



BILL CAMPBELL

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SUPERVISOR, THIRD DISTRICT

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November 16, 2011

Dear Friends:

On behalf of the Orange County Board of Supervisors, I am sending you a copy of the "County of Orange Legislative Platform for 2012," adopted by the Board on November 8, 2011. This document communicates the key legislative priorities and policies for the County in both Sacramento and Washington D.C., and provides policy direction and guidance to County agencies/departments and staff.

We hope that you will find the document helpful in understanding the County's perspective on the major issues facing us this coming year. My colleagues and I look forward to working with many of you in the near future.

If you or your staff have any questions regarding the attached Platform, please contact Donna Grubaugh, Director, CEO/Legislative Affairs, at (714) 834-7218.

Sincerely,

A handwritten signature in blue ink that reads "Bill Campbell".

BILL CAMPBELL
Chairman of the Board
Supervisor, Third District

Enclosure

cc: Members, Board of Supervisors
Members, Orange County State and Federal Legislative Delegation
City Managers, Orange County Cities
Thomas G. Mauk, County Executive Officer
Alisa Drakodaidis, Deputy CEO, Infrastructure and Environmental Services
Bob Franz, Deputy CEO, Office of Finance
Mahesh Patel, Deputy CEO, Office of Information Technology
County of Orange Agency/Department Heads and Legislative Coordinators
James McConnell, Washington, D.C., Legislative Advocate
Platinum Advisors, Sacramento Legislative Advocates
Paul McIntosh, CSAC Executive Director
Jolena L. Voorhis, UCC Executive Director



COUNTY OF ORANGE LEGISLATIVE PLATFORM FOR 2012

**Adopted by the Board of Supervisors
November 8, 2011**

**Bill Campbell, Chairman
Supervisor, Third District**

**Janet Nguyen
Supervisor, First District**

**John M.W. Moorlach, Vice-Chairman
Supervisor, Second District**

**Shawn Nelson
Supervisor, Fourth District**

**Patricia C. Bates
Supervisor, Fifth District**

**COUNTY OF ORANGE
LEGISLATIVE PLATFORM
FOR 2012**

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COUNTY OF ORANGE

2012 State and Federal
Outlooks

COUNTY OF ORANGE
2012 STATE AND FEDERAL OUTLOOKS

STATE LEGISLATIVE OUTLOOK

Overview

The second year of the 2011-2012 Legislative Session will be dominated by the State Budget and public safety realignment. In addition, since we are at the top of the second year of the two-year Session, committees may hold hearings on two-year bills as early as the first week of January. Consequently, there may be an overload of two-year bills that will suddenly become active in early 2012.

At five-months into FY 2011-2012, the \$4 billion in expected revenues, as identified in the FY 2011-2012 State Budget, is in question. Through September 2011, the State has collected \$700 million less than expected. According to Controller John Chiang, California missed the revenue mark again in September 2011 by collecting \$301.6 million less than State leaders expected when the Legislature approved the budget. It is thought that the loss of expected revenues will grow by an additional \$3.9 billion: \$200 million with the postponed internet tax; \$1.7 billion in redevelopment monies tied up in court; and, \$2 billion in health care cuts, which may not be approved by the Federal government. As a result, any necessary budget triggers (AB 121) will be pulled in December and a Special Legislative Session may be needed to act upon these cuts.

Governor Brown has defended the budget projections by relying on the \$2.5 billion in "trigger" cuts to schools and social services that will occur if projected income does not materialize. The Department of Finance must develop an updated revenue forecast for the FY 2011-12 general fund revenues and compare the forecast to the Legislative Analyst's Office (LAO) analysis of the situation in November 2011. These trigger cuts must happen by December 15, 2011, and if they occur, the County will be in for another tough budget year. The State's budget crisis will continue to be the top issue in 2012 for the Legislature to address.

The 2012 elections will be much different from years past because of the new open primary rules that will take effect for the first time. Under an open primary system, voters will no longer be limited to choosing among candidates from their own parties. Because of Proposition 14 of 2010, the top two vote-getters in each primary race (Congressional, State Assembly, State Senate, and Statewide offices), regardless of political party, will face-off in the general election.

Budget

According to the UCLA Anderson Forecast report of September 2011, "the nation is far worse than it was just three months ago." On the bright side, the 2012 forecast does not include a "recession." They describe the economic growth as "stalled speed." Yet, this

does not mean that 2012 is recession proof. Since the housing market and consumer spending have dramatically declined in recent years and, notwithstanding an unforeseen economic collapse, realistically any additional decline in either area would not be substantial enough to trigger another “recession.”

In addition, the forecast focused on California’s economic recovery, which appears to be “bifurcated” between the coastal and inland communities. The coastal communities appear to be growing slowly, but Inland California continues to suffer from an economic meltdown caused by the dramatic downturn in the housing market, staggering unemployment rates, and reductions in government spending. However, “taken as a whole, the current forecast for California calls for slow growth until the end of 2012.” Finally, the forecast sees virtually no growth in employment until 2013, and the unemployment rate will stay close to 12 percent for the rest of 2012.

Taking into account the economic outlook for FY 2012-13 and the ongoing budget shortfalls, the Governor and legislative leaders will be faced with another year of difficult fiscal decisions in 2012. The LAO continues to project an annual budget problem of about \$20 billion each year through FY 2015-16. In FY 2012-13, when the State must repay its 2010 loan from local property tax revenues and it begins experiencing the full effect of Propositions 22 and 26 (prohibiting the use of local funds and increasing the vote threshold for growing fees for service), the LAO’s future projections grow to \$22.4 billion annually.

The 2011-12 State spending plan included total budget expenditures of \$120.1 billion from the General Fund and special funds. This consisted of \$85.9 billion from the General Fund and \$34.1 billion from special funds. While General Fund spending has dropped by approximately six (6) percent from 2010-11, some of this was offset by increases in special fund spending as the State shifted some programs – from State to local responsibility under “realignment” – from General Fund support to special fund support. The use of federal funds continued to decline with the expiration of much of the funding made available through the American Recovery Act. In order to fund “realignment,” the final FY 2011-12 spending plan contained an on-going shift of funds from the State’s Motor Vehicle License Fee Account (VLF), which included \$130 million from cities and \$48 million from Orange County.

According to the LAO, FY 2010-11 was the third consecutive year to end with a deficit, and based on the most recently passed State spending plan, FY 2011-12 will likely experience the same outcome. Outside of the obvious economic factors and funding gimmicks, several areas of California’s current spending plan are being considered in court. Four different groups representing public schools, disabled people, cities, and redevelopment agencies have all filed lawsuits challenging the recent statewide cuts and funding shifts: Schools claim that the shift of \$2.1 billion from schools to local governments was a direct violation of their minimum guarantee under Proposition 98; members of the disabled community filed a lawsuit against the additional \$100 million in cuts to their already reduced budget and claim that the State violated Medicare laws; cities argue that the \$130 million cut in VLF revenues is violating constitutional law; and

redevelopment agencies argue that taking \$1.7 billion from redevelopment agencies violates the State Constitution, including Proposition 22, which was passed by 61 percent of California voters in November 2010.

Regardless of the pending lawsuits and economic outlook for FY 2012-2013, the Governor's January Budget Proposal will most likely include the seven traditional themes:

- 1) Securitization (redevelopment, oil severance tax, lottery revenues, etc.)
- 2) Realigning programs to local governments
- 3) Fees/Taxes (broaden the base for sales tax collection, college fees, hospitals)
- 4) Use of federal funds
- 5) Short-term borrowing
- 6) Program cuts
- 7) New Revenues (sale/private management of State assets)

The Governor, who has vowed to Californians to negotiate a bipartisan budget, will likely resume negotiations with Republicans in early January. The Governor needs four Republican votes to place a tax extension on a ballot. The Governor resisted Republicans call last year for an overhaul of State retirement plans, reductions in State regulations and the California Environmental Quality Act, and a spending cap. The Governor's January Budget Proposal will most likely include some of the Republican's requests, which will allow for a public debate on each issue.

In 2012, the County will have an opportunity to continue advocating for the restoration of \$48 million in VLF-Property Tax Swap revenues taken by the Governor for statewide public safety realignment. Unfortunately, the VLF-Property Tax Swap of 2005 is a distant memory for some fiscal staff in the State Capitol and is a brand new concept for the majority of the Legislature.

As the County begins to position itself for the successful restoration of the lost VLF-Property Tax Swap funding, the County must consider a number of factors: legal options, coalition building with stakeholders, creating political alliances, and above all identifying alternative revenues sources. Most likely, the Governor and current legislative leadership will not willingly reconsider the restoration of funding for Orange County without legal and political pressure. Senate Pro Tempore Steinberg publicly requested that it be considered as part of a "global fix." The County's advocacy team and executive leadership will continue to educate the Governor's executive and fiscal staff, as well as members of the Legislature, regarding the history of this funding stream and the dramatic impact on services that will result from this loss.

