



LEGISLATIVE BULLETIN

March 1, 2001

California State Association of Counties

Vol. 101, No. 7

In This Issue...

1.) NEW COMMISSION TO LOOK AT STATE/LOCAL FISCAL REFORM

Senate Budget Committee Actions

2.) HOUSING, LAND USE AND TRANSPORTATION

Land Use

AB 291—Support

AB 330—Request for Comment

SB 294—Pending

California Environmental Quality Act (CEQA)

AB 271—Request for Comment

Transportation

AB 321—Request for Comment

3.) EMPLOYEE RELATIONS

Binding Arbitration

SB 383 – Oppose

Peace Officers/Firefighters

AB 105 – Oppose Unless Amended

AB 170 – Oppose

AB 215 – Pending

AB 376 – Pending

AB 417 – Pending

SB 156 – Pending

Domestic Partners

AB 25 – Pending

Retirement

AB 111 – Watch

AB 179 – Pending

AB 196 – Oppose

AB 199 – Oppose

AB 399 – Watch

AB 418 – Watch

SB 54 – Watch

SB 90 – Oppose

SB 128 – Watch

SB 193 – Watch

SB 202 – Oppose Unless Amended

SB 304 – Watch

SB 361 – Oppose

SB 362 – Pending

SB 408 – Oppose

SB 446 – Watch

AJR 3 – Support

SJR 4 – Support

Agency Shop Agreements

AB 132 – Oppose

Minimum Wage

AB 181 – Pending

Workers' Compensation

AB 235 – Watch

SB 71 – Watch

SB 424 – Oppose

Unemployment Insurance

SB 40 – Pending

OSHA/Safety

SB 123 – Pending

Employee Records

AB 351 – Pending

SB 147 – Pending

Independent Contractors

SB 195 – Support

Affirmative Action

AB 276 – Pending

SB 410 – Pending

Human Relations Commissions

SB 381 – Pending

4.) ADMINISTRATION OF JUSTICE

Appointment of the Chief Probation Officer

AB 765 – Oppose

Board of Corrections' Composition

AB 153 – Request for Comment

Energy-Related Public Safety Issues

AB 30X – Request for Comment

Privacy and Identity Theft Protection

Various Legislative Proposals – Request for Comment

Proposition 36 Implementation

State Technical Assistance on Proposition 36 – Request for Comment

Family Violence Task Force

March 7 Conference Call Scheduled

Turning Point Academy

Advisory Committee Members Named

5.) REVENUE AND TAXATION

Property Tax

County of Sonoma, et al. v. Commission on State Mandates, et al.

ERAF Relief

Property Tax Administration

AB 589 – Pending

AB 964 – Sponsor

Utility Users Tax

SB 62X – Concerns, Request for Comment

6.) AGRICULTURE AND NATURAL RESOURCES

Energy

AB 9X – Neutral

AB 16X – Pending – Request for Comment

AB 91X – Pending – Request for Comment

AB 93X – Pending – Request for Comment
AB 28X – Pending – Request for Comment
AB 31X – Pending – Request for Comment
AB 55X – Pending - Request for Comment
AB 65X – Pending – Request for Comment
AB 75X – Pending – Request for Comment

7.) HEALTH AND HUMAN SERVICES

Proposition 36 Implementation

State Technical Assistance on Proposition 36– Request for Comment

Trauma and Emergency Care

SB 254 – Pending – Request for Comment

County Medical Support Program (CMSP)

SB 226 – Support

Family Violence Task Force

March 7 Conference Call Scheduled

1.) New Commission to Look at State/Local Fiscal Reform

Assembly Speaker Robert Hertzberg has established a 29-member Commission on Regionalism. Its charge is to study and recommend changes to state policies and governance structures to help regions address issues that extend beyond city and county boundaries. The speaker launched the new commission in November 2000 stating, "The winners in the New Economy will be the regions that learn to work together to relieve traffic congestion, build affordable housing, preserve open space and promote economic development." Further, the speaker said: "If government is going to be effective in this new age, it is going to have to start thinking regionally."

The commission has representatives from a wide variety of interests, including the private and public sectors and the environmental community. There are three county supervisors on the commission including Supervisor Elizabeth Martin, Nevada County, Supervisor Keith Carson, Alameda County; and Supervisor Pete Parra, Kern County. Speaker Hertzberg appointed Nick Bollman to chair the new commission. Mr. Bollman is the president of the Oakland-based California Center for Regional Leadership, whose members include leaders from local government, business, labor, community organizations, and academia.

While the focus of the commission is on issues surrounding growth and thus there has been significant discussion on local land use, the commission realized early on that addressing the state/local fiscal relationship is imperative to attaining its goals.

The commission has created a number of committees, and, to its credit, it has indicated that before it can adequately address regional issues, it needs to address the fundamental issue of state/local fiscal reform. This issue is the top priority of the CSAC Strategic Plan. As a result of this focus, one of the first committees the commission created was the state/local fiscal reform committee, which has met several times. The committee gave a brief presentation on its preliminary recommendations to the full commission on February 23. Its recommendations fell into five broad categories:

- Improve fiscal stability and adequacy for local governments.
- Eliminate barriers to sustainable regional and local development.
- Enable communities and regions to control their own futures.
- State budget strategies for local and regional sustainable development.
- Capital expenditures for local and regional sustainable development.

Because most commissioners did not have adequate time to review the recommendations prior to the hearing, further discussion was postponed until the next commission meeting on March 23. CSAC and the League of California Cities jointly provided comments to the commission. Our comments were included in the materials distributed to the commission. For more information on the committee's specific proposals and our comments, please call Pat Leary at (916) 327-7500 ext. 514.

The commission meets on a monthly basis. The March 23 meeting will be held in the San Francisco Bay Area. On April 20, the commission meeting in Monterey will be held jointly with the California Councils of Governments annual meeting.

Steven C. Szalay, Executive Director
sszalay@counties.org

Senate Budget Committee Actions

On March 1, the Senate Budget Committee sent the 2001-02 budget to Senate Budget Subcommittees after removing nearly \$2 billion in one-time spending from the Governor's proposed budget. This action occurred after the Legislative Analyst and Department of Finance provided a briefing to the committee and indicated that, due to the energy crisis, the state's financial situation will face continued uncertainty through the May Revise. The

committee indicated that it did not view this action as shutting the door to the Governor’s proposals; in fact, many members expressed their support for a number of the proposals. Senate budget subcommittees will be charged with adding proposals during their deliberations.

The following lists the items of interest to local government cut from the Senate version of the budget:

Flood control subventions, other flood control projects	\$118 million
Central Valley Infrastructure	\$40 million
War on methamphetamine	\$25 million
Local law enforcement technology grants	\$75 million
Touch screen voting pilot projects	\$40 million
Jobs-housing balance incentive program	\$200 million
Local government fiscal relief	\$250 million

CSAC will be following the actions of the budget subcommittees and provide updates as necessary.

2.) Housing, Land Use and Transportation

For more information, contact DeAnn Baker at 916/327-7500, ext. 509, or e-mail dbaker@counties.org.

Land Use

AB 291–Support

AB 291, by Assembly Member Ellen Corbett, would establish the Local Government General Plan Update and Sustainable Communities Grant Program. This measure would appropriate \$10 million from the State General Fund to the Governor’s Office of Planning and Research (OPR) for a competitive grant program. The grants would not be able to exceed \$250,000 per city or county. The bill would also require OPR to adopt regulations which specify the standards, procedures, and criteria that cities and counties would have to meet in order to be eligible for the grants. AB 291 also contains a list of suggested principles for cities and counties to follow when updating their general plan. This bill has not been set for hearing yet.

AB 330–Request for Comment

AB 330, by Assembly Member Sarah Reyes, would require the state Department of Conservation to advise the local agency formation commission of concerns related to a city annexation proposal of lands currently under Williamson Act contract.

SB 294–Pending

SB 294, by Senator Byron Sher, would make some changes to the five-year state infrastructure plan that is submitted by the Governor to the Legislature with the state budget. This bill may serve as a placeholder for a proposal that may be the result of smart growth discussions focusing on redirecting state infrastructure dollars to local jurisdictions that meet certain criteria. The other option under consideration is allocating funding of state infrastructure dollars to local jurisdictions based on certain “smart growth principles” yet to be determined. This bill has not been scheduled for hearing yet.

