

December 5, 2002

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

FEDERAL LEGISLATIVE UPDATE: END-OF-SESSION REPORT

This memorandum is to provide your Board with an end-of-session report on Federal legislative issues of County interest. The 107th Congress adjourned November 22, 2002 and left many major issues unresolved, including appropriations for Federal Fiscal Year (FFY) 2003, which began on October 1, 2002. The 108th Congress will convene on January 7, 2003. Attachment I is a roster of the County's Congressional delegation for the 108th Congress, and Attachment II is a roster of the entire House of Representatives with their office assignments.

APPROPRIATIONS

Congress enacted only two of the 13 FFY 2003 appropriations bills (Defense and Military Construction). Moreover, neither the House nor Senate passed their respective versions of any of the appropriations bills which provide significant funding to the County. The most significant action at the committee level on an appropriations item of County interest was the Senate Appropriations Committee's adoption of the President's budget proposal not to provide any funding for the State Criminal Alien Assistance Program (SCAAP) in the FFY 2003 Commerce/Justice/State (CJS) appropriations bill. The House Appropriations Committee took no action on its CJS appropriations bill.

Before adjourning, the 107th Congress enacted a continuing resolution (Public Law 107-294) which funds Federal programs and operations through January 11, 2003. When the 108th Congress reconvenes in January, it will likely adopt another short-term continuing resolution before completing action on FFY 2003 appropriations.

The outcomes of Congressional action on other issues of County interest are summarized below:

HEALTH

Bioterrorism: On June 12th, the President signed H.R. 3448 (P.L. 107-188), a major bioterrorism bill, which authorizes funding through FFY 2006 for bioterrorism public health preparedness and hospital preparedness grants to state and local governments. It includes bill and report language allowing the Secretary of Health and Human Services (HHS) to continue direct funding of public health preparedness grants for Los Angeles County, Chicago and New York City in FFY 2003. In the first round of funding released in January 2002, the County received direct FFY 2002 allocations of \$24.59 million for public health preparedness and \$3.66 million for hospital preparedness.

Under H.R. 3448, local governments are eligible to receive direct grants under both the public health and hospital preparedness programs in FFYs 2004 through 2006. Grant applications submitted by local governments must be "in coordination with, and consistent with, applicable Statewide plans," but formal State approval is not required.

The bill authorizes \$1.08 billion in FFY 2003 for public health preparedness, an increase of nearly 18 percent, or about \$163 million over FFY 2002, and authorizes \$520 million in FFY 2003 for hospital preparedness funds, compared to \$125 million in FFY 2002. In FFYs 2004 through 2006, "such sums as may be necessary" are authorized for the two programs. The actual funding levels will be set in annual appropriations bills.

H.R. 3448 also authorizes such sums as may be necessary in FFYs 2004 through 2006 for a new Partnerships for Community and Hospital Preparedness Program under which HHS will award competitive grants to improve community and hospital preparedness for bioterrorism and other public health emergencies. Eligible entities include partnerships of one or more hospitals or other health facilities, one or more local jurisdictions, and one or more States. A local jurisdiction is prohibited from participating under more than one partnership.

Community Health Programs Reauthorization: On October 26, 2002, the President signed S. 1533 (P.L. 107-251), the Health Care Safety Net Amendments Act, which reauthorizes funding for a number of community health programs. The bill authorizes such sums as may be necessary through FFY 2006 for the Healthy Communities Access Program (CAP), which funds projects to develop or strengthen the coordination of community health delivery systems serving uninsured or underinsured persons. The County received one of the first CAP awards in 2000. It also reauthorizes funding

through FFY 2006 for the Community Health Centers and National Health Service Corps programs.

Mental Health Parity: On December 2, the President signed HR.5716 (P.L. 107-313), a bill which extends the Mental Health Parity Act of 1996 for one year through December 31, 2003. Under the Act, annual and lifetime dollar limits on mental health coverage must be the same as for other illnesses. The President is expected to sign the bill into law. Congress failed to pass County-supported mental health parity legislation (S. 543/H.R. 4066), which would have expanded mental health parity to cover cost-sharing, deductibles, and other limits on insurance coverage that currently are applied to mental illness, but not physical health.

Medicaid Disproportionate Share Hospital (DSH) Payments: Congress did not pass County-supported legislation (S. 572, S. 3018, H.R. 854, or H.R. 4954), which would have prevented cuts in annual Medicaid DSH allotments to states from taking effect on October 1, 2002. In FFY 2003, California will lose roughly \$184 million in DSH funds, resulting in an estimated net loss of about \$32 million to the County. Some key Members of Congress have indicated that they plan to address health care provider relief, including restoration of the DSH cuts, at the beginning of the 108th Congress in January.