Pension Reform

Legislative leaders have named six lawmakers to a joint committee that will hold hearings on changes to public employee pension systems. Assembly Speaker John A. Pérez has appointed Michael Allen, D-Santa Rosa, Warren Furutani, D-Gardena and

Jim Silva, R-Huntington Beach. Senate President Pro Tem Darrell Steinberg has appointed Gloria Negrete McLeod, D-Chino, Joe Simitian, D-Palo Alto, and Mimi Walters, R-Laguna Niguel. Negrete McLeod and Furutani will co-chair the committee.

On October 28, 2011, the Governor released his 12 Point Pension Reform Plan that he says will allow for California to offer a “fair and sustainable income plan.” The Governor said that this is a minimum plan for the numerous retirement systems around the State affecting both State and local government.

According to the Governor this plan impacts both current employees (e.g. by requiring higher contributions) and new hires. He also stated that he believes that there may be greater latitude to impact current employees, but asserted that his plan safely falls within the bounds of what’s he thinks is legally permissible. The Governor is expected to introduce his plan to the Legislature by way of the Joint Legislative Conference Committee on Public Employee Retirement.

The 12 Points of the Governor’s plan are:

1. Equal Sharing of Pension Costs: All Employees and Employers
2. “Hybrid” Risk-Sharing Pension Plan: New Employees
3. Increase Retirement Ages: New Employees
4. Require Three-Year Final Compensation to Stop Spiking: New Employees
5. Calculate Benefits Based on Regular, Recurring Pay to Stop Spiking: New Employees
6. Limit Post-Retirement Employment: All Employees
7. Felons Forfeit Pension Benefits: All Employees
8. Prohibit Retroactive Pension Increases: All Employees
9. Prohibit Pension Holidays: All Employees and Employers
10. Prohibit Purchases of Service Credit: All Employees
11. Increase Pension Board Independence and Expertise
12. Reduce Retiree Health Care Costs: State Employees

Public Safety Realignment

In the wake of a U.S. Supreme Court decision requiring California to reduce its prison population by 33,000 offenders, the State acted to move responsibility for many low-level offenders (nonserious, nonviolent, and nonsexual) to counties for incarceration, monitoring and rehabilitation. Legislation (AB 109) delayed the operative date from August 1, 2011, to October 1, 2011. The provisions of the public safety realignment are prospective and, therefore, as people are sentenced on or after October 1 or released to supervision on or after October 1, they will be the responsibility of the counties – if they meet the criteria for the realigned population. No one in prison on October 1 will transfer to county jails, and no one currently on parole will transfer to local jurisdiction.

The State budget provided funding to counties for FY 2011-2012. Without a constitutional guarantee of reliable, ongoing funding, counties and their law enforcement

officials will continue to have concerns that they will be left with no resources to management their new offender population.

Redistricting and Term Limits

Proposition 11 (2008) established the California Citizens Redistricting Commission (Commission). This proposition removed the task of setting (re-drawing) geographic boundaries of the State's 120 Legislative districts and four Board of Equalization districts from the Legislature to this 14 member Commission. In addition, Proposition 20 (2010) assigned the task of setting geographic boundaries of the State's Congressional districts to the Commission.

Redistricting has happened, new lines have been drawn throughout the State, and not everyone is happy with the outcome. As a result, there is a referendum initiative campaign being waged to oppose the new State Senate lines. Under the new lines, there is a possibility that the Democrats will increase their majority in both the State Assembly and Senate giving them a two-thirds vote majority. In Orange County, there will be seven State Assembly seats and four State Senate seats contained in full or partially within the County. Currently in Orange County, there are nine State Assembly seats and five State Senate seats contained in full or partial within the County. In addition, because of term limits, there will be over thirty new members in the State Legislature in 2013. This results in a net loss of two Assembly Members and one State Senator.

COUNTY OF ORANGE
2012 STATE AND FEDERAL OUTLOOKS

FEDERAL LEGISLATIVE OUTLOOK, 112th CONGRESS, 2nd SESSION

Overview

The Second Session of the 112th Congress will be dominated by the rhythm of the national election cycle of 2012.

The most important piece of unfinished business of 2011, however, will color all activity in 2012 in Washington: the report of the Joint Select Committee on Deficit Reduction with its report due November 23, and a final vote in Congress required by December 23, 2011.

If the “Super Committee” comes to no agreement, or its recommendation is voted down by Congress, then \$1.2 trillion in cuts—divided between domestic and defense programs—will occur automatically. If the committee produces a recommendation adopted by Congress, then the provisions of that recommendation will also determine how the 2012 congressional agenda is framed—and long beyond 2012. The committee’s recommendations, if adopted, can also supersede the policies set forth earlier in 2011 by the Budget Control Act.

One measure of the committee’s success will be the degree to which its recommendations are despised. A large bill, well in excess of the minimum \$1.2 trillion, denounced by Republicans and Democrats alike, will almost certainly signal a successful fiscal effort.

National Issues

Beyond the dictates of the Super Committee’s legislative recommendation, the state of the national economy will be the primary driver of the congressional agenda in 2012. Very few economists predict much improvement in 2012 over 2011, with unemployment hovering around nine percent. Agreement between the parties on how to handle the intractable issues of the Great Recession—having been missing the previous four years—is unlikely to surface in an election year.

Election year politics is especially obvious in the Senate. With 33 seats up for election, the Democrats are defending 23 of those seats while Republicans have only 10 at stake. Economic, political, and social dissatisfaction among the electorate has the potential to increase the Republicans’ heavy odds to capture the four seats necessary to organize the Senate majority in 2013.

As is well known, it takes 60 votes to shut off a filibuster in the Senate and thus a super majority to enact any legislation on which there is a substantial difference of opinion.

Thus, Republicans would have to capture 17 seats in 2012 to increase their current 47-seat minority to a 60-seat supermajority.

However, in October 2011, Senate Democrats rammed through an obscure, and largely unnoticed, change in the Senate rules which could upset the filibuster-imposed balance of power.

The change permits a simple majority to overturn a ruling of the Senate Parliamentarian on the issue of germaneness after the invocation of cloture. When cloture is invoked—with 60 votes—the Senate may then debate the subject legislation for an additional 30 hours. No amendments may be added at that point unless they are “germane” to the underlying legislation. The October 2011 rules change by Senate Democrats would allow a parliamentary ruling on germaneness, after invocation of cloture, to be overruled with 51 votes. Example: a bill to end American military involvement in Afghanistan, should it achieve a 60-vote majority to end a filibuster, could thereafter be subject to a non-germane amendment to repeal the Affordable Care Act in which the Parliamentarian is overruled by a simple majority of 51 votes and the amendment adopted.

While the effects of this rules change amendment may not be large in 2012, it could cause huge changes in Senate legislative activity and results in 2013—and in the country depending on the outcome of the presidential election.

The Fiscal Year 2013 budget and appropriations process will begin when the Administration submits its proposed budget to Congress at the beginning of February. In the absence of congressionally-directed spending, i.e., earmarks, much discretionary authority will be ceded to the departments and agencies of the Executive Branch.

The Budget Control Act of 2011 set total levels of spending for Fiscal Year 2012 and beyond, which will result in increasing program cuts for discretionary spending—both domestic and defense. However, in the absence of changes by the Super Committee, the mandatory portion of the budget (compromising two-thirds of federal spending) will be left untouched, thereby guaranteeing continued huge annual deficits, adding to the cumulative National Debt.

Orange County Issues

Calendar and fiscal year 2011 showed that the end of congressional earmarks need not be the end of the Federal Government's participation in public works projects and vital infrastructure repair and replacement at the local level. Giving discretion on the expenditure of funds to agencies of the Government, such as the Army Corps of Engineers, has been beneficial to the County. Working with the staff of these agencies at the local level as well as in Washington has resulted in more favorable treatment to a number of County projects than would have otherwise been the case had senior Members of the Appropriations Committee earmarked all available funds to their districts, leaving no discretionary funds to the agencies. Without that congressional

direction, Orange County's projects have favored well because of their intrinsic worth, as well as close cooperation between County staff, agency staff, and longstanding Washington relationships with the Federal bureaucracy.

Although funding for the Santa Ana River Mainstem Project, and other County priorities, will be dependent on what is finally enacted in the FY 12 appropriations omnibus (or mini-bus) legislation, congressional delegation of project prioritization will also depend on the professional judgment of the Los Angeles District and Washington Headquarters staff of the Corps.

While it is hoped that the Department of the Treasury will issue a determination on the legality of the County's pension reform system before the end of 2011, if that is not the case then efforts will continue to pursue a bi-partisan legislative remedy to allow the County to move forward with its reform effort.

