

**ALAMEDA COUNTY
BOARD OF SUPERVISORS'
PERSONNEL/ADMINISTRATION/LEGISLATION
COMMITTEE**

Monday, March 27, 2017
1:30 p.m.

Supervisor Keith Carson, Chair
Supervisor Wilma Chan

Location: *Board of Supervisors Chambers – Room 512 5th floor*
County Administration Building
1221 Oak Street, Oakland, CA 94612

Summary/Action Minutes

I. Federal Legislative Update – CJ Lake

The House and Senate are in session this week. The House will focus their attention on budget and appropriations priorities while the Senate will continue working through resolutions of disapproval and confirmations for cabinet and sub-cabinet level nominees.

American Health Care Act

Last week, House Republican leadership and the White House failed to strike a compromise on the American Health Care Act (HR 1628) to accommodate both Republican moderates and the conservative wing of the party. House leadership ultimately pulled the bill when they realized they did not have enough votes for passage.

Even if HR1628 were to have passed on Friday, the legislation would likely have been “dead on arrival” in the Senate because of the significant concessions that House conservatives won. The House Freedom Caucus, a group of the most conservative members, sought to eliminate the essential health benefits in order to bring down costs of premiums and also wanted to repeal Title I of the law which includes coverage for pre-existing conditions and allowing children to remain on their parents’ plan up to age 26.

It is unclear what may happen next, but there are several things the Trump Administration can do to help or undermine the law:

- 1) **Lawsuit:** Whether the Administration will continue the appeal of the lower court's decision in *House of Representatives vs Burwell* regarding the cost sharing payments to insurers. It is these payments, which essentially subsidize insurers to remain in the exchange markets and provide lower premiums. The House challenged the legality of the payments in court on the basis it was not appropriated (they refused to appropriate in 2011 and HHS resorted to the tax account to fund the Cost Sharing Reduction Payments (CSRs) in subsequent years). The court agreed last May and the Obama Administration appealed. If the appeal is abandoned, the payments stop (\$9 billion) to insurance companies and they withdraw, crashing the exchanges and leaving policyholders in the lurch. The Administration could choose to stop defending the lawsuit, ending subsidies that go to about 7 million low-income people, potentially pushing insurers out of the market.
- 2) **The Individual Mandate:** President Trump signed an Executive Order on his first day in office calling on federal agencies to minimize the ACA’s burden. In response, the IRS said it would use a light touch in enforcing the individual mandate.
- 3) **Enrollment Outreach:** At the end of 2017 enrollment, the Trump Administration pulled some ads and other outreach, potentially undermining sign-ups. It is unclear how much the Administration will encourage people to sign up for next year.

- 4) **Market Regulations:** HHS has proposed a set of rules to make the ACA's markets more favorable to insurers, hoping that more will stick around if they can make a profit. Some of these rules could reduce the number of people taking advantage of loopholes in the ACA, potentially lowering premiums for the rest.
- 5) **Political Sway:** The Obama Administration worked to persuade insurers to stay in Obamacare. The Trump Administration could be less forceful when insurers decide to drop out, leaving some regions without competition.

Health insurers are asking for assistance to stabilize the market ahead of 2018. Some of the changes include continuing the cost-share subsidies, eliminating the ACA's tax on health insurers, and providing supplemental funding to stabilize the ACA's risk pools.

FY18 Appropriations

On Wednesday, March 29, 2017, the House Labor, Health and Human Services, Education Appropriations Subcommittee will hold a budget hearing on the Department of Health and Human Services where Secretary Tom Price is set to testify on what is next on the health-care front and the proposed cuts in President Trump's FY18 budget request.

The federal government is currently being funded through a continuing resolution, which expires on April 28, 2017. Recently, the House passed the FY17 appropriations bill for the Department of Defense. The Senate is expected to take up the Defense bill the week of April 24, 2017. Any appropriations bills that have not completed FY17 negotiations are expected to be funded through a continuing resolution for the remainder of the fiscal year. Congress will need to decide whether to include these immediate cuts President Trump is proposing in this FY17 package.

