone: (714) 834-2083

Fax: (714) 834-2675 email address: jean.pasco@rec.ocgov.com

SUBJECT: CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

AFFECTED DEPARTMENT(S)/AGENCY(IES):
Clerk-Recorder Department, Department of Child Support Services

CODE SECTION AFFECTED:
Amend Family Code Section 4506; Health & Safety Code Sections 102200, 102230, 102425, and 102360; Civil Code Section 1798.89.

DESCRIPTION OF CURRENT LAW:
Current law requires the presenters of documents to be recorded across the state to list only the last four digits of any person's Social Security Number on the document, as of Jan. 1, 2008. This is a result of a County sponsored bill (SB 644), which was signed into law by Gov. Schwarzenegger in August 2007 and AB 1168, which required that local agencies redact social security numbers from records before disclosure to the public, which was signed into law in October 2007

There remains an exemption in the law for abstracts of judgment filed by the Department of Child Support Services. It has been the contention of the general counsel of the state Department of Child Support Services that federal law requires the full Social Security number to be listed. That opinion has been challenged by Orange County child-support officials; clarification on the federal government's position is being sought.

Confusion has arisen since SB 644 went into effect because of requirements in other sections of California law that call for Social Security numbers to be listed on death and birth certificates.

Finally, the intent of past legislation (AB 1168 added Section 1798.89 of the Civil Code) was to give recorders the authority to reject documents containing full Social Security numbers. The final wording states that documents with full Social Security numbers

cannot be presented for recording. This leaves open the interpretation that recorders don't have the authority to reject the documents.

PROPOSAL:

This bill would be a clean-up bill to SB 644 and AB 1168 and would accomplish three things:

a) Amend Family Code Section 4506 back in to the provisions of Code of Civil Procedure Section 674 that only the last four digits of any person's SSN can be listed on documents presented for recording.

b) Amend various Health & Safety Code Sections to specify that only the last four digits of any Social Security number can be listed on birth and death certificates.

c) Amend Civil Code Section 1798.89 to make it clear that recorders have the authority to reject documents as presented if they contain full Social Security numbers.

DISCUSSION:

This action is necessary as part of the state's ongoing efforts to combat identity theft and as a cost-savings to counties. As of Jan. 1, 2009, California counties are required to create "public" copies of any document that contains a Social Security Number. (By 2017, counties must redact all documents with SSNs recorded going back to Jan. 1, 1980.) The "public copy" must redact the first five digits of the SSN, and only that copy can be provided for public view or copying.

Without an effort to clean up the remaining issues from the implementation of SB 644 and AB 1168, counties will have to go through the expense of creating separate "public" copies of all abstracts submitted for recording to redact full SSNs.

Child support abstracts represent thousands of recordings each month. The Orange County Department of Child Support Services believes the last four digits of any SSN are adequate for listing on abstracts and has been working with their state and federal counterparts to confirm that view. The Clerk-Recorder Department has been working with the Orange County Department of Child Support Services to obtain the appropriate ruling from federal authorities that the last four digits of any SSN are adequate for listing on child support abstracts of judgment. The department still would have access to a parent's full SSN.

The issue with death (and potentially birth) certificates in particular has arisen as counties have begun working with the new laws regarding protecting Social Security numbers. The state Office of Vital Records death certificate form, for example, still includes a spot for full Social Security numbers. Clean-up language is needed to assure consistent interpretation across the state.

Finally, the law needs to be unambiguous that recorders have the authority to reject documents that contain full Social Security numbers. This protects recorders, protects

the public from potential identity theft, protects the presenter from potential legal issues for violating the law and ultimately saves the cost of having to create “public” copies for documents with full Social Security numbers beginning Jan. 1, 2009.

FISCAL IMPACT:
Unknown.

PROPOSED SPECIFIC LANGUAGE:

1) Family Code Section 4506 shall be amended to read:

4506. (a) An abstract of a judgment ordering a party to pay spousal, child, or family support to the other party shall be certified by the clerk of the court where the judgment was entered and shall contain all of the following:

(6) The **last four digits of the** social security number, birth date, and driver's license number of the party who is ordered to pay support. If any of those numbers are not known to the party to whom support payments are to be paid, that fact shall be indicated on the abstract of the court judgment.

2) Health & Safety Code Section 102200 shall be amended to read:

102200. The State Registrar shall prescribe and furnish all record forms for use in carrying out the purposes of this part, or shall prescribe the format, quality, and content of forms electronically produced in each county, and no record forms or formats other than those prescribed shall be used. **To prevent fraud, birth and death certificate forms shall be formatted to allow inclusion of only the last four digits of any social security number.**

3) Health & Safety Code Section 102230 shall be amended to read:

102230. (a) (1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain comprehensive and continuous indices of all certificates registered.