Congress will seriously try to move forward on a reauthorization of surface transportation programs in 2012. If additional funds are found without resorting to proposals to increase the federal gas tax, the chances are greatly increased for a multi-year bill with adequate funding to address the nation's aging transportation infrastructure program deficit.

The emphasis on transportation programs will likely detract from the ability of Congress to address water infrastructure issues through a new Water Resources Development Act (WRDA). Some Members of the congressional leadership on infrastructure matters are not opposed, however, to considering WRDA legislation limited to programmatic policy issues, devoid of specific new water project authorizations. The possibility also exists for project streamlining, which could include amendments to section 404 of the Clean Water Act as pertains to the channel maintenance issues raised by the County.

Continuing issues unresolved in 2011 which the County will be following in 2012 include reform of the Federal flood insurance program and its potential impact on re-establishing flood insurance requirements for large portions of Orange County. The Federal Aviation Administration's reauthorization once again was only temporarily extended in 2011 and the legislative efforts to secure a multi-year act will continue in 2012.



COUNTY OF ORANGE

2012 Legislative Priorities and Policy Statements

COUNTY OF ORANGE
2012 LEGISLATIVE PRIORITIES AND POLICY STATEMENTS

The County of Orange recognizes the need to protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County of Orange reviews and establishes priorities and policy statements at the beginning of each legislative year. The Legislative Priorities set forth the County's goals for the current Legislative Session and the Policy Statements provide general direction to the Legislative advocates as they advance County interests during the year.

LEGISLATIVE PRIORITIES

1. LOCAL GOVERNMENT FUNDING

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

2. FISCAL EQUITY

Establish an equitable, dependable and predictable revenue stream with distribution formulas for local revenues that address equity with other counties, and that any formula be based on one or more of the following factors:

- Per capita
- Caseload
- Situs (dedicated taxes)
- Realignment Equity
- Cost of Living in High Cost Counties
- Other Objective Measures of Need

3. COST RECOVERY

Local governments shall receive full cost reimbursement for all federal and/or state mandated programs. Unfunded or under-funded mandates are a burden which local government cannot afford. The County of Orange will pursue full cost recovery for all expenditures related to natural disasters.

POLICY STATEMENTS

1. Increasing taxes is an inappropriate means of balancing the State's budget.
2. The establishment of equitable, consistent, dependable, and predictable revenue streams with distribution formulas for local revenues that address equity are necessary for the stability of services provided by local government. Proposed funding allocations to counties must be based upon common factors (population, poverty statistics, caseload, or other objective measures of need) applied evenly among counties.
3. The shifting of tax revenues from the County to the State or other local entities harms Orange County's ability to serve its residents.
4. Counties must be given the authority, flexibility, and adequate funding to administer programs and service client needs within their local jurisdictions (no unfunded mandates). As examples, In-Home Supportive Services should be fully funded by the State and Federal governments to lessen the financial burden on local governments; and funding for property tax administration should be reinstated.
5. Realignment proposals must only include programs where counties have control over costs and program operations.
6. Federal maintenance of effort requirements as well as federal penalties and sanctions must remain the responsibility of the State and not passed on to local governments.
7. Homeland security and emergency response efforts shall be coordinated among the federal, state, and local governments with clearly defined roles and responsibilities for each.
8. The State and/or federal government shall provide full cost recovery for counties and cities for all mandates. State/or federally funded programs (such as Santa Ana River Project, State Child Health Insurance program (S-CHIP), medical research, housing, law enforcement, older adults and workforce investment, etc.) require adequate and continuous funding.
9. Support collaborative solutions in addressing regional issues and completion of vital flood control, beach erosion control, and watershed projects such as the Santa Ana River Mainstem Project (including Prado Dam), Santa Ana River Interceptor Line (SARI) relocation, Aliso Creek Mainstem Project, Orange County Beach Erosion Control Project, and other projects as may be appropriate.

10. Orange County will support measures that protect the public against disease and disability and promote health.
11. Funding for alternatives to incarceration, including probation monitoring, that are cost effective and do not endanger the general public shall be pursued.
12. Housing:
 - a. Adequate housing is necessary for economic stability. Parity should be sought between the number of jobs and the availability of housing. The Regional Housing Needs Assessment (RHNA) should identify realistically the housing elements needed to achieve fair distribution of housing requirements and should provide for the transfer of housing allocations when annexation or incorporation occur. RHNA should never be used to punitively impact the funding of local government.
 - b. Support removal or minimization of barriers to housing production, including fiscal reform for local government to address disincentives for residential development.
 - c. Support the efforts of County water agencies to insure that an adequate water supply exists for potential development in unincorporated areas and the incorporated cities of Orange County.
 - d. Support the removal of barriers to local flexibility in the administration and allocation of federal homeless assistance funding, so as to allow the County to direct these funds toward innovative programs that will meet the specific needs of its homeless population.
13. Water Resources:
 - a. State – promote coordinated effort between state, County and regional agencies to allow for increased local control for project implementation.
 - b. Federal – increase programs and funding opportunities for purchasing of coastal habitat and resource conservation, preservation and maintenance. Support federal funding for beach nourishment and erosion control for all Orange County shoreline from the mouth of the San Gabriel River to San Mateo Creek. Support sharing of Federal Outer Continental Shelf (OCS) revenues with coastal states to support conservation and wildlife protection programs.
 - c. Local, State and Federal – support state and federal grants for Clean Water Act and Porter-Cologne Act and collaborate on watershed management strategies.
 - d. Support consistent regulatory efforts and oversight within Orange County boundaries.
14. Promote business retention (through insurance, healthcare, and workers' compensation reform) and consider incentives to attract new business.

15. Protect local decision-making and accountability for County Proposition 10 Commissions when statewide financial reporting and fiscal practices are established.
16. El Toro – The local land use decision made regarding MCAS, El Toro and its reuse should be upheld. The County of Orange is opposed to any attempt to change the land use and to the creation of a regional airport authority to place an airport at MCAS, El Toro.
17. Support policies that maximize local control over solid waste management and operational efficiencies at solid waste facilities, and minimize burdensome and duplicative regulation by the state. The County supports measures that maintain and expand existing diversion credits.
18. Implementation of the reauthorized Voting Rights Act should reexamine multilingual ballot requirements to ease unfunded mandates on counties. The regulations should have specific and reasonable fluency thresholds.
19. Support a public safety system that includes local law enforcement services, crime prevention, prosecution of crime, confinement of high-risk and juvenile offenders, and supervision of adults and juveniles placed on court ordered formal probation.
20. Support measures that enhance the quality, affordability, capacity, accessibility, and safety of child care and development programs.
21. Support Completion of the 241 Tollroad, as it affects all transportation decisions as well as Air Quality Management Districts (AQMD) measurements for the County.
22. Support legislative or administrative changes to clarify the requirements for regulatory permits for the maintenance of flood control and drainage facilities, including mitigation requirements; and for streamlining the process when maintenance permits are required.
23. Support legislation that educates, promotes incentives, and provides information to the residents, builders, and businesses of Orange County regarding the adoption, use, and economic benefits of green technology, recycled products and eco-friendly products.
24. Support legislation that ensures Health Care Reform is revenue-neutral to the Health Care Agency and allows HCA to continue to carry out its mandated services and County responsibilities with no increase in Net County Cost.

25. Pursue the possibility of maximizing the capacity and efficiency of the County's Cogeneration (Cogen) and Central Plant facility by providing its excess load to other governmental agencies within the Santa Ana Civic Center.
26. State water quality regulatory framework:
 - a. Support a change in the California Water Code to bring ex parte communication for the members of the State Water Resources Control Board and Regional Water Quality Control Boards in line with other state boards and commissions.
 - b. Support revisions to the limitation on a board member's income restrictions so that individuals who receive income from an entity subject to waste discharge requirements may serve on the State Water Resources Control Board and Regional Water Quality Control Boards but must recuse themselves from matters pertaining to any entity in which they have a direct or indirect financial interest.
27. Workforce Investment Act (WIA):
 - a. Support the reauthorization of the WIA.
 - b. Support WIA reauthorization provisions that allow Orange County to retain local control in the areas of service delivery design and expenditures.
 - c. Support WIA reauthorization provisions that promote and incentivize regional planning and service delivery.
 - d. Support a WIA reauthorization provision that continues to require oversight Boards to be led by a majority of locally appointed business representatives.
 - e. Oppose any efforts to remove local control provisions allowed under existing legislation at the Federal or State level.
28. Support legislation that promotes renewable energy and alternative technology projects by minimizing burdensome requirements.



