



Agenda

LEGISLATION COMMITTEE

April 28, 2011
8:30 a.m.—9:30 a.m
651 Pine Street, Room 108, Martinez

Supervisor Karen Mitchoff, District IV, Chair
Supervisor John Gioia, District I, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. **Introductions**
2. **Public comment on any item under the jurisdiction of the Committee and not on this agenda.**
(Speakers may be limited to three minutes.)
3. **Review Record of Action:** March 21, 2011
4. **State Budget Update – Presenters:** Lara DeLaney, Cathy Christian
5. **State Legislative Issues – Presenters:** Lara DeLaney, Cathy Christian
 - a. **SB 810 (Leno):** Single-Payer Health Care Coverage — Support
 - b. **AB 1053 (Gordon):** Local Government: Penalties and Fees— Support
 - c. **AB 455 (Campos):** Public Employment: Local Public Employee Organizations— Oppose
 - d. **SB 930 (Evans):** In Home Supportive Services — Support
 - e. **SB 662 (DeSaulnier):** Public Services — Watch
 - f. **SB 653 (Steinberg):** Local Taxation: Counties: General Authorization — Watch
 - g. Any other legislation currently pending which may affect the County
6. **Federal Issues Update – Presenter:** Lara DeLaney
7. **Protocol on Legislative Positions—Urgency Action – Presenter:** Lara DeLaney
8. **Adjourn to the next regular meeting scheduled for Monday, May 16, 2011 at 11:00 a.m.**

☺ The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting. Access a telecommunications device for the deaf by calling 1-800-735-2929 and asking the relay service operator for (925) 335-1240.

📁 Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

📧 Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Lara DeLaney, Committee Staff
Phone (925) 335-1097 Fax (925) 335-1098
Lara.DeLaney@cao.cccounty.us

Glossary of Acronyms, Abbreviations, and other Terms (in alphabetical order):

Contra Costa County has a policy of making limited use of acronyms, abbreviations, and industry-specific language in its Board of Supervisors meetings and written materials. Following is a list of commonly used language that may appear in oral presentations and written materials associated with Board meetings:

AB	Assembly Bill	HIPAA	Health Insurance Portability and Accountability Act
ABAG	Association of Bay Area Governments	HIV	Human Immunodeficiency Syndrome
ACA	Assembly Constitutional Amendment	HOV	High Occupancy Vehicle
ADA	Americans with Disabilities Act of 1990	HR	Human Resources
AFSCME	American Federation of State County and Municipal Employees	HUD	United States Department of Housing and Urban Development
AICP	American Institute of Certified Planners	Inc.	Incorporated
AIDS	Acquired Immunodeficiency Syndrome	IOC	Internal Operations Committee
ALUC	Airport Land Use Commission	ISO	Industrial Safety Ordinance
AOD	Alcohol and Other Drugs	JPA	Joint (exercise of) Powers Authority or Agreement
ARRA	American Recovery and Reinvestment Act	Lamorinda	Lafayette-Moraga-Orinda Area
BAAQMD	Bay Area Air Quality Management District	LAFCo	Local Agency Formation Commission
BART	Bay Area Rapid Transit District	LLC	Limited Liability Company
BCDC	Bay Conservation & Development Commission	LLP	Limited Liability Partnership
BGO	Better Government Ordinance	Local 1	Public Employees Union Local 1
BOS	Board of Supervisors	LVN	Licensed Vocational Nurse
CALTRANS	California Department of Transportation	MAC	Municipal Advisory Council
CalWIN	California Works Information Network	MBE	Minority Business Enterprise
CalWORKS	California Work Opportunity and Responsibility to Kids	M.D.	Medical Doctor
CAER	Community Awareness Emergency Response	M.F.T.	Marriage and Family Therapist
CAO	County Administrative Officer or Office	MIS	Management Information System
CCHP	Contra Costa Health Plan	MOE	Maintenance of Effort
CCTA	Contra Costa Transportation Authority	MOU	Memorandum of Understanding
CDBG	Community Development Block Grant	MTC	Metropolitan Transportation Commission
CEQA	California Environmental Quality Act	NACo	National Association of Counties
CIO	Chief Information Officer	OB-GYN	Obstetrics and Gynecology
COLA	Cost of living adjustment	O.D.	Doctor of Optometry
ConFire	Contra Costa Consolidated Fire District	OES-EOC	Office of Emergency Services-Emergency Operations Center
CPA	Certified Public Accountant	OSHA	Occupational Safety and Health Administration
CPI	Consumer Price Index	Psy.D.	Doctor of Psychology
CSA	County Service Area	RDA	Redevelopment Agency
CSAC	California State Association of Counties	RFI	Request For Information
CTC	California Transportation Commission	RFP	Request For Proposal
dba	doing business as	RFQ	Request For Qualifications
EBMUD	East Bay Municipal Utility District	RN	Registered Nurse
EIR	Environmental Impact Report	SB	Senate Bill
EIS	Environmental Impact Statement	SBE	Small Business Enterprise
EMCC	Emergency Medical Care Committee	SWAT	Southwest Area Transportation Committee
EMS	Emergency Medical Services	TRANSPAC	Transportation Partnership & Cooperation (Central)
EPSDT	State Early Periodic Screening, Diagnosis and treatment Program (Mental Health)	TRANSPLAN	Transportation Planning Committee (East County)
et al.	et ali (and others)	TRE or TTE	Trustee
FAA	Federal Aviation Administration	TWIC	Transportation, Water and Infrastructure Committee
FEMA	Federal Emergency Management Agency	UCC	Urban Counties Caucus
F&HS	Family and Human Services Committee	VA	Department of Veterans Affairs
First 5	First Five Children and Families Commission (Proposition 10)	vs.	versus (against)
FTE	Full Time Equivalent	WAN	Wide Area Network
FY	Fiscal Year	WBE	Women Business Enterprise
GHAD	Geologic Hazard Abatement District	WCCTAC	West Contra Costa Transportation Advisory Committee
GIS	Geographic Information System		
HCD	(State Dept of) Housing & Community Development		
HHS	Department of Health and Human Services		

Schedule of Upcoming BOS Meetings

May 03, 2011

May 10, 2011

Legislation Committee
Supervisor Karen Mitchoff, Chair
Supervisor John Gioia, Vice Chair

Record of Actions

March 21, 2011
Room 101, 651 Pine Street, Martinez

1. Introductions

The meeting was called to order by Chair Mitchoff. Vice Chair Gioia was in attendance. Staff and the public introduced themselves. Cathy Christian, state advocate, was conferenced in by phone.

2. Public Comment: None.

3. Review Record of Action: Accepted.

4. State Budget Update :

The County's state advocate, Cathy Christian, reported on the discussions surrounding the State budget adoption, indicating that the soonest the tax extension proposal could be on the ballot would be June 21 and the window of opportunity is starting to close. There are two main reforms that the Republicans are seeking: pension reform and a spending cap. There is also discussion of regulatory and CEQA reform.

5. Realignment and State Constitutional Amendment:

The Committee requested that the Board be provided an update of the progress of discussions regarding the proposed Realignment plan and the accompanying State Constitutional Amendment, if there were time before final legislative action. The Committee also requested that staff work with County Counsel to develop agenda language that would permit the Board to take action on or consider bills that came to attention outside of the normal process of Legislation Committee or staff review.

6. State Legislative Issues:

- a) AB 147 (Dickinson): Accepted.
- b) AB 720 (Hall): Committee accepted staff recommendation to Oppose.
- c) SB 394 (DeSaulnier): Committee accepted Supervisor Gioia recommendation to Support.
- d) SB 429 (DeSaulnier): Committee supported Supervisor Gioia recommendation to Support the bill, as described in the Fact Sheet.
- e) AB 861 (Nestande): Committee supported staff's recommendation to Support.
- f) AB 340 (Furutani): Committee indicated more discussion and analysis was needed. Committee suggested that a Pension Platform be developed in order to address principles of pension reform. Committee also suggested a workshop for the Board be developed by the CAO's office.
- g) SB 662 (DeSaulnier): Staff of the Senator indicates the bill is being amended to be a statewide bill. Committee supports the bill in concept and wants it to return to the Committee agenda for the next meeting.

The Legislation Committee recommended that these recommendations go to the Board of Supervisors at the next available agenda.

7. **Federal Issues Update:** Committee accepted the report.
8. **Household Hazardous Waste Management, Policy Recommendations:** Committee accepted the report and requested that the Hazardous Materials Commission develop specific policy proposals. Committee supports amending the State Platform as recommended by staff.
9. **ARRA Federal Stimulus Funds:** Committee accepted the report and requested that the information be distributed to the Press.
10. **Lobbying Trip to D.C.:** Chair Mitchoff summarized the accomplishments of the lobbying trip, which provided valuable information and resources to the County.
11. **Adjourned to April 18, 2011:** (Due to schedule conflict, the date and time were subsequently changed to April 28, 2011.)

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
 Supervisor Karen Mitchoff, Chair
 Supervisor John Gioia, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: April 22, 2011

SUBJECT: **Agenda Item #4: State Budget Update**

RECOMMENDATION

ACCEPT report on the State Budget and related matters and provide direction, as necessary.

REPORT

In an effort to shake things loose on a budget agreement, Governor Jerry Brown took his fiscal plan on the road again this week. The Governor has also held a press conference in Sacramento to make his case for tax extensions to support local public safety efforts, including new local responsibilities for offender populations conditionally enacted in AB 109. He was joined by a variety of local law enforcement representatives – sheriffs, probation chiefs, district attorneys, and police chiefs among them – who talked in specific and dramatic terms about the impacts locally if existing taxes are not extended. The loss of local public safety funding, as counties are well aware, would result in program and service eliminations, substantial additional staffing reductions, and termination of successful local crime prevention programs and front-line services that improve public safety and offender outcomes.

When asked how the Governor intends to secure the necessary support to reach the two-thirds vote threshold, he responded that he will keep “pounding away” every day. He continues direct outreach to individual members of the Legislature and hopes to cultivate broad public support by taking his plan – as well as a stark description of an all-cuts budget scenario – directly to communities. The Governor emphasized the benefits of a realignment of services to locals, which – if properly funded – could do a far better job of addressing offender needs and reversing the cycle of recidivism.

Also planned for later this month are a series of on-the-road Senate and Assembly budget hearings that are intended to inform the public about action the Legislature has taken thus far to close the gaping budget hole and the options available to finish the job.

In the meantime, the Administration continues to prepare for a funded realignment. We anticipate that more details on implementation aspects of the Governor’s plan will be revealed in the May Revision, scheduled for release on Monday, May 16.

Uptick in income tax receipts raises budget hopes at California Capitol kyamamura@sacbee.com

Published Friday, Apr. 22, 2011

The state is taking in more money than expected as it opens income tax returns, raising hopes at the Capitol that a cash infusion could help cut California's remaining \$15.4 billion deficit.

If the trend holds, lawmakers could reduce the shortfall by several billion dollars with one change of the ledger.

Gov. Jerry Brown is expected to release his revised budget May 16, which will serve as the next official measure of the state's deficit and should account for any higher tax receipts.

California's three largest general fund tax sources were running \$2 billion above expectations entering April, almost entirely due to income taxes. Deadline-driven income tax figures have been robust this week, putting the state on track to at least meet its April target.

Higher revenue would help the bottom line not only as additional money in the bank, but also as a basis for increasing projections in the next fiscal year.

"In general, it looks pretty good," said Mike Genest, former finance director.

"It probably presages a substantial improvement in the revenue numbers in the May revise," Genest added, though he suggested that a deeper look at underlying factors is needed to determine how much is due to improved economic growth.

The Democratic governor was unmoved by the tax totals Thursday. During a budget event in Santa Clarita, he shrugged off the numbers as not yet meaningful before deferring to Finance Director Ana Matosantos.

"We're looking at cash," Matosantos said. "But there are a lot of different factors that affect the revenue estimate."

Fiscal experts see positive signs, but they consider it too early to reach conclusions. Jason Sisney, the Legislative Analyst's Office director of state finance, declared the numbers "promising" but wanted to wait a few more days to see what happens.

It is not clear exactly why income tax dollars have exceeded expectations. Some may be due to improved income trends, but the Department of Finance warned earlier this month that timing may also be a factor.

Based on state controller's office data through Wednesday, the state has received \$5.7 billion in April personal income tax dollars, \$1.1 billion shy of the projected \$6.8 billion with more than a week left. Starting with Monday's tax deadline, the state netted \$3.5 billion in the first three days this week alone.

The controller's numbers are not restricted to income tax returns; they also include what earners withhold from paychecks.

At the very least, the state appears on track to meet its \$6.8 billion projection for April. Combined with \$2 billion in higher revenue for the first nine months of the fiscal year, California would enter May ahead of pace.

Through March, sales taxes have hovered around their projected mark, while corporate taxes have fallen below expectations this fiscal year, according to the controller's office. For budget purposes, however, income tax revenue draws the most attention because it makes up the biggest chunk of the general fund – 51.5 percent last year.

Higher tax revenue would not necessarily have a dollar-for-dollar impact on the deficit. Unless the Legislature suspends the constitutional guarantee for education, any 2011-12 revenue rise increases the amount of money dedicated to K-12 and community colleges.

Republican Sen. Bob Huff of Diamond Bar, the Senate Budget Committee vice chairman, said this month that lawmakers anticipate higher tax revenue as part of the budget solution. GOP leaders, who still oppose extending higher tax rates, have urged Brown to account for the uptick.

The governor could choose a more conservative revenue forecast as a way to offset other fiscal risks in the year ahead. Lawmakers assumed \$1.4 billion in additional revenue when they solved the budget last October, based on improved collections. But they still faced an \$8.2 billion midyear deficit, mostly because spending cuts fell short.

Of political concern, a cash surge could hurt Brown's efforts for additional taxes if Republicans use it to argue the state doesn't need more money.

"It certainly would make it harder with voters," said GOP political consultant Rob Stutzman. "It'd be a little like trying to pass water bonds after we almost drowned this winter."

Still, Genest noted a revenue bump of a few billion dollars "doesn't bridge the gap, so you still have to do something. "It would still be a big enough (deficit), and they would still be fighting over tax increases, even though it'd be a lesser amount of tax increases."

© Copyright The Sacramento Bee. All rights reserved.

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Karen Mitchoff, Chair
Supervisor John Gioia, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: April 22, 2011

SUBJECT: **Agenda Item #5: State Legislative Issues**

RECOMMENDATION

RECOMMEND positions on various bills to the Board of Supervisors, as appropriate.

REVIEW the attached listing of bills of interest to the County.

BACKGROUND

Staff of the County Administrator's Office works in collaboration with our state and federal advocates to identify proposed legislation that would impact County operations, services, and/or programs. When a bill comes to our attention either through our legislation tracking services, various associations, advisory body members, department staff, or a Board member, staff first looks to the County's adopted State and Federal platforms for consistency with policy direction. If there is no clear policy direction in the adopted Platforms, the proposed legislation is presented to the Legislation Committee or appropriate committee of the Board prior for consideration and recommendation to the full Board of Supervisors.

The following bills are presented for action or information purposes to the Legislation Committee:

- a. **SB 810 (Leno): Single-Payer Health Care Coverage—Support.**
(See Attachment A—Bill Text and Fact Sheet.)

Digest: Existing law does not provide a system of universal health care coverage for California residents. Existing law provides for the creation of various programs to provide health care services to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families

Program administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program administered by the State Department of Health Care Services. Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and health insurers by the Department of Insurance. Existing law establishes the California Health Benefit Exchange to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January, 1, 2014.

This bill would establish the California Healthcare System to be administered by the newly created California Healthcare Agency under the control of a Healthcare Commissioner appointed by the Governor and subject to confirmation by the Senate. The bill would make all California residents eligible for specified health care benefits under the California Healthcare System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. The bill would require the commissioner to seek all necessary waivers, exemptions, agreements, or legislation to allow various existing federal, state, and local health care payments to be paid to the California Healthcare System, which would then assume responsibility for all benefits and services previously paid for with those funds.

The bill would create the Healthcare Policy Board to establish policy on medical issues and various other matters relating to the system. The bill would create the Office of Patient Advocacy within the agency to represent the interests of health care consumers relative to the system. The bill would create within the agency the Office of Health Planning to plan for the health care needs of the population, and the Office of Health Care Quality, headed by a chief medical officer, to support the delivery of high quality care and promote provider and patient satisfaction. The bill would create the Office of Inspector General for the California Healthcare System within the Attorney General's office, which would have various oversight powers.

The bill would prohibit health care service plan contracts or health insurance policies from being issued for services covered by the California Healthcare System, subject to appropriation by the Legislature, and would authorize the collection of penalty moneys for deposit into the fund. The bill would create the Healthcare Fund and the Payments Board to administer the finances of the California Healthcare System.

The bill would create the California Healthcare Premium Commission (Premium Commission) to determine the cost of the California Healthcare System and to develop a premium structure for the system that complies with specified standards. The bill would require the Premium Commission to recommend a premium structure to the Governor and the Legislature on or before January 1, 2014, and to make a draft recommendation to the Governor, the Legislature, and the public 90 days before submitting its final premium structure recommendation. The bill would specify that only its provisions relating to the Premium

Commission would become operative on January 1, 2012, with its remaining provisions becoming operative on the date the Secretary of California Health and Human Services notifies the Legislature, as specified, that sufficient funding exists to implement the California Healthcare System or the date the secretary receives the necessary federal waiver under the federal Patient Protection and Affordable Care Act, whichever is later.

The bill would extend the application of certain insurance fraud laws to providers of services and products under the system, thereby imposing a state-mandated local program by revising the definition of a crime. The bill would enact other related provisions relative to budgeting, regional entities, federal preemption, subrogation, collective bargaining agreements, compensation of health care providers, conflict of interest, patient grievances, and independent medical review.

DISPOSITION: Pending

COMMITTEE: Senate Health Committee

HEARING: 04/27/2011 1:30 pm, Burton Hearing Room (4203)

Supervisor Gioia requests that the Legislation Committee recommend the Board of Supervisors support this bill.

**b. AB 1053 (Gordon): Local Government Penalties and Fees —
SUPPORT. (See Attachment B—Bill Text and CSAC Letter.)**

Summary: Raises criminal laboratory analysis fee for each separate controlled substance offense. Provides an increase in fees for fetal death or death record and a certified copy of a birth certificate. Adds specified reckless driving convictions to convictions eligible for the additional penalty. Raise the registration fee for a petition filed to make a minor a ward of the court when the minor is represented by appointed counsel.

The table below provides additional information regarding the fees and the increases:

Topic	Description	Relevant Code Section(s)	Nature of fee
Laboratory analysis fee	Increase fee charged to violators of specified Vehicle Code (VC) violations (reckless driving and DUI) from \$50 to \$100. Fee has not increased since 1991.	Penal Code Section 1463.14(a) and (b) (various cross-references to specified VC violations)	Paid by offender (mandatory)

Topic	Description	Relevant Code Section(s)	Nature of fee
Criminalistics laboratories fund	Increase from \$50 fee/conviction to \$100 fee/conviction for various drug offenses. Fee has not been increased since its inception in 1980.	Health and Safety Code Section 11372.5 (various cross-references to specified drug violations)	Paid by offender (mandatory)
Juvenile registration fee for public defender services	Increase from \$25 to \$50 Public Defender registration fee paid by parents/guardians in juvenile delinquency cases. Fee has not increased since 1996; adult PD registration fee was increased from \$25 to \$50 pursuant to SB 676 (Wolk, 2009).	Welfare and Institutions Code Section 903.15	Paid by parents of juvenile offender who is seeking representation by public defender (based on ability to pay)
Vital records fees	Increase base fees for birth and death certificates from \$6 (current fee) to \$12 Base fee has been incrementally increased by state application of CPI.	Health and Safety Code Sections 103625(a) and (b)(1) and 100430	Required fee from any person/entity seeking a birth or death certificate

This measure is sponsored by CSAC. CSAC encourages counties to review and consider supporting AB 1053. Contra Costa County staff in the Sheriff's Office, Clerk-Recorder's Office, and EHSD (Zero Tolerance Program) have reviewed the bill and provided comments to the CAO's office.

The Sheriff's Office staff supports the bill. The Contra Costa's Crime Lab indicates that the cost for the Alcohol testing is \$171 per case and the cost for the Drug Analysis is \$220. Cost for the drug analysis can be higher depending on the number of drugs that have to be tested for.

The Clerk-Recorder's Office noted that our County's vital record fees were increased in January 2009 to the highest in the State and nearly at full recovery. AB 1053 would increase the costs of our certified copies of birth and death certificates to \$31 (birth) and \$24 (death). It would yield approximately \$150k to the office. With regard to the Zero Tolerance Program, which receives a portion of the vital records fees to fund the program (currently \$3), AB 1053 would not amend Health and Safety Code section 103626 or Welfare and Institutions Code section 18038 (both included in SB 968). Thus, the actual code sections for SB 968 are not impacted.

It is important to note that the Assembly Member Gordon has agreed to amend the measure as it relates to the alcohol and drug lab fee components. In its introduced form, AB 1053 would increase the fees for analysis charged to an offender from \$50 to \$200 for a variety of offenses specified both in Penal Code Section 1463.14 and Health and Safety Code Section 11372.5.

As agreed when the measure was heard in the Assembly Public Safety Committee, the lab analysis fees will instead be increased from \$50 to \$100.

STATUS:

02/18/2011 INTRODUCED.

03/14/2011 To ASSEMBLY Committees on PUBLIC SAFETY and LOCAL GOVERNMENT.

04/12/2011 From ASSEMBLY Committee on PUBLIC SAFETY: Do pass as amended to Committee on LOCAL GOVERNMENT.

With regard to the question of the Proposition 26 (2010) issues, CSAC staff notes that there are specific exceptions in Prop. 26 for fees that are levied locally, highlighted below. They have indicated where they believe the four fees proposed for increase by AB 1053 would likely fall in these various exceptions. Note the distinction between lab analyses for alcohol vs. drug offenses. The former fee is associated with an action of the BOS to impose an additional penalty on those convicted of various DUI/reckless driving offenses, whereas the latter for drug violations is imposed by the court. Legislative Counsel has concurred with CSAC's position with regard to the applicability of Prop. 22.

EXCERPT OF TEXT OF PROPOSITION 26

SECTION 3. Section 1 of Article XIII C of the California Constitution is amended to read:

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product. – BIRTH/DEATH CERTIFICATES; JUVENILE PUBLIC DEFENDER REGISTRATION FEE; LAB ANALYSES FOR ALCOHOL VIOLATIONS

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law. – LAB ANALYSES FOR DRUG OFFENSES

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

c. AB 455 (Campos): Public Employment: Local Public Employee Organizations— **OPPOSE (See Attachment C.)**

Summary: Provides that when a local public agency has established a personnel commission or merit commission to administer personnel rules or a merit system, the governing board of the public agency would appoint members of the commission. Specifies that the recognized employee organization would nominate members for appointment.

Specifically, this bill:

- 1) Requires, in public agencies that have established merit or personnel commissions, the memberships of those commissions to be appointed half by the employer and half by the recognized employee organization. If there are multiple bargaining units represented by different recognized employee organizations, the one representing the largest number of employees will be the one to designate commission members, as specified.
- 2) Requires the commission members to jointly elect one additional member of the commission to act as chairperson.

A merit system is a personnel system based on the overriding principle of employment and promotion on the basis of merit for the purpose of obtaining the highest efficiency and assuring the selection, retention and promotion of the most qualified persons in the job. Many local public agencies have established merit or personnel commissions to promulgate and administer the rules and regulations for operating these systems.

According to the sponsor, American Federation of State County and Municipal Employees, "Despite the importance of merit and personnel commissions to employment relations, the MMBA, the statutory scheme governing employment relations in public agencies, is silent as to how these commissions should be composed. Oftentimes commission members are appointed solely by the employer. A requirement that personnel and merit commission appointments be shared by the employer and the employee organization would ensure that the commissions will be more balanced and more fair."

Human Resources Director Ted Cwick recommends that the Legislation Committee oppose this bill and recommend a position of “Oppose” to the Board of Supervisors. The Board of Supervisors would lose the authority they now have to appoint Merit Board members

d. SB 930 (Evans): In-Home Supportive Services — *SUPPORT*
(See Attachment D—Bill Text and CSAC letter.)

Summary: Relates to the county administered In-Home Supportive Services enrollment form. Deletes requirements pertaining to obtaining fingerprint images of IHSS recipients, and the requirement that the provider timesheet include spaces for provider and recipient fingerprints. Deletes requirements and prohibitions relating to the use of a post office box address by an IHSS provider.

Under existing law, the State Department of Social Services, in consultation with the county welfare departments, is required to develop protocols and procedures for obtaining fingerprint images of all individuals who are being assessed or reassessed to receive supportive services, as specified. Existing law also requires the standardized time provider timesheet used to track the work performed by providers of in-home supportive services to contain specified information, including, effective July 1, 2011, designated spaces for the index fingerprints of the provider and recipient.

This bill would delete the requirements pertaining to obtaining fingerprint images of IHSS recipients, and the requirement that the provider timesheet include spaces for provider and recipient fingerprints.

Existing law requires an IHSS provider enrollment form to be completed using the provider's physical residence address, and prohibits the use of a post office box address. Existing law also prohibits a county from mailing a provider's paycheck to a post office box address, unless the county approves a provider request to do so, as specified.

This bill would delete the requirements and prohibitions relating to the use of a post office box address by an IHSS provider.

The above provisions in SB 930 represent some of the components of Governor Schwarzenegger's “IHSS Anti-Fraud” initiative in 2009. Many of the provisions of this package were designed to prevent fraud and duplicative aid within the program, but few were evaluated on their cost-effectiveness to deploy and implement. In fact, the requirement to fingerprint all consumers in their homes requires specialized and costly equipment that has not yet been purchased by the state. The state has estimated that it would need \$8.2 million this year alone, as well as a total of \$41.6 million over the next seven years, to implement this provision. Clearly, in these difficult fiscal times, the expenditure of millions to

implement an anti-fraud initiative in the absence of demonstrated or widespread fraud would be imprudent at best.

Counties are also perplexed by the prohibition on using P.O. Boxes for providers. In many of our rural areas, P.O. Boxes are often the only option for residents to receive mail. Limiting the use of P.O. Boxes does will not have a significant effect on fraudulent activities, and in fact, may harm the ability of counties and consumers to recruit and retain providers.

The IHSS Program has numerous safeguards against fraud, including a state and county-level IHSS Quality Assurance (QA) Initiative. Counties have dedicated QA staff performing desk reviews and home visits of recipients and providers, according to state-established guidelines, looking specifically for potential fraudulent activity and adequacy and quality of care issues. In addition to these reviews, the counties perform more in-depth or “targeted” case reviews that focus on specific issues or cases which may be problematic or signal potential fraud.

Additionally, the incidence of IHSS fraud is overstated. According to 2006-07 results of state/county Quality Assurance efforts, of the nearly 24,000 total cases reviewed, only 523 were referred for further investigation for potential fraud – just 2 percent. County data of actual fraud referrals shows even fewer potentially fraudulent cases, including Los Angeles County with less than 1 percent of cases over a three-year period referred for fraud.

For these reasons, CSAC supports SB 930. EHSD Director Joe Valentine recommends that the Legislation Committee support this bill and recommend it to the Board of Supervisors.

STATUS:

02/18/2011 INTRODUCED.

03/10/2011 To SENATE Committee on HUMAN SERVICES.

HEARING: 04/26/2011 1:30 pm, Room 3191

e. SB 662 (DeSaulnier): Public Services, Amended 4/14/04 — SUPPORT IN CONCEPT (See Attachment E—Bill Text.)

Summary: *Authorizes the Department of Finance and any county to enter into a contract to authorize the county to integrate specified public services. Requires the Legislature to ratify the contract by an enactment of a bill vote. Requires the county board of supervisory to ratify the contract. Provides the term of the contract. Requires the county to report to the department and the Legislature on the progress towards meeting the goals of the contract by the 5th year.*

The amendments change the bill from a bill that only affects Contra Costa County to a statewide bill that is related to the Governor's realignment plan.

Specifically the new bill:

- Authorizes counties to enter a contract with the Department of Finance to integrate public services (see definition below)
- Any contract shall include: 1.) a list of statutes and regulations that in order to achieve the goals of the contract 2.) A plan to integrate public services that is cost neutral to the state and county. 3.) Benchmarks and outcomes that the county shall achieve over the life of the contract. 4.) A list of any regional or intergovernmental agency agreements that the county has entered to achieve the goals of the contract. 5.) The county's plan to comply with federal guidelines and law in administering the defined services.
- Contracts are good for 10 years. The county shall submit a progress report in year 5 to Department of Finance and the Legislature.
- For the contract to be operative, the Legislature must vote on a bill to implement changes in law and regulation defined by the contract AND the county must vote to ratify as well.
- The services to be affected are the services in the Governor's realignment plan, specifically:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Providing fire protection and support services.

(D) Preventing child abuse, neglect, or exploitation; providing services to children who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services, providing transitional housing and other services to emancipated youth, and providing adult protective services.

(E) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization .

(F) Preventing, treating, and providing recovery services for substance abuse.

Senator DeSaulnier anticipates lots of discussion on the bill with the Counties, social service and public safety advocates and others. The rationale for the bill is as follows:

- First, it gets the counties something that many say they need: Flexibility from state mandates (if they can negotiate it with the state and

demonstrate how that flexibility will result in better outcomes). Also it recognizes that the needs of every county differ.

- Second, it mirrors the current state-federal government waiver process where states can apply for waivers ... they just need to outline what they can achieve by getting the waivers.

f. SB 653 (Steinberg): Local Taxation: Counties: General Authorization — WATCH (See Attachment F—Bill Text.)

Summary : Authorizes the board of supervisors of any county or city and county, subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverage tax, a cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax. Requires the state tax boards and the Department of Motor Vehicles to perform related functions.

The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

Vote: majority. Appropriation: yes . Fiscal committee: yes . State-mandated local program: no.

STATUS:

02/18/2011 INTRODUCED.

03/03/2011 To SENATE Committees on GOVERNANCE AND FINANCE and APPROPRIATIONS.

04/14/2011 From SENATE Committee on GOVERNANCE AND FINANCE with author's amendments.

04/14/2011 In SENATE. Read second time and amended. Re-referred to Committee on GOVERNANCE AND FINANCE.

=====

Attached to this report is information about various bills in which the County may have an interest or on which the County has already taken a position. (Attachment G.)

SENATE BILL**No. 810**

Introduced by Senator LenoFebruary 18, 2011

An act to add Division 114 (commencing with Section 140000) to the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 810, as introduced, Leno. Single-payer health care coverage.

Existing law does not provide a system of universal health care coverage for California residents. Existing law provides for the creation of various programs to provide health care services to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program administered by the State Department of Health Care Services. Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and health insurers by the Department of Insurance. Existing law establishes the California Health Benefit Exchange to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January, 1, 2014.

This bill would establish the California Healthcare System to be administered by the newly created California Healthcare Agency under the control of a Healthcare Commissioner appointed by the Governor and subject to confirmation by the Senate. The bill would make all California residents eligible for specified health care benefits under the California Healthcare System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. The bill would require the commissioner to seek all necessary waivers, exemptions, agreements,

or legislation to allow various existing federal, state, and local health care payments to be paid to the California Healthcare System, which would then assume responsibility for all benefits and services previously paid for with those funds.

The bill would create the Healthcare Policy Board to establish policy on medical issues and various other matters relating to the system. The bill would create the Office of Patient Advocacy within the agency to represent the interests of health care consumers relative to the system. The bill would create within the agency the Office of Health Planning to plan for the health care needs of the population, and the Office of Health Care Quality, headed by a chief medical officer, to support the delivery of high quality care and promote provider and patient satisfaction. The bill would create the Office of Inspector General for the California Healthcare System within the Attorney General's office, which would have various oversight powers. The bill would prohibit health care service plan contracts or health insurance policies from being issued for services covered by the California Healthcare System, subject to appropriation by the Legislature, and would authorize the collection of penalty moneys for deposit into the fund. The bill would create the Healthcare Fund and the Payments Board to administer the finances of the California Healthcare System. The bill would create the California Healthcare Premium Commission (Premium Commission) to determine the cost of the California Healthcare System and to develop a premium structure for the system that complies with specified standards. The bill would require the Premium Commission to recommend a premium structure to the Governor and the Legislature on or before January 1, 2014, and to make a draft recommendation to the Governor, the Legislature, and the public 90 days before submitting its final premium structure recommendation. The bill would specify that only its provisions relating to the Premium Commission would become operative on January 1, 2012, with its remaining provisions becoming operative on the date the Secretary of California Health and Human Services notifies the Legislature, as specified, that sufficient funding exists to implement the California Healthcare System or the date the secretary receives the necessary federal waiver under the federal Patient Protection and Affordable Care Act, whichever is later.

The bill would extend the application of certain insurance fraud laws to providers of services and products under the system, thereby imposing a state-mandated local program by revising the definition of a crime. The bill would enact other related provisions relative to budgeting,

regional entities, federal preemption, subrogation, collective bargaining agreements, compensation of health care providers, conflict of interest, patient grievances, and independent medical review.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 114 (commencing with Section 140000)
2 is added to the Health and Safety Code, to read:

3
4 DIVISION 114. CALIFORNIA UNIVERSAL HEALTHCARE
5 ACT

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 140000. There is hereby established in state government the
10 California Healthcare System, which shall be administered by the
11 California Healthcare Agency, an independent agency under the
12 control of the Healthcare Commissioner.

13 140000.6. No health care service plan contract or health
14 insurance policy, except for the California Healthcare System plan,
15 may be sold in California for services provided by the system.

16 140001. This division shall be known and may be cited as the
17 California Universal Healthcare Act.

18 140002. This division shall be liberally construed to accomplish
19 its purposes.

20 140003. The California Healthcare Agency is hereby created
21 and designated as the single state agency with full power to
22 supervise every phase of the administration of the California
23 Healthcare System and to receive grants-in-aid made by the United
24 States government, by the state, or by other sources in order to
25 secure full compliance with the applicable provisions of state and
26 federal law.

1 140004. The California Healthcare Agency shall be comprised
2 of the following entities:

- 3 (a) The Healthcare Policy Board.
- 4 (b) The Office of Patient Advocacy.
- 5 (c) The Office of Health Planning.
- 6 (d) The Office of Health Care Quality.
- 7 (e) The Healthcare Fund.
- 8 (f) The Public Advisory Committee.
- 9 (g) The Payments Board.
- 10 (h) Partnerships for Health.

11 140005. The Legislature finds and declares all of the following:

12 (a) An estimated 6.6 million Californians were uninsured in
13 2006, representing over 20 percent of the nonelderly population.

14 (b) In California, 763,000 children are currently uninsured, and
15 an additional 300,000 are significantly at risk for losing their
16 coverage.

17 (c) Health care spending has continuously grown two to three
18 times faster than California's economy, while health insurance
19 premiums have grown significantly faster than overall health care
20 spending.

21 (d) Since 2000, health care costs have outpaced increases in
22 wages by a ratio of four to one.

23 (e) One-third of California's state budget is devoted to health
24 care, including direct public programs as well as employee health
25 benefits. The imbalanced growth in health spending relative to
26 economic growth which drives public revenues greatly hinders
27 California's ability to maintain a balanced budget.

28 (f) On average, the United States spends more than twice as
29 much as all other industrial nations on health care, both per person
30 and as a percentage of its gross domestic product. Additionally,
31 the rate of health care inflation significantly outpaces other
32 industrial nations.

33 (g) Despite this high spending, United States healthcare
34 outcomes consistently rank at the bottom of all industrial nations
35 and the United States Institute of Medicine has declared an
36 epidemic of substandard health-care throughout the nation.

37 (h) Instead of effectively containing costs, costs have been
38 increasingly shifted to working Californians in the form of a
39 continual decline in employer-offered coverage, dramatic increases
40 in premiums, copayments, and deductibles, declining clinical

1 quality, overall reductions in benefits, and inappropriate utilization
2 review procedures that deny patients access to needed care.

3 (i) As a result, one-half of all bankruptcies in the United States
4 now relate to medical costs, though three-fourths of bankrupted
5 families had health care coverage at the time of sustaining the
6 injury or illness.

7 (j) More than one-half of all Americans report forgoing
8 recommended health care because of the cost, and Americans are
9 more likely to report difficulty seeing a doctor on the day they
10 sought.

11 (k) Health plans and insurers compete to construct patient pools
12 consisting of the healthiest segments of the population, leaving
13 higher risk patients to public programs or uninsured.

14 (l) Segregating patients into groups based on actuarial
15 assessments of their medical risk guarantees the continuation of
16 entrenched health care disparities in access and quality, and drives
17 health care resources toward healthier populations who least need
18 it for whom more care often does more harm than good.

19 (m) The Institute of Medicine estimates that 18,000 people die
20 annually in the United States because of lack of access to care and
21 that 30,000 die from overtreatment.

22 (n) The RAND Institute estimates that one-third of clinical
23 procedures performed are of questionable clinical benefit.

24 (o) Quantitative analyses performed by the Congressional
25 Budget Office, the General Accounting Office, the Lewin Group,
26 and the Legislative Analyst's Office indicate that under a
27 single-payer health care coverage system, the amount currently
28 spent for health care is adequate to finance comprehensive high
29 quality health care coverage for every resident of the state.

30 (p) According to these reports and numerous other studies, by
31 simplifying administration, achieving bulk purchase discounts on
32 pharmaceuticals, reducing the use of emergency facilities for
33 primary care, and better managing health care resources, California
34 could divert billions of dollars toward direct health care.

35 (q) Enactment of a single-payer universal health care system
36 would create 2.6 million jobs in the United States, while infusing
37 three hundred seventeen billion dollars (\$317,000,000,000) in new
38 business and public revenues and one hundred billion dollars
39 (\$100,000,000,000) in wages into the United States economy

1 according to a recent study by the Institute for Health and
2 Socioeconomic Policy.

3 (r) Single-payer health care, exhibited by Medicare and the
4 Veterans Administration, along with virtually every other industrial
5 nation in the world, is a well tested model that has been proven to
6 contain the growth in health care spending while promoting quality
7 improvements and maintaining comprehensive coverage.

8 140005.1. (a) It is the intent of the Legislature to establish a
9 system of universal health care coverage in this state that provides
10 all residents with comprehensive health care benefits, guarantees
11 a single standard of care for all residents, stabilizes the growth in
12 health care spending, and improves the quality of health care for
13 all residents.

14 (b) It is the intent of the Legislature that, in order to ensure an
15 adequate supply and distribution of direct care providers in the
16 state, a just and fair return for providers electing to be compensated
17 by the health care system, and a uniform system of payments, the
18 state shall actively supervise and regulate a system of payments
19 whereby groups of fee-for-service physicians are authorized to
20 select representatives of their specialties to negotiate with the
21 health care system, pursuant to Section 140209. Nothing in this
22 division shall be construed to allow collective action against the
23 health care system.

24 140006. This division shall have all of the following purposes:

25 (a) To provide affordable and comprehensive health care
26 coverage with a single standard of care for all California residents.

27 (b) To control health care costs and the growth of health care
28 spending, subject to the obligation described in subdivision (a).

29 (c) To achieve measurable improvement in the quality of care
30 and the efficiency of care delivery.

31 (d) To prevent disease and disability and to improve or maintain
32 health and functionality.

33 (e) To increase health care provider, consumer, employee, and
34 employer satisfaction with the health care system.

35 (f) To implement policies that strengthen and improve culturally
36 and linguistically sensitive care and sensitive care provided to
37 disabled persons.

38 (g) To develop an integrated population-based health care
39 database to support health care planning.

1 (h) To provide information and care in an appropriate and
2 accessible format.

3 140007. As used in this division, the following terms have the
4 following meanings:

5 (a) “Agency” means the California Healthcare Agency.

6 (b) “Clinic” means an organized outpatient health facility that
7 provides direct medical, surgical, dental, optometric, or podiatric
8 advice, services, or treatment to patients who remain less than 24
9 hours, and that may also provide diagnostic or therapeutic services
10 to patients in the home as an alternative to care provided at the
11 clinic facility, and includes those facilities defined under Sections
12 1200 and 1200.1.

13 (c) “Commissioner” means the Healthcare Commissioner.

14 (d) “Direct care provider” means any licensed health care
15 professional that provides health care services through direct
16 contact with a patient, either in person or using approved
17 telemedicine modalities as identified in Section 2290.5 of the
18 Business and Professions Code.

19 (e) “Essential community provider” means a health facility that
20 has served as part of the state’s health care safety net for
21 low-income and traditionally underserved populations in California
22 and that is one of the following:

23 (1) A “community clinic” as defined under subparagraph (A)
24 of paragraph (1) of subdivision (a) of Section 1204.

25 (2) A “free clinic” as defined under subparagraph (B) of
26 paragraph (1) of subdivision (a) of Section 1204.

27 (3) A “federally qualified health center” as defined under Section
28 1395x (aa)(4) or 1396d (l)(2)(B) of Title 42 of the United States
29 Code.

30 (4) A “rural health clinic” as defined under Section 1395x (aa)(2)
31 or 1396d (l)(1) of Title 42 of the United States Code.

32 (5) Any clinic conducted, maintained, or operated by a federally
33 recognized Indian tribe or tribal organization, as defined in Section
34 1603 of Title 25 of the United States Code.

35 (6) Any clinic exempt from licensure under subdivision (h) of
36 Section 1206.

37 (f) “Health care provider” means any professional person,
38 medical group, independent practice association, organization,
39 health facility, or other person or institution licensed or authorized
40 by the state to deliver or furnish health care services.

1 (g) “Health facility” means any facility, place, or building that
2 is organized, maintained, and operated for the diagnosis, care,
3 prevention, and treatment of human illness, physical or mental,
4 including convalescence and rehabilitation and including care
5 during and after pregnancy, or for any one or more of these
6 purposes, for one or more persons, and includes those facilities
7 defined under subdivision (d) of Section 15432 of the Government
8 Code.

9 (h) “Hospital” means all health facilities to which persons may
10 be admitted for a 24-hour stay or longer, as defined in Section
11 1250, with the exception of nursing, skilled nursing, intermediate
12 care, and congregate living health facilities.

13 (i) “Integrated health care delivery system” means a provider
14 organization that meets both of the following criteria:

15 (1) Is fully integrated operationally and clinically to provide a
16 broad range of health care services, including preventative care,
17 prenatal and well-baby care, immunizations, screening diagnostics,
18 emergency services, hospital and medical services, surgical
19 services, and ancillary services.

20 (2) Is compensated using capitation or facility budgets, except
21 for copayments, for the provision of health care services.

22 (j) “Large employer” means a person, firm, proprietary or
23 nonprofit corporation, partnership, public agency, or association
24 that is actively engaged in business or service, that, on at least 50
25 percent of its working days during the preceding calendar year
26 employed at least 50 employees, or, if the employer was not in
27 business during any part of the preceding calendar year, employed
28 at least 50 employees on at least 50 percent of its working days
29 during the preceding calendar quarter.

30 (k) “Premium Commission” means the California Healthcare
31 Premium Commission.

32 (l) “Primary care provider” means a direct care provider that is
33 a family physician, internist, general practitioner, pediatrician, an
34 obstetrician-gynecologist, or a family nurse practitioner or
35 physician assistant practicing under supervision as defined in the
36 California codes, or essential community providers who employ
37 primary care providers.

38 (m) “Small employer” means a person, firm, proprietary or
39 nonprofit corporation, partnership, public agency, or association
40 that is actively engaged in business or service and that, on at least

1 50 percent of its working days during the preceding calendar year
2 employed at least two but no more than 49 employees, or, if the
3 employer was not in business during any part of the preceding
4 calendar year, employed at least two but no more than 49 eligible
5 employees on at least 50 percent of its working days during the
6 preceding calendar quarter.

7 (n) “System” means the California Healthcare System.

8 140008. The definitions contained in Section 140007 shall
9 govern the construction of this division, unless the context requires
10 otherwise.

11

12 CHAPTER 2. GOVERNANCE

13

14 140100. (a) (1) The commissioner shall be appointed by the
15 Governor on or before July 1 of the fiscal year following the date
16 that this section becomes operative pursuant to Section 140700,
17 subject to confirmation by the Senate. If in session, the Senate
18 shall act on the appointment within 30 days of the appointment
19 date. If the Senate does not act on the appointment within that
20 period, the nominee shall be deemed confirmed and may take
21 office. If the Senate is not in session at the time of the appointment,
22 the Senate shall act on the appointment within 30 days of the
23 commencement of the next legislative session. If the Senate does
24 not act on the appointment within that period, the appointee shall
25 be deemed confirmed and may take office.

