

TO: Members, County of Santa Barbara Legislative Committee

FROM: Cliff Berg, Legislative Advocate
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RE: 2017 April Update

DATE: April 26, 2017

The legislature reconvened from the Legislative Spring Recess on April 17th and is now processing hundreds of bills through policy committees, while hearing the state budget in the budget sub-committees in both houses, as the Department of Finance and the Administration gets ready to issue the May Revise. April 28th is the deadline for fiscal bills that were introduced in their house of origin this year to be out of their policy committees and move on to Appropriations. The deadline for non-fiscal bills is May 12th.

On March 29th, Governor Jerry Brown, along with Senate and Assembly Leadership and the transportation coalition, announced the “Road Repair and Accountability Act of 2017” which was amended into SB 1 (Beall/Frazier). The transportation package was a merge of the Assembly, Senate and the Governor’s plan that will result in \$5.2 billion per year in new revenues that allocates \$3 billion per year to fix-it-first road and highway maintenance projects, split evenly between state and local governments. Counties’ share of this funding would be continuously appropriated, allocated by formula, and distributed to counties on a monthly basis. The Governor, Senate and Assembly Leadership then held multiple press conferences and rallies with the labor, business and transportation coalitions to call on the Legislature to pass the SB 1 in order to push SB 1 through both houses.

On the evening of April 6th, the Legislature passed SB 1 (Beall/Frazier) with the Senate approving the funding bill by a 27-11 vote with only one Republican, Senator Anthony Cannella (R- Merced) voting for the bill, and one Senate Democrat, Senator Steve Glazer voting against it. On the Assembly side, the Legislators approved the bill with a 54-26 vote with only one Democrat, Assemblymember Rudy Salas (D-Bakersfield) voting no. We spoke with the County’s Legislators and their staff prior to the vote to let them know that the County was in support of the transportation funding. As we assumed, Assemblymember Limon (D) and Senator Jackson (D) voted in support for the bill, while Assemblymember Cunningham (R) voted against it.

SB 1 (Beall/Frazier) is currently enrolled but the Governor is waiting to sign the legislation until all of the side deals that were made in order to pass SB 1 are confirmed, including SB 496 (Cannella) which would protect architects, engineers and other design professional against legal claims made by public agencies, ACA 5 (Frazier), a constitutional measure to protect transportation revenues, and multiple other district bills for a some Democrats that are in more conservative areas.

The County's new Assemblymember Monique Limon (D-Santa Barbara) has introduced the County's sponsored legislation, AB 556, which is set to be heard in Assembly Local Government on May 10th. The County and Governmental Advocates have been working with the Author's office and have agreed on amendments that would benefit the County and fix any concerns that dealt in the Governor's message of previous legislation. The bill allows counties to impose larger administrative fines for professionally organized special events that are held on private property and are commercial in nature, or result in threat to public health and safety.

As you know, the current law sets the maximum fine for a violation of Land Use and Development codes at \$100 for the first violation, \$200 for a second, and \$500 for a third violation within the same year. AB 556 (Limon) will provide counties with the authority to impose fines for one-time violations of an event permit requirement, including a maximum of \$1,000 for the first one-time violation, a maximum of \$2,000 for a second occurrence of the same one-time violation by the same owner or operators within five years, and a maximum of \$5,000 for each additional occurrence of the same one-time violation by the same owner or operator within five years.

Assemblymember Limon's office has also reached out to our office for County support of AB 1472 (Limon), legislation sponsored by the State Controller's Office, which details in statute what the California State Lands Commission (SLC) may take into consideration when reviewing an application to assign, transfer or sublet a lease or permit of state lands for oil and gas production. We have set up a conference call with the County and the Author's office to discuss possible amendments to the legislation that would add a local history of noncompliance with government statutes or regulations, which would better fit in within the County's platform.

Our office has reviewed all of the introduced legislation, and has specified which bills could be of possible interest to the County and is currently working with staff to see which bills to take to the legislative committee for positions.

