



BUDGET ACTION BULLETIN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

2012-13 State Budget Week of June 25, 2012

June 29, 2012

TO: CSAC Board of Directors
County Administrative Officers
CSAC Corporate Associates

FROM: Paul McIntosh, CSAC Executive Director
Jim Wiltshire, CSAC Deputy Executive Director

RE: **Budget Action Bulletin No. 2**

General Fund Budget Summary (\$ in millions)

	2011-12	2012-13
Prior Year Balance	-\$2,685	-\$2,882
Revenues and Transfers	\$86,830	\$95,887
Total Resources Available	\$84,145	\$93,005
Non-Proposition 98 Expenditures	\$53,938	\$54,534
Proposition 98 Expenditures	\$33,089	\$36,804
Total Expenditures	\$87,027	\$91,338
Fund Balance	-\$2,882	\$1,667
Reserve for Liquidation of Encumbrances	\$719	\$719
Special Fund for Economic Uncertainties	-\$3,601	\$948
Budget Stabilization Account	-	-
Total Available Reserve	-\$3,601	\$948

BUDGET OVERVIEW

On Wednesday, June 27, Governor Brown signed the 2012-13 budget into law, a package totaling 27 bills. The budget closes a \$15.7 billion deficit and includes a reserve of \$948 million. The budget, as enacted, is balanced into future fiscal years.

The budget is based on voter approval of the Governor’s initiative on the November ballot, which contains five- and seven- year tax increases as well as constitutional

guarantees of county funding for 2011 Realignment. In case the initiative fails, the budget includes nearly \$6 billion in trigger cuts (see table below) that would fall mainly on schools, including K-14 and higher education. Even with the tax measures, the state's General Fund spending has declined by \$11.6 billion (-11.4 percent) over the past five years, and General Fund spending as a share of the state's economy is at its lowest level since the early 1970s.

The budget package implements a superstructure for the funding of 2011 Realignment, about which more details can be found in the following pages.

The budget also implements significant permanent cuts. Among these are limiting CalWORKs recipients who do not meet federal work requirements to two years of benefits, eliminating Healthy Families and transferring those children to Medi-Cal, and extraordinary cuts to trial courts. Cal Grants will be restricted to institutions that meet minimum graduation requirements, essentially excluding most for-profit universities. Governor Brown used his blue pencil veto authority to reduce the number of child care slots by 14,000 and cut county administrative funding of CalFresh by \$23 million, and has negotiated five percent pay reductions for much of the state workforce. Lastly, the budget relies on nearly \$1.5 billion in General Fund benefit from the dissolution of redevelopment agencies, both from the dispersal of liquid assets.

Finally, the budget plan will reduce the state's budgetary borrowing from \$35 billion last year to less than \$9 billion by the end of 2015-16.

Ballot Trigger Reductions
(\$ in millions)

Expenditure Reductions	2012-13
Proposition 98	\$5,353.8
University of California*	250.0
California State University*	250.0
Developmental Services	50.0
City Police Department Grants	20.0
Department of Forestry and Fire Protection	10.0
Flood Control	6.6
Local Water Safety Patrol	5.0
Fish and Game: Non-Warden Programs	2.5
Park Lifeguards	1.4
Fish and Game: Wardens	1.0
Department of Justice	1.0
Park Rangers	0.1
TOTAL	\$5,951.4

** This level of savings may be offset by Cal Grant increases if the universities raise tuition.*

REALIGNMENT

SB 1020 (Chapter 40, Statutes of 2012), the Realignment fiscal superstructure bill, was signed by the Governor on June 27. For a detailed summary of the measure, please see CSAC's SB 1020 [reader's guide](#). The guide is based on the June 25 version of the bill. For additional information on public safety related realignment issues, please see the Administration of Justice section of this Budget Action Bulletin. For key details on the child welfare, alcohol and drug, and mental health realignment aspects of the budget trailer bills, please see the Health and Human Services section of this Budget Action Bulletin.

For a complete list of budget bills (including trailer bills) and links to language, please scroll to the end of this Budget Action Bulletin.

ADMINISTRATION OF JUSTICE

In the justice area, there are four key trailer bills of interest. In the table below, we identify the key areas covered by each bill. Additionally, there are two General Fund appropriations of note contained in the main budget bill, AB 1464.

SB 1020	2011 Realignment Fiscal Structure
SB 1021	Public Safety Omnibus Trailer Bill Courts, court security, DJJ, CDCR, alternative custody and medical parole expansion, Board of State and Community Corrections, county-to-county inmate transfer authority
SB 1022	Public Safety Capital Outlay Revisions to AB 900 state facility authority; shift of AB 900 relinquished Phase I funds to Phase II jail construction; \$500 million in additional jail construction bond capacity; other changes related to CDCR projects
SB 1023	AB 109 and other Public Safety Realignment Clean up AB 109 sentencing changes; mandatory supervision clarification; revocation process changes; streamlining of local public safety subvention programmatic provisions

Below, we provide more details on each of the bills, organized by general subject matter.

2011 REALIGNMENT FISCAL STRUCTURE

As counties are aware, AB 118 (Chapter No. 40, Statutes of 2011) established a temporary, one-year fiscal structure for the array of programs and services transferred to county responsibility under 2011 Realignment. An act of the Legislature is needed to, among other things, put in place a permanent account structure, provide clarification on establishment of base years by program, and specify how base and growth funding levels are calculated and apportioned among accounts. SB 1020 (Chapter 40, Statutes of 2012), the 2011 Realignment fiscal structure bill, is both lengthy and technically complex, given the interactions – primarily on the health and human services side - between and among various accounts.