26 (2) If the Senate by a vote fails to confirm the nominee for
27 commissioner, the Governor shall make a new appointment within
28 30 days of the Senate’s vote. The appointment is subject to
29 confirmation by the Senate, and the procedures described in
30 paragraph (1) shall apply to the confirmation process.

31 (b) The commissioner is exempt from the State Civil Service
32 Act (Part 2 (commencing with Section 18500) of Division 5 of
33 Title 2 of the Government Code).

34 (c) The commissioner may not be a state legislator or a Member
35 of the United States Congress while holding the position of
36 commissioner.

37 (d) The commissioner shall not have been employed in any
38 capacity by a for-profit insurance, pharmaceutical, or medical
39 equipment company that sells products to the system for a period
40 of two years prior to appointment as commissioner.

1 (e) For two years after completing service in the system, the
2 commissioner may not receive payments of any kind from, or be
3 employed in any capacity or act as a paid consultant to, a for-profit
4 insurance, pharmaceutical, or medical equipment company that
5 sells products to the system.

6 (f) The compensation and benefits of the commissioner shall
7 be established by the California Citizens Compensation
8 Commission in accordance with Section 8 of Article III of the
9 California Constitution.

10 (g) The commissioner shall be subject to Title 9 (commencing
11 with Section 81000) of the Government Code.

12 140101. (a) The commissioner shall be the chief officer of the
13 agency and shall administer all aspects of the agency.

14 (b) The commissioner shall be responsible for the performance
15 of all duties, the exercise of all power and jurisdiction, and the
16 assumption and discharge of all responsibilities vested by law in
17 the agency. The commissioner shall perform all duties imposed
18 upon him or her by this division and other laws related to health
19 care, and shall enforce the execution of any law related to the
20 system, and shall enforce the execution of those provisions and
21 laws to promote their underlying aims and purposes. These broad
22 powers shall include, but are not limited to, the power to establish
23 the system's budget and to set rates, to establish the system's goals,
24 standards, and priorities, to hire, terminate, and fix the
25 compensation of agency personnel, to make allocations and
26 reallocations to the health planning regions, and to promulgate
27 generally binding regulations concerning any and all matters related
28 to the implementation of this division and its purposes.

29 (c) The commissioner shall appoint a deputy commissioner, the
30 Director of the Healthcare Fund, the patient advocate of the Office
31 of Patient Advocacy, the chief medical officer, the Director of the
32 Payments Board, the Director of the Office of Health Planning,
33 the Director of the Partnerships for Health, the regional health
34 planning directors, the chief enforcement counsel, and legal counsel
35 in any action brought by or against the commissioner under or
36 pursuant to any provision of any law under the commissioner's
37 jurisdiction, or in which the commissioner joins or intervenes as
38 to a matter within the commissioner's jurisdiction, as a friend of
39 the court or otherwise, and stenographic reporters to take and
40 transcribe the testimony in any formal hearing or investigation

1 before the commissioner or before a person authorized by the
2 commissioner.

3 (d) The commissioner, in accordance with the State Civil Service
4 Act (Part 2 (commencing with Section 18500) of Division 5 of
5 Title 2 of the Government Code), may appoint and fix the
6 compensation of clerical, inspection, investigation, evaluation, and
7 auditing personnel as may be necessary to implement this division.

8 (e) The personnel of the agency shall perform duties as assigned
9 to them by the commissioner. The commissioner shall designate
10 certain employees by rule or order that are to take and subscribe
11 to the constitutional oath within 15 days after their appointments,
12 and to file that oath with the Secretary of State. The commissioner
13 shall also designate those employees that are to be subject to Title
14 9 (commencing with Section 81000) of the Government Code.

15 (f) The commissioner shall adopt a seal bearing the inscription:
16 “Commissioner, California Healthcare Agency, State of
17 California.” The seal shall be affixed to, or imprinted on, all orders
18 and certificates issued by him or her and other instruments as he
19 or she directs. All courts shall take notice of this seal.

20 (g) The administration of the agency shall be supported from
21 the Healthcare Fund created pursuant to Section 140200.

22 (h) The commissioner, as a general rule, shall publish or make
23 available for public inspection any information filed with or
24 obtained by the agency, unless the commissioner finds that this
25 availability or publication is contrary to law. No provision of this
26 division authorizes the commissioner or any of the commissioner’s
27 assistants, clerks, or deputies to disclose any information withheld
28 from public inspection except among themselves or when necessary
29 or appropriate in a proceeding or investigation under this division
30 or to other federal or state regulatory agencies. No provision of
31 this division either creates or derogates from any privilege that
32 exists at common law or otherwise when documentary or other
33 evidence is sought under a subpoena directed to the commissioner
34 or any of his or her assistants, clerks, and deputies.

35 (i) It is unlawful for the commissioner or any of his or her
36 assistants, clerks, or deputies to use for personal benefit any
37 information that is filed with, or obtained by, the commissioner
38 and that is not then generally available to the public.

39 (j) The commissioner shall avoid political activity that may
40 create the appearance of political bias or impropriety. Prohibited

1 activities shall include, but not be limited to, leadership of, or
2 employment by, a political party or a political organization; public
3 endorsement of a political candidate; contribution of more than
4 five hundred dollars (\$500) to any one candidate in a calendar year
5 or a contribution in excess of an aggregate of one thousand dollars
6 (\$1,000) in a calendar year for all political parties or organizations;
7 and attempting to avoid compliance with this prohibition by making
8 contributions through a spouse or other family member.

9 (k) The commissioner shall not participate in making or in any
10 way attempt to use his or her official position to influence a
11 governmental decision in which he or she knows or has reason to
12 know that he or she or a family member, business partner, or
13 colleague has a financial interest.

14 (l) The commissioner, in pursuit of his or her duties, shall have
15 unlimited access to all nonconfidential and all nonprivileged
16 documents in the custody and control of the agency.

17 (m) The Attorney General shall render to the commissioner
18 opinions upon all questions of law, relating to the construction or
19 interpretation of any law under the commissioner's jurisdiction or
20 arising in the administration thereof, that may be submitted to the
21 Attorney General by the commissioner and, upon the
22 commissioner's request, shall act as the attorney for the
23 commissioner in actions and proceedings brought by or against
24 the commissioner or under or pursuant to any provision of any law
25 under the commissioner's jurisdiction.

26 140102. The commissioner shall do all of the following:

27 (a) Oversee the establishment, as part of the administration of
28 the agency, of all of the following:

29 (1) The Healthcare Policy Board, pursuant to Section 140103.

30 (2) The Office of Patient Advocacy, pursuant to Section 140105.

31 (3) The Office of Health Planning, pursuant to Section 140602.

32 (4) The Office of Healthcare Quality, pursuant to Section
33 140605.

34 (5) The Healthcare Fund, pursuant to Section 140200.

35 (6) The Public Advisory Committee, pursuant to Section 140104.

36 (7) The Payments Board, pursuant to Section 140208.

37 (8) Partnerships for Health.

38 (b) Determine goals, standards, guidelines, and priorities for
39 the system.

1 (c) Establish health planning regions, pursuant to Section
2 140112.

3 (d) Oversee the establishment of locally based integrated service
4 networks, including those that provide services through medical
5 technologies such as telemedicine, that include physicians in
6 fee-for-service, solo and group practice, essential community, and
7 ancillary care providers and facilities in order to pool and align
8 resources and form interdisciplinary teams that share responsibility
9 and accountability for patient care and provide a continuum of
10 coordinated high quality primary to tertiary care to all California
11 residents while preserving patient choice. This shall be
12 accomplished in collaboration with the chief medical officer, the
13 Director of the Office of Health Planning, the regional medical
14 officers, the regional planning boards, and the patient advocate.

15 (e) Annually assess projected revenues and expenditures and
16 assure financial solvency of the system pursuant to Section 140203.

17 (f) Develop the system's budget pursuant to Section 140206 to
18 ensure adequate funding to meet the health care needs of the
19 population. Review all budgets and locations annually to ensure
20 they address disparities in service availability and health care
21 outcomes and for sufficiency of rates, fees, and prices.

22 (g) Establish a capital management framework for the system
23 pursuant to Section 140216, including, but not limited to, a
24 standardized process and format for the development and
25 submission of regional operating and regional capital budget
26 requests and ensure a smooth transition to system oversight.

27 (h) Establish standards and criteria for the development and
28 submission of provider operating and capital budget requests.

29 (i) Establish standards and criteria for the allocation of funds
30 from the Healthcare Fund as described in Chapter 3 (commencing
31 with Section 140200).

32 (j) During transition and annually thereafter, determine the
33 appropriate level for a reserve fund for the system and implement
34 policies needed to establish the appropriate reserve.

35 (k) Establish an enrollment system that ensures all eligible
36 California residents, including those who travel out of state; those
37 who have disabilities that limit their mobility, hearing, or vision
38 or their mental or cognitive capacity; those who cannot read; and
39 those who do not speak or write English, are aware of their right
40 to health care and are formally enrolled in the system. The

1 commissioner may contract with a third party for eligibility and
2 enrollment services if the commissioner finds that doing so would
3 meet the system's goals and standards, and result in greater
4 efficiency and cost savings to the system.

5 (l) Establish an electronic claims and payments system for the
6 system where all claims under the system shall be filed and paid,
7 and implement, to the extent permitted by federal law, standardized
8 claims and reporting methods. The commissioner may contract
9 with a third party for claims and payment services if the
10 commissioner finds that doing so would meet the system's goals
11 and standards, and result in greater efficiency and cost savings to
12 the system.

13 (m) Establish a system of secure electronic medical records that
14 comply with state and federal privacy laws and that are compatible
15 across the system.

16 (n) Establish an electronic referral system that is accessible to
17 providers and to patients.

18 (o) Establish standards based on clinical efficacy to guide
19 delivery of care and a process to identify areas where no such
20 standards exist, set priorities and a timetable for their development,
21 and ensure a smooth transition to clinical decisionmaking under
22 statewide standards.

23 (p) Implement policies to ensure that all Californians receive
24 culturally and linguistically sensitive care, pursuant to Section
25 140604, and that all disabled Californians receive care in
26 accordance with the federal Americans with Disabilities Act (42
27 U.S.C. Sec. 12101 et seq.) and Section 504 of the federal
28 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and develop
29 mechanisms and incentives to achieve these purposes and a means
30 to monitor the effectiveness of efforts to achieve these purposes.

31 (q) Create a systematic approach to the measurement,
32 management, and accountability for care quality and access,
33 including a system of performance contracts that contain
34 measurable goals and outcomes and appropriate statewide and
35 regional health care databases to assure the delivery of quality care
36 to all patients.

37 (r) Establish standards for mandatory reporting by health care
38 providers and penalties for failure to report.

39 (s) Develop methods and a framework to measure the
40 performance of health care coverage and health delivery system

1 upper level managers, including a system of performance contracts
2 that contain measurable goals and outcomes.

3 (t) Implement policies to ensure that all residents of this state
4 have access to medically appropriate, coordinated mental health
5 services.

6 (u) Ensure the establishment of policies that support the public
7 health.

8 (v) Meet regularly with the chief medical officer, the patient
9 advocate for the Office of Patient Advocacy, the Public Advisory
10 Committee, the Director of the Office of Health Planning, the
11 Director of the Payments Board, the Director of the Partnerships
12 for Health, regional planning directors, and regional medical
13 officers to review the impact of the agency and its policies on the
14 health of the population and on satisfaction with the system.

15 (w) Negotiate for or set rates, fees, and prices involving any
16 aspect of the system and establish procedures thereto.

17 (x) Establish a formulary based on clinical efficacy for all
18 prescription drugs and durable and nondurable medical equipment
19 for use by the system.

20 (y) Establish guidelines for prescribing medications and durable
21 medical equipment that are not included in the system's
22 formularies.

23 (z) Utilize the purchasing power of the state to negotiate price
24 discounts for prescription drugs and durable and nondurable
25 medical equipment for use by the system.

26 (aa) Ensure that use of state purchasing power achieves the
27 lowest possible prices for the system without adversely affecting
28 needed pharmaceutical research.

29 (ab) Create incentives and guidelines for research needed to
30 meet the goals of the system and disincentives for research that
31 does not achieve the system goals.

32 (ac) Implement eligibility standards for the system, including
33 guidelines to prevent an influx of persons to the state for the
34 purpose of obtaining medical care.

35 (ad) Determine an appropriate level of, and provide support
36 during the transition for, training and job placement for persons
37 who are displaced from employment as a result of the initiation of
38 the system.

39 (ae) Oversee the establishment of a system for resolution of
40 disputes pursuant to Sections 140608 and 140610.

1 (af) Investigate the costs and benefits to the health of the
2 population of advances in information technology, including those
3 that support data collection, analysis, and distribution.

4 (ag) Ensure that consumers of health care have access to
5 information needed to support their choice of a physician.

6 (ah) Collaborate with the licensing entities of health facilities
7 to ensure that facility performance is monitored and that deficient
8 practices are recognized and corrected in a timely fashion and that
9 consumers and providers of health care have access to information
10 needed to support their choice of facility.

11 (ai) Establish an Internet Web site that provides information to
12 the public about the system that includes, but is not limited to,
13 information that supports choice of providers and facilities and
14 informs the public about meetings of state and regional health
15 planning boards and activities of the Partnerships for Health.

16 (aj) Procure funds, including loans, for the system, enter into
17 leases, and obtain insurance for the system and its employees and
18 agents.

19 (ak) Collaborate with state and local authorities, including
20 regional planning directors, to plan for needed earthquake retrofits
21 in a manner that does not disrupt patient care.

22 (al) Establish a process that is accessible to all Californians for
23 the system to receive the concerns, opinions, ideas, and
24 recommendation of the public regarding all aspects of the system.

25 (am) Annually report to the Legislature and the Governor, on
26 or before October of each year and at other times pursuant to this
27 division, on the performance of the system, its fiscal condition and
28 need for rate adjustments, consumer copayments or consumer
29 deductible payments, recommendations for statutory changes,
30 receipt of payments from the federal government and other sources,
31 whether current year goals and priorities are met, future goals, and
32 priorities, and major new technology or prescription drugs or other
33 circumstances that may affect the cost of health care.

34 140103. (a) The commissioner shall establish a Healthcare
35 Policy Board and shall serve as the president of the board.

36 (b) The board shall do all of the following:

37 (1) Establish goals and priorities for the system, including
38 research and capital investment priorities.

1 (2) Establish the scope of services to be provided to the
2 population in accordance with Chapter 5 (commencing with Section
3 140500).

4 (3) Establish guidelines for evaluating the performance of the
5 system, its officers, health planning regions, and health care
6 providers.

7 (4) Establish guidelines for ensuring public input on the system's
8 policy, standards, and goals.

9 (c) The board shall consist of the following members:

10 (1) The commissioner.

11 (2) The deputy commissioner.

12 (3) The Director of the Healthcare Fund.

13 (4) The patient advocate of the Office of Patient Advocacy.

14 (5) The chief medical officer.

15 (6) The Director of the Office of Health Planning.

16 (7) The Director of the Partnerships for Health.

17 (8) The Director of the Payments Board.

18 (9) The State Public Health Officer.

19 (10) One member of the Public Advisory Committee who shall
20 serve on a rotating basis to be determined by the Public Advisory
21 Committee.

22 (11) Two representatives from regional planning boards.

23 (A) A regional representative shall serve a term of one year and
24 terms shall be rotated in order to allow every region to be
25 represented within a five-year period.

26 (B) A regional planning director shall appoint the regional
27 representative to serve on the board.

28 (d) It is unlawful for the board members or any of their
29 assistants, clerks, or deputies to use for personal benefit any
30 information that is filed with or obtained by the board and that is
31 not then generally available to the public.

32 140104. (a) The commissioner shall establish the Public
33 Advisory Committee to advise the Healthcare Policy Board on all
34 matters of policy for the system.

35 (b) Members of the Public Advisory Committee shall include
36 all of the following:

37 (1) Four physicians all of whom shall be board certified in their
38 field and at least one of whom shall be a psychiatrist. The Senate
39 Committee on Rules and the Governor shall each appoint one

1 member. The Speaker of the Assembly shall appoint two of these
2 members, both of whom shall be primary care providers.

3 (2) One registered nurse, to be appointed by the Senate
4 Committee on Rules.

5 (3) One licensed vocational nurse, to be appointed by the Senate
6 Committee on Rules.

7 (4) One licensed allied health practitioner, to be appointed by
8 the Speaker of the Assembly.

9 (5) One mental health care provider, to be appointed by the
10 Senate Committee on Rules.

11 (6) One dentist, to be appointed by the Governor.

12 (7) One representative of private hospitals, to be appointed by
13 the Governor.

14 (8) One representative of public hospitals, to be appointed by
15 the Governor.

16 (9) One representative of an integrated health care delivery
17 system, to be appointed by the Governor.

18 (10) Four consumers of health care. The Governor shall appoint
19 two of these members, one of whom shall be a member of the
20 disability community. The Senate Committee on Rules shall
21 appoint a member who is 65 years of age or older. The Speaker
22 of the Assembly shall appoint the fourth member.

23 (11) One representative of organized labor, to be appointed by
24 the Speaker of the Assembly.

25 (12) One representative of essential community providers, to
26 be appointed by the Senate Committee on Rules.

27 (13) One union member, to be appointed by the Senate
28 Committee on Rules.

29 (14) One representative of small business, to be appointed by
30 the Governor.

31 (15) One representative of large business, to be appointed by
32 the Speaker of the Assembly.

33 (16) One pharmacist, to be appointed by the Speaker of the
34 Assembly.

35 (c) In making appointments pursuant to this section, the
36 Governor, the Senate Committee on Rules, and the Speaker of the
37 Assembly shall make good faith efforts to assure that their
38 appointments, as a whole, reflect, to the greatest extent feasible,
39 the social and geographic diversity of the state.

1 (d) Any member appointed by the Governor, the Senate
2 Committee on Rules, or the Speaker of the Assembly shall serve
3 a four-year term. These members may be reappointed for
4 succeeding four-year terms.

5 (e) Vacancies that occur shall be filled within 30 days after the
6 occurrence of the vacancy, and shall be filled in the same manner
7 in which the vacating member was initially selected or appointed.
8 The commissioner shall notify the appropriate appointing authority
9 of any expected vacancies on the board.

10 (f) Members of the Public Advisory Committee shall serve
11 without compensation, but shall be reimbursed for actual and
12 necessary expenses incurred in the performance of their duties to
13 the extent that reimbursement for those expenses is not otherwise
14 provided or payable by another public agency or agencies, and
15 shall receive one hundred dollars (\$100) for each full day of
16 attending meetings of the committee. For purposes of this section,
17 “full day of attending a meeting” means presence at, and
18 participation in, not less than 75 percent of the total meeting time
19 of the committee during any particular 24-hour period.

20 (g) The Public Advisory Committee shall meet at least six times
21 a year in a place convenient to the public. All meetings of the board
22 shall be open to the public, pursuant to the Bagley-Keene Open
23 Meeting Act (Article 9 (commencing with Section 11120) of
24 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
25 Code).

26 (h) The Public Advisory Committee shall elect a chair who shall
27 serve for two years and who may be reelected for an additional
28 two years.

29 (i) Appointed committee members shall have worked in the
30 field they represent on the committee for a period of at least two
31 years prior to being appointed to the committee.

32 (j) The Public Advisory Committee shall elect a member to
33 serve on the Healthcare Policy Board. The elected member shall
34 serve for one year, and may be recalled by the Public Advisory
35 Committee for cause. In that case, a new member shall be elected
36 to serve on that board. The Public Advisory Committee
37 representative shall represent to the board the views of the
38 committee members.

39 (k) It is unlawful for the committee members or any of their
40 assistants, clerks, or deputies to use for personal benefit any

1 information that is filed with, or obtained by, the committee and
2 that is not generally available to the public.

3 140105. (a) (1) There is within the agency an Office of Patient
4 Advocacy to represent the interests of the consumers of health
5 care. The goal of the office shall be to help residents of the state
6 secure the health care services and benefits to which they are
7 entitled under the laws administered by the agency and to advocate
8 on behalf of and represent the interests of consumers in governance
9 bodies created by this division and in other forums.

10 (2) The office shall be headed by a patient advocate appointed
11 by the commissioner.

12 (3) The patient advocate shall establish an office in the City of
13 Sacramento and other offices throughout the state that shall provide
14 convenient access to residents.

15 (b) The patient advocate shall do all the following:

16 (1) Administer all aspects of the Office of Patient Advocacy.

17 (2) Assure that services of the Office of Patient Advocacy are
18 available to all California residents.

19 (3) Serve on the Healthcare Policy Board and participate in the
20 regional Partnerships for Health.

21 (4) Oversee the establishment and maintenance of the grievance
22 process pursuant to Sections 140608 and 140610.

23 (5) Participate in the grievance process and independent medical
24 review system on behalf of consumers pursuant to Section 140610.

25 (6) Receive, evaluate, and respond to consumer complaints
26 about the system.

27 (7) Provide a means to receive recommendations from the public
28 about ways to improve the system and hold public hearings at least
29 once annually to discuss problems and receive recommendations
30 from the public.

31 (8) Develop educational and informational guides for consumers
32 describing their rights and responsibilities and informing them
33 about effective ways to exercise their rights to secure health care
34 services and to participate in the system. The guides shall be easy
35 to read and understand, available in English and other languages,
36 including Braille and formats suitable for those with hearing
37 limitations, and shall be made available to the public by the agency,
38 including access on the agency's Internet Web site and through
39 public outreach and educational programs, and displayed in
40 provider offices and health care facilities.

1 (9) Establish a toll-free telephone number, including a TDD
2 number, to receive complaints regarding the agency and its
3 services. Those with hearing and speech limitations may use the
4 California Relay Service's toll-free telephone numbers to contact
5 the Office of Patient Advocacy. The agency's Internet Web site
6 shall have complaint forms and instructions on their use.

7 (10) Report annually to the public, the commissioner, and the
8 Legislature about the consumer perspective on the performance
9 of the system, including recommendations for needed
10 improvements.

11 (c) Nothing in this division shall prohibit a consumer or class
12 of consumers or the patient advocate from seeking relief through
13 the judicial system.

14 (d) The patient advocate in pursuit of his or her duties shall have
15 unlimited access to all nonconfidential and all nonprivileged
16 documents in the custody and control of the agency.

17 (e) It is unlawful for the patient advocate or any of his or her
18 assistants, clerks, or deputies to use for personal benefit any
19 information that is filed with, or obtained by, the agency and that
20 is not then generally available to the public.

21 140106. (a) There is within the Office of the Attorney General
22 an Office of the Inspector General for the California Healthcare
23 System. The Inspector General shall be appointed by the Governor
24 and subject to Senate confirmation.

25 (b) The Inspector General shall have broad powers to investigate,
26 audit, and review the financial and business records of individuals,
27 public and private agencies and institutions, and private
28 corporations that provide services or products to the system, the
29 costs of which are reimbursed by the system.

30 (c) The Inspector General shall investigate allegations of
31 misconduct on the part of an employee or appointee of the agency
32 and on the part of any health care provider of services that are
33 reimbursed by the system and shall report any findings of
34 misconduct to the Attorney General.

35 (d) The Inspector General shall investigate patterns of medical
36 practice that may indicate fraud and abuse related to over or under
37 utilization or other inappropriate utilization of medical products
38 and services.

1 (e) The Inspector General shall arrange for the collection and
2 analysis of data needed to investigate the inappropriate utilization
3 of these products and services.

4 (f) The Inspector General shall conduct additional reviews or
5 investigations of financial and business records when requested
6 by the Governor or by any Member of the Legislature and shall
7 report findings of the review or investigation to the Governor and
8 the Legislature.

9 (g) The Inspector General shall establish a telephone hotline
10 for anonymous reporting of allegations of failure to make health
11 insurance premium payments established by this division. The
12 Inspector General shall investigate information provided to the
13 hotline and shall report any findings of misconduct to the Attorney
14 General.

15 (h) The Inspector General shall annually report
16 recommendations for improvements to the system or the agency
17 to the Governor, the Legislature, and the commissioner.

18 140107. The provisions of the Insurance Frauds Prevention
19 Act (Chapter 12 (commencing with Section 1871) of Part 2 of
20 Division 1 of the Insurance Code), and the provisions of Article
21 6 (commencing with Section 650) of Chapter 1 of Division 2 of
22 the Business and Professions Code shall be applicable to health
23 care providers who receive payments for services through the
24 system under this division.

25 140108. (a) Nothing contained in this division is intended to
26 repeal any legislation or regulation governing the professional
27 conduct of any person licensed by the State of California or any
28 legislation governing the licensure of any facility licensed by the
29 State of California.

30 (b) All federal legislation and regulations governing referral
31 fees and fee-splitting, including, but not limited to, Sections
32 1320a-7b and 1395nn of Title 42 of the United States Code, shall
33 be applicable to all health care providers of services reimbursed
34 under this division, whether or not the health care provider is paid
35 with funds coming from the federal government.

36 140110. (a) The system shall be operational no later than two
37 years after the date this division, other than Article 2 (commencing
38 with Section 140230) of Chapter 3, becomes operative, as described
39 in Section 140700.

1 (b) The commissioner shall assess health plans and insurers for
2 care provided by the system in those cases in which a person's
3 health care coverage extends into the time period in which the new
4 system is operative.

5 (c) The commissioner shall implement means to assist persons
6 who are displaced from employment as a result of the initiation of
7 the system, including determination of the period of time during
8 which assistance shall be provided and possible sources of funds,
9 including funds from the system, to support retraining and job
10 placement. That support shall be provided for a period of five years
11 from the date that this division becomes operative.

12 140111. (a) The commissioner shall appoint a transition
13 advisory group, which shall include, but not be limited to, the
14 following members:

15 (1) The commissioner.

16 (2) The patient advocate of the Office of Patient Advocacy.

17 (3) The chief medical officer.

18 (4) The Director of the Office of Health Planning.

19 (5) The Director of the Healthcare Fund.

20 (6) The State Public Health Officer.

21 (7) Experts in health care financing and health care
22 administration.

23 (8) Direct care providers.

24 (9) Representatives of retirement boards.

25 (10) Employer and employee representatives.

26 (11) Hospital, integrated health care delivery system, essential
27 community provider, and long-term care facility representatives.

28 (12) Representatives from state departments and regulatory
29 bodies that shall or may relinquish some or all parts of their
30 delivery of health care services to the system.

31 (13) Representatives of counties.

32 (14) Consumers of health care services.

33 (b) The transition advisory group shall advise the commissioner
34 on all aspects of the implementation of this division.

35 (c) The transition advisory group shall make recommendations
36 to the commissioner, the Governor, and the Legislature on how to
37 integrate health care delivery services and responsibilities relating
38 to the delivery of the services of the following departments and
39 agencies into the system:

40 (1) The State Department of Health Care Services.

- 1 (2) The Department of Managed Health Care.
- 2 (3) The Department of Aging.
- 3 (4) The Department of Developmental Services.
- 4 (5) The Health and Welfare Data Center.
- 5 (6) The State Department of Mental Health.
- 6 (7) The State Department of Alcohol and Drug Programs.
- 7 (8) The Department of Rehabilitation.
- 8 (9) The Emergency Medical Services Authority.
- 9 (10) The Managed Risk Medical Insurance Board.
- 10 (11) The Office of Statewide Health Planning and Development.
- 11 (12) The Department of Insurance.
- 12 (13) The State Department of Public Health.
- 13 (d) The transition advisory group shall make recommendations
- 14 to the Governor, the Legislature, and the commissioner regarding
- 15 research needed to support transition to the system.
- 16 140112. (a) The transition advisory group shall make
- 17 recommendations to the commissioner relative to how the system
- 18 shall be regionalized for the purposes of local and
- 19 community-based planning for the delivery of high quality
- 20 cost-effective care and efficient service delivery.
- 21 (b) The commissioner, in consultation with the Director of the
- 22 Office of Health Planning, shall establish up to 10 health planning
- 23 regions composed of geographically contiguous counties grouped
- 24 on the basis of the following considerations:
- 25 (1) Patterns of utilization of health care services.
- 26 (2) Health care resources, including workforce resources.
- 27 (3) Health needs of the population, including public health
- 28 needs.
- 29 (4) Geography.
- 30 (5) Population and demographic characteristics.
- 31 (6) Other considerations as determined by the commissioner,
- 32 the Director of the Office of Health Planning, or the chief medical
- 33 officer.
- 34 (c) The commissioner shall appoint a director for each region.
- 35 Regional planning directors shall serve at the will of the
- 36 commissioner and may serve up to two eight-year terms to coincide
- 37 with the terms of the commissioner.
- 38 (d) Each regional planning director shall appoint a regional
- 39 medical officer.

1 (e) Compensation for officers of the system and appointees who
2 are exempt from the civil service shall be established by the
3 California Citizens Commission in accordance with Section 8 of
4 Article III of the California Constitution, and shall take into
5 consideration regional differences in the cost of living.

6 (f) The regional planning director and the regional medical
7 officer shall be subject to Title 9 (commencing with Section 81000)
8 of the Government Code and shall comply with the qualifications
9 for office described in subdivisions (c), (d), and (e) of Section
10 140100 and subdivisions (j) and (k) of Section 140101.

11 140113. (a) Regional planning directors shall administer the
12 health planning region. The regional planning director shall be
13 responsible for all duties, the exercise of all powers and
14 jurisdiction, and the assumptions and discharge of all
15 responsibilities vested by law in the regional agency. The regional
16 planning director shall perform all duties imposed upon him or
17 her by this division and by other laws related to health care, and
18 shall enforce execution of those provisions and laws to promote
19 their underlying aims and purposes.

20 (b) The regional planning director shall reside in the region in
21 which he or she serves.

22 (c) The regional planning director shall do all of the following:

23 (1) Establish and administer a regional office of the state agency.
24 Each regional office shall include, at minimum, an office of each
25 of the following: Patient Advocacy, Health Care Quality, Health
26 Planning, and Partnerships for Health.

27 (2) Appoint regional planning board members and serve as
28 president of the board.

29 (3) Identify and prioritize regional health care needs and goals,
30 in collaboration with the regional medical officer, regional health
31 care providers, the regional planning board, and regional director
32 of Partnerships for Health pursuant to the priorities and goals of
33 the system established by the commissioner.

34 (4) Regularly assess projected revenues and expenditures to
35 ensure fiscal solvency of the regional planning system and advise
36 the commissioner of potential revenue shortfalls and the possible
37 need for cost controls.

38 (5) Assure that regional administrative costs meet standards
39 established by the division and seek innovative means to lower

1 the costs of administration of the regional planning office and those
2 of regional providers.

3 (6) Plan for the delivery of, and equal access to, high quality
4 and culturally and linguistically sensitive care and such care for
5 disabled persons that meets the needs of all regional residents
6 pursuant to standards established by the commissioner.

7 (7) Seek innovative and systemic means to improve care quality
8 and efficiency of care delivery and to achieve access to programs
9 for all state residents.

10 (8) Recommend means to implement policies established by
11 the commissioner to provide support to persons displaced from
12 employment as a result of the initiation of the new system.

13 (9) Make needed revenue sharing arrangements so that
14 regionalization does not limit a patient's choice of provider.

15 (10) Implement procedures established by the commissioner
16 for the resolution of disputes.

17 (11) Implement processes established by the commissioner and
18 recommend needed changes to permit the public to share concerns,
19 provide ideas, opinions, and recommendations regarding all aspects
20 of the system's policies.

21 (12) Report regularly to the public and, at intervals determined
22 by the commissioner and pursuant to this division, to the
23 commissioner on the status of the regional planning system,
24 including evaluating access to care, quality of care delivered, and
25 provider performance, and other issues related to regional health
26 care needs, and recommending needed improvements.

27 (13) Identify or establish guidelines for providers to identify,
28 maintain, and provide to the regional planning director inventories
29 of regional health care assets.

30 (14) Establish and maintain regional health care databases that
31 are coordinated with other regional and statewide databases.

32 (15) In collaboration with the regional medical officer, enforce
33 reporting requirements established by the system and make
34 recommendations to the commissioner, the Director of the Office
35 of Health Planning, and the chief medical officer for needed
36 changes in reporting requirements.

37 (16) Establish and implement a regional capital management
38 plan pursuant to the capital management plan established by the
39 commissioner for the system.

1 (17) Implement standards and formats established by the
2 commissioner for the development and submission of operating
3 and capital budget requests and make recommendations to the
4 commissioner and the Director of the Office of Health Planning
5 for needed changes.

6 (18) Support regional providers in developing operating and
7 capital budget requests.

8 (19) Receive, evaluate, and prioritize provider operating and
9 capital budget requests pursuant to standards and criteria
10 established by the commissioner.

11 (20) Prepare a three-year regional operating and capital budget
12 request that meets the health care needs of the region pursuant to
13 this division, for submission to the commissioner.

14 (21) Establish a comprehensive three-year regional planning
15 budget using funds allocated to the region by the commissioner.

16 140114. The regional medical officers shall do all of the
17 following:

18 (a) Administer all aspects of the regional office of health care
19 quality.

20 (b) Serve as a member of the regional planning board.

21 (c) In collaboration with the commissioner, the chief medical
22 officer, the regional medical officer, regional planning boards, the
23 patient advocate of the Office of Patient Advocacy, regional
24 providers, and patients, oversee the establishment of integrated
25 service networks, including those that provide services through
26 medical technologies such as telemedicine, that include physicians
27 in fee-for-service, solo and group practice, essential community,
28 and ancillary care providers and facilities that pool and align
29 resources and form interdisciplinary teams that share responsibility
30 and accountability for patient care and provide a continuum of
31 coordinated high quality primary to tertiary care to all residents
32 of the region.

33 (d) Ensure the evaluation and measurement of the quality of
34 care delivered in the region, including assessment of the
35 performance of individual providers, pursuant to standards and
36 methods established by the chief medical officer to ensure a single
37 standard of high quality care is delivered to all state residents.

38 (e) In collaboration with the chief medical officer and regional
39 providers, evaluate standards of care in use at the time the system
40 becomes operative.

- 1 (f) Ensure a smooth transition toward use of standards based
2 on clinical efficacy that guide clinical decisionmaking. Identify
3 areas of medical practice where standards have not been established
4 and collaborated with the chief medical officer and health care
5 providers, to establish priorities in developing needed standards.
- 6 (g) Support the development and distribution of user-friendly
7 software for use by providers in order to support the delivery of
8 high quality care.
- 9 (h) Provide feedback to, and support and supervision of, health
10 care providers to ensure the delivery of high quality care pursuant
11 to standards established by the system.
- 12 (i) Collaborate with the regional Partnerships for Health to
13 develop patient education to assist consumers in evaluating and
14 appropriately utilizing health care providers and facilities.
- 15 (j) Collaborate with regional public health officers to establish
16 regional health policies that support the public health.
- 17 (k) Establish a regional program to monitor and decrease
18 medical errors and their causes pursuant to standards and methods
19 established by the chief medical officer.
- 20 (l) Support the development and implementation of innovative
21 means to provide high quality care and assist providers in securing
22 funds for innovative demonstration projects that seek to improve
23 care quality.
- 24 (m) Establish means to assess the impact of the system's policies
25 intended to assure the delivery of high quality care.
- 26 (n) Collaborate with the chief medical officer, the Director of
27 the Office of Health Planning, the regional planning director, and
28 health care providers in the development and maintenance of
29 regional health care databases.
- 30 (o) Ensure the enforcement of, and recommend needed changes
31 in, the system's reporting requirements.
- 32 (p) Support providers in developing regional budget requests.
- 33 (q) Annually report to the commissioner, the public, the regional
34 planning board, and the chief medical officer on the status of
35 regional health care programs, needed improvements, and plans
36 to implement and evaluate delivery of care improvements.
- 37 140115. (a) Each region shall have a regional planning board
38 consisting of 13 members who shall be appointed by the regional
39 planning director. Members shall serve eight-year terms that

1 coincide with the term of the regional planning director and may
2 be reappointed for a second term.

3 (b) Regional planning board members shall have resided for a
4 minimum of two years in the region in which they serve prior to
5 appointment to the board.

6 (c) Regional planning board members shall reside in the region
7 they serve while on the board.

8 (d) The board shall consist of the following members:

9 (1) The regional planning director, the regional medical officer,
10 the regional director of the Partnerships for Health, and a public
11 health officer from one of the counties in the region.

12 (2) When there is more than one county in a region, the public
13 health officer board position shall rotate among the public health
14 county officers on a timetable to be established by each regional
15 planning board.

16 (3) A representative from the Office of Patient Advocacy.

17 (4) One expert in health care financing.

18 (5) One expert in health care planning.

19 (6) Two members who are direct care providers in the region,
20 one of whom shall be a registered nurse.

21 (7) One member who represents ancillary health care workers
22 in the region.

23 (8) One member representing hospitals in the region.

24 (9) One member representing essential community providers
25 in the region.

26 (10) One member representing the public.

27 (e) The regional planning director shall serve as chair of the
28 board.

29 (f) The purpose of the regional planning boards is to advise and
30 make recommendations to the regional planning director on all
31 aspects of regional health policy.

32 (g) Meetings of the board shall be open to the public pursuant
33 to the Bagley-Keene Open Meeting Act (Article 9 (commencing
34 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
35 2 of the Government Code).

36 140116. The following conflict-of-interest prohibitions shall
37 apply to all appointees of the commissioner or transition advisory
38 group, including, but not limited to, the patient advocate, the
39 Director of the Healthcare Fund, the purchasing director, the
40 Director of the Office of Health Planning, the Director of the

1 Payments Board, the chief medical officer, the Director of
2 Partnerships for Health, regional planning directors, and the
3 Inspector General:

4 (a) The appointee shall not have been employed in any capacity
5 by a for-profit insurance, pharmaceutical, or medical equipment
6 company that sells products to the system for a period of two years
7 prior to appointment.

8 (b) For two years after completing service in the system, the
9 appointee may not receive payments of any kind from, or be
10 employed in any capacity or act as a paid consultant to, a for-profit
11 insurance, pharmaceutical, or medical equipment company that
12 sells products to the system.

13 (c) The appointee shall avoid political activity that may create
14 the appearance of political bias or impropriety. Prohibited activities
15 shall include, but not be limited to, leadership of, or employment
16 by, a political party or a political organization; public endorsement
17 of a political candidate; contribution of more than five hundred
18 dollars (\$500) to any one candidate in a calendar year or a
19 contribution in excess of an aggregate of one thousand dollars
20 (\$1,000) in a calendar year for all political parties or organizations;
21 and attempting to avoid compliance with this prohibition by making
22 contributions through a spouse or other family member.

23 (d) The appointee shall not participate in making or in any way
24 attempt to use his or her official position to influence a
25 governmental decision in which he or she or a family member,
26 business partner, or colleague has a financial interest.

27

28

CHAPTER 3. FUNDING

29

30

Article 1. General Provisions

31

32 140200. (a) In order to support the agency effectively in the
33 administration of this division, there is hereby established in the
34 State Treasury the Healthcare Fund. The fund shall be administered
35 by a director appointed by the commissioner.

36 (b) All moneys collected, received, and transferred pursuant to
37 this division shall be transmitted to the State Treasury to be
38 deposited to the credit of the Healthcare Fund for the purpose of
39 financing the California Healthcare System.

1 (c) Moneys deposited in the Healthcare Fund shall be used
2 exclusively to support this division, subject to appropriation by
3 the Legislature.

4 (d) All claims for health care services rendered pursuant to the
5 system shall be made to the Healthcare Fund through an electronic
6 claims and payment system. The commissioner shall investigate
7 the costs, benefits, and means of supporting health care providers
8 in obtaining electronic systems for claims and payments
9 transactions; however, alternative provisions shall be made for
10 health care providers without electronic systems.

11 (e) All payments made for health care services shall be disbursed
12 from the Healthcare Fund through an electronic claims and
13 payments system; however, alternative provisions shall be made
14 for health care providers without electronic systems.

15 (f) The director of the fund shall serve on the Healthcare Policy
16 Board.

17 140201. (a) The Director of the Healthcare Fund shall establish
18 the following accounts within the Healthcare Fund:

19 (1) A system account to provide for all annual state expenditures
20 for health care.

21 (2) A reserve account.

22 (b) Premiums collected each year shall be roughly sufficient to
23 cover that year's projected costs.

24 (c) The system shall at all times hold an actuarially sound
25 reserve that is consistent with appropriate risk-based capital
26 standards to assure financial solvency of the system.

27 (d) During the transition, the commissioner shall work with the
28 Department of Insurance, the Department of Managed Health Care,
29 and other experts to determine an appropriate level of reserves for
30 the system for the first year and for future years of its operation.

31 (e) Moneys currently held in reserve by state health programs,
32 city and county contributions as determined by the commissioner
33 pursuant to subdivision (c) of Section 140240, and federal moneys
34 for health care held in reserve in federal trust accounts shall be
35 transferred to the reserve account when the state assumes financial
36 responsibility for health care under this division that is currently
37 provided by those programs.

38 (f) The commissioner may implement arrangements to
39 self-insure the system against unforeseen expenditures or revenue
40 shortfalls not covered by reserves and may borrow funds to cover

1 temporary revenue shortfalls not covered by system reserves,
2 including the issuance of bonds for this purpose, whichever is the
3 more cost effective.

4 (g) Funds held in the reserve account and other Healthcare Fund
5 accounts may be prudently invested to increase their value
6 according to the Department of Managed Health Care's standards
7 for financial solvency.

8 140203. (a) The Director of the Healthcare Fund shall
9 immediately notify the commissioner when regional or statewide
10 revenue and expenditure trends indicate that expenditures may
11 exceed revenues.

12 (b) If the commissioner determines that statewide revenue trends
13 indicate the need for statewide cost control measures, the
14 commissioner shall convene the Healthcare Policy Board to discuss
15 the need for cost control measures and shall immediately report
16 to the Legislature and the public regarding the possible need for
17 cost control measures.

18 (c) Cost control measures include any or all of the following:

19 (1) Changes in the system or health facility administration that
20 improve efficiency.

21 (2) Changes in the delivery of health care services that improve
22 efficiency and care quality.

23 (3) Postponement of introduction of new benefits or benefit
24 improvements.

25 (4) Seeking statutory authority for a temporary decrease in
26 benefits.

27 (5) Postponement of planned capital expenditures.

28 (6) Adjustments of health care provider payments to correct for
29 deficiencies in care quality and failure to meet compensation
30 contract performance goals, pursuant to subdivisions (a) to (f),
31 inclusive, of Section 140106, paragraph (4) of subdivision (a) of
32 Section 140204, subdivision (a) of Section 140213, and
33 subdivisions (c) and (d) of Section 140606.

34 (7) Adjustments to the compensation of managerial employees
35 and upper level managers under contract with the system to correct
36 for deficiencies in management and failure to meet contract
37 performance goals.

38 (8) Limitations on the reimbursement budgets of the system's
39 providers and upper level managers whose compensation is
40 determined by the Payments Board.

1 (9) Limitations on aggregate reimbursements to manufacturers
2 of pharmaceutical and durable and nondurable medical equipment.

3 (10) Deferred funding of the reserve account.

4 (11) Imposition of copayments or deductible payments. Any
5 copayment or deductible payments imposed under this section
6 shall be subject to all of the following requirements:

7 (A) No copayment or deductible may be established when
8 prohibited by federal law.

9 (B) All copayments and deductibles shall meet federal guidelines
10 for copayments and deductible payments that may lawfully be
11 imposed on persons with low income.

12 (C) The commissioner shall establish standards and procedures
13 for waiving copayments or deductible payments and a waiver card
14 that shall be issued to a patient or to a family to indicate the waiver.
15 Procedures for copayment waiver may include a determination by
16 a patient's primary care provider that imposition of a copayment
17 would be a financial hardship. Copayment and deductible waivers
18 shall be reviewed annually by the regional planning director.

19 (D) Waivers shall not affect the reimbursement of health care
20 providers.

21 (E) Any copayments or deductible payments established
22 pursuant to this section shall be transmitted to the Treasurer to be
23 deposited to the credit of the Healthcare Fund.

24 (12) Imposition of an eligibility waiting period and other means
25 if the commissioner determines that large numbers of people are
26 immigrating to the state for the purpose of obtaining health care
27 through the system.

28 (d) Nothing in this division shall be construed to diminish the
29 benefits that an individual has under a collective bargaining
30 agreement or statute.