Sanctuary Cities

Attorney General Sessions urged all states and local jurisdictions to comply with all federal laws, including 8 U.S.C. Section 1373. Moreover, the Department of Justice will require jurisdictions seeking or applying for Department grants to certify compliance with Section 1373 as a condition for receiving these awards. This announcement formalizes the information heard from the COPS office earlier this month.

AG Sessions made the point that the policy is entirely consistent with the Department of Justice's Office of Justice Programs (OJP) guidance issued last July under the Obama administration. This guidance requires state and local jurisdictions to comply and certify compliance with Section 1373 in order to be eligible for OJP grants. It also made clear that failure to remedy violations could result in withholding of grants, termination of grants, and disbarment or ineligibility for future grants.

AG Sessions also stated that DOJ will take all lawful steps to claw-back any funds awarded to a jurisdiction that willfully violates Section 1373, although he did not articulate what those steps might include nor how DOJ might be authorized to do so.

AG Sessions was asked whether certifying 1373 compliance might become a condition for non-OJP grants later, and he stated only that DOJ would look into it but that currently, this policy only applied to OJP grants.

Supreme Court Nomination

Democrats on the Senate Judiciary Committee are delaying an initial vote of Neil Gorsuch, President Trump's nominee to the Supreme Court. Under committee rules any one member can request that a nomination be held the first time it appears on the agenda. Democrats were expected to delay the committee's vote until next week.

The delay means the committee vote will take place on April 3, 2017, giving Republicans just a few days to meet their goal of the full Senate approving Gorsuch's confirmation before the Senate departs for the spring recess on April 7, 2017. Democrats are demanding a 60-vote threshold for Gorsuch, but it is still unclear whether they will have enough votes to support a filibuster.

Purpose:

- Report progress
- Advocacy or Education
- Request PAL Committee Recommendation or Position
- Other: Federal legislative update**

This item was informational only and required no Committee action.

II. State Legislative Update – Brownstein Hyatt Farber Schreck

Last week, the Legislature was focused on the potential repeal of the Affordable Care Act (ACA) with both Senate and Assembly Committees holding informational hearings on the impact of House Republican's health care bill, the American Health Care Act (AHCA).

On Tuesday, the Department of Healthcare Services released a fiscal analysis of the AHCA and estimated that it would cost California nearly \$6 billion in 2020, growing to \$24.3 billion by 2027. The General Fund share is estimated to be \$4.3 billion in 2020, increasing to \$18.6 billion in 2027. Additionally, the Legislative Analyst's Office reported that under the AHCA, 2.5 million more people would be uninsured in California in 2020 and 3 million more by 2024.

Last week, Governor Brown was in Washington, D.C. and attended an event celebrating the ACA's 7th Anniversary along with former Vice President Joe Biden, House Democratic Leader Nancy Pelosi, Senate Democratic Leader Chuck Schumer and House Democrats.

Update on County Sponsored Bills

AB 333 (Quirk), Alameda County's sponsored bill to transfer ownership of a portion of State Route 185 at East 14th Street and Mission Boulevard within unincorporated Alameda County, passed out of the Assembly Transportation Committee unanimously. The bill has been referred to Assembly Appropriations Committee and is awaiting a hearing date. State lobbyists are still awaiting the amendments to AB 435 (Thurmond) to include the changes to Alameda's Child Care Pilot Program.

Coordinated Care Initiative Update

The California State Association of Counties (CSAC) staff continued their meetings with the Department of Finance (DOF) staff last week to discuss DOF's numbers on the impact of the discontinuation of the Coordinated Care Initiative (CCI). CSAC sent out DOF's county-by-county estimates of the cost shift on Friday. There will be another meeting with Dianne Cummins, the lead negotiator for the DOF, and CSAC on March 28, 2017. On Wednesday, March 29, 2017, the Assembly Budget Subcommittee #1 on Health and Human Services will bring the Speaker's proposal to mitigate the cost to counties from the repeal of the CCI up for a vote and it will be a vote-only item, no testimony will be allowed. Lobbyists remain actively engaged in the opposition to the discontinuation of CCI and are working with our colleagues at CSAC and UCC to coordinate our opposition efforts.