Transportation

Caltrans, the state's Transportation Department, maintains 50,000 lane-miles of highway and nearly 13,000 state-owned bridges. While the repair, maintenance and efficient operation of the state's highway system are vital to the state's continued economic growth, current funding fails to adequately fund this necessary work.

SB 1 (Beall) and AB 1 (Frazier) were merged with the Governor's plan to form SB 1 (Beall/Frazier) and resulted with a 5.2 billion transportation plan which passed both houses of the Legislature and is awaiting the Governor's signature.

SB 1 (Beall/Frazier) Funding Purposes and Allocations

The package allocates \$5 billion per year in funding at full implementation

- \$1.5 billion for the SHOPP to maintain state highways and freeways
- \$1.5 billion directly allocated to cities and counties equally for local streets and roads
- \$750 million for transit operations and capital

- \$685 million in General fund loan repayments by June 2020, split approximately evenly between state highways, local roads, and transit.
- \$400 million for bridge repair and maintenance allocated to Caltrans
- \$300 million for goods movement/freight projects
- \$200 million in local partnership funding for the 24 self-help counties (CTC guidelines will be developed to allocate funding)
- \$250 million for the new “Solutions for Congested Corridors” program (a competitive program to funding project nominated by regional transportation planning agencies or county transportation commissions)
- \$100 million for the Active Transportation grant program for bike and pedestrian facilities (counties are eligible applicants for these grants)
- \$25 million for Freeway Service Patrol
- \$25 million for local planning grants for local and regional agencies to implement state goals related to regional transportation planning, including SB 375
- \$7 million for UC and CSU Transportation Research
- Repayment of \$706 million in outstanding General Fund Transportation loans from prior to Proposition 22:
- \$550 million split evenly between the state and local governments
- \$236 million for transit

Revenue Sources Timeline for Phasing In

- New gasoline fuel excise tax of 12 cents/gallon beginning **November 2017**
- End Board of Equalization Price-Based gas tax adjustment and reset rate to 17.3 cents in **July 2019**
- New diesel fuel excise tax of 20 cents/gallon beginning **November 2017**
- Diesel sales tax increase of 4% starting **November 2017**
- Transportation Improvement Fee: \$25-175 per vehicle starting in **spring 2018**:
 - \$25/year for cars valued less than \$5,000 (46% of all cars)
 - \$50/year for cars valued between \$5,000 and \$25,000 (41% of all cars)
 - \$100/year for cars valued between \$25,000 and \$35,000 (7% of all cars)
 - \$150/year for cars valued between \$35,000 and \$60,000 (5% of all cars)
 - \$175/year for cars valued over \$60,000 (1% of all cars)
- Zero emission vehicle (ZEV) fee of \$100/year, starting in **2020**

Local Road Maintenance and Rehabilitation Funding

- Road Maintenance and Rehabilitation Account Funding will be allocated to state highways and local road projects by formula.
- \$3 billion/year will be split evenly between the state and local governments, with cities and counties evenly sharing the local funding.
- Eligible projects for local Road Maintenance and Rehabilitation funding include, but are not limited to, the following:
- Road maintenance and rehabilitation
- Safety projects
- Railroad grade separations

- Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project
- Traffic control devices
- Funds may also be used to satisfy a match requirement in order to obtain state or federal funds for allowable project.
- Cities and counties with average pavement condition index scores exceeding 80 could use funding for transportation priorities other than those listed above.

Discontinuing of the County IHSS MOE

In January, the Governor's state budget stated that it will return Collective Bargaining to Counties and will reestablish the state-county share of cost arrangement for the IHSS program that existed prior to the implementation of the Coordinated Care Initiative. Through this version, counties will be responsible for the payment of 35% of the nonfederal portion of program costs through 1991 Realignment. Based on current estimates, growth in 2017-18 realignment revenues alone will not be sufficient to cover the additional IHSS costs. As a result, according to the Governor's proposed 2017-2018 State Budget plan, this change is likely to result in financial hardship and cash flow problems for counties. The Administration and Department of Finance has been having ongoing discussions and possible negotiations on lessening the impact of returning the full share of the fiscal responsibility for IHSS to counties.