31 (e) Nothing in this division shall preclude employees from
32 receiving benefits available to them under a collective bargaining
33 agreement or other employee-employer agreement or a statute that
34 are superior to benefits under this division.

35 (f) Cost control measures implemented by the commissioner
36 and the Healthcare Policy Board shall remain in place in the state
37 until the commissioner and the Healthcare Policy Board determine
38 that the cause of a revenue shortfall has been corrected.

39 (g) If the Healthcare Policy Board determines that cost control
40 measures described in subdivision (c) will not be sufficient to meet

1 a revenue shortfall, the commissioner shall report to the Legislature
2 and to the public on the causes of the shortfall and the reasons for
3 the failure of cost controls and shall recommend measures to
4 correct the shortfall, including an increase in premium payments
5 to the system.

6 140204. (a) If the commissioner or a regional planning director
7 determines that regional revenue and expenditure trends indicate
8 a need for regional cost control measures, the regional planning
9 director shall convene the regional planning board to discuss the
10 possible need for cost control measures and to make a
11 recommendation about appropriate measures to control costs.
12 These may include any of the following:

13 (1) Changes in the administration of the system or in health
14 facility administration that improve efficiency.

15 (2) Changes in the delivery of health care services and health
16 system management that improve efficiency or care quality.

17 (3) Postponement of planned regional capital expenditures.

18 (4) Adjustment of payments to health care providers to reflect
19 deficiencies in care quality and failure to meet compensation
20 contract performance goals and payments to upper level managers
21 to reflect deficiencies in management and failure to meet
22 compensation contract performance goals.

23 (5) Adjustment of payments to health care providers and upper
24 level managers above a specified amount of aggregate billing.

25 (6) Adjustment of payments to pharmaceutical and medical
26 equipment manufacturers and others selling goods and services to
27 the system above a specified amount of aggregate billing.

28 (b) If a regional planning board is convened to implement cost
29 control measures, the commissioner shall participate in the regional
30 planning board meeting.

31 (c) The regional planning director, in consultation with the
32 commissioner, shall determine if cost control measures are
33 warranted and those measures that shall be implemented.

34 (d) Imposition of copayments or deductibles, postponement of
35 new benefits or benefit improvements, deferred funding of the
36 reserve account, establishment of eligibility waiting periods, and
37 increases in premium payments under the system may occur on a
38 statewide basis only and with the concurrence of the commissioner
39 and the Healthcare Policy Board.

1 (e) If a regional planning director and regional planning board
2 are considering imposition of cost control measures, the regional
3 planning director shall immediately report to the residents of the
4 region regarding the possible need for cost control measures.

5 (f) Cost control measures shall remain in place in a region until
6 the regional planning director and the commissioner determine
7 that the cause of a revenue shortfall has been corrected.

8 140205. (a) If, on June 30 of any year, the Budget Act for the
9 fiscal year beginning on July 1 has not been enacted, all moneys
10 in the reserve account of the Healthcare Fund shall be used to
11 implement this division until funds are available through the
12 Budget Act.

13 (b) Notwithstanding any other provision of law and without
14 regard to fiscal year, if the annual Budget Act is not enacted by
15 June 30 of any fiscal year preceding the fiscal year to which the
16 budget would apply and if the commissioner determines that funds
17 in the reserve account are depleted, the following shall occur:

18 (1) The Controller shall annually transfer from the General
19 Fund, in the form of one or more loans, an amount to the
20 Healthcare Fund for the purpose of making payments to health
21 care providers and to persons and businesses under contract with
22 the system or with health care providers to provide services,
23 medical equipment, and pharmaceuticals to the system.

24 (2) Upon enactment of the Budget Act in any fiscal year to
25 which paragraph (1) applies, the Controller shall transfer all
26 expenditures and unexpected funds loaned to the Healthcare Fund
27 to the appropriate Budget Act item.

28 (3) The amount of any loan made pursuant to paragraph (1) for
29 which moneys were expended from the Healthcare Fund shall be
30 repaid by debiting the appropriate Budget Act item in accordance
31 with procedures prescribed by the Department of Finance.

32 140206. (a) The commissioner annually shall prepare a budget
33 for the system that includes all expenditures, specifies a limit on
34 total annual state expenditures, and establishes allocations for each
35 health care region that shall cover a three-year period and that shall
36 be disbursed on a quarterly basis.

37 (b) The commissioner shall limit the growth of spending on a
38 statewide and on a regional basis, by reference to average growth
39 in state domestic product across multiple years; population growth,
40 actuarial demographics and other demographic indicators;

1 differences in regional costs of living; advances in technology and
2 their anticipated adoption into the benefit plan; improvements in
3 efficiency of administration and care delivery; improvements in
4 the quality of care; and projected future state domestic product
5 growth rates.

6 (c) The commissioner shall adjust the system's budget so that
7 aggregate spending in the state on health care shall not exceed
8 spending under this division by more than 5 percent.

9 (d) The commissioner shall project the system's revenues and
10 expenditures for 3, 6, 9, and 12 years pursuant to parameters
11 prescribed in subdivision (f).

12 (e) The budget for the system shall include all of the following:

13 (1) Transition budget.

14 (2) Providers and managers budget.

15 (3) Capitated operating budgets.

16 (4) Noncapitated operating budgets.

17 (5) Capital investment budget.

18 (6) Purchasing budget, including prescription drugs and durable
19 and nondurable medical equipment pursuant to Section 140220.

20 (7) Research and innovation budget pursuant to Section 140221.

21 (8) Workforce training and development budget pursuant to
22 Section 140222.

23 (9) Reserve account pursuant to Section 140223.

24 (10) System administration budget pursuant to Section 140224.

25 (11) Regional budgets.

26 (f) In establishing budgets, the commissioner shall make
27 adjustments based on all of the following:

28 (1) Costs of transition to the new system.

29 (2) Projections regarding the health care services anticipated to
30 be used by California residents.

31 (3) Differences in cost of living between the regions, including
32 the overhead costs of maintaining medical practices.

33 (4) Health risk of enrollees.

34 (5) Scope of services provided.

35 (6) Innovative programs that improve care quality,
36 administrative efficiency, and workplace safety.

37 (7) Unrecovered cost of providing care to persons who are not
38 enrollees of the system. The commissioner shall seek to recover
39 the costs of care provided to persons who are not enrollees of the
40 system.

- 1 (8) Costs of workforce training and development.
- 2 (9) Costs of correcting health outcome disparities and the unmet
- 3 needs of previously uninsured and underinsured enrollees.
- 4 (10) Relative usage of different health care providers.
- 5 (11) Needed improvements in access to care.
- 6 (12) Projected savings in administrative costs.
- 7 (13) Projected savings due to provision of primary and
- 8 preventive care to the population, including savings from decreases
- 9 in preventable emergency room visits and hospitalizations.
- 10 (14) Projected savings from improvements in care quality.
- 11 (15) Projected savings from decreases in medical errors.
- 12 (16) Projected savings from systemwide management of capital
- 13 expenditures.
- 14 (17) Cost of incentives and bonuses to support the delivery of
- 15 high quality care, including incentives and bonuses needed to
- 16 recruit and retain an adequate supply of needed providers and
- 17 managers and to attract health care providers to medically
- 18 underserved areas.
- 19 (18) Costs of treating complex illnesses, including disease
- 20 management programs.
- 21 (19) Cost of implementing standards of care, care coordination,
- 22 electronic medical records, and other electronic initiatives.
- 23 (20) Costs of new technology.
- 24 (21) Technology research and development costs and costs
- 25 related to the system's use of new technologies.
- 26 (g) Moneys in the reserve account shall not be considered as
- 27 available revenues for the purposes of preparing the system's
- 28 budget, except when the annual Budget Act has not been enacted
- 29 by June 30 of any fiscal year.
- 30 140207. The commissioner shall annually establish the total
- 31 funds to be allocated for provider and manager compensation
- 32 pursuant to this section. In establishing the provider and manager
- 33 budgets, the commissioner shall allot sufficient funds to assure
- 34 that California can attract and retain those providers and managers
- 35 needed to meet the health care needs of the population. In
- 36 establishing provider and manager budgets, the commissioner shall
- 37 allocate funds for both salaries, incentives, bonuses, and benefits
- 38 to be provided to officers and upper level managers of the system
- 39 who are exempt from state civil service statutes.

1 140208. (a) The commissioner shall establish the Payments
2 Board and shall appoint a director and members of the board.

3 (b) The commissioner shall retain the authority to review,
4 approve, reject, and modify all payment contracts and
5 compensation plans established pursuant to this section.

6 (c) The Payments Board shall be composed of experts in health
7 care finance and insurance systems, a designated representative
8 of the commissioner, a designated representative of the Healthcare
9 Fund, and a representative of the regional planning directors. The
10 position of regional representative shall rotate among the directors
11 of the regional planning boards every two years.

12 (d) The board shall establish and supervise a uniform payments
13 system for health care providers and managers and shall maintain
14 a compensation plan for all of the following health care providers
15 and managers pursuant to the provider and manager budget
16 established by the commissioner:

17 (1) Upper level managers employed by, or under contract with,
18 private health care facilities, including, but not limited to, hospitals,
19 integrated health care delivery systems, group and solo medical
20 practices, and essential community facilities.

21 (2) Managers and officers of the system who are exempt from
22 statutes governing civil service employment.

23 (3) Health care providers including, but not limited to,
24 physicians, osteopathic physicians, dentists, podiatrists, nurse
25 practitioners, physician assistants, chiropractors, acupuncturists,
26 psychologists, social workers, marriage, family and child
27 counselors, and other professional health care providers who are
28 required by law to be licensed to practice in California and who
29 provide services pursuant to the system.

30 (4) Compensation for employees of the system that was
31 determined through employer-union negotiations before
32 implementation of this division shall be determined by negotiations
33 between the system and the unions after implementation of this
34 division.

35 (5) Health care providers licensed and accredited to provide
36 services in California may choose to be compensated for their
37 services either by the system or by a person to whom they provide
38 services.

1 (6) Health care providers electing to be compensated by the
2 system shall enter into a contract with the system pursuant to
3 provisions of this section.

4 (7) Health care providers electing to be compensated by persons
5 to whom they provide services, instead of by the system, may
6 establish charges for their services.

7 (8) Health care providers who accept any payment from the
8 system under this division shall not bill a patient for any covered
9 service, except as authorized by the commissioner.

10 (e) Health care providers licensed or accredited to provide
11 services in California, who choose to be compensated by the system
12 instead of by patients to whom they provide services, may choose
13 how they wish to be compensated under this division, as
14 fee-for-service providers or as providers employed by, or under
15 contract with, health care systems that provide comprehensive,
16 coordinated services.

17 (f) Notwithstanding provisions of the Business and Professions
18 Code, nurse practitioners, physician assistants, and others who
19 under California law must be supervised by a physician and
20 surgeon, an osteopathic physician, a dentist, or a podiatrist, may
21 choose fee-for-service compensation while under lawfully required
22 supervision. However, nothing in this section shall interfere with
23 the right of a supervising health care provider to enter into a
24 contractual arrangement that provides for salaried compensation
25 for employees who must be supervised under the law by a
26 physician and surgeon, an osteopathic physician, a dentist, or a
27 podiatrist.

28 (g) The compensation plan shall include all of the following:

29 (1) Actuarially sound payments that include a just and fair return
30 for health care providers in the fee-for-service sector and for health
31 care providers working in health systems where comprehensive
32 and coordinated services are provided, including the actuarial basis
33 for the payment.

34 (2) Payment schedules that shall be in effect for three years.

35 (3) Bonus and incentive payments, including, but not limited
36 to, all the following:

37 (A) Bonus payments for health care providers and upper level
38 managers who, in providing services and managing facilities,
39 practices, and integrated health systems pursuant to this division,

1 meet performance standards and outcome goals established by the
2 system.

3 (B) Incentive payments for health care providers and upper level
4 managers who provide services to the system in areas identified
5 by the Office of Health Planning as medically underserved.

6 (C) Incentive payments required to achieve the ratio of generalist
7 to specialist health care providers needed in order to meet the
8 standards of care and health needs of the population.

9 (D) Incentive payments required to recruit and retain nurse
10 practitioners and physician assistants in order to provide primary
11 and preventive care to the population.

12 (E) No bonus or incentive payment may be made in excess of
13 the total allocation for health care provider and manager incentive
14 and bonus reimbursement established by the commissioner in the
15 system's budget.

16 (F) No incentive may adversely affect the care a patient receives
17 or the care a health care provider recommends.

18 (h) Health care providers shall be paid for all services provided
19 pursuant to this division, including care provided to persons who
20 are subsequently determined to be ineligible for the system.

21 (i) Licensed health care providers who deliver services not
22 covered under the system may establish rates and charge patients
23 for those services.

24 (j) Reimbursement to health care providers and compensation
25 to managers may not exceed the amount allocated by the
26 commissioner to provider and manager annual budgets.

27 140209. (a) Fee-for-service health care providers shall choose
28 representatives of their specialties to negotiate reimbursement rates
29 with the Payments Board on their behalf.

30 (b) The Payments Board shall establish a uniform system of
31 payments for all services provided pursuant to this division.

32 (c) Payment schedules shall be available to health care providers
33 in printed and in electronic documents.

34 (d) Payment schedules shall be in effect for three years, at which
35 time payment schedules may be renegotiated. Payment adjustments
36 may be made at the discretion of the Payments Board to meet the
37 goals of the system.

38 (e) In establishing a uniform system of payments, the Payments
39 Board shall collaborate with regional planning directors and health
40 care providers and shall take into consideration regional differences

1 in the cost of living and the need to recruit and retain skilled health
2 care providers in the region.

3 (f) Fee-for-service health care providers shall submit claims
4 electronically to the Healthcare Fund and shall be paid within 30
5 business days for claims filed in compliance with procedures
6 established by the Healthcare Fund.

7 140210. (a) Compensation for health care providers and upper
8 level managers employed by, or under contract with, integrated
9 health care delivery systems, group medical practices, and essential
10 community providers that provide comprehensive, coordinated
11 services shall be determined according to the following guidelines:

12 (b) Health care providers and upper level managers employed
13 by, or under contract with, systems that provide comprehensive,
14 coordinated health care services shall be represented by their
15 respective employers or contractors for the purposes of negotiating
16 reimbursement with the Payments Board.

17 (c) In negotiating reimbursement with systems providing
18 comprehensive, coordinated services, the Payments Board shall
19 take into consideration the need for comprehensive systems to
20 have flexibility in establishing health care provider and upper level
21 manager reimbursement.

22 (d) Payment schedules shall be in effect for three years.
23 However, payment adjustments may be made at the discretion of
24 the Payments Board to meet the goals of the system.

25 (e) The Payments Board shall take into consideration regional
26 differences in the cost of living and the need to recruit and retain
27 skilled health care providers and upper level managers to the
28 regions.

29 (f) The Payments Board shall establish a timetable for
30 reimbursement for fee-for-service health care provider's
31 negotiations. If an agreement on reimbursement is not reached
32 according to the timetable established by the Payments Board, the
33 Payments Board shall establish reimbursement rates, which shall
34 be binding.

35 (g) Reimbursement negotiations shall be conducted consistent
36 with the state action doctrine of the antitrust laws.

37 140211. (a) The Payments Board shall annually report to the
38 commissioner on the status of health care provider and upper level
39 manager reimbursement, including satisfaction with reimbursement
40 levels and the sufficiency of funds allocated by the commissioner

1 for provider and upper level manager reimbursement. The
2 Payments Board shall recommend needed adjustments in the
3 allocation for health care provider payments.

4 (b) The Office of Health Care Quality shall annually report to
5 the commissioner on the impact of the bonus payments in
6 improving quality of care, health outcomes, and management
7 effectiveness. The Payments Board shall recommend needed
8 adjustments in bonus allocations.

9 (c) The Office of Health Planning shall annually report to the
10 commissioner on the impact of the incentive payments in recruiting
11 health care providers and upper level managers to underserved
12 areas, in establishing the needed ratio of generalist to specialist
13 health care providers and in attracting and retaining nurse
14 practitioners and physician assistants to the state and shall
15 recommend needed adjustments.

16 140212. (a) The commissioner shall establish an allocation
17 for each region to fund regional operating and capital budgets for
18 a period of three years. Allocations shall be disbursed to the regions
19 on a quarterly basis.

20 (b) Integrated health care delivery systems, essential community
21 providers, and group medical practices that provide comprehensive,
22 coordinated services may choose to be reimbursed on the basis of
23 a capitated system operating budget or a noncapitated system
24 operating budget that covers all costs of providing health care
25 services.

26 (c) Health care providers choosing to function on the basis of
27 a capitated or a noncapitated system operating budget shall submit
28 three-year operating budget requests to the regional planning
29 director, pursuant to standards and guidelines established by the
30 commissioner.

31 (1) Health care providers may include in their operating budget
32 requests reimbursement for ancillary health care or social services
33 that were previously funded by money now received and disbursed
34 by the Healthcare Fund.

35 (2) No payment may be made from a capitated or noncapitated
36 budget for a capital expense except as provided in Section 140216.

37 (d) Regional planning directors shall negotiate operating budgets
38 with regional health care entities, which shall cover a period of
39 three years.

1 (e) Operating and capitated budgets shall include health care
2 workforce labor costs other than those described in paragraphs
3 (1), (2), and (3) of subdivision (d) of Section 140208. If unions
4 represent employees working in systems functioning under
5 capitated or noncapitated budgets, unions shall represent those
6 employees in negotiations with the regional planning director and
7 the Payments Board for the purpose of establishing their
8 reimbursement.

9 140213. (a) Health systems and medical practices functioning
10 under capitated and noncapitated operating budgets shall
11 immediately report any projected operating deficit to the regional
12 planning director. The regional planning director shall determine
13 whether projected deficits reflect appropriate increases in
14 expenditures, in which case the director shall make an adjustment
15 to the operating budget. If the director determines that deficits are
16 not justifiable, no adjustment shall be made.

17 (b) If a regional planning director determines that adjustments
18 to operating budgets will cause a regional revenue shortfall and
19 that cost control measures may be required, the regional planning
20 director shall report the possible revenue shortfall to the
21 commissioner and take actions required pursuant to Section
22 140203.

23 140215. (a) Margins generated by a facility operating under
24 a system operating budget may be retained and used to meet the
25 health care needs of the population.

26 (b) No margin may be retained if that margin was generated
27 through inappropriate limitations on access to health care or
28 compromises in the quality of care or in any way that adversely
29 affected or is likely to adversely affect the health of the persons
30 receiving services from a facility, integrated health care delivery
31 system, group medical practice, or essential community provider
32 functioning under a system operating budget.

33 (1) The chief medical officer shall evaluate the source of margin
34 generation and report violations of this section to the commissioner.

35 (2) The commissioner shall establish and enforce penalties for
36 violations of this section.

37 (3) Penalty payments collected pursuant to violations of this
38 section shall be remitted to the Healthcare Fund for use in the
39 California Healthcare System.

1 (c) Facilities operating under system operating budgets of the
2 California Healthcare System may raise and expend funds from
3 sources other than the system including, but not limited to, private
4 or foundation donors for purposes related to the goals of this
5 division and in accordance with provisions of this division.

6 140216. (a) During the transition, the commissioner shall
7 develop a capital management plan that shall include
8 conflict-of-interest standards and that shall govern all capital
9 investments and acquisitions undertaken in the system. The plan
10 shall include a framework, standards, and guidelines for all of the
11 following:

12 (1) Standards whereby the Office of Health Planning shall
13 oversee, assist in the implementation of, and ensure that the
14 provisions of the capital management plan are enforced.

15 (2) Assessment and prioritization of short- and long-term capital
16 needs of the system on statewide and regional bases.

17 (3) Assessment of capital health care assets and capital health
18 care asset shortages on a regional and statewide basis at the time
19 this division is first implemented.

20 (4) Development by the commissioner of a multiyear system
21 capital development plan that supports the system's goals,
22 priorities, and performance standards and meets the health care
23 needs of the population.

24 (5) Development, as part of the system's capital budget, of
25 regional capital allocations that shall cover a period of three years.

26 (6) Evaluation of, and support for, noninvestment means to
27 meet health care needs, including, but not limited to, improvements
28 in administrative efficiency, care quality, and innovative service
29 delivery, use, adaptation or refurbishment of existing land and
30 property, and identification of publicly owned land or property
31 that may be available to the system and that may meet a capital
32 need.

33 (7) Development and maintenance of capital inventories on a
34 regional basis, including the condition, utilization capacity,
35 maintenance plan and costs, deferred maintenance of existing
36 capital inventory, and excess capital capacity.

37 (8) A process whereby those intending to make capital
38 investments or acquisitions shall prepare a business case for making
39 the investment or acquisition, including the full life-cycle costs of
40 the project or acquisition, an environmental impact report that

1 meets existing state standards, and a demonstration of how the
2 investment or acquisition meets the health care needs of the
3 population it is intended to serve. Acquisitions include, but are not
4 limited to, the acquisition of land, operational property, or
5 administrative office space.

6 (9) Standards and a process whereby the regional planning
7 directors shall evaluate, accept, reject, or modify a business plan
8 for a capital investment or acquisition. Decisions of a regional
9 planning director may be appealed through a dispute resolution
10 process established by the commissioner.

11 (10) Standards for binding project contracts between the system
12 and the party developing a capital project or making a capital
13 acquisition that shall govern all terms and conditions of capital
14 investments and acquisitions, including terms and conditions for
15 grants, loans, lines of credit, and lease-purchase arrangements by
16 the system.

17 (11) A process and standards whereby the Director of the
18 Healthcare Fund shall negotiate terms and conditions of the liens,
19 grants, lines of credit, and lease-purchase arrangements for capital
20 investments and acquisitions by the system. Terms and conditions
21 negotiated by the Director of the Healthcare Fund shall be included
22 in project contracts.

23 (12) A plan for the commissioner and for the regional planning
24 directors to issue requests for proposals and to oversee a process
25 of competitive bidding for the development of capital projects that
26 meet the needs of the system and to fund, partially fund, or
27 participate in seeking funding for, those capital projects.

28 (13) Responses to requests for proposals and competitive bids
29 shall include a description of how a project meets the service needs
30 of the region and addresses the environmental impact report and
31 shall include the full life cycle costs of a capital asset.

32 (14) Requests for proposals shall address how intellectual
33 property will be handled and shall include conflict-of-interest
34 guidelines that meet standards established by the commissioner
35 as part of the capital management plan.

36 (15) A process and standards for periodic revisions in the capital
37 management plan, including annual meetings in each region to
38 discuss the plan and make recommendations for improvements in
39 the plan.

1 (16) Standards for determining when a violation of these
2 provisions shall be referred to the Attorney General for
3 investigation and possible prosecution of the violation.

4 (b) No registered lobbyist shall participate in, or in any way
5 attempt to influence, the request for proposals or competitive bid
6 process.

7 (c) Development of performance standards and a process to
8 monitor and measure performance of those making capital health
9 care investments and acquisitions, including those making capital
10 investments pursuant to a state competitive bidding process.

11 (d) A process for earned autonomy from state capital investment
12 oversight for those who demonstrate the ability to manage capital
13 investment and capital assets effectively in accordance with the
14 system's standards, and standards for loss of earned autonomy
15 when capital management is ineffective.

16 (e) Terms and conditions of capital project oversight by the
17 system shall be based on the performance history of the project
18 developer. Health care providers may earn autonomy from
19 oversight if they demonstrate effective capital planning and project
20 management, pursuant to the goals and guidelines established by
21 the commissioner. Health care providers who do not demonstrate
22 that proficiency shall remain subject to oversight by the regional
23 planning director or shall lose autonomy from oversight.

24 (f) In general, no capital investment may be made from an
25 operating budget. However, guidelines shall be established for the
26 types and levels of small capital investments that may be
27 undertaken from an operating budget without the approval of the
28 regional planning director.

29 (g) Any capital investments required for compliance with
30 federal, state, or local regulatory requirements or quality assurance
31 standards shall be exempt from paragraph (2) of subdivision (c)
32 of Section 140212.

33 140217. (a) Regional planning directors shall develop a
34 regional capital development plan pursuant to the system's capital
35 management plan established by the commissioner. In developing
36 the regional capital development plan, the regional planning
37 director shall do all of the following:

38 (1) Implement the standards and requirements of the capital
39 management plan established by the commissioner.

1 (2) Develop a multiyear regional capital health management
2 plan that supports regional goals and the state capital management
3 plan.

4 (3) Assist regional health care providers to develop capital
5 budget requests pursuant to the regional capital budget plan and
6 the system's capital management plan established by the
7 commissioner.

8 (4) Receive and evaluate capital budget requests from regional
9 health care providers.

10 (5) Establish ranking criteria to assess competing demands for
11 capital.

12 (6) Participate in planning for needed earthquake retrofits.
13 However, the cost of mandatory earthquake retrofits of health care
14 facilities shall not be the responsibility of the system.

15 (7) Conduct ongoing project evaluation to assure that terms and
16 conditions of project funding are met.

17 (b) Services provided as a result of capital investments or
18 acquisitions that do not meet the terms of the regional capital
19 development plan and the capital management plan developed by
20 the commissioner shall not be reimbursed by the system.

21 140218. (a) Assets financed by state grants, loans, lines of
22 credit, and lease-purchase arrangements shall be owned, operated,
23 and maintained by the recipient of the grant, loan, line of credit,
24 or lease-purchase arrangement, according to terms established at
25 the time of issuance of the grant, loan, line of credit, or
26 lease-purchase arrangement.

27 (b) Assets financed under long-term leases with the system shall
28 be transferred to public ownership at the end of the lease, unless
29 the commissioner determines that an alternative disposition would
30 be of greater benefit to the system, in which case the commissioner
31 may authorize an alternative disposition.

32 (c) When an asset, which was in whole or in part financed by
33 the system, is to be sold or transferred by a party that received
34 financing from the system for purchase, lease, or construction of
35 the asset, an impartial estimate of the fair market value of the asset
36 shall be undertaken. The system shall receive a share of the fair
37 market value of the asset at the time of its sale or transfer that is
38 in proportion to the system's original investment. The system may
39 elect to postpone receipt of its share of the value of the asset if the

1 commissioner determines that the postponement meets the needs
2 of the system.

3 140219. The regional planning directors shall make financial
4 information available to the public when the system's contribution
5 to a capital project is greater than twenty-five million dollars
6 (\$25,000,000). Information shall include the purpose of the project
7 or acquisition, its relation to the system's goals, the project budget
8 and the timetable for completion, environmental impact reports,
9 any terms-related conflicts of interest, and performance standards
10 and benchmarks.

11 140220. (a) The commissioner shall establish a budget for the
12 purchase of prescription drugs and durable and nondurable medical
13 equipment for the system.

14 (b) The commissioner shall use the purchasing power of the
15 state to obtain the lowest possible prices for prescription drugs and
16 durable and nondurable medical equipment.

17 (c) The commissioner shall make discounted prices available
18 to all California residents, licensed and accredited providers and
19 facilities under the terms of their licenses and accreditation, health
20 care providers, prescription drug and medical equipment
21 wholesalers, and retailers of products approved for use and included
22 in the benefit package of the system.

23 140221. (a) The commissioner shall establish a budget to
24 support research and innovation that has been recommended by
25 the chief medical officer, the Director of the Office of Health
26 Planning, the patient advocates, the Partnerships for Health, and
27 others as required by the commissioner.

28 (b) The research and innovation budget shall support the goals
29 and standards of the system.

30 140222. (a) The commissioner shall establish a budget to
31 support the training, development, and continuing education of
32 health care providers and the health care workforce needed to meet
33 the health care needs of the population and the goals and standards
34 of the system.

35 (b) During the transition, the commissioner shall determine an
36 appropriate level and duration of spending to support the retraining
37 and job placement of persons who have been displaced from
38 employment as a result of the transition to the system.

1 (c) The commissioner shall establish guidelines for giving
2 special consideration for employment to persons who have been
3 displaced as a result of the transition to the system.

4 140223. (a) The commissioner shall establish a reserve account
5 pursuant to this section.

6 (b) The reserve budget may be used only for purposes set forth
7 in this division.

8 140224. (a) The commissioner shall establish a budget that
9 covers all costs of administering the system.

10 (b) Administrative costs on a systemwide basis shall be limited
11 to 10 percent of system costs within five years of completing the
12 transition to the system.

13 (c) Administrative costs on a systemwide basis shall be limited
14 to 5 percent of system costs within 10 years of completing the
15 transition to the system.

16 (d) The commissioner shall ensure that the percentage of the
17 budget allocated to support system administration stays within the
18 allowable limits and shall continually seek means to lower system
19 administrative costs.

20 (e) The commissioner shall report to the public, the regional
21 planning directors, and others attending the annual system revenue
22 and expenditure conference pursuant to Section 140206 on the
23 costs of administering the system and the regions and shall make
24 recommendations for reducing administrative costs and receive
25 recommendations for reducing administrative costs.

26 Article 2. California Healthcare Premium Commission

27
28
29 140230. (a) There is hereby created the California Healthcare
30 Premium Commission, referred to in this division as the Premium
31 Commission.

32 (b) The Premium Commission shall be composed of the
33 following members:

34 (1) Three health economists with experience relevant to the
35 functions of the Premium Commission. One shall be appointed by
36 the Speaker of the Assembly, one shall be appointed by the Senate
37 Committee on Rules, and one shall be appointed by the Governor.

38 (2) Two representatives of California's business community,
39 with one representing small business. One shall be appointed by

1 the Governor, and the representative of small business shall be
2 appointed by the Senate Committee on Rules.

3 (3) Two representatives from organized labor. One shall be
4 appointed by the Senate Committee on Rules, and one shall be
5 appointed by the Speaker of the Assembly.

6 (4) Two representatives of nonprofit organizations whose
7 principal purpose includes promoting the establishment of a system
8 of universal health care in California. One shall be appointed by
9 the Senate Committee on Rules and one shall be appointed by the
10 Speaker of the Assembly.

11 (5) One representative of a nonprofit advocacy organization
12 with expertise in taxation policy whose principal purpose includes
13 advocating for sustainable funding for the public infrastructure.
14 This person shall be appointed by the Speaker of the Assembly.

15 (6) Two members of the Legislature. One shall be appointed by
16 the Senate Committee on Rules and one shall be appointed by the
17 Speaker of the Assembly.

18 (7) The Executive Officer of the Franchise Tax Board.

19 (8) The Chair of the State Board of Equalization.

20 (9) The Director of the Employment Development Department.

21 (10) The Legislative Analyst.

22 (11) The Secretary of California Health and Human Services.

23 (12) The Director of the Department of Finance.

24 (13) The Controller.

25 (14) The Treasurer.

26 (15) The Lieutenant Governor.

27 (c) Upon appointment, the Premium Commission shall meet at
28 least once a month. The Premium Commission shall elect a chair
29 from its membership during its first meeting. The Premium
30 Commission shall receive public comments during a portion of
31 each of its meetings, and all of its meetings shall be conducted
32 pursuant to the Bagley-Keene Open Meeting Act (Article 9
33 commencing with Section 11120) of Chapter 1 of Part 1 of
34 Division 3 of Title 2 of the Government Code).

35 140231. (a) The Premium Commission shall perform the
36 following functions:

37 (1) Determine the aggregate costs of providing health care
38 coverage pursuant to this division.

39 (2) Develop an equitable and affordable premium structure that
40 will generate adequate revenue for the Healthcare Fund established

1 pursuant to Section 140200 and ensure stable and actuarially sound
2 funding for the system.

3 (b) The Premium Commission shall perform the functions
4 described in this section by considering existing financial
5 simulations and analyses of universal health care proposals,
6 including, but not limited to, the analysis completed by the Lewin
7 Group in January 2005, pertaining to Senate Bill N. 921 of the
8 2003–04 Regular Session.

9 140232. (a) The premium structure developed by the Premium
10 Commission shall satisfy the following criteria:

11 (1) Be means-based and generate adequate revenue to implement
12 this division.

13 (2) To the greatest extent possible, ensure that all income earners
14 and all employers contribute a premium amount that is affordable
15 and that is consistent with existing funding sources for health care
16 in California.

17 (3) Maintain the current ratio for aggregate health care
18 contributions among the traditional health care funding sources,
19 including employers, individuals, government, and other sources.

20 (4) Provide a fair distribution of monetary savings achieved
21 from the establishment of a universal health care system.

22 (5) Coordinate with existing, ongoing funding sources from
23 federal and state programs.

24 (6) Be consistent with state and federal requirements governing
25 financial contributions for persons eligible for existing public
26 programs.

27 (7) Comply with federal requirements.

28 (8) Include an exemption for employers and employees who
29 are subject to a collective bargaining agreement and participate in
30 a Taft-Hartley Trust Fund that pays the employer and employee
31 share of the premium to the Healthcare Fund.

32 (b) The Premium Commission shall seek expert and legal advice
33 regarding the best method to structure premium payments
34 consistent with existing employer-employee health care financing
35 structures.

36 140233. The Premium Commission may take all of the
37 following actions:

38 (a) Obtain grants from, and contract with, individuals and
39 private, local, state, and federal agencies, organizations, and
40 institutions, including institutions of higher education.

1 (b) Receive charitable contributions or any other source of
2 income that may be lawfully received.

3 140234. (a) The Premium Commission may consult with
4 additional persons, advisory entities, governmental agencies,
5 Members of the Legislature, and legislative staff as it deems
6 necessary to perform its functions.

7 (b) The Premium Commission shall seek structured input from
8 representatives of stakeholder organizations, policy institutes, and
9 other persons with expertise in health care, health care financing,
10 or universal health care models in order to ensure that it has the
11 necessary information, expertise, and experience to perform its
12 functions.

13 (c) The Premium Commission shall be supported by a reasonable
14 amount of staff time, which shall be provided by the state agencies
15 with membership on the Premium Commission. The Premium
16 Commission may request data from, and utilize the technical
17 expertise of, other state agencies.

18 140235. (a) On or before January 1, 2014, the Premium
19 Commission shall submit to the Governor and the Legislature a
20 detailed recommendation for a premium structure.

21 (b) The Premium Commission shall submit a draft
22 recommendation to the Governor, Legislature, and the public at
23 least 90 days prior to submission of the final recommendation
24 described in subdivision (a). The Premium Commission shall seek
25 input from the public on the draft recommendation.

26 140236. The Premium Commission shall be funded upon an
27 appropriation by the Legislature in the Budget Act of 2012.

28

29

Article 3. Governmental Payments

30

31 140240. (a) (1) The commissioner shall seek all necessary
32 waivers, exemptions, agreements, or legislation, so that all current
33 federal payments to the state for health care services be paid
34 directly to the system, which shall then assume responsibility for
35 all benefits and services previously paid for by the federal
36 government with those funds.

37 (2) In obtaining the waivers, exemptions, agreements, or
38 legislation, the commissioner shall seek from the federal
39 government a contribution for health care services in California

1 that shall not decrease in relation to the contribution to other states
2 as a result of the waivers, exemptions, agreements, or legislation.

3 (b) (1) The commissioner shall seek all necessary waivers,
4 exemptions, agreements, or legislation, so that all current state
5 payments for health care services shall be paid directly to the
6 system, which shall then assume responsibility for all benefits and
7 services previously paid for by state government with those funds.

8 (2) In obtaining the waivers, exemptions, agreements, or
9 legislation, the commissioner shall seek from the Legislature a
10 contribution for health care services that shall not decrease in
11 relation to state government expenditures for health care services
12 in the year that this division was enacted, except that it may be
13 corrected for change in state gross domestic product, the size and
14 age of population, and the number of residents living below the
15 federal poverty level.

16 (c) The commissioner shall establish formulas for equitable
17 contributions to the system from all California counties and other
18 local government agencies.

19 (d) The commissioner shall seek all necessary waivers,
20 exemptions, agreements, or legislation, so that all county or other
21 local government agency payments shall be paid directly to the
22 system.

23 140241. The system's responsibility for providing health care
24 services shall be secondary to existing federal, state, or local
25 governmental programs for health care services to the extent that
26 funding for these programs is not transferred to the Healthcare
27 Fund or that the transfer is delayed beyond the date on which initial
28 benefits are provided under the system.

29 140242. In order to minimize the administrative burden of
30 maintaining eligibility records for programs transferred to the
31 system, the commissioner shall strive to reach an agreement with
32 federal, state, and local governments in which their contributions
33 to the Healthcare Fund shall be fixed to the rate of change of the
34 state gross domestic product, the size and age of population, and
35 the number of residents living below the federal poverty level.

36 140243. If and to the extent that federal law and regulations
37 allow the transfer of Medi-Cal program funding to the system, the
38 commissioner shall pay from the Healthcare Fund all premiums,
39 deductible payments, and coinsurance for qualified beneficiaries
40 who are receiving benefits pursuant to Chapter 3 (commencing

1 with Section 12000) of Part 3 of Division 9 of the Welfare and
2 Institutions Code.

3 140244. If and to the extent that the commissioner obtains
4 authorization to incorporate Medicare revenues into the Healthcare
5 Fund, Medicare Part B payments that previously were made by
6 individuals or the commissioner shall be paid by the system for
7 all individuals eligible for both the system and the Medicare
8 Program.

9

10 Article 4. Federal Preemption

11

12 140300. (a) The commissioner shall pursue all reasonable
13 means to secure a repeal or a waiver of any provision of federal
14 law that preempts any provision of this division.

15 (b) If a repeal or a waiver of law or regulations cannot be
16 secured, the commissioner shall exercise his or her powers to
17 promulgate rules and regulations, or seek conforming state
18 legislation, consistent with federal law, in an effort to best fulfill
19 the purposes of this division.

20 140301. (a) To the extent permitted by federal law, an
21 employee entitled to health or related benefits under a contract or
22 plan that, under federal law, preempts provisions of this division,
23 shall first seek benefits under that contract or plan before receiving
24 benefits from the system under this division.

25 (b) No benefits shall be denied under the system created by this
26 division unless the employee has failed to take reasonable steps
27 to secure like benefits from the contract or plan, if those benefits
28 are available.

29 (c) Nothing in this section shall preclude a person from receiving
30 benefits from the system under this division that are superior to
31 benefits available to the person under an existing contract or plan.

32 (d) Nothing in this division is intended, nor shall this division
33 be construed, to discourage recourse to contracts or plans that are
34 protected by federal law.

35 (e) To the extent permitted by federal law, a health care provider
36 shall first seek payment from the contract or plan, before submitting
37 bills to the system.

1 Article 5. Subrogation

2
3 140302. (a) It is the intent of the Legislature in enacting this
4 division to establish a single public payer for all health care
5 services in the State of California. However, until such time as the
6 role of all other payers for health care services has been terminated,
7 costs for health care services shall be collected from collateral
8 sources whenever health care services provided to an individual
9 are, or may be, covered services under a policy of insurance, health
10 care service plan, or other collateral source available to that
11 individual, or for which the individual has a right of action for
12 compensation to the extent permitted by law.

13 (b) As used in this article, collateral source includes all of the
14 following:

15 (1) Insurance policies written by insurers, including the medical
16 components of automobile, homeowners, and other forms of
17 insurance.

18 (2) Health care service plans and pension plans.

19 (3) Employers.

20 (4) Employee benefit contracts.

21 (5) Government benefit programs.

22 (6) A judgment for damages for personal injury.

23 (7) Any third party who is or may be liable to an individual for
24 health care services or costs.

25 (c) “Collateral source” does not include either of the following:

26 (1) A contract or plan that is subject to federal preemption.

27 (2) Any governmental unit, agency, or service, to the extent that
28 subrogation is prohibited by law.

29 (d) An entity described in subdivision (b) is not excluded from
30 the obligations imposed by this article by virtue of a contract or
31 relationship with a governmental unit, agency, or service.

32 (e) The commissioner shall attempt to negotiate waivers, seek
33 federal legislation, or make other arrangements to incorporate
34 collateral sources in California into the system.

35 140303. Whenever an individual receives health care services
36 under the system and he or she is entitled to coverage,
37 reimbursement, indemnity, or other compensation from a collateral
38 source, he or she shall notify the health care provider and provide
39 information identifying the collateral source, the nature and extent
40 of coverage or entitlement, and other relevant information. The

1 health care provider shall forward this information to the
2 commissioner. The individual entitled to coverage, reimbursement,
3 indemnity, or other compensation from a collateral source shall
4 provide additional information as requested by the commissioner.

5 140304. (a) The system shall seek reimbursement from the
6 collateral source for services provided to the individual and may
7 institute appropriate action, including suit, to recover the
8 reimbursement. Upon demand, the collateral source shall pay to
9 the Healthcare Fund the sums it would have paid or expended on
10 behalf of the individual for the health care services provided by
11 the system.

12 (b) In addition to any other right to recovery provided in this
13 article, the commissioner shall have the same right to recover the
14 reasonable value of benefits from a collateral source as provided
15 to the Director of Health Care Services by Article 3.5 (commencing
16 with Section 14124.70) of Chapter 7 of Part 3 of Division 9 of the
17 Welfare and Institutions Code, in the manner so provided.

18 140305. (a) If a collateral source is exempt from subrogation
19 or the obligation to reimburse the system as provided in this article,
20 the commissioner may require that an individual who is entitled
21 to health care services from the source first seek those services
22 from that source before seeking those services from the system.

23 (b) To the extent permitted by federal law, contractual retiree
24 health benefits provided by employers shall be subject to the same
25 subrogation as other contracts, allowing the system to recover the
26 cost of health care services provided to individuals covered by the
27 retiree benefits, unless and until arrangements are made to transfer
28 the revenues of the benefits directly to the system.

29 140306. (a) Default, underpayment, or late payment of any
30 tax or other obligation imposed by this division shall result in the
31 remedies and penalties provided by law, except as provided in this
32 section.

33 (b) Eligibility for benefits under Chapter 4 (commencing with
34 Section 140400) shall not be impaired by any default,
35 underpayment, or late payment of any tax or other obligation
36 imposed by this chapter.

37 140307. The agency and the commissioner shall be exempt
38 from the regulatory oversight and review of the Office of
39 Administrative Law pursuant to Chapter 3.5 (commencing with
40 Section 11340) of Part 1 of Division 3 of Title 2 of the Government

1 Code. Actions taken by the agency, including, but not limited to,
2 the negotiating or setting of rates, fees, or prices, and the
3 promulgation of any and all regulations, shall be exempt from any
4 review by the Office of Administrative Law, except for Sections
5 11344.1, 11344.2, 11344.3, and 11344.6 of the Government Code,
6 addressing the publication of regulations.

7 140308. The agency shall adopt regulations to implement the
8 provisions of this division. The regulations may initially be adopted
9 as emergency regulations in accordance with the Administrative
10 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
11 Part 1 of Division 3 of Title 2 of the Government Code), but those
12 emergency regulations shall be in effect only from the effective
13 date of this division until the conclusion of the transition period.

14 15 CHAPTER 4. ELIGIBILITY

16
17 140400. All California residents shall be eligible for the system.
18 Residency shall be based upon physical presence in the state with
19 the intent to reside. The commissioner shall establish standards
20 and a simplified procedure to demonstrate proof of residency.

21 140401. The commissioner shall establish a procedure to enroll
22 eligible residents and provide each eligible individual with
23 identification that can be used by health care providers to determine
24 eligibility for services.

25 140402. (a) It is the intent of the Legislature for the system to
26 provide health care coverage to California residents who are
27 temporarily out of the state. The commissioner shall determine
28 eligibility standards for residents temporarily out of state for longer
29 than 90 days who intend to return and reside in California and for
30 nonresidents temporarily employed in California. The
31 commissioner may establish financial arrangements with medical
32 providers in other states and foreign countries in order to facilitate
33 coverage for California residents who are temporarily out of the
34 state.

35 (b) Coverage for emergency care obtained out of state shall be
36 at prevailing local rates. Coverage for nonemergency care obtained
37 out of state shall be according to rates and conditions established
38 by the commissioner. The commissioner may require that a resident
39 be transported back to California when prolonged treatment of an

1 emergency condition is necessary and when that transport will not
2 adversely affect a patient's care or condition.

3 140403. Visitors to California shall be billed for all services
4 received under the system. The commissioner may establish
5 intergovernmental arrangements with other states and countries
6 to provide reciprocal coverage for temporary visitors.

7 140404. All persons eligible for health care benefits from
8 California employers but who are working in another jurisdiction
9 shall be eligible for health care benefits under this division provided
10 that they make payments equivalent to the payments they would
11 be required to make if they were residing in California.

12 140404.1. All persons who under an employer-employee
13 contract or under statute are eligible for retiree health care benefits,
14 including retirees who elect to reside outside of California, shall
15 remain eligible for those benefits in accordance with the contract
16 or the statute.

