

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 9/22/04
Department Name: CAO
Department No.: 012
Agenda Date: 10/19/04
Placement: Departmental
Estimate Time: 1 hour
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Michael F. Brown
County Administrator

STAFF CONTACT: Jim Laponis, Deputy County Administrator
Lori Norton, Analyst X 3421

SUBJECT: Renewal of Annual State Legislative Advocacy Contract with Governmental Advocates, Inc. and Annual Legislative Report

Recommendation(s):

That the Board of Supervisors set October 19, 2004 as the date to:

1. Receive the Annual State Legislative Report
2. Direct the County Administrator to extend the State Legislative Advocacy Contract with Governmental Advocates, Inc. (Cliff Berg), a non-local vendor, for the period of November 1, 2004 through October 31, 2005, in an amount not to exceed \$60,380, the same amount as the current contract.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with Goal No. 1: An Efficient Government Able to Respond Effectively to the Needs of the Community.

Executive Summary and Discussion:

Since March 1995, your Board has contracted for State legislative advocacy services with Governmental Advocates, Inc. (Cliff Berg). Mr. Berg has proven to be a knowledgeable, hard working, and effective advocate whose expertise has been extremely valuable to our State legislative efforts.

On October 19, 2004, staff will ask the Board to authorize an extension of the purchase order agreement with Governmental Advocates, Inc. for State legislative advocacy services. The proposed agreement

extension is for the period of November 1, 2004 to October 31, 2005, and is for an amount not to exceed \$60,380, which is the same amount as the FY 2003-2004 agreement. The total includes a monthly retainer of \$4,865 plus up to \$2,000 annually in reimbursable expenses.

Further, it is recommended that Mr. Berg present the annual State legislative report to your Board on October 19. At that time, Mr. Berg will provide information regarding the results of his advocacy of State legislation which the Board has sponsored or taken a position on, and will be available to respond to any Board questions related to the legislative program and services provided by Governmental Advocates, Inc.

Mandates and Service Levels:

The Legislative Program is not mandated.

Fiscal and Facilities Impacts:

The adopted budget for FY 2004-2005 includes funding for the renewal of the contract with Governmental Advocates, Inc. The Legislative Program Committee Budget is a cost center in the County Administrators Budget which is displayed on page D-14 of the adopted FY 2004-2005 budget

C: Cliff Berg, Governmental Advocates

TO: County Board of Supervisors
Santa Barbara County

FROM: Cliff Berg, Legislative Advocate
Monica Miller, Legislative Advocate

RE: Legislative Wrap-up 2004

DATE: October 19, 2004

I. General Observations:

In an effort to provide background on the legislative session as it wrapped up in August we provide the following report. The two-year session ended early Saturday, August 28, 2004 and while this was ahead of schedule, they did work into the early hours of the morning. The early adjournment was in an effort to allow the Republicans to attend their National Convention in New York. The usual last-minute gut and amends took place and many critical bills, like the bay bridge budget allocation, died on the Senate Floor when Senator Burton adjourned out of frustration over a committee hearing running longer than he would have liked.

This legislative session has been an interesting one, beginning with the election of a new governor and the recall of an incumbent governor. The new administration worked to solve the budget crisis by cutting back-room deals with all interested parties, allowing them to pay-up for the next two years and then receive some relief from the state beginning in 2006-07. Additionally Californians passed measures that allow the state to use bonds to borrow millions of dollars in an attempt to cover the existing debt and the deficit from past years. However, the state can still expect to have a continued deficit in the next several budget years as a result of not closing the structural deficit.

II. Budget:

As was mentioned in our May Revise Report there were a series of deals negotiated between the governor and interested parties such as the California Teachers Association, the University of California system, the California state University system and local governments. As you may recall, one of the deal breakers for the state budget negotiations was the local government agreement, which was finally agreed to in late July and adopted by the Assembly on July 28 and the Senate on July 29. GA worked closely as part of the local government coalition, as the negotiations stretched through the month of July, reporting to the county as things progressed. GA has detailed below many of the major features of the local government agreement, now referred to as Proposition 1A.