The LEGISLATIVE BULLETIN (ISSN 10403752) is published weekly during the State Legislative Session, by the California State Association of Counties, 1100 K Street, Suite 101, Sacramento, CA 95814. Subscriptions: \$10.00 annually for CSAC members; \$30.00 annually for non-members. Periodicals postage paid at Sacramento, CA . POSTMASTER: Send changes of address to: Legislative Bulletin, 1100 K Street, Suite 101, Sacramento, CA 95814.

California Environmental Quality Act (CEQA)

AB 271—Request for Comment

AB 271, by Assembly Member Joe Canciamilla, would exempt from CEQA any proposed development that occurs within city limits or within an urbanized unincorporated area, on a project site of no more than five acres substantially surrounded by urban uses, that meets all other conditions for in-fill development projects.

Transportation

AB 321—Request for Comment

AB 321, by Assembly Member Juan Vargas, would statutorily and permanently shift the sales tax on gasoline from the state General Fund to transportation. This portion of the bill is very similar to the provisions found in AB 227 (Longville) reported in the February 22 Bulletin. CSAC supports this provision, which also retains the allocation formula ensuring that 40 percent of the monies collected would be allocated to the State Transportation Improvement Program (STIP), 40 percent directly to cities and counties and 20 percent to transit or the Public Transportation Account (PTA).

The other provisions of the bill reflect a proposal sponsored by the Planning and Conservation League (PCL), which would shift the sales tax collected on the sale of automobiles from the state's General Fund to transportation. This proposal was presented to the CSAC Housing, Land Use and Transportation Policy Committee at its November 2000 meeting in Ontario.

The proposal would allocate the funding as follows:

- 10 percent to local streets and roads.
- 5 percent to congestion bottlenecks.
- 10 percent to transit operations and maintenance.
- 10 percent to transit capital.
- 5 percent to senior and disabled transportation.
- 5 percent to connectivity projects.
- 5 percent to rail grade separations.
- 10 percent to environmental improvements.
- 2 percent to water quality.
- 6 percent to air quality.
- 2 percent to bicycle projects.
- 1 percent to pedestrian facilities.
- 5 percent to state highway maintenance.
- 5 percent to intercity rail for capacity and operations.
- 2 percent to rural transportation projects.
- 7 percent to rail transit oriented development.

- 9 percent to low emission vehicles.
- 1 percent to bicycle and pedestrian safety law enforcement.

This proposal would represent new monies for transportation and these other related purposes. Your comments are welcome.

3.) Employee Relations

For more information, contact Steve Keil at 916/327-7500 ext. 521 or e-mail skeil@counties.org.

Binding Arbitration

SB 383 – Oppose

SB 383, by Senate President Pro Tempore John Burton, would add physicians and dentists to the list of list of local government employees who have rights to engage in binding interest arbitration. We presume this is a "spot bill," which is reserved for future amendments to existing law pertaining to binding interest arbitration.

Last year, SB 402 (Burton) established binding interest arbitration rights for firefighters and a broad range of peace officer classes employed by local agencies. This bill represents an expensive unfunded mandate on local public agencies and is currently subject to judicial challenge.

Peace Officers/Firefighters

AB 105 – Oppose Unless Amended

AB 105, by Assembly Member Rod Pacheco, pertains to Riverside County only. It would amend portions of the Meyers-Milias-Brown local agency collective bargaining law pertaining to rights of peace officers to be represented by a bargaining unit composed entirely of other peace officers. The District Court of Appeal ruled in *San Bernardino Sheriff's Employee's Benefit Association v. San Bernardino County* that welfare fraud investigators are not included in this law because they were not designated as peace officers at the time the law became effective.

Current law, enacted in 1999 by AB 1483, overruled *San Bernardino* for San Bernardino County only. AB 1483 removed authority for the San Bernardino County Board of Supervisors to deny a petition from the welfare fraud investigators to be represented by the safety unit.

AB 105 would add Riverside County to the provisions of current law overturning the *San Bernardino* decision. This action would circumvent local procedures and deny the board of supervisors the authority to decide on the appropriate bargaining unit for welfare fraud investigators.

It is our belief that AB 105 is unnecessary. It is our belief that the bill would remove the local board of supervisors' option to amend local the local peace officer bargaining unit and replace it with a mandate to include welfare fraud investigators. The bill should be amended to clearly maintain the board of supervisors' option to include welfare fraud investigators in the peace officer bargaining unit without the mandate.

AB 170 – Oppose

AB 170, by Assembly Member Ken Maddox, would amend provisions of the Public Safety Officers' Procedural Bill of Rights. That body of law provides expanded due process rights to public safety officers, including a requirement that when any public safety officer is under investigation and subjected to interrogation by his or her commanding officer or employing department that could lead to punitive action, the interrogation shall be conducted pursuant to specified procedures. It additionally prohibits punitive action or denial of promotion or the threat of those actions against a public safety officer because of the exercise of rights.

AB 170 would include reserve peace officers in the definition of public safety officer. It would further provide: "No reserve peace officer designated in Section 830.6 of the Penal Code may be removed or terminated by a public agency or an appointing authority without providing the reserve officer with written notice and the reason or reasons therefore and an

"There is no crying in baseball."
Pedro Martinez

opportunity for administrative appeal. Nothing in this subdivision shall be construed to create a property interest, where one does not otherwise exist by rule of law, for a duly appointed reserve officer."

It is our belief that this expansion of rights to at-will reserve officers further diminishes the ability of police agencies to effectively manage their staff.

AB 215 – Pending

AB 215, by Assembly Member Rebecca Cohn, would declare the Legislature's intent to establish a program to assist spouses and children of firefighters, members of law enforcement and correctional officers, killed in the line of duty, to obtain medical and dental benefits under the Public Employees Retirement System (PERS) Public Employees Medical and Hospital Care Act (PEMHCA) program. County officials are requested to provide comments to CSAC regarding this bill.

AB 376 – Pending

AB 376, by Assembly Member Ed Chavez, would require local agencies employing public safety officers to institute a peer support program. The bill would also require the Peace Officer Standards and Training Commission to develop peer support training.

The bill defines peer support as "a process whereby an employee discusses an issue with a nonprofessional peer support member. The employee defines a problem and decides upon a solution himself or herself. The peer support member is trained in good active listening skills, helps clarify issues and supports the person through the problem-solving process."

AB 376 would require appointment of a seven-member peer support program steering committee, reporting to the top agency manager. Peer support members would require specified training.

County officials are urged to communicate to CSAC any positions on AB 376.

AB 417 – Pending

AB 417, by Assembly Member Gil Cedillo, would add "civilian employees of the police department of any city" to the employees covered by the Public Safety Officer Procedural Bill of Rights. That body of law provides expanded due process rights to public safety officers.

SB 156 – Pending

SB 156, by Senator Ray Haynes, would change state standards for training of county probation officers and other correctional personnel. It would change from optional to mandatory minimum training standards in current law. SB 156 would require training standards to include basic, entry, continuation, supervisory, management, and specialized assignments. County officials are requested to provide comments to CSAC regarding this bill.

Domestic Partners

AB 25 – Pending

AB 25, by Assembly Members Carole Migden and (Speaker) Robert Hertzberg, would amend existing law pertaining to domestic partnerships. It is an extensive bill that contains the following key provisions:

It would expand the current definition of domestic partner. Current law requires domestic partners to be members of the same sex unless both are at least age 62 and qualify for Social Security benefits. AB 25 would permit heterosexual domestic partnerships if one of the partners is at least age 62 and qualifies for a Social Security benefit.

Current law provides public agency employers who are contractors to PERS for health care (PEMHCA program) to allow employees to enroll their domestic partners in the health care program. AB 25 would provide employers the right to allow employees to enroll their domestic partners in any group health care plan or disability insurer that provides hospital, medical, or surgical benefits to the extent these benefits are offered to other employee dependents.

Current law requires employers who provide sick leave to allow their employees to use that sick leave to take care of a sick child, parent, or spouse. AB 25 would expand that provision to allow an employee to use sick leave to take care of a sick domestic partner or the child of a domestic partner.

All county officials are urged to provide CSAC with any reaction to this bill.