17 140405. Unmarried, unemancipated minors shall be deemed
18 to have the residency of their parent or guardian. If a minor's
19 parents are deceased and a legal guardian has not been appointed,
20 or if a minor has been emancipated by court order, the minor may
21 establish his or her own residency.

22 140406. (a) An individual shall be presumed to be eligible if
23 he or she arrives at a health facility and is unconscious, comatose,
24 or otherwise unable, because of his or her physical or mental
25 condition, to document eligibility or to act on his or her own behalf,
26 or if the patient is a minor, the patient shall be presumed to be
27 eligible, and the health facility shall provide care as if the patient
28 were eligible.

29 (b) Any individual shall be presumed to be eligible when brought
30 to a health facility pursuant to any provision of Section 5150 of
31 the Welfare and Institutions Code.

32 (c) Any individual involuntarily committed to an acute
33 psychiatric facility or to a hospital with psychiatric beds pursuant
34 to Section 5150 of the Welfare and Institutions Code, providing
35 for involuntary commitment, shall be presumed eligible.

36 (d) All health facilities subject to state and federal provisions
37 governing emergency medical treatment shall continue to comply
38 with those provisions.

39 (e) In the event of an influx of people into the state for the
40 purposes of receiving medical care, the commissioner shall

1 establish an eligibility waiting period and other criteria needed to
2 ensure the fiscal stability of the system.

3
4 CHAPTER 5. BENEFITS
5

6 140500. Any eligible individual may choose to receive services
7 under the system from any willing professional health care provider
8 participating in the system. No health care provider may refuse to
9 care for a patient solely on any basis that is specified in the
10 prohibition of employment discrimination contained in the Fair
11 Employment and Housing Act (Part 2.8 (commencing with Section
12 12900) of Division 3 of Title 2 of the Government Code).

13 140500.01. A resident of the state in a family with an annual
14 or monthly net nonexempt household income equal to or less than
15 200 percent of the federal poverty level is eligible for no-cost
16 Medi-Cal and shall be entitled to not less than the full scope of
17 benefits available under the Medi-Cal program, pursuant to Section
18 14021 of, and Article 4 (commencing with Section 14131) of
19 Chapter 7 of Division 9 of, the Welfare and Institutions Code, as
20 provided on January 1, 2010.

21 140501. Covered benefits under this chapter shall include all
22 medical care determined to be medically appropriate by the
23 individual's health care provider, but are subject to limitations set
24 forth in Section 140503. Covered benefits include, but are not
25 limited to, all of the following:

26 (a) Inpatient and outpatient health facility services.

27 (b) Inpatient and outpatient professional health care provider
28 services by licensed health care professionals.

29 (c) Diagnostic imaging, laboratory services, and other diagnostic
30 and evaluative services.

31 (d) Durable medical equipment, appliances, and assistive
32 technology, including prosthetics, eyeglasses, and hearing aids
33 and their repair.

34 (e) Rehabilitative care.

35 (f) Emergency transportation and necessary transportation for
36 health care services for disabled and indigent persons.

37 (g) Language interpretation and translation for health care
38 services, including sign language for those unable to speak, or
39 hear, or who are language impaired, and Braille translation or other
40 services for those with no or low vision.

- 1 (h) Child and adult immunizations and preventive care.
- 2 (i) Health education.
- 3 (j) Hospice care.
- 4 (k) Home health care.
- 5 (l) Prescription drugs that are listed on the system's formulary.
- 6 Nonformulary prescription drugs may be included if standards and
- 7 criteria established by the commissioner are met.
- 8 (m) Mental and behavioral health care.
- 9 (n) Dental care.
- 10 (o) Podiatric care.
- 11 (p) Chiropractic care.
- 12 (q) Acupuncture.
- 13 (r) Blood and blood products.
- 14 (s) Emergency care services.
- 15 (t) Vision care.
- 16 (u) Adult day care.
- 17 (v) Case management and coordination to ensure services
- 18 necessary to enable a person to remain safely in the least restrictive
- 19 setting.
- 20 (w) Substance abuse treatment.
- 21 (x) Care of up to 100 days in a skilled nursing facility following
- 22 hospitalization.
- 23 (y) Dialysis.
- 24 (z) Benefits offered by a bona fide church, sect, denomination,
- 25 or organization whose principles include healing entirely by prayer
- 26 or spiritual means provided by a duly authorized and accredited
- 27 practitioner or nurse of that bona fide church, sect, denomination,
- 28 or organization.
- 29 (aa) Chronic disease management.
- 30 (ab) Family planning services and supplies.
- 31 (ac) For persons under 21 years of age, early and periodic
- 32 screening, diagnostic, and treatment services, as defined in Section
- 33 1396d(r) of Title 42 of the United States Code, whether or not
- 34 those services are covered benefits for persons who are 21 years
- 35 of age or older.
- 36 140502. The commissioner may expand benefits beyond the
- 37 minimum benefits described in this chapter when expansion meets
- 38 the intent of this division and when there are sufficient funds to
- 39 cover the expansion.

1 140503. The following health care services shall be excluded
2 from coverage by the system:

3 (a) Health care services determined to have no medical
4 indication by the commissioner and the chief medical officer.

5 (b) Surgery, dermatology, orthodontia, prescription drugs, and
6 other procedures primarily for cosmetic purposes, unless required
7 to correct a congenital defect, restore or correct a part of the body
8 that has been altered as a result of injury, disease, or surgery, or
9 determined to be medically necessary by a qualified, licensed
10 health care provider in the system.

11 (c) Private rooms in inpatient health facilities where appropriate
12 nonprivate rooms are available, unless determined to be medically
13 necessary by a qualified, licensed health care provider in the
14 system.

15 (d) Services of a health care provider or facility that is not
16 licensed or accredited by the state except for approved services
17 provided to a California resident who is temporarily out of the
18 state.

19 140504. (a) During the initial two years of the system's
20 operation, the commissioner shall not impose a deductible payment
21 or copayment other than for treatment by a specialist if no referral
22 was made by the primary care provider pursuant to Section 140601.
23 The commissioner shall determine the amount of the copayment
24 or deductible imposed pursuant to this subdivision. The
25 commissioner and the Healthcare Policy Board shall review the
26 deductible and copayment provisions annually, commencing in
27 the third year of the system's operation, to determine whether they
28 should be included in the system.

29 (b) Commencing in the third year of the system's operation, the
30 commissioner may impose a deductible payment and copayment
31 pursuant to the determination made under subdivision (a), except
32 as specified under subdivisions (c) and (d). The amount of the
33 deductible payment and the copayment combined shall not exceed
34 two hundred fifty dollars (\$250) per person each year and five
35 hundred dollars (\$500) per family each year, except the deductible
36 payment and copayment for treatment by a specialist without a
37 referral from the primary care provider pursuant to Section 140601
38 shall not be subject to this limitation and shall be established by
39 the commissioner.

1 (c) No copayments or deductible payments may be established
 2 for preventive care as determined by a patient's primary care
 3 provider.

4 (d) No copayments or deductible payments may be established
 5 when prohibited by federal law.

6 (e) No deductible payments or copayments may be imposed on
 7 a person who is eligible for benefits under the Medi-Cal program
 8 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
 9 9 of the Welfare and Institutions Code), except for treatment by a
 10 specialist without a referral from the primary care provider pursuant
 11 to Section 140601.

12 (f) The commissioner shall establish standards and procedures
 13 for waiving copayments or deductible payments for a person who
 14 demonstrates, to the commissioner's satisfaction, that the person
 15 lacks the financial means to pay the copayment or deductible.
 16 Waivers of copayments or deductible payments shall not affect
 17 the reimbursement of health care providers.

18 (g) Any copayments established pursuant to this section and
 19 collected by health care providers shall be transmitted to the
 20 Treasurer to be deposited to the credit of the Healthcare Fund.

21 (h) Nothing in this division shall be construed to diminish the
 22 benefits that an individual has under a collective bargaining
 23 agreement.

24 (i) Nothing in this division shall preclude employees from
 25 receiving benefits available to them under a collective bargaining
 26 agreement or other employee-employer agreement that are superior
 27 to benefits under this division.

28

29 CHAPTER 6. DELIVERY OF CARE

30

31 140600. (a) All health care providers licensed or accredited
 32 to practice in California may participate in the system.

33 (b) No health care provider whose license or accreditation is
 34 suspended or revoked may participate in the system.

35 (c) If a health care provider is on probation, the licensing or the
 36 accrediting agency shall monitor the health care provider in
 37 question, pursuant to applicable California law. The licensing or
 38 accrediting agency shall report to the chief medical officer at
 39 intervals established by the chief medical officer, on the status of
 40 health care providers who are on probation and on measures

1 undertaken to assist health care providers to return to practice and
2 to resolve complaints made by patients.

3 (d) Health care providers may accept eligible persons for care
4 according to the health care provider's ability to provide services
5 needed by the patient and according to the number of patients a
6 health care provider can treat without compromising safety and
7 care quality. A health care provider may accept patients in the
8 order of time of application.

9 (e) A health care provider shall not refuse to care for a patient
10 solely on any basis that is specified in the prohibition of
11 employment discrimination contained in the Fair Employment and
12 Housing Act (Part 2.8 (commencing with Section 12900) of
13 Division 3 of Title 2 of the Government Code).

14 (f) Choice of health care provider:

15 (1) Persons eligible for health care services under this division
16 may choose a primary care provider.

17 (A) Primary care providers include family practitioners, general
18 practitioners, internists and pediatricians, nurse practitioners and
19 physician assistants practicing under supervision as defined in
20 California codes, and doctors of osteopathy licensed to practice
21 as general doctors.

22 (B) Women may choose an obstetrician-gynecologist, in addition
23 to a primary care provider.

24 (2) Persons who choose to enroll with integrated health care
25 delivery systems, group medical practices, or essential community
26 providers that offer comprehensive services, shall retain
27 membership for at least one year after an initial three-month
28 evaluation period during which time they may withdraw for any
29 reason.

30 (A) The three-month period shall commence on the date when
31 an enrollee first sees a primary care provider.

32 (B) Persons who want to withdraw after the initial three-month
33 period shall request a withdrawal pursuant to dispute resolution
34 procedures established by the commissioner and may request
35 assistance from the patient advocate in the dispute process. The
36 dispute shall be resolved in a timely fashion and shall have no
37 adverse effect on the care a patient receives.

38 (3) Persons needing to change primary care providers because
39 of health care needs that their primary care provider cannot meet
40 may change primary care providers at any time.

1 140601. (a) Primary care providers shall coordinate the care
2 a patient receives or shall ensure that a patient's care is coordinated.

3 (b) (1) Patients shall have a referral from their primary care
4 provider, or from a health care provider rendering care to them in
5 the emergency room or other accredited emergency setting, or
6 from a health care provider treating a patient for an emergency
7 condition in any setting, or from their obstetrician-gynecologist,
8 to see a physician or nonphysician specialist whose services are
9 covered by this division, unless the patient agrees to assume the
10 costs of care or pay a copayment, if implemented by the
11 commissioner pursuant to Section 140504. A referral shall not be
12 required to see a dentist or to see an ophthalmologist or optometrist
13 for a routine vision examination.

14 (2) Referrals shall be based on the medical needs of the patient
15 and on guidelines, which shall be established by the chief medical
16 officer to support clinical decisionmaking.

17 (3) Referrals shall not be restricted or provided solely because
18 of financial considerations. The chief medical officer shall monitor
19 referral patterns and intervene as necessary to assure that referrals
20 are neither restricted nor provided solely because of financial
21 considerations.

22 (4) For the first six months of the system's operation, no
23 specialist referral or copayment shall be required for patients who
24 had been receiving care from a specialist prior to the initiation of
25 the system. Beginning with the seventh month of the system's
26 operation, all patients shall be required to obtain a referral from a
27 primary or emergency care provider for specialty care if the care
28 is to be paid for by the system. No referral is required if a patient
29 pays the full cost of the specialty care and the specialist accepts
30 that payment arrangement.

31 (5) Where referral processes are in place prior to the initiation
32 of the system, the chief medical officer shall review the referral
33 processes to assure that they meet the system's standards for care
34 quality and shall assure needed changes are implemented so that
35 all Californians receive the same standards of care quality and
36 access to specialty care.

37 (6) A specialist may serve as the primary care provider if the
38 patient and the provider agree to this arrangement and if the
39 provider agrees to coordinate the patient's care or to ensure that
40 the care the patient receives is coordinated.

1 (7) The commissioner shall establish or ensure the establishment
2 of a computerized referral registry to facilitate the referral process
3 and to allow a specialist and a patient to easily determine whether
4 a referral has been made pursuant to this division.

5 (8) A patient may appeal the denial of a referral through the
6 dispute resolution procedures established by the commissioner
7 and may request the assistance of the patient advocate during the
8 dispute resolution process.

9 140602. (a) The purpose of the Office of Health Planning is
10 to plan for the short- and long-term health care needs of the
11 population pursuant to the health care and finance standards
12 established by the commissioner and by this division.

13 (b) The office shall be headed by a director appointed by the
14 commissioner. The director shall serve pursuant to provisions of
15 subdivisions (c), (d), and (e) of Section 140100 and subdivisions
16 (j) and (k) of Section 140101.

17 (c) The director shall do all the following:

18 (1) Administer all aspects of the Office of Health Planning.

19 (2) Serve on the Healthcare Policy Board.

20 (3) Establish performance criteria in measurable terms for health
21 care goals in consultation with the chief medical officer, the
22 regional planning directors, and regional medical officers and
23 others with experience in health care outcomes measurement and
24 evaluation.

25 (4) Evaluate the effectiveness of performance criteria in
26 accurately measuring quality of care, administration, and planning.

27 (5) Assist the health care regions to develop operating and
28 capital requests pursuant to health care and financial guidelines
29 established by the commissioner and by this division. In assisting
30 regions, the director shall do all of the following:

31 (A) Identify medically underserved areas and health care service
32 and asset shortages.

33 (B) Identify disparities in health outcomes.

34 (C) Establish conventions for the definition, collection, storage,
35 analysis, and transmission of data for use by the system.

36 (D) Establish electronic systems that support dissemination of
37 information to health care providers and patients about integrated
38 health network and integrated health care delivery systems and
39 community-based health care resources.

1 (E) Support establishment of comprehensive health care
2 databases using uniform methodology that is compatible among
3 the regions and between the regions and the agency.

4 (F) Provide information to support effective regional planning
5 and innovation.

6 (G) Provide information to support interregional planning,
7 including planning for access to specialized centers that perform
8 a high volume of procedures for conditions requiring highly
9 specialized treatments, including emergency and trauma, and other
10 interregional access to needed care, and planning for coordinated
11 interregional capital investment.

12 (H) Provide information for, and participate in, earthquake
13 retrofit planning.

14 (I) Evaluate regional budget requests and make
15 recommendations to the commissioner about regional revenue
16 allocations.

17 (6) Estimate the health care workforce required to meet the
18 health care needs of the population pursuant to the standards and
19 goals established by the commissioner, the costs of providing the
20 needed workforce, and, in collaboration with regional planners,
21 educational institutions, the Governor, and the Legislature, develop
22 short- and long-term plans to meet those needs, including a plan
23 to finance needed training.

24 (7) Estimate the number and types of health facilities required
25 to meet the short- and long-term health care needs of the population
26 and the projected costs of needed facilities. In collaboration with
27 the commissioner, regional planning directors and regional medical
28 officers, the chief medical officer, the Governor, and the
29 Legislature, develop plans to finance and build needed facilities.

30 140603. The Technology Advisory Group shall explore the
31 feasibility and the value to the health of the population of the
32 following electronic initiatives:

33 (a) Establish integrated statewide health care databases to
34 support health care planning and determine which databases should
35 be established on a statewide basis and which should be established
36 on a regional basis.

37 (b) Assure that databases have uniform methodology and formats
38 that are compatible among the regions and between the regions
39 and the agency.

- 1 (c) Establish mandatory database reporting requirements and
2 penalties for noncompliance. Monitor the effectiveness of reporting
3 and make needed improvements.
- 4 (d) Establish means for anonymous reporting to the chief
5 medical officer and regional medical officers of medical errors
6 and other related problems, and for anonymous reporting to the
7 commissioner and regional planning directors of problems related
8 to ineffective management, and establish guidelines for the
9 protection of persons coming forward to report these problems.
- 10 (e) In collaboration with the chief medical officer, the Office
11 of Patient Advocacy, and regional patient advocates, investigate
12 the costs and benefits of electronic and online scheduling systems
13 and means of health care provider-patient communication that
14 allow for electronic visits, and make recommendations to the chief
15 medical officer regarding the use of these concepts in the system.
- 16 (f) In collaboration with the chief medical officer, establish
17 electronic systems and other means that support the use of
18 standards of care based on clinical efficacy to guide clinical
19 decisionmaking by all who provide services in the system.
- 20 (g) In collaboration with the chief medical officer, support the
21 development of disease management programs and their use in
22 the system.
- 23 (h) Establish electronic initiatives that reduce administration
24 costs.
- 25 (i) Collaborate with the chief medical officer and regional
26 medical officers to assure the development of software systems
27 that link clinical guidelines to individual patient conditions, and
28 guide clinicians through diagnosis and treatment algorithms derived
29 from research based on clinical efficacy and best medical practices.
- 30 (j) Collaborate with the chief medical officer and regional
31 medical officers to assure the development of software systems
32 that offer health care providers access to guidelines that are
33 appropriate for their specialty and that include current information
34 on prevention and treatment of disease.
- 35 (k) In collaboration with the Partnerships for Health and regional
36 medical officers, establish Web-based, patient-centered information
37 systems that assist people to promote and maintain health and
38 provide information on health conditions and recent developments
39 in treatment.

1 (l) Establish electronic systems and other means to provide
2 patients with easily understandable information about the
3 performance of health care providers. This shall include, but not
4 be limited to, information about the experience that health care
5 providers have in the field or fields in which they deliver care, the
6 number of years they have practiced in their field and, in the case
7 of medical and surgical procedures, the number of procedures they
8 have performed in their area or areas of specialization.

9 (m) Establish electronic systems that facilitate health care
10 provider continuing medical education that meets licensure
11 requirements.

12 (n) Recommend to the commissioner means to link health care
13 research with the goals and priorities of the system.

14 140604. (a) The Director of the Office of Health Planning
15 shall establish standards for culturally and linguistically competent
16 care, which shall include, but not be limited to, all of the following:

17 (1) State Department of Health Care Services and the
18 Department of Managed Health Care guidelines for culturally and
19 linguistically sensitive care.

20 (2) Medi-Cal Managed Care Division (MMCD) Policy Letters
21 99-01 to 99-04 and MMCD All Plan Letter 99005.

22 (3) Subchapter 5 of the federal Civil Rights Act of 1964 (42
23 U.S.C. Sec. 2000d).

24 (4) United States Department of Health and Human Services'
25 Office of Civil Rights; Title VI of the Civil Rights Act of 1964;
26 Policy Guidance on Prohibition Against National Origin
27 Discrimination as It Affects Persons with Limited English
28 Proficiency (February 1, 2002).

29 (5) United States Department of Health and Human Services'
30 Office of Minority Health; National Standards on Culturally and
31 Linguistically Appropriate Services (CLAS) in Health Care—Final
32 Report (December 22, 2000).

33 (b) The director shall annually evaluate the effectiveness of
34 standards for culturally and linguistically competent care and make
35 recommendations to the commissioner, the Office of Patient
36 Advocacy, and the chief medical officer for needed improvements.
37 In evaluating the standards for culturally and linguistically sensitive
38 care, the director shall establish a process to receive concerns and
39 comments from consumers.

1 (c) The director shall pursue available federal financial
2 participation for the provision of a language services program that
3 supports the system's goals.

4 140605. (a) Within the agency, the commissioner shall
5 establish the Office of Health Care Quality.

6 (b) The office shall be headed by the chief medical officer who
7 shall serve pursuant to provisions of subdivisions (c), (d), and (e)
8 of Section 140100 and subdivisions (j) and (k) of Section 140101
9 regarding qualifications for appointed officers of the system.

10 (c) The purpose of the Office of Health Care Quality is the
11 following:

12 (1) Support the delivery of high quality, coordinated health care
13 services that enhance health; prevent illness, disease, and disability;
14 slow the progression of chronic diseases; and improve personal
15 health management.

16 (2) Promote efficient care delivery.

17 (3) Establish processes for measuring, monitoring, and
18 evaluating the quality of care delivered in the system, including
19 the performance of individual health care providers.

20 (4) Establish means to make changes needed to improve health
21 care quality, including innovative programs that improve quality.

22 (5) Promote patient, health care provider, and employer
23 satisfaction with the system.

24 (6) Assist regional planning directors and medical officers in
25 the development and evaluation of regional operating and capital
26 budget requests.

27 140606. (a) In supporting the goals of the Office of Health
28 Care Quality, the chief medical officer shall do all of the following:

29 (1) Administer all aspects of the office.

30 (2) Serve on the Healthcare Policy Board.

31 (3) Collaborate with regional medical officers, regional planning
32 directors, health care providers, consumers, the Director of the
33 Office of Health Planning, the patient advocate of the Office of
34 Patient Advocacy, and directors of Partnerships for Health to
35 develop community-based networks of solo providers, small group
36 practices, essential community providers, and providers of patient
37 care support services in order to offer comprehensive,
38 multidisciplinary, coordinated services to patients.

39 (4) Establish standards of care based on clinical efficacy for the
40 system that shall serve as guidelines to support health care

1 providers in the delivery of high quality care. Standards shall be
2 based on the best evidence available at the time and shall be
3 continually updated. Standards are intended to support the clinical
4 judgment of individual health care providers, not to replace it, and
5 to support clinical decisions based on the needs of individual
6 patients.

7 (b) In establishing standards, the chief medical officer shall do
8 all of the following:

9 (1) Draw on existing standards established by California health
10 care institutions, on peer-created standards, and on standards
11 developed by other institutions that have had a positive impact on
12 care quality, such as the Centers for Disease Control and
13 Prevention, the National Quality Forum, and the Agency for Health
14 Care Quality and Research.

15 (2) Collaborate with regional medical officers in establishing
16 regional goals, priorities, and a timetable for implementation of
17 standards of care.

18 (3) Assure a process for patients to provide their views on
19 standards of care to the patient advocate of the Office of Patient
20 Advocacy who shall report those views to the chief medical officer.

21 (4) Collaborate with the Director of the Office of Health
22 Planning and regional medical officers to support the development
23 of computer software systems that link clinical guidelines to
24 individual patient conditions, guide clinicians through diagnosis
25 and treatment algorithms based on research and best medical
26 practices based on clinical efficacy, offer access to guidelines
27 appropriate to each medical specialty and to current information
28 on disease prevention and treatment, and that support continuing
29 medical education.

30 (5) Where referral processes for access to specialty care are in
31 place prior to the initiation of the system, the chief medical officer
32 shall review the referral processes to assure that they meet the
33 system's standards for care quality and shall ensure that needed
34 changes are implemented, so that all Californians receive the same
35 standards of care quality.

36 (c) In collaboration with the Director of the Office of Health
37 Planning and regional medical officers, the chief medical officer
38 shall implement means to measure and monitor the quality of care
39 delivered in the system. Monitoring systems shall include, but
40 shall not be limited to, peer and patient performance reviews.

1 (d) The chief medical officer shall establish means to support
2 individual health care providers and health systems in correcting
3 quality of care problems, including timeframes for making needed
4 improvements and means to evaluate the effectiveness of
5 interventions.

6 (e) In collaboration with regional medical officers, regional
7 planning directors, and the Director of the Office of Health
8 Planning, the chief medical officer shall establish means to identify
9 medical errors and their causes and develop plans to prevent them.
10 Means shall include a process for anonymous reporting of errors
11 and guidelines to protect those who report the errors against
12 recrimination, including job demotion, promotion discrimination,
13 or job loss.

14 (f) The chief medical officer shall convene an annual statewide
15 conference to discuss medical errors that occurred during the year,
16 their causes, means to prevent errors, and the effectiveness of
17 efforts to decrease errors.

18 (g) The chief medical officer shall recommend to the
19 commissioner a benefits package based on clinical efficacy for the
20 system, including priorities for needed benefit improvements. In
21 making recommendations, the chief medical officer shall do all of
22 the following:

- 23 (1) Identify safe and effective treatments.
- 24 (2) Evaluate and draw on existing benefit packages.
- 25 (3) Receive comments and recommendations from health care
26 providers about benefits that meet the needs of their patients.
- 27 (4) Receive comments and recommendations made directly by
28 patients or indirectly through the Office of Patient Advocacy.
- 29 (5) Identify and recommend to the commissioner and the
30 Healthcare Policy Board innovative approaches to health
31 promotion, disease and injury prevention, education, research, and
32 care delivery for possible inclusion in the benefit package.
- 33 (6) Identify complementary and alternative modalities that have
34 been shown by the National Institutes of Health, Division of
35 Complementary and Alternative Medicine to be safe and effective
36 for possible inclusion as covered benefits.
- 37 (7) Recommend to the commissioner and update as appropriate,
38 pharmaceutical and durable and nondurable medical equipment
39 formularies based on clinical efficacy. In establishing the
40 formularies, the chief medical officer shall establish a Pharmacy

- 1 and Therapeutics Committee composed of pharmacy and health
2 care providers, representatives of health facilities and organizations
3 having system formularies in place at the time the system is
4 implemented, and other experts that shall do all the following:
- 5 (A) Identify safe and effective pharmaceutical agents for use in
6 the system.
- 7 (B) Draw on existing standards and formularies.
- 8 (C) Identify experimental drugs and drug treatment protocols
9 for possible inclusion in the formulary.
- 10 (D) Review formularies in a timely fashion to ensure that safe
11 and effective drugs are available and that unsafe drugs are removed
12 from use.
- 13 (E) Assure the timely dissemination of information needed to
14 prescribe safely and effectively to all California health care
15 providers and the development and utilization of electronic
16 dispensing systems that decrease pharmaceutical dispensing errors.
- 17 (8) Establish standards and criteria and a process for health care
18 providers to seek authorization for prescribing pharmaceutical
19 agents and durable and nondurable medical equipment that are not
20 included in the system's formulary. No standard or criteria shall
21 impose an undue administrative burden on patients or health care
22 providers, including pharmacies and pharmacists, and none shall
23 delay care a patient needs.
- 24 (9) Develop standards and criteria and a process for health care
25 providers to request authorization for services and treatments,
26 including experimental treatments that are not included in the
27 system's benefit package.
- 28 (A) Where such processes are in place when the system is
29 initiated, the chief medical officer shall review those processes to
30 ensure that they meet the system's standards for care quality and
31 shall ensure that needed changes are implemented so that all
32 Californians receive the same standards of care quality.
- 33 (B) No standard or criteria shall impose an undue administrative
34 burden on a health care provider or a patient and none shall delay
35 the care a patient needs.
- 36 (10) In collaboration with the Director of the Office of Health
37 Planning, regional planning directors and regional medical officers,
38 identify on a regional basis appropriate ratios of general medical
39 providers to specialty medical providers and appropriate ratios of

1 medical providers to patients in order to meet the health care needs
2 of the population and the goals of the system.

3 (11) Recommend to the commissioner and to the Payments
4 Board, financial and nonfinancial incentives and other means to
5 achieve recommended provider ratios.

6 (12) Collaborate with the Director of the Office of Health
7 Planning and regional medical officers and patient advocates in
8 the development of electronic initiatives, pursuant to Section
9 140603.

10 (13) Collaborate with the commissioner, the regional medical
11 officers, and the directors of the Payments Board and the
12 Healthcare Fund to formulate a health care provider reimbursement
13 model that promotes the delivery of coordinated, high quality
14 health care services in all sectors of the system and creates financial
15 and other incentives for the delivery of high quality health care.

16 (14) Establish or assure the establishment of continuing medical
17 education programs about advances in the delivery of high quality
18 health care.

19 (15) Annually report to the commissioner, the Healthcare Policy
20 Board, and the public on the quality of health care delivered in the
21 system, including improvements that have been made and problems
22 that have been identified during the year, goals for care
23 improvement in the coming year, and plans to meet these goals.

24 (h) No person working within the agency or a member of the
25 Pharmacy and Therapeutics Committee or serving as a consultant
26 to the agency or to the Pharmacy and Therapeutics Committee,
27 may receive fees or remuneration of any kind from a
28 pharmaceutical company.

29 140607. (a) The patient advocate of the Office of Patient
30 Advocacy, in collaboration with the chief medical officer, the
31 regional patient advocates, medical officers, and planning directors
32 shall establish a program in the agency and in each region called
33 the Partnerships for Health.

34 (b) The purpose of the Partnerships for Health is to improve
35 health through community health initiatives, to support the
36 development of innovative means to improve health care quality,
37 to promote efficient coordinated care delivery, and to educate the
38 public about the following:

39 (1) Personal maintenance of health.

40 (2) Prevention of disease.

1 (3) Improvement in communication between patients and
2 providers.

3 (4) Improving quality of care.

4 (c) The patient advocate shall work with the community and
5 health care providers in proposing Partnerships for Health projects
6 and in developing project budget requests that shall be included
7 in the regional budget request to the commissioner.

8 (d) In developing educational programs, the Partnerships for
9 Health shall collaborate with educators in the region.

10 (e) Partnerships for Health shall support the coordination of
11 system and public health programs.

12 140610. (a) The patient advocate of the Office of Patient
13 Advocacy, in consultation with the chief medical officer, shall
14 establish a grievance system for all grievances involving the delay,
15 denial, or modification of health care services. The patient advocate
16 shall do all of the following with regard to the grievance regarding
17 delay, denial, or modification of health care services:

18 (1) Establish and maintain a grievance system approved by the
19 commissioner under which enrollees of the system may submit
20 their grievances to the system. The system shall provide reasonable
21 procedures that shall ensure adequate consideration of enrollee
22 grievances and rectification when appropriate.

23 (2) Inform enrollees upon enrollment in the system and annually
24 hereafter of the procedure for processing and resolving grievances.
25 The information shall include the location and telephone number
26 where grievances may be submitted.

27 (3) Provide printed and electronic access for enrollees who wish
28 to register grievances. The forms used by the system shall be
29 approved by the commissioner in advance as to format.

30 (4) (A) Provide for a written acknowledgment within five
31 calendar days of the receipt of a grievance. Grievances received
32 by telephone, by facsimile, by e-mail, or online through the
33 system's Internet Web site that are resolved by the next business
34 day following receipt are exempt from the requirements of this
35 subparagraph and paragraph (5). The acknowledgment shall advise
36 the complainant of the following:

37 (i) That the grievance has been received.

38 (ii) The date of receipt.

39 (iii) The name, telephone number, and address of the system
40 representative who may be contacted about the grievance.

- 1 (B) The patient advocate shall maintain a log of all grievances.
2 The log shall be periodically reviewed by the patient advocate and
3 shall include the following information for each complaint:
- 4 (i) The date of the call.
 - 5 (ii) The name of the enrollee.
 - 6 (iii) The enrollee's system identification number.
 - 7 (iv) The nature of the grievance.
 - 8 (v) The nature of the resolution.
 - 9 (vi) The name of the system representative who took the call
10 and resolved the grievance.
- 11 (5) Provide enrollees of the system with written responses to
12 grievances, with a clear and concise explanation of the reasons for
13 the system's response. The system response shall describe the
14 criteria used and the clinical reasons for its decision, including all
15 criteria and clinical reasons related to medical necessity.
- 16 (6) Keep in its files copies of all grievances, and the responses
17 thereto, for a period of five years.
- 18 (7) Establish and maintain an Internet Web site that shall provide
19 an online form that enrollees of the system can use to file with a
20 grievance online.
- 21 (b) In any case determined by the patient advocate to be a case
22 involving an imminent and serious threat to the health of the
23 enrollee, including, but not limited to, severe pain or the potential
24 loss of life, limb, or major bodily function, or in any other case
25 where the patient advocate determines that an earlier review is
26 warranted, an enrollee shall not be required to complete the
27 grievance process.
- 28 (c) If the enrollee is a minor, or is incompetent or incapacitated,
29 the parent, guardian, conservator, relative, or other designee of the
30 enrollee, as appropriate, may submit the grievance to the patient
31 advocate as a designated agent of the enrollee. Further, a health
32 care provider may join with, or otherwise assist, an enrollee, or
33 the agent, to submit the grievance to the patient advocate. In
34 addition, following submission of the grievance to the patient
35 advocate, the enrollee, or the agent, may authorize the health care
36 provider to assist, including advocating on behalf of the enrollee.
37 For purposes of this section, a "relative" includes the parent,
38 stepparent, spouse, domestic partner, adult son or daughter,
39 grandparent, brother, sister, uncle, or aunt of the enrollee.

1 (d) The patient advocate shall review the written documents
2 submitted with the enrollee's grievance. The patient advocate may
3 ask for additional information, and may hold an informal meeting
4 with the involved parties, including health care providers who have
5 joined in submitting the grievance or who are otherwise assisting
6 or advocating on behalf of the enrollee. If after reviewing the
7 record, the patient advocate concludes that the grievance, in whole
8 or in part, is eligible for review under the independent medical
9 review system, the patient advocate shall immediately notify the
10 enrollee of that option and shall, if requested orally or in writing,
11 assist the enrollee in participating in the independent medical
12 review system.

13 (e) The patient advocate shall send a written notice of the final
14 disposition of the grievance, and the reasons therefor, to the
15 enrollee, to any health care provider that has joined with or is
16 otherwise assisting the enrollee, and to the commissioner within
17 30 calendar days of receipt of the grievance, unless the patient
18 advocate, in his or her discretion, determines that additional time
19 is reasonably necessary to fully and fairly evaluate the grievance.
20 In any case not eligible for independent medical review, the patient
21 advocate's written notice shall include, at a minimum, the
22 following:

23 (1) A summary of findings and the reasons why the patient
24 advocate found the system to be, or not to be, in compliance with
25 any applicable laws, regulations, or orders of the commissioner.

26 (2) A discussion of the patient advocate's contact with any
27 health care provider, or any other independent expert relied on by
28 the patient advocate, along with a summary of the views and
29 qualifications of that health care provider or expert.

30 (3) If the enrollee's grievance is sustained in whole or in part,
31 information about any corrective action taken.

32 (f) The patient advocate's order shall be binding on the system.

33 (g) The patient advocate shall establish and maintain a system
34 of aging of grievances that are pending and unresolved for 30 days
35 or more that shall include a brief explanation of the reasons each
36 grievance is pending and unresolved for 30 days or more.

37 (h) The grievance or resolution procedures authorized by this
38 section shall be in addition to any other procedures that may be
39 available to any person, and failure to pursue, exhaust, or engage

1 in the procedures described in this section shall not preclude the
2 use of any other remedy provided by law.

3 (i) Nothing in this section shall be construed to allow the
4 submission to the patient advocate of any health care provider
5 grievance under this section. However, as part of a health care
6 provider's duty to advocate for medically appropriate health care
7 for his or her patients pursuant to Sections 510 and 2056 of the
8 Business and Professions Code, nothing in this subdivision shall
9 be construed to prohibit a health care provider from contacting
10 and informing the patient advocate about any concerns he or she
11 has regarding compliance with or enforcement of this division.

12 140612. (a) The patient advocate shall establish an independent
13 medical review system to act as an independent, external medical
14 review process for the system to provide timely examinations of
15 disputed health care services and coverage decisions regarding
16 experimental and investigational therapies to ensure the system
17 provides efficient, appropriate, high quality health care, and that
18 the system is responsive to enrollee disputes.

19 (b) For the purposes of this section, "disputed health care
20 service" means any health care service eligible for coverage and
21 payment under the system that has been denied, modified, or
22 delayed by a decision of the system, or by one of its contracting
23 health care providers, in whole or in part due to a finding that the
24 service is not medically necessary. A decision regarding a disputed
25 health care service relates to the practice of medicine and is not a
26 coverage decision. If the system, or one of its contracting providers,
27 issues a decision denying, modifying, or delaying health care
28 services, based in whole or in part on a finding that the proposed
29 health care services are not a covered benefit under the system,
30 the statement of decision shall clearly specify the provisions of
31 the system that exclude coverage.

32 (c) For the purposes of this section, "coverage decision" means
33 the approval or denial of the system, or by one of its contracting
34 entities, substantially based on a finding that the provision of a
35 particular service is included or excluded as a covered benefit
36 under the terms and conditions of the system.

37 (d) Coverage decisions regarding experimental or investigational
38 therapies for individual enrollees who meet all of the following
39 criteria are eligible for review by the independent medical review
40 system:

1 (1) (A) The enrollee has a life-threatening or seriously
2 debilitating condition.

3 (B) For purposes of this section, “life-threatening” means either
4 or both of the following:

5 (i) Diseases or conditions where the likelihood of death is high
6 unless the course of the disease is interrupted.

7 (ii) Diseases or conditions with potentially fatal outcomes, where
8 the end point of clinical intervention is survival.

9 (C) For purposes of this section, “seriously debilitating” means
10 diseases or conditions that cause major irreversible morbidity.

11 (2) The enrollee’s physician certifies that the enrollee has a
12 condition, as defined in paragraph (1), for which standard therapies
13 have not been effective in improving the condition of the enrollee,
14 for which standard therapies would not be medically appropriate
15 for the enrollee, or for which there is no more beneficial standard
16 therapy covered by the system than the therapy proposed pursuant
17 to paragraph (3).

18 (3) Either (A) the enrollee’s physician, who is under contract
19 with the system, has recommended a drug, device, procedure, or
20 other therapy that the physician certifies in writing is likely to be
21 more beneficial to the enrollee than any available standard
22 therapies, or (B) the enrollee, or the enrollee’s physician who is a
23 licensed, board-certified or board-eligible physician qualified to
24 practice in the area of practice appropriate to treat the enrollee’s
25 condition, has requested a therapy that, based on two documents
26 from the medical and scientific evidence, is likely to be more
27 beneficial for the enrollee than any available standard therapy. The
28 physician certification pursuant to this section shall include a
29 statement of the evidence relied upon by the physician in certifying
30 his or her recommendation. Nothing in this subdivision shall be
31 construed to require the system to pay for the services of a
32 nonparticipating physician provided pursuant to this division, that
33 are not otherwise covered pursuant to the system’s benefits
34 package.

35 (4) The enrollee has been denied coverage by the system for a
36 drug, device, procedure, or other therapy recommended or
37 requested pursuant to paragraph (3).

38 (5) The specific drug, device, procedure, or other therapy
39 recommended pursuant to paragraph (3) would be a covered

1 service, except for the system's determination that the therapy is
2 experimental or investigational.

3 (e) (1) All enrollee grievances involving a disputed health care
4 service are eligible for review under the independent medical
5 review system if the requirements of this section are met. If the
6 patient advocate finds that a grievance involving a disputed health
7 care service does not meet the requirements of this section for
8 review under the independent medical review system, the enrollee's
9 grievance shall be treated as a request for the patient advocate to
10 review the grievance. All other enrollee grievances, including
11 grievances involving coverage decisions, remain eligible for review
12 by the patient advocate.

13 (2) In any case in which an enrollee or health care provider
14 asserts that a decision to deny, modify, or delay health care services
15 was based, in whole or in part, on consideration of medical
16 appropriateness, the patient advocate shall have the final authority
17 to determine whether the grievance is more properly resolved
18 pursuant to an independent medical review as provided under this
19 section.

20 (3) The patient advocate shall be the final arbiter when there is
21 a question as to whether an enrollee grievance is a disputed health
22 care service or a coverage decision. The patient advocate shall
23 establish a process to complete an initial screening of an enrollee
24 grievance. If there appears to be any medical appropriateness issue,
25 the grievance shall be resolved pursuant to an independent medical
26 review.

27 (f) For purposes of this chapter, an enrollee may designate an
28 agent to act on his or her behalf. The agent may join with or
29 otherwise assist the enrollee in seeking an independent medical
30 review, and may advocate on behalf of the enrollee.

31 (g) The independent medical review process authorized by this
32 section is in addition to any other procedures or remedies that may
33 be available.

34 (h) The Office of Patient Advocacy shall prominently display
35 in every relevant informational brochure, on copies of the system's
36 procedures for resolving grievances, on letters of denials issued
37 by either the system or its contracting providers, on the grievance
38 forms, and on all written responses to grievances, information
39 concerning the right of an enrollee to request an independent
40 medical review in cases where the enrollee believes that health

1 care services have been improperly denied, modified, or delayed
2 by the system, or by one of its contracting providers.

3 (i) An enrollee may apply to the patient advocate for an
4 independent medical review when all of the following conditions
5 are met:

6 (1) (A) The enrollee's health care provider has recommended
7 a health care service as medically appropriate.

8 (B) The enrollee has received urgent care or emergency services
9 that a health care provider determined was medically appropriate.

10 (C) The enrollee seeks coverage for experimental or
11 investigational therapies.

12 (D) The enrollee, in the absence of a health care provider
13 recommendation under subparagraph (A) or the receipt of urgent
14 care or emergency services by a health care provider under
15 subparagraph (B), has been seen by a system health care provider
16 for the diagnosis or treatment of the medical condition for which
17 the enrollee seeks independent review. The system shall expedite
18 access to a system health care provider upon request of an enrollee.
19 The system health care provider need not recommend the disputed
20 health care service as a condition for the enrollee to be eligible for
21 an independent medical review.

22 (2) The disputed health care service has been denied, modified,
23 or delayed by the system, or by one of its contracting providers,
24 based in whole or in part on a decision that the health care service
25 is not medically appropriate.

26 (3) The enrollee has filed a grievance with the patient advocate
27 and the disputed decision is upheld or the grievance remains
28 unresolved after 30 days. The enrollee shall not be required to
29 participate in the system's grievance process for more than 30
30 days. In the case of a grievance that requires expedited review, the
31 enrollee shall not be required to participate in the system's
32 grievance process for more than three days.

33 (j) An enrollee may apply to the patient advocate for an
34 independent medical review of a decision to deny, modify, or delay
35 health care services, based in whole or in part on a finding that the
36 disputed health care services are not medically appropriate, within
37 six months of any of the qualifying periods or events. The patient
38 advocate may extend the application deadline beyond six months
39 if the circumstances of a case warrant the extension.

1 (k) The enrollee shall pay no application or processing fees of
2 any kind.

3 (l) Upon notice from the patient advocate that the enrollee has
4 applied for an independent medical review, the system or its
5 contracting providers shall provide to the independent medical
6 review organization designated by the patient advocate a copy of
7 all of the following documents within three business days of the
8 system's receipt of the patient advocate's notice of a request by
9 an enrollee for an independent medical review:

10 (1) (A) A copy of all of the enrollee's medical records in the
11 possession of the system or its contracting providers relevant to
12 each of the following:

13 (i) The enrollee's medical condition.

14 (ii) The health care services being provided by the system and
15 its contracting providers for the condition.

16 (iii) The disputed health care services requested by the enrollee
17 for the condition.

18 (B) Any newly developed or discovered relevant medical records
19 in the possession of the system or its contracting providers after
20 the initial documents are provided to the independent medical
21 review organization shall be forwarded immediately to the
22 independent medical review organization. The system shall
23 concurrently provide a copy of medical records required by this
24 subparagraph to the enrollee or the enrollee's health care provider,
25 if authorized by the enrollee, unless the offer of medical records
26 is declined or otherwise prohibited by law. The confidentiality of
27 all medical record information shall be maintained pursuant to
28 applicable state and federal laws.

29 (2) A copy of all information provided to the enrollee by the
30 system and any of its contracting providers concerning their
31 decisions regarding the enrollee's condition and care, and a copy
32 of any materials the enrollee or the enrollee's health care provider
33 submitted to the system and to the system's contracting providers
34 in support of the enrollee's request for disputed health care service.
35 This documentation shall include the written response to the
36 enrollee's grievance. The confidentiality of any enrollee medical
37 information shall be maintained pursuant to applicable state and
38 federal laws.

39 (3) A copy of any other relevant documents or information used
40 by the system or its contracting providers in determining whether

1 disputed health care services should have been provided, and any
2 statements by the system and its contracting providers explaining
3 the reasons for the decision to deny, modify, or delay disputed
4 health care services on the basis of medical necessity. The system
5 shall concurrently provide a copy of documents required by this
6 paragraph, except for any information found by the patient advocate
7 to be legally privileged information, to the enrollee and the
8 enrollee's health care provider.

9 The patient advocate and the independent review organization
10 shall maintain the confidentiality of any information found by the
11 patient advocate to be the proprietary information of the system.