CSAC staff has updated its [reader's guide](#) to reflect the provisions contained in the enacted bill (the clean, chaptered version of the bill is not available at the time of this writing). The guide is intended to assist in navigating through the fiscal structure trailer bill. With a focus primarily on the law enforcement components of the measure, we have summarized below the structure and key highlights of the bill:

- **Part I: Establishes the necessary funds for 2011 realignment at both the state and local levels (Government Code Section 30025)**
 - Creates separate accounts for support services (HHS) and law enforcement programs, effectively creating a firewall
 - Creates five separate subaccounts for law enforcement programs
 - Specifies transferability provisions applicable only to the HHS subaccounts
 - Permits creation at local level of reserve account specific to support services
 - Expands permissible uses of funds in district attorney/public defender account to support planning, implementation, and training activities related to revocation proceedings

- **Part II: Recreates in statutory form generally the same mandate and funding protections negotiated for Governor's constitutional amendment (GC Section 30026.5)**
 - Outlines various aspects of mandate protections in the realignment context
 - Adds certain new provisions, such as creating share of costs for HHS programs
 - Specifies which of these provisions remain in effect if the November 2012 initiative passes

- **Part III: Allocates funds to and among various state-level accounts, subaccounts, and growth accounts (GC Sections 30027-30027.9)**
 - Recognizes that “base year” will differ among programs (e.g., Community Corrections Account (AB 109) base gets established in 2015-16, once program is fully implemented)
 - Specifies that once base year is established, funding levels will be calculated as the previous year’s base allocation plus any growth attributable to the program or account (i.e., a “rolling” base)
 - Guarantees funding base of \$489.9 million to local public safety subvention programs, funded first by vehicle license fees (VLF) and, if proceeds are insufficient to meet funding guarantee, then by an infusion of necessary sales tax funds
 - Dedicates VLF growth to only the new “Enhancing Law Enforcement Activities Subaccount” (specified public safety subventions programs)
 - Specifies that sales tax growth will be proportionately shared between HHS and law enforcement programs
 - Details shares of growth attributable to state-level accounts and subaccounts across programs; on law enforcement side, growth to the state-level subaccounts will be assigned as follows:

DA/Public defender revocation activities	5%
Trial court security	10%
Previously realigned juvenile justice functions	10%
Community corrections (AB 109)	75%

- **Part IV: Allocates state funds to local funds (GC Section 30029-30029.12)**
 - Clarifies that cash received from sales tax in the period from August 16 to August 15 is attributable to the July to June fiscal year
 - Makes county-by-county allocation for trial court security
 - Makes two-year (2012-13 and 2013-14) county-by-county allocation for AB 109
 - Makes two-year (2012-13 and 2013-14) county-by-county allocation for district attorney/public defender revocation activities
 - Specifies programs (i.e., Citizens’ Option for Public Safety (COPS), Juvenile Justice Crime Prevention Act, Booking Fees, Rural and Small County Sheriffs’ Local Assistance, Juvenile Probation and Camps Funding, and various other local assistance programs currently administered by the California Emergency Management Agency (CalEMA)) to be funded out of the Enhancing Law Enforcement Activities Subaccount (*NOTE: other*

details related to funding formulas and allocations within these programs are contained in the Law Enforcement subvention trailer [bill](#))

- Enumerates various factors that DOF can consider when specifying allocation of growth attributable to local AB 109 accounts
- Directs counties, beginning in 2015-16, to place ten percent of law enforcement sales tax growth into local innovation fund for dedication back to any or all of the following programs: trial court security, previously realigned juvenile justice programs/functions, AB 109 programs, and District Attorney/Public Defender revocation activities

PUBLIC SAFETY OMNIBUS BILL

Trial Court Security

Modifications to provisions governing trial court security services (Government Code Sections 69920-69927) are included in the public Safety Omnibus bill, SB 1021 (Chapter No. 41, Statutes of 2012) and reflect a consensus product arrived at through discussions among CSAC, the California State Sheriffs' Association (CSSA), and the Administrative Office of the Courts. The changes were necessitated by the new realignment funding structure for court security.

Juvenile Justice Reforms

This trailer bill language includes provisions intended to carry out the Governor's May Revision proposal that recasts his January budget proposal to close the Division of Juvenile Justice (DJJ), beginning with ceasing intake of youthful offender commitments on January 1, 2013. The 2012-13 budget enacts the various elements of the May Revision proposal to keep DJJ open as a placement option for youthful offenders, but makes one significant change to the new fee structure (highlighted below). The key juvenile justice reforms include:

- A new fee structure that will charge counties \$2,000 per month (\$24,000 annually) for each ward committed to the DJJ by a juvenile court **on or after July 1, 2012** (*the prospective application of the fee is a new feature of the budget*);
- A change in the DJJ age jurisdiction from 25 to 23 years, applied prospectively;
- Termination of DJJ juvenile parole (i.e., supervision responsibilities that remain with the state for the juvenile offender population) six months early (on January 1, 2013 instead of July 1, 2014); and,
- Reduction of administrative staffing levels within the California Department of Corrections and Rehabilitation (CDCR) headquarters and DJJ facilities.

The trailer bill also makes clear that the trigger fee — that was part of the 2011-12 budget and originally scheduled to be levied against counties beginning January 1 of this year — is **permanently suspended**.

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County-to-County Transfer Authority

SB 1021 revises Penal Code Section 4115.5 relative to counties' authority to contract with one another for housing inmates. The revised section eliminates proximity restrictions, meaning that any two consenting counties can enter into an agreement to house inmates in the county jail. The bill imposes reporting requirements on the extent to which the transfer authority is exercised, and it places a three-year sunset on this section.