Retirement

AB 111 – Watch

AB 111, by Assembly Member Sally Havice, relates to retiree health benefits provided by the 1937 Act County Retirement Systems. Under current law, when the county collectively bargains changes to health plan benefits with its employee groups, it has no obligation to notify representatives of retired employees of the pending changes, even when the changes affect the retirees.

AB 111 would require any 1937 Act county to provide reasonable advance notice to any officially established organization representing retired employees of that county or district of any proposed changes in employee health care benefits affecting those retired employees. It would also require provision to those organizations of a reasonable opportunity to comment prior to any formal action by the county or district on the proposed changes. This bill would not, however, create collective bargaining rights for the retired employee organization.

AB 179 – Pending

AB 179, by Assembly Member Kevin Shelley, would create a new PERS membership category defined as "District Attorney Investigator." That definition would apply only to district attorney investigator employees in San Francisco, and would provide the affected employees with safety membership status.

AB 196 – Oppose

AB 196, by Assembly Member Lou Correa, applies to 1937 Act county retirement systems. Last year, that law was amended by AB 1817, carried by Assembly Member Correa, to provide for the presumption of job causation for the development of a blood-borne infectious disease by certain employees. This presumption, when associated with a disabling blood-borne disease, would qualify for disability retirement benefits. The affected employees include any safety member, firefighter, county probation officer, or member in active law enforcement. "Blood-borne infectious disease" means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as "blood-borne pathogens" by the Department of Industrial Relations and includes a wide range of diseases, including AIDS and syphilis.

AB 196 would eliminate the requirement in existing law that the member demonstrates an exposure to the disease as the result of performance of job duties. It is our belief that this proposal would further serve to leave public agencies defenseless against meritless demands for expensive disability retirement benefits.

AB 199 – Oppose

AB 199, by Assembly Member Lou Correa, would amend PERS law. Existing law provides that when a PERS member is divorced, the courts will divide between the member and spouse the PERS benefit earned during the marriage. If the ex-spouse withdraws the employee contributions, the member is allowed to redeposit those withdrawn contributions plus interest. The ex-spouse may also opt to receive a retirement benefit with the portion of the PERS member's retirement account awarded to the spouse by a court.

AB 199 would apply to safety members only. It would permit the safety member to replace the employee contributions awarded to the spouse, plus interest, and receive a full retirement benefit from these contributions. In the event the spouse selected a retirement benefit, this bill would result in a loss of employer contributions equal to the benefit repurchased by the safety member.

AB 399 – Watch

AB 399, by Assembly Member Sally Havice, with one exception, affects only the Los Angeles County 1937 Act Retirement System and is sponsored by the county and some county employee groups. It would modify procedures for employee transfer between tiers in the retirement system. It would redefine final compensation and make other technical plan amendments specific to Los Angeles County.

In addition, AB 399 would add one survivor allowance option that can be approved by any board of supervisors in a 1937 Act county. It would increase a current survivor benefit option from 60 percent to 65 percent of the deceased member's retirement allowance.

AB 418 – Watch

AB 418, by Assembly Member Sally Havice, is a PERS-related spot bill, subject to potentially meaningful amendments at a later date. In its present form, it makes technical amendments to special death benefits calculations.

SB 54 – Watch

SB 54, by Senator Richard Polanco, contains various technical amendments pertaining to school and state employee PERS retirement and related benefits. In addition, it contains one PERS local agency amendment.

In 1999, SB 400 (Ortiz) provided numerous enhanced school and state employee PERS retirement benefits. In addition, it made available to local agency PERS contractors, on a local agency optional basis, two new enhanced safety employee retirement benefits: one based on a 3percent-at-age-50 formula, and one based on a 3percent-at-age-55 formula. SB 54 makes a technical revision to each of these formulas. It specifies that for both of these formulas, the employee will contribute 9 percent of pay, consistent with payments for existing local agency safety employee formulas.

SB 90 – Oppose

SB 90, by Senator Joe Dunn, would amend the PERS system relating to the cap on local agency safety benefits. Safety employees receive very generous retirement benefits, in part, under the belief that the rigors of their employment and safety of the public leads to early retirement by safety employees. Traditionally, to encourage early retirement, a cap on safety employee retirement benefits was set at 75 percent of final compensation. Two years ago, SB 800 increased that cap to 85 percent of final compensation.

SB 90 would increase the local agency PERS safety retirement cap to 90 percent of final compensation. This increase is both costly and not accompanied by any reforms.

SB 128 – Watch

SB 128, by Senate President Pro Tempore John Burton, is a "spot bill" relating to the Public Employees Retirement System (PERS). As such, it is a bill with minor revisions to current law that may be amended into a more substantive bill on a germane issue at a later date.

SB 193 – Watch

SB 193, by Senator Nell Soto, would establish the Deferred Retirement Option Program (DROP) for local safety members of the PERS System. It would be offered on a local contract optional basis.

The DROP program would permit participating employees to make an irrevocable election to participate if they meet other retirement vesting requirements. Employees would be eligible to base their defined benefit retirement benefits on a date prior to actual retirement. The date must not be less than one year or exceed five years prior to retirement, and must occur after eligibility to retire. Retirement benefits and additional retirement contributions would be credited to a defined contribution DROP account that would be available to the employee as a supplemental retirement benefit. This approach would increase costs to participating employers.

SB 193 is substantially similar to SB 1312 (Baca) that was vetoed by Governor Davis last year. Unlike SB 193, however, SB 1312 included state and school employees, and miscellaneous local employees. In his veto message, Governor Davis stated, in part "...This bill would result in increased retirement costs to the state and school employers, and for contracting local

agency employers opting for the DROP. This bill is overly broad. These benefits, if at all, should accrue only to safety personnel." In response to the veto message for SB 1312, SB 193 has been modified to include only PERS local contract agency safety personnel. Please note that a similar bill, AB 293 (Shelley), has been introduced for specified state employees, subject to collective bargaining.

SB 202 – Oppose Unless Amended

SB 202, by Senator Nell Soto, would amend one of four options for payment of retiree health benefits now available to local agencies that contract with PERS for PEMHCA health benefits. All local agency contractors to PEMHCA must provide health insurance benefits to retirees with one of four payment options. These payment options represent an unfunded liability to the contract agency, and any mandated expansion of coverage will increase unfunded costs.

One of the four PEMHCA payment options was added in 1996, and later amended by subsequent bills in 1997 and 1998. It is similar to a retiree health payment schedule used by the state for state employees who have retired over the last 12 years. That state system provides persons who immediately retire from state service the right to continue participation in the PEMHCA plan with the state paying a portion of the employee premium based upon years of service. The payment to state retirees is a percent of the payment made for active employees. To qualify, the state retiree must have worked at least ten years, and that service will provide a 50 percent contribution by the state. The state sliding scale increases by 5 percent increments to 100 percent for persons with 20 or more years of service. The existing similar option for local agency retirees provides flexibility in negotiating exact cost percentages and is merely based upon "...the principles..." prescribed for state employees.

SB 202 would place three restrictions on the above-referenced existing local agency PEMHCA provision. The first would require the payment formula to be exactly the same as that for state employees. The second would extend the benefit to annuitants who retire on disability at the 20-year employee basis.

The third amendment to existing law in SB 202 would extend the PEMHCA benefit to the large number of local agency employees who take a deferred retirement from the local agency in order to work for another employer in a reciprocal retirement system prior to actual retirement. This benefit extension is not now offered to state deferred retirees. Additionally, it would in many cases result in double health benefit plan provisions to the local agency retiree, one from the local agency and the other from the future employer.

CSAC would remove its opposition to this bill if it removes the mandate to benefits identical to those provided by the state, if it would allow offset of disability retiree health obligations when other health plan provisions are provided by the local contract agency, and remove the requirement to provide health benefits to deferred retirees.

SB 304 – Watch

SB 304, by Senator Betty Karnette, applies only to the Los Angeles County 1937 Act County Retirement System. Existing law authorizes counties to require certain safety employees to be retired at the age of 60 or 70.

SB 304 would, with approval of the Los Angeles County Board of Supervisors, remove certain administrative employees in the Sheriff's department from that mandatory retirement requirement.