12 140614. (a) If there is an imminent and serious threat to the
13 health of the enrollee, all necessary information and documents
14 shall be delivered to an independent medical review organization
15 within 24 hours of approval of the request for review. In reviewing
16 a request for review, the patient advocate may waive the
17 requirement that the enrollee follow the system's grievance process
18 in extraordinary and compelling cases, if the patient advocate finds
19 that the enrollee has acted reasonably.

20 (b) The patient advocate shall expeditiously review requests
21 and immediately notify the enrollee in writing as to whether the
22 request for an independent medical review has been approved, in
23 whole or in part, and, if not approved, the reasons therefor. The
24 system shall promptly issue a notification to the enrollee, after
25 submitting all of the required material to the independent medical
26 review organization that includes an annotated list of documents
27 submitted and offer the enrollee the opportunity to request copies
28 of those documents from the system. The patient advocate shall
29 promptly approve an enrollee's request whenever the system has
30 agreed that the case is eligible for an independent medical review.
31 To the extent an enrollee's request for independent review is not
32 approved by the patient advocate, the enrollee's request shall be
33 treated as an immediate request for the patient advocate to review
34 the grievance.

35 (c) An independent medical review organization shall conduct
36 the review in accordance with a process approved by the patient
37 advocate. The review shall be limited to an examination of the
38 medical necessity of the disputed health care services and shall
39 not include any consideration of coverage decisions or other issues.

1 (d) The patient advocate shall contract with one or more
2 independent medical review organizations in the state to conduct
3 reviews for purposes of this section. The independent medical
4 review organizations shall be independent of the system. The
5 patient advocate may establish additional requirements, including
6 conflict-of-interest standards, consistent with the purposes of this
7 section that an organization shall be required to meet in order to
8 qualify for participation in the independent medical review system
9 and to assist the patient advocate in carrying out its responsibilities.

10 (e) The independent medical review organizations and the
11 medical professionals retained to conduct reviews shall be deemed
12 to be medical consultants for purposes of Section 43.98 of the Civil
13 Code.

14 (f) The independent medical review organization, any experts
15 it designates to conduct a review, or any officer, patient advocate,
16 or employee of the independent medical review organization shall
17 not have any material professional, familial, or financial affiliation,
18 as determined by the patient advocate, with any of the following:

19 (1) The system.

20 (2) Any officer or employee of the system.

21 (3) A physician, the physician's medical group, or the
22 independent practice association involved in the health care service
23 in dispute.

24 (4) The facility or institution at which either the proposed health
25 care service, or the alternative service, if any, recommended by
26 the system, would be provided.

27 (5) The development or manufacture of the principal drug,
28 device, procedure, or other therapy proposed by the enrollee whose
29 treatment is under review, or the alternative therapy, if any,
30 recommended by the system.

31 (6) The enrollee or the enrollee's immediate family.

32 (g) In order to contract with the patient advocate for purposes
33 of this section, an independent medical review organization shall
34 meet all of the requirements pursuant to subdivision (d) of Section
35 1374.32.

36 140616. (a) Upon receipt of information and documents related
37 to a case, the medical professional reviewer or reviewers selected
38 to conduct the review by the independent medical review
39 organization shall promptly review all pertinent medical records
40 of the enrollee, provider reports, as well as any other information

1 submitted to the organization as authorized by the patient advocate
2 or requested from any of the parties to the dispute by the reviewers.
3 If reviewers request information from any of the parties, a copy
4 of the request and the response shall be provided to all of the
5 parties. The reviewer or reviewers shall also review relevant
6 information related to the criteria set forth in subdivision (b).

7 (b) Following its review, the reviewer or reviewers shall
8 determine whether the disputed health care service was medically
9 appropriate based on the specific medical needs of the patient and
10 any of the following:

11 (1) Peer-reviewed scientific and medical evidence regarding
12 the effectiveness of the disputed service.

13 (2) Nationally recognized professional standards.

14 (3) Expert opinion.

15 (4) Generally accepted standards of medical practice.

16 (5) Treatments likely to provide a benefit to an enrollee for
17 conditions for which other treatments are not clinically efficacious.

18 (c) The organization shall complete its review and make its
19 determination in writing, and in layperson's terms to the maximum
20 extent practicable, within 30 days of the receipt of the application
21 for review and supporting documentation, or within less time as
22 prescribed by the patient advocate. If the disputed health care
23 service has not been provided and the enrollee's health care
24 provider or the patient advocate certifies in writing that an
25 imminent and serious threat to the health of the enrollee may exist,
26 including, but not limited to, serious pain, the potential loss of life,
27 limb, or major bodily function, or the immediate and serious
28 deterioration of the health of the enrollee, the analyses and
29 determinations of the reviewers shall be expedited and rendered
30 within three days of the receipt of the information. Subject to the
31 approval of the patient advocate, the deadlines for analyses and
32 determinations involving both regular and expedited reviews may
33 be extended by the patient advocate for up to three days in
34 extraordinary circumstances or for good cause.

35 (d) The medical professionals' analyses and determinations
36 shall state whether the disputed health care service is medically
37 appropriate. Each analysis shall cite the enrollee's medical
38 condition, the relevant documents in the record, and the relevant
39 findings associated with the provisions of subdivision (b) to support
40 the determination. If more than one medical professional reviews

1 the case, the recommendation of the majority shall prevail. If the
2 medical professionals reviewing the case are evenly split as to
3 whether the disputed health care service should be provided, the
4 decision shall be in favor of providing the service.

5 (e) The independent medical review organization shall provide
6 the patient advocate, the system, the enrollee, and the enrollee's
7 health care provider with the analyses and determinations of the
8 medical professionals reviewing the case, and a description of the
9 qualifications of the medical professionals. The independent
10 medical review organization shall keep the names of the reviewers
11 confidential in all communications with entities or individuals
12 outside the independent medical review organization, except in
13 cases where the reviewer is called to testify and in response to
14 court orders. If more than one medical professional reviewed the
15 case and the result was differing determinations, the independent
16 medical review organization shall provide each of the separate
17 reviewer's analyses and determinations.

18 (f) The patient advocate shall immediately adopt the
19 determination of the independent medical review organization and
20 shall promptly issue a written decision to the parties that shall be
21 binding on the system.

22 (g) After removing the names of the parties, including, but not
23 limited to, the enrollee and all medical providers, the patient
24 advocate's decisions adopting a determination of an independent
25 medical review organization shall be made available by the patient
26 advocate to the public upon request, at the patient advocate's cost
27 and after considering applicable laws governing disclosure of
28 public records, confidentiality, and personal privacy.

29 140618. (a) Upon receiving the decision adopted by the patient
30 advocate that a disputed health care service is medically
31 appropriate, the system shall promptly implement the decision. In
32 the case of reimbursement for services already rendered, the health
33 care provider or enrollee, whichever applies, shall be paid within
34 five working days. In the case of services not yet rendered, the
35 system shall authorize the services within five working days of
36 receipt of the written decision from the patient advocate, or sooner
37 if appropriate for the nature of the enrollee's medical condition,
38 and shall inform the enrollee and health care provider of the
39 authorization.

1 (b) The system shall not engage in any conduct that has the
2 effect of prolonging the independent medical review process.

3 (c) The patient advocate shall require the system to promptly
4 reimburse the enrollee for any reasonable costs associated with
5 those services when the patient advocate finds that the disputed
6 health care services were a covered benefit and the services are
7 found by the independent medical review organization to have
8 been medically appropriate and the enrollee's decision to secure
9 the services outside of the system was reasonable under the
10 emergency or urgent medical circumstances.

11 140619. (a) The patient advocate shall utilize a competitive
12 bidding process and use any other information on program costs
13 reasonable to establish a per case reimbursement schedule to pay
14 the costs of independent medical review organization reviews,
15 which may vary depending on the type of medical condition under
16 review and on other relevant factors.

17 (b) The costs of the independent medical review system for
18 enrollees shall be borne by the system.

19 140620. The patient advocate shall, on a biannual basis, report
20 to the chief medical officer on the number, types, and outcomes
21 of all patient grievances relating to the denial, delay, or
22 modification of health care services.

23

24 CHAPTER 7. OTHER PROVISIONS

25

26 140700. Notwithstanding any other provision of law, the
27 operative date of this division, other than Article 2 (commencing
28 with Section 140230) of Chapter 3, shall be the date the Secretary
29 of California Health and Human Services notifies the Secretary of
30 the Senate and the Chief Clerk of the Assembly that he or she has
31 determined that the Healthcare Fund will have sufficient revenues
32 to fund the costs of implementing this division or the date the
33 Secretary of California Health and Human Services receives the
34 necessary waiver referenced in Section 140701, whichever is later.

35 No state entity shall incur any transition or planning costs prior
36 to that date. However, this prohibition shall not apply to activities
37 of the California Healthcare Premium Commission, and Article 2
38 (commencing with Section 140230) of Chapter 3 of this division
39 shall become operative on January 1, 2012.

1 140701. The Secretary of California Health and Human
2 Services shall seek the necessary waiver under Section 1332 of
3 the federal Patient Protection and Affordable Care Act (Public
4 Law 111-148) in order for this division to be implemented,
5 pursuant to Section 140700.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

O

SB 810 (LENO)

The California Universal Health Care Act

Author: Senator Mark Leno, D-San Francisco

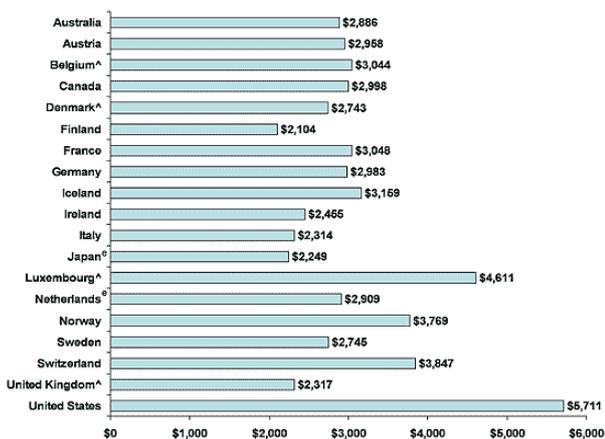
March 2011

Affordable High-Quality Health care for All Californians

Health care costs negatively impact California's economy and state budget, limiting access and quality for Californians and rapidly increasing costs for employers and families.

The U.S. spends over **\$2.5 trillion** (17.6% of our GDP) on health care—twice as much as other wealthy nations—and health insurance premiums annually grow 4 times faster than wages.

Total Health Expenditures Per Capita, 2003¹



Despite our high spending, our health care system ranks a dismal 37th in the world according to the World Health Organization. Studies show that the quality of care in the U.S. is falling behind other wealthy nations². California can do better.

SB 810 (Leno) is the solution to rising health care costs and declining quality.

SB 810 is a "Medicare-For-All" style single-payer health care reform plan. It combines public financing with competitive private health care delivery and provides:

Truly Universal Health Care - Eligibility is based on residency, instead of on employment or income.

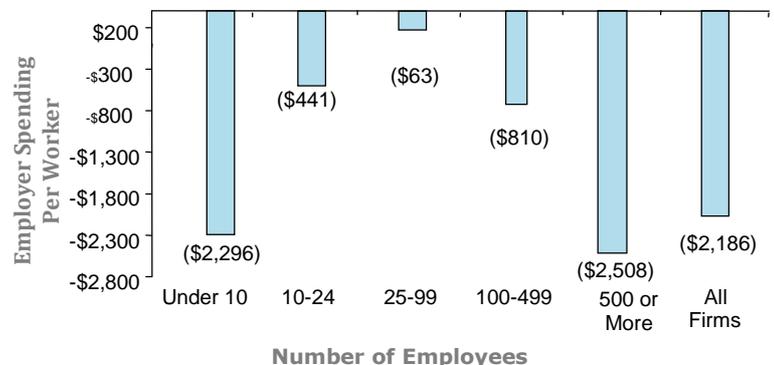
¹ Organization for Economic Cooperation and Development.

² Commonwealth Fund. Mirror Mirror on the Wall. 2010.

No California resident will ever again lose his or her access to health care because of unaffordable premiums, changing or losing a job, their age, divorce, or a pre-existing medical condition.

Affordable Coverage – SB 810 requires NO NEW SPENDING because California already spends plenty of money to cover every resident with better coverage than what most Californians have currently. This plan is paid for with federal, state and county monies already spent on health care and with premiums that are based on a percentage of income (for families) or payroll (for employers) that eliminate the premiums, deductibles, and co-pays now paid by employers and consumers.

Estimated Savings for Employers Offering Coverage³



Savings for State and Local Budgets – Health care comprises over a third of our state budget through direct health programs such as Medi-Cal and Healthy Families, as well as through the purchase of health benefits as an employer. SB 810 saves school districts, counties, and the state millions of dollars each year, providing more money for education, roads, and other essential services.

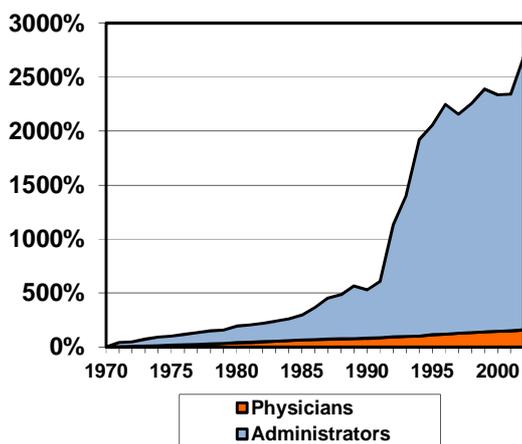
Freedom to Choose Your Providers - Under SB 810, all consumers will have complete freedom to choose their health care providers. That means no more restrictive HMO networks.

³ Lewin Report on SB 921. January, 2006.

Fair Reimbursements - Doctors, nurses, hospitals and other health care providers will receive actuarially-based reimbursements for all covered services provided. That means no more uncompensated care. Importantly, SB 810 requires that reimbursements be sufficient to attract an adequate supply of providers throughout the state. SB 810 also dramatically reduces administrative overhead costs for providers, freeing up resources for increased provider reimbursements.

Cost Containment through Efficiency - Nearly half of every dollar spent on health care is squandered on clinical and administrative waste, insurer overhead and profit, and over-priced pharmaceuticals. SB 810 is estimated to save California about \$20 billion through reduced administrative costs in the first year alone⁴.

Growth of Physicians to Administrators⁵



Additionally, SB 810 allows California to use its purchasing power to achieve \$5.2 billion in bulk purchase savings for prescription drugs and durable medical equipment.

By increasing the emphasis on the delivery of primary and preventative care, Californians also save an estimated \$3.4 billion.

Finally, SB 810 is estimated to significantly reduce fraud, saving nearly \$800 million in fraudulent health care spending.

Total savings under SB 810 reach nearly \$29 billion in the first year, money that would be used to pay for health care services for those who are currently uninsured or underinsured. Through these savings

and efficiencies, SB 810 covers every California resident with comprehensive benefits and reduces premiums for families and employers, without increasing spending.

Comprehensive Benefits: Coverage includes all care prescribed by a patient's health care provider that meets accepted standards of care and practice.

Specifically, coverage includes hospital, medical, surgical, and mental health; dental and vision care; prescription drugs and medical equipment such as hearing aids; emergency care including ambulance; skilled nursing care after hospitalization; substance abuse recovery programs; health education and translation services, transportation needed to access covered services, diagnostic testing; and hospice care.

SB 810 is Constitutionally Sound: While federal health reform faces constitutional challenges to its keystone 'individual mandate' provision, single payer is based on America's long standing and publicly supported Medicare model of health care financing.

Federal Health Reform: [Section 1332](#) of the Affordable Care Act includes a specific provision enabling states to enact a single payer system if it is demonstrated that the plan would cover more people with comparable coverage at a lower cost.

Support: SB 810 is sponsored by the following coalition of patients and providers:

California Nurses Association, Health Care for All Californians, California One Care, Physicians for a National Health Plan – CA, California School Employees Association, Single Payer Now, California Teachers Association, California Federation of Teachers, California Alliance of Retired Americans, Amnesty International, League of Women Voters, California Council of Churches, Progressive Democrats of America, Consumer Federation - CA, National Organization for Women - CA, Vision y Compromiso, Wellstone Democratic Renewal Club, Dolores Huerta Foundation, California Health Professional Student Alliance, Courage Campaign

For more information, contact Sara Rogers at (916) 651-4003 or sara.rogers@sen.ca.gov.

⁴ Lewin Report on SB 921. January, 2006.

⁵ Bureau of Labor Statistics & NCHS

ASSEMBLY BILL**No. 1053**

Introduced by Assembly Member GordonFebruary 18, 2011

An act to amend Sections 11372.5, 100425, 100430, and 103625 of the Health and Safety Code, to amend Section 1463.14 of the Penal Code, and to amend Section 903.15 of the Welfare and Institutions Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1053, as introduced, Gordon. Local government: penalties and fees.

(1) Existing law requires every person who is convicted of a violation of certain controlled substances provisions to pay a criminal laboratory analysis fee in the amount of \$50 for each separate offense.

This bill would raise the criminal laboratory analysis fee to \$200 for each separate offense.

(2) Existing law requires a base fee of \$3 be paid by an applicant for a certified copy of a fetal death or death record and requires a base fee of \$3 be paid by a public agency or private adoption agency applicant, and a base fee of \$9 be paid by any other applicant, for a certified copy of a birth certificate. The fee is authorized to be adjusted pursuant to a specified method, not to exceed the total increased cost of the program or service provided.

This bill would raise each of those base fees by \$9, and require the fee be adjusted pursuant to that specified method. The bill would declare that the increased fee would more accurately reflect the true cost of providing those documents.

(3) Existing law authorizes the board of supervisors of a county to impose an additional penalty, based on the defendant's ability to pay but not in excess of \$50, upon each defendant convicted of driving under influence of alcohol, drugs, or both.

This bill would add specified reckless driving convictions to those convictions eligible for the additional penalty and raise the maximum penalty amount to \$200.

(4) Existing law requires the parent of any minor, or other person who is liable for the support of that minor, on whose behalf a petition is filed to make the minor a ward of the court as provided, when the minor is represented by appointed counsel, to be assessed a registration fee not to exceed \$25 at the time legal services are provided, as long as the person is financially able to pay.

This bill would raise that fee to \$50.

(5) This bill would make conforming changes and delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The fees charged for providing certified copies of birth and
4 death records have not kept pace with the true cost of providing
5 certified copies of those records. Sections 5 and 6 of this act
6 address those deficiencies by raising the fees charged for those
7 records to a level that more accurately reflects the true costs
8 incurred by the agencies providing those certified copies.

9 (b) The fees charged for the issuance of certified birth and death
10 records shall continue to reflect the true costs of the services
11 provided as those fees are to be adjusted annually by the formula
12 set forth in Section 100425 of the Health and Safety Code, and the
13 amounts collected are prohibited from exceeding the total increased
14 reasonable cost for the services provided.

15 SEC. 2. Section 11372.5 of the Health and Safety Code is
16 amended to read:

17 11372.5. (a) (1) Every person who is convicted of a violation
18 of Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359,
19 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5,

1 11379, 11379.5, 11379.6, 11380, ~~11380.5~~, 11382, 11383, 11390,
2 11391, or 11550 or subdivision (a) or (c) of Section 11357, or
3 subdivision (a) of Section 11360 of this code, ~~or Section 4230 of~~
4 ~~the Business and Professions Code~~ shall pay a criminal laboratory
5 analysis fee in the amount of ~~fifty dollars (\$50)~~ *two hundred dollars*
6 *(\$200)* for each separate offense. The court shall increase the total
7 fine necessary to include this increment.

8 **With**

9 (2) *With* respect to those offenses specified in this subdivision
10 for which a fine is not authorized by other provisions of law, the
11 court shall, upon conviction, impose a fine in an amount not to
12 exceed ~~fifty dollars (\$50)~~ *two hundred dollars (\$200)*, which shall
13 constitute the increment prescribed by this section and which shall
14 be in addition to any other penalty prescribed by law.

15 (b) The county treasurer shall maintain a criminalistics
16 laboratories fund. The sum of ~~fifty dollars (\$50)~~ *two hundred*
17 *dollars (\$200)* shall be deposited into the fund for every conviction
18 under Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359,
19 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5,
20 11379, 11379.5, 11379.6, 11380, ~~11380.5~~, 11382, 11383, 11390,
21 11391, or 11550, subdivision (a) or (c) of Section 11357, or
22 subdivision (a) of Section 11360 of this code, ~~or Section 4230 of~~
23 ~~the Business and Professions Code~~, in addition to fines, forfeitures,
24 and other moneys which are transmitted by the courts to the county
25 treasurer pursuant to Section 11502. The deposits shall be made
26 prior to any transfer pursuant to Section 11502. The county may
27 retain an amount of this money equal to its administrative cost
28 incurred pursuant to this section. Moneys in the criminalistics
29 laboratories fund shall, except as otherwise provided in this section,
30 be used exclusively to fund (1) costs incurred by criminalistics
31 laboratories providing microscopic and chemical analyses for
32 controlled substances, in connection with criminal investigations
33 conducted within both the incorporated or unincorporated portions
34 of the county, (2) the purchase and maintenance of equipment for
35 use by these laboratories in performing the analyses, and (3) for
36 continuing education, training, and scientific development of
37 forensic scientists regularly employed by these laboratories.
38 Moneys in the criminalistics laboratory fund shall be in addition
39 to any allocations pursuant to existing law. As used in this section,
40 “criminalistics laboratory” means a laboratory operated by, or

1 under contract with, a city, county, or other public agency,
 2 including a criminalistics laboratory of the Department of Justice,
 3 (1) which has not less than one regularly employed forensic
 4 scientist engaged in the analysis of solid-dose controlled
 5 substances, and (2) which is registered as an analytical laboratory
 6 with the Drug Enforcement Administration of the United States
 7 Department of Justice for the possession of all scheduled controlled
 8 substances. In counties served by criminalistics laboratories of the
 9 Department of Justice, amounts deposited in the criminalistics
 10 laboratories fund, after deduction of appropriate and reasonable
 11 county overhead charges not to exceed 5 percent attributable to
 12 the collection thereof, shall be paid by the county treasurer once
 13 a month to the Controller for deposit into the state General Fund,
 14 and shall be excepted from the expenditure requirements otherwise
 15 prescribed by this subdivision.

16 (c) The county treasurer shall, at the conclusion of each fiscal
 17 year, determine the amount of any funds remaining in the special
 18 fund established pursuant to this section after expenditures for that
 19 fiscal year have been made for the purposes herein specified. The
 20 board of supervisors may, by resolution, assign the treasurer's duty
 21 to determine the amount of remaining funds to the auditor or
 22 another county officer. The county treasurer shall annually
 23 distribute those surplus funds in accordance with the allocation
 24 scheme for distribution of fines and forfeitures set forth in Section
 25 11502.

26 SEC. 3. Section 100425 of the Health and Safety Code is
 27 amended to read:

28 100425. (a) The fees or charges for the issuance or renewal
 29 of any permit, license, registration, or document pursuant to
 30 Sections 1639.5, 1676, 1677, ~~2202~~, 2805, ~~11887~~, ~~100860~~, ~~103625~~,
 31 106700, 106890, 106925, 107080, 107090, 107095, 107160,
 32 110210, 110470, 111130, 111140, 111630, 112405, 112510,
 33 112750, 112755, 113060, 113065, ~~113845~~, ~~114056~~, 114065,
 34 ~~paragraph (2) of subdivision (c) of Section 114090, Section~~
 35 ~~114140, subdivision (b) of Section 114290, Sections 114367,~~
 36 115035, 115065, 115080, 116205, 117923, 117995, 118045,
 37 118210, and 118245 shall be adjusted annually by the percentage
 38 change printed in the Budget Act for those items appropriating
 39 funds to the state department. After the first annual adjustment of
 40 fees or charges pursuant to this section, the fees or charges subject

1 to subsequent adjustment shall be the fees or charges for the prior
2 calendar year. The percentage change shall be determined by the
3 Department of Finance, and shall include at least the total
4 percentage change in salaries and operating expenses of the state
5 department. However, the total increase in amounts collected under
6 this section shall not exceed the total increased cost of the program
7 or service provided.

8 (b) The state department shall publish annually a list of the
9 actual numerical fee charges for each permit, license, certification,
10 or registration governed by this section.

11 (c) This adjustment of fees and publication of the fee list shall
12 not be subject to the requirements of Chapter 3.5 (commencing
13 with Section 11340) of Part 1 of Division 3 of Title 2 of the
14 Government Code.

15 SEC. 4. Section 100430 of the Health and Safety Code is
16 amended to read:

17 100430. (a) (1) The fees or charges for a record search or for
18 the issuance of any license, permit, registration, or any other
19 document pursuant to Section ~~26832~~ or 26840 of the Government
20 Code, or Section 102525, 102625, 102670, 102725, 102750,
21 103040.1, 103050, 103065, 103225, 103325, 103400, 103425,
22 103450, 103525, 103590, ~~103625~~, 103650, 103675, 103690,
23 103695, 103700, 103705, 103710, 103715, 103720, 103725, or
24 103735 of this code, may be adjusted annually by the percentage
25 change determined pursuant to Section 100425.

26 (2) The base amount to be adjusted shall be the statutory base
27 amount of the fee or charge plus the sum of the prior adjustments
28 to the statutory base amount. Whenever the statutory base amount
29 is amended, the base amount shall be the new statutory base amount
30 plus the sum of adjustments to the new statutory base amount
31 calculated subsequent to the statutory base amendment. The actual
32 dollar fee or charge shall be rounded to the next highest whole
33 dollar.

34 (b) Beginning January 1, 1983, the department shall annually
35 publish a list of the actual numerical fee charges as adjusted
36 pursuant to this section. This adjustment of fees and the publication
37 of the fee list shall not be subject to the requirements of Chapter
38 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
39 Title 2 of the Government Code.

1 SEC. 5. Section 103625 of the Health and Safety Code, as
2 amended by Section 9 of Chapter 529 of the Statutes of 2010, is
3 amended to read:

4 103625. (a) A fee of ~~three dollars (\$3)~~ *twelve dollars (\$12)*
5 shall be paid by the applicant for a certified copy of a fetal death
6 or death record.

7 (b) (1) A fee of ~~three dollars (\$3)~~ *twelve dollars (\$12)* shall be
8 paid by a public agency or licensed private adoption agency
9 applicant for a certified copy of a birth certificate that the agency
10 is required to obtain in the ordinary course of business. A fee of
11 ~~nine dollars (\$9)~~ *eighteen-dollar (\$18)* shall be paid by any other
12 applicant for a certified copy of a birth certificate. Four dollars
13 (\$4) of any ~~nine-dollar (\$9)~~ *eighteen-dollar (\$18)* fee is exempt
14 from subdivision (e) and shall be paid either to a county children's
15 trust fund or to the State Children's Trust Fund, in conformity with
16 Article 5 (commencing with Section 18965) of Chapter 11 of Part
17 6 of Division 9 of the Welfare and Institutions Code. Two dollars
18 (\$2) of any ~~nine-dollar (\$9)~~ *eighteen-dollar (\$18)* fee is exempt
19 from subdivision (e) and shall be paid to the Umbilical Cord Blood
20 Collection Program Fund in conformity with Section 1628.

21 (2) The board of supervisors of any county that has established
22 a county children's trust fund may increase the fee for a certified
23 copy of a birth certificate by up to three dollars (\$3) for deposit in
24 the county children's trust fund in conformity with Article 5
25 (commencing with Section 18965) of Chapter 11 of Part 6 of
26 Division 9 of the Welfare and Institutions Code.

27 (c) A fee of three dollars (\$3) shall be paid by a public agency
28 applicant for a certified copy of a marriage record, that has been
29 filed with the county recorder or county clerk, that the agency is
30 required to obtain in the ordinary course of business. A fee of six
31 dollars (\$6) shall be paid by any other applicant for a certified
32 copy of a marriage record that has been filed with the county
33 recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6)
34 fee is exempt from subdivision (e) and shall be transmitted monthly
35 by each local registrar, county recorder, and county clerk to the
36 state for deposit into the General Fund as provided by Section
37 1852 of the Family Code.

38 (d) A fee of three dollars (\$3) shall be paid by a public agency
39 applicant for a certified copy of a marriage dissolution record
40 obtained from the State Registrar that the agency is required to

1 obtain in the ordinary course of business. A fee of six dollars (\$6)
2 shall be paid by any other applicant for a certified copy of a
3 marriage dissolution record obtained from the State Registrar.

4 (e) Each local registrar, county recorder, or county clerk
5 collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall
6 transmit 15 percent of the fee for each certified copy to the State
7 Registrar by the 10th day of the month following the month in
8 which the fee was received.

9 (f) In addition to the fees prescribed pursuant to subdivisions
10 (a) to (d), inclusive, all applicants for certified copies of the records
11 described in those subdivisions shall pay an additional fee of three
12 dollars (\$3), that shall be collected by the State Registrar, the local
13 registrar, county recorder, or county clerk, as the case may be.

14 (g) The local public official charged with the collection of the
15 additional fee established pursuant to subdivision (f) may create
16 a local vital and health statistics trust fund. The fees collected by
17 local public officials pursuant to subdivision (f) shall be distributed
18 as follows:

19 (1) Forty-five percent of the fee collected pursuant to subdivision
20 (f) shall be transmitted to the State Registrar.

21 (2) The remainder of the fee collected pursuant to subdivision
22 (f) shall be deposited into the collecting agency's vital and health
23 statistics trust fund, except that in any jurisdiction in which a local
24 vital and health statistics trust fund has not been established, the
25 entire amount of the fee collected pursuant to subdivision (f) shall
26 be transmitted to the State Registrar.

27 (3) Moneys transmitted to the State Registrar pursuant to this
28 subdivision shall be deposited in accordance with Section 102247.

29 (h) Moneys in each local vital and health statistics trust fund
30 shall be available to the local official charged with the collection
31 of fees pursuant to subdivision (f) for the applicable jurisdiction
32 for the purpose of defraying the administrative costs of collecting
33 and reporting with respect to those fees and for other costs as
34 follows:

35 (1) Modernization of vital record operations, including
36 improvement, automation, and technical support of vital record
37 systems.

38 (2) Improvement in the collection and analysis of health-related
39 birth and death certificate information, and other community health
40 data collection and analysis, as appropriate.

1 (i) Funds collected pursuant to subdivision (f) shall not be used
 2 to supplant funding in existence on January 1, 2002, that is
 3 necessary for the daily operation of vital record systems. It is the
 4 intent of the Legislature that funds collected pursuant to subdivision
 5 (f) be used to enhance service to the public, to improve analytical
 6 capabilities of state and local health authorities in addressing the
 7 health needs of newborn children and maternal health problems,
 8 and to analyze the health status of the general population.

9 (j) Each county shall annually submit a report to the State
 10 Registrar by March 1 containing information on the amount of
 11 revenues collected pursuant to subdivision (f) in the previous
 12 calendar year and on how the revenues were expended and for
 13 what purpose.

14 (k) Each local registrar, county recorder, or county clerk
 15 collecting the fee pursuant to subdivision (f) shall transmit 45
 16 percent of the fee for each certified copy to which subdivision (f)
 17 applies to the State Registrar by the 10th day of the month
 18 following the month in which the fee was received.

19 (l) The additional three dollars (\$3) authorized to be charged to
 20 applicants other than public agency applicants for certified copies
 21 of marriage records by subdivision (c) may be increased pursuant
 22 to Section 114.

23 (m) In providing for the expiration of the surcharge on birth
 24 certificate fees on June 30, 1999, the Legislature intends that
 25 juvenile dependency mediation programs pursue ancillary funding
 26 sources after that date.

27 (n) This section shall remain in effect only until January 1, 2018,
 28 and as of that date is repealed, unless a later enacted statute, that
 29 is enacted before January 1, 2018, deletes or extends that date.

30 SEC. 6. Section 103625 of the Health and Safety Code, as
 31 added by Section 10 of Chapter 529 of the Statutes of 2010, is
 32 amended to read:

33 103625. (a) A fee of ~~three dollars (\$3)~~ *twelve dollars (\$12)*
 34 shall be paid by the applicant for a certified copy of a fetal death
 35 or death record.

36 (b) (1) A fee of ~~three dollars (\$3)~~ *twelve dollars (\$12)* shall be
 37 paid by a public agency or licensed private adoption agency
 38 applicant for a certified copy of a birth certificate that the agency
 39 is required to obtain in the ordinary course of business. A fee of
 40 ~~seven dollars (\$7)~~ *sixteen dollars (\$16)* shall be paid by any other

1 applicant for a certified copy of a birth certificate. Four dollars
2 (\$4) of any ~~seven-dollar (\$7)~~ *sixteen-dollar (\$16)* fee is exempt
3 from subdivision (e) and shall be paid either to a county children's
4 trust fund or to the State Children's Trust Fund, in conformity with
5 Article 5 (commencing with Section 18965) of Chapter 11 of Part
6 6 of Division 9 of the Welfare and Institutions Code.

7 (2) The board of supervisors of any county that has established
8 a county children's trust fund may increase the fee for a certified
9 copy of a birth certificate by up to three dollars (\$3) for deposit in
10 the county children's trust fund in conformity with Article 5
11 (commencing with Section 18965) of Chapter 11 of Part 6 of
12 Division 9 of the Welfare and Institutions Code.

13 (c) A fee of three dollars (\$3) shall be paid by a public agency
14 applicant for a certified copy of a marriage record, that has been
15 filed with the county recorder or county clerk, that the agency is
16 required to obtain in the ordinary course of business. A fee of six
17 dollars (\$6) shall be paid by any other applicant for a certified
18 copy of a marriage record that has been filed with the county
19 recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6)
20 fee is exempt from subdivision (e) and shall be transmitted monthly
21 by each local registrar, county recorder, and county clerk to the
22 state for deposit into the General Fund as provided by Section
23 1852 of the Family Code.

24 (d) A fee of three dollars (\$3) shall be paid by a public agency
25 applicant for a certified copy of a marriage dissolution record
26 obtained from the State Registrar that the agency is required to
27 obtain in the ordinary course of business. A fee of six dollars (\$6)
28 shall be paid by any other applicant for a certified copy of a
29 marriage dissolution record obtained from the State Registrar.

30 (e) Each local registrar, county recorder, or county clerk
31 collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall
32 transmit 15 percent of the fee for each certified copy to the State
33 Registrar by the 10th day of the month following the month in
34 which the fee was received.

35 (f) In addition to the fees prescribed pursuant to subdivisions
36 (a) to (d), inclusive, all applicants for certified copies of the records
37 described in those subdivisions shall pay an additional fee of three
38 dollars (\$3), that shall be collected by the State Registrar, the local
39 registrar, county recorder, or county clerk, as the case may be.

1 (g) The local public official charged with the collection of the
2 additional fee established pursuant to subdivision (f) may create
3 a local vital and health statistics trust fund. The fees collected by
4 local public officials pursuant to subdivision (f) shall be distributed
5 as follows:

6 (1) Forty-five percent of the fee collected pursuant to subdivision
7 (f) shall be transmitted to the State Registrar.

8 (2) The remainder of the fee collected pursuant to subdivision
9 (f) shall be deposited into the collecting agency's vital and health
10 statistics trust fund, except that in any jurisdiction in which a local
11 vital and health statistics trust fund has not been established, the
12 entire amount of the fee collected pursuant to subdivision (f) shall
13 be transmitted to the State Registrar.

14 (3) Moneys transmitted to the State Registrar pursuant to this
15 subdivision shall be deposited in accordance with Section 102247.

16 (h) Moneys in each local vital and health statistics trust fund
17 shall be available to the local official charged with the collection
18 of fees pursuant to subdivision (f) for the applicable jurisdiction
19 for the purpose of defraying the administrative costs of collecting
20 and reporting with respect to those fees and for other costs as
21 follows:

22 (1) Modernization of vital record operations, including
23 improvement, automation, and technical support of vital record
24 systems.

25 (2) Improvement in the collection and analysis of health-related
26 birth and death certificate information, and other community health
27 data collection and analysis, as appropriate.

28 (i) Funds collected pursuant to subdivision (f) shall not be used
29 to supplant funding in existence on January 1, 2002, that is
30 necessary for the daily operation of vital record systems. It is the
31 intent of the Legislature that funds collected pursuant to subdivision
32 (f) be used to enhance service to the public, to improve analytical
33 capabilities of state and local health authorities in addressing the
34 health needs of newborn children and maternal health problems,
35 and to analyze the health status of the general population.

36 (j) Each county shall annually submit a report to the State
37 Registrar by March 1 containing information on the amount of
38 revenues collected pursuant to subdivision (f) in the previous
39 calendar year and on how the revenues were expended and for
40 what purpose.

1 (k) Each local registrar, county recorder, or county clerk
2 collecting the fee pursuant to subdivision (f) shall transmit 45
3 percent of the fee for each certified copy to which subdivision (f)
4 applies to the State Registrar by the 10th day of the month
5 following the month in which the fee was received.

6 (l) The additional three dollars (\$3) authorized to be charged to
7 applicants other than public agency applicants for certified copies
8 of marriage records by subdivision (c) may be increased pursuant
9 to Section 114.

10 (m) In providing for the expiration of the surcharge on birth
11 certificate fees on June 30, 1999, the Legislature intends that
12 juvenile dependency mediation programs pursue ancillary funding
13 sources after that date.

14 (n) This section shall become operative on January 1, 2018.

15 SEC. 7. Section 1463.14 of the Penal Code is amended to read:

16 1463.14. (a) (1) Notwithstanding the provisions of Section
17 1463, of the moneys deposited with the county treasurer pursuant
18 to Section 1463, fifty dollars (\$50) of each fine collected for each
19 conviction of a violation of Section 23103, 23104, 23105, 23152,
20 or 23153 of the Vehicle Code shall be deposited in a special
21 account that shall be used exclusively to pay for the cost of
22 performing for the county, or a city or special district within the
23 county, analysis of blood, breath or urine for alcohol content or
24 for the presence of drugs, or for services related to that testing.
25 The sum shall not exceed the reasonable cost of providing the
26 services for which the sum is intended.

27 ~~On~~

28 (2) *On* November 1 of each year, the treasurer of each county
29 shall determine those moneys in the special account that were not
30 expended during the preceding fiscal year, and shall transfer those
31 moneys into the general fund of the county. The board of
32 supervisors may, by resolution, assign the treasurer's duty to
33 determine the amount of money that was not expended to the
34 auditor or another county officer. The county may retain an amount
35 of that money equal to its administrative cost incurred pursuant to
36 this section, and shall distribute the remainder pursuant to Section
37 1463. If the account becomes exhausted, the public entity ordering
38 a test performed pursuant to this subdivision shall bear the costs
39 of the test.

1 (b) The board of supervisors of a county may, by resolution,
 2 authorize an additional penalty upon each defendant convicted of
 3 a violation of Section 23103, 23104, 23105, 23152, or 23153 of
 4 the Vehicle Code, of an amount equal to the cost of testing for
 5 alcohol content *or for the presence of drugs, or for services related*
 6 *to that testing*, less the fifty dollars (\$50) deposited as provided in
 7 subdivision (a). The additional penalty authorized by this
 8 subdivision shall be imposed only in those instances where the
 9 defendant has the ability to pay, but in no case shall the defendant
 10 be ordered to pay a penalty in excess of ~~fifty dollars (\$50) two~~
 11 *hundred dollars (\$200)*. The penalty authorized shall be deposited
 12 directly with the county, or city or special district within the county,
 13 that performed the test, in the special account described in
 14 subdivision (a), and shall not be the basis for an additional
 15 assessment pursuant to Section 1464, or Chapter 12 (commencing
 16 with Section ~~76010~~ 76000) of Title 8 of the Government Code.

17 For purposes of this subdivision, “ability to pay” means the
 18 overall capability of the defendant to pay the additional penalty
 19 authorized by this subdivision, taking into consideration all of the
 20 following:

21 (1) Present financial obligations, including family support
 22 obligations, and fines, penalties, and other obligations to the court.

23 (2) Reasonably discernible future financial position over the
 24 next 12 months.

25 (3) Any other factor or factors that may bear upon the
 26 defendant’s financial ability to pay the additional penalty.

27 (c) The Department of Justice shall promulgate rules and
 28 regulations to implement the provisions of this section.

29 SEC. 8. Section 903.15 of the Welfare and Institutions Code
 30 is amended to read:

31 903.15. (a) The parent of any minor, or other person who is
 32 liable for the support of the minor, on whose behalf a petition is
 33 filed pursuant to Section 601 or 602, when the minor is represented
 34 by appointed counsel, shall be assessed a *reasonable* registration
 35 fee not to exceed ~~twenty-five dollars (\$25) fifty dollars (\$50)~~ at
 36 the time the legal services are provided. Notwithstanding this
 37 subdivision, no fee shall be required of any parent or other person
 38 who is financially unable to pay the fee.

39 (b) At the time of appointment of counsel by the court, or upon
 40 commencement of representation by the public defender, if prior

1 to court appointment, the parent or other person who is liable for
2 the support of the minor shall be asked if he or she is financially
3 able to pay the registration fee or any portion thereof. If the parent
4 or other person indicates that he or she is able to pay the fee or a
5 portion thereof, the court or public defender shall make an
6 assessment in accordance with ability to pay. No fee shall be
7 assessed against any parent or other person who asserts that he or
8 she is unable to pay the fee or any portion thereof. No other inquiry
9 concerning the parent's or other person's ability to pay shall be
10 made until proceedings are held pursuant to Section 903.45.

11 (c) No minor shall be denied the assistance of appointed counsel
12 due solely to the failure of the parent or other person to pay the
13 registration fee. The registration fee shall be a joint and several
14 liability of the parent or other person who is liable for the support
15 of the minor. An order to pay the registration fee may be enforced
16 in the manner provided for enforcement of civil judgments
17 generally, but may not be enforced by contempt.

18 (d) The fact that a parent or other person who is liable for the
19 support of the minor has or has not been assessed a fee pursuant
20 to this section shall have no effect in any later proceedings held
21 pursuant to Section 903.1 or 903.45, except that the parent or other
22 person shall be given credit for any amounts paid as a registration
23 fee toward any assessment imposed pursuant to Section 903.1 or
24 903.45 for legal services.

25 (e) This section shall be operative in a county only upon the
26 adoption of a resolution or ordinance by the board of supervisors
27 electing to establish the registration fee and setting forth the manner
28 in which the funds shall be collected and distributed. Collection
29 procedures, accounting measures, and the distribution of the funds
30 received pursuant to this section shall be within the discretion of
31 the board of supervisors.



April 20, 2011

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

The Honorable Cameron Smyth
Chair, Assembly Local Government Committee
State Capitol, Room 4098
Sacramento, CA 95814

**RE: AB 1053 (Gordon) – Local Government: Penalties and Fees
As Proposed to be Amended – SPONSOR
Proposed hearing set for May 4, 2011 – Assembly Local Government
Committee**

Dear Assembly Member Smyth:

The California State Association of Counties (CSAC) is pleased to sponsor AB 1053, a measure by Assembly Member Rich Gordon that would increase four local fees so they are better aligned with the actual cost of providing the related service. This bill will be heard in the Assembly Local Government Committee on May 4.

As you are well aware, county boards of supervisors can levy authorized fees or charges in amounts reasonably necessary to recover the cost of providing products or services or the cost of enforcing regulations (AB 151, Hannigan, 1983). Despite generally deregulating county fees 25 years ago, the Legislature still maintains the authority to set a range of local fees, including vital records fees, recording fees, and civil fees charged by the sheriff's department.

When a statutorily set fee does not permit recovery of funds to offset the cost of providing the service, the county general fund typically subsidizes the difference. The cost of these services is supposed to be borne by only those requesting or requiring the services. However, when a fee falls short of covering a particular service, that service ends up being subsidized by all taxpayers – including those who never benefit from the service. These cost pressures, in turn, affect counties' ability to appropriately deliver other vital services supported by the county general fund.

The four fees addressed in our measure – related to birth and death records, juvenile public defender registration, and laboratory analyses for various drug and alcohol related driving offenses – have not been increased in over 15, sometimes 20, years. It is our understanding that your committee will focus its attention on the vital records fee aspect of the measure, given that the juvenile public defender registration and laboratory analyses for drug and alcohol-related driving offenses fell under the purview of the Assembly Public Safety Committee, which approved the measure – with amendments – in March.