Three bills were used to implement the constitutional amendment. SCA 4 by Senator Tom Torlakson (D-Contra Costa) is the constitutional piece; SB 1096 (Budget and Fiscal Review Committee) is an implementing trailer bill; and SB 1196 (Budget and Fiscal Review Committee) puts the constitutional measure on the ballot in November.

The final deal states that cities, counties and special districts would give the state's general fund \$1.3 billion per year. Santa Barbara County's share of this reduction is \$3,894,357 per year. The agreed-upon formula is as follows: cities and counties will give \$350 million and the special districts will give \$250 million; the amount will come from one-third property tax, one-third sales tax, one-third VLF with a cap of 4 percent, and a floor of 2 percent of the Fiscal year 2001-2002 general revenues as the base.

SCA 4 contains provisions that protect property tax revenues received by counties, cities, and special districts on a countywide basis and the Bradley-Burns sales tax revenues received by cities and counties. VLF revenues will continue to be dedicated to cities and counties, with the bulk of collected revenues dedicated to realignment. The state may suspend the property tax protections with a declaration of a severe state fiscal hardship, a two-thirds vote of the Legislature and a requirement to repay any borrowed funds with interest within a three-year period. Further, the Legislature may not suspend the protection provisions unless prior borrowing has been repaid, including the VLF Gap Loan. The Legislature may not borrow more than 8 percent of local property tax revenues.

While the Legislature is prohibited from permanently altering property tax or sales tax revenues or allocations, the constitutional amendment allows local agencies to voluntarily exchange sales tax revenues for property tax revenues with a two-thirds vote of the Legislature.

SCA 4 also contains important provisions relating to state-local mandates. The Legislature must appropriate funds for state reimbursable mandates or suspend the provisions of those mandates. Additionally, the state may not reallocate property tax revenues among local agencies within a county to fund state-mandated programs. SCA 4 contains language that expands the definition of reimbursable mandates to include cost shifts for shared state-local programs. Having passed the Legislature and been approved by the governor, SCA 4 now becomes Proposition 1A on the November ballot.

Citizens' Option for Public Safety (COPS) and Juvenile Justice:

Consistent with the governor's proposed 2004–05 budget, the May Revision contained \$200 million in funding to support the Citizens' Option for Public Safety (COPS) and the Juvenile Justice Crime Prevention Act (JJCPA). This appropriation would keep intact the level of current-year support — \$100 million for juvenile justice, crime prevention and intervention programs, as well as \$100 million for the COPS program.

Booking Fees:

SB 1102, the general government trailer bill, contains provisions dealing with booking fees. Language in SB 1102 amends both Government Code Sections 29550 and 29550.4, which deal, respectively, with (1) county authority to charge a booking fee and (2) the backfill paid to cities and special districts for actual administrative costs charged by counties. Taken together, the amendments to the booking fee statute result in the following:

- ▶ Counties' authority to charge a booking fee remains unchanged for the 2004-05 fiscal year;
- ▶ For the 2004-05 year, booking fee rates are "locked in" at the level in place on January 1, 2004;
- ▶ Beginning in 2005-06, counties will be permitted to charge one-half of their actual administrative costs associated with booking and processing of arrestees; and
- ▶ The \$38.2 million backfill to cities and special districts will continue through 2004-05, but will elapse on July 1, 2005.

Transfer of Undesignated Fees:

Santa Barbara should continue to be mindful of the fact that the governor's 2004-05 budget assumes a second-year \$31 million transfer of revenues from various undesignated fees from the county to the courts. This revenue shift is consistent with the provisions of AB 1769 (2003), which set forth the general elements of the undesignated fee shift.

Proposition 36 Dollars:

The Department of Alcohol and Drug Programs (ADP) released its final allocation for 2004-05 of Substance Abuse Treatment Trust Funds made available under Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA) of 2000. The state will release funds to counties with approved 2004-05 plans. The final allocation was calculated using the new formula for distributing SACPA funds. The new formula was adopted by emergency regulations effective July 1, 2004. This translates into an allocation of \$2,017,825 for Santa Barbara County.

