



County of Los Angeles CHIEF EXECUTIVE OFFICE

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August 29, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains information on the following:

- **Workers' Compensation Proposed Overhaul. SB 863 (De León)** would seek to reform the workers' compensation system by reducing administrative, legal and medical costs in order to fund benefit increases to injured employees. The bill would address key issues including system complexity, inefficiencies, and purported inadequacy of permanent disability benefits. This plan would streamline the workers' compensation system and is projected to yield up to \$1.3 billion in statewide savings a year, of which approximately \$750 million would be used to increase permanent disability benefits. This office is working with affected departments on further legislative, policy, and fiscal analysis to determine potential implications of this reform.
- **Status of County-Advocacy Legislation**
 - **County-opposed AB 845 (Ma)** – related to prohibitions on restricting the importation of solid waste passed the Assembly and now proceeds to the Governor.

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- **County-opposed AB 1670 (Lara)** – related to the nomination by non-resident heirs of individuals to administer decedents' estates passed the Assembly and now proceeds to the Governor.
- **County-supported AB 1872 (Alejo)** – related to nutritional requirements for family child care homes passed the Senate and now proceeds to the Assembly for concurrence in Senate amendments.
- **County-opposed AB 2451 (Pérez)** – related to the extension of the statute of limitations for death benefits for firefighters and peace officers passed the Assembly and now proceeds to the Governor.
- **County-opposed SB 1201 (De León)** – related to the addition of language to the intent provisions of the Los Angeles Flood Control Act was signed by the Governor.
- **Legislation of County Interest**
 - **SB 1156 (Steinberg)** – related to the creation of authorities to carry out Community Redevelopment Law passed the Assembly and now returns to the Senate for concurrence in Assembly amendments.

Preliminary Overview of Workers' Compensation Overhaul

SB 863 (De León), which was introduced on August 24, 2012 and amended August 27, 2012, would seek to reform the workers' compensation system to address criticisms of system complexity, inefficiencies, inadequacy of permanent disability benefits, and delays in benefit delivery and resolution. The bill contains approximately 45 reform points to streamline key areas of the workers' compensation system. Based on an earlier draft of this measure, the State Department of Industrial Relations (DIR), which supports the comprehensive reform plan, estimates that these measures would yield up to \$1.3 billion in statewide savings a year. However, according to various news accounts, the projected savings may be overstated.

Under current law, the workers' compensation system establishes benefits for employees who sustain injuries in the course of their employment. With some provisions taking effect as early as January 1, 2013, SB 863 would reform specified system functions including: 1) timelines and uniformity in the medical dispute process;

2) requirements to have medical professionals determine disability; and 3) the permanent disability (PD) benefits system, among others. SB 863 also would revise the method for determining PD benefits, increasing benefits from current maximums of \$230 to \$270 a week, depending on the severity of disability, to a maximum weekly rate of \$290 for all cases. In order to fund the proposed increased benefits, this measure would reduce administrative, legal and medical costs with provisions such as:

- Requirements for defined disability determinations;
- Restrictions on medical professionals that can make referrals;
- Streamlining the medical care dispute process;
- Transitioning to an official medical fee schedule;
- Restrictions for out-of-network medical treatment; and
- Billing system reforms.

According to the State Department of Industrial Relations, SB 863 attempts to address both key employer and labor issues, including system complexity; non-medical professionals making medical decisions; unnecessary medical treatments, which are often self-procured; delays in benefit delivery and resolution; and inadequacy of PD benefits. The DIR reports that in 2011 California employers paid \$16.2 billion for workers' compensation. Industry analysts predict on-going increases, and the Workers' Compensation Insurance Rating Bureau recommended a 12.6 percent boost in premiums.

In addition, SB 863 would require the Commission on Health and Safety and Workers' Compensation to conduct an examination of public self-insured programs, such as the County's. The examination would require that public self-insured employers provide the DIR with data to evaluate cost of administration, solvency, and performance. The Commission's preliminary draft report, due by October 1, 2013, and their final report due December 31, 2013, would be posted online and would include recommendations for improvement.

While the State Department of Industrial Relations estimates that SB 863 would mitigate system increases and yield overall system savings, the Workers' Compensation Insurance Rating Bureau released a preliminary analysis indicating projected savings may be overstated.

Based on a preliminary review, the Chief Executive Office Risk Management Branch (CEO-RMB) notes that while streamlining the workers' compensation system should yield savings, there is no set guarantee to the amount. The projected system-wide savings provided by the DIR are estimates worked out with limited data and limited time for analysis, and it is possible the savings may be overstated. In addition, the

evaluation may have failed to consider the cost of establishing the revised system processes and overestimated savings related to benefit restrictions. Regarding the proposed examination of public self-insured programs, CEO-RMB staff is not certain why specific language requiring public entities to produce additional data reporting was added or how solvency will be assessed by the Director of Industrial Relations.

