

March 15, 2002

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled the "Maddy Emergency and Trauma Services Act" (File No. SA2002RF0010). The measure would establish a new surcharge on criminal penalty assessments for emergency care services.

Background

Criminal Fines

Criminal fines are levied for a variety of criminal offenses, with most fine revenue coming from traffic violations. Under existing law, the total fine collected by counties for criminal offenses is generally made up of three parts: a "base" fine, a state penalty equal to the amount of the base fine, and a county penalty equal to \$7 for every \$10 of base fine. Counties retain a portion of these revenues, while the remainder is remitted to the state and used to support a variety of programs, primarily victim services and law-enforcement training. Counties have discretion in setting the base fine. In addition, the fines can be reduced by judges to reflect an individual's ability to pay. In cases when a person fails to pay the total amount of the fine, existing law generally specifies that the first allocation of the funds collected shall be for county purposes.

Costs and Funding for Uncompensated Emergency Care

Under state and federal law, any person seeking care at an emergency department must be provided emergency care regardless of their ability to pay. As a result, hospitals and physicians who provide emergency and trauma care are often not fully compensated for the care they provide.

Some of the cost of this uncompensated care is partly offset by various state and county government subsidies. For example, the current state budget allocates about

\$25 million in state tobacco product tax revenues received under a 1988 initiative known as Proposition 99, on a one-year basis, to help pay for uncompensated emergency care provided by hospitals and physicians.

Also, under existing law, each county is authorized to establish an emergency medical services fund comprised of specified revenues from criminal fines and penalties. Counties may use up to 10 percent of these revenues for the cost of administering the fund. After these costs have been deducted, 58 percent of the remaining funds are to be used to reimburse physicians for uncompensated emergency and trauma care, 25 percent to reimburse hospitals for such care, and 17 percent for other emergency medical services such as regional poison control centers.

Even with these subsidies, hospitals and physicians generally are not being compensated for all of the emergency and trauma care that they provide.

Proposal

Additional Revenues Generated Under the Measure

This measure proposes to provide additional funding for emergency medical care services by increasing the surcharge on criminal fines, forfeitures, and penalties, including vehicle code violations, but not including parking offenses. The amount of the additional penalties would range from \$20 to \$500, depending upon the amount of the existing fine and penalties. The measure specifies that the allocation of funding for emergency services would come before most other allocations of fine and penalty revenues are made to state and local governments.

The measure also would generate additional funding for emergency medical services by appropriating approximately \$25 million in state Proposition 99 funds for reimbursement for uncompensated emergency care. A similar appropriation was provided in the current fiscal year on a one-time basis.

How These Additional Revenues Would Be Spent

Most of the additional monies generated by this measure would be used to reimburse physicians and hospitals for uncompensated emergency care. A small portion of the funding would be used for equipment and training of paramedics, firefighters and other "first responders" to emergency calls.

Specifically, this measure would establish the State Maddy Emergency and Trauma Services Fund (known as the "Maddy Fund"), to be composed of three accounts: (1) the Emergency and Trauma First-Responders Account, (2) the Emergency and Trauma Hospital Services Account, and

(3) the Emergency and Trauma Physician Services Account. Each county would be required to establish a corresponding set of special funds.

The additional revenues generated by the surcharge on criminal fines and penalties under this measure would initially be deposited in these county special funds, but would subsequently be transferred to the corresponding state funds, except that a county could be authorized by the state to administer its own Physician Services Account and to retain the revenues deposited into that account. Under this measure, 4 percent of the surcharge revenues would go to the First-Responders Accounts, 32 percent to the Physician Services Accounts, and 64 percent to the Hospital Services Accounts. The Proposition 99 funding that would be appropriated by this measure would be allocated to the Physician Services Accounts. The existing fine and penalty revenues for emergency care services would be transferred to the state Physician Services Account, but would go to a county Physician Services Account if that county were authorized to administer its own fund for this purpose.

First-Responders Account funding would be administered by the Office of the State Fire Marshall and would be allocated to the California Firefighter Joint Apprenticeship Training Program, which provides training and equipment for firefighters, emergency medical technicians, paramedics, and other 'first responders.'

Hospital Services Account funds would be administered by a newly established Emergency and Trauma Medical Services Commission in coordination with the State Controller's Office. The funds would be distributed to hospitals to reimburse them for uncompensated emergency and trauma care based upon a formula that would take into account their number of emergency department visits, amount of charity care provided, and bad debt. Up to 1 percent of the fund receipts could be used to pay for the cost of its administration.

The Emergency and Trauma Physician Services Account would be administered by the Department of Health Services (DHS) to the extent that DHS did not transfer administrative authority to counties to administer their own corresponding funds. These funds would be used to reimburse physicians for uncompensated emergency services, and must supplement rather than replace any existing funding now provided for such a purpose. The funds could not be used to reimburse physicians employed by county hospitals. Up to 4 percent of the funds received by the state or a county could be used for the cost of administration of these funds.

Fiscal Effects

New Revenues for Emergency Care Services. Based on (1) the amount of fines, forfeitures, and penalties collected currently and (2) the measure's proposed schedule of penalty surcharges, we estimate that the proposed new penalty on criminal violations

would generate up to a few hundred million dollars annually, potentially as much as \$250 million to \$350 million, depending on local collection efforts and the number of citations issued. In addition, the actual amount of revenues collected would depend on matters relating to judges' discretion. For example, to address an individual's limited financial resources, a judge may reduce the total fine. This measure also would result in a one-time expenditure of existing state revenues received under Proposition 99 of about \$25 million. These funds would be allocated as provided in the measure to the state and to counties for the purposes specified in the measure.

Reduction in Existing State and Local Revenues. The measure would also adversely affect the amount of state and local penalties currently collected under existing law. First, some persons who are subject to the higher fines would be unable to pay them. These individuals will either pay nothing, or pay a reduced amount, thereby reducing the rate at which such fines are collected. Second, the measure specifies that funds collected pursuant to its provisions be set aside for its purposes before most other allocations are made to state and local accounts. The decline in the collection rate, combined with the proposed order of distribution, would likely have the effect of reducing state and local penalty revenues. We estimate that these revenue reductions to state, county, and city programs would be significant, potentially exceeding \$100 million annually.

State and Local Administrative Costs. This measure would result in increased state and local administrative expenditures for the implementation of a number of its provisions. The administrative costs incurred by state and local governments would be significant, but would be largely, if not completely, offset by the additional revenues generated under this measure. Any excess costs could result in a comparable increase in state and local expenditures.

Summary

This measure would have the following significant fiscal effects:

- Increased Maddy Fund revenues for emergency care services of up to a few hundred million dollars annually, potentially as much as \$250 million to \$350 million.

- Reduced various other state and local penalty revenues for existing programs potentially exceeding \$100 million annually.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

B. Timothy Gage
Director of Finance