Transportation Funding Update

Governor Brown is continuing his transportation funding push in the hopes a deal will still be struck by April 6, 2017, just before the Legislature leaves for spring break. The Administration is expected to release a detailed plan this week but at least initially, it appears as though the Legislature and Governor have settled on a \$5 billion plan, with no specific fee for zero emission vehicles and no return of the truck and weight fees.

Yet to be released are the increased vehicle registration fees which will be somewhere between the Governor's \$38 fee and Legislature's \$65 fee, while the diesel excise and gasoline taxes will fall somewhere between \$.20 and \$.11 or \$.19 and \$.21, respectively. There are still no details on the state versus counties split. Despite Democrats 2/3rds super-majority in both houses, securing the two necessary – particularly in the Assembly – has been a challenge. Many Democrats site lack of funding for transit, the fear of supporting tax increases, and inequity between rural and urban projects as their reasons to remain uncommitted to support the package.

Community Choice Energy Symposium

The Center for Climate Protection, the Local Government Commission, and the Local Government Sustainable Energy Coalition are holding a Business of Local Energy Symposium 2017 on May 5 in Long Beach. The symposium will provide a forum to discuss Community Choice Energy programs and an opportunity to learn about current energy policy, regulations, markets, and technology.

New Criminal Sentencing Rules (Proposition 57)

Proposition 57, passed by voters on November 8, increases parole chances for felons convicted of certain non-violent crimes and provides opportunities to earn credits for good behavior. Late last week, in order to implement Proposition 57, the California Department of Corrections and Rehabilitation (CDCR) announced new criminal sentencing rules that are expected to reduce the state's prison population by 9,500 inmates over four years. The regulations include the reduction of sentences for earning a college degree and participating in self-help programs such as anger management and victim awareness courses. All inmates, excluding those on death row or serving a life-without-parole sentence, will be eligible for lower sentences. CDCR officials submitted the proposed regulations to the Office of Administrative Law, and if approved, the changes in parole eligibility will go into effect on April 12, 2017.

SAMHSA Homelessness Grants Available

The Substance Abuse and Mental Health Services Administration (SAMHSA) is offering up to \$47.5 million in grants for the benefit of homelessness individuals, over the course of 5 years. The grants are designed to support community infrastructure development and expansion, for projects that integrate behavioral health treatment and services for substance use, co-occurring mental and substance use disorders, permanent housing, and other critical services for individuals, youth and families experiencing homelessness. SAMHSA expects to administer up to \$400,000 per year over 5 years, for up to 24 grantees. Applications are due on April 25, 2017.

Unemployment Rate

The Employment Development Department (EDD) released February employment data, finding that California's unemployment rate is down to 5%, compared to January's 5.2%. Additionally, the state added 22,900 new jobs in February.

Purpose:

- Report progress
- Advocacy or Education
- Request PAL_Committee Recommendation or Position
- Other: State legislative update**

This item was informational only and required no Committee action.

Request for Legislation position – Action Items

i. [AB 1520](#) (Burke) Lifting Children and Families Out of Poverty Act of 2017

Recommendation: Support: Rebecca Gebhart, Interim Director, Health Care Services Agency

ii. **SB 239** (Weiner) **Infectious and communicable disease HIV and AIDS: criminal penalties**

*Recommendation: **Support:*** Rebecca Gebhart, Interim Director, Health Care Services Agency

iii. **SB 300** (Monning) **Sugar-sweetened beverages: health warnings**

*Recommendation: **Support:*** Rebecca Gebhart, Interim Director, Health Care Services Agency

iv. **SB 578** (Glazer) **Highways: Safety Enhancement-Double Fine Zone**

*Recommendation: **Support:*** Daniel Woldesenbet, Director, Public Works Agency

Purpose:

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- Request PAL_Committee Recommendation or Position**
- Other:

Recommendation from PAL Committee: Support. Move to the full Board of Supervisors.

PUBLIC COMMENT

None.

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