CDCR: Implementation of Blueprint Provisions

The public safety omnibus trailer bill also incorporates various provisions to facilitate monitoring and tracking of CDCR's progress toward meeting the goals, timelines, and performance goals outlined in the blueprint [report](#), the department's long-term plan for reducing costs and operating more efficiently.

Expansion of Medical Parole Program and Alternative Custody Program

SB 1021 also grants CDCR the ability to expand an existing female offender alternative custody program as well as the medical parole program.

AB 109 Data Collection Efforts

The trailer bill directs the Board of State and Community Corrections (BSCC) to work with the Administrative Office of the Courts (AOC), CSAC, CSSA and the Chief Probation Officers of California (CPOC) to develop baseline and ongoing data collection instruments intended to capture the local impact of AB 109 implementation.

Judicial Branch

The budget makes significant reductions to the courts (\$544 million), which are offset by various other actions outlined in SB 1021 – use of local courts' funding reserves (\$235 million), redirection of \$11 million from the Administrative Office of the Courts (AOC), and a reduction of court construction funds achieved by slowing certain activities associated with 38 construction projects (\$240 million). In addition, the budget contains a \$50 million ongoing cut that will be imposed proportionately to trial courts statewide, as well as reductions totaling \$19 million to state-level judicial branch operations.

SB 1021 makes a number of changes to court-related fees, which will increase revenue to the courts by:

- Eliminating the statutory sunsets on court fee increases imposed in the 2010-11 budget including surcharge on first paper filing fees, the summary judgment motion fee, the pro hac vice fee, the court operations assessment (previously the security fee), and the telephone appearance fee.

- Increasing existing fees (complex case fee, motion fee, first paper filing fee, and jury deposits), as well as establishing new fees (will deposit fee, new court reporter fee, and a 20 percent increase in the appellate court filing fees).

The trailer bill also enacts a variety of provisions related to trial court funding and operations such as restricting expenditures on the court case management system except for limited purposes, placing future limitations on local courts' carryover balance, and establishing a statewide trial court reserve.

PUBLIC SAFETY CAPITAL OUTLAY

Additional Resources for Jail Construction

Trailer bill SB 1022 (Chapter No. 42, Statutes of 2012) carries out the Governor's May Revision proposal to authorize additional bond capacity in support of up to \$500 million in local criminal justice facility construction and renovation. Key provisions include:

- Funds can be used by county sheriff or county department of corrections to add/renovate local detention facilities as well as add programming and treatment space
- Counties are responsible for 10 percent match with allowance for reduction in match for counties with population levels below 200,000
- Funding criteria is to be determined by the BSCC with preference given to counties most likely to proceed successfully in a timely manner

AB 900 Updates and Revisions

The trailer bill makes a number of changes relative to AB 900, the jail and prison constructions measure from 2007. Recognizing that, with the implementation of realignment and the corrections system's blueprint reference above, the state's prison capital outlay needs have changed, the bill revises the state's AB 900 authority and dedicates expenditures to specified projects.

Of greater interest to counties is that the trailer bill also contains the necessary language to transfer \$171.3 million of AB 900 Phase I funding to Phase II to account for Santa Barbara, San Benito and Kern counties exercising their right to relinquish their conditional Phase I awards in order to apply for funds under the conditions outlined in Phase II.

AB 109 AND OTHER PUBLIC SAFETY REALIGNMENT CLEAN-UP

This trailer bill, SB 1023 (Chapter No. 43, Statutes of 2012) contains a number of technical and clarifying clean-up changes to public safety realignment as originally implemented in AB 109, AB 117 and subsequent legislation enacted in 2011. It is

important to note that there are a number of sentencing changes throughout SB 1023 – some requiring state prison terms for specified offenses and some requiring local jail terms for specified offenses. Below we highlight the main broad policy areas of interest to counties by subject area.

Post-release Community Supervision

- Clarifies that *each* revocation – while an offender is on Post Release Community Supervision (PRCS) (or parole)– may be subject to a maximum 180-day period in county jail
- Requires that inmates discharging from prison onto PRCS must be notified of their terms and conditions of PRCS, and removes requirement that the offender sign the notification

Revocation Process

- Confirms revocation process for offenders on any of the four types of community supervision under the court’s jurisdiction: PRCS, probation, parole and mandatory supervision. Courts remain responsible for revocation process for probationer, PRCS and those under mandatory supervision effective October 1, 2011; courts assume responsibility for revocation process of parolees effective July 1, 2013.

Mandatory Supervision

- Provides clarification on mandatory supervision terms, specifically:
 - that a term of mandatory supervision qualifies as a prior term for purposes of imposing a sentence enhancement; and,
 - that any period of time that an offender on mandatory supervision has absconded shall not be counted towards completion of the mandatory supervision term
- Allows an offender on mandatory supervision to petition for transfer to another county

County Jails

- Allows, upon receipt of court authorization, for a sheriff or any official responsible for a local jail facility, to release jail inmates up to 30 days early if the jail facility exceeds its population cap
- Revises Penal Code Section 3056 to make jurisdictional lines more clear. Specifically, clarifies that if a parole violator is under the county sheriff’s supervision and authority while the parolee is detained in county jail for a parole violation or placed in an alternative custody program by the sheriff to serve their revocation term. Once the revocation term is concluded, state parole assumes responsibility for the parolee.

County Authority to Contract

- Removes January 1, 2015 sunset date on county's authority to contract with public community correctional facilities for the detention of local inmates.