COUNTY OF ORANGE

County-Sponsored State Legislative Proposals

COUNTY OF ORANGE
2012 COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS
EXECUTIVE SUMMARY

STATE PROPOSALS – NEW

VEHICLE LICENSE FEE (VLF) \$48 MILLION RESTORATION

This proposal would clarify that the County can replace the \$48 million in VLF that the County lost due SB 89 (2011) with an equal amount of ERAF Property Tax. The State Legislature raided \$48 million of local funds. No other county in the state was subject to such a drastic cut in revenue.

COST OF LIVING ADJUSTMENT (COLA) – AFTER 12 MONTHS

This proposal would amend the 1937 Act to require a 12-month delay regarding COLA benefits for future retirees of Orange County.

SUPPLEMENTAL TARGETED ADJUSTMENT FOR RETIREES (STAR-COLA)

This proposal would amend the 1937 Act to give the Board of Supervisors the discretion to “freeze” the STAR COLA amounts only to those members who currently receive the benefit and would not allow new members or increases in the benefit if the retirement system is not fully funded.

OC BOARD OF SUPERVISORS RETIREMENT

Orange County's retirement system is established pursuant to the County Employees Retirement Law of 1937 (CERL). According to the provisions of CERL, once a retirement system is established all officers and employees of the participating County (other than employees which CERL expressly allows to be excluded) and all elected officials that choose to be members are to become members of the retirement system. Currently, there is no authority in CERL for the exclusion of elected officials. In absence of specific statutory authority permitting the exclusion of elected officers, neither the Board of Retirement nor the Board of Supervisors may take such an action.

This proposal would amend the 1937 Act so that a person elected to the Orange County Board of Supervisors, on or after January 1, 2012, shall not become a member of OCERS and shall not acquire any retirement right or benefit for serving in that elective office.

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2011-2012 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh

Phone: 714-834-7218 Fax: 714-834-7650

email address: donna.grubaugh@ocgov.com

SUBJECT: **VEHICLE LICENSE FEE (VLF) \$48 MILLION RESTORATION**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

County Agencies and Departments.

CODE SECTION AFFECTED:

Amend Section 97.70 of the Revenue and Taxation Code relating to local government finance.

DESCRIPTION OF CURRENT LAW:

SB 89 (2011) reduced County of Orange's VLF by \$48 million requiring budget reductions to Public Health and Safety budgets.

PROPOSAL:

Clarify that the County can replace the \$48 million in VLF that the County lost due SB 89 (2011) with an equal amount of ERAF Property Tax. The State Legislature raided \$48 million of local funds. No other county in the state was subject to such a drastic cut in revenue.

DISCUSSION:

Under SB 89 (Committee on Budget), Orange County's vehicle license fee allocation (approximately \$48 million) was redirected to help fund realignment. In 2004, the Legislature approved a VLF for property tax swap as part of the agreement that allowed Proposition 1A of 2004 to be placed on the ballot. As part of the swap, Orange County continued to receive approximately twenty-five percent of its total VLF revenues as VLF until the bankruptcy obligations had been resolved. Orange County received property

taxes in lieu of VLF for the remaining seventy-five percent of its VLF allocation. Every other county in the State received a swap of property taxes in lieu of VLF for all of their prior VLF allocation. Even though Orange County refinanced the debt in 2005, the bankruptcy debt service obligations will not be resolved until FY 2017-18.

Assembly Member Jose Solorio introduced ABX1 43 to clarify that Orange County can adjust its calculation of its vehicle license adjustment amount, which is the amount of property taxes the county receives in lieu of VLF, to include the amount of VLF the County lost as a result of SB 89.

INTRODUCTION

On June 28, 2011, the California Legislature passed SB 89 a budget trailer bill and the Governor signed it on June 30, 2011. This bill appropriated \$48 million of dedicated VLF revenue from the County. SB 89 uses these funds to finance Public Safety and Health Care realignment throughout the State. Orange County is diligently reviewing its options in order to retain these funds. The following is a brief history of the County's Bankruptcy Debt service and VLF funding:

A. The Orange County Bankruptcy Resulted in a Pledge of the County's MVLF as Security for Bankruptcy Debt Repayment Obligations

Orange County's Bankruptcy Debt issued in 1996 totaled \$1.04 billion with annual Debt Service of more than \$90 million. One of the conditions of the original Bankruptcy Debt issue was a requirement that the State "intercept" a portion of the County's existing motor vehicle license fee (MVLF) revenue to be paid directly to the trustee for the Bankruptcy Debt. This condition was removed when the Bankruptcy Debt was refinanced by the County in 2005. Annual Debt Service remained roughly \$90 million. The refinancing reduced the term of the Bankruptcy Debt by ten years and paid down a portion of the remaining debt. The County is obligated to pay Bankruptcy Debt Service until Fiscal Year (FY) 2017-18.

B. SB 1096 and AB 2115 Swapped MVLF From Local Agencies To The State In Exchange For Property Tax Revenues (VLFAA)

"The Vehicle License Fee Law ... imposes an annual license fee for the privilege of operating a motor vehicle subject to registration under the Vehicle Code." (*Piazza Properties, Ltd. v. Department of Motor Vehicles* (1977) 71 Cal.App.3d 622, 627-28.) The fee is collected by the DMV. (Rev. & Tax. Code, §§ 10703, 10951.) "Although it is an excise or privilege tax and not a property tax [cites omitted] it is measured by the value of the vehicle." (*Ibid.*) The license fee is in lieu of ad valorem taxes on vehicles of a type subject to registration under the Vehicle Code. (Sen. Bill No. 1096 (2003-2004 Reg. Sess.) p. 3.) Prior to passage of SB 1096 in 2004, which implemented the MVLF for property tax swap of 2004, the VLF tax rate was set at 2 percent of the market value of a vehicle, but this amount was off set by 67.5 percent for VLF with a final due date on or after July 1, 2001. (Sen. Bill No. 1096 (2003-2004 Reg.

Sess.) p. 3.) As a result, the effective VLF tax rate charged to vehicle owners was 0.65 percent. (*Ibid.*)

The pre-2004 Budget Act VLF law allocated MVLF revenues to counties and cities on the basis of population. (Former Rev. & Tax. Code, § 11005, as amended by Stats. 1999, ch. 550, § 31 repealed by Stats. 2004, ch. 211, § 39, p. 95, eff. Aug. 5, 2004.) These allocated revenues were then supplemented with a backfill from the State general fund to provide cities and counties with revenues equivalent to a full 2 percent VLF tax rate. (*Ibid.*)

Effective FY 2004-05 (prior to the County's bankruptcy debt refinancing), the State enacted major changes reducing VLF revenue received by all counties. SB 1096, which was passed in 2004, implemented two transactions designed to cope with the State's recurring fiscal problems. The first transaction was the Triple Flip, which is governed by Section 97.68. The Triple Flip is an exchange of revenues generated from 0.25% of the Bradley-Burns sales and use tax that was previously credited to the general funds of all cities and counties within the State of California. (Rev. & Tax. Code, § 97.68(a).) The state "flipped" these taxes from cities and counties to the State in exchange for revenues from each county's ERAF, which is collected from property tax revenues.

The second transaction is the VLF swap pursuant to which the State took MVLF revenues that were previously allocated to cities and counties and replaced these revenues with property tax revenue that was also drawn from ERAF. (Rev. & Tax Code, § 97.70(a)(1).) Under Section 97.70, which governs the VLF swap transactions, county auditors reduced the total amount of property tax revenue that would otherwise be allocated to a county's ERAF by the "countywide vehicle license fee adjustment amount." (Rev. & Tax. Code, § 97.70(a)(1)(A).) The countywide vehicle license fee adjustment amount is then allocated to each county's Vehicle License Fee Property Tax Compensation Fund. (Rev. & Tax Code, § 97.70(a)(2).) County auditors are then required to allocate the money in the Vehicle License Fee Property Tax Compensation Fund to each city in the county and the county itself with each entity receiving its respective vehicle license fee adjustment amount ("VLFAA"). (Rev. & Tax Code, § 97.70(b).)

The Legislature expressly declared that the purpose of the VLF Swap set forth in SB 1096 was to ensure that cities and counties receive property tax revenue in an amount equal to the revenue that these entities would have received under the prior VLF Law:

SEC. 46. This measure provides ad valorem property tax revenues in lieu of moneys that were required to be allocated to cities, counties, and cities and counties for the 2004–05 fiscal year and each fiscal year thereafter under the Vehicle License Fee Law, as that law read before the effective date of this act. Because this act will take effect after the beginning of the 2004–05 fiscal year, these entities will continue to receive certain moneys under the Vehicle License Fee Law for a portion of the 2004–05 fiscal year.

Therefore, it is the intent of the Legislature to enact legislation to ensure that cities, counties, and cities and counties receive an amount of money equal to the moneys that these entities would have received under the Vehicle License Fee Law for the 2004–05 fiscal year, as that law read before the effective date of this act.

