

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
SB 4 (Mendoza) – As Amended June 28, 2017

**SENATE VOTE:** 27-13

**SUBJECT:** Medi-Cal: county organized health system: County of Orange.

**SUMMARY:** Prescribes the composition of the governing body of the Orange County Health Authority in state law. Specifically, **this bill:**

- 1) Declares the following:
  - a) That the intent of the Legislature is to codify certain provisions of the enabling ordinance enacted by the Board of Supervisors of the County of Orange that prescribe the composition of the governing body of the Orange County Health Authority (CalOptima), which is a county organized health system, that arranges for the provision of health care services under the Medi-Cal program; and,
  - b) That the Legislature does not intend that the codification in statute of the composition of the governing body of the CalOptima by this section result in a new board but is instead a continuation of the prior board, and therefore the Board of Supervisors of the County of Orange is not required to appoint a new governing body or to change the composition of the governing body.
- 2) Prescribes the governance of CalOptima to be vested in a governing body consisting of 10 members, as follows:
  - a) Nine voting members shall be nominated by the Orange County Health Care Agency and appointed by a majority vote of the Board of Supervisors of the County of Orange and shall consist of the following:
    - i) Two members shall each be a member of the Board of Supervisors of the County of Orange, with one additional member of the Board of Supervisors of the County to serve as an alternate;
    - ii) One member shall be a current or former hospital administrator;
    - iii) One member shall be a representative of a community clinic;
    - iv) One member shall be a member of the public who is a legal resident of the County of Orange;
    - v) One member shall be a practicing licensed medical provider who is not an owner or officer, or a member of the board of directors, of a contracted independent physician's association or provider network;
    - vi) One member shall be a current CalOptima member or a family member of a current CalOptima member;

- vii) One member shall be an accounting or public finance professional, or an attorney who is an active member of the State Bar;
  - viii) One member shall be a practicing licensed physician who is a representative of a contracted independent physician's association or provider network; and,
- b) One nonvoting member, who shall be the Director of the Orange County Health Care Agency.
- 3) Requires members of the governing body to reside in, or be employed in, the County of Orange and to be generally representative of the diverse backgrounds, interests, and demography of persons residing in the County. Requires each member to have a commitment to a health care system that seeks to improve access to high-quality health care for persons served by the commission and that in fact delivers high-quality care and is financially viable. Requires each member to possess the requisite skills and knowledge necessary to design and operate a quality publicly assisted health care delivery system.
  - 4) Requires members of the governing body to serve four-year terms, except for those members who are members of the Board of Supervisors of the County of Orange who shall serve a one-year term.
  - 5) Prohibits a member of the governing body described in any of 2)a)ii) – 2)a)viii, above, from serving no more than two consecutive terms. Provides that this limitation applies only to service for consecutive terms, and that no other limitation on the number of terms a person may serve is intended.
  - 6) Provides that a member of the governing body may be removed from the governing body by a vote in favor of that removal of at least two-thirds of the full membership of the Board of Supervisors of the County of Orange.
  - 7) States 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 unique circumstances applicable to the County of Orange with respect to the operation and governing of the Orange County Health Authority, which is a county organized health system known as CalOptima.

**EXISTING LAW:**

- 1) Allows any county or counties to establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.
- 2) Allows a county board of supervisors to, by ordinance, establish a commission to arrange for the provision of health care services, as specified. Allows the boards of supervisors of more than one county to also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. Specifies, if a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission.

- 3) Allows a commission to enter into contracts for the provision of health care services to persons who are eligible to receive medical benefits under any publicly supported program, if the commission and participating providers acting pursuant to subcontracts with the commission agree to hold harmless the beneficiaries of the publicly supported programs if the contract between the sponsoring government agency and the commission does not ensure sufficient funding to cover program costs.
- 4) Provides that the enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. Provides that a commission so established shall be considered an entity separate from the county or counties.
- 5) Provides that upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.
- 6) Allows, in the event a commission may no longer function for the purposes for which it was established, at the time that the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors to, by ordinance, terminate the commission.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Background.** A county organized health system (COHS) is a local agency created by a county board of supervisors to contract with the Medi-Cal program. There are several COHS around the state, covering 22 counties, including CalOPTIMA in Orange County, Central California Alliance for Health in Merced, Monterey, and Santa Cruz Counties, Health Plan of San Mateo in San Mateo County, Partnership Health Plan of California, which covers a large number of counties, CenCal health in San Luis Obispo and Santa Barbara Counties, and Gold Coast Health Plan in Ventura County. The six COHS plans serve over 1.25 million patients through California's very urban and very rural areas, and in general COHS members are the most vulnerable in communities, suffering from poverty, disproportionate rates of chronic health conditions, and severe social, cultural and linguistic barriers.

CalOptima is the largest COHS in the State of California, responsible for coordination of benefits to 800,000 Medi-Cal members, and has been in existence since 1995.

- 2) **Bill Summary.** This bill prescribes the governance structure of CalOptima in statute, thereby codifying the existing governance structure. With the exception of requiring a two-thirds vote of the Board of Supervisors to remove a member of the governing body (the current county ordinance says majority vote), all of the other provisions of the bill specifying the governance, terms, and qualifications of the governing body are consistent with what is in the County's ordinance.

This bill is sponsored by the Orange County Taxpayers Association.

- 3) **Author's Statement.** According to the author, "CalOptima is the critical lifeline for almost 800,000 Orange County residents who receive health care and related services through California's Medi-Cal program. In providing these services, CalOptima works with about 7,425 doctors, 521 pharmacies, 96 long-term care facilities, 35 community health centers, 31 acute care and rehab hospitals, and a pediatric healthcare network. In order to ensure that CalOptima leadership has the experience and know-how needed to coordinate and provide care effectively to so many people with such diverse needs, it is critical that its board of directors includes experts in these types of care. SB 4 codifies minimum standards for the CalOptima board to make sure it includes experts in these fields. And, by requiring one additional vote by the Board of Supervisors to remove a CalOptima member, it reinforces the independence of the CalOptima board during trying times. Given the potential serious challenges to the Medi-Cal program, SB 4 offers modest reforms to ensure that CalOptima board remains stable and consistent and has the necessary experience and expertise to get the job done.

"Despite the substantial responsibility of local providers to care for Orange County's most vulnerable population, the local Board of Supervisors has the authority to change stakeholder representation at any time by simple majority which undermines the consistency and stability needed for an enterprise of this size and complexity.

"Since 2011, the CalOptima board membership criteria have gone through numerous alterations. Prior to 2011, the CalOptima board lacked defined stakeholder seats for providers. In 2011, the Board of Supervisors adopted an ordinance that required that certain categories of stakeholders be represented on the CalOptima Board. In 2016, the ordinance was amended again to decrease the number of members and slightly revise the makeup of the board."

- 4) **Prior Legislation.** SB 2092 (Watson), Chapter 632, Statutes of 1994, authorized the Board of Supervisors of Los Angeles County to establish a commission for governance of the county's managed care "local initiative" to provide Medi-Cal services. The bill specified the membership, powers, and duties of the commission.
- 5) **Arguments in Support.** Supporters argue that the existing ordinance that this bill codifies reflects a balance of public, consumer and provider representatives and will ensure that current and future Boards may continue their leadership to expand access to high-quality care and extend transparency between CalOptima, its members, providers, and the public at large.
- 6) **Arguments in Opposition.** Opponents argue that this bill strips Orange County residents of their control over their own health system, and that the bill fixes what is not broken.
- 7) **Double-Referral and Health Committee Amendments.** This bill is double-referred to the Health Committee and is scheduled to be heard on July 11, 2017. Health Committee has suggested amendments to address the following issues, which, due to timing, will be adopted in Local Government Committee, should the bill pass out of Health Committee:
- a) **Sunset.** This bill codifies specific membership categories of a locally appointed entity. To assess the continued necessity, and review the effectiveness of the membership in meeting the needs of Orange County residents and the goals of CalOptima, the Committee recommends adding a five-year sunset.

- b) **Membership.** The current membership of the CalOptima Board only includes two public members, one who is a legal resident of OC and another person who is a current CalOptima member or a family member of a current CalOptima member. The Committee may wish to recommend authorizing the CalOptima Board to expand its membership to increase public or consumer representation, as follows:

*The governing body of CalOptima, subject to a two-thirds vote of the full membership, may increase the number of public members or consumer or family member of a consumer, subject to an affirmative vote by a majority of the BoS; provided, however, that no change in the composition of the governing board shall result in the elimination of the members codified by this bill.*

- c) **Purpose of the CalOptima Board.** To ensure that CalOptima's Board shares the common goal of acting in the public interest and protecting the fragile and vulnerable low-income population that is its membership; inform potential Board members what will be expected of them; and, reassure the public and the state and federal Medicaid agencies that the board members are aware of their responsibilities, the Committee recommends adding the following provisions:

*Each member of the board shall have the responsibility and duty to follow the requirements of applicable federal and state law and regulations, to serve the public interest of the members and to ensure the operational well-being and fiscal solvency of the OCHA. Board members shall further strive to improve health care quality, promote prevention and wellness, ensure the provision of cost-effective health and mental health care services, and reduce health disparities. The Authority shall work to earn the public's trust through its commitment to accountability, responsiveness, transparency, reliability, and cooperation.*

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Orange County Taxpayers Association [SPONSOR]  
American Academy of Pediatrics, California  
California Medical Association  
CHOC Children's  
Coalition of Orange County Community Health Centers  
KPC Health Inc.  
Memorial Care Health System  
Orange County Medical Association  
Prime Healthcare  
St. Joseph Hoag Health  
Tenet Healthcare

### **Opposition**

Supervisor Michelle Steel, Orange County  
Supervisor Andrew Do, Orange County

**Analysis Prepared by:** Debbie Michel / L. GOV. / (916) 319-3958