Local Law Enforcement Subventions

As noted above, the underlying statutes associated with the various local public safety subvention programs – funded out of the 2011 Realignment Enhancing Law Enforcement Activities Subaccount — are contained in a separate trailer bill. These changes have two primary objectives: 1) to simplify and streamline the statutory structure underlying each of the local public safety subvention programs, with a view toward eliminating outdated or – in view of the realigned funding construct – unnecessary provisions; and, where possible, to give counties greater flexibility and, 2) designate specific formulaic allocations for each program (which are intended to ensure the same distributions as would otherwise have occurred absent realignment).

Again, nothing in the proposed revisions is intended to alter the current funding methodology for the programs and services funded through the local public safety subventions, which include:

- COPS
- Juvenile Justice Crime Prevention Act
- Juvenile Probation and Camps Funding
- Rural and small county sheriffs local assistance
- Booking fee “replacement” revenue
- Various public safety local assistance programs currently administered by the CalEMA (e.g., Cal-MMET, High Tech Theft Apprehension Program, and others); note that administration of these programs will transfer to BSCC on July 1, 2012

GENERAL FUND APPROPRIATIONS

CCP Planning Grants and Foundation Training Funds

The 2012-13 main budget bill, AB 1464 (Chapter No. 21, Statutes of 2012) contains an additional round of training funding – within BSCC's budget – to each county's community corrections partnership (CCP) to support the ongoing planning work associated with AB 109 implementation. Grant funding totals \$7.9 million, to be distributed to the 58 counties — as it was in 2011-12 — in the following manner:

- \$100,000 grants to counties with populations of 200,000 or less
- \$150,000 grants to counties with populations of 200,001 to 749,999
- \$200,000 grants to counties with populations of 750,000 or more

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Counties that accept these funds are required to provide the BSCC a copy of their realignment implementation plan – within 60 days of its adoption or any revisions – as recommended and adopted by their county board of supervisors.

Further, the BSCC budget contains \$1 million to be distributed in three equal amounts to the foundations CPOC, CSSA and CSAC. The three foundations have until 2015 to expend the funds on statewide realignment training efforts.

Local Police Grants

The main budget bill also appropriates \$20 million through the BSCC for distribution to local police departments. The funds will be distributed to city police departments based on a formula to be developed by the BSCC in consultation with DOF. It is important to note that this funding is slated for elimination in the Governor’s trigger cut list should his ballot initiative fail in November.

OTHER PROVISIONS OF NOTE

Finally, there are two other justice-related budget items of interest:

- The Department of Justice’s budget is decreased by \$10 million, which is intended to be offset by a \$1 increase in the penalty assessment (contained in SB 1006, the general government trailer bill) that is dedicated to support the state’s forensic labs. Specifically, the authority to collect the relevant penalty assessment in Government Code Section 76104.7 is increased from \$3 to \$4 for every \$10.
- The funding that supports sheriffs’ water patrols through the Department of Boating and Waterways is subject to a partial trigger cut if the Governor’s November 2012 initiative were to fail. As specified in AB 1497, half of the guaranteed funding (\$5 million) would be reduced as part of the trigger cuts.

AGRICULTURE AND NATURAL RESOURCES

SB 1018 (Chapter No. 39, Statutes of 2012) is the Public Resources budget trailer bill and contains the following information.

REORGANIZATION OF STATE GOVERNMENT

The final budget includes the Governor’s proposal to reorganize the Regional Water Quality Control Boards (Regional Boards). The Governor signed into law his proposal that reduces the number of Regional Board members on each regional board from nine

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to seven, and eliminates the categorical selection of individuals who may serve on the board, including the municipal and county government seats. CSAC opposed this provision of this proposal. Trailer bill language does direct the Governor to appoint members of the Regional Boards to consider both public and non-public members and directs the Governor to make appointments on the basis of demonstrated interest or proven ability in the field of water quality, including water pollution control, water resource management water use, or water protection. Trailer bill language also states that members shall be appointed on the basis of his or her ability to attend a substantial number of meetings of the board. In addition, the budget revises the conflict of interest rules for Regional Board members, a proposal CSAC supported.

CLIMATE CHANGE

The California Air Resources Board (CARB) will begin to auction greenhouse gas (GHG) emissions allowances through the AB 32 Cap and Trade Program in 2012-13. Revenue estimates for the program are expected to be approximately \$1 billion in the first year. The budget includes a new legislative oversight process for the expenditure of these funds, including a new fund account for Cap and Trade revenues and additional legislative oversight of actions taken by the Western Climate Initiative. Trailer bill language also directs the Department of Finance to develop a framework, or investment plan, for Cap and Trade revenues if the Legislature fails to enact such a plan by the end of session this year. CSAC is currently supporting AB 1532, a measure by Assembly Speaker Perez that would establish such a framework. Trailer bill language also provides for the return of certain funds to ratepayers of Investor Owned Utilities from funds related to the auction or sale of allowances.

STATE PARKS

The Governor did take his blue pencil to the state parks budget, reducing the amount legislators allocated to state parks by \$31 million. This cut included a reduction of the funds from the Off Highway Vehicle (OHV) account to state parks, originally set at \$21 million. The Governor reduced that transfer by \$14 million, allowing for seven million from this account to still be directed towards keeping state parks open, with the remaining \$14 million to be transferred to the OHV Trust Fund. The budget does create some flexibility for state parks by creating a two-year continuous appropriation from the State Parks and Recreation Fund for revenue generating activities and creates an Enterprise Fund for entrepreneurial capital projects and increases flexibility of existing funding sources for all state parks.

GOVERNMENT FINANCE AND OPERATIONS

REDEVELOPMENT

One of the many contentious issues during this year's budget debate was redevelopment. AB 1484 (Chapter No. 26, Statutes of 2012) makes a number of changes to the process of unwinding the former redevelopment agencies, and in doing so puts significant administrative requirements on counties, particularly auditor-controllers.