SB 361 – Oppose

SB 361, by Senator Nell Soto, would amend the criteria for qualification for disability retirement benefits in 1937 Act County Retirement Systems. It would provide that, for health care workers, the development of a blood-borne infectious disease shall be presumed to arise out of, and in the course of, employment and qualify the employee for disability retirement benefits. The definition of "blood-borne infectious disease" "means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms identified as 'blood-borne pathogens' by the Department of Industrial Relations" and includes a variety of diseases ranging from HIV to syphilis.

Last year, AB 1817 (Correa) established a similar presumption for disability retirement in 1937 Act Counties for police, fire and probation employees. Like SB 361, it provides for compensation for injuries that are diagnosed up to 60 months following termination of employment. CSAC opposed AB 1817 for the same reason it now opposes SB 361. Presumptions of causation

are virtually impossible to disprove by the employer, and leave the county liable to very expensive claims which may otherwise lack merit.

This year AB 196 (Correa) [see above] would additionally eliminate the requirement in existing law that the employee demonstrates an exposure to the blood-borne disease as the result of job duties.

SB 362 – Pending

SB 362, by Senator Nell Soto, applies to 1937 Act County Boards of Retirement. It would establish procedures for correction of errors and omissions made by members of the system with respect to contributions or benefits. It would also entitle members or beneficiaries to a hearing before the board or a referee to protest the board's determination regarding an error or omission.

SB 408 – Oppose

SB 408, by Senator Nell Soto, would amend the PERS law pertaining to industrial disability benefits.

Current law limits PERS industrial disability retirement allowances to amounts equal to the service retirement allowance a member would have received if service had continued uninterrupted to retirement at a specified age (based on various plan options). This provision of current law is not applicable to a member who is subject to a specified local contract agency option, or to a member whose disability results from an injury that is a direct consequence of a violent act resulting from the performance of hazardous duties.

SB 408 would delete the above-referenced limitation on industrial disability retirement. CSAC will oppose this mandated expansion of safety retirement benefits without corresponding reforms.

SB 446 – Watch

SB 446, by Senator John Vasconcellos, would prohibit PERS PEHMCA contracts and plans from excluding coverage for AIDS vaccines approved by the Federal Food and Drug Administration.

AJR 3 – Support

Assembly Joint Resolution 3, by Assembly Member Bill Leonard, would request the United States Congress to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act, and would further request signature of such legislation by President George Bush.

AJR 3 is phrased to assist California schools, which may now lose applicants for employment due to the penalty such employment may cause on future Social Security benefits. In fact, the same arguments apply to other local public agencies that do not participate in the Social Security system and that are attempting to compete for applicants in today's very tight and mobile workforce.

Social Security benefits replace a percentage of a worker's pre-retirement earnings. The formula used to compute benefits includes factors that ensure lower-paid workers get a higher return than highly paid workers. For example, lower-paid workers could get a Social Security benefit that equals about 60 percent of their pre-retirement earnings. The average replacement rate for highly paid workers is about 25 percent.

The "windfall elimination provision" in Social Security primarily affects people who earned a pension from working in a government agency which does not provide Social Security, and also worked at other jobs where they paid Social Security taxes long enough to qualify for retirement or disability benefits. Before 1983, Social Security benefits for people who received pensions from jobs not covered by Social Security were computed without any penalty. The "windfall elimination provision" was added in 1983 and served to reduce Social Security benefits for these retirees.

The "windfall elimination provision" modifies the complex formula used to compute Social Security benefits. Social Security benefits are based on the worker's average monthly earnings adjusted for inflation. Benefits are computed by separating average earnings into three amounts, and those amounts are multiplied by three different factors. To further complicate matters, those amounts change over time and are modified by age at time of receipt of benefits. For example, for a worker who turned 62 in the year 2000, the first \$531 of average monthly earnings was multiplied by 90 percent, the next \$2,671 was

multiplied by 32 percent, and the remainder by 15 percent. This formula results in a higher percent of final compensation Social Security benefit for lower paid workers than that provided highly paid workers.

The "windfall elimination provision" modifies the low-wage formula (that subject to the 90 percent factor). For persons with 20 years or less of Social Security qualified service, the factor is reduced to 40 percent. It increases with each additional year of service in 5 percent increments to 90 percent with 30 or more years of Social Security qualified service.

AJR 3 is related to SJR 4 (Soto) that is described below.

SJR 4 – Support

SJR 4, by Senator Nell Soto, would memorialize the President and Congress of the United States to enact legislation to limit the application of the government pension offset and the windfall elimination provision of the Social Security Act. It is similar, but not identical, to AJR 3 (Leonard) [see above] that would urge repeal of the government pension offset.

Agency Shop Agreements

AB 132 – Oppose

AB 132, by Assembly Member Jerome Horton, would amend existing provisions of the local agency collective bargaining law pertaining to agency shop agreements. Agency shop agreements are union security provisions that require all members of a bargaining group to pay membership fees to the employee group that represents them, or pay a fee to a charitable organization representing the costs for representation.

Existing law prohibits management, supervisory and confidential employee bargaining units from participating in agency fee arrangements. The reason is very simple. The local agency collective bargaining law, known as the Meyers-Milias-Brown Act (MMBA) is unique in providing these employees with any collective bargaining rights. Private sector and most other public sector collective bargaining laws exempt these employees from collective bargaining rights due to the inherent conflict with employer representatives engaging in collective bargaining. The MMBA gives partial recognition to this conflict of interest by prohibiting agreements requiring management, supervisory, and confidential employees to pay agency shop fees. Last year, employee groups successfully expanded agency shop provisions and made other hostile changes to collective bargaining law with SB 739 (Solis) over local agency objections that these changes should be balanced by limitation to collective bargaining rights for management, confidential, and supervisory employees.

AB 132 would provide that an agency shop agreement might apply to management, confidential, or supervisory employees upon the agreement of the local agency. A similar bill, AB 240 (Honda) was vetoed by Governor Davis in 1999. In his veto message, Governor Davis stated, in part: "It is not appropriate to require managerial and supervisory personnel to pay an agency shop fee. Collective bargaining depends on vigorous negotiations by both management and labor. Requiring managers and supervisors to pay fees to the union could undermine the process. I would be happy to work with the author if he could demonstrate that certain individuals currently designated as managers or supervisors are performing rank and file tasks, and thus should appropriately be paying agency fees."

Minimum Wage

AB 181 – Pending

AB 181, by Assembly Member Paul Koretz, would mandate increases in the state minimum wage. The current minimum wage law, known as the Living Wage Act of 1996, an initiative added by Proposition 210, requires establishment of a minimum wage for all industries of not less than \$5.75 per hour on and after March 1, 1998.

AB 181 would require the Industrial Welfare Commission to establish the hourly minimum wage at not less than \$7.25 effective January 1, 2003, \$7.75 effective January 1, 2004, \$8.25 effective January 1, 2005, and \$8.75 effective January 1, 2006. Thereafter, the bill would require the commission to adjust the minimum wage annually in accordance with the Consumer Price Index for urban wage earners and clerical workers.

Workers' Compensation

AB 235 – Watch

AB 235, by Assembly Member Gloria Romero, applies to certain custodial and peace officer employees of the state Departments of Corrections and Youth Authority. It would expand disputable presumption of job causation for workers' compensation benefits, to include hernia, heart trouble, including pneumonia, tuberculosis, meningitis, and hepatitis that develops or manifests itself during a period in which any person covered is in the service of the department, and for a period of time up to 60 months following termination.

SB 71 – Watch

SB 71 is authored by Senate President Pro Tempore John Burton, and the principal co-authors are Senator Richard Alarcon, chair of the Senate Labor and Industrial Relations Committee, and Assembly Member Thomas Calderon, chair of the Assembly Insurance Committee. In its current form, it is a "spot bill" which will be amended into a substantive bill at a later date. It is our understanding that this bill will serve as the vehicle for workers' compensation reform this year.

The Assembly Insurance Committee has already held the first of three informational hearings regarding the state of California workers' compensation. The first hearing consisted of informational panels. On the employer panel, Bill McClure, Los Angeles County Workers' Compensation Manager, represented a coalition of public employers from counties, cities, schools, and special districts. Also during the first hearing, Steve Smith, director of the state Department of Industrial Relations stated "the Governor wants to sign a bill this year." This was in response to vetoes the past two years of comprehensive benefit increase bills. Mr. Smith added that the Governor would like the bill to be a consensus bill. Future hearing dates are scheduled for March 14 and March 21.