Coastal Grants:

The Santa Barbara Energy Department came to GA earlier this year regarding extending of a significant number of Coastal Grants received by the county. As you know, the county received many grants between 1997 and 2001 from the California Resources Agency's Coastal Resource Grant Program. This program was enacted by AB 1431 (Firestone & O'Connell, 1996) and funded for a five-year period through the state's budget process. Each year, the Resources Agency sought appropriation of funds for a three-year period to award new grants through the budget process. The agency then solicited grant proposals, and awarded grants to coastal counties and cities based on the

merits of each proposal. The funds constituted a relatively small proportion of federal offshore oil/gas revenues that California received each year pursuant to Sec 8(g) of the Outer Continental Shelf Lands Act.

This year, the Resources Agency informed Santa Barbara that it will not include a request for grant extensions, but has suggested that coastal counties and cities may choose to request such extensions through their local representatives. Failure to extend existing grants would adversely impact coastal counties and cities, such as Santa Barbara County, which still have projects ongoing because we would lack funds to complete them. We worked closely with Assembly Member Jackson and the Energy Department to get the budget extension language into the state budget. As such we were successful at saving the county over \$1,331,630.

Federal Child Support Automation Penalty:

GA worked closely with the local government coalition on Child support penalties. In the Governor's January budget he was holding counties responsible for the payment to the federal government. The Administration was successful at securing an alternative penalty payment schedule from the federal government after the release of the May Revision. The state will not be required to pay the child support penalty in 2004-05. The federal government is allowing California to pay the penalty in the last quarter of the federal fiscal year, which is the first quarter of 2005-06.

III. County Formation Committee:

As mentioned in the May Revise update the Governor had appointed a committee to look at the impacts of creating a new county. We were working with Assembly Member Maldonado and Senator McPherson to get a bill introduced to allow the county to borrow the necessary funds to offset the county formation committee. Under current law, the county can borrow \$100,000, however it was estimated that the county would need at least \$400,000. While working with the Legislature on a bill we also worked with the administration. On this issue the administration determined that they could provide a line item for the dollar amount necessary for the county to obtain the \$400,000. The Governor allocated those dollars without statutory change. The county is working with the controller's office to obtain those funds.

IV. Significant Legislation:

A. Sponsored Legislation:

1. SB 635 (Dunn)

Status: Signed by the Governor, Chapter number 524.

The county of Santa Barbara sponsored this bill. This bill allows the county to establish a Maddy Fund for Santa Barbara Cottage Hospital.

The bill allows the Board of Supervisors to pass a resolution to be able to collect additional penalties, fines, or forfeitures (\$5 for every \$10, or fraction thereof), collected for criminal offenses to include all offenses involving a violation of the vehicle code or any local ordinance adopted pursuant to the vehicle code (except parking offenses), for emergency medical service funding until January 2007. GA worked very closely with the emergency room physicians and the public health department on this bill. It is estimated that SB 635 will potentially close the \$1.4 million annually for Santa Barbara Cottage Hospital based on data from prior years.

2. **AB 2836 (Maddox)**

Status: Held in Assembly Housing and Community Development Committee.

The county of Santa Barbara sponsored this bill. Specifically, the bill would have allowed Santa Barbara County, along with other jurisdictions that have a similar workforce housing crisis, to redefine "low and moderate income households" by resolution, for the purposes of Housing Element Law and the BEGIN Program.

The definition would have allowed for persons and families whose income does not exceed 140 percent of area median income in a jurisdiction where the rental vacancy is 2.5 percent or less; and persons and families whose income does not exceed 200 percent of area median income in a jurisdiction where the rental vacancy rate does not exceed 2.5 percent and where the median priced home sold in the jurisdiction in the prior year exceeds six times the area median income. The bill would have allowed counties that have a housing crisis to tap into necessary grant programs so they could be competitive in building workforce housing.

3. **SB 438/AB 1510 (Soto/Kehoe)**

Status: Signed by the Governor, Chapter number 772.