Medicaid Match Increase for States (FMAP): Legislation (S. 812 and S. 3018), which included provisions to temporarily increase the Federal Medicaid match rate (FMAP) for states, were not enacted. S. 812, which passed the Senate on July 31, included language which would have provided states with an estimated \$9 billion in fiscal relief. California's share would have been an estimated \$859.9 million from an increase in its FMAP and \$314.7 million from an increase in Title XX Social Services Block Grant funds. A \$5 billion state fiscal relief package was included in S. 3018, a bipartisan health care provider "giveback" bill introduced by Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Charles Grassley (R-IA). That bill, however, failed to move. This issue may be revisited by Congress after it reconvenes in January.

State Children's Health Insurance Program (SCHIP): Under current law, California faces the loss of an estimated \$747 million in unspent FFY 2000 SCHIP funds because they were not spent by the end of FFY 2002. The President's FFY 2003 Budget included a proposal to allow states to retain unspent FFY 2000 SCHIP funds through September 30, 2006. However, neither this proposal nor legislation (S. 2819, S. 2860, S. 3018, H.R. 5470, and H.R. 5662), which would have allowed states to keep a portion of their unspent FFY 2000 SCHIP funds, were enacted. Congressional supporters indicate that they will seek to pass legislation to allow states to retain unspent SCHIP funds early next year.

Reimbursement of Undocumented Alien Emergency Health Costs: The bipartisan health care provider giveback bill (S. 3018) also would have appropriated \$48 million a year for FFYs 2003 and 2004 to reimburse undocumented alien emergency health costs in heavily impacted states. Under the bill's allocation formula, California's estimated annual allocation would have been nearly \$18 million. On May 2, 2002, S. 2449, the Federal Responsibility for Immigrant Health Act of 2002, was introduced by Senators Bingaman (D-NM) and McCain (R-AZ), which would have authorized \$50 million a year in FFYs 2003 through 2007 to reimburse undocumented alien emergency health costs in heavily impacted states. It also would have extended Medicaid coverage of prenatal care, chemotherapy, testing and treatment of communicable diseases, and dialysis to all persons regardless of immigration status. There was no Congressional action on either bill.

HUMAN SERVICES

Food Stamp Reauthorization: On May 13th, the President signed H.R. 2646 (P.L. 107-171), the Farm Bill, which included provisions to reauthorize the Food Stamp Program through FFY 2007. Food Stamp provisions of County interest included:

Legal Immigrant Benefit Restorations: Effective April 1, 2003, Food Stamp eligibility will be restored for legal immigrants who have continuously resided in the U.S. for five years or more beginning on their date of entry into the U.S.; and effective on October 1, 2003, eligibility will be restored to legal immigrants under age 18, regardless of their entry date.

Quality Control: Major reforms were made to the Food Stamp quality control (QC) system, which measures state payment accuracy in issuing food stamp benefits, and which authorizes the imposition of fiscal sanctions on states with high error rates. These reforms, which take effect in FFY 2003, include:

- The threshold for sanctions will be set at 105 percent of the national average error rate rather than the national average as under current law. A state also will not be considered to be above the threshold unless there is a 95 percent statistical probability that the state's error rate is above the threshold.
- A state will not incur a sanction until the second consecutive year in which its error rate exceeds the threshold. Under current law, a state is subject to a sanction for exceeding the threshold in a single year.
- A state's potential liability amount will equal the total value of Food Stamps issued multiplied by ten percent of the amount by which the State's error rate exceeds six percent.

- The USDA retains the authority to waive any amount of a state's potential liability and to make adjustments to claims against a state. States continue to have the full right to appeal liability amounts.

The Administration and Congress rejected proposals to make the QC reforms retroactive to FFY 2001. Had they done so, California's error rate penalty would have been far smaller than the \$114 million penalty it currently faces.

Simplification: The bill also included provisions to simplify the Food Stamp Program:

- States will have the option to exclude certain types of income that are not counted under their Temporary Assistance for Needy Families (TANF) or Medicaid programs.
- A standard deduction that varies according to household size will replace the current fixed standard deduction, resulting in a bigger deduction for larger households.
- States will be allowed to use a standard utility allowance rather than having to count the actual cost of utilities.
- The period of time households may receive transitional Food Stamp benefits after they lose TANF cash assistance is increased from three months to five months.
- States will have the option to extend semi-annual reporting to all households not otherwise exempt from periodic reporting. Under current regulations, quarterly reporting is a state option for all households, and semi-annual reporting is allowable only for households with earnings. This summer, California enacted State legislation to implement quarterly reporting.