SB 424 – Oppose

SB 424, by Senate President Pro Tempore John Burton, would add another disputable presumption of job causation for receipt of workers' compensation benefits by law enforcement personnel in police and sheriffs' offices. It would include "lower back impairments" as an injury when the law enforcement employee has been employed for at least five years as a peace officer on a regular, full-time salary and has been required to wear a duty belt as a condition of employment.

Workers' compensation is a no-fault system of indemnity and medical treatment for employees who are injured due to job causation. The threshold for job causation is generally very low, and the burden is on the employer to reject a claim. It is our experience that presumptions of injury make it virtually impossible for employers to reject even those claims that completely lack merit. In addition, with law enforcement personnel, workers' compensation claims for disabling injuries often serve as a presumption for qualification for expensive disability retirement benefits.

Unemployment Insurance

SB 40 – Pending

SB 40, by Senator Richard Alarcon, would make changes to eligibility for, and benefits provided by, unemployment insurance. It would provide increases in unemployment insurance (UI) benefits. Under existing law, the weekly UI benefits may not exceed \$230. This bill would, for claims filed after January 2, 2002, increase the weekly benefit ceiling to: Year 2002 - \$326; Year 2003 - \$373; Year 2004 - \$384; and Year 2005 - \$396.

SB 40 would revise calculations for determining the base period for any new claim received after January 1, 2002, if the person does not qualify for benefits using base determination in current law. Under current law, the person must qualify with sufficient wages in the first four of the last five completed calendar quarters to establish a benefit year. Under SB 40, "base period" means the most recent 52 weeks before the first day of the individual's benefit year. Each quarter of this base period shall consist of four consecutive 13-week periods, with the quarter with the highest wages used to determine the individual's weekly benefit amount.

SB 40 would remove a prohibition in existing law regarding provision of unemployment insurance benefits when an individual has left work because of a trade dispute. This bill would also provide that unemployment compensation benefits shall not be denied to an otherwise eligible individual who is locked out by his or her employer after having made an unconditional offer to return to work.

Existing law deems a person unemployed in any week in which no services are performed for receipt of wages. SB 40 would consider a person unemployed while receiving payments from an employer that has failed to provide advance notice of facility closure required by the federal Worker Adjustment Renotification and Training Act.

County officials are urged to provide CSAC with any comments regarding SB 40.

OSHA/Safety

SB 123 – Pending

SB 123, by Senator Martha Escutia, would amend qualifications for appointees to the Occupational Safety and Health Standards Board and the Occupational Safety and Health Appeals Board within the Department of Industrial Relations. The former is comprised of seven members: two from the field of management, two from the field of labor, two from the field of occupational safety, and one from the general public. The latter is comprised of three members: one from the field of management, one from the field of labor, and one from the general public.

SB 123 would add qualifications for these appointments. Representatives from management must be an officer, director or substantially full-time representative of an employer that is affiliated with a state business organization or business trade association. Labor representatives must be active members or regular employees affiliated with the AFL-CIO. Members of the public must satisfy the Governor of an interest in occupational safety or health and must not have been an employer, employer representative, or an officer or employee of a labor organization.

County officials are encouraged to provide CSAC with any comments regarding SB 123.

Employee Records

AB 351 – Pending

AB 351, by Assembly Member Jay La Suer, would amend existing law regarding certain employees and volunteers of local public agencies who are discovered to have falsified applications for employment regarding convictions for certain crimes.

Under current law, an employer may not ask an applicant for employment to disclose information concerning an arrest or detention that did not result in a conviction. This prohibition applies to public agencies, with the exception of applications for law enforcement employment.

AB 351 would authorize a local agency that discovers that an employee or volunteer in a position having a supervisory or disciplinary authority over any minor has falsified information regarding any prior conviction of a specified sex crime, drug crime, or crime of violence, to terminate immediately the employment or volunteer services of the employee or volunteer. This bill would also make it a misdemeanor for the employee or applicant to falsify the employment application as provided above.

County officials are urged to communicate to CSAC any positions regarding AB 351.

SB 147 – Pending

SB 147, by Senator Debra Bowen, would prohibit an employer from secretly monitoring the electronic mail or other computer records generated by an employee. It would require employers to prepare and distribute to all employees the employer's workplace privacy and electronic monitoring policies and practices prior to conducting monitoring. It would also require employee acknowledgement of receipt of the employer policies and practices. The bill specifically covers state and local government employers.

This bill is similar to SB 1822 (Bowen) that was vetoed by Governor Davis last year. County officials are encouraged to provide CSAC with any comments regarding SB 147.

Independent Contractors

SB 195 – Support

SB 195, by Senator Wesley Chesbro, would amend provisions relating to employment of independent contractors in a fashion that would provide additional administrative flexibility to eight mid-sized counties.

Existing law permits the board of supervisors of any county having a population of less than 200,000 to engage independent contractors to perform services for the county or county officers when the aggregate cost does not exceed \$10,000. Existing law also authorizes the board of supervisors of any county having a population of 200,000 or more to engage independent contractors, within other provisions of law, when the aggregate cost does not exceed \$100,000. SB 195 would change the population threshold from 200,000 to 100,000. At present, this would enable the following counties to increase the ceiling on independent contractor aggregate costs from \$10,000 to \$100,000: Shasta, Yolo, El Dorado, Imperial, Kings, Humboldt, Napa and Madera.

Affirmative Action

AB 276 – Pending

AB 276, by Assembly Member Carole Migden, would amend provisions of the Fair Employment and Housing Act (FEHA).

Current law specifies that all persons have the right to be free of violence or intimidation by threat of violence against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute or because another person perceives them to have one or more of these characteristics. Also under current law, these provisions do not apply to statements concerning positions in a labor dispute that are made during lawful labor picketing.

Current law also provides for administrative proceedings and fines of up to \$150,000 by the Department of Fair Employment and Housing (DFEH) for violations of provisions of the Fair Employment and Housing Act (FEHA). The Director of DFEH must issue an accusation in those administrative proceedings within one year after the complaint is filed with the department, except for complaints treated by the director as group or class complaints, with respect to which the accusation must be issued within two years of filing of the complaint.

AB 276 would make a two-year limitation applicable to the issuance of all accusations for violation of the right to be free of violence or intimidation or threats of violence. As a practical matter, employers now have one year of open investigation, followed by one year of time the individual may file suit if the DFEH does not pursue this matter. The effect of this bill would be to extend from two to three years the period of time employers must maintain files and reserves for open complaints.

County officials are urged to provide CSAC with comments regarding AB 276.

SB 410 – Pending

SB 410, by Senator Sheila Kuehl, would amend portions of the civil code relating to claims settlements under FEHA. Under existing law, disputes pertaining to contracts, including those between employers and employees, may generally be resolved by arbitration when the arbitration results from previous written agreement.

SB 410 would make a specific exemption to written agreements that provide for use of arbitration to resolve disputes. That exception would involve agreements between employers and employees regarding arbitration of claims arising under the FEHA, as a condition of employment or continued employment.

County officials are urged to provide any comments regarding SB 410 to CSAC.

Human Relations Commissions

SB 381 – Pending

SB 381, by Senator Wesley Chesbro, would specify the composition of city and county human relations commissions.

Existing law authorizes cities and counties to create commissions on human relations with the responsibility to, among other things: foster mutual respect and understanding among all racial, religious, and nationality groups in the community; inquire into incidents of tension and conflict among or between these groups; hold conferences and other public meetings in the interest of resolution of these tensions; and enlist the cooperation and participation of these groups and others as specified to foster mutual esteem, justice and equity.

SB 381 would change the groups identified in current statute. Current law identifies the groups of interest to human relations commissions as: "the various religious, racial, nationality and political groups in the community." SB 381 would change the description of target groups to: "people from groups of various race, religious creed, color, national origin, ancestry, physical disability, mental disability, marital status, sex, sexual orientation, socioeconomic status, or civic interest, and people from other groups subject to prejudice and discrimination."

County officials are encouraged to provide CSAC with any positions or comments relating to SB 381.

4.) Administration of Justice

For more information, contact Rubin R. Lopez at 916/327-7500, ext. 513, or email rlopez@counties.org or Elizabeth Howard at 916/327-7500, ext. 537, or e-mail ehoward@counties.org.