SB 438 was introduced to help those in San Bernardino County. GA worked with the author's office to amend in Santa Barbara County, and also asked Senator McPherson and Assembly Member Maldonado to co-author the bill, which they did. The governor vetoed SB 438 but he requested that the language be sent to him again in another bill after we corrected his understanding of the intent of the legislation. We worked with Assembly Member Kehoe's office and identified a vehicle that we could use. As a result of the December 22, 2003 San Simeon Earthquake, the county of Santa Barbara and other impacted jurisdictions within Santa Barbara County would be responsible for funding a portion of the disaster costs in accordance with the Natural Disaster Assistance Act formula. This bill requires that the state pay 100 percent of the disaster costs versus the 75% required by current

law. **Therefore relieving the county of a \$625,000 contribution to offset the estimated \$10 million cost as a result of the San Simeon Earthquake.** Additionally, AB 1510 would allow individuals under the Personal Income Tax Law and businesses (under the Corporation Tax Law) to carryover excess losses sustained as a result of the earthquake, into future tax years.

B. Housing Issues:

Housing Elements – As you are aware, the Housing element is one of seven state mandated elements of the local general plan. Santa Barbara County is in the early phases of the amendment process that is required every five years on their housing element. In the event that a community decides to not comply or is inadequately in compliance, they may lose CBCG dollars and other workforce dollars for housing. Additionally, they run the risk of losing valuable infrastructure dollars for roads and other projects. The state may also choose to pull all active permits on any building or construction, for example if a resident of the county is in mid-construction on their roof and the state pulls all permits, they would have to stop the project. In addition to losing dollars for programs the county would become ineligible for any new programs. The housing advocates or citizens of the region could also potentially sue them.

Additionally, AB 1866 (Wright) was signed into law in 2002. This bill is commonly referred to as the second-unit bill. Essentially, this law mandates that a second-unit application be considered without a hearing. It also decreased the percentage of moderate-income units from 50 percent to 20 percent to trigger a density bonus. Essentially, this bill further ties the hands of local governments by additional state mandates. While the bill has only recently gone into effect, this year the Legislature tried to build upon the current law by introducing AB 2702 (Steinberg).

1. AB 2702 (Steinberg)

Status: Governor vetoed.

The county of Santa Barbara opposed this bill. GA worked with the committee staff and local government coalitions to try to defeat this bill. AB 2702 is a follow-up to AB 1866, which went into effect on January 1, 2003. Local governments' have not had sufficient time to understand the impacts of AB 1866, making AB 2702 premature. The bill is a second-unit housing bill that would deny cities and affected communities the ability to regulate the impacts of these units. AB 2702 attempts to dictate a one-size-fits-all approach to local zoning ordinances, effectively transferring local land-use authority to Sacramento. The bill would limit the ability of local officials and communities to prohibit absentee-landlord duplexes, reduce parking

standards, and dictate irrational minimum lot and unit sizes regardless of lot dimension.

2. **SB 1609 (Dunn)**

Status: Held in Assembly Local Government Committee.

The county opposed this bill and SB 744 and SB 910. This bill was a last-minute attempt to try to get additional concessions after the HCD working group had achieved consensus on the housing elements issue. As you may recall, prior to GA representing the county, there were two bills authored by Senator Dunn last year (SB 910 and SB 744) that drastically changed the housing element process at HCD. The Davis administration had put together a working group of all interested parties to try to come to a consensus. There were many issues on the table and the final work product came in the form of AB 2158 (Lowenthal) and AB 2438 (Mullin). The amendments, added into SB 1609 on the Assembly floor, contain language that was discussed but not agreed to in the HCD working group, and other concepts that have not been discussed in the working group or policy committee this year. The bill would have usurped any control that locals have over the law that permits local governments to disapprove any very-low, low-, and moderate-income housing based on inconsistency in the zoning or the property proposed to be used has inadequate water or wastewater facilities. If the jurisdiction does not comply, a court will step in and require that the county come into compliance. GA worked with the committee staff and our LOCAL Coalition to ensure that this bill did not get out of committee.

