

October 30, 2003

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 911 Emergency and Trauma Care Act" (File No. SA2003RF0043). This measure would increase the existing emergency telephone surcharge to provide funding for uncompensated emergency medical care in California.

Background

Emergency Telephone Number Surcharge

The Department of General Services (DGS) and the Board of Equalization are responsible for administering the State Emergency Telephone Number (911) Account. The 911 Account is funded through a surcharge that is placed on each monthly phone bill (each user could potentially receive bills from multiple phone companies). Under current law, the surcharge rate can be set up to 0.75 percent. The state has currently set the rate at 0.72 percent. Revenues in the 911 Account are used to reimburse government agencies and telephone companies for equipment and related costs associated with California's 911 emergency phone system. Due to an increase in the number of cellular phone accounts, the 911 account has maintained a reserve that has ranged from \$15 million to \$80 million in recent years. The revenue projected from the current surcharge in 2003-04 is \$133 million.

Costs and Funding for Uncompensated Emergency Care

Under state and federal law, any person seeking emergency medical care must be provided such 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, to help pay for uncompensated emergency care provided by hospitals and physicians, and an additional \$6.8 million for community clinics. Because the number of tobacco users is declining, this funding source has and will continue to decrease.

Also, under existing law, each county is authorized to establish a Maddy 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

New Revenues Generated Under the Measure

This measure increases funding for emergency medical care by imposing an additional 3 percent emergency telephone surcharge, in addition to the existing surcharge, on intrastate telephone calls. The measure specifies that a telephone company could not bill a surcharge to a residential user of more than 50 cents per monthly phone bill. The amount of the surcharge on mobile telecommunication services and commercial telephone lines would not be capped. Revenues from the increased surcharge would be deposited in a new 911 Emergency and Trauma Care Fund established by the measure.

Other Funding Provisions

In addition to providing the new revenues, this measure contains some provisions that would affect the allocation of existing state and local funds.

First, the initiative requires all counties to establish a Maddy Fund and transfers a portion of the local Maddy Emergency Services Fund revenues to the state for emergency physician and surgeon reimbursements. While the purpose of these funds would remain the same, this measure would generally shift the administration of the money from counties to the state. However, a county could apply for and obtain permission from the state to administer its existing Maddy funds for physicians and surgeons, as well as the additional funding made available under this initiative for uncompensated emergency and trauma care provided by physicians and surgeons.

In addition, this measure would require that certain appropriations of Proposition 99 funding to reimburse physicians and community clinics for uncompensated emergency room and trauma care be continued in future years at the current level of funding.

How This Funding Would Be Spent

Funding Allocated to Various Accounts. This measure would allocate the additional revenues from the new telephone surcharge to the 911 Emergency and Trauma Care Fund, which in turn would be distributed to the following accounts:

- 0.75 percent to the 911 Account.
- 3.75 percent to the Emergency and Trauma First Responders Account.
- 5 percent to the Community Clinics Urgent Care Account.
- 30.5 percent to the Emergency and Trauma Physician Uninsured Account.
- 60 percent to the Emergency and Trauma Hospital Services Account.

Additionally, the measure would establish the Emergency and Trauma Physician Unpaid Claims Account and would shift 58 percent of penalty assessments now being collected by county Maddy Emergency Medical Services Funds to this new state-administered account. The Proposition 99 appropriations that would be continued under the initiative would be allocated under the measure to several of the accounts specified above.

Funding Purposes and Administration. Most of the additional revenues generated by this measure would be used to reimburse physicians and hospitals for uncompensated emergency and trauma care. A smaller portion of the funding would be used to improve the state's emergency phone number system, to help train and equip "first responders" (such as firefighters and paramedics) for emergencies, and to support community clinics. Below is a more detailed description of the purpose of these various proposed accounts and how they would be administered.