Less than two months later, the Legislature approved AB 2115, which referred to the prior passage of SB 1096, and confirmed the Legislature’s intent to replace MVLF with VLFAA, *i.e.*, property tax revenue in lieu of MVLF:

(b) (1) Chapter 211 of the Statutes of 2004 added Section 97.70 to, amended Section 10754 of, and repealed Section 11000 of, the Revenue and Taxation Code. The amendments made to Section 10754 of, and the repeal of Section 11000 of, the Revenue and Taxation Code deleted provisions relating to allocations of state General Fund revenues that were previously required to be made to cities, counties, and cities and counties to compensate these entities for revenue losses resulting from offsets to the vehicle license fee. Beginning with the 2004–05 fiscal year, Section 97.70 of the Revenue and Taxation Code provides ad valorem property tax revenues to cities, counties, and cities and counties in lieu of these allocations of state General Fund revenues.

(2) Therefore, it is the intent of the Legislature in enacting this act and Chapter 211 of the Statutes of 2004 to ensure that, for the 2004–05 fiscal year and each fiscal year thereafter, no state General Fund revenues be allocated to cities, counties, and cities and counties to compensate these entities for offsets to the vehicle license fee, except as otherwise provided by Section 10754.11 of the Revenue and Taxation Code.

Neither SB 1096 nor AB 2115 reflected any intent by the Legislature to provide any city or county with less money than they would have received under the prior VLF law.

C. To Service Bankruptcy Related Debt, Orange County Received \$54 Million Of Its VLF As MVLF and the Rest As Property Tax (VLFAA)

Orange County received \$54 million less in Property Tax (VLFAA) in the 2004 VLF/Property Tax swap due to the fact that a portion of Orange County’s VLF was pledged to repay Bankruptcy Debt. The County should not be singled out among the 58 counties in the State by receiving less in VLFAA than it is due. AB 2115 (2004) provided the Orange County with a permanent VLF allocation of \$54 million annually (plus growth) dedicated first to Debt Service and then as a General County Revenue. The State has now appropriated these funds and disadvantaged the County relative to all other counties in the State. SB 89 (2011) reduces County of Orange VLF by \$48 million and the County has begun to implement budget reductions to Public Health and Safety budgets.

FISCAL IMPACT:

\$48 million restoration.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Use specific language as presented on ABX1 43.

SEC 2. Section 97.70 of the Revenue and Taxation Code is amended to read:

97.70.

Notwithstanding any other provision of law, for the 2004–05 fiscal year and for each fiscal year thereafter, all of the following apply:

(a) (1) (A) The auditor shall reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a county's Educational Revenue Augmentation Fund by the countywide vehicle license fee adjustment amount.

(B) If, for the fiscal year, after complying with Section 97.68 there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subparagraph (A), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide vehicle license fee adjustment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subparagraph, "school districts" and "community college districts" do not include any districts that are excess tax school entities, as defined in Section 95.

(2) The countywide vehicle license fee adjustment amount shall be allocated to the Vehicle License Fee Property Tax Compensation Fund that shall be established in the treasury of each county.

(b) (1) The auditor shall allocate moneys in the Vehicle License Fee Property Tax Compensation Fund according to the following:

(A) Each city in the county shall receive its vehicle license fee adjustment amount.

(B) Each county and city and county shall receive its vehicle license fee adjustment amount.

(2) The auditor shall allocate one-half of the amount specified in paragraph (1) on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.

(c) For purposes of this section, all of the following apply:

(1) "Vehicle license fee adjustment amount" for a particular city, county, or a city and county means, subject to an adjustment under paragraph (2) and Section 97.71, all of the following:

(A) For the 2004–05 fiscal year, an amount equal to the difference between the following two amounts:

(i) The estimated total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Pt. 5 (commencing with Section 10701) of Div. 2) was 2 percent of the market value of a vehicle, as specified in Section 10752 and 10752.1 as those sections read on January 1, 2004.

(ii) The estimated total amount of revenue that is required to be distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this clause.

(B) (i) Subject to an adjustment under clause (ii), for the 2005–06 fiscal year, the sum of the following two amounts:

(l) The difference between the following two amounts:

~~(la)~~ **(ia)** The actual total amount of revenue that would have been deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund, including any amounts that would have been certified to the Controller by the auditor of the County of Ventura under subdivision (j) of Section 98.02, as that section read on January 1, 2004, for distribution under the law as it read on January 1, 2004, to the county, city and county, or city for the 2004–05 fiscal year if the fee otherwise due under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2) was 2 percent

of the market value of a vehicle, as specified in Sections 10752 and 10752.1 as those sections read on January 1, 2004.

~~(1b)~~ **(ib)** The actual total amount of revenue that was distributed from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the county, city and county, and each city in the county for the 2004–05 fiscal year under Section 11005, as that section read on the operative date of the act that amended this sub-subclause.

(II) The product of the following two amounts:

~~(IIa)~~ **(ia)** The amount described in subclause (I).

~~(IIb)~~ **(ib)** The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(ii) The amount described in clause (i) shall be adjusted as follows:

(I) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is greater than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be increased by an amount equal to this difference.

(II) If the amount described in subclause (I) of clause (i) for a particular city, county, or city and county is less than the amount described in subparagraph (A) for that city, county, or city and county, the amount described in clause (i) shall be decreased by an amount equal to this difference.

(C) For the 2006–07 fiscal year and for each fiscal year thereafter, the sum of the following two amounts:

(i) The vehicle license fee adjustment amount for the prior fiscal year, if Section 97.71 and clause (ii) of subparagraph (B) did not apply for that fiscal year, for that city, county, and city and county.

(ii) The product of the following two amounts:

(I) The amount described in clause (i).

(II) The percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years. For the first fiscal year for which a change in a city's jurisdictional boundaries first applies, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated solely on the basis of the city's previous jurisdictional boundaries, without regard to the change in that city's jurisdictional boundaries. For each following fiscal year, the percentage change in gross taxable assessed valuation from the prior fiscal year to the current fiscal year shall be calculated on the basis of the city's current jurisdictional boundaries.

(2) For the 2011–12 fiscal year, the vehicle license adjustment amount that is determined under subparagraph (C) of paragraph (1) for the County of Orange shall be increased by forty-eight million dollars (\$48,000,000). For the 2012–13 fiscal year and each fiscal year thereafter, the calculation of the vehicle license fee adjustment amount for the County of Orange under subparagraph (C) of paragraph (1) shall be based on the prior fiscal year amount that reflects the increase in this subparagraph.

(3) "Countywide vehicle license fee adjustment amount" means, for any fiscal year, the total sum of the amounts described in ~~paragraph (1)~~ **paragraphs (1) and (2)** for a county or city and county, and each city in the county.

(3)-(4) On or before June 30 of each fiscal year, the auditor shall report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.

Approved as to form:
County Counsel

By Mark Servino
Senior Deputy County Counsel

POTENTIAL SUPPORT:

CSAC, UCC.

POTENTIAL OPPOSITION:

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

ABX1 43 made it out of Assembly Revenue & Taxation 7- 0; then it passed out of Assembly Appropriations with one "no" vote; and the bill passed off the assembly floor 48-2 to the Senate. However, Senate Pro Tempore Steinberg sent it to Senate Rules, where it died.

Assembly Member Jose Solorio met with the Senator Steinberg who indicated that he would be open to revisiting the issue in January, as part of a "global fix."

PERSONS RESPONSIBLE FOR TESTIMONY:

Donna Grubaugh, Director, Legislative Affairs

County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2011-2012 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218

Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: COST OF LIVING ADJUSTMENT (COLA) – AFTER 12 MONTHS

AFFECTED DEPARTMENT(S)/AGENCY(IES):

County of Orange Employees.

CODE SECTION AFFECTED:

Section 31870, 31870.1, and 31870.2

DESCRIPTION OF CURRENT LAW:

Currently OCERS retirees can retire on March 31st and receive their first post-retirement three percent COLA the next day, April 1st.

PROPOSAL:

Amend the 1937 Act to require a 12-month delay regarding COLA benefits for future retirees of Orange County.

DISCUSSION:

The California Public Retirement System (CalPERS) requires a delay of more than 12 months before a retiree is eligible for a COLA. The 1937 Act would need to be amended to require a 12-month delay regarding COLA benefits for retirees of local governments.

FISCAL IMPACT:

The impact would be a three percent lower pension for most future retirees. Estimated County pension cost reduction: \$15 million per year.

PROPOSED SPECIFIC LANGUAGE:
(As approved by County Counsel)

Draft Change to the 1937 Act - COLA – After 12 Months

- (a) No member shall be eligible to receive an annual cost of living increase as provided for in Sections 31870, 31870.1, and 31870.2 until at least 12 months from the date of that member's retirement and the member is only eligible to receive an adjustment based on the preceding 12 months.