...

(3) For purposes of this section, noncomprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, **last four digits of the** social security number, date of birth, place of birth, date of death, and father's last name.

4) Health & Safety Code Section 102425 would be amended to read:

102425. (a) The certificate of live birth for any live birth occurring on or after January 1, 1980, shall contain those items necessary to establish the fact of the birth and shall contain only the following information:

...

(15) On and after January 1, 1995, the **last four digits of** the social security numbers of the mother and father, unless subdivision (b) of Section 102150 applies.

5) Health & Safety Code Section 102360 shall be amended to read:

102360. The local registrar of births and deaths shall furnish to the registrar of voters or county clerk not later than the 15th day of each month a notification of all deceased persons 18 years of age and over whose deaths were registered with him or her or of whose deaths he or she was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, **last four digits of the** social security number, sex, age, birthplace, birthdate, place of residence, and date and place of death for each decedent. Copies of this notification list shall be sent at the same time to the county welfare department and the local district social security office.

6) Civil Code Section 1798.89 shall be amended to read:

1798.89. Unless otherwise required to do so by state or federal law, ~~law, no person, entity, or government agency shall present for recording or filing with a county recorder a document that is required by any provision of law to be open to the public if that record displays more than the last four digits of a social security number~~ **the county recorder shall reject for recording any document that has more than the last four digits of the social security number.**

Approved as to form:
Orange County Counsel

by Karen Prather
deputy

POTENTIAL OPPOSITION/SUPPORT:

Family Code Section 4506 originally was included in our efforts with SB 644. However, the code sections pertaining to child support abstracts of judgment were removed from the bill mid-stream after the General Counsel of the state Department of Child Support Services opined that federal law required the full Social Security Number to be listed. The Clerk-Recorder Department has been working with Orange County Department of

Child Support Services since then to obtain a ruling from the federal government that listing the last four digits of any SSN is adequate to comply with federal law. Department of Child Support Services believes the full SSN is not necessary for the purposes of recording the abstracts, since the affected parent's full SSN is available internally to child support officials.

As with SB 644, there may be opposition from private investigators who want to have full Social Security numbers available. There may be some opposition to the amendments to Civil Code Section 1798.89 by title companies worried about the need to record some documents quickly without a potential delay from the county recorder rejecting their document if it inadvertently lists a full social security number. The Orange County Clerk-Recorder Department has a good working relationship with the title companies and their association and would expect to work with the association to alleviate their concerns.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:
SB 644 and AB 1168 (chaptered August 2007)

PERSONS RESPONSIBLE FOR TESTIMONY:

Tom Daly Orange County Clerk-Recorder

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: OC WASTE & RECYCLING AND OC PUBLIC
WORKS

CONTACT PERSONS: John Arnau, OC Waste & Recycling
Nadeem Majaj, OCPW/OC Engineering

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**SUBJECT: EXEMPT CITIES, COUNTIES AND PUBLIC AGENCIES IN THE STATE
OF CALIFORNIA FROM HABITAT MITIGATION PROJECT FINANCIAL
ASSURANCE REQUIREMENTS**

AFFECTED DEPARTMENT(S)/AGENCY (IES):
OC Waste & Recycling and OC Public Works

CODE SECTION AFFECTED:
Amend California Fish & Game Code Section 2081(b) (4)

DESCRIPTION OF CURRENT LAW:

Projects that will substantially modify a river, stream or lake in the State of California require a California Fish and Game Code Section 1602 Streambed Alteration Agreement. For projects that result in the direct or indirect taking of a State-endangered plant or animal species, the project applicant must obtain a California Fish and Game Code Section 2081 Permit.

For projects with impacts to endangered species or habitat, or those with significant mitigation, as deemed by the California Department of Fish and Game (CDFG), applicants must demonstrate the ability to provide adequate funding for proposed compensatory biological mitigation, preferably in the form of a letter of credit, to ensure that compensatory biological mitigation sites will be maintained, monitored, protected and preserved, in perpetuity. The applicant must create a separate fund for each project. Although the requirement to provide adequate funding is specified in the California Fish and Game Code, the specific means by which it can be demonstrated is not.

PROPOSAL:

The proposal would amend the California Fish and Game Code by adding language to Section 2081(b)(4), to exempt a city, county or public agency with the authority to levy and collect taxes and fees, from the requirement to demonstrate adequate funding to implement compensatory habitat mitigation projects.