This Legislature has been and will continue to be focused on ensuring that there is adequate very-low, low-, and moderate housing for Californians. The Legislature continues to introduce legislation that takes away local control on housing issues and GA continues to mitigate those issues for the county. The housing advocates have a strong political power with the Legislature and continue to work closely with the realtors in an effort to push through their agenda. GA will continue to work on these issues and keep the county apprised of any new developments.

C. **General Issues of concern:**

1. **SB 1612 (Speier)**

Status: Signed by the Governor, Chapter Number 845.

This bill would restore \$17.1 million state general fund to the Child Welfare Services (CWS) program. SB 1612 is the product of strong bipartisan effort between the Legislature and administration to protect

abused and neglected children. The bill requires no new general fund spending; restoring these needed funds by reappropriating unanticipated prior-year savings and reprioritizing funds within the program. If these funds are not restored, crucial services will be lost, endangering the safety and well-being of children in our care and exposing the state to federal sanctions.

2. **SB 1117 (Burton)**

Status: Signed by Governor, Chapter 856.

This bill provides for the ratification of four of the tribal/state compacts recently signed by Governor Schwarzenegger. These include: Buena Vista Rancheria (Amador County), Coyote Valley (Mendocino County), Fort Mojave (San Bernardino County), and Ewiaappayp (San Diego County). The compact with the Lytton Band (Contra Costa County) was removed from the bill due to concerns from members of the Legislature; the governor announced that the Legislature could come back next year to reconsider the Lytton compact. These compacts do contain provisions critical to local government, consistent with the CSAC Indian Gaming policy and provide for enforceable written agreements between tribes and affected cities and counties to address both off-reservation mitigation and service responsibilities affecting neighboring communities.

3. **SB 1730 (Johnson)**

Status: Signed by the Governor, Chapter Number 817.

This bill would change the statewide direct primary election to the first Tuesday in June. This change would be applicable in both presidential and non-presidential years. This could place California among one of the last states to vote on the presidential primary.

4. **SB 18 (Ducheny)**

Status: Signed by the Governor, Chapter Number 905.

As you may recall, the county was opposed to this bill last year. We were successful at stalling the bill on the Assembly Floor the last night of session 2003. The bill was granted reconsideration and the author agreed to work with interested parties to craft a bill that would allow us to go neutral. The county was able to go neutral with the latest amendments. This bill would require cities and counties to also notify tribal governments when amending or approving a general plan. The bill also would require local agencies to consult with tribal governments and grants tribal governments 90 days in which to request that consultation in order to reduce or address impacts on Native American Sacred Sites. CSAC, along with other public and private sector interests, removed their opposition to the bill with the recent amendment.

D. Workers' Compensation:

1. SB 899 (Poochigian)

Status: Signed by the governor, Chapter Number 34, 2004.

This bill was the result of many negotiations between leadership, the governor, labor, employers, providers and insurance companies. The end result is a workers' compensation deal that the governor could sign, however it is anticipated that the Legislature will have to continue to work on this issue for the next couple of years. The results for local government is detailed below:

Apportionment – The employer is only liable for the portion of disability directly caused by injury. Any prior permanent disability awards to the employee are conclusively presumed to exist at the time of the subsequent injury. Accumulation of all permanent disability for any region of the body shall not exceed 100 percent.

Return to Work -Restores user funding and specifies use of funding for return to work program. This allows eligible small employers (up to 50 employees) to apply for reimbursement for workplace modifications necessary to return injured workers to work.

Carve Out for ADR – The public sector has been placed in the design of a carve out for alternative dispute resolutions.

RTW Provisions - If the employer has a job to offer the injured worker and they do not accept it, their permanent disability award decreases by 15 percent. If the employer does not have a job to offer the injured worker, their permanent disability award increases by 15 percent. If the employer offers the injured worker the same "type" of job, that injured worker gets 100 percent of their salary. If the employer offers the injured worker another job, the employer cannot pay the injured worker less than 85 percent of their salary.

Fraud – Gives immunity to entities that appropriately report suspected fraud activity and other fraud provisions.