The 911 Account would be administered by DGS for the purpose of making technological and service improvements to the basic emergency phone number system. Under the measure, the DGS would establish criteria for disbursing these funds to state or local agencies.

Emergency and Trauma First Responders Account funding would be administered by the Office of the State Fire Marshal and would be allocated to the California Firefighter Joint Apprenticeship Training Program for training and related equipment for firefighters, paramedics, and other first responders.

Community Clinics Urgent Care Account funds would be allocated by the Office of Statewide Health Planning and Development (OSHPD) to nonprofit clinics providing

urgent care services to the uninsured. Funding would generally be allocated based upon each clinic's total number of reported medical "encounters" with uninsured patients (such as a visit to a clinic to see a doctor). Reimbursements to OSHPD for its administrative costs would be limited to 1 percent of the funds credited to the account during a fiscal year.

The Emergency and Trauma Physician Uninsured Account and the Emergency and Trauma Physician Unpaid Claims Account would provide reimbursement of claims filed by physicians and surgeons who are not employed by hospitals and who provide uncompensated emergency services to patients. Both accounts would be administered by the Department of Health Services (DHS), but a county could apply for and obtain permission to administer the funds allocated from these accounts within its jurisdiction. The Emergency and Trauma Physician Service Commission, consisting of ten emergency medical professionals, would be created in DHS to provide advice on all aspects of the accounts as well as to review and approve relevant forms, guidelines, regulations, and county applications to administer funds from these accounts. Reimbursement to DHS for these administrative costs would be limited to 4 percent of the total account receipts each fiscal year, although the commission would be authorized to set a different percentage limit.

Funds in the Emergency and Trauma Hospital Services Account would be distributed by DHS to hospitals to reimburse them for the cost of uncompensated emergency and trauma care. Funds would be allocated based on each hospital's number of emergency department visits, the amount of charity care a hospital provided, and losses from unpaid bills for hospital services. Up to 1 percent of the fund's receipts could be used to reimburse DHS for the administrative costs of this account.

Fiscal Effects

New Revenues for Emergency Care Services. Based upon the current number of residential and commercial landlines and cellular phone subscribers, we estimate that increasing the existing surcharge by 3 percent would raise about \$550 million in additional annual revenues (probably growing in future years). The number of residential users affected by the monthly cap is difficult to estimate and would depend on variations in monthly phone usage.

Impact on Existing State and Local Revenues. Based on the most recent data available from 2001-02, we estimate that this initiative would result in the transfer each year of about \$32 million to the state from the county Maddy Emergency Medical Services Funds to reimburse physicians and surgeons for uncompensated emergency care.

The measure also would allocate about \$32 million per year in Proposition 99 funds to reimburse physicians and surgeons and community clinics for uncompensated

emergency care. These funding allocations would provide a fixed continuing source of revenue for uncompensated medical services, but could occur at the expense of other programs reliant on funding available from Proposition 99, because tobacco levies are a declining source of state revenues.

State and Local Administrative Costs. This measure would result in increased state administrative expenditures for the implementation of a number of its provisions. We estimate that the *ongoing* administrative costs incurred by state departments would probably amount to about \$5 million to \$6 million dollars annually, which are to be offset by the additional revenues generated under this measure.

State departments would also incur significant *one-time* start-up costs to develop the necessary forms, regulations, and accounting systems to administer the larger accounts proposed in this measure. For OSHPD, it is possible these one-time costs could exceed the resources provided for this purpose by the initiative by several hundred thousands of dollars. State departments may also incur minor loan interest expenses if insufficient revenues were available at the time of the start-up activities.

The measure would also result in minor administrative expenditures at the local level, particularly in counties that have not established a Maddy Emergency Medical Services Fund and now would be required to do so.

Summary

The measure would have the following significant fiscal effects:

- Increased revenues of about \$550 million annually from increased charges on telephone usage for emergency care services and other specified purposes. These revenues would probably grow in future years.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Steve Peace
Director of Finance