Temporary Assistance for Needy Families (TANF) Reauthorization: In May, the House passed H.R. 4737, TANF reauthorization legislation which generally reflected the Administration's reauthorization proposals. In June, the Senate Finance Committee approved its version in the form of a substitute amendment to H.R. 4737, but the bill never was scheduled for Senate floor action. Congress ended up extending TANF through January 11, 2003 under the continuing resolution so TANF reauthorization legislation will be reconsidered next year.

Both the House and Senate bills would have reauthorized TANF through FFY 2007 and maintained the current annual block grant and state maintenance-of-effort levels with no adjustments for inflation. The biggest difference is that the House bill would have

imposed much more stringent work requirements and higher work participation rate requirements than the Senate bill or current law. Another major difference is that the House bill included a \$1 billion increase in mandatory Child Care Development Block Grant (CCDBG) funding over five years compared to a \$5.5 billion CCDBG increase under the Senate bill. Moreover, the entire \$1 billion increase in the House bill would have required a state match while the first \$3 billion in increased funds in the Senate bill would not have been subject to a state match requirement.

Child Support Penalty: Congress failed to act on H.R. 4857, a County-supported bill introduced by Representative Matsui (D-CA), which would have reduced fiscal penalties on California for not implementing a statewide automated computer system for its child support enforcement program. The State, which is not expected to be in compliance before FFY 2006 at the earliest, faces an estimated penalty of \$181 million in FFY 2003 and \$727 million over the following three years. Besides reducing the size of the fiscal penalties, the bill would have allowed states to reinvest an increased percentage of its penalty in improving its child support program and automation efforts rather than to lose funds to the Federal Treasury.

Legal Immigrant Health Restorations: Congress did not act on the Immigrant Children's Health Improvement Act (S. 582/H.R. 1143), County-supported legislation which would have allowed states to extend Medicaid and SCHIP eligibility to legal immigrant children and pregnant women without regard to their date of entry into the country. The Senate Finance Committee incorporated language from this legislation into its TANF reauthorization bill (H.R. 4737), which also failed to be enacted.

Child Passport: Congress did not act on S. 2657 (Clinton, D.NY), the Opportunity Passport Act of 2002, which would authorize grants for opportunity passports and other assistance to youth in foster care and youth aging out of foster care. The County supported this bill based on your Board's order of February 20, 2001, directing the development and implementation of a Child Health and Education Passport System.

Adoption Tax Credit: Pursuant to your Board's motion of August 27, 2002, the County supported legislation (S.1802) sponsored by Senator Landrieu (D-LA) which would have accelerated the increased tax credit to be available in 2003 for families who adopt children. The bill also would have increased the income limit for qualifying for the full credit. The measure did not pass partly because Congress did not pass a tax relief package which would have been the vehicle for an adoption tax credit.

JUSTICE

Department of Justice Authorization: On November 11, 2002, the President signed H.R. 2215 (P.L. 107-273), legislation reauthorizing Department of Justice (DOJ) operations for the first time since 1979. DOJ had been operating under year-to-year authorizations included in annual Commerce/Justice/State appropriations bills. Besides authorizing DOJ operations, the law includes the following provisions of County interest:

- Authorizes such sums as may be necessary for the State Criminal Alien Assistance Program (SCAAP) in FFYs 2003 and 2004;
- Establishes a juvenile offender accountability block grant to states, authorized at \$350 million a year through FFY 2005. States will be required to pass through at least 75 percent of their allotments to local jurisdictions using a weighted allocation formula combining juvenile justice expenditures (75 percent weight) and the level of violent crime (25 percent weight);
- Includes the Juvenile Justice and Delinquency Prevention Act of 2002, which replaces several categorical programs with the Juvenile Delinquency Prevention Block Grant to carry out projects aimed at preventing juvenile delinquency;
- Reauthorizes the Incentive Grants for Local Delinquency Prevention Programs Act, which funds delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system;
- Includes language from the Drug Abuse Education, Prevention, and Treatment Act, which authorizes grants to states for jail-based substance abuse treatment programs and requires them to pass through at least 10 percent of their grants to local correctional facilities. It also authorizes \$54 million in FFY 2003, \$58 million in FFY 2004, and \$60 million in FFY 2005 in grants for drug courts;
- Amends the Paul Coverdell Forensic Sciences Act to enable local governments to receive direct Federal grants for forensic science laboratories;
- Amends current law to allow DOJ domestic preparedness grants to be used to construct, develop, expand, modify, operate, or improve facilities used to provide training or assistance to state and local first responders; and
- Amends current law to allow a grandparent or legal guardian to submit an application for naturalization on behalf of a child whose parent is deceased.