Medical Provider Network – Allows employers to establish medical provider networks. Networks shall be determined through the employer or insurer and the doctors in those networks must adhere to labor code, health and safety code, and utilization controls. Through this network process, the injured worker can obtain a first, second and third medical opinion from the medical network. After three opinions, an independent medical review (IMR) is still available. An injured worker may utilize their primary care physician a doctor prior to an injury occurring only s/he is part of an employer-offered group health plan.

Labor Code 5814 Penalties - The penalty only applies to the late payment of the claim. A ceiling of \$400,000 penalty for a

"frequency that indicates a general business practice" is also applied.

Provision of Medical Care Until Decision - The language in the last sentence of paragraph (c) indicates the cost is limited to \$10,000 until date of acceptance. It doesn't say this is the cost limit if case is rejected.

Temporary Disability Limit to 2 years – This in no way affects 4850 temporary disability.

Treating Physician Presumptions – Repeals the rebuttable presumption of correctness for a comprehensive medical evaluation by a predesignated personal physician.

Medical Fee Schedule – Except under allowed contracts, would limit the amounts paid for medical services to the reasonable maximum amounts in the official medical fee schedule in effect on the date of service. Medical providers would submit an itemization of medical services provided and payment would be made accordingly.

V. November Election:

As California approaches the November election the voters are facing one of the largest ballots in our history. There are 16 statewide initiatives on the ballot not to mention if you have any local initiatives and local races. Needless to say, Proposition 1A is the most critical for the County. As discussed earlier this measure was placed on the ballot as part of the agreement that local governments negotiated with the Administration and the Legislature. Proposition 65 is also on the ballot which was placed there on behalf of the cities and counties, however it will receive no financial backing from either side as we are committed to Proposition 1A.

There are also a series of Tribal gaming initiatives. Proposition 70, if passed, will allow Indian gaming to have exclusive gaming rights in California. There is also Proposition 68, which is the Fair Share initiative. As the county is aware the Legislature continued to suspend the funding from Proposition 42 and use it for the state's general fund. While the state is statutorily required to pay this suspension back, the total funds from the last two budget years is \$2.4 billion (\$1.2 billion per year.) However, the Administration was successful in brokering a deal with California Native American Tribes stating that the tribes would pay \$1.2 billion over several years and those dollars will be used to backfill Proposition 42 projects. This deal will allow the State to sell revenue bonds against these funds. These funds will not be available until after the November election and only if the voters defeat these gaming initiatives.

VI. California Performance Review:

In an effort to “blow-up” the boxes for California, the governor signed an Executive Order on February 10, 2004, which created the California Performance Review. The California Performance Review (CPR) was established to conduct a focused examination and assessment of California state government. The four main components to the CPR are: Executive Branch Reorganization; Program Performance Assessment and Budgeting; Improved Services and Productivity; and Acquisition Reform. Appointed in June 2004 by the governor, the CPR Commission is comprised of 21 leaders from the business and labor communities, local government and public policy experts.

With regard to infrastructure/transportation, the CPR makes two general recommendations: to reorganize the state’s infrastructure departments under a comprehensive infrastructure agency and authority; and second, to streamline the state’s infrastructure operations to provide more productive operations and management.

Since the CPR report was released on August 4, the 21-member commission has been holding hearings open to the public throughout the state to get feedback from policy experts and members of the general public on all areas of the CPR. After these hearings, the commission will finalize its recommendations and changes will be made incrementally. Governmental Advocates has been monitoring these hearings and all of the recommendations and will let the county of Santa Barbara know of any relevant issues.

VII. On-going Issues:

Tidelands Revenue:

GA was successful at getting Assembly Member Steinberg to take the language to extend the tidelands revenue funding from SB 1187 (Maddy). However, due to the on-going budget debate into the summer, the Big Five (Leadership) was unwilling to amend language in that was not agreed to during the budget discussions. They did not reject the language based on its merits, which will allow us to try again next session to get the sunset extended.

Workforce Housing:

The housing crisis only continues to worsen for the county so we will continue to work on ways to bring Santa Barbara the tools in which to attempt to close the affordability gap. This year the county began those discussions with the introduction of AB 2836 by Assembly Member Maddox; those conversations are on-going and will continue next year. We will keep the Board posted on any new developments.

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