CSAC and a multitude of other county representatives have stated their opposition to the dismantling of the county In Home Supportive Services (IHSS) Maintenance of Effort (MOE) cost sharing arrangement and the dissolution of the Statewide IHSS Authority to all 58 counties. This issue has become one of the heaviest issues for Counties to oppose due to the massive cost shift and negative impacts to the counties.

On March 8th, the Assembly Budget Subcommittee No. 1 on Health and Human Services discussed the unwinding of the Coordinated Care Initiative and the In-Home Supportive Services (IHSS) Maintenance of Effort (MOE). After delaying the vote for three weeks after the March 8th hearing, the Assembly Budget Subcommittee No. 1 is scheduled for a vote-only hearing on March 29th on the Assembly's proposal which would add in the \$623 million in IHSS costs and create a special fund to provide supplemental funding to counties to mitigate the gap between the cost shift and 1991 Realignment revenues until Realignment revenues exceed the new level of MOE costs.

The Assembly's proposal is not a loan and does intend to hold counties harmless from the cost shift by setting up a revolving account at the state level, but it does not address the potential loss of growth from realignment sales taxes for health and mental health. CSAC supported the plan on March 29th with the intent to set an approach to address the cost shift, although they are still not in supporting the \$623 million shift from the state to the county and are working with the Administration to lower that number. Meanwhile, Senate Leadership is still staying on the sidelines of the issue, and currently siding with the Governor's plan without creating their own proposal.

As said before, there have been ongoing discussions with CSAC, the Administration and the Department of Finance, and although the revenues in April are higher than January's, it seems that the Governor is still looking to address IHSS MOE in the May Revision with returning a part of the cost back to the Counties no matter how high the revenues are. The Administration has given their commitment to bring down the \$623 million in IHSS cost to the counties, as long as there is no litigation from any counties. CSAC has been clear that the negotiations with the Administration are the best option to get the number down from \$623 million in cost, although that number is still unknown.

The Santa Barbara County has stated its opposition to the Governor's budget proposal of the discontinuing of the IHSS Maintenance of Effort (MOE). We will continue to oppose Governor's budget proposal and advocate for a change in the Governor's May Revision.

Budget

The Governor released his 2017-18 budget in January, which proposed \$122 billion in state General Fund expenditures, and an overall \$179 billion budget for the 2017-18 fiscal year. The Governor's budget assumes that there are no Federal changes. The Legislature has begun the process of hearing the budget through the sub-committees.

Highlights include:

Rainy Day Fund: With a \$1.15 billion deposit in the budget, the Rainy Day Fund will total \$7.9 billion by the end of 2017-18. While a full Rainy Day Fund might not eliminate the need for further spending reductions in case of a recession or major federal policy changes, placing money in the Rainy Day Fund will allow the state to soften the possibility of necessary cuts.

Transportation - The budget reflects the Governor's transportation package which was first proposed in September 2015, which would provide \$4.2 billion annually to improve the maintenance of highways, local roads, and expand public transit.

Cap and Trade - The state has appropriated \$3.4 billion in cap-and-trade auction proceeds to help reduce greenhouse gas emissions, with funding prioritized in disadvantaged communities. The Administration proposes two-thirds urgency legislation to confirm the program's continued authority beyond 2020. Assuming approval, the budget proposes \$2.2 billion in expenditures from auction proceeds, with a continued emphasis on low-income and disadvantaged communities.

Emergency Drought Response – The proposed budget includes an overall amount of \$178.7 million in emergency drought funding for a variety of different program areas, including local assistance for small water systems, tree mortality and enhanced fire protection and funding to implement the Governor's Executive Order on water conservation.

Tree Mortality – The state specifically appropriated \$91 million for 2017-18 budget, opposed to the \$90 million from the 2016-17 budget. The state is continuing the California Disaster Assistance Act (CDAA) Funding.