Under AB 1053, the consumer would see a \$6 increase to the base fee for birth and death certificates. (The statute reflects a \$3 base presently, but the actual amount being charged – due previous inflationary increases – is \$6.) Under existing law, the California Department of Public Health (DPH) has the authority to apply an inflationary increase to

AB 1053 (Gordon) – SPONSOR
Page 2 of 2

the state and local vital records fee. Indeed, the application of the Consumer Price Index (CPI) has, in the past, been applied to vital records through the state budget process. However, the 2002 passage of SB 247 by Senator Jackie Speier, authorized a fee and directed associated revenues to the state Vital Records Statistics Fund for purposes of developing safety and security measures for the prevention of fraudulent use of birth and death certificates. Those revenues built up over time, creating a large fund balance at the state level. As a result, DPH has been unable to seek a CPI increase for vital records fees for many years. Counties are unable to increase the base fees independently, so with each passing year the gap between the costs of providing the service and the actual fee being collected from the consumer has grown. Although the funds have largely been drawn down by now, it would be years before increases could catch up to counties' actual costs. It is our understanding that had DPH been able to apply inflationary increases in the last decade, we would likely be at about a \$12 base fee for birth and death certificates – the very target that AB 1053 is seeking to authorize.

To determine the shortfall in the processing of birth and death certificates, the Yolo County Clerk-Recorder's Office conducted a time-and-motion study, which revealed the \$6 gap in the processing of a single certificate. During these very difficult fiscal times, counties are increasingly challenged in delivering the range of vital public services we are asked to provide to the public, a circumstance that is exacerbated when we are constrained by fee structures that do not match the actual cost of service delivery.

AB 1053 would merely authorize counties to charge a fee that more reasonably approaches the actual cost of providing a specific service. In particular, increasing the vital records fee would enable counties to provide the public with vital records – an important document needed for a range of governmental and other purposes – without significant harm to the county general fund and other vital county programs. Further, it would provide that the cost for providing vital records be borne by the record requestor rather than be subsidized by the entire taxpaying community in the county.

For all of the above reasons, CSAC is pleased to sponsor AB 1053 on behalf of California's 58 counties. Please do not hesitate to contact me at ehoward@counties.org or 916/650-8131 if you should have any questions regarding AB 1053. Thank you.

Sincerely,

As signed

Elizabeth Howard Espinosa
Legislative Representative

cc: The Honorable Rich Gordon, Member, California State Assembly
The Honorable Luis Alejo, Vice-Chair, Assembly Local Government Committee
Members, Assembly Local Government Committee
Jennifer Klein Baldwin, Consultant, Assembly Local Government Committee
William Webber, Assembly Republican Caucus

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 455

Introduced by Assembly Member Campos

February 15, 2011

An act to add Section 3507.7 to the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 455, as amended, Campos. Public employment: local public employee organizations.

The Meyers-Milias-Brown Act contains various provisions that provide methods for local public employers and their employees to resolve disputes regarding wages, hours, and other terms and conditions of employment.

This bill would additionally provide that when a local public agency has established a personnel commission or merit commission to administer personnel rules or a merit system, ~~the public agency employer and the employee organization recognized as the exclusive or majority bargaining agent would each be required to designate ½ of the members of the commission~~ *the governing board of the public agency would appoint ½ of the members of the commission, and ½ of the members of the commission, nominated by the recognized employee organization, would be appointed by the governing board of the public agency.* Whenever multiple bargaining units are represented by different ~~exclusive or majority bargaining agents~~ *recognized employee organizations*, the employee organization representing the largest number of employees would designate commission members pursuant to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3507.7 is added to the Government Code,
2 to read:
3 3507.7. (a) When a public agency has established a personnel
4 commission or merit commission to administer personnel rules or
5 a merit system, ~~the public agency employer and the employee~~
6 ~~organization recognized as the exclusive or majority bargaining~~
7 ~~agent shall each designate one-half of the members of the~~
8 ~~commission~~ *the governing board of the public agency shall appoint*
9 *one-half of the members of the commission, and one-half of the*
10 *members of the commission, nominated by the recognized employee*
11 *organization, shall be appointed by the governing board of the*
12 *public agency. Whenever multiple bargaining units are represented*
13 *by different ~~exclusive or majority bargaining agents~~ recognized*
14 *employee organizations, the employee organization representing*
15 *the largest number of employees shall be the one empowered to*
16 *designate commission members pursuant to this section.*
17 (b) The commission members selected under subdivision (a)
18 shall elect jointly one additional member of the commission, who
19 will act as chairperson of the commission.

SENATE BILL**No. 930**

Introduced by Senator Evans

(Principal coauthor: Assembly Member Yamada)

(Coauthor: Assembly Member Beall)

February 18, 2011

An act to amend Section 12301.25 of, and to repeal Sections 12305.73 and 12305.85 of, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 930, as introduced, Evans. In-home supportive services: enrollment and fingerprinting requirements.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income persons. Under existing law, IHSS recipients who are eligible for the Medi-Cal program, are provided with personal care option services, as defined, in lieu of receiving these services under the IHSS program.

Under existing law, the State Department of Social Services, in consultation with the county welfare departments, is required to develop protocols and procedures for obtaining fingerprint images of all

individuals who are being assessed or reassessed to receive supportive services, as specified. Existing law also requires the standardized time provider timesheet used to track the work performed by providers of in-home supportive services to contain specified information, including, effective July 1, 2011, designated spaces for the index fingerprints of the provider and recipient.

This bill would delete the requirements pertaining to obtaining fingerprint images of IHSS recipients, and the requirement that the provider timesheet include spaces for provider and recipient fingerprints.

Existing law requires an IHSS provider enrollment form to be completed using the provider's physical residence address, and prohibits the use of a post office box address. Existing law also prohibits a county from mailing a provider's paycheck to a post office box address, unless the county approves a provider request to do so, as specified.

This bill would delete the requirements and prohibitions relating to the use of a post office box address by an IHSS provider.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12301.25 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 12301.25. (a) Notwithstanding any other provision of law, the
- 4 standardized provider timesheet used to track the work performed
- 5 by providers of services under this article shall contain both of the
- 6 following:
- 7 (1) A certification to be signed by the provider and recipient,
- 8 verifying that the information provided in the timesheet is true and
- 9 correct.
- 10 (2) A statement that the provider or recipient may be subject to
- 11 civil penalties if the information provided is found not to be true
- 12 and correct.
- 13 (b) A person who is convicted of fraud, as defined in subdivision
- 14 (a) of Section 12305.8, resulting from intentional deception or
- 15 misrepresentation in the provision of timesheet information under
- 16 this section shall, in addition to any criminal penalties imposed,
- 17 be subject to a civil penalty of at least five hundred dollars (\$500),
- 18 but not to exceed one thousand dollars (\$1,000), for each violation.

1 ~~(e) Effective July 1, 2011, the standardized provider timesheet~~
2 ~~shall also contain designated spaces for the index fingerprint of~~
3 ~~the provider and the recipient. The provider and the recipient shall~~
4 ~~place their respective index fingerprint in the designated location~~
5 ~~on the timesheet in order for the timesheet to be eligible for~~
6 ~~payment. An individual who is a minor or who is physically unable~~
7 ~~to provide an index fingerprint due to amputation or other physical~~
8 ~~limitations shall be exempt from the requirement to provide an~~
9 ~~index fingerprint under this section, and documentation of this~~
10 ~~exemption shall be maintained in the recipient or provider file, as~~
11 ~~applicable.~~

12 SEC. 2. Section 12305.73 of the Welfare and Institutions Code
13 is repealed.

14 ~~12305.73.—(a) The department, in consultation with the county~~
15 ~~welfare departments, shall develop protocols and procedures for~~
16 ~~obtaining fingerprint images of all individuals who are being~~
17 ~~assessed or reassessed to receive supportive services under this~~
18 ~~chapter.~~

19 ~~(b) (1) For any recipient whose initial client assessment occurs~~
20 ~~on or after April 1, 2010, he or she shall be fingerprinted at the~~
21 ~~same time of initial assessment by a social worker, in the recipient's~~
22 ~~home, as specified in the protocols and procedures developed by~~
23 ~~this section.~~

24 ~~(2) For any recipient already receiving in-home supportive~~
25 ~~services on April 1, 2010, during the recipient's next reassessment,~~
26 ~~a social worker shall obtain fingerprint images for that recipient,~~
27 ~~in the recipient's home, pursuant to this section.~~

28 ~~(c) Fingerprint imaging information obtained from a recipient~~
29 ~~pursuant to this section shall remain confidential, and shall only~~
30 ~~be used for identification purposes directly connected with the~~
31 ~~provision of supportive services to that recipient and program~~
32 ~~integrity.~~

33 ~~(d) An individual who is a minor or who is physically unable~~
34 ~~to provide fingerprints due to amputation or other physical~~
35 ~~limitations shall be exempt from any requirement to provide~~
36 ~~fingerprints under this section.~~

37 ~~(e) Upon completion of the development of protocols and~~
38 ~~procedures pursuant to subdivision (a), the department shall be~~
39 ~~authorized to take the necessary steps to implement this section~~
40 ~~by April 1, 2010.~~

1 SEC. 3. Section 12305.85 of the Welfare and Institutions Code
2 is repealed.

3 ~~12305.85. (a) A provider enrollment form shall be completed~~
4 ~~using the provider's physical residential address, and shall not be~~
5 ~~completed using a post office box address.~~

6 ~~(b) A paycheck for a provider shall not be mailed to a post office~~
7 ~~box unless the county approves a written or oral request from the~~
8 ~~provider, which shall include an explanation of the circumstances~~
9 ~~that make the use of a post office box appropriate or necessary.~~
10 ~~The county shall document an oral request received pursuant to~~
11 ~~this subdivision the provider's request and the county's approval~~
12 ~~or disapproval shall be retained in the provider's file.~~



**California State Association
of Counties**



**County Welfare Directors
Association of California**

April 15, 2011

The Honorable Carol Liu
Chair, Senate Human Services Committee
State Capitol, Room 5061
Sacramento, CA 95814

**RE: SB 930 (Evans): In-Home Supportive Services: Enrollment and
Fingerprinting Requirements
As Introduced 2/18/11 – SUPPORT
Set for Hearing April 26, 2011 – Senate Human Services Committee**

Dear Senator Liu:

The California State Association of Counties (CSAC) and the County Welfare Directors Association (CWDA) support SB 930, a bill by Senator Noreen Evans to streamline the In-Home Supportive Services (IHSS) program.

Senate Bill 930 would eliminate several costly, unnecessary, and burdensome requirements within IHSS program. First, SB 930 would free counties from collecting the fingerprints of each IHSS consumer, and also eliminate the need for both providers and consumers to submit fingerprints on each IHSS timesheet (a provision of current law that is scheduled to go into effect on July 1 of this year). Senate Bill 930 would also repeal statute that prohibits providers from using a Post Office Box (P.O. Box) for IHSS forms, including for paychecks.

The above provisions in SB 930 represent some of the components of Governor Schwarzenegger's "IHSS Anti-Fraud" initiative in 2009. Many of the provisions of this package were designed to prevent fraud and duplicative aid within the program, but few were evaluated on their cost-effectiveness to deploy and implement. In fact, the requirement to fingerprint all consumers in their homes requires specialized and costly equipment that has not yet been purchased by the state. The state has estimated that it would need \$8.2 million this year alone, as well as a total of \$41.6 million over the next seven years, to implement this provision. Clearly, in these difficult fiscal times, the expenditure of millions to implement an anti-fraud initiative in the absence of demonstrated or widespread fraud would be imprudent at best.

Counties are also perplexed by the prohibition on using P.O. Boxes for providers. In many of our rural areas, P.O. Boxes are often the only option for residents to receive mail. We also note that the IHSS program already includes regular oversight by a county social worker, who is able to quickly discover if a provider is providing the services and completing the visits for which the county, state, and federal government has hired them.

Page Two
SB 930 (Evans) – SUPPORT
April 15, 2011

Limiting the use of P.O. Boxes does not have a significant effect on fraudulent activities, and in fact, may harm the ability of counties and consumers to recruit and retain providers.

The IHSS Program has numerous safeguards against fraud, including a state and county-level IHSS Quality Assurance (QA) Initiative. Counties have dedicated QA staff performing desk reviews and home visits of recipients and providers, according to state-established guidelines, looking specifically for potential fraudulent activity and adequacy and quality of care issues. In addition to these reviews, the counties perform more in-depth or “targeted” case reviews that focus on specific issues or cases which may be problematic or signal potential fraud.

In addition to the QA activities, IHSS providers must complete an enrollment process that requires the provider to submit a valid social security number and in some cases undergo a criminal background check for enrollment as a registry provider. Timesheets are signed by both the consumer and the provider verifying that services were rendered. The service hours can never exceed the amount authorized by an IHSS social worker to meet the client’s needs for care. Additional efforts to combat fraud through the use of technology are planned with the release of CMIPS II.

Finally, the incidence of IHSS fraud is overstated. According to 2006-07 results of state/county Quality Assurance efforts, of the nearly 24,000 total cases reviewed, only 523 were referred for further investigation for potential fraud – just 2 percent. County data of actual fraud referrals shows even fewer potentially fraudulent cases, including Los Angeles County with less than 1 percent of cases over a three-year period referred for fraud.

Counties ask that the Legislature repeal the three cumbersome and costly provisions above and we urge your “Aye” vote for SB 930. Repealing these provisions will not impact state and local efforts to deter fraud. Please do not hesitate to contact our organizations if you have additional questions about our position. Thank you.

Sincerely,

As signed

Kelly Brooks-Lindsey
CSAC Legislative Representative
327-7500 Ext. 531

As signed

Cathy Senderling-McDonald
CWDA Deputy Executive Director
443-1749

cc: The Honorable Noreen Evans, Member, California State Senate
Members, Senate Human Services Committee
Jack Hailey, Consultant, Senate Human Services Committee
Joe Parra, Consultant, Senate Republican Caucus
Karen Keeclar, Executive Director, California Association of Public Authorities
for IHSS

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 662

Introduced by Senator DeSaulnier

February 18, 2011

~~An act to add Chapter 12.97 (commencing with Section 18986.65) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to public social services. An act to add Section 13084 to the Government Code, relating to public services.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 662, as amended, DeSaulnier. ~~Integrated health and human services program: Contra Costa County. Public services.~~

Existing law requires counties to administer various public safety programs, including, among others, mental health services for children, substance abuse recovery services, jail services, and fire protection and support services.

This bill would authorize the Department of Finance and any county to enter into a contract that would authorize the county to integrate public services, as specified. The bill would require the Legislative Analyst's Office to provide an analysis of any contract entered into pursuant to these provisions, and would require the Legislature to ratify the contract by a enactment of a bill vote. This bill would also require the applicable county board of supervisors to ratify the contract. The bill would provide that a contract would last 10 years, and would require the county to report to the Department of Finance and the Legislature on the progress towards meeting the goals of the contract during the 5th year.

~~Existing law authorizes Humboldt County, Mendocino County, and Alameda County, and any additional county or counties, as determined~~

by the Secretary of California Health and Human Services, to implement a program for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system, subject to certain limitations. Existing law separately requires Placer County, with the assistance of the appropriate state departments, to implement a pilot program in the county, upon approval by that county, for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system.

This bill would require Contra Costa County, with the assistance of the appropriate state departments, to implement a permanent program for the funding and delivery of services and benefits through an integrated and comprehensive county health and human services system, upon approval of the county, as specified. The bill would require the county to evaluate the program and submit the evaluation to the Governor and other designated recipients, no later than 6 months following the 3rd year of the implementation of the program, provided that nonstate funding is available for purposes of the evaluation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13084 is added to the Government Code,
2 to read:
3 13084. (a) The department may enter into a contract with a
4 county, whether general law or charter, that would authorize the
5 county to integrate public services as provided in this section. A
6 contract is not fully executed pursuant to this section until the
7 Legislature and the applicable county board of supervisors have
8 ratified the contract pursuant to subdivision (d).
9 (b) Any contract entered into pursuant to this section shall
10 include all of the following:
11 (1) A list of statutes and regulations that, in order to achieve
12 the goals of the contract, must be waived with respect to the county
13 that is a party to the contract and the public services subject to
14 the contract.
15 (2) A plan to integrate public services shall be cost neutral to
16 both the state and the county.

1 (3) *Benchmarks and expected outcomes that the county shall*
2 *achieve over the life of the contract.*

3 (4) *A list of any regional or intragovernmental agency*
4 *agreements, including, but not limited to, agreements between two*
5 *or more counties or joint powers agreements, that the county has*
6 *made, or intends to make, in order to achieve the goals of the*
7 *contract.*

8 (5) *A plan submitted by the county that specifies the steps the*
9 *county intends to take to comply with any applicable federal law.*

10 (c) (1) *Any contract entered into pursuant to this section shall*
11 *be for a period of not more than 10 years. The county shall, in the*
12 *fifth year of the contract, submit to the department and the*
13 *Assembly Committee on Budget and the Senate Committee of*
14 *Budget and Fiscal Review a statement of the county's progress in*
15 *achieving the goals of the contract.*

16 (2) *In the ninth year of the contract, the department and the*
17 *county may negotiate a renewal of the contract that shall comply*
18 *with the requirements of this section.*

19 (d) *Within 30 days of entering into the contract, the department*
20 *shall submit the contract to the Legislature and the Legislative*
21 *Analyst's Office.*

22 (1) *Within 60 days of receipt of the proposed contract, the*
23 *Legislative Analyst's Office shall issue a report on the policy and*
24 *fiscal effects of the proposed contract.*

25 (2) *Prior to the contract becoming operative, the Legislature*
26 *shall enact a bill to ratify the contract. The contract shall not take*
27 *effect until the Legislature enacts a bill that implements the*
28 *provisions of the contract, including waiver of any statutes or*
29 *regulation specified in the contract pursuant to paragraph (1) of*
30 *subdivision (b).*

31 (3) *Prior to the contract becoming operative, the applicable*
32 *county board of supervisors shall ratify the contract.*

33 (4) *If the act to ratify the contract is not enacted within one year*
34 *of the initial date of agreement, the department may, after 60 days*
35 *submit a new or revised contract to the Legislature and Legislative*
36 *Analyst's Office.*

37 (e) *For purposes of this section, the term "public services"*
38 *includes all of the following:*

1 (1) Employing and training public safety officials, including
 2 law enforcement personnel, attorneys assigned to criminal
 3 proceedings, and court security staff.

4 (2) Managing local jails and providing housing, treatment, and
 5 services for, and supervision of, juvenile and adult offenders.

6 (3) Providing fire protection and support services.

7 (4) Preventing child abuse, neglect, or exploitation; providing
 8 services to children who are abused, neglected, or exploited, or
 9 who are at risk of abuse, neglect, or exploitation, and the families
 10 of those children; providing adoption services, providing
 11 transitional housing and other services to emancipated youth and
 12 providing adult protective services.

13 (5) Providing mental health services to children and adults to
 14 reduce failure in school, harm to self or others, homelessness, and
 15 preventable incarceration or institutionalization.

16 (6) Preventing, treating, and providing recovery services for
 17 substance abuse.

18 ~~SECTION 1. Chapter 12.97 (commencing with Section~~
 19 ~~18986.65) is added to Part 6 of Division 9 of the Welfare and~~
 20 ~~Institutions Code, to read:~~

21

22 ~~CHAPTER 12.97. CONTRA COSTA COUNTY INTEGRATED HEALTH~~
 23 ~~AND HUMAN SERVICES PROGRAM~~

24

25 ~~18986.65. (a) Contra Costa County, with the assistance of the~~
 26 ~~appropriate state departments, and within the existing resources~~
 27 ~~of those departments, shall implement a program, upon approval~~
 28 ~~of the county, for the funding and delivery of services and benefits~~
 29 ~~through an integrated and comprehensive county health and human~~
 30 ~~services system in accordance with this chapter.~~

31 ~~(b) The Contra Costa County program, in providing services~~
 32 ~~through an integrated system to families and individuals, shall do~~
 33 ~~all of the following:~~

34 ~~(1) Implement and evaluate a universal intake system for those~~
 35 ~~seeking services.~~

36 ~~(2) Implement and evaluate a system whereby a family or~~
 37 ~~individual eligible for more than one service may be provided~~
 38 ~~those services by as few as a single county employee, through an~~
 39 ~~integrated, coordinated service plan.~~

1 ~~(3) Implement and evaluate a system of administration that~~
2 ~~centralizes the management and support of client services.~~

3 ~~(4) Implement and evaluate a system of reporting and~~
4 ~~accountability that provides for the combined provision of services~~
5 ~~as provided for in paragraph (2), without the loss of state or federal~~
6 ~~funds provided under current law.~~

7 ~~(e) The integrated system may include, but need not be limited~~
8 ~~to, any of the following services:~~

9 ~~(1) Adoption services.~~

10 ~~(2) Child abuse prevention services.~~

11 ~~(3) Child welfare services.~~

12 ~~(4) Delinquency prevention services.~~

13 ~~(5) Drug and alcohol services.~~

14 ~~(6) Mental health services.~~

15 ~~(7) Eligibility determination.~~

16 ~~(8) Employment and training services.~~

17 ~~(9) Foster care services.~~

18 ~~(10) Health services.~~

19 ~~(11) Public health services.~~

20 ~~(12) Housing services.~~

21 ~~(13) Medically indigent program services.~~

22 ~~(14) All other appropriately identified and targeted services,~~
23 ~~except for dental care.~~

24 ~~(d) Programs or services shall be included in the program only~~
25 ~~to the extent that federal funding to either the state or the county~~
26 ~~will not be reduced as a result of the inclusion of the services in~~
27 ~~the program. This program shall not generate any increased~~
28 ~~expenditures from the General Fund.~~

29 ~~(e) The county and the appropriate state departments shall jointly~~
30 ~~seek federal approval of the program, as may be needed to ensure~~
31 ~~its funding and allow for the integrated provision of services.~~

32 ~~(f) This chapter shall not authorize the county to discontinue~~
33 ~~meeting its obligations required by law to provide services, or to~~
34 ~~reduce its accountability for the provision of these services.~~

35 ~~(g) This chapter shall not authorize the county to reduce its~~
36 ~~eligibility for state funding for the services included in the program.~~

37 ~~(h) The county shall utilize any state general and county funds~~
38 ~~that it is legally allocated or entitled to receive. Through the~~
39 ~~creation of integrated health and social services structures, the~~
40 ~~county shall maximize federal matching funds.~~

1 ~~(i) The appropriate state departments that are assisting and~~
2 ~~cooperating in the implementation of the program authorized by~~
3 ~~this chapter shall be authorized to waive regulations regarding the~~
4 ~~method of providing services and the method of reporting and~~
5 ~~accountability, as may be required to meet the goals set forth in~~
6 ~~subdivision (b).~~

7 ~~18986.66. (a) The county shall evaluate and prepare a final~~
8 ~~evaluation of the program. The county shall submit its final~~
9 ~~evaluation to the Governor or the Governor's designee and the~~
10 ~~appropriate policy committees of the Legislature, no later than six~~
11 ~~months following the third year of the implementation of the~~
12 ~~program.~~

13 ~~(b) With the assistance of the appropriate state departments, the~~
14 ~~county shall seek private funding to provide for the evaluation of~~
15 ~~the program as required by this section. The evaluation required~~
16 ~~by this section shall be conducted only if nonstate resources are~~
17 ~~available for this purpose.~~

18 ~~(c) Pursuant to Section 10231.5 of the Government Code, this~~
19 ~~section is repealed on January 1, 2016.~~

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 653

Introduced by Senator Steinberg

February 18, 2011

~~An act to add Chapter 3.8 (commencing with Section 7295) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to local taxation. An act to amend Sections 17041.5, 30111, and 32010 of, to add Section 17041.6 to, and to add Chapter 3.53 (commencing with Section 7289), Chapter 3.54 (commencing with Section 7289.10), Chapter 3.55 (commencing with Section 7289.20), Chapter 3.56 (commencing with Section 7289.30), Chapter 3.57 (commencing with Section 7289.40), and Chapter 3.58 (commencing with Section 7289.50), to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to local taxation, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 653, as amended, Steinberg. Local taxation: *counties*: general authorization.

The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

This bill would authorize the board of supervisors of any county or city and county, ~~by ordinance or resolution, to propose to the voters a tax, including, but not limited to, subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, a local corporate income tax, and a local sales transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverages tax, a cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax, as provided.~~

This bill would require the State Board of Equalization, the Franchise Tax Board, or the Department of Motor Vehicles to perform various functions incident to the administration and operation of a local tax if the county or city and county contracts with the state agency to perform those functions.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.53 (commencing with Section 7289)
2 is added to Part 1.7 of Division 2 of the Revenue and Taxation
3 Code, to read:

4
5 CHAPTER 3.53. GENERAL LOCAL TAX AUTHORIZATION

6
7 7289. Notwithstanding any other law, but subject to the
8 limitations of the California Constitution, the board of supervisors
9 of any county or city and county may, in accordance with Article
10 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of
11 Division 2 of Title 5 of the Government Code, levy, increase, or
12 extend any of the following taxes:

13 (a) A local personal income tax that is assessed and collected
14 by the Franchise Tax Board in accordance with Section 17041.6.

15 (b) A transactions and use tax, adopted in accordance with the
16 Transactions and Use Tax Law (Part 1.6 (commencing with Section
17 7251)), notwithstanding any rate limitations specified in that law
18 for a county or city and county.

19 (c) A local vehicle license fee that is assessed and collected in
20 accordance with Chapter 3.54 (commencing with Section 7289.10).

21 (d) (1) An excise tax, including, but not limited to, a local
22 alcoholic beverage tax, a local cigarette and tobacco products
23 tax, a local sweetened beverage tax, and a local medical marijuana
24 tax.

25 (A) A local alcoholic beverage tax shall be assessed and
26 collected in accordance with Chapter 3.55 (commencing with
27 Section 7289.20).

28 (B) A local cigarette and tobacco products tax shall be assessed
29 and collected in accordance with Chapter 3.56 (commencing with
30 Section 7289.30).

1 (C) A local sweetened beverage tax shall be assessed and
 2 collected in accordance with Chapter 3.58 (commencing with
 3 Section 7289.50).

4 (2) Notwithstanding paragraph (1), an excise tax shall not
 5 include a motor vehicle fuel tax or diesel fuel tax.

6 (3) A county or city and county may contract with the State
 7 Board of Equalization to administer an excise tax. The contract
 8 shall contain a provision that the county or city and county shall
 9 reimburse the State Board of Equalization for all refunds, losses,
 10 and costs incurred in the administration of the tax.

11 (e) A local tax on extractive business activities, as defined in
 12 paragraph (3) of subdivision (d) of Section 25128, not to exceed
 13 2 percent of the wholesale value per unit measure.

14 (f) A local oil severance tax that is assessed and collected in
 15 accordance with Chapter 3.57 (commencing with Section 7289.40).

16 SEC. 2. Chapter 3.54 (commencing with Section 7289.10) is
 17 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,
 18 to read:

19

20 *CHAPTER 3.54. COUNTY VEHICLE LICENSE FEE*

21

22 7289.10. (a) An ordinance imposing a local vehicle license
 23 fee, as authorized pursuant to Chapter 3.53 (commencing with
 24 Section 7289), shall not to exceed 1.35 percent.

25 (b) (1) The Department of Motor Vehicles shall administer the
 26 local vehicle license fee.

27 (2) Prior to the operative date of any ordinance imposing a
 28 local vehicle license fee, the county or city and county shall
 29 contract with the Department of Motor Vehicles to perform all
 30 functions incident to the administration of the local vehicle license
 31 fee.

32 (3) The contract shall require the county or city and county to
 33 reimburse the Department of Motor Vehicles for all refunds, losses,
 34 and costs incurred in the administration and operation of the local
 35 vehicle license fee.

36 (4) The local vehicle license fee shall be assessed and collected
 37 in the same manner as the fee imposed by Part 5 (commencing
 38 with Section 10701).

39 (5) (A) Amounts collected pursuant to this chapter shall be
 40 transmitted to the Treasurer and deposited in the State Treasury

1 to the credit of the Local Vehicle License Fee Account in the
2 General Fund, which is hereby created.

3 (B) Notwithstanding Section 13340 of the Government Code,
4 the moneys in the Local Vehicle License Fee Account are hereby
5 continuously appropriated, without regard to fiscal year, to the
6 Controller for allocation to each county and city and county in
7 which the local vehicle license fee is imposed.

8 SEC. 3. Chapter 3.55 (commencing with Section 7289.20) is
9 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,
10 to read:

11
12 *CHAPTER 3.55. COUNTY ALCOHOLIC BEVERAGE TAX*

13
14 7289.20. (a) Subject to the requirements of this chapter, the
15 board of supervisors of a county or city and county may impose a
16 tax on the privilege of selling beer, wine, or distilled spirits at
17 retail in the county, as authorized pursuant to Chapter 3.53
18 (commencing with Section 7289). The board of supervisors may
19 impose this tax within an incorporated city within the county or
20 city and county.

21 (b) Any tax imposed shall not exceed the following:

22 (1) On beer, five cents (\$0.05) per 12 ounces and at a
23 proportionate rate for any other quantity.

24 (2) On wine, five cents (\$0.05) per 5 ounces and at a
25 proportionate rate for any other quantity.

26 (3) On distilled spirits, five cents (\$0.05) per 1.5 ounces and at
27 a proportionate rate for any other quantity.

28 (c) Any tax imposed shall not be regulatory within the meaning
29 of Section 22 of Article XX.

30 7289.21. For purposes of this chapter, "beer," "wine," and
31 "distilled spirits" have the same meanings as provided in Sections
32 23006, 23007, and 23005 of the Business and Professions Code.

33 7289.22. (a) The imposition of a tax pursuant to this chapter
34 shall not prohibit the concurrent application of a tax imposed
35 pursuant to the Sales and Use Tax Law (Part 1 (commencing with
36 Section 6001)), the Bradley-Burns Uniform Sales and Use Tax
37 Law (Part 1.5 (commencing with Section 7200)), or a tax imposed
38 in accordance with the Transactions and Use Tax Law (Part 1.6
39 (commencing with Section 7251)), on the sale of or the, storage,
40 use, or other consumption of, beer, wine or distilled spirits.

1 (b) Notwithstanding Section 7203.5 or any other law, the
 2 imposition of a tax pursuant to this chapter by a county or city
 3 and county shall not prohibit the concurrent administration by the
 4 board of a sales or use tax ordinance adopted by that county
 5 pursuant to the Bradley-Burns Uniform Local Sales and Use Tax
 6 Law (Part 1.5 (commencing with Section 7200)) or in accordance
 7 with the Transactions and Use Tax Law (Part 1.6 (commencing
 8 with Section 7251)).

9 7289.23. Any ordinance levying a tax pursuant to this chapter
 10 shall provide that the tax shall conform to Part 1.6 (commencing
 11 with Section 7251). However, a tax imposed pursuant to this
 12 chapter is not a sales or use tax or a transactions or use tax, and
 13 shall not be considered as such for purposes of Section 7251.1.

14 7289.24. An ordinance adopted pursuant to this chapter shall
 15 be operative on the first day of a calendar quarter commencing
 16 more than 90 days after the adoption of the ordinance.

17 7289.26. Prior to the operative date of any ordinance imposing
 18 a tax pursuant to this chapter, the board of supervisors of the
 19 county or city and county shall do either of the following:

20 (a) Notify the State Board of Equalization in writing that the
 21 county or city and county will be responsible for administering
 22 the tax imposed pursuant to an ordinance authorized by this
 23 chapter on its own behalf, and that the ordinance does not impose
 24 any duties or responsibilities for administering the tax upon the
 25 State Board of Equalization.

26 (b) Contract with the State Board of Equalization to perform
 27 all functions incident to the administration and operation of the
 28 ordinance. If the county or city and county has not contracted with
 29 the board prior to the operative date of the ordinance, the operative
 30 date shall be delayed until the first day of the first calendar quarter
 31 following the execution of the contract.

32 7289.27. For a county or city and county that elects to contract
 33 with the State Board of Equalization to administer a tax imposed
 34 by the county, as authorized by this chapter, the following shall
 35 apply:

36 (a) The contract shall require the county to do both of the
 37 following:

38 (1) Reimburse the State Board of Equalization for, and hold the
 39 board harmless from, any and all costs, losses, or refunds.

1 (2) *In the event that a legal action is commenced challenging*
2 *the validity of the tax in its entirety, as opposed to the application*
3 *of the tax to an individual taxpayer, place the tax proceeds into*
4 *an interest-bearing escrow account until the legality of the tax is*
5 *resolved by a final and nonappealable decision rendered by a*
6 *court of competent jurisdiction. This paragraph shall be*
7 *enforceable by any interested party in a proceeding for a writ of*
8 *mandate.*

9 (b) *The county or city and county shall reimburse the State*
10 *Board of Equalization for any costs the board incurs in preparing*
11 *to administer and operate the tax. The county or city and county*
12 *shall reimburse the board as the costs are incurred and billed by*
13 *the board, on a monthly basis. These reimbursable costs shall*
14 *include costs incurred for the following:*

15 (1) *Developing procedures.*

16 (2) *Programming for data processing.*

17 (3) *Developing and adopting appropriate regulations.*

18 (4) *Designing and printing forms.*

19 (5) *Developing instructions for the State Board of Equalization*
20 *staff and for taxpayers.*

21 (6) *Any other necessary preparatory costs, including the State*
22 *Board of Equalization's direct and indirect costs as specified by*
23 *Section 11256 of the Government Code.*

24 (c) *Any dispute as to the amount of preparatory costs incurred*
25 *by the State Board of Equalization shall be resolved by the Director*
26 *of Finance, whose decision shall be final. The maximum amount*
27 *of all preparatory costs to be paid by the county or city and county*
28 *to the board shall not exceed one hundred seventy-five thousand*
29 *dollars (\$175,000).*

30 (d) *In addition to the amounts paid to the State Board of*
31 *Equalization for the preparatory costs described in subdivision*
32 *(b), the county or city and county shall reimburse the board for*
33 *the cost of the board's services in administering the tax. The*
34 *amount of this cost shall be determined by the board with the*
35 *concurrence of the Department of Finance.*

36 (e) *All revenues collected from taxes imposed pursuant to the*
37 *authorization of this chapter in counties or a city and county that*
38 *have contracted with the State Board of Equalization to administer*
39 *the tax shall be remitted to the board and allocated by the board*
40 *as follows:*

1 (1) First, for reimbursement to the board for the reasonable
2 costs, as specified in subdivisions (b) and (d), of administering
3 and enforcing the tax ordinance on behalf of the county pursuant
4 to the contract between the board and the county or city and
5 county.

6 (2) Second, for transmission to each county or city and county
7 that has contracted with the board pursuant to subdivision (b) of
8 Section 7289.26, in proportion to the amount of revenues derived
9 from each county's or city and county's respective tax.

10 (f) The State Board of Equalization shall transmit to a county
11 or city and county all revenues derived from the taxes imposed
12 pursuant to this chapter and collected by the board pursuant to a
13 contract with the county or city and county periodically as promptly
14 as feasible. The transmittals shall be made at least twice in each
15 calendar quarter.

16 7289.28. Except as provided in Section 7289.29, to the extent
17 practicable, Chapter 5 (commencing with Section 6451), Chapter
18 6 (commencing with Section 6701), Chapter 7 (commencing with
19 Section 6901), and Chapter 8 (commencing with Section 7051) of
20 Part 1, shall govern determinations, collection of tax,
21 overpayments, and refunds, and administration of all taxes imposed
22 under the authorization of this chapter.

23 7289.29. The return and payment of any tax imposed pursuant
24 to the authorization of this chapter shall be due and payable to
25 the board on the same date as the return and payment of the tax
26 imposed pursuant to Part 1 (commencing with Section 6001),
27 provided that the retailer is within the jurisdiction of a county or
28 city and county that elects to contract with the board to administer
29 the tax, pursuant to subdivision (b) of Section 7289.26. If the
30 retailer is within the jurisdiction of a county or city and county
31 that has elected not to contract with the board to administer the
32 tax, the return and payment of the tax imposed pursuant to the
33 authorization of this chapter is due and payable from the retailer
34 as prescribed in the ordinance adopted by the county or city and
35 county.

36 SEC. 4. Chapter 3.56 (commencing with Section 7289.30) is
37 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,
38 to read:

1 *CHAPTER 3.56. COUNTY CIGARETTE AND TOBACCO PRODUCT*
 2 *TAX*

3
 4 7289.30. (a) *Subject to the requirements of this chapter, the*
 5 *board of supervisors of a county or city and county may impose a*
 6 *tax on the privilege of distributing cigarettes and tobacco products*
 7 *in the county, as authorized pursuant to Chapter 3.53 (commencing*
 8 *with Section 7289). The board of supervisors may impose this tax*
 9 *within an incorporated city within the county or city and county.*

10 (b) *Any tax imposed shall not exceed the following:*

11 (1) *On cigarettes, five cents (\$0.05) per cigarette.*

12 (2) *On tobacco products, based on the wholesale cost of these*
 13 *products, at a tax rate, as determined annually by the State Board*
 14 *of Equalization, which is equivalent to five cents (\$0.05) per*
 15 *cigarette.*

16 (3) *Any tax imposed shall be assessed and collected in the same*
 17 *manner as the taxes imposed by the Cigarette and Tobacco*
 18 *Products Tax Law (Part 13 (commencing with Section 30001)).*

19 7289.31. *An ordinance adopted pursuant to this chapter shall*
 20 *be operative on the first day of a calendar quarter commencing*
 21 *more than 110 days after the adoption of the ordinance.*

22 7289.32. *Prior to the operative date of any ordinance imposing*
 23 *a tax pursuant to this chapter, the board of supervisors of the*
 24 *county or city and county shall do either of the following:*

25 (a) *Notify the State Board of Equalization in writing that the*
 26 *county or city and county will be responsible for administering*
 27 *the tax imposed pursuant to an ordinance authorized by this*
 28 *chapter on its own behalf, and that the ordinance does not impose*
 29 *any duties or responsibilities for administering the tax upon the*
 30 *State Board of Equalization.*

31 (b) *Contract with the State Board of Equalization to perform*
 32 *all functions incident to the administration and operation of the*
 33 *ordinance. If the county has not contracted with the board prior*
 34 *to the operative date of the ordinance, the operative date shall be*
 35 *delayed until the first day of the first calendar quarter following*
 36 *the execution of the contract.*

37 7289.33. *For a county or city and county that elects to contract*
 38 *with the State Board of Equalization to administer a tax imposed*
 39 *by the county or city and county, as authorized by this chapter,*
 40 *the following shall apply:*

1 (a) *The contract shall require the county or city and county to*
2 *do both of the following:*

3 (1) *Reimburse the State Board of Equalization for, and hold the*
4 *board harmless from, any and all costs, losses, or refunds.*

5 (2) *In the event that a legal action is commenced challenging*
6 *the validity of the tax in its entirety, as opposed to the application*
7 *of the tax to an individual taxpayer, place the tax proceeds into*
8 *an interest-bearing escrow account until the legality of the tax is*
9 *resolved by a final and nonappealable decision rendered by a*
10 *court of competent jurisdiction. This paragraph shall be*
11 *enforceable by any interested party in a proceeding for a writ of*
12 *mandate.*

13 (b) *The county or city and county shall reimburse the State*
14 *Board of Equalization for any costs the board incurs in preparing*
15 *to administer and operate the tax. The county or city and county*
16 *shall reimburse the board as the costs are incurred and billed by*
17 *the board, on a monthly basis. These reimbursable costs shall*
18 *include costs incurred for the following:*

19 (1) *Developing procedures.*

20 (2) *Programming for data processing.*

21 (3) *Developing and adopting appropriate regulations.*

22 (4) *Designing and printing forms.*

23 (5) *Developing instructions for the State Board of Equalization*
24 *staff and for taxpayers.*

25 (6) *Any other necessary preparatory costs, including the State*
26 *Board of Equalization's direct and indirect costs as specified by*
27 *Section 11256 of the Government Code.*

28 (c) *Any dispute as to the amount of preparatory costs incurred*
29 *by the State Board of Equalization shall be resolved by the Director*
30 *of Finance, whose decision shall be final. The maximum amount*
31 *of all preparatory costs to be paid by the county or a city and*
32 *county to the board shall not exceed one hundred seventy-five*
33 *thousand dollars (\$175,000).*

34 (d) *In addition to the amounts paid to the State Board of*
35 *Equalization for the preparatory costs described in subdivision*
36 *(b), the county or a city and county shall reimburse the board for*
37 *the cost of the board's services in administering the tax. The*
38 *amount of this cost shall be determined by the board with the*
39 *concurrence of the Department of Finance.*

1 (e) All revenues collected from taxes imposed pursuant to the
2 authorization of this chapter in counties or a city and county that
3 have contracted with the State Board of Equalization to administer
4 the tax shall be remitted to the board and allocated by the board
5 as follows:

6 (1) First, for reimbursement to the board for the reasonable
7 costs, as specified in subdivisions (b) and (d), of administering
8 and enforcing the tax ordinance on behalf of the county or city
9 and county pursuant to the contract between the board and the
10 county or city and county.

11 (2) Second, for transmission to each county or city and county
12 that has contracted with the board pursuant to subdivision (b) of
13 Section 7289.32, in proportion to the amount of revenues derived
14 from each county's or city and county's respective tax.

15 (f) The State Board of Equalization shall transmit to a county
16 or city and county all revenues derived from the taxes imposed
17 pursuant to this chapter and collected by the board pursuant to a
18 contract with the county or city and county periodically as promptly
19 as feasible. The transmittals shall be made at least twice in each
20 calendar quarter.

21 7289.34. Except as provided in Section 7289.45, to the extent
22 practicable, Chapter 4 (commencing with Section 30181), Chapter
23 5 (commencing with Section 30301), Chapter 6 (commencing with
24 Section 30361), and Chapter 8 (commencing with Section 30451)
25 of Part 13, shall govern determinations, collection of tax,
26 overpayments, and refunds, and administration of all taxes imposed
27 under the authorization of this chapter.

28 7289.35. The return and payment of any tax imposed pursuant
29 to the authorization of this chapter is due and payable to the board
30 on the same date as the return and payment of the tax imposed
31 pursuant to Part 13 (commencing with Section 30001), provided
32 that the retailer is within the jurisdiction of a county or city and
33 county that elects to contract with the board to administer the tax,
34 pursuant to subdivision (b) of Section 7289.32. If the retailer is
35 within the jurisdiction of a county or city and county that has
36 elected not to contract with the board to administer the tax, the
37 return and payment of the tax imposed pursuant to the
38 authorization of this chapter is due and payable from the retailer
39 as prescribed in the ordinance adopted by the county or city and
40 county.

1 SEC. 5. Chapter 3.57 (commencing with Section 7289.40) is
2 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,
3 to read:

4
5 CHAPTER 3.57. COUNTY OIL SEVERANCE TAX
6

7 7289.40. (a) Subject to the requirements of this chapter, the
8 board of supervisors of a county or city and county may impose a
9 tax upon a producer for the privilege of severing oil from the earth
10 or water in the county for sale, transport, consumption, storage,
11 profit, or use, as authorized pursuant to Chapter 3.53 (commencing
12 with Section 7289). The board of supervisors may impose this tax
13 within an incorporated city within the county or city and county.

14 (b) Any tax imposed shall not exceed 10 percent of the gross
15 value of the product.

16 (c) Except as otherwise provided in this chapter, the tax shall
17 be upon the entire production in the county or city and county,
18 regardless of the place of sale or to whom sold or by whom used,
19 or the fact that the delivery may be made to points outside the
20 county or city and county.

21 (d) The tax shall be in addition to any ad valorem taxes imposed
22 by the state, or any of its political subdivisions, or any local
23 business license taxes that may be incurred for the privilege of
24 severing oil from the earth or water or doing business in that
25 locality. An exemption shall not be allowed from the payment of
26 an ad valorem tax related to equipment, material, or property by
27 reason of the payment of the gross severance tax.

28 (e) Two or more producers that are corporations and are owned
29 or controlled directly or indirectly, as defined in Section 25105,
30 by the same interests shall be considered as a single producer for
31 purposes of application of the tax.

32 (f) There shall be exempted from the imposition of the tax
33 imposed pursuant to this part oil produced by a stripper well in
34 which the average value of oil as of January 1 of the prior year is
35 less than thirty dollars (\$30) per barrel price of California oil.
36 The Division of Oil, Gas, and Geothermal Resources in the
37 Department of Conservation shall provide notification of all wells
38 that have been certified as a stripper well.