Appointment of the Chief Probation Officer

AB 765 – Oppose

AB 765, by Assembly Member Ken Maddox, would change the process for the appointment of the chief probation officer (CPO). The measure would grant the appointment authority for the CPO to a six-member selection committee, with the following membership:

1. A representative from the county board of supervisors.
2. A representative from line staff in the probation department.
3. A representative from the county juvenile justice commission.
4. A representative from a community-based organization.
5. The presiding judge of the superior court.
6. The presiding judge of the juvenile court.

The bill also sets forth minimum qualifications for the CPO and limits the application of its provisions to counties with a population of more than 75,000.

CSAC opposes this measure. The crux of our opposition stems from the fact that AB 153 does not acknowledge that a thorough examination of this appointment process is currently underway. The appointment of the CPO is one of the key issues being evaluated by the Judicial Council's Probation Services Task Force – an 18-member body with county, court, and probation representation that was formed in August 2000. Counties will recall that the task force is slated to conclude its work and present recommendations to the Judicial Council, CSAC, the Legislature, and the Governor this fall. We strongly believe that the task force is best equipped to make recommendations about potential changes to the appointment process and, for this reason, we oppose AB 153 and any other efforts to change the CPO appointment process at this time.

As a matter of background, CSAC has been actively involved in issues relating to the appointment of the chief probation officer for several years, especially following trial court funding restructuring. The Trial Court Funding Act of 1997 (AB 233) not only shifted the responsibility for court costs from the counties to the state, but also began a process of defining and separating the functions of courts and counties. As it now stands, a judge or group of judges in 52 counties retains the sole authority to appoint the CPO. In the remaining 6 counties, the board of supervisors carries out this function. It is CSAC's position that current day appointment practices are wholly inconsistent with the process of appropriate designation and alignment of court-related responsibilities begun under AB 233. Our core principle in this regard is that appointment and removal authority should follow responsibility and liability, a principle that is not reflected under current practice.

It is CSAC's view that AB 153 does not offer a viable alternative for resolving the issues around the appointment of the CPO. The proposed committee selection process, we assert, would further dilute county involvement in a process where greater authority should reside with the entity that bears fiscal responsibility. With but one voice on a six-member committee,

counties would be impeded from exercising appropriate management and budgetary decisions for a department for which it still has complete fiscal responsibility. It also appears that AB 153 could remove the appointment authority from the six charter counties in which the board of supervisors currently selects the county CPO. Counties are encouraged to join CSAC in its opposition to AB 153. It now awaits assignment to a policy committee for hearing.

Board of Corrections' Composition

AB 153 – Request for Comment

Assembly Member George Nakano has introduced AB 153, a bill that would amend the current composition of the state Board of Corrections (BOC). As currently specified under Penal Code section 6025, the BOC consists of thirteen members, ten of whom are appointed by the Governor and three of whom are specified in statute. Statutory members are the secretary of the youth and adult correctional agency, who is designated chair of the board, and the directors of the state Departments of Corrections and Youth Authority. The gubernatorial appointments include representation from various elements of local juvenile and adult criminal justice systems and the public. AB 153 would increase from one to two the number of rank-and-file representatives from a local corrections facility, bringing the total board membership to 14. Counties will recall that Assembly Member Nakano also sought to change the BOC's composition in AB 652 during the 1999–2000 legislative session.

CSAC has long been a strong advocate of the BOC's role as the state agency responsible for administering justice programs at the local level. Counties have worked extremely cooperatively and successfully with the Board of Corrections on a variety of prevention and intervention initiatives (e.g., Challenge Grants and, of most recent note, the Schiff-Cardenas Crime Prevention Act of 2000 (AB 1913)). Last session, several Administration of Justice policy committee members expressed the view that changes to composition of the BOC were unnecessary and could result in dilution of county representation. Given growing interest in crime prevention and intervention, it is vital that the Board of Corrections have a strong county voice. For this reason, CSAC will seek to work with the author's office to ensure that the proper level of local government representation on the BOC is maintained.

CSAC will be working with the author's office to address local government representation issues and will report progress in that regard in future Bulletins. In the meantime, we seek input from counties on the impact of an additional rank-and-file representative to the Board of Corrections, and how that addition might affect the balance of the existing board. AB 153 has been referred to the Assembly Public Safety Committee.

Energy-Related Public Safety Issues

AB 30X – Request for Comment

AB 30X, by Assembly Member Dennis Cardoza, would (1) include in the definition of looting (Section 463 of the Penal Code) crimes committed during a blackout caused by a severe energy shortage; and (2) require utility companies to immediately notify local law enforcement (sheriffs and chiefs of police in the affected areas) as to the expected duration and location of a planned loss of power. The California State Sheriffs' Association is sponsoring this measure. CSAC is interested in county input on both elements of this measure. We encourage questions, concerns, and comment on AB 30X as soon as is practical. This measure passed the Assembly Public Safety Committee with amendments and now awaits hearing before the Assembly Committee on Energy Costs and Availability.

Privacy and Identity Theft Protection

Various Legislative Proposals – Request for Comment

Summarized below is a sampling of recently introduced legislative proposals relating to privacy and identity theft protection. While many of the bills relate specifically to financial institutions, several contain provisions that directly apply to governmental agencies. Comments on any of the proposals below are encouraged.

Bill No.	Author	Major provisions
AB 203	Jackson	<ul style="list-style-type: none"> ▪ Enacts the Consumers' Financial Privacy Act ▪ Limits financial institutions' ability to disclose personal information without prior consumer consent ▪ Sets forth specific remedies for violations of the Act

AB 245	Wyland	<ul style="list-style-type: none"> Increases the penalty for identity theft crimes by deleting a current punishment option of detention in county jail of less than one year and a fine of up to \$1,000, leaving state prison confinement and a \$10,000 fine as the sole penalty
AB 655	Wright	<ul style="list-style-type: none"> Permits consumers to remove name from solicitation list for not less than two years Prohibits use of full Social Security numbers on credit reports Places numerous new requirements on credit reporting agencies relative to identity theft
AB 1155	Dutra	<ul style="list-style-type: none"> Defines as a felony the act of a Department of Motor Vehicle employee providing assistance in obtaining a driver's license, vehicle registration, or other official documents to a person who is not entitled to those documents
AB 1211	LaSuer	<ul style="list-style-type: none"> Broadens definition of high technology crimes and recasts probation terms and conditions for such crimes
AB 1474	Briggs	<ul style="list-style-type: none"> Requires the Department of Motor Vehicles to establish the Identity Theft Task Force to assist in the identification and the apprehension of persons who commit identity theft
SB 125	Alpert	<ul style="list-style-type: none"> Entitles victims of identity theft to copies of unauthorized applications for loans or credit and records of bank transactions on accounts opened fraudulently, upon the presentation of a police report, as specified
SB 168	Bowen	<ul style="list-style-type: none"> Restricts the ways in which state and local agencies can use and display Social Security numbers (SSNs) Specifies that the provisions limiting use of the SSN would go into effect on July 1, 2002, but permits continued use of the SSN in a manner that conflicts with the proposed restrictions, if certain conditions are met Specifies that public agencies are not prohibited from using the SSN for internal verification or administrative purposes, as long as the number is not released to persons not designated by the public agency to perform associated functions authorized by law <i>For a more extensive analysis of this bill's provisions, please refer to the February 22 Bulletin.</i>
SB 169	Bowen	<ul style="list-style-type: none"> Requires credit grantors to provide identity theft victims with copies of original credit applications submitted fraudulently within 10 business days of receiving such a request Requires that an extension of credit that is tendered in response to a solicitation by mail be sent to the same address as on the solicitation of credit, unless a legitimate change of address can be verified
SB 222	Torlakson	<ul style="list-style-type: none"> Enacts the Identify Theft Victim's Protection Act Creates a three-year pilot project under the Department of Justice (DOJ) that would establish Regional Identity Theft Units Appropriates \$3 million for this purpose, 15 percent of which may be used by the DOJ for administrative purposes
SB 764	Murray	<ul style="list-style-type: none"> Establishes the Personal Identifying Information Protection Act of 2001, with unspecified provisions

Proposition 36 Implementation

State Technical Assistance on Proposition 36 – Request for Comment

The state Department of Alcohol and Drug Programs (DADP) is in the process of planning a statewide technical assistance (TA) conference on the implementation of Proposition 36. DADP is seeking to organize a conference that best addresses the needs of counties as they embark on the implementation process. The department is requesting county input on what kind of Proposition 36 information and resources would be most useful. The conference is tentatively scheduled for mid-April in Sacramento. Some examples of topics for breakout sessions that DADP is considering include: TA on county plans and requirements; health facilities financing; public safety issues; assessment, referral, and case management; the judicial perspective; probation; and parole. CSAC is encouraging counties to provide DADP with comments as soon as possible. The DADP contact on Proposition 36 technical assistance efforts is Carmen Delgado, who can be reached at 916/445-0136 or cdelgado@adp.state.ca.us.