This section shall not be operative until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable.

- (b) This section shall be applicable to members who retire on or after the effective date of the resolution described in subsection (a).

- (c) The provisions of this section shall apply only to the members who have been employees or officials of the County of Orange, with respect to the portion of their allowance attributable to such service, and do not apply to any portion of an allowance attributable to a member's service as an employee or officials of any other district or entity within or without the Orange County Employees Retirement System.

Approved as to form:
County Counsel

by Nikhil Daftary
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown at this time.

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None.

PERSONS RESPONSIBLE FOR TESTIMONY:

Donna Grubaugh, Director, Legislative Affairs

County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2011-2012 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218

Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: **SUPPLEMENTAL TARGETED ADJUSTMENT FOR RETIREES (STAR-COLA)**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

County of Orange Employees.

CODE SECTION AFFECTED:

Amend Government Code Section 31874.3.

DESCRIPTION OF CURRENT LAW:

The Supplemental Targeted Adjustment for Retirees Cost of Living Adjustment (STAR COLA) functions to supplement a retiree's pension if they have lost 20 percent or more of the retiree's original purchasing power. This is an optional benefit which is granted on an annual basis by the Board of Retirement. The benefit is not cumulative and must be granted each year by the Board of Retirement.

PROPOSAL:

This proposal would amend the 1937 Act to give the Board of Supervisors the discretion to "freeze" the STAR COLA amounts only to those members who currently receive the benefit and would not allow new members or increases in the benefit if the retirement system is not fully funded.

DISCUSSION:

At the present time, STAR COLA applies only to employees who retired on or before April 1, 1981 (the "Pre-1981 Group") or to their qualified survivors. These employees retired at a time of high inflation and, as a result, dropped below the 80 percent threshold in loss of purchasing power.

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE: (As approved by County Counsel)

Section 31874.3 a)(1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund. **If the retirement system is not fully funded, or if the granting of this benefit will require additional County contributions or create an unfunded liability, the Board of Supervisors may adopt a resolution precluding the Board of Retirement from granting this benefit to new members and limiting the benefit to the amount members would be eligible to receive at the date of the resolution if granting the benefit would require additional contributions or create an unfunded liability for the respective County participating in the retirement system.**

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b)(1) The board of retirement may, instead of taking action pursuant to subdivision (a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision. **If the retirement system is not fully funded, or if the granting of this benefit will require additional County contributions or create an unfunded liability, the Board of Supervisors may adopt**

a resolution precluding the Board of Retirement from granting this benefit to new members and limiting the benefit to the amount members would be eligible to receive at the date of the resolution if granting the benefit would require additional contributions or create an unfunded liability for the respective County participating in the retirement system.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c)(1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision. **If the retirement system is not fully funded, or if the granting of this benefit will require additional County contributions or create an unfunded liability, the Board of Supervisors may adopt a resolution precluding the Board of Retirement from granting this benefit to new members and limiting the benefit to the amount members would be eligible to receive at the date of the resolution if granting the benefit would require additional contributions or create an unfunded liability for the respective County participating in the retirement system.**

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the

retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 (commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618.

Approved as to form:
County Counsel

by Nikhil Daftary
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown at this time.

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

No legislation has been enacted.

PERSONS RESPONSIBLE FOR TESTIMONY:

Donna Grubaugh, Director, Legislative Affairs

County Executive Office

**PROPOSAL FOR COUNTY SPONSORED LEGISLATION
2011-2012 LEGISLATIVE SESSION**

AGENCY/DEPARTMENT: COUNTY EXECUTIVE OFFICE

CONTACT PERSON: Donna Grubaugh Phone: 714.834.7218

Fax: 714.834.7650 email address: Donna.Grubaugh@ocgov.com

SUBJECT: **OC BOARD OF SUPERVISORS RETIREMENT**

AFFECTED DEPARTMENT(S)/AGENCY(IES):

Members newly elected to the Orange County Board of Supervisors on or after January 1, 2012.

CODE SECTION AFFECTED:

Section 31553. ; create new Section 31553.7

DESCRIPTION OF CURRENT LAW:

Orange County's retirement system is established pursuant to the County Employees Retirement Law of 1937 (CERL). According to the provisions of CERL, once a retirement system is established all officers and employees of the participating County (other than employees which CERL expressly allows to be excluded) and all elected officials that choose to be members are to become members of the retirement system. Currently, there is no authority in CERL for the exclusion of elected officials. In absence of specific statutory authority permitting the exclusion of elected officers, neither the Board of Retirement nor the Board of Supervisors may take such an action.

PROPOSAL:

Amend the 1937 Act so that a person elected to the Orange County Board of Supervisors, on or after January 1, 2012, shall not become a member of OCERS and shall not acquire any retirement right or benefit for serving in that elective office.

DISCUSSION:

On October 18, 2011, the Orange County Board of Supervisors voted that newly elected members of the Board of Supervisors (as of January 1, 2012) must participate in Social

Security as their defined benefit plan and are no longer eligible to participate in the Orange County Employees Retirement System (OCERS).

Legislation is needed to provide statutory authorization to be added to CERL allowing the exclusion of these elected officers from OCERS. The authorization the County will seek would allow the exclusion from membership of future elected officers who are not participating in nor have the option to participate in OCERS both at the time the exclusion is adopted and immediately prior to taking elective office. Members will not receive credited service by virtue of serving on the Orange County Board of Supervisors. The legislation would be applicable only to Orange County.

FISCAL IMPACT:

Unknown at this time.

PROPOSED SPECIFIC LANGUAGE:

(As approved by County Counsel)

Section 31553.7 is added to the Government Code, to read:

(a) Notwithstanding any other law, a person who is publicly elected to the Board of Supervisors, on and after January 1, 2012, shall not become a member of a retirement system established under this chapter by virtue of that service and shall not acquire any retirement right or benefit for serving in that elective office. This section shall apply equally to a person who is appointed to fill the term of a person so elected.

(b) This section shall not apply to a person who obtained membership by virtue of holding an elective local office prior to January 1, 2012, for so long as he or she holds that office or is reelected to that office.

(c) Notwithstanding any other law, a person described in Section 31553.7 shall not be credited with service, as described in Section 31641, by virtue of serving on the Board of Supervisors.

(d) This section shall only apply to Orange County.

Approved as to form:
County Counsel

by Nikhil Daftary
Deputy County Counsel

POTENTIAL SUPPORT:

Unknown at this time.

POTENTIAL OPPOSITION:

Unknown at this time.

RECENT LEGISLATIVE ACTION ON THIS ISSUE:

None.

PERSONS RESPONSIBLE FOR TESTIMONY:

Donna Grubaugh, Director, Legislative Affairs

County Executive Office

COUNTY OF ORANGE
COUNTY-SPONSORED STATE LEGISLATIVE PROPOSALS – CONTINUING

HABITAT MITIGATION/FINANCIAL ASSURANCE

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

Update and Approach:

Chair Bates and Supervisor Campbell met with Secretary Chrisman in January 2009 regarding the habitat mitigation issue as it relates to financial assurance being required by the Department of Fish & Game and the overall negative financial impact to the County. The Board and County Agencies/Departments have continued to work extensively with the California Department of Fish and Game throughout the year seeking a mutually acceptable alternative solution(s).

Recommended Action:

Progress has been slow and the County is working with its advocates in Sacramento to find an author to bring this issue before the Legislature.

EXTEND SUNSET IN THE HEALTH AND SAFETY CODE FOR ADMINISTRATION OF PUBLIC HEALTH EMERGENCY PREPAREDNESS FUNDS

The proposed legislation would extend the sunset date in Section 101320 to September 1, 2017. This section of statute is necessary for the timely and efficient administration of county public health emergency preparedness programs. A five-year sunset period would increase the stability of the program.

Update and Approach:

This proposal was delayed a year because it was on its first year of a two-year renewal. This proposal may be sponsored by California Health Care Executives Association of California (CHEAC) and/or the Health Officers Association of California (HOAC).

Recommended Action:

Support CHEAC and HOAC in obtaining a five-year extension to 2017 for these public health emergency funds. Or, in the alternative, find an author to extend the sunset of these funds to 2017.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION

This proposal would add certain additional statutory exemptions for public park projects which will either replace existing park-related facilities or remove non-park facilities with park-related improvements.

Update and Approach:

Progress was made on CEQA exemptions in 2011 for the constructions of football stadiums.

Recommended Action:

Continue to work with our advocates in Sacramento to develop a solution to ease certain statutory exemptions for public park projects, which will either replace existing park-related facilities or remove non-park facilities with park-related improvements.