Homeland Security Department: On November 25, 2002, the President signed into law H.R. 5005 (P.L. 107-296), legislation to establish a new Department of Homeland Security (DHS). Governor Tom Ridge has been asked to become its first Secretary. Marking the largest Federal government reorganization in 50 years, the measure folds 22 Federal agencies and 170,000 employees into the new department. Of particular interest to the County, both the Federal Emergency Management Agency (FEMA) and the Immigration and Naturalization Service (INS) will become part of DHS. An Office of State and Local Government Coordination in DHS will report directly to the Secretary.

First Responder Grants: Last summer, the Senate Environment and Public Works Committee approved a bipartisan bill (S. 2664) authorizing a \$3.5 billion block grant to states and localities for first responder initiatives. The program would have been administered by the Federal Emergency Management Agency (FEMA). The bill was similar to the Administration's first responder proposal. While there was agreement between the Administration and Congress on the FFY 2003 funding level for first responder grants, no agreement was reached on the legislative vehicle for authorizing and appropriating funds for the grants. S. 2664 subsequently died, and no other legislation to establish the new first responder program was enacted.

Under S. 2664, \$3.34 billion would have been made available to states and localities for first responders, and \$160 million would have been targeted to FEMA's 28 Urban Search and Rescue Task Forces. States would have been required to pass through at least 75 percent of the first responder grants to local governments no later than 45 days after their receipt of funds. Eligible activities included planning, training, equipment, including interoperable communications, exercises, and constructing or upgrading emergency operation centers and training facilities. The Federal government was to provide at least 75 percent of the share of the costs of first responder activities. The bill was silent on the type of cost sharing required of state and local governments.

Election Reform: On October 29th, the President signed H.R. 3295 (P.L. 107-252), a major election reform bill. Subject to available appropriations, the bill authorizes \$3.86 billion over four years for election reform activities, including:

- \$650 million in FFY 2003 for Title I grants of which \$325 million would be used to replace punch card and lever voting machines and an additional \$325 million would be available to improve election administration;
- \$3 billion over the next three years to assist states in training poll workers, educating voters, improving the administration of Federal elections, and meeting the bill's requirements;

- \$100 million in grants over the next three years to increase access to polling places for persons with disabilities; and
- \$120 million over the next four years for several small categorical pilot, research, protection and advocacy, and educational programs.

In addition to authorizing grants as outlined above, the bill also would impose a number of new requirements on states, including:

- States will be required to implement a uniform, centralized computerized statewide voter registration database.
- Each voting system must produce a permanent paper record with a manual audit capacity.
- Each voting system also must provide alternative language accessibility pursuant to the Voting Rights Act.
- Each voter must be given an opportunity to check for and correct ballot errors in a private and independent manner.
- Each precinct would be required to have at least one voting machine that is accessible to persons with disabilities.
- Persons registering to vote will be required to present a valid drivers license or provide the last four digits of their Social Security number, and first-time voters who registered by mail must provide identification when they vote.

ENVIRONMENT/PUBLIC WORKS

CALFED Reauthorization: Congress did not pass legislation (H.R. 3208/S. 1768) to reauthorize the CALFED Bay-Delta restoration project. In November 2001, the House Resources Committee approved H.R. 3208 (Calvert, R-CA), which would have authorized \$600 million for CALFED in FFYs 2002 through 2004, and such sums as may be necessary in FFYs 2005 through 2032. In June 2002, the Senate Energy and Natural Resources Committee approved S. 1768 (Feinstein, D-CA), which authorized \$1.63 billion in FFYs 2003 through 2005. Neither bill passed their respective houses.

CALFED was last authorized in 1996 under Public Law 104-333, which authorized \$430 million in FFYs 1998 through 2000. During that three-year period, Congress appropriated a total of \$220 million for CALFED. Since the authorization of Federal

appropriations for CALFED expired at the end of FFY 2000, no funding for CALFED was appropriated in FFY 2001 and \$30 million was appropriated in FFY 2002.