This office also cautions that there is much potential for costly mistakes and unintended consequences when a complex proposal, such as SB 863, is pushed through the legislative process in such a short period of time without adequate time for vetting. **This office will continue to work with CEO-RMB to better define the bill's provisions and attempt to determine the impact of these measures on the County.**

This proposed overhaul plan was created by a small group of labor unions, including the California Labor Federation of the AFL-CIO, and large self-insured employers, including California Labor Federation, the Walt Disney Co., Safeway Inc., UPS, and Grimmway Farms. There is currently no support or opposition on file for this bill.

SB 863 is currently awaiting hearing in the Assembly Insurance Committee.

Status of County-Advocacy Legislation

County-opposed AB 845 (Ma), which as amended on August 14, 2012, would prohibit an ordinance enacted by a city or county from otherwise restricting or limiting the importation of solid waste into a privately owned solid waste facility in that city or county based on place of origin, passed the Assembly by a vote of 46 to 15 on August 28, 2012. This measure now proceeds to the Governor.

County-opposed AB 1670 (Lara), which as amended June 25, 2012, would until January 1, 2016, authorize a court to appoint a person nominated by a non-resident heir as an administrator of a decedent's estate, with specific stipulations to allow courts to consider whether the nominee, who must be a California resident, is capable of faithfully executing the duties of the office, passed the Assembly by a vote of 54 to 20 on August 27, 2012. This measure now proceeds to the Governor.

County-supported AB 1872 (Alejo), which as amended on August 22, 2012, would require that: 1) family child care homes (FCCHs) ensure any meals and snacks they provide meet the recommended servings under the four basic food groups as specified by the United States Department of Agriculture Child and Adult Care Food Program (CACFP); 2) the State Department of Social Services post on its website information about the CACFP; and 3) FCCHs keep daily menus available for viewing by parents

and guardians, passed the Senate by a vote of 23 to 13 on August 28, 2012. This measure now proceeds to the Assembly for concurrence in Senate amendments.

County-opposed AB 2451 (Pérez), which as amended August 20, 2012, would authorize a claim for death benefits for firefighters or peace officers whose death is caused by certain presumptive-type illnesses one year from date of death and within 480 weeks from the date of injury, passed the Assembly by a vote of 57 to 19 on August 28, 2012. This measure now proceeds to the Governor.

County-opposed SB 1201 (De León), which as amended on May 25, 2012, would amend the intent provisions of the Los Angeles County Flood Control Act to provide for increased public use of navigable waterways of the Los Angeles River for recreational and educational purposes, was signed by the Governor on August 28, 2012.

As signed by the Governor, the content of SB 1201 is significantly different from the original version of the bill that included provisions to create a new Statewide council that could have had some authority over decisions related to public access and use of the Los Angeles River. Sacramento advocates were successful in working with the author and sponsors of the bill to secure critical amendments deleting the provisions related to the creation of the proposed council and other language problematic for the County. The version of SB 1201 signed by the Governor simply adds language to the intent provisions of the Los Angeles Flood Control Act regarding public access to the River for recreational and educational purposes, and it does not interfere with the authority of the Los Angeles Flood Control District to provide flood control and water conservation along the Los Angeles River.

Legislation of County Interest

SB 1156 (Steinberg), which as amended on August 24, 2012, would: 1) authorize certain public entities to form a Sustainable Communities Investment Authority (Authority) to carry out the Community Redevelopment Law; and 2) authorize the Authority to include a provision for the receipt of tax increment funds provided certain requirements are met, passed the Assembly by a vote of 50 to 27 on August 28, 2012.

As previously reported, SB 1156 was amended on August 24, 2012 to further clarify that a taxing entity would have to authorize the allocation of its tax increment by resolution in order for those revenues to be transferred to the Authority, ensuring that the County's property tax revenues are protected.

Other amendments include language which:

- Excludes school districts from participating in a Sustainable Communities Investment Authority;
- Prohibits a school district's property tax revenues from being pledged for the repayment of bonds issued by the Authority;
- Exempts the Authority from having to make new statutory pass-through payments to the taxing entities which choose to participate in an Authority;
- States that if the legislative body of a city or county forming an Authority chooses to dedicate any portion of its net available revenue to the Authority, it may direct the county auditor-controller to collect administrative costs from the Authority;
- Allows an Authority, in addition to meeting the requirements of the Community Redevelopment Law, to also undertake projects aimed at special needs populations (e.g., farmworker housing; transitional and supportive housing; health facilities; child care facilities; among others).

SB 1156 is currently on the Senate Floor and will be considered this week.

We will continue to keep you advised.

WTF:RA
MR:KA:IGEA

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants