

Date of Hearing: June 28, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 792 (Wilk) – As Amended May 26, 2017

SENATE VOTE: 39-0

SUBJECT: Local government: Measure B Oversight Commission: County of Los Angeles.

SUMMARY: Requires Los Angeles County to establish an oversight commission to review and report on how the County allocates funds from Measure B, a parcel tax that voters approved to support the County's trauma system. Specifically, **this bill:**

- 1) Requires Los Angeles County (LA County) to establish a Measure B Oversight Commission (Commission), consisting of the following members:
 - a) A member appointed by each city in LA County with a trauma center;
 - b) A member appointed by the Southern California Chapter of the American College of Surgeons;
 - c) A member appointed by the LA County Board of Supervisors (Board);
 - d) A member appointed by the Emergency Medical Services Authority (EMSA);
 - e) A member appointed by the LA County Department of Health Services;
 - f) A member appointed by the LA County Office of the Assessor; and,
 - g) Two members who are citizens appointed by the Commission to represent underserved areas of LA County.
- 2) Requires the Commission to submit a report to the Legislature by June 1, 2020, containing an assessment of the solvency of the LA County trauma network and recommendations to address deficiencies, the need and feasibility of trauma center expansion in underserved areas, and the allocation, specifically and separately, of Measure B funds that includes all of the following:
 - a) The total amount of taxes collected under Measure B from the initial date of imposition of the tax;
 - b) An accounting of all allocations of Measure B funds;
 - c) Criteria used in determining the allocation of Measure B funds;
 - d) The causes for, if any, disparities between allocations to LA County operated trauma centers and non-county operated trauma centers; and,

- e) A recommendation of how Measure B funds should be allocated so as to most closely reflect the intent of the initial measure and to provide equitable allocation across the LA County trauma network while ensuring that the needs of underserved populations and regions are being met.
- 3) Requires the Commission, following the submission of the report to the Legislature, to continue to oversee and monitor the collection and expenditure of Measure B funds, and to submit a report to the Legislature on June 1 of each year containing all of the following information:
- a) Recommendations for continued improvements to the LA County trauma network;
 - b) Information regarding whether recommendations made in prior reports of the Commission were implemented; and,
 - c) An assessment of the allocation of Measure B funds for the previous year and information regarding whether these allocations were equitable throughout the LA County trauma network. If the Commission determines that these allocations were not equitable, it must make a recommendation of how Measure B funds should be allocated equitably.
- 4) Requires the reports submitted pursuant to this bill to be submitted in compliance with provisions of law governing the manner in which reports must be submitted to the Legislature.
- 5) Requires LA County, in an effort to facilitate the duties of the Commission and to ensure further and ongoing transparency, to post in a clear and accessible location on the County's Internet Web site (website), both of the following:
- a) On or before June 1, 2019, the total allocation of Measure B funds to each trauma center receiving those funds;
 - b) On or before June 1, 2020, and by each June 1 thereafter, the allocation of Measure B funds to each trauma center receiving those funds in the prior year.
- 6) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the particular need to assess LA County's trauma network and the allocation of Measure B funds.
- 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 districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Allows general acute care hospitals, in addition to the basic services all hospitals are required to offer, to be approved by the Department of Public Health (DPH) to offer special services, including, but not limited to, a radiation therapy department, a burn center, an emergency

center, a hemodialysis center or unit, psychiatric services, intensive care newborn nursery, cardiac surgery, cardiac catheterization laboratory, and renal transplant.

- 2) Establishes EMSA, headed by a physician who has experience in the practice of emergency medicine and appointed by the Governor. Among other responsibilities, EMSA is required to develop planning and implementation guidelines for emergency medical services (EMS) systems.
- 3) Requires each county that has developed an EMS system to designate a local EMS agency (LEMSA), which is required to be the county health department, an agency established and operated by the county, an entity with which the county contracts for purposes of local EMS administration, or a joint powers agency created for the administration of EMS between counties. LEMSAs are required to have physician directors, and are responsible for planning, implementing, and evaluating an EMS system, among other duties.
- 4) Requires EMSA to draft regulations specifying minimum standards for the implementation of trauma care systems, as specified. A LEMSAs may implement a trauma care system if the system meets minimum standards established by EMSA and may designate trauma facilities, as defined, as part of their trauma system.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Likely ongoing reimbursable mandate costs of about \$300,000 per year for staff support of the Commission and administrative costs to support the Commission (General Fund).
- 2) No significant state reimbursable mandate costs are anticipated due to the requirement in the bill that LA County post specified information on its website.

COMMENTS:

- 1) **Bill Summary.** This bill requires Los Angeles County to establish a Measure B Oversight Commission to review and report on how the County allocates funds from Measure B, a parcel tax that voters approved to support the County's trauma system. The bill specifies the composition of the Commission, and requires it to provide specified reports to the Legislature and to provide ongoing oversight and monitoring of the allocation of Measure B funds. This bill is sponsored by the author.
- 2) **Author's Statement.** According to the author, "In 2002 residents of Los Angeles County passed Measure B; a special use tax of 3-cents per square foot on property improvements to rescue LA County's failing trauma network. In good faith, the people of L.A. County entrusted the Board of Supervisors to exert its discretion on the use of these funds in such a way that they would serve the entire region most effectively by increasing and improving trauma service countywide. Unfortunately, the Board has failed to carry out this task.

"The county collects \$250 million annually from the tax. On average, over 76 percent of those funds are distributed to just three hospitals, none of which are located in areas designated, by the County's own standards, as underserved. Further, these three beneficiaries are the only three hospitals operated by the County itself, with the 12 non-county operated trauma centers sharing just 15 percent of the funds.

"A 2014 report from the State Auditor uncovered a host of problems with the administration of the funds. The report offered a list of six recommendations to the L.A. County Board of Supervisors in order to remedy these issues, including a recommendation for a Measure B oversight commission which this bill would create, codifying the Auditor's recommendation."

- 3) **Background.** Emergency departments are responsible for providing medical and surgical care to patients arriving at a hospital in need of immediate care. Trauma centers maintain a higher level of service. Trauma centers are designated according to levels. Level I centers offer the greatest level of service, while Level IV offers the lowest level of service. All of California's trauma centers are at least Level III. There are also pediatric-specific trauma centers, either Level I or Level II. Some hospitals are designated as both a regular trauma center, and a pediatric trauma center. Level I and Level II are similar, with the primary difference being that Level I facilities are also teaching hospitals. Level III and IV trauma centers generally only provide initial stabilization, though Level III has greater surgical capabilities than Level IV.

EMSA provides statewide coordination of and leadership for trauma systems statewide, including the development of trauma care system regulations. LEMSAs are responsible for managing local trauma care systems, including designating trauma centers, and collecting trauma care data. Existing law requires EMSA to approve local plans for trauma systems to ensure that they meet minimum standards for care and service provision. EMSA's trauma system regulations include standards for:

- a) Triage and transportation of trauma cases;
- b) Flow patterns of trauma cases and geographic boundaries regarding trauma and non-trauma cases;
- c) The number and type of trauma cases necessary to assure that trauma facilities will provide quality care to trauma cases referred to them;
- d) The resources and equipment needed by trauma facilities;
- e) The availability and qualifications of the health care personnel, including physicians and surgeons;
- f) Data collection regarding system operation and patient outcome; and,
- g) Periodic performance evaluation of the trauma system and its components.

In developing a trauma plan, LEMSAs designate geographic areas where a given trauma center provides service. These areas are structured to ensure that all areas in a jurisdiction have access to a trauma center. Trauma plans that do not meet EMSA standards cannot be used to designate hospitals as trauma centers and are ineligible for state funding to support and improve care at those centers.

- 4) **LA County's Trauma System.** LA County's trauma system began operating in 1983, initially with eight designated trauma centers. By 1985, the system peaked with 22 designated trauma centers. However, 10 centers withdrew in 1990, often citing unacceptable levels of uncompensated care for trauma patients. The three areas of LA County that have been considered underserved in the trauma system are:
- a) The Malibu area, which does not have a trauma center within its geographic boundary;
 - b) The Antelope Valley in northeastern LA County, which is a large geographic area served by a single trauma center; and,
 - c) Until very recently, the eastern San Gabriel Valley. However, LA County's newest designated trauma center, Pomona Valley Hospital Medical Center, began receiving trauma patients from the San Gabriel Valley on March 1, 2017. LA County contributed \$4.5 million in Measure B funds in 2015 to help cover start-up costs for this new center, which has required more than \$100 million in capital expenses to bring the facility up to the standards of a Level II trauma center.
- 5) **Measure B.** In 2002, LA County's Department of Health Services was facing a significant budget deficit, which was threatening the County's trauma system. To address this shortfall, the Board submitted Measure B to the voters in November of 2002, which 73% of the voters approved. Proponents of the measure indicated that Measure B would make it possible to provide trauma service in three underserved areas: Pomona, the eastern San Gabriel Valley, and the Antelope Valley. This parcel tax measure was initially set at \$.03 per square foot on all structural improvements. The Board has increased the rate three times, most recently in 2012 to \$.0424.

Following the passage of Measure B, LA County designated new trauma centers in Lancaster (Antelope Valley) and Pomona to enhance service to underserved parts of the county. Currently, LA County has two county-operated and 13 non-county-operated trauma centers, including: eight centers in the City of Los Angeles, two centers in the City of Long Beach, and one center each in the cities of Lancaster, Lynwood, Pasadena, Pomona, and Santa Clarita.