39 (g) For oil produced in this state from a well that qualifies under
40 Section 3251 of the Public Resources Code or which has been

1 *inactive for a period of at least the preceding five consecutive*
2 *years, the imposition of the tax imposed pursuant to this part shall*
3 *be reduced to zero for a period of 10 years. The Division of Oil,*
4 *Gas, and Geothermal Resources in the Department of Conservation*
5 *shall determine which wells qualify under Section 3251 of the*
6 *Public Resources Code or which have been inactive for a period*
7 *of at least the preceding five consecutive years, and shall provide*
8 *notification of its determinations.*

9 *(h) There shall be exempted from the imposition of a tax imposed*
10 *all oil owned or produced by the state and any political*
11 *subdivision's (including any local public entity, as defined by*
12 *Section 900.4 of the Government Code) proprietary share of oil*
13 *produced under any unit, cooperative, or other pooling agreement.*

14 *7289.41. For purposes of any tax imposed, all of the following*
15 *definitions shall apply:*

16 *(a) "Barrel of oil" means 42 United States gallons of 231 cubic*
17 *inches per gallon computed at a temperature of 60 degrees*
18 *Fahrenheit.*

19 *(b) "Gross value" means the sale price at the mouth of the well,*
20 *including any bonus, premium, or other thing of value paid for the*
21 *oil. If there is no sale at the time of severance, "gross value" means*
22 *the sale price when the oil is sold, including any bonus, premium,*
23 *or other thing of value paid for the oil. If oil is exchanged for*
24 *something other than cash, or if the relation between the buyer*
25 *and the seller is such that the consideration paid, if any, is not*
26 *indicative of the true value or market price, then the board shall*
27 *determine the value of the oil subject to the tax based on the cash*
28 *price paid to producers for like quality oil in the vicinity of the*
29 *well.*

30 *(c) "Oil" means petroleum, or other crude oil, condensate,*
31 *casing head gasoline, or other mineral oil that is mined, produced,*
32 *or withdrawn from below the surface of the soil or water in the*
33 *county or city and county.*

34 *(d) "Producer" means any person or entity that takes oil from*
35 *the earth or water in the county or city and county in any manner;*
36 *any person that owns, controls, manages, or leases any oil well*
37 *in the earth or water of the county or city and county; any person*
38 *that produces or extracts in any manner any oil by taking it from*
39 *the earth or water in the county or city and county; any person*
40 *that acquires the severed oil from a person or agency exempt from*

1 *property taxation under the United States Constitution or other*
2 *laws of the United States or under the California Constitution or*
3 *other laws of the State of California; and any person that owns*
4 *an interest, including a royalty interest, in oil or its value, whether*
5 *the oil is produced by the person owning the interest or by another*
6 *on the person's behalf by lease, contract, or other arrangement.*

7 *(e) "Production" means the total gross amount of oil produced,*
8 *including the gross amount attributable to a royalty or other*
9 *interest.*

10 *(f) "Severed" or "severing" means the extraction or*
11 *withdrawing from below the surface of the earth or water of any*
12 *oil, regardless of whether the extraction or withdrawal shall be*
13 *by natural flow, mechanical flow, forced flow, pumping, or any*
14 *other means employed to get the oil from below the surface of the*
15 *earth or water, and shall include the extraction or withdrawal by*
16 *any means whatsoever of oil upon which the tax has not been paid,*
17 *from any surface reservoir, natural or artificial, or from a water*
18 *surface.*

19 *(g) "Stripper well" means a well that has been certified by the*
20 *Division of Oil, Gas, and Geothermal Resources in the Department*
21 *of Conservation as an oil well incapable of producing an average*
22 *of more than 10 barrels of oil per day during the entire taxable*
23 *month. Once a well has been certified as a stripper well, that*
24 *stripper well shall remain certified as a stripper well until the well*
25 *produces an average of more than 10 barrels of oil per day during*
26 *an entire taxable month.*

27 *7289.42. Prior to the operative date of any ordinance imposing*
28 *a tax pursuant to this chapter, the board of supervisors of the*
29 *county or city and county shall do either of the following:*

30 *(a) Notify the State Board of Equalization in writing that the*
31 *county or city and county will be responsible for administering*
32 *the tax imposed pursuant to an ordinance authorized by this*
33 *chapter on its own behalf, and that the ordinance does not impose*
34 *any duties or responsibilities for administering the tax upon the*
35 *State Board of Equalization.*

36 *(b) Contract with the State Board of Equalization to perform*
37 *all functions incident to the administration and operation of the*
38 *ordinance. If the county or city and county has not contracted with*
39 *the board prior to the operative date of the ordinance, but shall*

1 contract, the operative date shall be delayed until the first day of
2 the first calendar quarter following the execution of the contract.

3 7289.43. For a county or city and county that elects to contract
4 with the State Board of Equalization to administer a tax imposed
5 by the county or city and county, as authorized by this chapter,
6 the following shall apply:

7 (a) The contract shall require the county to do both of the
8 following:

9 (1) Reimburse the State Board of Equalization for, and hold the
10 board harmless from, any and all costs, losses, or refunds.

11 (2) In the event that a legal action is commenced challenging
12 the validity of the tax in its entirety, as opposed to the application
13 of the tax to an individual taxpayer, place the tax proceeds into
14 an interest-bearing escrow account until the legality of the tax is
15 resolved by a final and nonappealable decision rendered by a
16 court of competent jurisdiction. This paragraph shall be
17 enforceable by any interested party in a proceeding for a writ of
18 mandate.

19 (b) The county or city and county shall reimburse the State
20 Board of Equalization for any costs the board incurs in preparing
21 to administer and operate the tax. The county or city and county
22 shall reimburse the board as the costs are incurred and billed by
23 the board, on a monthly basis. These reimbursable costs shall
24 include costs incurred for the following:

25 (1) Developing procedures.

26 (2) Programming for data processing.

27 (3) Developing and adopting appropriate regulations.

28 (4) Designing and printing forms.

29 (5) Developing instructions for the State Board of Equalization
30 staff and for taxpayers.

31 (6) Any other necessary preparatory costs, including the State
32 Board of Equalization's direct and indirect costs as specified by
33 Section 11256 of the Government Code.

34 (c) Any dispute as to the amount of preparatory costs incurred
35 by the State Board of Equalization shall be resolved by the Director
36 of Finance, whose decision shall be final. The maximum amount
37 of all preparatory costs to be paid by the county or city and county
38 to the board shall not exceed one hundred seventy-five thousand
39 dollars (\$175,000).

1 (d) In addition to the amounts paid to the State Board of
2 Equalization for the preparatory costs described in subdivision
3 (b), the county or city and county shall reimburse the board for
4 the cost of the board's services in administering the tax. The
5 amount of this cost shall be determined by the board with the
6 concurrence of the Department of Finance.

7 (e) All revenues collected from taxes imposed pursuant to the
8 authorization of this chapter in counties or a city and county that
9 have contracted with the State Board of Equalization to administer
10 the tax shall be remitted to the board and allocated by the board
11 as follows:

12 (1) First, for reimbursement to the board for the reasonable
13 costs, as specified in subdivisions (b) and (d), of administering
14 and enforcing the tax ordinance on behalf of the county pursuant
15 to the contract between the board and the county or city and
16 county.

17 (2) Second, for transmission to each county or city and county
18 that has contracted with the board pursuant to subdivision (b) of
19 Section 7289.42, in proportion to the amount of revenues derived
20 from each county's or city and county's respective tax.

21 (f) The State Board of Equalization shall transmit to a county
22 or city and county all revenues derived from the taxes imposed
23 pursuant to this chapter and collected by the board pursuant to a
24 contract with the county or city and county periodically as promptly
25 as feasible. The transmittals shall be made at least twice in each
26 calendar quarter.

27 7289.44. (a) For a producer within a jurisdiction of a county
28 or city and county that elects to contract with the State Board of
29 Equalization to administer the tax pursuant to subdivision (b) of
30 Section 7289.42, the following apply:

31 (1) (A) The return and payment of any tax imposed pursuant
32 to the authorization of this chapter is due and payable to the board
33 quarterly on or before the last day of the month next succeeding
34 each calendar quarter.

35 (B) Each producer shall prepare and file with the board a return
36 in the form prescribed by the board containing information as the
37 board deems necessary or appropriate for the proper
38 administration of the tax. The return shall be filed on or before
39 the last day of the calendar month following the calendar quarter

1 to which it relates, together with a remittance payable to the board
2 for the amount of tax due for that period.

3 (2) The board may prescribe those forms and reporting
4 requirements as necessary to implement the tax, including, but not
5 limited to, information regarding the location of the well by county
6 or city and county, the gross amount of oil produced, the quantity
7 sold and the selling price, the prevailing market price of oil, and
8 the amount of tax due.

9 (3) The board shall administer and collect the tax, to the extent
10 practicable, pursuant to the Fee Collection Procedures Law (Part
11 30 (commencing with Section 55001) of Division 2). For purposes
12 of this part, the references in the Fee Collection Procedures Law
13 to “fee” shall include the tax imposed by this part, and to
14 “feepayer” shall include a producer required to pay the tax
15 imposed by this part.

16 (4) The board may prescribe, adopt, and enforce emergency
17 regulations relating to the administration and enforcement of this
18 chapter. Any emergency regulations prescribed, adopted, or
19 enforced pursuant to this chapter shall be adopted in accordance
20 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
21 Division 3 of Title 2 of the Government Code, and for purposes of
22 that chapter, including Section 11349.6 of the Government Code,
23 the adoption of these regulations is an emergency and shall be
24 considered by the Office of Administrative Law as necessary for
25 the immediate preservation of the public peace, health and safety,
26 and general welfare. Notwithstanding Chapter 3.5 (commencing
27 with Section 11340) of Part 1 of Division 3 of Title 2 of the
28 Government Code, including subdivision (e) of Section 11346.1
29 of the Government Code, any emergency regulations adopted
30 pursuant to this section shall be filed with, but not be repealed by,
31 the Office of Administrative Law, and shall remain in effect until
32 revised by the director.

33 (b) If the producer is within the jurisdiction of a county or city
34 and county that has elected not to contract with the board to
35 administer the tax, the determinations, collection of tax,
36 overpayments, and refunds, and administration of the tax imposed
37 under the authorization of this chapter shall be prescribed in the
38 ordinance adopted by the county or city and county.

1 SEC. 6. Chapter 3.58 (commencing with Section 7289.50) is
2 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,
3 to read:

4
5 CHAPTER 3.58. COUNTY SWEETENED BEVERAGE TAX
6

7 7289.50. (a) Subject to the requirements of this chapter, the
8 board of supervisors of a county or city and county may impose a
9 tax upon a distributor for the privilege of distributing bottled
10 sweetened beverages and concentrate in the county, as authorized
11 pursuant to Chapter 3.53 (commencing with Section 7289). The
12 board of supervisors may impose this tax within an incorporated
13 city within the county or city and county.

14 (b) Any tax imposed shall be calculated as follows:

15 (1) The tax on bottled sweetened beverages distributed in the
16 county or city and county shall be imposed per fluid ounce, not to
17 exceed one cent (\$.01) per fluid ounce.

18 (2) The tax on concentrate distributed in the county or city and
19 county, either as concentrate or as a sweetened beverage derived
20 from that concentrate, shall be imposed per fluid ounce of
21 sweetened beverage produced from that concentrate, not to exceed
22 one cent (\$.01) per fluid ounce. For purposes of calculating the
23 tax for concentrate, the volume of sweetened beverage to be
24 produced from concentrate shall be the largest volume resulting
25 from use of the concentrate according to any manufacturer's
26 instructions.

27 (c) There shall be exempted from the imposition of a tax imposed
28 the distribution of bottled sweetened beverages or concentrate
29 distributed by a distributor to:

30 (1) To a person when, pursuant to the contract of sale, the
31 bottled sweetened beverages or concentrates are shipped to a point
32 outside of this state by the distributor by means of any of the
33 following:

34 (A) Facilities operated by the distributor.

35 (B) Delivery by the distributor to a carrier, customs broker, or
36 forwarding agent, whether hired by the purchaser or not, for
37 shipment to the out-of-county point.

38 (2) To a person where the county or city and county is prohibited
39 from taxing that sale, use, or consumption under the Constitution
40 or laws of the United States or under the Constitution of this state.

1 7289.51. For purposes of any tax imposed, all of the following
2 definitions shall apply:

3 (a) “Beverage container” means any closed or sealed container
4 regardless of size or shape, including, without limitation, those
5 made of glass, metal, paper, plastic, or any other material or
6 combination of materials.

7 (b) “Bottled sweetened beverage” means a sweetened beverage
8 contained in a beverage container.

9 (c) “Beverage dispensing machine” means a device which mixes
10 concentrate with any one or more other ingredients and dispenses
11 the resulting mixture into an open container as a ready-to-drink
12 beverage.

13 (d) “Caloric sweetener” means any caloric substance suitable
14 for human consumption that humans perceive as sweet and
15 includes, without limitation, sucrose, fructose, including high
16 fructose corn sweetener, glucose, other sugars, and fruit juice
17 concentrates. “Caloric” means a substance that adds calories to
18 the diet of a person who consumes that substance.

19 (e) “Concentrate” means a syrup, powder, or base product that
20 is used for mixing, compounding, or making sweetened beverages
21 in a beverage dispensing machine. For purposes of this part,
22 “concentrate” does not include any of the following:

23 (1) Any product that is solely used in preparing coffee or tea.

24 (2) Any product for consumption by infants and which is
25 commonly referred to as “infant formula.”

26 (3) Any product for use for weight reduction.

27 (4) Any product containing milk or milk products or plant
28 proteins sources.

29 (5) Any frozen concentrate or freeze-dried concentrate to which
30 only water is added to produce a sweetened beverage containing
31 more than 10 percent natural fruit juice or more than 10 percent
32 natural fruit juice.

33 (6) Any product that is sold and is intended to be used for the
34 purpose of an individual consumer mixing a sweetened beverage.

35 (7) Medical food.

36 (8) Any product to which no caloric sweeteners have been
37 added.

38 (f) “Consumer” means a person who purchases a bottled
39 sweetened beverage or concentrate for a purpose other than resale
40 in the ordinary course of business.

1 (g) “Distribution” includes:

2 (1) *The sale of bottled sweetened beverages or concentrate to*
3 *a retailer.*

4 (2) *The receipt of untaxed bottled sweetened beverages or*
5 *concentrate in this state from an unregistered out-of-state*
6 *distributor by a retailer.*

7 (h) “Distributor” means any person, or the distributor’s agent,
8 who makes a distribution of bottled sweetened beverages,
9 sweetened beverages, or concentrate in the state, whether or not
10 that person also sells these products to consumers.

11 (i) “Medical food” means medical food as defined in Section
12 109971 of the Health and Safety Code.

13 (j) “Milk” means natural liquid milk, regardless of animal
14 source or butterfat content, natural milk concentrate, whether or
15 not reconstituted, regardless of animal source, plant source, or
16 butterfat content, or dehydrated natural milk, whether or not
17 reconstituted and regardless of animal source or butter fat content.

18 (k) “Natural fruit juice” means the original liquid resulting
19 from the pressing of fruit, the liquid resulting from the
20 reconstitution of natural fruit juice concentrate, or the liquid
21 resulting from the restoration of water to dehydrated natural fruit
22 juice.

23 (l) “Natural vegetable juice” means the original liquid resulting
24 from the pressing of vegetables, the liquid resulting from the
25 reconstitution of natural vegetable juice concentrate, or the liquid
26 resulting from the restoration of water to dehydrated natural
27 vegetable juice.

28 (m) “Nonalcoholic beverage” means any beverage not subject
29 to tax under Part 14 (commencing with Section 32001).

30 (n) “Person” means an individual, trust, firm, joint stock
31 company, business concern, business trust, receiver, trustee,
32 syndicate, social club, fraternal organization, estate, corporation,
33 including, but not limited to, a government corporation,
34 partnership, limited liability company, and association or any
35 other group or combination acting as a unit. “Person” also
36 includes any city, county, city and county, district, commission,
37 the state, or any department, agency, or political subdivision
38 thereof, any interstate body, and the United States and its agencies
39 and instrumentalities to the extent permitted by law.

- 1 (o) “Powder” or “base product” means a solid mixture of
2 ingredients used in making, mixing, or compounding sweetened
3 beverages by mixing the powder or base product with any one or
4 more other ingredients, including, without limitation, water, ice,
5 syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice,
6 or carbonation or other gas.
- 7 (p) “Retail sale” means the sale of bottled sweetened beverages
8 or sweetened beverages to a consumer.
- 9 (q) “Retailer” means any person who sells in this state bottled
10 sweetened beverages or sweetened beverages to a consumer,
11 whether or not that person is also a distributor as defined in this
12 section.
- 13 (r) “Sale” means the transfer of title or possession for
14 consideration in any manner or by any means whatever.
- 15 (s) “Simple syrup” means a mixture of sugar and water.
- 16 (t) (1) “Sweetened beverage” means any sweetened
17 nonalcoholic beverage sold for human consumption that contains
18 any added caloric sweeteners, including, but not limited to, the
19 following: soda water, ginger ale, root beer, all beverages
20 commonly referred to as cola, lime, lemon, lemon-lime, and other
21 flavored beverages, including any fruit or vegetable beverage
22 containing 10 percent or less natural fruit juice or natural
23 vegetable juice, and all other drinks and beverages commonly
24 referred to as “soda,” “soda pop,” and “soft drinks.”
- 25 (2) “Sweetened beverage” does not include any of the following:
- 26 (A) Any product sold in liquid form for consumption by infants,
27 which is commonly referred to as “infant formula.”
- 28 (B) Any product sold in liquid form for use for weight reduction.
- 29 (C) Water, to which no caloric sweeteners have been added.
- 30 (D) Any product containing milk or milk products or plant
31 protein sources.
- 32 (E) Medical food.
- 33 (F) Coffee or tea.
- 34 (u) “Syrup” means the liquid mixture of ingredients used in
35 making, mixing, or compounding sweetened beverages using one
36 or more other ingredients including, without limitation, water, ice,
37 a powder, simple syrup, fruits, vegetables, fruit juice, vegetable
38 juice, or carbonation or other gas.

1 7289.52. *Prior to the operative date of any ordinance imposing*
2 *a tax pursuant to this chapter, the board of supervisors of the*
3 *county or city and county shall do either of the following:*

4 (a) *Notify the State Board of Equalization in writing that the*
5 *county or city and county will be responsible for administering*
6 *the tax imposed pursuant to an ordinance authorized by this*
7 *chapter on its own behalf, and that the ordinance does not impose*
8 *any duties or responsibilities for administering the tax upon the*
9 *State Board of Equalization.*

10 (b) *Contract with the State Board of Equalization to perform*
11 *all functions incident to the administration and operation of the*
12 *ordinance. If the county or city and county has not contracted with*
13 *the board prior to the operative date of the ordinance, but shall*
14 *contract, the operative date shall be delayed until the first day of*
15 *the first calendar quarter following the execution of the contract.*

16 7289.53. *For a county or city and county that elects to contract*
17 *with the State Board of Equalization to administer a tax imposed*
18 *by the county or city and county, as authorized by this chapter,*
19 *the following shall apply:*

20 (a) *The contract shall require the county to do both of the*
21 *following:*

22 (1) *Reimburse the State Board of Equalization for, and hold the*
23 *board harmless from, any and all costs, losses, or refunds.*

24 (2) *In the event that a legal action is commenced challenging*
25 *the validity of the tax in its entirety, as opposed to the application*
26 *of the tax to an individual taxpayer, place the tax proceeds into*
27 *an interest-bearing escrow account until the legality of the tax is*
28 *resolved by a final and nonappealable decision rendered by a*
29 *court of competent jurisdiction. This paragraph shall be*
30 *enforceable by any interested party in a proceeding for a writ of*
31 *mandate.*

32 (b) *The county or city and county shall reimburse the State*
33 *Board of Equalization for any costs the board incurs in preparing*
34 *to administer and operate the tax. The county or city and county*
35 *shall reimburse the board as the costs are incurred and billed by*
36 *the board, on a monthly basis. These reimbursable costs shall*
37 *include costs incurred for the following:*

38 (1) *Developing procedures.*

39 (2) *Programming for data processing.*

40 (3) *Developing and adopting appropriate regulations.*

1 (4) *Designing and printing forms.*

2 (5) *Developing instructions for the State Board of Equalization*
3 *staff and for taxpayers.*

4 (6) *Any other necessary preparatory costs, including the State*
5 *Board of Equalization's direct and indirect costs as specified by*
6 *Section 11256 of the Government Code.*

7 (c) *Any dispute as to the amount of preparatory costs incurred*
8 *by the State Board of Equalization shall be resolved by the Director*
9 *of Finance, whose decision shall be final. The maximum amount*
10 *of all preparatory costs to be paid by the county or city and county*
11 *to the board shall not exceed one hundred seventy-five thousand*
12 *dollars (\$175,000).*

13 (d) *In addition to the amounts paid to the State Board of*
14 *Equalization for the preparatory costs described in subdivision*
15 *(b), the county or city and county shall reimburse the board for*
16 *the cost of the board's services in administering the tax. The*
17 *amount of this cost shall be determined by the board with the*
18 *concurrence of the Department of Finance.*

19 (e) *All revenues collected from taxes imposed pursuant to the*
20 *authorization of this chapter in counties or a city and county that*
21 *have contracted with the State Board of Equalization to administer*
22 *the tax shall be remitted to the board and allocated by the board*
23 *as follows:*

24 (1) *First, for reimbursement to the board for the reasonable*
25 *costs, as specified in subdivisions (b) and (d), of administering*
26 *and enforcing the tax ordinance on behalf of the county pursuant*
27 *to the contract between the board and the county or city and*
28 *county.*

29 (2) *Second, for transmission to each county or city and county*
30 *that has contracted with the board pursuant to subdivision (b) of*
31 *Section 7289.52, in proportion to the amount of revenues derived*
32 *from each county's or city and county's respective tax.*

33 (f) *The State Board of Equalization shall transmit to a county*
34 *or city and county all revenues derived from the taxes imposed*
35 *pursuant to this chapter and collected by the board pursuant to a*
36 *contract with the county or city and county periodically as promptly*
37 *as feasible. The transmittals shall be made at least twice in each*
38 *calendar quarter.*

39 7289.54. (a) *For a distributor that is subject to the jurisdiction*
40 *of a county or city and county that elects to contract with the State*

1 Board of Equalization to administer the tax pursuant to subdivision
2 (b) of Section 7289.52, the following apply:

3 (1) Every distributor shall register with the board. Every
4 application for registration shall be made upon a form prescribed
5 by the board and shall set forth the name under which the applicant
6 transacts or intends to transact business, the location of his or her
7 place or places of business, and any other information as the board
8 may require. An application for an account shall be authenticated
9 in a form or pursuant to methods as may be prescribed by the
10 board.

11 (2) (A) There is exempt from any tax the distribution of bottled
12 sweetened beverages or concentrate distributed by a distributor
13 to a distributor registered with the board under paragraph (1)
14 when supported by a properly completed exemption certificate.

15 (B) The exemption certificate to be provided by a distributor to
16 another distributor as described in subparagraph (A) shall consist
17 of a statement that is signed under penalty of perjury by a person
18 with authority to bind the distributor. The certificate shall be dated
19 and include the distributor's name and account number. A new
20 certificate shall be given if any information in the current
21 certificate changes. The certificate may be included as part of any
22 business records normally used to document a sale or distribution.

23 (C) A distributor who has paid a tax, either directly to the board
24 or to another distributor registered pursuant to paragraph (1),
25 and makes a subsequent distribution of bottled sweetened
26 beverages or concentrate may claim a credit on its return for the
27 period in which the subsequent sale or distribution occurs.

28 (3) (A) The return and payment of any tax imposed pursuant
29 to the authorization of this chapter is due and payable to the board
30 quarterly on or before the last day of the month next succeeding
31 each calendar quarter.

32 (B) Each distributor shall prepare and file with the board a
33 return in the form prescribed by the board containing information
34 as the board deems necessary or appropriate for the proper
35 administration of the tax. The return shall be filed on or before
36 the last day of the calendar month following the calendar quarter
37 to which it relates, together with a remittance payable to the board
38 for the amount of tax due for that period.

39 (4) The board may prescribe those forms and reporting
40 requirements as necessary to implement the tax, including, but not

1 limited to, information regarding the total amount of bottled
 2 sweetened beverages and concentrate sold and the amount of tax
 3 due.

4 (5) The board shall administer and collect the tax, to the extent
 5 practicable, pursuant to the Fee Collection Procedures Law (Part
 6 30 (commencing with Section 55001) of Division 2). For purposes
 7 of this part, the references in the Fee Collection Procedures Law
 8 to “fee” shall include the tax imposed by this part, and to
 9 “feepayer” shall include a producer required to pay the tax
 10 imposed by this part.

11 (6) The board may prescribe, adopt, and enforce emergency
 12 regulations relating to the administration and enforcement of this
 13 chapter. Any emergency regulations prescribed, adopted, or
 14 enforced pursuant to this chapter shall be adopted in accordance
 15 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
 16 Division 3 of Title 2 of the Government Code, and for purposes of
 17 that chapter, including Section 11349.6 of the Government Code,
 18 the adoption of these regulations is an emergency and shall be
 19 considered by the Office of Administrative Law as necessary for
 20 the immediate preservation of the public peace, health and safety,
 21 and general welfare. Notwithstanding Chapter 3.5 (commencing
 22 with Section 11340) of Part 1 of Division 3 of Title 2 of the
 23 Government Code, including subdivision (e) of Section 11346.1
 24 of the Government Code, any emergency regulations adopted
 25 pursuant to this section shall be filed with, but not be repealed by,
 26 the Office of Administrative Law, and shall remain in effect until
 27 revised by the director.

28 (7) Returns shall be authenticated in a form or pursuant to
 29 methods as may be prescribed by the board.

30 (b) If the distributor is within the jurisdiction of a county or city
 31 and county that has elected not to contract with the board to
 32 administer the tax, the determinations, collection of tax,
 33 overpayments, refunds, and administration of the tax imposed
 34 under the authorization of this chapter shall be prescribed in the
 35 ordinance adopted by the county or city and county.

36 SEC. 7. Section 17041.5 of the Revenue and Taxation Code is
 37 amended to read:

38 17041.5. Notwithstanding any statute, ordinance, regulation,
 39 rule or decision to the contrary, ~~no a city, county, city and county,~~
 40 governmental subdivision, district, public and quasi-public

1 corporation, municipal corporation, whether incorporated or not
2 or whether chartered or not, shall *not* levy or collect or cause to
3 be levied or collected any tax upon the income, or any part thereof,
4 of any person, resident, or nonresident.

5 This section shall not be construed so as to prohibit the levy or
6 collection of any otherwise authorized license tax upon a business
7 measured by or according to gross receipts.

8 *SEC. 8. Section 17041.6 is added to the Revenue and Taxation*
9 *Code, to read:*

10 *17041.6. (a) A local ordinance, authorized pursuant to Chapter*
11 *3.53 (commencing with Section 7289) of Part 1.7, imposing a local*
12 *personal income tax shall become operative for taxable years*
13 *beginning on or after January 1 of the first calendar year following*
14 *approval by the voters of the county or city and county, provided*
15 *written notice of that approval is provided by the county or city*
16 *and county elections official no later than September 30 of the*
17 *preceding calendar year.*

18 *(b) (1) A local personal income tax may be calculated as a*
19 *percentage of taxable income shown on the state personal income*
20 *tax return filed for a taxable year by a resident of the county in*
21 *which the local personal income tax is imposed.*

22 *(2) A local personal income tax shall not exceed 1 percent of*
23 *taxable income for a taxable year.*

24 *(3) A local personal income tax may be imposed on one or more*
25 *of the income tax brackets prescribed in Section 17041.*

26 *(c) For each taxable year for which a local personal income*
27 *tax is operative under subdivision (a), in addition to any other*
28 *taxes imposed by this part, an additional tax on the taxable income*
29 *of a county or city and county resident shall be imposed at the rate*
30 *approved by the voters of that county or city and county.*

31 *(d) For purposes of applying Part 10.2 (commencing with*
32 *Section 18401) of Division 2, the tax imposed under this section*
33 *shall be treated as if it were imposed under Section 17041.*

34 *(e) Any credit authorized under this part shall not be applied*
35 *to reduce taxes imposed under this section.*

36 *(f) Amounts paid for the local personal income tax authorized*
37 *under this section shall not be allowed as a deduction under this*
38 *part.*

39 *(g) (1) Prior to the operative date of any ordinance imposing*
40 *a local personal income tax, the county or city and county shall*

1 contract with the Franchise Tax Board to perform all functions
2 incident to the administration of the local personal income tax.

3 (2) The contract shall require the county or city and county to
4 reimburse the Franchise Tax Board for all refunds, losses, and
5 costs incurred in the administration and operation of the local
6 personal income tax.

7 (h) Any information, information sources, or enforcement
8 remedies and capabilities available to the county or city and county
9 shall be made available to the Franchise Tax Board to be used in
10 conjunction with, or independent of, the information, information
11 sources, or remedies and capabilities available to the Franchise
12 Tax Board for purposes of administering this section.

13 (i) The Franchise Tax Board may adopt regulations necessary
14 to administer this section.

15 (j) (1) Amounts collected pursuant to this section shall be
16 transmitted to the Treasurer and deposited in the State Treasury
17 to the credit of the Local Personal Income Tax Account in the
18 General Fund, which is hereby created.

19 (2) Notwithstanding Section 13340 of the Government Code,
20 the moneys in the Local Personal Income Tax Account are hereby
21 continuously appropriated, without regard to fiscal year, to the
22 Controller for allocation to each county and city and county in
23 which the local personal income tax is imposed.

24 SEC. 9. Section 30111 of the Revenue and Taxation Code is
25 amended to read:

26 30111. The taxes imposed by this part are in lieu of all other
27 state, county, municipal, or district taxes on the privilege of
28 distributing cigarettes or tobacco products.

29 This section does not prohibit the application of Part 1
30 (commencing with Section 6001), Part 1.5 (commencing with
31 Section 7200), Part 1.6 (commencing with Section 7251), or Article
32 2 (commencing with Section 37021) of Part 17 to the sale, storage,
33 use, or other consumption of cigarettes or tobacco products, or a
34 local ordinance, authorized pursuant to Chapter 3.53 (commencing
35 with Section 7289), imposing a local alcoholic beverage tax in
36 accordance with Chapter 3.55 (commencing with Section 7289.20).

37 SEC. 10. Section 32010 of the Revenue and Taxation Code is
38 amended to read:

1 32010. The taxes imposed by this part are in lieu of all county,
2 municipal, or district taxes on the sale of beer, wine, or distilled
3 spirits.

4 This section does not prohibit the application of Part 1
5 (commencing with Section 6001), Part 1.5 (commencing with
6 Section 7200), or Part 1.6 (commencing with Section 7251) to the
7 sale, storage, use, or other consumption of beer, wine, or distilled
8 spirits, *or a local ordinance, authorized pursuant to Chapter 3.53*
9 *(commencing with Section 7289), imposing a local cigarette and*
10 *tobacco products tax in accordance with Chapter 3.56*
11 *(commencing with Section 7289.30).*

12 ~~SECTION 1. Chapter 3.8 (commencing with Section 7295) is~~
13 ~~added to Part 1.7 of Division 2 of the Revenue and Taxation Code,~~
14 ~~to read:~~

15

16 ~~CHAPTER 3.8. GENERAL AUTHORIZATION~~

17

18 ~~7295. Notwithstanding any other law, but subject to the~~
19 ~~limitations of the California Constitution, the board of supervisors~~
20 ~~of any county or city and county may, by ordinance or resolution~~
21 ~~approved by the board in compliance with statutory requirements~~
22 ~~for submitting a tax to the voters, place on the ballot a tax,~~
23 ~~including, but not limited to, a local personal income tax, a local~~
24 ~~corporate income tax, and a local sales and use tax, for~~
25 ~~consideration by the voters.~~

**Contra Costa County
Legislation Tracking Report
4-22-2011**

CA AB 129 **AUTHOR:** Beall [D]
TITLE: Local Government: Fines and Penalties: Assessments
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 01/11/2011
DISPOSITION: Pending
LOCATION: SENATE
SUMMARY:
 Authorizes a city, county, or city and county to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the city, county, or city and county against real property owned by the person owing those fines and penalties where the fines or penalties are related to ordinance violations on the real property upon which the fines or penalties would be specially assessed, and the ordinance violations constitute a public nuisance or threat to public health and safety.
STATUS:
 04/14/2011 In ASSEMBLY. Read third time. Passed ASSEMBLY.
 *****To SENATE. (46-17)

CA AB 147	AUTHOR: Dickinson [D] TITLE: Subdivisions FISCAL COMMITTEE: no URGENCY CLAUSE: no INTRODUCED: 01/14/2011 LAST AMEND: 04/04/2011 DISPOSITION: Pending FILE: 10 LOCATION: Assembly Second Reading File SUMMARY: Amends the Subdivision Map Act which authorizes a local agency to require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges or major thoroughfares. Authorizes a local ordinance to require payment of a fee subject to the Mitigation Fee Act, as a condition of approval of a final map or permit for purposes of defraying the actual transportation facilities cost. STATUS: 04/13/2011 From ASSEMBLY Committee on LOCAL GOVERNMENT: Do pass. (6-2) NOTES: Our legislative initiative
-----------	--

CA AB 153 **AUTHOR:** Skinner [D]
TITLE: Board of Equalization: Administration Retailer
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 01/18/2011
DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Amends the Sale and Use Tax Law. Includes in the definition of a retailer engaged in business in the state any retailer entering into agreements under which a person in the state, for a commission or other consideration, refers potential purchasers, whether by an Internet-based link or an Internet Web site, to the retailer, provided the total cumulative sales price from all sales by the retailer to purchasers in the state that are referred is in excess of a specified amount.

STATUS:

04/13/2011 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

CA AB 329

AUTHOR: Dickinson [D]

TITLE: County Employees' Retirement

FISCAL COMMITTEE: no

URGENCY CLAUSE: yes

INTRODUCED: 02/10/2011

LAST AMEND: 03/16/2011

DISPOSITION: Pending

LOCATION: Senate Public Employment and Retirement Committee

SUMMARY:

Authorizes the board of supervisors of the County of Sacramento, by resolution, if authorized by a mutually agreed upon and negotiated memorandum of understanding with a bargaining unit that represents safety members, to require safety employees of that bargaining unit and unrepresented safety employees to receive a specified pension calculation that is based upon the average annual compensation earnable during a specified 3-year period.

STATUS:

04/14/2011 To SENATE Committee on PUBLIC EMPLOYMENT AND RETIREMENT.

CA AB 340

AUTHOR: Furutani [D]

TITLE: County Employees' Retirement

FISCAL COMMITTEE: no

URGENCY CLAUSE: no

INTRODUCED: 02/10/2011

LAST AMEND: 04/14/2011

DISPOSITION: Pending

COMMITTEE: Assembly Public Employees, Retirement and Social Security Committee

HEARING: 05/04/2011 9:00 am

SUMMARY:

Amends the County Employees Retirement Law of 1937. Prohibits specified payments from being considered as compensation earned for retirement purposes to include compensation to was paid to enhancement retirement benefits. Relates to the reporting of compensation to the local retirement board. Authorizes audits. Requires the county to pay related costs when an employer does not enroll an employee in a retirement plan within a specified time period. Relates to reinstatement upon reemployment.

STATUS:

04/14/2011 From ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY with author's amendments.

04/14/2011 In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY.

NOTES: County retirement system reform bill

CA AB 392

AUTHOR: Alejo [D]
TITLE: Ralph M. Brown Act: Posting Agendas
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/14/2011
LAST AMEND: 04/14/2011
DISPOSITION: Pending
COMMITTEE: Assembly Local Government Committee
HEARING: 04/27/2011 1:30 pm
SUMMARY:

Requires the legislative body of a local agency, at least 72 hours before a regular meeting of that body, to post the agenda and staff generated reports that relate to an agenda item for the open session of that regular meeting. Requires the legislative body to post the agenda and the writings on its internet web site or in a public location if the body has not web site.

STATUS:

04/14/2011 From ASSEMBLY Committee on LOCAL GOVERNMENT with author's amendments.

04/14/2011 In ASSEMBLY. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.

NOTES: Sent to County Counsel for review. UCC requesting comments; staff provided.

CA AB 400

AUTHOR: Ma [D]
TITLE: Employment: Paid Sick Days
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/14/2011
DISPOSITION: Pending
COMMITTEE: Assembly Judiciary Committee
HEARING: 04/26/2011 9:00 am
SUMMARY:

Provides that an employee who works in California for 7 or more days in a calendar year is entitled to paid sick days. Prohibits an employer from discriminating against an employee who requests paid sick days. Requires employers to satisfy posting and notice and recordkeeping requirements. Authorizes the Labor Commissioner to impose administrative fines. Exempts employees covered by a collective bargaining agreement that provides for paid sick days.

STATUS:

04/13/2011 From ASSEMBLY Committee on LABOR AND EMPLOYMENT: Do pass to Committee on JUDICIARY. (5-1)

NOTES: HR reviewing, very concerned.

CA AB 455	AUTHOR:	Campos [D]
	TITLE:	Public Employment: Local Public Employee Organizations
	FISCAL COMMITTEE:	no
	URGENCY CLAUSE:	no
	INTRODUCED:	02/15/2011
	LAST AMEND:	03/31/2011
	DISPOSITION:	Pending
	LOCATION:	SENATE
	SUMMARY:	Provides that when a local public agency has established a personnel commission or merit commission to administer personnel rules or a merit system, the governing board of the public agency would appoint members of the commission. Specifies that the recognized employee organization would nominate members for appointment.
	STATUS:	
	04/07/2011	In ASSEMBLY. Read third time. Passed ASSEMBLY. *****To SENATE. (46-25)
	NOTES:	HR recommends the Leg Com consider opposing this bill.

CA AB 506	AUTHOR:	Wieckowski [D]
	TITLE:	Local Government: Bankruptcy: Mediation
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/15/2011
	LAST AMEND:	03/31/2011
	DISPOSITION:	Pending
	COMMITTEE:	Assembly Local Government Committee
	HEARING:	05/04/2011 1:30 pm
	SUMMARY:	Amends existing law authorizing a taxing agency or instrumentality of the state to file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States. Provides that a local public entity shall not file under federal bankruptcy law unless the entity has participated in mediation with interested parties and certain other conditions are met. Requires the Debt and Investment Advisory Commission to adopt mediation guidelines.
	STATUS:	
	03/31/2011	To ASSEMBLY Committee on LOCAL GOVERNMENT.
	03/31/2011	From ASSEMBLY Committee on LOCAL GOVERNMENT with author's amendments.
	03/31/2011	In ASSEMBLY. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT.
	NOTES:	Watch

CA AB 646	AUTHOR:	Atkins [D]
	TITLE:	Local Public Employee Organizations: Impasse Procedures
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/16/2011
	LAST AMEND:	03/23/2011
	DISPOSITION:	Pending

COMMITTEE: Assembly Public Employees, Retirement and Social Security Committee

HEARING: 05/04/2011 9:00 am

SUMMARY:

Amends provisions that govern collective bargaining of local represented employees and delegate jurisdiction to the Public Employment Relations Board to resolve disputes and enforce the duties and rights of local public agency employers and employees. Provides that if parties fail to reach an agreement, either party may request that the board adopt a mediator. Authorizes submission to a factfinding panel, if the arbitration is not successful. Requires panel findings to be submitted to the parties.

STATUS:

03/23/2011 From ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY with author's amendments.

03/23/2011 In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY.

NOTES: Ted Cwiek watching closely. CSAC and RCRC opposed.

CA AB 674

AUTHOR: Bonilla [D]

TITLE: Vehicles: Registration Fees

FISCAL COMMITTEE: yes

URGENCY CLAUSE: no

INTRODUCED: 02/17/2011

LAST AMEND: 04/06/2011

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Extends the authorization for programs, funded from the fees charged for the registration of commercial motor vehicles, that enhance the capacity of local law enforcement to provide fingerprint identification of individuals who may be involved in driving under the influence of alcohol or drugs, vehicular manslaughter, other vehicle-related crimes, and other crimes committed while operating a motor vehicle.

STATUS:

04/06/2011 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

NOTES: AM Bonilla requested support. Sheriff recommends. BOS 4/5/11

CA AB 710

AUTHOR: Skinner [D]

TITLE: Local Planning

FISCAL COMMITTEE: yes

URGENCY CLAUSE: no

INTRODUCED: 02/17/2011

LAST AMEND: 04/15/2011

DISPOSITION: Pending

COMMITTEE: Assembly Housing and Community Development Committee

HEARING: 04/27/2011 9:00 am

SUMMARY:

Prohibits a city or country from requiring more than a specified minimum parking standard for any new development project in transit intensive areas. Modifies the description of sustainable communities to additionally include communities that incentivize infill development.

STATUS:

04/15/2011 From ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT with author's amendments.

04/15/2011 In ASSEMBLY. Read second time and amended. Re-referred to Committee on HOUSING AND COMMUNITY DEVELOPMENT.

NOTES:

BOS "Oppose Unless Amended" on 4/5/11

CA AB 720

AUTHOR: Hall [D]
TITLE: Public Contracts: Construction Cost Accounting
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/17/2011
DISPOSITION: Pending
LOCATION: Assembly Local Government Committee
SUMMARY:

Repeals a provision in existing law that specifies that a board of supervisors or a county road commissioner is not prohibited from using alternative procedures governing county highway contracts. Amends existing law which authorizes public projects with a specified monetary threshold to be performed by the employees of the public agency by force account, negotiated contract, or purchase order. Increases that authorization.

STATUS:

03/07/2011 To ASSEMBLY Committee on LOCAL GOVERNMENT.

NOTES: PW recommends Oppose. To BOS on 4/12. Sent letter 4/15.

CA AB 792

AUTHOR: Bonilla [D]
TITLE: Health Care Coverage: Health Benefit Exchange
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2011
LAST AMEND: 04/14/2011
DISPOSITION: Pending
COMMITTEE: Assembly Health Committee
HEARING: 04/26/2011 1:30 pm
SUMMARY:

Requires the disclosure of information on health care coverage through the Health Benefit Exchange by health care service plans, health insurers, employers, the Employment Development Department, upon an initial claim for disability benefits upon the filing of a petition for dissolution of marriage, nullity of marriage, legal separation, or adoption. Requires health care service plans and insurers to, upon the failure of an enrollee or insured to renew their coverage, provide information to the Exchange.

STATUS:

04/14/2011 From ASSEMBLY Committee on HEALTH with author's amendments.

04/14/2011 In ASSEMBLY. Read second time and amended.
Re-referred to Committee on HEALTH.
NOTES: AM Bonilla requested support. HSD supports. To BOS 4/5/11

CA AB 861

AUTHOR: Hill [D]
TITLE: California Stroke Registry
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2011
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee
SUMMARY:

Establishes the California Stroke Registry, to be administered by the State Department of Health to serve as a centralized repository for stroke data to promote quality improvement for acute stroke treatment. Requires that the program be implemented only to the extent funds from federal or private sources are made available for this purpose.

STATUS:

04/06/2011 In ASSEMBLY Committee on APPROPRIATIONS: To
Suspense File.

NOTES: EMS recommends support. To BOS on 5/3/11

CA AB 913

AUTHOR: Feuer [D]
TITLE: Hazardous Waste: Source Reduction
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2011
LAST AMEND: 03/31/2011
DISPOSITION: Pending
COMMITTEE: Assembly Environmental Safety and Toxic Materials
Committee
HEARING: 04/26/2011 1:30 pm
SUMMARY:

Requires the Department of Toxic Substances Control to develop, as part of its hazardous waste source reduction program, a Green Business Program that provides for voluntary certification for businesses that adopt environmentally preferable business practices, including increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste generation.

STATUS:

03/31/2011 To ASSEMBLY Committee on ENVIRONMENTAL SAFETY AND
TOXIC MATERIALS.

03/31/2011 From ASSEMBLY Committee on ENVIRONMENTAL SAFETY
AND TOXIC MATERIALS with author's amendments.

03/31/2011 In ASSEMBLY. Read second time and amended.
Re-referred to Committee on ENVIRONMENTAL SAFETY AND
TOXIC MATERIALS.