CHILD CARE FUNDING

In order for Counties to receive the federal match for child care for foster children, California Welfare and Institutions Code Section 11410(c) requires counties to use only County funds.

This proposal would amend Section 11410(c) and Section 15200.5, add Section 11410.5 of the Welfare and Institutions Code to expressly authorize the use of either County funds or California Department of Education (CDE) non-maintenance of effort (MOE) funds for purposes of claiming the Title IV-E 50-percent federal match for foster child care.

Update and Approach:

The County with the assistance of its Sacramento advocates has continued to educate and explain this proposal to the Legislature. The California Welfare Directors Association (CWDA) has taken an interest in this proposal and will most likely support it. The County strengthened the language to clarify that only state non-MOE child care and afterschool funds could be used for the non-federal match to Title IV-E. The County added language to state that no other state general funds are allowed for the purpose of the non-

federal match for Title IV-E child care. Clarified the language in the proposal so it is clear that the state child development funds are already used for this same purpose.

Recommended Action:

Continue to work with our Sacramento advocates to obtain and author.



COUNTY OF ORANGE

County-Sponsored Federal Legislative Proposals

COUNTY OF ORANGE
COUNTY-SPONSORED FEDERAL LEGISLATIVE PROPOSALS – CONTINUING

DISCOUNT DRUG PRICING

Section 340B makes discount pricing available for covered outpatient drugs for certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals. It is also available to certain programs that provide services for targeted indigent populations. As one example, 340B pricing is available for HIV/AIDS patients receiving their drugs through the AIDS Drug Assistance Program (ADAP).

This proposal would revise the criteria for receiving 340B drug pricing to include County operated clinics or County-contracted providers.

Update and Approach:

The County continues to support this proposal. This discount pricing is available to counties with hospitals and Federal Qualifies Health Clinics (FQHCs). The estimated savings to the County is approximately \$10 million per year.

Recommended Action:

Continue to work with our Federal advocate to have Section 340B discount drug pricing available to the County.



COUNTY OF ORANGE

2013 Federal Energy and Water Projects

COUNTY OF ORANGE
2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECTS
EXECUTIVE SUMMARY

The following is a summary on each of the County's projects of significance. For next fiscal year, there are six projects, which are listed in priority order. While the County is hopeful that all projects can receive funds in the upcoming year, the realities of the continued economic climate, limited fiscal resources and the task of prioritizing projects by the federal government make it likely that few will receive federal funding.

SANTA ANA RIVER PROJECT

The Santa Ana River Mainstem Project, including Prado Dam (Project), was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996. The Project involves construction, acquisition of property rights, relocations, and environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, along with the Department of the Army, for implementing the Project. To date, the Federal Government and the flood control districts of the impacted counties have spent over \$1 billion on the Project. Major project accomplishments include the completion of Seven Oak Dam, raising of the Prado Dam embankment and construction of many miles of bank protection.

ALISO CREEK, ORANGE COUNTY, CA (SECTION 5158)

The planned project, also called Aliso Creek S.U.P.E.R. Project, incorporates and expands upon the Aliso Creek Mainstem Project (submitted as a separate appropriations project, see below) by proposing a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek watershed. The stabilization and ecosystem restoration component will include constructing a series of low riprap grade control structures and re-establishment of aquatic habitat connectivity, invasive species removal and riparian re-vegetation. The water quality treatment and beneficial use component includes diversion of the low flows, treatment of the water to beneficial use standards, and the sale of that water to users in the watershed for irrigation. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

WESTMINSTER, EAST GARDEN GROVE WATERSHED STUDY

This cost-share study between U.S. Army Corps of Engineers and Orange County (shared 50/50) is to address flood damages along the East Garden Grove-Wintersburg

Channel and associated aging levee system affect residences and businesses in 11 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program while thousands of additional property owners, valuable coastal habitat and water quality are also in jeopardy from flooding impacts. Since inception of the project, significant progress has been made on the study. With continued Federal support, it is anticipated that the study could be completed in the next fiscal year

SAN JUAN CREEK WATERSHED STUDY

A feasibility study for this project is required by the U.S. Army Corps of Engineers for implementing capital projects. Currently, the project has now moved into what the Corps calls a “spin-off” study. This spin-off study, which is shared 50/50 between the Corps and Orange County, is a focused study of flood control and ecosystem restoration alternatives for the watershed in the cities of Dana Point and San Juan Capistrano. Significant progress has been made on the study and could be completed next fiscal year with continuing Federal support.

SERRANO-BORREGO CORRIDOR FEASIBILITY STUDY

A feasibility study for Serrano-Borrego Corridor is needed to analyze specific projects for ecosystem restoration, as well as protect the Upper Newport Bay from harmful upstream impacts. The recently drafted Newport Bay-San Diego Creek Watershed Feasibility Study has identified a number of potential projects in the Serrano-Borrego Corridor, making the Corridor the top priority project from the Study. Serrano and Borrego Creeks contribute a large quantity of sediment to the Upper Newport Bay Ecological Reserve, affecting water quality and habitat in this rare coastal wetland providing critical habitat for a variety of migratory waterfowl traveling along the Pacific Flyway, shorebirds, and endangered species of birds and plants.

ALISO CREEK MAINSTEM, ORANGE COUNTY, CA

The goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem. It is also intended to produce an implementation document for authorization by Congress, as well as serve as an aid to local, state, and federal agencies involved in management and regulatory decisions that can impact the watershed.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Santa Ana River Project
Exact Location/Address:	Santa Ana River within Orange, Riverside and San Bernardino Counties

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Director/Chief Engineer
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

The Santa Ana River Mainstem Project (Project) is being constructed to address what the U.S. Army Corps of Engineers identified in the 1980's as 'the worst flood threat west of the Mississippi River' – which then impacted three million people and 110,000 acres located in the three Southern California counties of Orange, Riverside, and San Bernardino. It was estimated that a significant flood event on the Santa Ana River would cause a loss of 3,000 lives and \$15 billion in economic losses (1987-8 price levels).

The Project was authorized under the Water Resources Development Act (WRDA) of 1986, and Section 309 of WRDA, 1996. The Project involves construction, acquisition of property rights, relocations, environmental mitigation and enhancement in Orange, Riverside, and San Bernardino counties. The flood control districts of these counties are the Local Sponsors who are responsible, with the Department of the Army, for implementing the Project. To date, the Federal Government and the flood control districts of the impacted counties have spent over \$1.1 billion on the Project. Major project accomplishments include the completion of Seven Oaks Dam, raising of the Prado Dam embankment and construction of many miles of bank protection. Continued funding is necessary to complete the Project and ensure the level of protection as planned. Project completion is even more important now than when started in 1990, given the significant growth in population, land and structures value, and dependency on affected transportation routes.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Aliso Creek, Orange County, CA (Section 5158)
Exact Location/Address:	Laguna Niguel, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange CA 92865
Telephone:	714-955-0601
Email:	Maryanne.skorpanich@rdmd.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Rapid urbanization of the Aliso Creek watershed has led to a variety of erosion and water quality problems. In response to this, federal, state and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water and wastewater infrastructure and mitigate ongoing environmental degradation to the downstream Aliso Wood Canyon Wilderness Park area. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms as well as dry weather.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This study was sponsored by the Corps, County, municipalities and water districts within the Aliso Creek watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems as well as opportunities. The identified problems including water quality, instability of the creek, loss of ecosystems, and damage from flooding.

In 2002, the Corps completed the Aliso Creek Watershed Management Study to examine management measures that could address the various watershed problems identified in a “spin-off” feasibility study. The management study selected the measures that best meet the federal and local need. The Aliso Creek Mainstem Ecosystem Restoration Study was one of the recommended “spin-off” feasibility studies resulting from the management study. The Corps’ contractor (Tetra Tech), who prepared the Aliso Creek Watershed Management Study, revised the project by adding a water quality and utility protection feature to address stakeholder input.

This project proposes a multi-objective approach to provide water quality benefits, stream bank stabilization, utility infrastructure protection, and ecosystem restoration in the Aliso Creek watershed. The stabilization and ecosystem restoration component of the project will include: constructing a series of low riprap grade control structures and re-establishment of aquatic habitat connectivity; shaving of slide slopes to reduce vertical banks; invasive species removal and riparian re-vegetation and restoration of floodplain moisture. The infrastructure protection component of the project will include locking the low flow channel in place through placement of rock at the toe of the channel and soil wraps above the rock. The water quality treatment and beneficial use component of the project includes diversion of the low flows, treatment of the water to beneficial use standards, and the sale of the treated water to users in the watershed for irrigation.

Improvements anticipated from the study include relief from degradation of the creek and restoration of native habitat. Protection for important coastal wetlands downstream will benefit from improved water quality and ecosystem functioning. A localized treatment system further downstream will protect recreational users from unhealthful bacteria along the beach.