DISCUSSION:

All public agencies in California know that they will be required to mitigate the impacts of their major public works projects and that this may involve improvement or replacement of habitat. Not all public agencies will realize that there are significant short term costs to this process and that the CDFG believes that the local agencies need to support the mitigation forever once it has been initiated. This position has been incorporated in agreements imposed as part of the permitting processes related to public works projects and associated mitigation.

In order to construct or maintain public infrastructure that contains wetlands/riparian resources, a project proponent, including public agencies, must obtain approvals from the CDFG, among other regulatory agencies. To obtain these approvals, the project proponent must prepare a mitigation plan that will fully compensate for the lost habitat and potentially demonstrate that adequate funding exists for the implementation of the mitigation plan. The purpose of the financial assurance is to ensure that, should the project proponent default on its obligation to fully implement the mitigation, sufficient funds exist so that the CDFG can use the funds to carry out the remainder of the mitigation obligation. However, the financial assurance requirements for public agencies are unnecessary because CDFG already has the authority under existing law to issue substantial fines or even seek criminal penalties from public agencies which are remiss in fully carrying out all compensatory mitigation requirements for habitat projects.

The CDFG interprets the financial assurance clause of the Fish and Game Code and has begun to require funds in escrow for a limited term and an endowment in perpetuity. The escrow term is typically five years for the successful mitigation establishment period, after which the funds revert to the applicant. However, this process can take much longer than five years, due to environmental conditions that may cause poor mitigation site performance.

The second part of financial assurance is the requirement for an endowment in perpetuity to guarantee that the mitigation site will be maintained forever. The endowment can potentially be millions of dollars for each project, and the funds will never be returned.

FISCAL IMPACT:

This proposal would relieve public agencies from an existing requirement that results in unnecessary fiscal impacts. If existing law and associated policy is not changed, OC Public Works has estimated that as much as \$54 million may be required for future road and flood control projects, just to demonstrate financial assurance. OC Waste & Recycling has estimated that as much as \$6.9 million may be required for future OC Waste & Recycling projects to demonstrate financial assurance. Without action, the cost for implementing future public works construction projects will continue to rise and may become twice the actual cost of the mitigation; this is because the required financial assurance amount for each project can be as high as the actual cost of the mitigation project itself. As a result, funding may not be available for other essential public works projects.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

California Fish and Game Code, Section 2081(b) (4):

“(4) The applicant shall ensure adequate funding to implement the measures required by paragraph (2), and for monitoring compliance with, and effectiveness of, those measures. **This requirement shall not apply to an applicant that is a city, county or public agency with the authority to levy and collect taxes and fees.**”

Approved as to form:
Orange County Counsel

By Roger Freeman
Deputy

POTENTIAL OPPOSITION/SUPPORT:

This is an issue that affects all counties in the State of California that are responsible for the development, operation and maintenance of flood control facilities and all cities and counties that have State endangered, threatened or listed plant or animal species within areas planned for future development. For these reasons, the California State Association of Counties (CSAC) and the California League of Cities (League) will likely support this proposal.

Likely opponents may be those entities who believe that there is little difference between private developers and public agencies, since both construct infrastructure. Opponents who feel that some public agencies, acting in their own interest, cannot be relied upon to adequately implement compensatory habitat mitigation projects in perpetuity (as mitigation for development of native lands) will likely want the existing policies for demonstrating the ability to provide adequate funding to remain in place for

public agencies, or even to have these policies expanded; CDFG may be one of those opponents, but their position is unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

PERSONS RESPONSIBLE FOR TESTIMONY:

John Arnau	OC Waste & Recycling
Nadeem Majaj	OCPW/OC Engineering

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: BOARD OF SUPERVISORS – 2ND DISTRICT

CONTACT PERSON: Supervisor John Moorlach or April Rudge

Phone: (714) 834-7663

Fax: (714) 834-6109

email address: april.rudge@ocgov.com

SUBJECT: REDUCING UNFUNDED PENSION LIABILITIES

AFFECTED DEPARTMENT(S)/AGENCY(IES):
Orange County Employees Retirement System

CODE SECTION AFFECTED:

Government Code Article 16.5 Cost of Living Adjustment (Sections 31870 through 31874.6); Government Code Article 16.6 Retrospective Cost-of-Living Adjustment (Sections 31875 through 31879.2)

DESCRIPTION OF CURRENT LAW:

Retirement systems pay cost of living increases when the consumer price index increases.

PROPOSAL:

To apply to pension systems, or at a minimum all systems governed under the County Employees Retirement Law of 1937. Require a system to suspend paying out annual cost-of-living adjustment (COLA) increases until the system is at least 80 percent funded. For example, a system's funded ratio (of actuarially accrued assets to actuarially accrued liabilities) must be equal to or greater than 80 percent in order to pay out a COLA.