Family Violence Task Force

March 7 Conference Call Scheduled

CSAC's Family Violence Task Force will meet via conference call on March 7 at 10 a.m. to review its action priorities for 2001 and to discuss plans for its next in-person meeting scheduled for April 4 at the CSAC Legislative Conference in Sacramento. Counties will recall that the task force, formed last year under the leadership of Solano County Supervisor Barbara Kondylis, serves as a forum to review the numerous impacts of family violence and examines the ongoing development of strategies to address the problems caused by family violence. The task force is interdisciplinary in nature, bridging two CSAC policy committees – Administration of Justice and Health and Human Services.

All interested parties are encouraged to participate in the task force conference call. To join, please call 916/327-0976 a few minutes before 10 a.m. on March 7. For a copy of the results of the task force's visioning exercise – a brainstorming session that produced a list of innovative ideas, approaches, and strategies for tackling issues relating to family violence – please contact either Kelly Brooks at 916/327-7500, ext. 531, or Elizabeth Howard at 916/327-7500, ext. 537. The task force's April meeting will focus primarily on developmental effects of violence on children.

Turning Point Academy

Advisory Committee Members Named

Governor Gray Davis announced last week the appointment of three members to the Turning Point Academy Advisory Committee. Counties will recall that the Academy was established by SB 1542 (Chapter 366, Statutes of 2000) as a placement option for youths aged 15 years or older who have committed specific firearms-related offenses on school grounds or at a school activity. Among the appointees to the advisory committee are two county officials: Dr. Michael A. Schumacher, county executive officer in the County of Orange, and Mr. Verne L. Speirs, chief probation officer in Sacramento County. The third appointee, Mr. Earl W. Persley of Los Angeles, brings to the advisory committee more than 35 years of experience working with disadvantaged youth in a number of organizations.

5.) Revenue and Taxation

For more information, contact Pat Leary at 916/327-7500, ext. 514, or e-mail pleary@counties.org, or Jean Hurst at 916/327-7500, ext. 515, or e-mail jhurst@counties.org.

Property Tax

County of Sonoma, et al. v. Commission on State Mandates, et al.

It is with great regret we report that, on February 28, the California Supreme Court denied review of the Sonoma County lawsuit appellate decision. The ruling of the Court of Appeal, First Appellate District, stands as published. Justice Marvin R. Baxter and Justice Joyce L. Kennard supported review of the case.

CSAC extends its profound gratitude to Sonoma County Counsel Steven Woodside and his staff for their steadfast commitment to this case.

ERAF Relief

Now that the legislative deadline to introduce bills has past, there are a number of bills that address the continued shift of property tax revenues to the Educational Revenue Augmentation Funds (ERAF). These measures are briefly outlined in the table below.

Bill No.	Author	Subject	CSAC Position
AB 3	Ashburn	This measure caps the growth of property tax revenues shifted to ERAF at the 2000-01 fiscal year levels.	Support

Bill No.	Author	Subject	CSAC Position
AB 100	Simitian	Similar to last year's SB 1637, which was vetoed by the Governor, this bill reduces the ERAF shift by 33% in the first year, 66% in the second year, and 100% in the third year, resulting in an eventual cap at the 2003-04 levels.	Support
AB 279	Strom-Martin	This measure exempts the amount of property tax revenues that are otherwise required by law to be allocated to an animal control department from the ERAF shift.	Pending
AB 315	Dutra and Thomson	This bill exempts dependent and independent library special districts from the ERAF shift.	Pending
AB 742	Cogdill	This measure expresses legislative intent to enact a program to remove any requirements for local agencies to shift property tax revenues to ERAF.	Support
AB 859	Wiggins	This spot bill would provide a phased-in cap on the growth of property tax revenues shifted to ERAF.	Support
AB 1034	Florez	This measure exempts "qualified fire districts" from the ERAF shift.	Pending
AB 1076	Canciamilla	This spot bill would make changes to ERAF.	Pending
AB 1355	Daucher	This bill would cap the growth of property tax revenues shifted to ERAF at the 2000-01 levels.	Support
AB 1544	Bates	This measure provides ERAF relief, specifically, to the Laguna Niguel Community Services District.	Watch
SB 74	Speier and McPherson	This bill exempts dependent and independent library special districts from the ERAF shift.	Pending
SB 92	Torlakson and Figueroa	This measure exempts special districts that provide fire protection or suppression services from the ERAF shift.	Pending
SB 93	Figueroa and Torlakson	This measure exempts recreation and park special districts from the ERAF shift.	Pending
SB 94	Torlakson and Figueroa	This measure exempts "local library entities" from the ERAF shift.	Pending
SB 423	Torlakson	This measure would gradually reduce the amount of property tax revenues shifted to ERAF as a city or county complied with specific criteria relating to housing and land use planning.	Pending

Bill No.	Author	Subject	CSAC Position
SB 452	Oller	This bill exempts the amount of property tax revenues that are otherwise required by law to be allocated to a county service area whose sole function is to provide ambulance services from the ERAF shift.	Pending
SB 810	Ackerman	This measure would exclude single-county transit districts from the ERAF shift.	Pending

Look for a more in-depth analysis of these measures in future Bulletins. If you have any questions or comments regarding these measures, please contact CSAC staff.

Property Tax Administration

AB 589 – Pending

AB 589, by Assembly Member Herb Wesson, would create the State-County Property Tax Administration Grant Program, which would provide grants to counties electing to participate for funding of administration of the property tax system. This grant program would take the place of the current loan program and would function from 2002-03 through 2006-07.

AB 964 – Sponsor

AB 964, by Assembly Member Dion Aroner, provides for a more fair allocation of the costs of administering the property tax system by providing that the state pays for the schools' share of the costs. (The schools' share includes ERAF.)

The Legislative Analyst points out in her recent analysis of the budget that counties currently have a disincentive to invest in the property tax administration systems because counties receive a very small proportion of the property tax for each dollar it spends on administration. Her recommendation includes an option for the state to pay for the schools' entire share of property tax administration costs, providing a better "bang" for the state's "buck."

CSAC believes that a fair allocation of costs of the administration of the property tax system is a necessary component in beginning to restructure the fiscal relationship between the state and local governments. We look forward to working with Assembly Member Aroner on this important legislation.

Utility Users Tax

SB 62X – Concerns, Request for Comment

SB 62X, by Senator Charles Poochigian, would change the method of applying the Utility Users Tax (UUT) to a per unit of usage basis. This change is only applicable to UUT imposed on gas and electricity. This per unit charge may not exceed the effective per unit or usage tax rate paid by consumers as of January 2000.

In addition, there is legislative intent language that states that the Legislature intends that local jurisdictions that impose a UUT should not collect "windfall profits as a result of increased energy costs."

CSAC has a number of concerns with this legislation, beginning with the assertion that local governments with UUT are collecting "windfall profits" due to recent increases in energy costs. We know that revenues from UUT have not substantially increased in recent months. Furthermore, local governments have been subjected to the same increased energy costs experienced by the general public. We also have technical concerns about the bill, as UUT ordinances are local voter-approved ordinances that are subject to Proposition 218.

CSAC has pledged to work with the author's office on SB 62X to address these concerns. We ask that counties with UUT ordinances review this legislation and provide comments to Jean Hurst at 916/327-7500 ext. 515 or jhurst@counties.org.

6.) Agriculture and Natural Resources

For more information, contact Karen Keene at 916/327-7500, ext. 511, or e-mail kkeene@counties.org or Jolena Voorhis at 916/327-7500 ext. 557, or e-mail jvoorhis@counties.org.