Conservation and Reinvestment Act (CARA): Congress did not pass H.R. 701, the CARA bill, which would have directly allocated about \$3 billion a year in Outer Continental Shelf oil revenues for conservation programs, including \$1 billion a year for land acquisition in coastal states, such as California. House and Senate appropriators strongly opposed the bill because, under current law, they determine the appropriation of oil revenues.

Maritime Transportation Antiterrorism Act: On November 25, 2002, the President signed S. 1214 (P.L. 107-295), the Maritime Transportation Antiterrorism Act, which requires the U.S. Transportation Department to develop a comprehensive national maritime security plan for the nation's seaports and authorizes a new grant program to help finance port security improvement projects. The bill also includes a County-supported provision which authorizes the appropriation of \$500,000 for a grant to fund 50 percent of the cost of an addition to the American Merchant Marine Memorial Wall of Honor, located at the Los Angeles Maritime Museum in San Pedro.

Water Resources Development Act (WRDA) Reauthorization: Congress did not pass H.R. 5428, WRDA reauthorization legislation to authorize Army Corps of Engineers and other water projects. The House Transportation and Infrastructure Committee approved the bill on October 2, but issues relating to reform of the Army Corps of Engineers resulted in a deadlock on this bill. The County had not been seeking authorization of any projects under WRDA this year.

Airports Legislation: Congress did not act on any of the County-supported bills aimed at limiting noise generated by flights at Los Angeles International Airport (LAX) or encouraging regional alternatives to LAX expansion, which were introduced by Representative Waters (H.R. 2429, H.R. 2430, H.R. 2477, H.R. 5142, H.R. 5143, and H.R.5144).

San Gabriel River Watersheds Study: Congress did not pass H.R. 2534 (Solis), the San Gabriel River Watersheds Study Act, which would have authorized a Department of the Interior resource study of the San Gabriel River and Mountains. In September, language from the bill was amended into S. 941 (Feinstein), legislation to revise the boundaries of the Golden Gate National Recreation Area, before the House passed S. 941. However, S. 941 died after the Senate later amended the House version of the bill, and the differing House and Senate versions were not reconciled.

Tribal Gaming: Congress took no action on H.R. 2619 or H.R. 3824, legislation which would have designated certain tribes in Southern California as Federally-recognized tribes. On June 18, 2002, your Board adopted a policy to oppose the bills unless amended to prohibit the operation of casinos on non-reservation trust land.

Chick Hearn Post Office: On November 6th, the President signed H.R. 5340 (P.L. 107-286), a County-supported bill to honor the late Chick Hearn by renaming the post office located at 5805 White Oak Avenue in Encino, California, as the "Francis Dayle 'Chick' Hearn Post Office."

LOS ANGELES COUNTY MEDICAID WAIVER

While it was not a legislative issue, the County's highest Federal priority this year has been the pursuit of a Medicaid waiver which would enable the County to continue to reform its health care system and to narrow its projected budget deficit. The County's Washington Advocates and other County officials met throughout the year with the County's entire Congressional delegation on the need for such a waiver. Although Congress has adjourned, the County's Washington Advocates continue to brief the delegation's staff on the status of the County's health budget and on the progress of waiver negotiations with the Centers for Medicare and Medicaid Services.

Prior to adjournment, the County's Congressional delegation sent a bipartisan letter to CMS Administrator Tom Scully in support of continuing assistance for the County's health care system. In addition, members of the delegation and their staff have contacted Health and Human Services Secretary Thompson, Scully and the White House to urge the Administration to assist the County and to meet with the County on its health care situation. Senators Feinstein and Boxer also sent their own letters to Secretary Thompson.

We will continue to keep you advised of any new developments.

DEJ:GK
RT:TJ:MT:md

Attachments

c: Executive Officer, Board of Supervisors
County Counsel
All Department Heads
Legislative Strategist

**LOS ANGELES COUNTY CONGRESSIONAL DELEGATION
2003 - 2004**

Name (District)

Becerra, Xavier (31)
Berman, Howard (28)
Dreier, David (26)
Harman, Jane (36)
McKeon, Howard "Buck" (25)
Millender-McDonald, Juanita (37)
Miller, Gary (42)
Napolitano, Grace (38)
Rohrbacher, Dana (46)
Roybal-Allard, Lucille (34)
Sanchez, Linda (39)
Schiff, Adam (29)
Sherman, Brad (27)
Solis, Hilda (32)
Thomas, Bill (22)
Waters, Maxine (35)
Watson, Diane (33)
Waxman, Henry (30)

New members of the County's delegation are in "bold".

NOTE: Steve Horn retired, and Ed Royce no longer represents part of the County.