



November 9, 2015

To: Nicholas E. Chiulos, Assistant County Administrative Officer

Fr: John E. Arriaga, JEA & Associates

Re: State Report

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### **Special Session**

The special healthcare and transportation funding sessions that the Governor convened months ago have produced no deals pertaining to the long-term structural funding problems for both sectors. Prior to the end of the regular session, Republicans, under new leadership, rejected Brown's road repair funding proposal, whose GOP-friendly components, such as streamlining CEQA and using cap-and-trade money for roads couldn't overcome the minority party's aversion to higher taxes and a new road fee.

Unlike the regular legislative session that adjourned on September 11th, the special sessions have not technically ended. So today legislators and stakeholders returned to Sacramento for a joint informational hearing to hear state agencies, statewide associations and transportation advocates lay forth the challenges and their "wish list".

In an effort to continue the transportation special session discussions, the Legislative Leadership created a conference committee to examine the issues and the numerous proposals. The Committee convened its first hearing on October 16<sup>th</sup> with opening remarks from Co-Chairs Beall and Gomez emphasizing the need to examine a proposal to fund transportation infrastructure, with an emphasis on repairing California's deteriorated highways, streets, and roads. The Brown Administration presented its funding proposal and the Legislative Analyst's Office followed with their analysis and advice. Witnesses representing local government, labor and business provided testimony.

It was the consensus and request of the witnesses to utilize the Administration's proposal as a launching point. The coalition "Fix our Roads" agreed that they appreciated that the proposal included their request to equitably distribute funds between the State and locals, CTA appreciated

the acknowledgment that the proposal must include transit, and business appreciated the 10 year extension proposed for public private partnership and the possibility of expediting the CEQA process. As you can see the discussion included reform and not just the funding required to address the shortfall. As with most conference committees, negotiations will continue between the conferees after the hearings; we will keep you informed during this process of any breaking news.

Lawmakers also are continuing to negotiate funding for Medi-Cal, the state's medical insurance program for the poor that has grown to cover roughly one in three Californians. The Governor has also asked lawmakers to expand a tax now levied on health plans that contract with Medi-Cal to include most insurers regulated by the Department of Managed Health Care to generate at least \$1.1 billion a year.

## **1115 Waiver Update**

Late last month, 1115 Waiver discussions with the Centers for Medicare and Medicaid Services (CMS) and the Department of Health Care Services (DHCS) took an unfortunate turn. After months of negotiations, CMS reduced the size of the five-year waiver from \$17 billion to \$7 billion, and then in countering the state's rebuttal, decreased it further to \$3.6 billion. With days before the October 31<sup>st</sup> waiver expiration approaching, county staff, NMC staff, JEA & Associates and Kelly Brooks-Lindsey (CSAC's waiver consultant) convened a conference call to discuss advocacy strategy for the County in supporting the state's proposal. According to Kelly, all counties were contacting their federal representatives and that Governor Brown spoke personally to President Obama on the matter.

On November 1<sup>st</sup>, the state and federal governments announced conceptual agreement on a Medicaid Section 1115 waiver renewal AND a temporary extension of the existing waiver until December 31, 2015. DHCS and CMS will be working over the next two months to develop the details of Waiver programs and components through the Special Terms and Conditions (STCs), the legal document governing the waiver.

The total initial federal funding in the renewal is \$6.218 billion, with the potential for additional federal funding in the global payment program to be determined after the first year.

The conceptual agreement includes the following core elements:

- Global Payment Program (GPP) for services to the uninsured in designated public hospital systems (DPH). The GPP converts existing DSH and Safety Net Care Pool (SNCP) uncompensated care funding – which is hospital-focused and cost-based-- to a system focused on value and improved care delivery. The funding of the GPP will include 5 years of the DSH funding that otherwise would have been allocated to DPHs along with \$236M in initial federal funding for one year of the SNCP component. SNCP component funding for years two through five would be subject to an independent assessment of uncompensated care.
- Delivery system transformation and alignment incentive program for DPHs and district/municipal hospitals (DMPH), known as PRIME (Public hospital Redesign and Incentives in Medi-Cal). The federal funding of PRIME for the DPHs is a total of \$3.2655

billion over the five years of the Waiver, which includes \$700 million for each of the first three years, \$630 million in year four, and \$535.5 million in year five. The federal funding for the DMPHs is a total of \$466.5 million over the five years of the Waiver, which includes \$100 million for each of the first three years, \$90 million in year four, and \$76.5 million in year five years.

- Dental transformation incentive program. The funding of this program is \$750M in total funding over 5 years.
- Whole Person Care Pilot (WPC) program which would be a county-based, voluntary program to target providing more integrated care for high-risk, vulnerable populations. The funding of this program would be up to \$1.5B in federal funds over 5 years.
- Independent assessment of access to care and network adequacy for Medi-Cal managed care beneficiaries.
- Independent studies of uncompensated care and hospital financing.

## **CSAC Annual Conference Workshops – County Participation**

### **Mental Health**

After a year and a half of discussing and raising the issue of mental health conservatorships with CSAC and other stakeholders, CSAC is hosting a workshop to further examine with widespread problem. JEA & Associates and CSAC have been working closely in the past few months in preparation for the workshop, including panelists and focus. Participating on the panel will be County Counsel Charles McKee, who will present the County’s “case study” and discuss this problem and its nuances from a county-legal perspective. Also participating on the panel is Los Angeles Public Guardian Connie Draxler, Pam Ahlin, Director of State Hospitals and tentatively, Sacramento County District Attorney specializing in mental health courts. Below is the workshop’s description:

#### **"Incompetent to Stand Trial" - In and Out of Jail: A Complex Issue**

*As the number of people with mental illness continues to grow in our criminal justice system, counties are struggling with solutions in and outside of the criminal justice system. California's courts, law enforcement and behavioral health providers are working together on strategies that address needs of individuals with mental illness, while preserving public safety. This workshop will look at the complex issues surrounding individuals who are mentally ill and incompetent to stand trial (IST), and limitations around solutions to these complex cases outside of a jail setting.*

### **Drought**

Late last month, the County was approached by CSAC staff to participate in a day long course addressing the “*Long-Term Impacts of the Drought*” one day prior to the conference on November 30<sup>th</sup>. This session is actually the third in a series of emerging issues courses offered by the CSAC Institute for Excellence in County Government. After a productive conversation, it was agreed that Carl Holm, Director of the Resource Management Agency for the County and David Spaur, Director of

Economic Development will participate in the Case Study Presentations/Reflection Loop. The discussion seeks to focus on what are some of the trends we are seeing - or might anticipate - with respect to the longer-term consequences of the drought or permanent loss of water access (i.e., land use, development, agriculture, changes in use, etc.) in counties might be affected or changed.

### **Old Jail Conversion/SHPO**

On October 12<sup>th</sup>, Supervisors Potter and Salinas, Assistant County Administrative Officer, Nick Chiulos and JEA & Associates met with Todd Ferrara from the CA Resources Agency to discuss potential conversion projects for the Old Jail and requesting early input from the State Historic Preservation Officer (SHPO), Julianne Polanco. After a productive meeting on next steps, the County is currently refining the proposal(s) and plan on bringing it to the Board of Supervisors Capital Improvement Committee before meeting with the SHPO.

### **Marijuana Regulations Update**

With the passage of the three marijuana regulation bills, much work is needed to be done on the local level regarding the adoption of local ordinances around licensing and cultivation. However, due to a last minute oversight, problematic language was not removed from one of the bills that was signed into law which would have required counties to have final land use regulations pertaining to cultivation adopted by March 1, 2016. In reviewing AB 243 (Woods) the County, like others, found concern with paragraph (4) of subdivision (c) of Section 11362.777 of the Health and Safety Code in the bill, which states the following:

*(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.*

JEA & Associates communicated with CSAC and Assemblymember Woods' office, and both unequivocally stated that this was an issue and Woods plans on introducing or amending an existing vehicle for an urgency bill at the beginning of Session to remove that language. It is recommended that the County support this legislation once in print.

### **SR 156 Update**

On October 23<sup>rd</sup>, JEA & Associates participated in a meeting with Supervisor Phillips, TAMC and representatives from Caltrans regarding the proposed toll road project for State Route 156. The purpose of the meeting was to develop a strategy on moving forward with the project and focused on the current environmental impact report (EIR) and addressing the Coastal Commission's issues. There is concern surrounding agricultural land mitigation (prime vs. general ag land) and differentiating between the two, in addition to the Commission's insistence of possible alternative

routes. Both of these concerns conflict with the proposed project. At this time, the parties in attendance resolved to complete the EIR keeping in mind of the Commission's concerns.

### **“No Blank Checks Initiative” Update**

As of November 2<sup>nd</sup>, the now eligible ballot measure would force public infrastructure bonds amounting to more than \$2 billion and requiring new or increased taxes or fees onto the ballot for voter approval.

While some bonds do appear on California ballots for voter approval, bonds paid for out of state revenue are not required to be voter approved. Initiative #15-0003 would require voter approval under certain circumstances.

The official summary:

***"Requires State Legislature approve use of revenue bonds for public infrastructure projects funded, owned, or operated by the state or any joint agency that includes the state, if the bond amount exceeds \$2 billion and repayment requires new, increased, or extended taxes, fees, or other charges. Requires that legislatively approved projects be presented on statewide ballot for voter approval. Applies to previously approved projects if remaining bond amount exceeds \$2 billion. Requires that specified project information for all state bonds be included in voter ballot pamphlet."***

Dean Cortopassi, a wealthy Stockton farmer and food processor, who is sponsoring the initiative, said he expects it will cost upwards of \$2 million to get his initiative on the ballot. Supporters of the initiative refer to it as the "No Blank Checks Initiative." In surveying the Secretary of State's financing page, since the beginning of the year, \$4 million has been deposited into the measure's account, and solely by Cortopassi and his wife.

Expectedly, the Governor has come out staunchly opposed to this ballot measure, especially when two of his "pet projects" could be threatened if Cortopassi is successful... the delta tunnels and high-speed rail.

California currently requires voter approval before issuing general obligation bonds, as voters did in 2008 for Brown's other major infrastructure project, high-speed rail. Cortopassi's measure would require approval for large revenue bonds, a different kind of financing mechanism in which bonds are typically repaid using revenue from projects they finance.

According to an analysis by the Legislative Analyst's Office, the number of projects the Cortopassi measure might affect is uncertain, depending on how broadly or narrowly the term "project" is construed by government agencies or courts.

Other opponents include the Chamber of Commerce and the State Building and Construction Trades Council who have contributed \$122,000 as of the end of September to begin a campaign to defeat the measure.

### **Legislative Track**

Currently, the County has positions on thirty-three (3) bills and three (3) budget items. Eleven were signed into law, seven were vetoed and the remainder remain two-year bills. As mentioned in the Legislative Update, the County continues to work with JEA & Associates on monitoring legislative developments and amendments that directly impact the County.