The chief benefit to counties from AB 1484 is the validation of existing passthrough agreements. The possibility of their invalidation arose earlier this month in a legislative budget proposal. CSAC quickly expressed strong opposition to the proposal, which would have depleted county general funds by hundreds of millions of dollars. AB 1484 as signed by the Governor instead expressly validates those agreements, preserving them until a successor agency is dissolved. Also, any passthroughs not made by redevelopment agencies in 2011-12 are to be paid from future property tax allocations.

The most widely controversial portions of the bill have to do with penalties for certain types of noncompliance. For example, county auditor-controllers must determine the amount owed by each successor agency to taxing entities and send a demand by July 9, 2012, otherwise the county faces severe penalties, including the possible withholding of mid-July sales and use tax disbursements from the Board of Equalization (BOE). Successor agencies and their sponsoring entities are also subject to these same penalties if their Recognized Obligation Payment Schedules (ROPS) are submitted late, or if they fail to remit requirements funds demanded by the county auditor-controller for dispersal to other taxing entities, or if they improperly transferred funds to another agency or private entity.

Another notable provision in AB 1484 is authority for successor agencies to use bonds issued before 2011, including affordable housing bonds, for the purposes for which they were sold. Many successor agencies, other local agencies, and housing advocates had complained about half-completed projects and bond funds lying idle.

Housing advocates were also happy to report that certain assets and some housing funds may be retained locally for those purposes, including repayments of SERAF loans to the low and moderate income housing funds and real property acquired for affordable housing purposes.

Sponsoring agency loans may also be repaid beginning in 2013-14 under the new law, provided oversight boards allow them and the interest rate and term of years are reasonable.

The trailer bill contains a number of clean-up provisions, for example, clarifying that successor agencies are separate entities, that they are able to avail themselves of Chapter 9 bankruptcy protection if necessary, and that their sponsoring entity may loan them funds subject to oversight board approval. Successor agencies may also bond to save money and to smooth payment spikes and balloons.

DRY-PERIOD FINANCING FOR CHARTER SCHOOLS

The budget includes a provision, which CSAC opposed, that allows a county to provide charter schools with the same sort of dry-period financing that regular public schools can receive. The financing would be restricted until after public schools have received all the loans they need. The loans are permissive, not required. The enacting language seems to indicate that the funds would be loaned from the funds of the county specifically, and not the county treasury.

Treasurer-tax collectors and CSAC expressed the concerns that such loans would be unconstitutional because the great majority of charter schools are private entities. Treasurers who extend credit to private entities or co-mingle public and private funds are personally liable for penalties and forfeiture of public office.

Counties to whom requests are made are advised to exercise extreme caution and consult with both counsel and their treasurer-tax collector.

TRIPLE-FLIP AND VLF SWAP BACKFILLS

The enacted budget includes a provision that backfills Amador County for losses related to the accounting maneuvers from a few years ago, the triple-flip and the VLF swap.

Under both of these schemes, counties are reimbursed for state-imposed revenue losses from property taxes that would otherwise go to schools; schools are then backfilled from the state General Fund pursuant to Proposition 98 requirements.

In Amador County, all of the school districts have become “basic aid”, meaning that they are fully funded through property taxes and receive no Proposition 98 funds from the state. The law prohibits counties from accessing these schools' property taxes to reimburse themselves for the triple-flip and VLF swap. The budget item provides Amador County with these funds forgone fiscal year.

AB 1191, by Assembly Member Alyson Huber, would provide a process by which any county could request funding for future shortfalls of this sort. CSAC and RCRC are jointly sponsoring AB 1191. The bill is currently on the Senate Appropriations Committee suspense file.

MANDATES

The budget suspends all of the mandates that were suspended last year, and repeals one related to Filipino surveys. The Governor used his blue pencil to suspend two additional mandates related to crime reporting. The budget also states that all mandates suspended in this budget will also be suspended in the following two budget years, though the California Constitution seems to require that mandates be suspended in the budget bill for the fiscal year in question.

The Legislature did not adopt the Governor's proposal to repeal certain mandates and make others explicitly permissive in statute.

Lastly, the budget, as expected, suspends the annual payment for pre-2004 mandates, which statute requires be paid in full by 2021. It also states that the payment will be suspended in the following two budget years. The state owes local agencies roughly \$1 billion, including interest, most of it to counties, for mandates unfunded and unsuspended prior to the passage of Proposition 1A.

VOLUNTARY INVESTMENT PROGRAM

One budget trailer bill, SB 1033, creates a process by which counties and other local agencies may voluntarily loan the state money to provide intra-year cash flow, reducing the state's need for outside borrowing. The state would only accept deposits of at least \$200 million, and the fund could never exceed \$10 billion. The rate of return and other terms are determined by the Director of Finance.

EMPLOYEE RELATIONS

Retired Annuitants: AB 1028 “Clean-Up”

Counties will recall that Assembly Bill 1028 (Chapter No. 440, Statutes of 2011), sponsored by the California Public Employees’ Retirement System (CalPERS), amended the Public Employees’ Retirement Law regarding the requirement that a public agency retiree cannot work for a state or public employer for more than 960 hours per fiscal year without being reinstated from retirement. Unfortunately, AB 1028 added the word “temporary” regarding the appointment of an annuitant, causing much confusion, and prompting legal advice to many public agencies to terminate annuitants. Budget trailer bill, SB 1021 (Chapter No. 41, Statutes of 2012) removes the word “temporary” from the

statute and also clarifies that the 960 hour limit applies to the annuitant regardless of whether he or she works for one or more employers. AB 1481 also clarifies current law regarding pay and benefit restrictions for annuitants.