DISCUSSION:

This proposal seeks to reduce unfunded pension liabilities by encouraging pension systems to reach and maintain a minimum threshold (80 percent) of funding to fully fund the system's liabilities. Pension obligations are a substantial cost to government entities and provide a valuable benefit to employees, yet many pension funding ratios have decreased, or are decreasing. Strengthening the financial health of a system by

trending the funded ratio upward is important for fiscal integrity, long-term stability, and viability of the system.

FISCAL IMPACT:

Reduce unfunded pension liabilities.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Would add section 31870.5 to Government Code:

Section 31870.5. No payment of increase in allowance attributable to increase in cost of living unless value of system's assets is greater than eighty (80) percent of system's liabilities.

- (a) **Notwithstanding any other provision of law, no increase in a retirement allowance, optional death allowance, or annual death allowance that is attributable to an increase in the cost of living shall be paid by a retirement system governed by this Chapter to or on account of any member of the system or a superseded system, who retires or dies or who has retired or died, unless the actuarial valuation made pursuant to Section 31453 that immediately preceded the date when such an increase otherwise would have become payable determined that the value of the retirement system's assets was equal to or greater than eighty (80) percent of the retirement system's liabilities.**
- (b) **An increase in a retirement allowance, optional death allowance, or annual death allowance for which payment is suspended pursuant to subsection (a) of this section shall become payable upon an actuarial valuation made pursuant to Section 31453 that determines that the value of the retirement system's assets is equal to or greater than eighty (80) percent of the retirement system's liabilities.**

Would Amend section 31875:

Section 31875 Adjustments in accordance with past cost of living changes; ordinance; applicable law

Any county may provide by ordinance that the principles set forth in Article 16.5 (commencing with section 31870), as a basis for adjustment of retirement allowances in accordance with future cost-of-living changes, shall be applied for the purposes of adjusting allowances in accordance with past cost-of-living changes, **provided that no increase in retirement allowance, optional death allowance or annual death allowance that is attributable to a past increase in the cost of living shall become**

payable until an actuarial valuation made pursuant to Section 31453 determines that the value of the retirement system's assets is equal to or greater than eighty (80) percent of the retirement system's liabilities.

Approved as to form:
Orange County Counsel

by Barbara Stocker
Deputy

POTENTIAL OPPOSITION/SUPPORT:

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

PERSONS RESPONSIBLE FOR TESTIMONY:

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: CLERK OF THE BOARD/COUNTY COUNSEL

CONTACT PERSON: Darlene Bloom Phone: 714-834-6616

Fax: 714-834-4439 email address: Darlene.bloom.hoa.ocgov.com

SUBJECT: **ETHICS TRAINING FOR ADVISORY BOARDS, COMMITTEES AND COMMISSIONS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):
all

CODE SECTION AFFECTED:
Amends Government Codes 53234, 53235

DESCRIPTION OF CURRENT LAW:

Current law requires ethics training for local agency officials in subjects of public meetings, public records, ethics and contracting procedures.

PROPOSAL:

This legislation would clarify existing law to make clear that members of advisory boards, committees and commissions who receive only parking and/or mileage within the jurisdiction for participation at the meeting, do not travel outside the jurisdiction, and are not subject to Conflict of Interest filing requirements do not have to undergo training.

DISCUSSION:

AB 1234 of 2005 required that members of advisory boards, committees and commissions who receive compensation, salary, stipends or reimbursement of expenses must attend training on topics such as public meeting law and ethics. Several purely advisory boards, commissions, committees do not provide compensation or reimbursement of travel expenses to their members, but may provide de minimus reimbursement for parking and/or any required mileage within the jurisdiction for participation at their meetings. Members of such advisory boards, commissions and committees are still required to comply with AB 1234 and undergo ongoing ethics training.

FISCAL IMPACT:
Slight positive impact.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

**Proposed Amendments to Government Code Sections re: Ethics Training
(AB 1234, Chapter 700 of the Statutes of 2005)**

Government Code Section 53234 is amended to read:

53234. For the purposes of this article, the following terms have the following meanings:

(a) "Legislative body" has the same meaning as specified in Section 54952.

(b) "Local agency" means a city, county, city and county, charter city, charter county, charter city and county, or special district.

(c) "Local agency official" means the following:

(1)~~(A)~~ Any member of a local agency legislative body or any elected local agency official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of official duties, excluding officials described in paragraph (2).

~~(2)~~ **(B)** Any employee designated by a local agency governing body to receive the training specified under this article.

