

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2946 (Valencia) – As Amended March 21, 2024

SUBJECT: Discretionary funds: County of Orange.

SUMMARY: Provides that the board of supervisors of Orange County can only appropriate and expend discretionary funds if the board of supervisors approves, by majority vote, appropriating and expending the discretionary funds, and places limitations on a member of the board of supervisors who is on a ballot as a candidate. Specifically, **this bill:**

- 1) Defines the following terms:
 - a) “County” as Orange County.
 - b) “Discretionary funds” as the discretionary or unrestricted funds from the general fund of the county.
- 2) Requires the board of supervisors of the county to only appropriate and expend discretionary funds if the board of supervisors approves, by majority vote, appropriating and expending the discretionary funds.
- 3) Specifies that the board of supervisors of the county shall post on its internet website a log of appropriated and expended discretionary funds at the end of each quarter.
- 4) Provides that, within 90 days of an election, a member of the board of supervisors of the county who is on a ballot as a candidate and has an opponent on that ballot shall not take any of the following actions:
 - a) Place an agenda item seeking approval to appropriate and expend discretionary funds on the agenda for a meeting of the board of supervisors of the county.
 - b) Announce or participate in a press release announcing the awarding of discretionary funds previously approved by the board.
 - c) Participate in or make a ceremonial presentation awarding previously approved discretionary funds.
- 5) Specifies that nothing in this bill shall be construed to limit the existing authority of the county from adopting ordinances, rules, or regulation beyond the minimum requirements outlined in this bill.
- 6) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the necessity to ensure the integrity and transparency of county discretionary spending and the electoral process, while reducing the perception of corruption in the County of Orange. The proposed policy will provide guidelines and criteria for distributing discretionary funds, while making it more difficult for elected officials to engage in potential quid pro quo corruption.

- 7) Provides that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school district for those costs shall be made.

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill specifies that the board of supervisors of Orange County must only appropriate and expend discretionary funds if the board of supervisors approves, by majority vote, appropriating and expending the discretionary funds. This bill also places specified limitations on a member of the board of supervisors who is on a ballot as a candidate. The author is the sponsor of this bill.

According to the author, "AB 2946 will maintain the integrity and transparency of discretionary spending in Orange County by establishing parameters on how the Board of Supervisors may allocate and dispense funds. Currently, the County of Orange's policy on discretionary spending lacks safeguards for ensuring programs are fulfilling their contractual obligations, and does not include provisions on conflict of interest. In recent months it was revealed that a County Supervisor allocated money to this nonprofit that was allegedly led by a family member. To this date, the nonprofit has yet to provide proof to the County that the money was properly spent. This bill prevents future misuse of taxpayer dollars requiring a majority vote of the O.C. supervisors to appropriate and expend discretionary funds, requiring a log of appropriated and expended funds to be published on the County's website, and by prohibiting supervisors from taking specified action on discretionary funds within 90 days of an election."

- 2) **County Governance.** Existing law provides for county powers and governance, including an elected county board of supervisors, an elected county sheriff, an elected district attorney, and an elected assessor. The powers of a county can only be exercised by the board of supervisors or through officers acting under the authority of the board or authority conferred by law. The board supervises the official conduct of all county officers, particularly as their activities pertain to the management and disbursement of public funds. The board of supervisors is also vested with the constitutional authority to provide for the number, compensation, tenure, and appointment of employees.

The board of supervisors of any county can appropriate and expend money from the general fund of the county to establish county programs or to fund other programs considered by the board of supervisors to be necessary to meet the social needs of the population of the county. This includes the areas of health, law enforcement, public safety, and education, among others. The board of supervisors can also contract with other public agencies or private agencies or individuals to operate such programs if the board of supervisors determines it will serve public purposes.

A program may consist of a community support program including a charitable fund drive conducted in cooperation with one or more nonprofit charitable organizations if the board of supervisors believes a program will assist in meeting the social needs of the population of the county. If the board establishes a program, the officers and employees of the county must

have the authority to carry out the program, using county funds and property if authorized by the board.

Orange County. Starting in late 2023, news surfaced that an Orange County Supervisor awarded COVID-19 relief funding to an organization run by his daughter without disclosing the connection to the public.¹ After public scrutiny over the contracts, news surfaced that the organization was also behind on required audits.² Despite these concerns, the Supervisor continued to award funding to the organization.³

According to an April 8, *Los Angeles Times* Article, “In September 2022, with the five supervisors’ districts splitting federal coronavirus relief funds earmarked for ‘social needs,’ the board voted unanimously to approve \$6.9 million in discretionary funds for Do’s district. According to public records obtained by The Times, Do’s office sent \$2.2 million of that money to the Viet America Society between December 2022 and March 2023 and an additional \$1 million in October 2023 for a Vietnam War Memorial. The board had decided that proper uses for the coronavirus relief money included parks, infrastructure, ‘projects and programs.’