SCMS Moves to PERB

SB 1038 (Chapter No. 46, Statutes of 2012), the State Boards and Commission Reorganization trailer bill, includes the transfer of the State Mediation and Conciliation Services (SMCS), currently part of the Department of Industrial Relations (DIR), to the Public Employment Relations Board (PERB). SMCS investigates and mediates labor disputes; PERB will assume all powers, duties and responsibilities carried out by DIR through SMCS.

State Employees

SB 1006 (Chapter No. 32, Statutes of 2012), the General Government trailer bill, ratifies a memorandum of understanding that includes a mandatory, once-per-month furlough day for state employees from July 1, 2012 to June 30, 2013, and a pay reduction no greater than five percent.

Veterans

SB 1006 also requires the Department of Veterans Affairs (DVA), by June 30, 2013, to develop a performance-based formula that will incentivize county veterans service offices to perform workload units (specific claim activity that is used to allocate subvention funds to counties and performed by county veterans service offices) that help veterans access federal compensation and pension benefits and other benefits, in order to maximize the amount of federal money received by California veterans. Currently, DVA disburses funds to counties each fiscal year on a pro rata basis based on the staffing level and workload of each county.

HEALTH AND HUMAN SERVICES

REALIGNMENT

Fiscal Superstructure

The HHS elements of the fiscal superstructure, contained in SB 1020, remain similar to what CSAC has reported previously. However, a new special account was created with the Behavioral Health Subaccount at the state level. The Legislature created a Women and Children's Residential Treatment Services Special Account within the Behavioral Health Subaccount and allocated \$5.1 million annually to that special account. SB 1020 requires six counties – Alameda, Los Angeles, Marin, San Diego, San Francisco and San Joaquin – to create county Women and Children's Residential Treatment Services Special Accounts. The local accounts will get 1/12 of \$5.1 million monthly. SB 1020 specifies how much funding each county will receive. It is a local option whether to provide growth to this special account.

Child Welfare Services Realignment

SB 1013 (Chapter No. 35, Statutes of 2012) contains the programmatic child welfare and foster care changes necessary to implement 2011 Realignment. The changes update cost-sharing ratios related to the realigned programs, delete code sections that were otherwise set to expire, and delete obsolete statutory requirements. A few highlights include:

- **Flexibilities for Counties.** SB 1013 provides added flexibility for counties, including permitting counties to establish foster care clothing allowance and specialized care increments based on the local needs of foster children. SB 1013 also allows counties to continue to operate the Transitional Housing Placement-Plus (THP-Plus), Specialized Training for Adoptive Parents (STAP), Options for Recovery, Supportive Transitional Emancipation Program (STEP), and Kinship Supportive Services Program (KSSP). However, for counties that are operating these programs that wish to cease funding, the Realignment Superstructure bill requires that this be considered by the Board of Supervisors during an open discussion of the board.
- **AB 12 Changes.** SB 1013 makes numerous changes related to AB 12, including:
 - Extends eligibility to age 21, starting January 1, 2014
 - Permits counties to draw down federal matching funds to continue services to non-minor dependents who reach age 19 in 2012 in order to bridge these youth to age 20, and likewise makes eligible for federal matching funds, non-minor dependents in care who turn age 20 in 2013 to bridge services until they reach youth to age 21
 - Retains the current state cap on county costs towards AB 12, and specifies that the cap will be removed if there is a certification by DOF in 2015-16 of sufficient realignment revenues to serve this population.
 - Makes changes to the THP-Plus and THP-Plus FC programs
 - Replaces the county-approval process for THP-Plus FC to a Department of Social Services (CDSS), via Child Care Licensing (CCL) licensure process, and requires CDSS to establish a certification process by July 1, 2012 to be used by licensed providers to screen local placement settings. Makes the THP-Plus FC an available licensed placement effective October 1, 2012. Removes the requirement that counties submit plans to CDSS for THP-Plus and THP-Plus FC, but directs THP-Plus FC providers to obtain certifications from county agencies for the need of a local THP-Plus FC program. Continues local THP-Plus programs as optional county programs
- **Increased Penalty Sharing for Counties.** SB 1013 apportions a greater share of federal penalties to those counties whose performance contributed to the state

receiving the penalty and who did not spend a minimum amount of funding on Child Welfare Services (CWS). The minimum amount required to be spent is equal to 90 percent of the amount that the county would have had to spend on CWS to be eligible for the free augment funding prior to 2011 realignment. The county's share of the federal Child and Family Service Reviews penalty will be increased by two percentage points for every percentage point below the county's CWS expenditures that are below the 90 percent. The increased penalty sharing would not apply in fiscal years in which 2011 realignment revenues are not adequate to fully fund the 2011 realignment base, including fully funding foster care assistance and Adoption Assistance Program payments. Small counties, defined as counties with a population of 50,000 or less, are exempt from the minimum expenditure requirement and increased penalty sharing.

Substance Use Disorder Treatment Realignment

SB 1014 (Chapter No. 36, Statutes of 2012) contains the programmatic elements related to implementing the alcohol and drug 2011 Realignment. Major provisions include:

- **Transfer of Department of Alcohol and Drug Programs (DADP) Functions.** Effective, July 1, 2013, transfers the administrative and programmatic functions of DADP to departments within the Health and Human Services Agency.
- **Drug Medi-Cal.** SB 1014 makes programmatic changes necessary to implement and be consistent with the realignment of funding for the Drug Medi-Cal program and the transfer of remaining state responsibility for the program to the Department of Health Care Services (DHCS).
- **Women and Children's Residential Treatment Services (WCRTS).** Declares the state's interest in the WCRTS program, recognizes the eight current programs in six counties, and allows for the establishment of additional programs for the purpose of pursuing four primary goals: 1) demonstrate that alcohol and other drug abuse treatment services delivered in a residential setting and coupled with primary health, mental health, and social services for women and children, can improve overall treatment outcomes for women, children, and the family unit as a whole; 2) demonstrate the effectiveness of six-month or 12-month stays in a comprehensive residential treatment program; 3) develop models of effective comprehensive services delivery for women and their children that can be replicated in similar communities; and 4) provide services to promote safe and healthy pregnancies and perinatal outcomes.
- **Substance Abuse Prevention and Treatment Block Grant (SAPT) County Contracts.** The bill revises various sections to eliminate a county plan requirement and instead requires counties to, within 60 days after notice of the final allocation of SAPT funds, contract for federal funding from the state to provide alcohol and other drug prevention, treatment, and recovery services.