Health Care Expansion - Under the optional expansion provisions of the federal Affordable Care Act, the budget increases enrollment of this Medi-Cal population to 4.1 million Californians, with the state's General Fund share of cost increasing from \$888 million to nearly \$1.6 billion.

Discontinuing of the CCI - The discontinuing of the Coordinated Care Initiative will not impact directly current benefits and services people with disabilities and seniors receive, including those from In-Home Supportive Services (IHSS), but it will discontinue the enhanced rates for health plans and will return the collective bargaining back to the Counties.

No Place Like Home

No Place Like Home divides potential bond funding into a complete pot of \$1.8 billion and a non-competitive pot of \$200 million, which counties will compete for within their own population tier with Los Angeles being in a tier of their own. The program will target three kinds of populations which are the chronically homeless, the homeless and at-risk of chronic homelessness. All target population must be adults living with a diagnosed serious mental disorder, children or adolescents with a serious emotional disturbance.

On March 23rd, HCD had its first NPLH Advisory Committee Hearing. The meeting provided an overview of the framework and a proposed timeline of the program. HCD stated that in the April of 2017, the department will start to develop draft guidelines for comment, and will try to complete those guidelines in order to start the validation process this summer. The HCD will approximately be releasing Notice of Funding Availability (NOFA) in the winter of 2018. We will keep the County informed as the implementation of the NPLH program continues.

Cannabis

The passage of Prop 64 allowed the recreational use of marijuana in California which created a number of cannabis bills as well as pending regulations by the Bureau of Marijuana Control and CalCannabis, which will shape cannabis cultivation, retail sale, manufacturing, and distribution in California.

The California Department of Food and Agriculture (CDFA) is currently developing regulations, and although the draft of regulations were expected to come out in late April, they have still not been released. The CSAC Cannabis Working Group will meet via conference call on Wednesday, May 3rd in order to discuss updates from staff on policy, regulatory issues, and the cannabis-related budget trailer bill language. Once the regulations draft is released there will be a follow-up session on the regulatory package.

In April 2017, the Governor released trailer bill legislation that creates a single regulatory structure for medical and nonmedical cannabis aligning Prop 64 and Medical Cannabis Regulation and Safety Act (MCRSA) that was passed in the legislature in 2015 which created new regulatory structure for licensing and assigned regulatory authority to the Department of Consumer Affairs, Department of Food and Ag, Department of Public Health and the BOE. The legislation generally uses Prop 64 as the foundation but includes provisions from the (MCRSA).

As previously mentioned, the California Department of Food and Agriculture (CDFA) is now developing regulations to establish cannabis cultivation licensing and a track-and-trace system, referred to as CalCannabis Cultivation Licensing. The Bureau of Marijuana Control, which is an entity within the California Department of Consumer Affairs, will license testing labs, transporters, distributors, dispensaries, and micro businesses. The Office of Manufactured Cannabis Safety which is within the CA Department of Public Health, will license manufacturers of cannabis products, such as edibles.

The State and the Federal Government are still not consistent on the marijuana policy. The Federal Administration and the U.S. Department of Justice have been open about opposing the legalization of marijuana, and have discussed that they will pursue enforcement of federal law against recreational use on states that have approved recreational use of Marijuana. This will create a conflict between Federal and State rules including issues with banking, finance, collecting taxes and the increased risk of crime.

Due to the recent passage of Prop 64 and the inconsistency between the state and federal government, California Legislators have introduced a combination of legislation on cannabis-related issues that are currently progressing through the legislative process, with CSAC taking support positions on SB 148 (Wiener) which would authorize the State Board of Equalization or a county to collect cash payments on behalf of other entities that are also due tax payments, upon agreement, and SB 175 (McGuire) which would clarify the prohibitions that include the use of similar sounding names that are likely to mislead consumers about the product's origin.

Cannabis Related Legislation

AB 64 (Bonta) contains a variety of provisions. It adds clarity about for-profit and non-profit types of businesses operating under the Medical Cannabis Regulation and Safety Act (MCRSA), and makes changes to storefront access requirements and restrictions on advertising. AB 64 also makes changes to trademark laws and certain marks related to cannabis that are lawful under state law, and advances a \$3 million loan from the state's general fund to the California Highway Patrol for adopting protocols to determine driver impairment.

Licensing and Testing

AB 171 (Lackey) requires reporting on conditional licenses issued by the state.

AB 238 (Steinorth) relates to collective bargaining agreements and employees of licensed distributors.

AB 1527 (Cooley) would prohibit a former employee of a state or local licensing authority from being employed by a person or entity licensed under AUMA or MCRSA for at least one year.

SB 311 (Pan) relates to testing, and would authorize a licensee to perform testing of cannabis or cannabis products obtained from another licensee for the purpose of quality assurance.

Packaging and Advertising

AB 175 (Chau) would require manufacturers of edible cannabis products to submit packaging and labeling to the state for review of compliance with requirements of Prop 64, including child resistant packaging and labels that do not appeal to children.

AB 350 (Salas) specifies that cannabis products are deemed to appeal to children or easily confused with commercial candy if the product is in the shape of a person, animal, insect, fruit, or any other shape associated with candy.

SB 663 (Nielsen) specifies that a package or label of cannabis or cannabis products is deemed to be attractive to children if the package or label has specific characteristics, including resembling any candy, snack food, baked good, or beverage commercially sold without marijuana.

AB 420 (Wood) requires advertisements for medical cannabis to identify the responsible licensee.

State Requirements

AB 389 (Salas) would require the state to post a consumer guide on the regulation of medical and recreational cannabis online.

AB 1002 (Cooley) would rename the existing California Marijuana Research Program as the Center for Cannabis Research and would expand the purview of the program, including cultivation for research purposes and examining testing methods for detecting harmful contaminants in marijuana, including mold and bacteria.

AB 1135 (Wood) relates to public stakeholder input on disbursements to the Department of Health Care Services from the California Marijuana Tax Fund.

AB 1627 (Cooley) transfers the regulation of testing laboratories under AUMA from the State Department of Public Health to the Bureau of Marijuana Control.

Finance and Tax Issues

AB 963 (Gipson) addresses various aspects of taxation related to cannabis. It would require distributors to provide retailers with evidence of prepayment tax amounts collected, and then allow the retailers to credit the prepayments against the amounts due for the same period. AB 963 would authorize a system for prepayment of the excise tax that utilizes stamps or other markings. It also makes changes to taxable sales of medical cannabis products to persons with identification cards, including requiring county health departments to issue identification cards with the capability of storing data, and would limit the sales and use tax exemption for medical purchasers to only sales made with these types of cards. AB 963 would adjust the suspension, revocation, or denial of state permits in some cases related to taxation. Finally, the bill would extend the pilot program for combating criminal tax evasion until January 1, 2020 – with a Cannabis Criminal Enforcement Team to work on these issues specifically.

AB 844 (Burke) would change requirements for grantees applying for funding through the California Marijuana Tax Fund.

AB 1410 (Wood) relates to taxation and would require licensed distributors to collect cultivation taxes at the time of completion of quality assurance, inspection, and testing. It would require the licensed distributor to file the tax return, instead of the licensed cultivator, and all licensed distributors would need to obtain a separate permit for that work.

Public Safety

SB 698 (Hill) sets standards for driving under the influence, and would make the first violation punishable as an infraction, requiring successful completion of a three-month program and installation of an ignition interlock device for six months.

AB 903 (Cunningham) would amend AUMA by requiring the Highway Patrol to use funding from the California Marijuana Tax Fund to study the viability of standards for marijuana impairment.