“In June 2023, the board voted unanimously to approve \$3 million in discretionary funds, this time from the county’s general fund, for each of the districts. Do directed his \$3 million to the Viet America Society in August 2023. According to LAist, the news site that has spearheaded reporting on the controversy, Do has directed as much as \$13.5 million in government money to the nonprofit, often without placing it on a public agenda and without disclosing his daughter’s connection to the group.”⁴

According to Orange County, the Orange County Board of Supervisors agendized and voted on all discretionary spending requested by individual supervisors. The process was initially noticed and approved by the Board on April 27, 2021 and included authorization to allow each Supervisor to develop their own approach to meet the needs of their respective districts.

- 3) **Policy Consideration.** The stated intent of this bill is to create guidelines and criteria for allocating and dispersing discretionary funds in Orange County. However, the bill is not currently limited to a specific revenue source or a specific practice of how funds are spent. Ultimately, the term “discretionary” is undefined in this bill. In a letter of concerns, the California State Association of Counties, the Rural County Representatives of California, and the Urban Counties of California express that, “AB 2946’s definition of ‘discretionary funds’ extends far beyond this limited scope to all county general purpose revenue used for its budget; essentially, any county resource that is not a state, federal, grant, or restricted fee dollar would be subject to the limitation imposed by the bill. This imprecise definition has the potential to hamstring a board of supervisors to such an extent that a final budget could

¹ <https://laist.com/news/politics/andrew-do-rhiannon-do-investigation-warner-wellness-orange-county-viet-america-society-pham>

² <https://laist.com/news/politics/orange-county-taxpayer-money-andrew-do-viet-america-society-warner-wellness>

³ <https://laist.com/news/politics/orange-county-supervisor-andrew-do-taxpayer-money-daughter-viet-america-society-warner-wellness-rhiannon-do>

⁴ <https://www.latimes.com/california/story/2024-04-08/scandal-shadows-andrew-dos-final-year-on-the-o-c-board-of-supervisors>

not be approved by the statutory deadline.” Given the concerns raised by the counties, the Committee may wish to consider if additional clarification is needed.

- 4) **Committee Amendments.** In order to address the policy consideration above, the Committee may wish to amend this bill in the following ways (Underlined). Additionally, due to time constraints, the Author has requested that the Committee adopt the following amendments (*Italicized*).

26227.5. (a) For purposes of this section, the following definitions apply:

(1) *“Board” means the board of supervisors of the county.*

(2) “County” means the County of Orange.

(2) “Discretionary funds” means the discretionary or unrestricted funds from the general fund of the county.

(3) “District discretionary funds” means funds that are appropriated by the board to individual members of the board and are intended to be awarded to community organizations and nonprofit organizations.

(b) The board *of supervisors of the county* shall only appropriate *and expend* district discretionary funds if the board *of supervisors* approves, by a majority vote, appropriating *and expending* the district discretionary funds.

(c) The board *of supervisors of the county* shall post on its internet website a log of appropriated *and expended* district discretionary funds at the end of each quarter, *including all of the following*:

(1) *The planned and actual costs of the program or project, including the indirect costs, that the district discretionary funds cover.*

(2) *The spending timeline of those funds.*

(3) *The purpose of program funding.*

(4) *The eligibility requirements to receive funding.*

(5) *Total dollars awarded to the entity that is contracted with the county.*

(d) Within 90 days of an election, a member of the board *of supervisors of the county* who is on a ballot as a *supervisor district* candidate *of the board* and has an opponent on that ballot shall not take any of the following actions:

(1) Place an agenda item seeking approval to appropriate *and expend* district discretionary funds on the agenda for a meeting of the board *of supervisors of the county*.

(2) Announce or participate in a press release announcing the awarding of district discretionary funds previously approved by the board.

(3) Participate in or make a ceremonial presentation awarding previously approved district discretionary funds.

(e) Nothing in this section shall be construed to limit the existing authority of the *county board* from adopting ordinances, rules, or regulations beyond the minimum requirements outlined in this section.

- 5) **Arguments in Support.** None on file.
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Concerns

California State Association of Counties
Rural County Representatives of California
Urban Counties of California

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