The collection and expenditure of funds that Measure B generates was not specified in the measure, but is governed by the resolution that the Board approved to place Measure B on the ballot. Measure B raises more than \$250 million in revenue annually. The Measure B resolution requires the Board to set the tax rate by a majority vote, and permits the tax rate to be adjusted from the initial \$.03 based on the medical component of the Consumer Price Index. The Measure B resolution specified the purposes for which Measure B funds may be spent, including paying for trauma centers, EMS, bioterrorism response, and defraying administrative expenses such as salaries and benefits for personnel in the LA County Department of Health Services.

The Measure B resolution did not specify an allocation methodology. Following passage of Measure B, the Board created an oversight committee, which was composed of representatives from LA County government, including the Auditor-Controller, chief executive office, Department of Health Services, county counsel, assessor, treasurer, and tax

collector. The Committee recommended distributing most of Measure B funds to pay for uncompensated trauma and emergency care at county hospitals, and for uncompensated trauma care at non-county hospitals. This oversight committee disbanded in 2004, shortly after making this recommendation.

- 6) **State Auditor Report.** The State Auditor in January of 2014 released a report requested by the Legislature on LA County's management of Measure B funds for fiscal years 2008-09 through 2011-12. According to the report, LA County had not reevaluated its allocation methodology since the passage of Measure B and had not conducted a comprehensive review of its trauma system. The report concluded that, without a comprehensive assessment of its trauma system, LA County cannot demonstrate that it has used Measure B funds to address the County's most pressing trauma needs and has fulfilled the intent of the measure by expanding trauma services countywide.

According to this report, more than a decade after voters approved Measure B, existing trauma centers remained far removed from certain areas within LA County despite Measure B's stated intent. (However, as noted above, a trauma center was designated in the San Gabriel Valley since this report was published. The San Gabriel Valley was one of the areas identified in the report as an example of the lack of trauma center expansion despite Measure B.)

Although the LA County LEMSA, in conjunction with the American College of Surgeons, conducts periodic performance evaluations of individual trauma centers, the report argued that a comprehensive evaluation is needed to determine whether LA County's trauma system has developed to adequately meet the needs of all geographic areas and populations in the county. In addition, the report noted that the Board had not revisited its approach to allocating Measure B funds, hindering its ability to demonstrate to taxpayers that it distributes funds to address the most pressing trauma care needs.

According to the report, while the Board initially allocated \$2.4 million in 2003 to fund helicopter services as an interim solution to locating trauma centers in underserved areas, this amount had grown over time and had appeared to become a permanent solution to providing trauma care access to underserved areas. The report argued that the data related to helicopter transports does not contain enough information to evaluate the effectiveness of helicopter services. In addition to recommending that the Board engage the American College of Surgeons to perform a comprehensive assessment, the report recommended reinstating a Measure B oversight committee, as well as collecting better data relating to helicopter transport.

- 7) **LA County Response.** In its response to the report, the Board disagreed with many of the report's findings. The Board stated that it had assessed and evaluated its trauma and emergency care system and continued to do on a regular basis, resulting in a number of significant improvements to enhance trauma and emergency care in the County. The Board asserted that the allocation of Measure B funds had not changed, that funds were provided to offset uncompensated care, and that rates had been revised to meet the needs of the trauma hospitals. According to the Board, Measure B funding had been allocated to account for changes in the trauma network, such as the addition of California Hospital and Antelope

Valley Medical Center as new trauma hospitals, as well as the extra burden of uncompensated care taken on by St. Francis Medical Center when LA County's Martin Luther King, Jr. Medical Center lost its trauma center designation.

LA County also noted that there are numerous processes to evaluate the performance of its trauma system, including: review and approval of the County's trauma plan by EMSA; review of individual trauma centers by the American College of Surgeons; establishment of a County-wide trauma hospital advisory committee; and, review of complaint data, transport data (including ground and helicopter transport for individuals needing treatment in remote parts of the County), and mortality data. The response noted that mortality due to trauma was down County-wide and in the East San Gabriel Valley following the passage of Measure B, even though the rate of trauma incidents had increased.