In WRDA 2007, Section 5158-Additional Assistance for Critical Projects provided a \$5,000,000 project limit for a Section 219 Environmental Infrastructure Project titled *Aliso Creek, Orange County, CA*. This program provides a more direct path to implementing a project that addresses long standing issues of concern. Advancing the project in a timely manner to construction would result in an overall savings in costs by reducing the amount of monies spent on studies, staffing resources, and emergency stop gap repairs. Under the Environmental Infrastructure account, the project can include more effective components to improve beach water quality.

Federal assistance would:

- Allow the local sponsor and Corps to execute a cost sharing agreement;
- Allow local sponsor to utilize \$8,000,000 of cost share funds before some grant monies expire; and
- Expedite project implementation; construction completed as early as 2014.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Westminster-East Garden Grove Watershed Study
Exact Location/Address:	Includes 74 square miles in the cities of Anaheim, Stanton, Cypress, Garden Grove, Westminster, Fountain Valley, Los Alamitos, Seal Beach and Huntington Beach

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Director/Chief Engineer
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Flood damages along the East Garden Grove-Wintersburg Channel and associated aging levee system affect residences and businesses in 11 Orange County cities within a 74 square mile watershed. Because of local flood risks, over 20,000 property owners must participate in the National Flood Insurance Program while thousands of additional property owners, valuable coastal habitat and water quality are also in jeopardy from flooding impacts. Accordingly, the U.S. Army Corps of Engineers (Corps) and Orange County entered into a cost share agreement to develop solutions for more comprehensive flood protection with the additional objectives of ecosystem restoration and water quality improvement. The cost of the watershed study is shared 50/50 between the Corps and Orange County. Since inception of the project, significant progress has been made on the study. With continued Federal support, it is anticipated that the study could be completed in Federal Fiscal Year 2014.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	San Juan Creek Watershed Study
Exact Location/Address:	San Juan Capistrano, California

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Ignacio Ochoa, Director/Chief Engineer
Organization:	Orange County Public Works Department
Address:	300 N. Flower Street, Santa Ana, CA 92703
Telephone:	(714) 667-3213
Email:	Ignacio.Ochoa@ocpw.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Lower San Juan Creek, through the City of San Juan Capistrano, has a history of flooding problems. To date, the flooding problems have been a result of breakage of the levee walls at multiple locations from flood events significantly less than a 100-year flood event. In addition to the structural inadequacies of the 1960s unreinforced concrete slope lining, the flood control channel is lacking in flood control capacity and will be significantly overtopped in a 100-year flood event.

A feasibility study for this project is required by the U.S. Army Corps of Engineers (Corps) for implementing capital projects. Currently, the project has now moved into what the Corps calls a “spin-off” study, which is a focused study of flood control and ecosystem restoration alternatives for the watershed in the cities of Dana Point and San Juan Capistrano. The cost of the spin-off study is shared 50/50 between the Corps and Orange County. Since inception of the project, significant progress has been made on the study. With continued Federal support, it is anticipated that the study could be completed in Federal Fiscal Year 2014.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Serrano-Borrego Corridor Feasibility Study
Exact Location/Address:	Serrano Creek between Trabuco Road and Dimension Ave. in the City of Lake Forest, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange CA 92865
Telephone:	714-955-0601
Email:	Maryanne.skorpanich@rdmd.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Background: The U.S. Army Corps of Engineers recently completed the \$48M, 5-year Upper Newport Bay Ecosystem Restoration Project which included dredging 2.3 million cubic yards of sediment from the Bay. Serrano and Borrego Creeks contribute a large quantity of sediment to the Bay, affecting water quality (Sediment TMDL) and habitat in this rare coastal wetland. Severely eroding slopes are potentially endangering homes and infrastructure. Federal assistance is requested to support multiple local jurisdictions in solving this watershed-wide problem to minimize dredging costs in 20 years from now.

Summary: The recently drafted Newport Bay-San Diego Creek Watershed Feasibility Study (Serrano Creek and Borrego Wash are located within this watershed), identified priority projects to address hydrologic changes from rapid development creating problems such as environmental degradation, habitat loss, water pollution, and erosion. To date the study has identified a number of potential projects in the Serrano-Borrego Corridor, making this the top priority project recommended for spin-off from this Study. With federal funding, a Feasibility Study can be completed to analyze specific projects for ecosystem restoration.

National Significance: Upper Newport Bay Ecological Reserve is one of the last remaining coastal wetlands in Southern California. It plays a significant role in providing critical habitat for a variety of migratory waterfowl traveling along the Pacific Flyway, shorebirds, and endangered species of birds and plants. Implementation projects analyzed in this study will protect the Bay from harmful upstream impacts, as well as provide ecosystem restoration in the upper watershed.

FISCAL YEAR 2013 FEDERAL ENERGY AND WATER DEVELOPMENT PROJECT

1. PROJECT:

Project Name:	Aliso Creek Mainstem, Orange County, CA
Exact Location/Address:	Laguna Niguel, CA

2. CONTACT INFORMATION:

Local Contact Information:	
Name and Title:	Mary Anne Skorpanich, Director
Organization:	County of Orange/OC Watersheds
Address:	2301 North Glassell Street, Orange CA 92865
Telephone:	714-955-0601
Email:	Maryanne.skorpanich@rdmd.ocgov.com

3. EXECUTIVE SUMMARY, INCLUDING PROJECT BACKGROUND:

Rapid urbanization of the Aliso Creek watershed has led to a variety of erosion and water quality problems. In response to this, federal, state and local government agencies and local utility districts have invested significant time and resources toward the development and implementation of a collection of projects to protect transportation, water and wastewater infrastructure and mitigate on-going environmental degradation to the downstream Aliso Wood Canyon Wilderness Park area. Concurrently, the creek and coastal zone environment and its other beneficial uses are impaired by poor water quality with the repeat occurrence of bacterial contamination during storms, as well as dry weather.

Over the last decade, the U.S. Army Corps of Engineers (Corps) has completed several independent and cost-shared studies evaluating the problems in Aliso Creek. Several opportunities and project alternatives have been identified that are viable from an engineering, environmental, and economic perspective.

In 1999, the Corps began the Aliso Creek Watershed Management Plan. This plan was sponsored by the Corps, County, municipalities and water districts within the Aliso Creek watershed. A public stakeholder group was formed and met on a regular basis to provide input to the Corps for three years. A wide range of technical studies on overall watershed conditions were completed as part of the Plan, which identified a number of watershed problems as well as opportunities. The identified problems included water quality, instability of the creek, loss of ecosystems, and damage from flooding.

In 2002, the Corps completed the Aliso Creek Watershed Management Plan. The Plan recommended the pursuit of certain improvement measures that could address the various identified watershed problems. One of the improvement measures highlighted in the Aliso Creek Watershed Management Plan was the Aliso Creek Mainstem Ecosystem Restoration project.

In order to pursue this improvement project, a “spin-off” feasibility study (from the Aliso Creek Watershed Management Plan) was recommended to address in greater detail the best practices and alternatives for the Aliso Creek Mainstem Ecosystem Restoration project. This “spin-off” feasibility study is called The Aliso Creek Mainstem Ecosystem Restoration Study.

In September 2004, a Federal Cost Sharing Agreement was signed between the Corps and the County of Orange to conduct the 3-year Aliso Creek Mainstem Ecosystem Restoration Feasibility Study.

The specific goal of the feasibility study is to refine the detailed existing hydrologic/hydraulic model and create detailed design for modifications (stream bank stabilization structures and appurtenant features for ecosystem restoration) to be implemented along the Aliso Creek Mainstem, and potentially tributaries, which will restore stability to the riverine system and allow restoration of the ecosystem along the creek and tributaries to conditions found prior to initiation of the recent instability problem.

Various ecosystem restoration alternatives will be analyzed in order to generate sufficient information to make a determination of which alternative generates the most cost-effective means to the greatest benefit to the ecosystem. An incremental analysis of alternatives will be conducted, and all plan selection criteria will be discussed, as well as detailed cost estimates generated. Constructability and implementation issues will also be resolved. Any potential economic benefits of each alternative will be quantified and included as benefits of the various alternatives.

The feasibility study is intended to produce an implementation document for authorization by Congress. This study can also serve as an aid to local, state, and federal agencies involved in future management and regulatory decisions that impact the watershed. The feasibility phase will build on the efforts of the prior reconnaissance and watershed management (feasibility phase) studies, which utilized both existing data to generate a model of existing and future “without-project” conditions.

The Corps recently completed the Baseline Without Project Conditions Report (F3 Report). The F3 Report included a review of existing and future without project conditions, definition of study objectives, and development of a preliminary array of ecosystem restoration alternatives.