(2) "Local agency official" does not include a member of a local agency legislative body that serves a solely advisory function and has no decisionmaking authority if all of the following criteria are met:

(A) The individual is not required to file a statement of economic interests pursuant to Title 9 (commencing with Section 81000) due to his or her membership on the legislative body;

(B) The individual receives no compensation, salary or stipend from the legislative body;

(C) The individual only receives reimbursement for parking expenses and/or mileage relating to travel within the jurisdiction of the legislative body for the purpose of participating in a meeting of the legislative body of which he or she is a member; and

(D) The individual does not otherwise travel for the legislative body at local agency expense, whether inside or outside of the jurisdiction.

(d) "Ethics laws" include, but are not limited to, the following:

(1) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.

(2) Laws relating to claiming perquisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

(3) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.

(4) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

Government Code Section 53235 is amended to read:

(a) If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials, **as defined in this article**, shall receive training in ethics pursuant to this article.

(b) Each local agency official shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years.

(c) If any entity develops curricula to satisfy the requirements of this section, then the Fair Political Practices Commission and the Attorney General shall be consulted regarding the sufficiency and accuracy of any proposed course content. When reviewing any proposed course content the Fair Political Practices Commission and the Attorney General shall not preclude an entity from also including local ethics policies in the curricula.

(d) A local agency or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this section. These courses may be taken at home, in-person, or online.

(e) All providers of training courses to meet the requirements of this article shall provide participants with proof of participation to meet the requirements of Section 53235.2.

(f) A local agency shall provide information on training available to meet the requirements of this article to its local officials at least once annually.

Approved as to form:
Orange County Counsel

by Ann Fletcher
Deputy

POTENTIAL OPPOSITION/SUPPORT:

This proposal has been drafted in cooperation with County Counsel. The California Association of Clerks and Elections Officials supports this proposal.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

No. This proposed legislative amendment is for the purpose of clean-up to identify those advisory Boards, Commissions and Committees that merely receive a de minimus compensation for parking or travel within their jurisdiction that are exempt from the Ethics Training requirements of AB 1234.

PERSONS RESPONSIBLE FOR TESTIMONY:

Darlene J. Bloom Clerk of the Board

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: CLERK OF THE BOARD/COUNTY COUNSEL

CONTACT PERSON: Darlene Bloom Phone: 714-834-2206

Fax: 714-834-4439 email address: darlene.bloom@ocgov.com

**SUBJECT: UTILIZATION OF SPECIAL ASSESSMENT APPEALS BOARD PANELS
FILED BY CERTAIN INDIVIDUALS**

AFFECTED DEPARTMENT(S)/AGENCY(IES):
Assessor, County Counsel

CODE SECTION AFFECTED:
Amends Revenue and Taxation Code section 1622.6 and adds Revenue and Taxation Code section 1622.7.

DESCRIPTION OF CURRENT LAW:

Pursuant to Revenue and Taxation Code Sections 1622.6 and 1612.7, when Assessment Appeals Board Members or Clerk of the Board staff file an assessment appeal on behalf of themselves or their immediate family members, it must be heard by a special Alternate Assessment Appeals Board that is appointed by an order of the Presiding Judge of the Superior Court in the county in which the appeal has been filed.

PROPOSAL:

The current proposal would amend the current Revenue and Taxation Code by adding language to section 1622.6 and adding section 1622.7 to expand the list of individuals that are required to utilize a special assessment appeals panel. The list would include Assessor deputies and staff, and County Counsel, who regularly appear before their local Assessment Appeals Board. It would also allow for the Clerk to utilize qualified assessment appeals board members from surrounding counties, rather than obtaining an order from the Presiding Judge of the Superior Court.

DISCUSSION:

The current law requires the use of a special Assessment Appeals Board for assessment appeal applications filed by members of the Assessment Appeals Board or staff. If amended as proposed, the Revenue and Taxation Code would expand the use of alternate boards where assessment appeals have been filed individually by Assessor or County Counsel that regularly appear before the Assessment Appeals Board. The amendment will help to avoid any possible appearance of conflict or impropriety in the appeals process.

The new statutory language will also provide the Clerk of the Board with the discretion of utilizing an existing, trained assessment appeals board panel from a neighboring county, in addition to the use of a special panel appointed by the Superior Court that is already authorized by the Revenue and Taxation Code. At one time there was a residency clause for the special panel appointed by the Presiding Judge; however, that was removed several years ago. Therefore, the change in to the proposed language will allow for Clerks of the Board to utilize assessment appeals board member panels from neighboring counties, who are already qualified and trained professionals without having to go to Superior Court, when possible.