- 8) **Antelope Valley Hospital Lawsuit.** Measure B was opposed by Antelope Valley Hospital, which is one of the privately-operated trauma centers in the County's trauma system. Following the State Auditor report, Antelope Valley Hospital sued the LA County Board of Supervisors in September 2015 over its Measure B funding allocations. The lawsuit alleged that the Board had allocated Measure B funds in a manner that was inconsistent with the intent of voters when they approved Measure B and that it had not used the funds to address the most pressing trauma needs in the county. In March 2017, the court ruled in favor of the Board because Measure B did not prescribe a specific manner of allocating funding.
- 9) **Policy Considerations.** The Committee may wish to consider the following issues:
 - a) **Local Issue, Local Resolution.** Local governments pass local taxes when approved by local voters, who are able to exercise oversight by evaluating the performance of their elected officials and removing them if they are dissatisfied with their performance. The Committee may wish to consider if this issue should remain in the hands of local officials and their electorate.
 - b) **Enough Oversight Today?** State regulations already prescribe requirements that trauma centers must meet, and the LA County system of trauma centers undergoes additional evaluations as noted by the County in its response to the State Auditor's report. The Committee may wish to consider whether it is appropriate for the Legislature to exert additional influence over how LA County spends its local tax dollars when this spending already undergoes several levels of review.
 - c) **Court Decision.** As noted above, LA County prevailed in the lawsuit with Antelope Valley Hospital over its allocation of Measure B funds. The Committee may wish to consider whether this bill creates an unnecessary review process for local decisions that have already been litigated.
 - d) **Commission Membership.** This bill prescribes the membership of the proposed Commission to include one representative from each city that has a trauma center, although these cities have vastly differing populations and different numbers of trauma centers. In addition, the area that a trauma center serves can include multiple cities – not just the city in which the center is located. Providing a small number of individual cities with representation on the Commission might not result in an accurate representation of

the needs of LA County residents. This is especially true for any underserved areas, which would be excluded from being seated on the Commission because only cities that already have a trauma center have been given a seat on the Commission.

- 10) **Previous Legislation.** AB 1975 (Hernández) of 2014 would have required LEMSAs to contract with the American College of Surgeons every five years to conduct a comprehensive assessment of their regional trauma systems. AB 1975 was held in the Assembly Appropriations Committee.

AB 1357 (Hernández) of 2013 would have required Measure B funds that were collected from properties within the San Gabriel Valley (SGV) to remain within that geographic region of LA County, and would have required the funds to be used for the purposes intended by the voter initiative within that geographic area to reduce ambulance diversion. The bill would have established a task force consisting of EMSA, DPH, the State Auditor, and a representative of a local hospital task force to be selected by the other members, and would have required the task force to study and audit the funds collected from properties in SGV to gain an understanding as to how the moneys have been allocated and to gauge what improvements, if any, have been made. AB 1357 was referred to the Assembly Health Committee but was never heard.

- 11) **State Mandate.** This bill is keyed a state mandate, which means the state could be required to reimburse local agencies and school districts for implementing the bill's provisions if the Commission on State Mandates determines that the bill contains costs mandated by the state.

- 12) **Arguments in Support.** The California Chapter of the American College of Emergency Physicians, in support, writes, "Unfortunately, not all of Los Angeles County's trauma centers have received their fair share of Measure B funding. A 2014 report by the State Auditor concluded that 75% of funds go to the three county-run public hospitals and only 16% of funds go to the non-county operated trauma centers. The Auditor could not prove that Los Angeles County was using the funds inappropriately because Measure B did not include a specific funding formula.

"Our members support SB 792 because it will provide much needed accountability of Measure B funds, including an accounting of fund allocations, criteria the County uses to allocate those funds, and causes for disparities in funding. Measure B was intended to expand the trauma system in Los Angeles County and this bill will ensure it is living up to its promise."

- 13) **Arguments in Opposition.** The LA County Board of Supervisors, in opposition, states, "SB 792 sets an unjustified precedent for local governments and all local voter-approved ballot measures. In fact, the County questions the Legislature's authority to mandate the County, or any local jurisdiction for that matter, to statutorily establish new parameters or requirements on local ballot measures approved by the local electorate, especially if the proposed statutory change goes beyond the language contained in the locally-approved measure.

"SB 792 is duplicative. There already are three County commissions or departments that provide oversight and/or recommendations on Measure B oversight and expenditures. These

entities include a broad group of stakeholders representing cities, law enforcement, emergency physicians and trauma surgeons. Further, the County's Auditor-Controller is mandated by law to annually publish a report on all Measure B revenues and expenditures. SB 792 is a reimbursable State-mandate and it does not make sense to expend State resources for a process that already exists."

14) **Double-Referral.** This bill is double-referred to the Health Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Antelope Valley Board of Trade
Antelope Valley Community Clinic
Antelope Valley Union High School District
California Chapter of the American College of Emergency Physicians
California Newspaper Publishers Association
City of Palmdale
Ellison John Transitional Care Center
Grace Resource Center
High Desert Medical Group
League of California Cities Desert Mountain Division
Mental Health America of Los Angeles, Antelope Valley Services
Palmdale Chamber of Commerce
One individual

Opposition

California State Association of Counties
Healthy African American Families
Los Angeles County Board of Supervisors
Urban Counties of California

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958