ACTION

SB 1014 establishes that, when a county decides not to enter into a contract to provide alcohol and drug abuse services or programs, or both, the department shall determine the need for the services or programs and provide the services or programs directly through contract.

The measure removes the population cap for two or more counties to jointly establish county alcohol and other drug programs and removes state authorization for county to county contracts for service.

The bill establishes that funds in each county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011 shall be considered state funds for the purposes of receipt of the federal block grant.

SB 1014 allows the director of DADP to reduce federal funding, on a dollar-for-dollar basis, to a county that has reduced or anticipates reducing expenditures in a way that would result in a decrease in the federal SAPT funds, as specified.

- **Drug Courts.** The bill also makes amendments necessary to implement the realignment of drug court funding pursuant to 2011 Public Safety Realignment.

Mental Health Realignment

SB 1009 (Chapter No. 34, Statutes of 2012) is the mental health trailer bill and includes restructuring of community-based mental health services at both the state and local level and is necessary to effectuate the 2011 Realignment.

Highlights include:

- **DMH Reorganization.** SB 1009 transfers functions from the Department of Mental Health (DMH) to other state departments.
- **Mental Health Plans.** Allows DHCS to contract with Mental Health Plans, which may include individual counties, counties acting jointly, or an organization or non-governmental entity determined by DHCS to meet mental health plan standards. It provides that if a county decides not to contract with the DHCS, or is unable to meet standards set by DHCS, the county is to inform DHCS. Further, DHCS shall ensure that Specialty Mental Health Services are provided to Medical beneficiaries and DHCS may contract as specified in order to provide this assurance of service delivery. In addition, if a county does not contract with the State for specialty mental health services, then DHCS shall work with DOF and the Controller to sequester funds from any county that is unable or unwilling to contract as specified.

- **First Right of Refusal.** Declares that Section 14685 of Welfare and Institutions Code, regarding a county's first right of refusal to serve as a mental health plan, be repealed on November 7, 2012 if Section 36 has been added to Article XIII of the California Constitution as of that date.
- **Early and Periodic Screening, Diagnosis and Treatment (EPSDT).** Expresses the intent of the Legislature to develop a performance outcome system for the EPSDT Program that will improve outcomes at the individual and systems levels and will inform fiscal decision making related to the purchase of services. DHCS, in collaboration with the California Health and Human Services Agency, and in consultation with the Mental Health Services Oversight and Accountability Commission, shall create a plan for a performance outcome system for EPSDT. By no later than September 1, 2012, a stakeholder advisory committee shall be convened for the purpose of developing this plan. This bill specifies objectives for this purpose and requires DHCS to provide a plan, including milestones and timelines for EPSDT mental health outcomes by no later than October 1, 2013.
- **Federal Audits.** This trailer bill also modifies federal audit exceptions against the state regarding federal funds expended by counties.
- **Expenditures.** Provides for specified Realignment accounts to be used for certified public expenditures to be consistent with federal Medicaid requirements.

HHS BUDGET ISSUES

In addition to the 2011 Realignment-related fiscal and programmatic measures outlined above, the Governor signed the following bills into law that include HHS-related budget items:

AB 1467	Health Omnibus
SB 1041	Human Services Omnibus
SB 1008	Health Coordinated Care Initiative
SB 1036	Human Services Coordinated Care Initiative
AB 1470	State Mental Hospitals
AB 1494	Healthy Families Program Shift
SB 1016	Education/Child Care

CalWORKS

The Governor had proposed a significant redesign of the CalWORKs program in his January and May budgets. He and lawmakers reached a compromise that severely limits the time on aid for new recipients, effective January 1, 2013. The changes discussed below can be found in AB 1471 as enrolled.

New Time Limit

The Legislature further reduced the time on aid and welfare-to-work services for new CalWORKs recipients from 48 months to 24 months. After 24 months, recipients are expected to meet federal work requirements with some exceptions and extensions (although extensions may only be granted to no more than 20 percent of a county's caseload in six-month increments, up to 48 months total). The federal work requirements require 20 hours of work a week for single parents with a child under age 6; 30 hours a week for a single parent with a child over age 6; and 35 hours a week with two parents. Also, the 24 months of welfare-to-work services do not need to be consecutive.

Current recipients will be eligible for the 24 months of welfare-to-work services starting in January, unless they reach their 48-month lifetime limit before the full 24 months. The details of the extension criteria and implementation will be developed by CDSS and issued in an All County Letter by November 1, 2013.

Young Child Exemption

AB 1471 eliminates the current work exemption for parents with one child aged 12-24 month or two children under age 6 (called "temporary young child" exemption) by sunsetting it on January 1, 2013. However, a new, one-time exemption for parents with a child under the age of two would be implemented, and each month of the exemption would not count toward the recipient's total time limit. Please also note that the Governor's proposal to cut child-only grants by 27 percent was rejected.