FISCAL IMPACT:

Improves and streamlines process to ensure finalization of appeal within the statutory 2-year limit.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Revenue and Taxation Code, Section 1622.6: Hearing on application by counsel to member or member's application for reduced assessment

An application for equalization filed pursuant to Section 1603 **or 1605** by a member or alternate member of an assessment appeals board, **or counsel who regularly advises the assessment appeals board**, or an application in which that member **or counsel** represents his or her spouse, parent, or child, shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed **or, in the discretion of the Clerk of the Board, by an alternate board consisting of three special alternate assessment appeal board members who are qualified and in good standing from another county in California.**

A member, or alternate member of, **or counsel to**, an assessment appeals board shall notify the clerk immediately upon filing an application on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal matter. A special alternate assessment appeals board member may hear only

the application or applications for equalization set forth in the superior court order appointing the member. **For special alternate assessment appeals boards that consist entirely of assessment appeal board members from another county in California, those members may hear only the applications designated by the Clerk of the Board or Clerk of the Assessment Appeals Board.**

Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in Section 1624.

Sections 1624.1 and 1624.2 shall be applicable to the appointment of a special assessment appeals board member.

Revenue and Taxation Code, Section 1622.7: Application by assessor

An application for equalization filed pursuant to Section 1603 or 1605 by a deputy assessor who regularly appears before the assessment appeals board, or counsel who regularly represents the Assessor before the assessment appeals board, or an application in which that deputy assessor or counsel represents his or her spouse, parent, or child, shall be heard in accordance with the provisions set forth in Section 1622.6. The deputy assessor or the applicant counsel to assessor shall notify the clerk immediately upon filing an application on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal matter.

Approved as to form:
Orange County Counsel

by Paula A. Whaley
Deputy

POTENTIAL OPPOSITION/SUPPORT:

This proposal has been submitted to the State Assessors Association and to the State County Counsels Association for review, as well as OC Assessor and County Counsel. We have received no opposition to this proposal. It is anticipated that the California Association of Clerks and Election Officials will sponsor/support this proposal.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

NA

PERSONS RESPONSIBLE FOR TESTIMONY:

Darlene J. Bloom

Clerk of the Board

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2009-2010 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Bruce Matthias Phone: 714-834-7010

Fax: 714-834-7650 email address: bruce.matthias @ocgov.com

SUBJECT: IN-HOME SUPPORT SERVICES

In-Home Support Services is an entitlement program administered by the Social Services Agency (SSA) of the County of Orange that provides assistance to low income elderly and disabled to enable them to continue to live in their own home as an alternative to institutional care. This program is based upon the assumption that it is more compassionate and cost-effective to care for the elderly and disabled in a home setting rather than through institutionalization.

For FY 2008-09 the payments from the County of Orange to providers under IHSS are budgeted at \$29.9 million; the actual payments to providers from the County for FY 2007-08 were \$28.3 million. The cost sharing ratio of total provider payments is allocated as follows: 50 percent from federal agencies, 32.5 percent from the State of California, and 17.5 percent from the County of Orange. Since this is an entitlement program, the costs for provider payments cannot be easily controlled or limited. Although the hourly wage paid to providers is negotiated locally, the number of hours paid is controlled by state regulation.

A fixed amount is allocated by the state for the cost of administration and oversight of this program. This allocation is also funded by federal, state, and county sources, at the same sharing ratios as provider payments.

CEO/Legislative Affairs Comments

The troubled state of the economy and the current budget problems with the State of California are resulting in substantial revenue cuts to many programs administered by the County of Orange. The IHSS caseload continues to grow rapidly, leading to increasing provider and administrative costs. In addition, the administrative allocation provided by the state lags far behind the increasing cost of doing business. At the same time, the major source of the funding for the county share, the realignment fund, has decreased, creating a significant funding gap.

It is desirable for the County to find means of managing the growing caseloads and reduced revenues so that the IHSS program can continue to operate in an effective and efficient manner during this period of financial uncertainty.

Financial eligibility for IHSS is determined by the eligibility standards for Medi-Cal. There are opportunities for increased local control over how funds are expended if the State and/or federal laws and regulations can be changed or relaxed.

Recommendation

It is recommended that the Board of Supervisors add the following language to the 2009 Legislative Platform:

Current economic conditions combined with very difficult State budget deficits are creating the need for deep budget cuts in many County of Orange departments. This situation applies to the County's Social Services Agency and the In-Home Support Services (IHSS) program. The Board of Supervisors directs County staff to work with County advocates at the State and Federal levels to effect changes in regulations and/or law to enable the County to operate the IHSS program in a more efficient and cost-effective manner.