Energy

Last week, the Governor announced a tentative agreement with Southern California Edison on the state takeover of the utilities transmission lines. However, negotiations continue with Pacific Gas & Electric, and San Diego Gas & Electric on this proposal. A number of bills are introduced on the energy crisis daily, and you will find a comprehensive list on our website (www.csac.counties.org). There are a few bills that are of specific interest to counties which were heard this week, as well as a few that were introduced, which are detailed below.

AB 9X – Neutral

As noted in last week's Bulletin, AB 9X, by Assembly Member Keith Richman, was amended and would now require the California Energy Commission (CEC), within 90 days and every two years thereafter, to identify the regions within the state with the least favorable supply-demand balance. It would also require the CEC to request that local governments identify and submit to CEC a description of the sites within their boundaries that would serve as a potential location for facilities that would address the regional supply-demand imbalance. As a result of the recent amendments, CSAC has removed its previous opposition to this bill. This bill passed the Assembly Energy Costs and Availability Committee on February 26, 2001, and is currently pending in the Assembly Appropriations Committee.

AB 16X – Pending – Request for Comment

AB 16X, by Assembly Member Jenny Oropeza, would require the Public Utilities Commission (PUC) to require an electric generating facility within the state to schedule required maintenance during off-peak energy use periods. The PUC would also be authorized to require any electric generating facility that is not operating due to unscheduled maintenance to resume operation. The bill is currently pending in the Assembly Energy, Costs and Availability Committee.

AB 91X – Pending – Request for Comment

AB 91X, by Assembly Member Bill Campbell, would require a county to review and respond to a natural gas drilling operation within 30 calendar days of receipt of the application. The bill is currently pending in the Assembly for assignment.

AB 93X – Pending – Request for Comment

AB 93X, by Assembly Member Bill Campbell, would permit cities and counties to implement building standards requiring the use of solar water heating or photovoltaic systems without demonstrating cost-effectiveness to the CEC. This bill would revise existing law which provides that no city or county may issue a permit for any building unless the building satisfies the standards prescribed by the CEC unless the city or county files a determination with the CEC that its own standards are cost effective, and the CEC makes a particular finding. The bill is currently pending in the Assembly for assignment.

There are a number of bills that have been introduced that would revise the California Environmental Quality Act (CEQA), and make other changes with regards to current environmental regulations. We would appreciate your comments or concerns on some of these bills, which are listed below.

AB 28X – Pending – Request for Comment

AB 28X, by Assembly Member Lynn Daucher, would prohibit the state Air Resources Board and any air pollution control district from adopting or enforcing any regulation that would prohibit or limit the operation of any compression ignition engine in a portable electric power generator if the engine is powered by liquid alternative fuel. The bill is currently pending in the Assembly Natural Resources Committee.

AB 31X – Pending – Request for Comment

AB 31X, by Assembly Member Roderick Wright, would provide that during a period of power service interruption, a facility may operate emergency power generating equipment necessary to protect equipment involved in the manufacturing process. This bill would also require each public utility electrical corporation to develop and offer its hourly demand-metered

customers the opportunity to participate in demand reduction programs. Passed the Assembly Natural Resources Committee on February 26, 2001, and is currently pending in the Assembly Appropriations Committee.

AB 55X – Pending- Request for Comment

AB 55X, by Assembly Member Rod Pacheco, would exempt from CEQA any new project to retrofit an existing energy generating facility if the project involves the decommissioning of an existing energy generating facility and would result in a higher wattage facility that emits fewer air contaminants. This bill is currently pending in the Assembly Natural Resources Committee.

AB 65X – Pending – Request for Comment

AB 65X, by Assembly Member Phil Wyman, would exempt from CEQA any project involving the planning, funding, design, site acquisition, construction, operation, or maintenance of new or replacement facilities associated with Path 15 transmission line. AB 65X is currently pending in the Assembly for assignment.

AB 75X – Pending – Request for Comment

AB 75X, by Assembly Member Thomas Calderon, would require the state Air Resources Board (ARB) to issue permits for the operation and siting of small natural gas electrical generating units. It would also require the ARB to adopt regulations that require the small natural gas electrical generating units to meet specified emission standards, and would require the regulations to provide a fast-track process for the review of those applications. This bill would exempt any small natural gas electrical generating units from regulations by any air pollution control district or air quality management district. The bill is currently pending in the Assembly for assignment.

7.) Health and Human Services

For more information, contact Caitlin O'Halloran at 916/327-7500 ext. 536 or e-mail cohalloran@counties.org or Kelly Brooks at 916/327-7500 ext. 531 or e-mail kbrooks@counties.org.

Proposition 36 Implementation

State Technical Assistance on Proposition 36– Request for Comment

The state Department of Alcohol and Drug Programs (DADP) is in the process of planning a statewide technical assistance (TA) conference on the implementation of Proposition 36. DADP is seeking to organize a conference that best addresses the needs of counties as they embark on the implementation process. The department is requesting county input on what kind of Proposition 36 information and resources would be most useful. The conference is tentatively scheduled for mid-April in Sacramento. Some examples of topics for breakout sessions that DADP is considering include: TA on county plans and requirements; health facilities financing; public safety issues; assessment, referral, and case management; the judicial perspective; probation; and parole. CSAC is encouraging counties to provide DADP with comments as soon as possible. The DADP contact on Proposition 36 technical assistance efforts is Carmen Delgado, who can be reached at 916/445-0136 or cdelgado@adp.state.ca.us.

Trauma and Emergency Care

SB 254 – Pending – Request for Comment

This bill, authored by Senator Joseph Dunn and sponsored by the California Medical Association, would declare trauma and emergency care as an essential public service and create a statewide Essential Emergency Service Facility Fund of \$200 million to support local hospitals. The money would be allocated to existing county emergency medical services agencies. Forty percent of the fund would be divided among all counties and the other 60 percent would be allocated based on population. Local agencies would have the discretion to distribute the money within their counties or regions and to set priorities. An additional \$100 million would be allocated to the existing Maddy Emergency Medical Services (EMS) Fund for physicians caring for uninsured patients.

Specifically, SB 254 would require every county to establish a Maddy EMS Fund. The bill changes how money would be distributed from the Maddy EMS Fund. SB 254 would delete distributions to hospitals providing disproportionate trauma and

emergency medical services, and would revise the distribution formula upon the implementation and funding of the critical emergency services program under the bill. Under the revised funding scheme, after costs of administration, 80 percent of the balance of the money in the fund would be distributed to physicians and surgeons for emergency services, except those physicians and surgeons employed by county hospitals. The remaining balance of the fund would be distributed for other EMS purposes as determined by each county, including but not limited to, the funding of regional poison control centers.

Some counties have communicated with CSAC that the distribution formula for the Essential Emergency Service Facility Fund is not equitable for urban counties. Other counties have shared concerns about the change in the distribution formula from the Maddy EMS Fund. Please send your comments to Kelly Brooks at CSAC (fax: 916/441-5507 or e-mail: kbrooks@counties.org) as soon as possible.

County Medical Support Program (CMSP)

SB 226 – Support

This bill, by Senator Wesley Chesbro, would extend the sunset date on the CMSP Governing Board from January 1, 2003 to January 1, 2008. The CMSP Governing Board is sponsoring this bill.

Family Violence Task Force

March 7 Conference Call Scheduled

CSAC's Family Violence Task Force will meet via conference call on March 7 at 10 a.m. to review its action priorities for 2001 and to discuss plans for its next in-person meeting scheduled for April 4 at the CSAC Legislative Conference in Sacramento. Counties will recall that the task force, formed last year under the leadership of Solano County Supervisor Barbara Kondylis, serves as a forum to review the numerous impacts of family violence and examines the ongoing development of strategies to address the problems caused by family violence. The task force is interdisciplinary in nature, bridging two CSAC policy committees – Administration of Justice and Health and Human Services.

All interested parties are encouraged to participate in the task force conference call. To join, please call 916/327-0976 a few minutes before 10 a.m. on March 7. For a copy of the results of the task force's visioning exercise – a brainstorming session that produced a list of innovative ideas, approaches, and strategies for tackling issues relating to family violence – please contact either Kelly Brooks at 916/327-7500, ext. 531, or Elizabeth Howard at 916/327-7500, ext. 537. The task force's April meeting will focus primarily on developmental effects of violence on children.