CA AB 931

AUTHOR: Dickinson [D]
TITLE: Environment: CEQA Exemption

FISCAL COMMITTEE:	yes
URGENCY CLAUSE:	no
INTRODUCED:	02/18/2011
LAST AMEND:	04/15/2011
DISPOSITION:	Pending
COMMITTEE:	Assembly Natural Resources Committee
HEARING:	04/25/2011 1:30 pm
SUMMARY:	Amends existing law, the California Environmental Quality Act, that exempts infill housing projects meeting a community level environmental review that was adopted or certified within a certain number of years. Provides an updated definition of residential projects for an exemption under the act.
STATUS:	
04/15/2011	From ASSEMBLY Committee on NATURAL RESOURCES with author's amendments.
04/15/2011	In ASSEMBLY. Read second time and amended. Re-referred to Committee on NATURAL RESOURCES.
NOTES:	Our CEQA exemption bill

CA AB 1053	AUTHOR:	Gordon [D]
	TITLE:	Local Government: Penalties and Fees
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/18/2011
	DISPOSITION:	Pending
	LOCATION:	Assembly Second Reading File
	SUMMARY:	Raises criminal laboratory analysis fee for each separate controlled substance offense. Provides an increase in fees for fetal death or death record and a certified copy of a birth certificate. Adds specified reckless driving convictions to convictions eligible for the additional penalty. Raise the registration fee for a petition filed to make a minor a ward of the court when the minor is represented by appointed counsel.
	STATUS:	
	04/12/2011	From ASSEMBLY Committee on PUBLIC SAFETY: Do pass as amended to Committee on LOCAL GOVERNMENT. (5-1)
	NOTES:	Support letter requested. SO reviewing.

CA AB 1296	AUTHOR:	Bonilla [D]
	TITLE:	Health Care Eligibility, Enrollment, And Retention Act
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/18/2011
	DISPOSITION:	Pending
	LOCATION:	Assembly Human Services Committee
	SUMMARY:	Enacts the Health Care Eligibility, Enrollment, and Retention Act. Requires the Health and Human Services Agency to establish a standardized single application form and related renewal procedures for Medi-Cal, the Healthy Families Program, the Exchange, and county programs. Specifies the duties of the agency and the State Department of Health Care Services under the act.

	STATUS:	
	03/29/2011	Withdrawn from ASSEMBLY Committee on HEALTH.
	03/29/2011	Re-referred to ASSEMBLY Committees on HUMAN SERVICES and HEALTH.
	NOTES:	AM Bonilla requested our support. HSD supports. To BOS 4/5/11
CA SB 33	AUTHOR:	Simitian [D]
	TITLE:	Elder and Dependent Adult Abuse
	FISCAL COMMITTEE:	no
	URGENCY CLAUSE:	no
	INTRODUCED:	12/06/2010
	DISPOSITION:	Pending
	FILE:	57
	LOCATION:	Senate Third Reading File
	SUMMARY:	Makes a technical change to existing law providing that a county adult protective services office and a long-term care ombudsman, when investigating the financial abuse of an elder or dependent adult, is not prohibited from requesting financial information from a financial institution. Amends the Elder Abuse and Dependent Adult Civil Protection Act. Provides for mandated reporters of suspected financial abuse.
	STATUS:	
	04/14/2011	In SENATE. Read second time. To third reading.
	NOTES:	EHSD supports. Consistent with Platform. Sent support letter 3/21
CA SB 106	AUTHOR:	Blakeslee [R]
	TITLE:	Special Elections
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	yes
	INTRODUCED:	01/13/2011
	DISPOSITION:	Pending
	COMMITTEE:	Senate Appropriations Committee
	HEARING:	05/02/2011 11:00 am
	SUMMARY:	Provides that expenses authorized and necessarily incurred on or after January 1, 2009, and before April 19, 2011, for elections proclaimed by the Governor to fill a vacancy in the office of Senator or Member of the Assembly, or to fill a vacancy of Congressional members, shall be paid by the state.
	STATUS:	
	03/15/2011	From SENATE Committee on ELECTIONS AND CONSTITUTIONAL AMENDMENTS: Do pass to Committee on APPROPRIATIONS.
	NOTES:	Sending support letter 3-3-11
CA SB 132	AUTHOR:	Lowenthal A [D]
	TITLE:	School Facilities: State Planning Priorities
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	01/27/2011

DISPOSITION: Pending
COMMITTEE: Senate Education Committee
HEARING: 05/04/2011 9:00 am
SUMMARY:

Requires the Allocation Board to revise guidelines, rules, regulations, procedures, and policies for the acquisition of schoolsites and school facilities construction pursuant to the Greene Act to reflect the state planning priorities. Requires a school district, as part of an application for funding under the Act, to certify that a site or facility including in that application promotes those state planning priorities. Relates to funding for increased enrollment, class size reduction, and modernization.

STATUS:

02/10/2011 To SENATE Committee on EDUCATION.
NOTES: DCD reviewing and sending to TWIC

CA SB 141

AUTHOR: Price [D]
TITLE: Elections: Payment of Expenses
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 01/31/2011
LAST AMEND: 03/17/2011
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee
SUMMARY:

Provides that expenses authorized and necessarily incurred for elections proclaimed by the Governor to fill a vacancy in the office of State Senator or Assembly Member, or to fill a vacancy in the office of United States Senator or Representative in the Congress, are to be paid by the state. Provides that the state shall pay only those additional expenses directly related to the election proclaimed by the Governor when combined with a local election.

STATUS:

04/11/2011 In SENATE Committee on APPROPRIATIONS: To Suspense File.

NOTES: Steve Weir recommends we support. Sending support letter 3/21

CA SB 262

AUTHOR: De Leon [D]
TITLE: Individual Retirement Accounts
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/10/2011
DISPOSITION: Pending
LOCATION: Senate Rules Committee
SUMMARY:

Makes findings and declarations of the Legislature that conclude that the state should create an additional retirement savings program for its workers to supplement existing savings options.

STATUS:

02/24/2011 To SENATE Committee on RULES.

CA SB 304

AUTHOR: Kehoe [D]

TITLE: Elections: All-Mailed Ballot Elections: San Diego
FISCAL COMMITTEE: no
URGENCY CLAUSE: no
INTRODUCED: 02/14/2011
DISPOSITION: Pending
COMMITTEE: Senate Elections and Constitutional Amendments Committee
HEARING: 05/03/2011 1:30 pm
SUMMARY:

Authorize elections in San Diego County to be conducted wholly by mail until January 1, 2016, if specified conditions are satisfied. Provides that San Diego County conducts an all-mailed ballot election. Provides that the county would be required to report to the Legislature and to the Secretary of State regarding the success of the election.

STATUS:
 02/24/2011 To SENATE Committee on ELECTIONS AND CONSTITUTIONAL AMENDMENTS.
NOTES: Steve Weir recommends support

CA SB 373	<p> AUTHOR: DeSaulnier [D] TITLE: Retirement: Contra Costa County FISCAL COMMITTEE: no URGENCY CLAUSE: no INTRODUCED: 02/15/2011 DISPOSITION: Pending FILE: 86 LOCATION: Senate Consent Calendar - Second Legislative Day SUMMARY: Extends the termination of an existing law that authorizes the Contra Costa County Board of Supervisors to establish different retirement benefits for different bargaining units of safety employees represented by the Contra Costa County Deputy Sheriffs' Association. STATUS: 04/13/2011 In SENATE. Read second time. To Consent Calendar. NOTES: Our sponsored bill </p>
-----------	--

CA SB 394 **AUTHOR:** DeSaulnier [D]
TITLE: Healthy Schools Act of 2011
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/16/2011
LAST AMEND: 04/14/2011
DISPOSITION: Pending
COMMITTEE: Senate Environmental Quality Committee
HEARING: 05/02/2011 1:30 pm
SUMMARY:
 Enacts the Healthy Schools Act of 2011. Provides that only self-contained baits, gels, and pastes deployed as crack and crevice treatments and spot treatments may be used on schoolsites. Prohibits the use of a pesticide that contains an ingredient known to cause cancer or reproductive toxicity or any one of specified cholinesterase-inhibiting ingredients. Requires all schoolsites to send at least one person to specified training.

STATUS:
04/14/2011 From SENATE Committee on ENVIRONMENTAL QUALITY with author's amendments.
04/14/2011 In SENATE. Read second time and amended. Re-referred to Committee on ENVIRONMENTAL QUALITY.
NOTES: Leg Com supports. To BOS 5/3/11

CA SB 429 **AUTHOR:** DeSaulnier [D]
TITLE: Programs: After School Education and Safety: Grants
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/16/2011
LAST AMEND: 04/04/2011
DISPOSITION: Pending
LOCATION: Senate Second Reading File
SUMMARY:
Deletes the provisions of existing law that provide for supplemental grants to operate an after school education and safety program or a before school program component. Provides that any school that establishes either program is eligible to receive a supplemental grant to operate the program for a maximum of 30% of the total grant amount awarded to the school. Allows grantees to change the location of the program and to open eligibility for the program. Requires a revised program plan.
STATUS:
04/13/2011 From SENATE Committee on EDUCATION: Do pass as amended to Committee on APPROPRIATIONS. (7-1)
NOTES: Leg Com recommends support. To BOS 5/3/11

CA SB 520 **AUTHOR:** Walters [R]
TITLE: Public Employees' Retirement: Hybrid Plan
FISCAL COMMITTEE: yes
URGENCY CLAUSE: no
INTRODUCED: 02/17/2011
LAST AMEND: 03/21/2011
DISPOSITION: Pending
COMMITTEE: Senate Public Employment and Retirement Committee
HEARING: 05/02/2011 1:00 pm
SUMMARY:
Requires the Public Employees' Retirement System Board of Administration to create a hybrid retirement plan for employees who become members after a specified date, that offers a defined contribution and defined benefit plan for service and a defined benefit plan for retirement for disability or death. Prohibits these plans from creating a vested property right for the member with respect to any employer contributions before retirement.
STATUS:
03/24/2011 Re-referred to SENATE Committee on PUBLIC EMPLOYMENT AND RETIREMENT.

CA SB 536 **AUTHOR:** DeSaulnier [D]
TITLE: Property Tax Revenue Allocations: Public Utilities
FISCAL COMMITTEE: yes

URGENCY CLAUSE: yes
INTRODUCED: 02/17/2011
LAST AMEND: 04/12/2011
DISPOSITION: Pending
COMMITTEE: Senate Appropriations Committee
HEARING: 05/02/2011 11:00 am
SUMMARY:

Relates to assessments on the property of companies transmitting or selling gas or electricity. Requires that a specified amount of property tax revenues derived from certain property be allocated first to the county which the property is located to all of the school entities located in that county, 2nd to the East Contra Costa Fire Protection District, and 3rd to specified special districts, with the balance allocated to the redevelopment agency governing the project area in which the property is located.

STATUS:

04/12/2011 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

NOTES:

Review for impact to Library and special districts

CA SB 653	<p> AUTHOR: Steinberg [D] TITLE: Local Taxation: Counties: General Authorization FISCAL COMMITTEE: yes URGENCY CLAUSE: no INTRODUCED: 02/18/2011 LAST AMEND: 04/14/2011 DISPOSITION: Pending COMMITTEE: Senate Governance and Finance Committee HEARING: 05/04/2011 9:30 am SUMMARY: </p> <p>Authorizes the board of supervisors of any county or city and county, subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverage tax, a cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax. Requires the state tax boards and the Department of Motor Vehicles to perform related functions.</p> <p>STATUS:</p> <p>04/14/2011 From SENATE Committee on GOVERNANCE AND FINANCE with author's amendments.</p> <p>04/14/2011 In SENATE. Read second time and amended. Re-referred to Committee on GOVERNANCE AND FINANCE.</p> <p>NOTES:</p>
	<p>Consider</p>

CA SB 662	<p> AUTHOR: DeSaulnier [D] TITLE: Public Services FISCAL COMMITTEE: yes URGENCY CLAUSE: no INTRODUCED: 02/18/2011 LAST AMEND: 04/14/2011 DISPOSITION: Pending LOCATION: Senate Health Committee </p>
-----------	---

SUMMARY:	
Authorizes the Department of Finance and any county to enter into a contract to authorize the county to integrate specified public services. Requires the Legislature to ratify the contract by an enactment of a bill vote. Requires the county board of supervisory to ratify the contract. Provides the term of the contract. Requires the county to report to the department and the Legislature on the progress towards meeting the goals of the contract by the 5th year.	
STATUS:	
04/14/2011	From SENATE Committee on HEALTH with author's amendments.
04/14/2011	In SENATE. Read second time and amended. Re-referred to Committee on HEALTH.
NOTES: Referred to Legislation Committee. Depts reviewing.	

CA SB 718	AUTHOR:	Vargas [D]
	TITLE:	Elder Abuse: Mandated Reporting
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/18/2011
	LAST AMEND:	03/29/2011
	DISPOSITION:	Pending
	COMMITTEE:	Senate Human Services Committee
	HEARING:	04/26/2011 1:30 pm
	SUMMARY:	Amends existing law requiring mandated reporters to report cases of elder abuse. Authorizes the required reports to be submitted to a through a confidential Internet reporting tool if the county or long-term care ombudsman implements such a system.
	STATUS:	
	03/29/2011	From SENATE Committee on HUMAN SERVICES with author's amendments.
	03/29/2011	In SENATE. Read second time and amended. Re-referred to Committee on HUMAN SERVICES.
	NOTES:	Sent to EHSD for review. Recommed "watch."

CA SB 810	AUTHOR:	Leno [D]
	TITLE:	Single-Payer Health Care Coverage
	FISCAL COMMITTEE:	yes
	URGENCY CLAUSE:	no
	INTRODUCED:	02/18/2011
	DISPOSITION:	Pending
	COMMITTEE:	Senate Health Committee
	HEARING:	04/27/2011 1:30 pm
	SUMMARY:	Establishes the State Healthcare System. Creates State Healthcare Agency. Makes all residents eligible for specified health care benefits under the System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. Creates the Healthcare Policy Board.
	STATUS:	
	03/10/2011	To SENATE Committees on HEALTH and RULES.

NOTES:	To Leg Com for support on 4/28/11. Requested by Supv. Gioia.
---------------	--

CA SB 930	AUTHOR: Evans [D] TITLE: In-Home Supportive Services FISCAL COMMITTEE: yes URGENCY CLAUSE: no INTRODUCED: 02/18/2011 DISPOSITION: Pending COMMITTEE: Senate Human Services Committee HEARING: 04/26/2011 1:30 pm SUMMARY: Relates to the county administered In-Home Supportive Services enrollment form. Deletes requirements pertaining to obtaining fingerprint images of IHSS recipients, and the requirement that the provider timesheet include spaces for provider and recipient fingerprints. Deletes requirements and prohibitions relating to the use of a post office box address by an IHSS provider. STATUS: 03/10/2011 To SENATE Committee on HUMAN SERVICES. NOTES: Joe Valentine recommends support. To Leg Com 4/28/11
-----------	--

CA SB 948	AUTHOR: Governance and Finance Cmt TITLE: Tax Assessor's Processes FISCAL COMMITTEE: yes URGENCY CLAUSE: no INTRODUCED: 04/01/2011 DISPOSITION: Pending COMMITTEE: Senate Governance and Finance Committee HEARING: 05/04/2011 9:30 am SUMMARY: Relates to tax assessor's records, tax collectors, property tax protests, property tax collections, tax-defaulted property sales, public notice, and excess and mistaken payments. STATUS: 04/07/2011 To SENATE Committee on GOVERNANCE AND FINANCE. NOTES: Sent to Assessor and Tax Collector
-----------	---

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
 Supervisor Karen Mitchoff, Chair
 Supervisor John Gioia, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: April 15, 2011

SUBJECT: **Agenda Item #6: Federal Issues Update**

RECOMMENDATION

ACCEPT the report on federal legislative matters.

WASHINGTON, D.C. UPDATE

On Thursday, April 14, Congress approved a historic appropriations package that will shave almost \$40 billion in fiscal year 2011 budget authority through a combination of cuts to both mandatory and discretionary spending programs. According to some estimates, the bill could produce long-term savings of \$315 billion over the next decade, though the Congressional Budget Office (CBO) released a report mid-week indicating that the legislation (HR 1473) will only cut current-year spending (outlays) by \$352 million.

With the CBO analysis showing that the bill will produce far less savings in fiscal year 2011 than initially advertised, there was considerable question whether conservative House Republicans would ultimately embrace the budget agreement. Even prior to the release of the CBO report, a number of GOP members of Congress had expressed dissatisfaction with the budget deal for falling short of the roughly \$61 billion in cuts that were included in an earlier fiscal year 2011 spending bill (HR 1). That legislation, which was approved in February on a near party-line vote in the House, was subsequently rejected by the Senate.

In the end, House Speaker John Boehner (R-OH) needed the help of Democrats to marshal the final budget deal through the House as 59 Republicans broke rank with their party's leadership. The tally of yesterday's vote was 260 to 167, with eighty-one Democrats joining 179 of their GOP colleagues in voting to approve the measure.

Shortly after the House cleared the spending legislation, the Senate approved the package by a vote of 81-19. President Obama is expected to sign the measure today before the current stopgap spending bill expires at midnight.

It should be noted that the final budget does not include a series of controversial policy riders such as the elimination of funding for Planned Parenthood and curbing certain environmental regulations. Given that these provisions were unable to gain any traction in the Democratic-controlled Senate, House Republican leaders agreed to remove them in exchange for the nearly \$40 billion cuts in federal spending, as well as assurances of separate votes on the policy proposals in the Senate.

As noted above, the final budget deal will trim nearly \$40 billion in budget authority this fiscal year through cuts in mandatory and discretionary programs; the bill also includes a 0.2 percent across-the-board reduction to non-defense accounts. The budgetary savings come from a combination of reductions included in HR 1473 and the three previous continuing resolutions (CR). Because the final spending bill is a long-term CR, there are no explanatory statements or accompanying funding tables that provide a funding framework for individual programs. Therefore, in certain instances, federal agencies will have discretion over allocation amounts. In other cases, however, the legislation specifies programmatic funding levels and/or provides for specific spending cuts.

Below are some of the funding details of the final fiscal year budget bill.

The CR includes \$53.4 billion for programs under the purview of the departments of Commerce-Justice-Science (CJS), which is \$7 billion below President Obama's request for the current year and \$755 million above the funding level included in HR 1. The bill provides the following funding levels for Justice-related initiatives:

- \$1.12 billion for state and local law enforcement assistance, which includes such programs as the State Criminal Alien Assistance Program (SCAAP) and Byrne grants – a \$415 million reduction. Overall, state and local law enforcement assistance programs would be cut by 27 percent compared to fiscal 2010 levels (the cuts translate into a 17 percent programmatic reduction excluding the bill's elimination of over \$185 million in discretionary grant funding).
- \$276 million for Juvenile Justice Programs, which is a 35 percent cut from fiscal 2010 funding levels.
- \$496 million for COPS programs, which is a 37 percent cut from fiscal 2010 funding levels.

The budget agreement provides \$165.6 billion for programs under the Labor-Health and Human Services (HHS) title of the bill, which is \$17 billion above HR 1, but \$5.7 billion less than fiscal 2010 funding levels. Entitlement programs such as Medicaid, the Supplemental Nutrition Assistance Program, and the Temporary Assistance for Needy Families program were not cut in the final bill. Most discretionary health programs, including the Women, Infants, and Children (WIC) program and the Public Health Prevention Fund, were frozen at fiscal 2010 levels. Among other items, the measure includes the following:

- \$2.8 billion for job training state grants for Adult, Youth and Dislocated Worker assistance. HR 1 would have eliminated all funding for these programs.
- \$6.3 billion in discretionary spending for the Health Resources and Services Administration, which includes funding for the Community Health Care Centers program – \$1.2 billion below the enacted fiscal 2010 amount and \$900 million above HR 1.
- \$4.7 billion for the Low Income Home Energy Assistance Program, a \$390 million cut from fiscal 2010.
- \$680 million for the Community Services Block Grant, a \$20 million cut from fiscal 2010.
- \$2.2 billion for Child Care and Development Block Grant funding, \$100 million more than fiscal 2010 and \$139 million more than provided under HR 1.

With regard to the departments of Transportation and Housing and Urban Development (HUD), the agreement provides \$68 billion in transportation funding, of which \$13.8 billion is discretionary spending, and \$41.2 billion for HUD programs. The High Speed Rail program received no funding for the remainder of fiscal year 2011, which translates into a \$2.9 billion cut. The following funding levels are included in the Transportation-HUD title of the bill:

- \$41.1 billion for the Federal Highway Administration, which is the same amount allocated in fiscal 2010 and in HR 1. However, the bill eliminates \$293 million in highway earmark funding and \$650 million in road/bridge investments that were awarded in fiscal 2010.
- \$3.3 billion for the Community Development Block Grant (CDBG) program, which is a 16 percent decrease in funding; the cut is far less than the 62 percent reduction included in HR 1.
- \$1.6 billion for the HOME Investment Partnerships program, which is \$215 million less than fiscal 2010 funding.

Other notable funding allocations include:

- \$2.46 billion for wildland fire management programs, including \$997.5 million for fire suppression programs and \$291 million for the FLAME wildfire suppression reserve fund. Overall, wildland fire management and suppression programs are reduced by 18 percent.
- \$1.525 billion for the Clean Water State Revolving Fund and \$965 million for the Drinking Water State Revolving Fund, for a total of nearly \$2.5 billion for water and

sewer infrastructure activities. The funding translates into a combined \$997 million cut, or a roughly 29 percent reduction in program funding.

- \$1.8 billion for Energy Efficiency and Renewable Energy programs, which is \$368 million above the amount included in HR 1, and \$408 million below fiscal 2010; the budget rescinds \$292 million in earmarks.

- \$2.2 billion for FEMA state and local first responder grants, which is a roughly 26 percent overall cut to first responder programs.

- \$182 million for FEMA's Flood Map Modernization Fund – a 17 percent cut from fiscal year 2010 funding.

- \$50 million for FEMA's Predisaster Mitigation Fund – a 50 percent reduction in spending.

The Fiscal 2012 Budget

With Congress finalizing this year's budget, lawmakers will now begin the more difficult task of cobbling together a funding plan for fiscal 2012, which begins October 1. To that end, House Republicans released earlier this month a controversial budget blueprint that aims to restructure Medicare for those under age 55, provide block grants for Medicaid, and reduce spending for other domestic programs. Drafted by the chairman of the House Budget Committee, Paul Ryan (R-WI), the proposal is expected to pass the House late April 15, but has received a chilly reception by Senate Democrats and the Obama administration.

For his part, President Obama unveiled April 13 a plan to tackle the nation's ballooning budget deficit. The proposal, which was somewhat scant on details, is a response to Chairman Ryan's ambitious spending blueprint. The president proposed to reduce the nation's budget deficit by \$4 trillion over the next 12 years. Additionally, he proposed to boost taxes for wealthier Americans, curb the growth of entitlement spending, and close tax loopholes.

Responding to Chairman Ryan's plan to change Medicare to a voucher program, President Obama will offer far-reaching reforms that he maintains will save billions of dollars over the next 12 years and more than \$1 trillion in the following decade. The president also flatly rejected the GOP proposal to block grant the Medicaid program.

Among the president's proposals that are likely to create controversy is a "debt failsafe" trigger that would force Congress to take strong action if the budget deficit has not been reduced by 2014. Specifically, the proposal would impose across-the-board cuts on most government programs.

If and when Congress approves a budget resolution, which is not signed by the president, the House and Senate Appropriations committees will provide the various

subcommittees with their allocations for fiscal 2012. Although the budget resolution is not legally binding on Congress, it serves as a spending guide for House and Senate appropriators.

Tribal Issues

On April 8, Senator Dianne Feinstein (D-CA) introduced legislation designed to limit the establishment of off-reservation Indian casinos. The Tribal Gaming Eligibility Act (S 771), which is cosponsored by Senator Jon Kyl (R-AZ), seeks to end the practice known as “reservation shopping” whereby tribes seek to build casinos on lands that are hundreds or even thousands of miles away from their homelands.

Under S 771, tribes could only open casinos on trust land acquired after the passage of the Indian Gaming Regulatory Act of 1988 (IGRA) if the tribe could demonstrate a substantial modern connection to the land and a substantial aboriginal or ancestral connection to the land or by going through IGRA’s “two-part determination” test. Under the two-part determination, the secretary of Interior can take land into trust for a tribe for purposes of gaming if it can be demonstrated that the casino would be in the best interest of the tribe and is not detrimental to the surrounding community; the determination requires the concurrence of the governor.

It should be noted that introduction of Senator Feinstein’s bill comes on the heels of the Senate Indian Affairs (IA) Committee’s April 7 approval of legislation that would restore the Secretary of Interior’s authority to take land into trust for all Indian tribes. The measure (S 676), which is sponsored by IA Committee Chairman Daniel Akaka (D-HI), would overturn the U.S. Supreme Court’s *Carcieri v. Salazar* decision. In *Carcieri*, the Court held that the Secretary of Interior lacks authority to take land into trust for Indian tribes that were not under federal jurisdiction at the time of the passage of the Indian Reorganization Act (IRA) of 1934.

During the committee’s consideration of the Akaka bill, which is colloquially known as *Carcieri* “fix” legislation, the panel adopted an amendment by Vice Chairman John Barrasso (R-WY) that would direct that secretary of Interior to conduct a study on the effects of the *Carcieri v. Salazar* decision on Indian tribes. The amendment, which specifies that the study include a list of affected tribes and lands, would need to be published not later than one year after the bill’s enactment.

The IA Committee action is only the opening salvo in what will become a multifaceted and deliberative process surrounding efforts to move a *Carcieri* “fix.” Prior to any Senate floor consideration, there will be considerable discussion among a number of key senators regarding the makeup of S 676. For her part, Senator Feinstein will insist that her off-reservation gaming legislation be included as part of any *Carcieri* bill.

**OFFICE OF THE COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY**

TO: Legislation Committee
Supervisor Karen Mitchoff, Chair
Supervisor John Gioia, Vice Chair

FROM: Lara DeLaney, Legislative Coordinator

DATE: April 22, 2011

SUBJECT: **Agenda Item #7: Protocol on Legislative Positions—Urgency Action**

RECOMMENDATION

ACCEPT report on “Urgency Action Protocol” and provide direction to staff, as needed.

BACKGROUND

On April 22, 2008, the Board of Supervisors accepted a report from the Legislation Committee (C. 33, *Attachment A*) that set forth the protocol for bill position development, recommendation, adoption, and advocacy by the Board of Supervisors. Since that time, the staff, our lobbyists, and Board Members have had ample opportunity to consider the efficacy of the protocol with respect to particular pieces of legislation.

Consequently, at this time, staff recommends that the Legislation Committee reconsider the procedures set forth in the “Urgency Action Protocol,” in order to provide the County and its advocates a greater ability to respond to important pieces of legislation, in a more timely matter, and with confidence that it represents the policy direction of the Board of Supervisors.

The current “Urgency Action Protocol” is as follows:

4. Urgency Action Protocol

In cases of extreme urgency, when the Board of Supervisors has an adopted policy position on an issue or bill, there is an established policy whereby the Chair of the Board of Supervisors may communicate a position on the matter prior to the Board taking action.

In such cases, department staff must alert the CAO’s office who will advise the Board Chair on a position recommendation prior to Board action. Board policy allows the Board Chair to send a letter under his/her personal letterhead (or County letterhead, indicating the position is that of the Chair) provided that all Board members are

immediately alerted of the action and that an official Board position is considered at the next Board meeting.

In cases of extreme urgency when the Board of Supervisors does not have an adopted policy position that relates directly to an issue or bill, the Legislative Committee recommends the following:

- *The Chair of the Board is authorized to communicate a position prior to the Board action under his/her own personal letterhead (or County letterhead), indicating the position is that of the Chair of the Board, provided that the Board take action at its next meeting.*

As you know, the Board adopts a Federal and State legislative Platform each year that guides the County's action on legislative matters. When a bill comes to our attention with a request for action by the Board (either from our state or federal advocates, staff, advisory bodies, professional associations, organizations, or Board Members), our protocol has been to first look to the Platform for guidance. If no policy exists in the Platform that is directly relevant to the purpose of the bill, the practice has been to send the bill to the Legislation Committee for a recommendation to the Board. If, however, a policy does exist in the Platform, the CAO's office works with Department staff to develop a position letter and sends the draft to the Chair of the Board, along with the policy position that relates to the bill. (There is no need to return to the Board for action, if there is a relevant policy position, which was the prior practice, since the adopted Platform is the Board's policy direction.)

Staff has been notified of these policies and procedures. (*See Attachment B.*)

It has come to the attention of the Legislation Committee that our protocol is not very expedient. The Legislation Committee of the Board meets only once a month, and this can cause a log-jam during the legislative season when bills are moving quickly through the Legislature's committees and houses. If staff has to wait until the Legislation Committee acts, the process can take about 3 weeks from the time it goes to the Legislation Committee to the time it gets to the Board.

Now, the Board's Urgency Action Protocol adopted on April 22, 2008 allows the Chair of the Board to send a position letter on a bill when we do not have a relevant policy position, as long as the letter indicates it is the position of the Chair, and the Board members are alerted to the action and given a chance to act at the next Board meeting. However, some Chairs may be more reluctant to pursue that course of action than others (especially on certain kinds of bills) and prefer to wait until the Legislation Committee makes a recommendation or until the full Board can act. If there is not enough time for Legislation Committee action prior to action on the bill, the bill can be sent to the Board for consideration if there is permissible agenda language.

County Counsel has suggested that the following language will allow for Board consideration and direction on legislation on the Board's agenda: "Informational update on pending state and federal legislation."

If Board Member comments on the bill(s) brought forward by staff provide sufficient consensus, staff can prepare a position letter to be signed by the Board Chair indicating the Board's opinion. Staff can then bring forward an item to the Board's next meeting that would amend the Platform to include a policy position related to the bill.

This new practice would allow for more expedited action by the Board of Supervisors on legislative matters. Staff has added this to the Legislation Committee agenda as well, to facilitate action by this Committee, as needed.

TO: BOARD OF SUPERVISORS
FROM: Legislation Committee,
Supervisor Mary N. Piepho, Chair
Supervisor Susan A. Bonilla
DATE: April 22, 2008
SUBJECT: **Position on Bills**



Contra Costa County

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATION

ACCEPT the report regarding the development of Contra Costa County Board of Supervisors positions on bills, and AUTHORIZE the Chair of the Board to communicate his/her position on a bill when there is no adopted Board policy on the matter, provided it is clearly indicated the position is that of the Chair and the full Board takes action on the bill on the next available agenda.

FISCAL IMPACT:

None.

BACKGROUND:

At its February 25, 2008 meeting, the Legislation Committee reviewed and accepted the following report that sets forth the protocol for bill position development, recommendation, adoption, and advocacy by the Board of Supervisors.

1. Relationship to Platform

The Contra Costa County Legislative Platforms are intended to guide the County on federal and state legislative and budgetary issues of interest or concern to the County. More specifically, the Legislative Platforms detail the legislative proposals the County wishes to sponsor and communicates the priority issues and policy positions of the County. Contra Costa County's state and federal Legislative Platforms were adopted by the Board on January 22, 2008. The platforms, however, are dynamic documents that may be updated or amended during the year as the need arises.

Based on the priorities and policies in the County's adopted federal and state Legislative Platforms, staff assesses issues, bills, and budget items that arise during the legislative sessions for conformity with the Legislative Platform. Note that Contra Costa County's Legislative program is coordinated by the CAO's office, with the exception of state transportation-related issues and bills, which are handled by the transportation planning division of Community Development (Steve Goetz and John Greitzer).

CONTINUED ON ATTACHMENT: YES

SIGNATURE:

RECOMMENDATION OF COUNTY ADMINISTRATOR _____ RECOMMENDATION OF BOARD COMMITTEE _____
APPROVE _____ OTHER _____

SIGNATURE(S): _____

ACTION OF BOARD ON _____ APPROVED AS RECOMMENDED _____ OTHER _____

VOTE OF SUPERVISORS

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

_____ UNANIMOUS (ABSENT _____)

AYES: _____ NOES: _____

ABSENT: _____ ABSTAIN: _____

Contact:

L. DeLaney 5-1097

Cc:

Supervisor Mary N. Piepho
Supervisor Susan A. Bonilla

ATTESTED

JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISORS

BY: _____, DEPUTY

April 22, 2008

2. Protocol for Recommendations to Board of Supervisors

a. Content Experts (Department staff, CSAC staff)

County departments are often in the best position to provide detailed impact analyses of proposed bills and issues affecting the County. Impact analyses include both programmatic as well as fiscal impacts. With the responsibility of providing services to Contra Costa County residents, County departments have the greatest interest in ensuring that legislative matters impact their service delivery in the most positive way. However, County departments, each with their own interests, can have differing and possibly conflicting positions. As a result, policy positions should be coordinated through the CAO's office.

To protect their and the County's interests, County departments should do the following:

- Identify, monitor, and analyze legislative issues of concern to the department. The department should provide the analysis to the CAO's office (or Transportation Planning staff) at the earliest practical time. These analyses should briefly describe the issue and consider both programmatic and fiscal impacts to service delivery as well as impacts on those served.
- Should the CAO's office (or Transportation Planning staff) determine the issue conforms with a pre-existing policy position in the adopted Platform, the CAO's office and the department will work collaboratively to draft a Board Order with a position recommendation and a letter for signature by the Chair of the Board. Should the CAO's office (or Transportation Planning staff) determine the issue does not conform to a pre-existing policy, the issue will be placed on the following Legislative Committee, TWIC, or Board of Supervisors agenda.
- If a bill potentially affects more than one department, the CAO's staff (or Transportation Planning staff) will work to achieve a consensus position among those impacted before presenting the item for Board consideration.
- Once the Board of Supervisors has adopted a relevant policy and/or bill position, the CAO's office (or Transportation Planning staff) will collaborate to develop a position letter and coordinate advocacy efforts.
- While elected heads of County departments are not required to comply with the above guidelines, they are encouraged to do so with the common goal of best serving our County community.

The California State Association of Counties (CSAC) also provides a wealth of information and analyses about issues and bills that affect County operations and services. CSAC adopts and publishes annual Legislative Priorities and Platforms; a Legislative Bulletin is circulated generally twice a month; Budget Action Bulletins are developed as needed; a legislative tracking service is provided on their website; and CSAC staff are available for further discussion and insights on important issues and bills. County department staff are encouraged to review the analyses prepared by CSAC staff, respond to data and information inquiries, and consult with CSAC staff as appropriate.

b. Political Reality Checks (Lobbyists, Associations)

The County's Legislative Advocates (lobbyists) identify issues of possible concern to the County, assess the likelihood of satisfying the County's interests, advise the County on legislative affairs and represent the County's interests on the state and federal levels to legislators, the Governor's office and executive agencies. The federal and state advocates will coordinate advocacy activities with the CAO's staff and Transportation Planning staff.

For federal matters, the County currently retains the firms of Alcade & Fay, represented by Paul Schlesinger and Charlotte Hrcir; for state matters, Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, represented by Cathy Christian, Alan Fernandes, and Jim Gross; and for transportation matters, California Strategies and Advocacy, represented by Mark Watts.

The roles and responsibilities of the County Legislative Advocates include:

- Communicating the County's general and specific concerns to legislators, the Governor, agencies, and other interested parties and relevant staff through meetings, hearing testimony and conversations where appropriate.
- Suggesting strategies and approaches to best satisfy the County's interests.
- Regularly reporting, through in-person meetings, conference calls and memoranda, on actions taken on behalf of the County, as well as other information of interest to the County. This includes the Year-End Reports.

The Board of Supervisors and Department Staff involvement and engagement in associations is another means for assessing the impacts of legislation and budget proposals on Contra Costa County finances, operations and services. The Board of Supervisors regularly participates on the boards and committees of the California State Association of Counties (CSAC), Urban Counties Caucus (UCC), the Bay Area Caucus, and the National Association of Counties (NACo). The publications and communications from these associations are regularly provided to County departments.

Many County departments also participate in professional organizations and associations. Examples include the California Welfare Directors Association (CWDA) and the California Association of Public Hospitals (CAPH). County departments are encouraged to participate in such organizations to affect pending legislation and other relevant issues when such advocacy is consistent with the Board's policies and positions. County departments are encouraged to communicate the positions of the professional organization or association to the CAO's office. When the position of the professional organization or association differs from that of the Board of Supervisors, the department should notify the CAO's office.

If the organization or association requests a letter of support/opposition for the organization's position, the department shall:

- contact the CAO's staff to discuss the requested action;
- determine whether there is existing County policy on the issue;
- verify that it does not adversely impact other County operations; and
- submit the item for the Board's consideration and action.

3. Board Order Format and Content

When a department, Board committee or advisory board/commission wishes to recommend a position on a bill to the Board of Supervisors, the submittal of the Board Order is handled by the

legislative coordinator in the CAO's office. The CAO's staff works collaboratively with department staff on the analysis of the bill's impact on County operations and prepares the Board Order and position letter.

The Board Order follows the standard County format which includes a recommendation, a fiscal impact statement, background material, and attachments. In general, the attachments should include the actual bill text and any relevant analyses.

Position recommendations can include:

- Support
- Support and amend
- Support if amended
- Watch
- Oppose
- Oppose unless amended
- No position

4. Urgency Action Protocol

In cases of extreme urgency, when the Board of Supervisors has an adopted policy position on an issue or bill, there is an established policy whereby the Chair of the Board of Supervisors may communicate a position on the matter prior to the Board taking action.

In such cases, department staff must alert the CAO's office who will advise the Board Chair on a position recommendation prior to Board action. Board policy allows the Board Chair to send a letter under his/her personal letterhead (or County letterhead, indicating the position is that of the Chair) provided that all Board members are immediately alerted of the action and that an official Board position is considered at the next Board meeting.

In cases of extreme urgency when the Board of Supervisors does not have an adopted policy position that relates directly to an issue or bill, the Legislative Committee recommends the following:

- The Chair of the Board is authorized to communicate a position prior to the Board action under his/her own personal letterhead (or County letterhead), indicating the position is that of the Chair of the Board, provided that the Board take action at its next meeting.

5. Role of Board Committees, Advisory Boards and Commissions, and Community Based Organizations

a. Board Committees

The Board has established the following standing committees: Internal Operations (IO), Family and Human Services (FHS), Finance, Public Protection, Transportation, Water, and Infrastructure (TW&I), and Legislation. Capital Facilities meets as needed. The purpose of the standing committees is three-fold: (1) to study issues in more depth than is usually practical at a regular meeting of the Board; (2) to study issues in the context of a functional system of programs and services; and (3) to provide more opportunity for the public and other interested parties to have insight and input into the analytical and deliberative process that leads to formal recommendations.

The current standing committees cover the functional areas of County services. As such, the issues, policies, and bills relevant to the functional areas addressed by the standing committees should be directed to those committees for recommendation on action by the Board of Supervisors.

b. County Advisory Boards and Commissions

Like County departments, County Advisory Board and Commission members possess a high level of knowledge and expertise and can provide detailed impact analyses of issues affecting the County. As advisors, board and commission members are encouraged to alert the Board of Supervisors of relevant issues and bills. To that end, County Advisory Board and Commission members are encouraged to:

- Identify and analyze legislative issues of concern to board/commission subject areas. For issues of importance, the staff person to the board/commission should alert any relevant County department and the CAO's staff (or Transportation Planning staff) about the issue and provide an analysis. Public opinion and/or advocacy about the issue should not proceed without Board of Supervisors action on the issue.
- The analyses should briefly describe the issue and consider both programmatic and fiscal impacts to service delivery as well as impacts on those served. Should the CAO's office (or Transportation Planning staff) determine that the issue conforms with a pre-existing Board policy position, the CAO's staff and the board/commission staff will work collaboratively to draft a Board Order and position letter for signature by the Chair of the Board. Should the CAO's staff determine that the issue does not align with a pre-existing policy, the issue will be placed on the next Legislative Committee, standing committee, or Board agenda, as needed.

c. Community Based Organizations

Community based organizations (CBOs) can be effective partners in advocating for issues of mutual interest and should be engaged in position development and advocacy efforts as needed and as appropriate. CBOs are encouraged to alert the CAO legislative staff to bills and issues of mutual interest and communicate their positions on those matters. In addition, CAO staff will seek input from CBOs for the preparation of analyses and position formation, as appropriate.

6. Communication of Positions

It is the primary responsibility of the CAO's legislative staff and Transportation Planning staff, in coordination with the federal and state advocates, to advance the official County position on bills as they progress through the legislative process. However, this advocacy may require and include the participation of Board members, the CAO, Department heads, and other designated County staff as appropriate.

Advocacy activities and communication of official County positions may include direct interaction with members of the Legislature and their staff; Legislative Committees and their staff; State and federal agencies and administrations; statewide organizations; local or regional governmental bodies; and community organizations.

A Department or Advisory Board/Commission may not take any action that would imply the County's support or opposition to any pending legislation in the absence of, or inconsistent with, adopted Board positions.

Any time a County employee appears before a state, federal or local body to express a personal opinion or make a public comment, that individual must state for the record that they are speaking as a private citizen and not as an employee of the County or a representative of the Department for which they work. Further, written personal opinions shall not appear on County or department stationery/letterhead.

These procedures do not apply to elected officials who have been independently elected to represent the County and its residents. However, elected Department heads are encouraged to continue the past practice of open communication with the CAO and CAO's staff on important state and federal issues. In addition, the support of our elected officials on behalf of County policy positions can be a persuasive factor when dealing with state and federal representatives, and efforts to maintain this cooperative spirit will be given high priority by the CAO and CAO's staff.

With regard to written correspondence:

- Following action by the Board of Supervisors on legislative matters, the CAO's staff (or Transportation Planning staff) shall coordinate with the Board Chair and federal/state advocates to forward copies of such action to appropriate state and federal representatives, committees, and agencies.
- Letters of support or opposition to legislation will be prepared and coordinated with departments by the CAO's staff in accordance with Board-adopted positions.
- Written correspondence on behalf of the County to elected officials at the federal, state, or local level shall be transmitted over the signature of the Board Chair.
- Only the Board of Supervisors can send position letters on a particular piece of legislation. Of course individual Board members and other elected officials have the right to express their positions on bills on behalf of themselves (but not the County).

County of Contra Costa
OFFICE OF THE COUNTY ADMINISTRATOR
MEMORANDUM

DATE: March 28, 2011

TO: Department Heads

FROM: David Twa, County Administrator 

SUBJECT: POSITIONS ON STATE AND FEDERAL LEGISLATION—COUNTY POLICY

At our department head meeting last Friday, we discussed County policy and procedures with respect to expressing positions, on behalf of Contra Costa County, on state and federal legislation. These policies and procedures cover both county staff and members of Board appointed advisory bodies. Please communicate with your departmental staff and advisory body members with whom you work the following County Policy:

Only the Board of Supervisors can adopt positions on state or federal legislation on behalf of Contra Costa County. If you would like to recommend that the Board communicate a position on a bill and **there is a directly related policy in the Board's adopted Platform that would support the position**, you should work with Lara DeLaney, Senior Management Analyst, on developing a position letter with your recommendation for signature by the Board Chair. The County's state or federal representative will then communicate with the author and/or committee concerning the County's position and distribute the position letter. Any testimony is coordinated through the CAO's office with our state or federal representatives.

If there is no directly related policy in the Board's adopted Platform to support your recommendation, you should work with Lara DeLaney, who staffs the Legislation Committee of the Board, to secure a recommendation of the Legislation Committee (or the relevant policy committee of the Board) on the bill prior to its presentation to the Board of Supervisors, time permitting. If there is not sufficient time for Legislation Committee action, Ms. DeLaney will develop a Board Order for Board action with your recommendations.

In cases of extreme urgency, when there is no adopted policy position on the issue in the Platform, the Chair of the Board of Supervisors may express a position on a bill prior to Board action. Board policy allows the Chair to send a letter, indicating that it is his/her position on the bill. All Board Members must be immediately alerted of the action, and an official Board position must be considered at the next Board meeting. Again, this is only for circumstances that are unusual and urgent, and you should alert Lara DeLaney who will consult with me prior to requesting Board Chair action.

There are circumstances when a department head may be the president of a professional organization/association and is representing the organization's position--not the County Board's. Advisory Body members may also express their personal opinions on policy or legislative matters—but not represent their Advisory Body.

Additionally, departments may periodically be asked by our legislators or lobbyists to present information on a bill's potential local impact. When this occurs, please copy my office on any correspondence that is provided.

Please contact Lara DeLaney or Assistant County Administrator Terry Speiker if you would like to discuss this matter further, or if you need additional copies of the state or federal Platforms, sample Board Orders, or position letters.

cc: Board of Supervisors

Lara DeLaney
Lisa Driscoll
Julie Enea
Dorothy Sansoe
Tim Ewell