State Proposals – Continuing

INDEXING THE LEVINE ACT

The intent of this proposal is to index the campaign contribution limit of \$250 established by the Levine Act in 1982. If adopted into law, this would raise the annual contribution limit for appointed officials to approximately \$583, based upon indexing from the base year of 1983. The County of Orange has pursued this legislative concept for several years without success. There have been no Legislators willing to take up sponsorship of this idea in recent years, so no bill has been put into print. County staff and Sacramento advocates will continue to monitor the Orange County delegation and the legislative environment to determine how best to advance this idea.

REDEVELOPMENT TAX INCREMENT REVENUES

In the past the County has pursued legislation to redirect the share of property tax increment revenues that redevelopment diverts from education to the County of Orange. These efforts have not met with success. During the last budget impasse the County of Orange put forth a proposal to the Governor that diverted a portion of redevelopment tax increment back to the State to be used to support the Proposition 98 mandated funding of education. This effort was successful and over \$300 million was directed to education. It is recommended that County staff and the Sacramento advocates continue to pursue this concept as part of the budget negotiations for the current fiscal year as well as for next year's budget.

AB 900 FUNDING

In 2008 the Sheriff pursued funding for additional beds at an existing jail facility in the County of Orange to be used as a reentry facility for prisoners returning to Orange County. The application was successful and Orange County was granted \$100 million. The Sheriff ultimately elected to decline the award due to concerns over local control over the operation and use of the anticipated reentry facility. Recent events have created a likelihood of revisiting this funding opportunity and it is recommended that County staff and Sacramento advocates pursue legislative and regulatory options to obtain funding for a reentry facility in Orange County provided that all concerns regarding local control over the use, operation and future of the facility are adequately addressed.



COUNTY OF ORANGE

2009 County-Sponsored Federal Legislative Proposals

COUNTY OF ORANGE
2009 COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

New/Continuing

ELIMINATE ALTERNATIVE MINIMUM TAX ON AIRPORT PRIVATE ACTIVITY BONDS

The County of Orange is currently implementing the John Wayne Airport Improvement Program which includes construction of a new 250,000 plus square foot terminal building, 2,000 plus space parking structure, central plant, and enhancements to the existing terminals. The Airport Improvement Program financing plan includes the issuance of over \$300 million in bond debt. Under current law, the Airport's bonds will be subject to the Alternative Minimum Tax (AMT) and add approximately \$100 million in additional interest costs over the life of the repayment period.

While generally considered tax-exempt, interest paid to investors on Private Activity Bonds is subject to the AMT. This results in investors demanding an interest rate premium. Historically, the cost of the AMT "penalty" has added 10 to 30 basis points to the cost of a long-term borrowing. As more taxpayers have fallen under the AMT classification, investor interest in AMT bonds has decreased dramatically and airports are encountering penalties as high as 150 basis points when compared to other types of non-AMT issuers like toll roads, hospitals and housing projects. It is recommended that County staff and Washington D.C. advocates pursue the exemption of private activity bonds for airport purposes from the AMT.

PURCHASE OF LOS PINOS CONSERVATION CAMP SITE FROM U.S. FOREST SERVICE

This proposal would allow for the purchase of the 47-acre Los Pinos Conservation Camp site (located in the Cleveland National Forest) from the U.S. Forest Service by amending Public Law 109-54, Section 502 (2) to include local juvenile detention facility. This would then make the site eligible to be conveyed by the Secretary of Agriculture.

The Los Pinos Conservation Camp (Los Pinos) is operated by the Orange County Probation Department. It is a 156-bed juvenile institution situated at 3,100 feet in elevation among pine and oak trees within the Trabuco Ranger District in the Cleveland National Forest. Boys and girls ages 16 and older are considered for the vocational program and academic education offered at Los Pinos, which is designed for Juvenile Court commitments of three months to one year.

The Los Pinos site has been leased from the U.S. Forest Service through consecutive Special Use Permits and extensions since 1970, when it was first established by the

Orange County Board of Supervisors. The site is on a former Job Corps site, which was also leased from the federal government.

Update and Approach: On July 29, 2008, the Orange County Board of Supervisors approved the new, 20-year Special Use Permit with the U.S.D.A. Forest Service, effective August 1, 2008 through July 31, 2028. The County will commence with an appraisal of Los Pinos for the purpose of establishing a fair market value purchase price after the Environmental Impact Report and Development Plan for a nearby, large scale residential development has been completed and approved by the appropriate regulatory authorities, as the project may involve land swaps with the Forest Service and the possible shared use of the Los Pinos wastewater treatment facility. Since the appraisal is likely to be complex and expensive, it would be best to wait until the specific purchase area is finalized. If the wastewater treatment facility is to be upgraded and shared by multiple users, it may need to be maintained by a local sanitation district, in which case the County would seek to limit its acquisition to the 32-acre main camp area of Los Pinos.