AB 729 (Gray) would require license suspension for certain types of violations. It would also require licensees to post signs visible from public entrances to indicate “No Person Under 21 Allowed,” among other security measures; AB 729 also prohibits the sale or distribution of cannabis or cannabis products in a vending machine. The bill would authorize licensees and employees to refuse to sell cannabis to a person unable to produce adequate identification, and would authorize peace officers or local and state licensing authorities the ability to enter and conduct inspections. AB 729 also contains zoning restrictions, and would prohibit licensees from being located within a 600-foot radius of a playground, hospital, or church, unless a local authority or licensing authority specifies a different radius.

Interactions with the Federal Government

AB 845 (Wood) would, if federal law authorizes the prescription of a controlled substance containing cannabidiol, a physician to prescribe that substance in accordance with federal law.

AB 1578 (Jones-Sawyer) would prohibit a state or local agency from taking certain actions to assist a federal agency investigate, detain, detect, report or arrest a person for cannabis activity that is authorized by the state of California, unless ordered by a judge.

Bills of Interest to the County

AB 334 (Cooper) Federal VAWA legislation passed in 2011 mandated the provision of free sexual assault forensic medical exams for patient/victims who do not want to cooperate with law enforcement agencies. The original California statute passed in 1977 mandating that local law enforcement agencies pay for sexual assault exams was amended after 35 years to comply with VAWA. The amended statute specified that law enforcement agencies could be reimbursed \$300 by Cal OES out of their State VAWA appropriation for exams involving the non-cooperative patient/victim. The legislation has passed the Assembly Public Safety Committee 7-0 and the Assembly Judiciary Committee 11-0. The bill is referred to the Assembly Appropriations Committee. The County is in support of the bill.

AB 556 (Limon) The bill would allow Counties to impose larger administrative fines for one-time violations of the County’s ordinances specifically where permits are available and when knowledgeable businesses chose to ignore the required permit. The bill will focus on one-time events that purposely don’t acquire a permit due to the fee of the permit costing less than the violation fine. The County is sponsoring the bill. The bill is to be heard in the Assembly Local Government Committee on May 10th.

AB 722 (Limon) The bill would allow a member of the Santa Barbara County Board of Supervisors or by any public officer of the County of Santa Barbara or his or her deputy to serve on the board of directors of the Isla Vista district. The County's position is still pending.

AB 1472 (Limon) The bill details in statute what the California State Lands Commission (SLC) may take into consideration when reviewing an application to assign, transfer or sublet a lease or permit of state lands for oil and gas production. Assemblymember Limon has asked the County for support of the bill, and the County is currently looking at amendments. The legislation has passed Assembly Natural Resources Committee 8-2 and has been referred to the Assembly Appropriations committee.

SB 1 (Beall/Frazier) The merged legislation proposes an additional 5.2 billion annually for road repairs and mass transit, by readjusting the state's obsolete gas tax and reform the user-pays system to ensure all motorists contribute their fair share to the maintenance of the roads. The bill is enrolled and is awaiting the Governor's signature.

SB 44 (Jackson) The legislation requires that for the fiscal year (FY) 2018-19, out of those funds deposited into the General Fund by the commission from tideland oil revenues that the sum of \$2 million be transferred to the fund and be available, upon appropriation, for the purpose of implementing the coastal hazard and legacy oil and gas well removal and remediation program. The legislation has passed the Senate Natural Resources Committee 8-0 and the Senate Environmental Quality Committee 6-0. The bill is set for hearing in the Senate Appropriations Committee on May 1st. The County is looking to support this legislation.

Conclusion

The Members returned from the Legislative Spring Break on April 17th in order for policy committees to hear and report to fiscal committees fiscal bills in their house of origin on April 28th. Meanwhile the next legislative deadline is on May 12th, which will be the last day for policy committees to hear non-fiscal bills introduced in their house. May 19th will be the last day for policy committees to meet prior to June 5th, while May 26th will be the last day for fiscal committees to hear and report to the Floor bills that were introduced in their house of origin, as well as the last day for fiscal committees to meet prior to June 5th.

We will continue to work with staff on the many bill and budget items that are moving and keep the committee and Board updated. As always, should you or your staff have any questions, please don't hesitate to let us know.