Recommended Action: Continue to pursue an amendment to Public Law 109-54, Section 502 (2) to include a juvenile detention facility.



COUNTY OF ORANGE

2010 County-Sponsored
Federal Appropriations Requests

COUNTY OF ORANGE
2010 COUNTY-SPONSORED FEDERAL APPROPRIATIONS REQUESTS
EXECUTIVE SUMMARY

The following is a summary on each of the County's requests for 2010. With the exception of the last project description, all are continuing projects from last year's Platform. While the County is hopeful that all projects can be funded in the upcoming year, the realities of the current economic climate, limited fiscal resources and the task of prioritizing projects by the federal government make it likely that less than half of the projects will receive federal funding.

The County's individual water projects may be funded through an infrastructure stimulus package currently being considered by the Congress. The County will work with its Congressional Delegation to include its appropriations requests or any funding shortfalls, if applicable, to be incorporated as a part of any federal stimulus package. In addition, if this package includes funding possibilities beyond water projects, we will pursue these funds for County projects.

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.

UPPER NEWPORT BAY ECOSYSTEM RESTORATION

The project was authorized in WRDA 2000 with a construction contract awarded on September 26, 2005. Federal funds are needed to complete construction. The authorized project entails dredging access channels and two sediment basins; removal of an island in Basin I and reconstruction of the island adjacent to Basin II; restoring side channels around New, Middle and Shellmaker Islands; and, restoring wetland habitat near Northstar Beach. Approximately 2.3 million cubic yards of material will be dredged, of which 2 million cubic yards will be placed at the LA-3 ocean disposal site.

ALISO CREEK, ORANGE COUNTY, CA (SECTION 5158)

The proposed project, also called Aliso Creek S.U.P.E.R. Project, incorporates and expands upon the Aliso Creek Mainstem Project (this will be submitted as a separate appropriations project) to restore damage to Aliso Creek, stabilize its bank, and protect adjacent utilities. As part of the stabilization effort, exotic vegetation will be removed and native riparian vegetation restored. The low profile grade control structures will also

restore fish passage. At various portions of the creek, banks will be modified to create stable flood plain areas. One or more water quality treatment plants will be built to achieve Clean Water Act standards.

WESTMINSTER, EAST GARDEN GROVE, CA

The study is focusing on watershed management, flood control, ecosystem restoration, water quality, and water supply solutions for the Westminster-East Garden Grove Watershed. Fifty percent of the study costs are provided by the County of Orange, the local sponsor. The study, initiated in 2003, was intended to be completed in three years, however, insufficient funding has significantly impacted progress.

SAN JUAN CREEK, SOUTH ORANGE COUNTY, CA

A watershed study for the project is required by the Corps of Engineers for implementing capital projects. Fifty percent of the study costs are provided by the County of Orange, the local sponsor. The entire study cost is estimated at \$3.2 million. Following the study's completion, engineering plans and design for implementation can begin. While the House appropriated \$750,000 for FY2009 the Senate has failed to act. Insufficient funds over recent years have slowed progress significantly. The Orange County Flood Control District is advancing necessary construction to fortify structurally deficient levees in anticipation of receiving local-share credit in the future.

SERRANO-BORREGO CORRIDOR FEASIBILITY STUDY

This study will analyze the feasibility of specific implementation projects on the Serrano and Borrego Creeks that address water quality, excessive erosion, flood damage reduction, wildlife corridor linkages, and stream restoration. These creeks are upstream of Newport Bay and the Upper Newport Bay Ecological Reserve, the subject of an extensive ecosystem restoration project by the Corps.

COMPREHENSIVE CONDITION SURVEY OF BREAKWATER – DANA POINT

The breakwater requires a periodic comprehensive condition survey. To complete this project it is necessary to secure Federal funding of \$500,000 in FY 2010 (100 percent federal cost). The expense is programmatic and consistent with the United States Army Corp of Engineers requirements.

ORANGE COUNTY ARCHIVES EXPANSION AND RELOCATION

This project will relocate and expand the size of the Orange County Archives from 3,500 to 10,000 square-feet. The proposed new facility will house the Orange County Archives (Archives) and History Center and allow the Archives to increase its collections, research room and processing area, as well as display exhibits and a permanent showcase for the county's rich history.