Earned Income Disregard

AB 1471 includes a return to an Earned Income Disregard for CalWORKs recipients meeting federal work requirements of the first \$225 and 50 percent of any remaining earned income. This becomes effective on October 1, 2013.

Single Allocation

AB 1471 also approved annual reporting for the CalWORKs child-only caseload, and directs the state to seek federal approval for annual reporting for the CalFresh caseload as well. Because of this change, the Single Allocation was reduced by \$26.5 million.

The budget makes other cuts to the Single Allocation related to the temporary extension of the young-child exemption and the new exemption outlined in AB 1471. As a result, the total reductions to the Single Allocation in 2012-13 amount to \$205.7 million.

Work Incentive Nutritional Supplement program

The compromise also delays the effective date for the Work Incentive Nutritional Supplement (WINS) program to January 1, 2014, and reduces the additional food assistance benefit from \$40 to \$10 per month.

ACTION

Child Care

The Governor had sought nearly \$500 million in savings and restructuring in subsidized child care programs, and the legislative compromise tallies \$532 in savings. The compromise embodied in AB 1016 includes a reduction in the number of available slots (29,600 child care slot as opposed to the Governor's proposed elimination of 54,800), and 8.7 percent across-the-board cut, and a suspension of the cost-of-living adjustments in both 2013-14 and 2014-15. The Governor also vetoed another \$20 million to the subsidized child care voucher program (excluding current and former CalWORKs families) when he signed the budget.

Also, the compromise shifts state preschool funding from the General Fund to Proposition 98 funding, but the Governor vetoed \$29.9 million with his blue pencil.

Also, the Legislature rejected the Governor's proposal to provide a \$50 nutritional supplement to non-CalWORKs families that utilize subsidized child care and are meeting work participation requirements. The Legislature also rejected the Governor's restructuring proposals.

CalFresh (SNAP, Food Stamps)

The Governor had sought to reduce administrative funding for the CalFresh program by \$45 million, but the Legislature instead directed that the cut be taken from unexpended funding in the previous fiscal years first. If this method is unable to recoup the full \$45 million, then it would be taken from the 2012-13 balance. However, the Governor vetoed an additional \$23 million from CalFresh administration on a one-time basis – making the total reduction \$68 million.

In-Home Supportive Services (IHSS)

The Governor had proposed a number of changes and reductions for the In-Home Supportive Services (IHSS) program, including reducing provider hours by seven percent and eliminating domestic services. The Legislature developed a compromise package, as outlined below and signed by the Governor.

- **Reduction in Provider Hours.** Instead of the seven percent ongoing reduction in hours as proposed by the Governor, the Legislature extended a 3.6 percent reduction in authorized IHSS hours that sunsets in June 2012 through July 1, 2013. This saves the state nearly \$60 million in 2012-13.
- **Eliminating Domestic Services.** The Governor had proposed to eliminate domestic services and related services for IHSS consumers living with other adults who are not participants in the IHSS program for a savings of \$164 million. The Legislature rejected this reduction.

- **IHSS Provider Tax.** The federal government has not approved the IHSS provider tax approved in the 2011-12 budget. The delay in implementation has resulted in lost General Fund savings of \$57.3 million in 2011-12 and \$95.4 million in 2012-13. The Administration is assuming the tax will be implemented October 1, 2012.
- **IHSS Trigger Cuts.** The state has been prevented from implementing the December 2011 IHSS 20 percent trigger cuts through a court injunction and legislative action. The 2012-13 budget includes funding for the program at current levels in light of the injunction.

Coordinated Care Initiative

In January, the Governor introduced a number of major policy changes within the Medi-Cal program aimed at improving care coordination, particularly for people on both Medi-Cal and Medicare. The Administration called the package the Coordinate Care Initiative (CCI). Please recall that the CCI included the following elements:

- *Dual Eligible Demonstration Projects:* Existing law allows up to four demonstration sites to improve care coordination for individuals receiving both Medi-Cal and Medicare – known as dual eligibles. The Administration wanted to expand the number of demonstration sites. The Duals Demonstration Project would expand the managed care benefits to include the In-Home Supportive Services (IHSS) program, as well as Multipurpose Senior Services Programs (MSSP), Community-Based Adult Services, and skilled nursing facility services.
- *Long Term Care Services and Supports:* The Administration proposed to enroll all Medi-Cal beneficiaries (regardless of whether they are in a duals project) into managed care. The Administration is also proposing to make IHSS a managed care benefit, phasing the implementation to align it with the phase-in of the Duals Demonstration Project.
- *Managed Care Expansion:* The Administration also proposed to expand managed care to the 28 counties currently without a Medi-Cal managed care plan. (provisions contained in AB 1467 (Chapter No. 23, Statutes of 2012))

The major CCI elements are included in two trailer bills, SB 1036 (Chapter No. 45, Statutes of 2012) and SB 1008 (Chapter No. 33, Statutes of 2012), as detailed below.

1. SB 1036 – Human Services: Coordinated Care Initiative

SB 1036 contains a number of changes to the IHSS program, including state collective bargaining for IHSS, creation of a county IHSS Maintenance of Effort (MOE), and creation of a Statewide Authority.

MOE provisions

The county IHSS MOE would replace the county share of costs for IHSS, as long as the CCI and state collective bargaining are in place.

All counties would begin paying the MOE on July 1, 2012.

The MOE base expenditures would be based on each county's IHSS expenditures in 2011-12. The IHSS expenditures include IHSS county administration and public authority administration, defined as the amount actually expended by each county in fiscal year 2011-12, except that for administration the MOE base shall include no more or no less than the full match for the county's allocation from the state.

The MOE would only be adjusted for either of two reasons:

- A county negotiates an increase in IHSS provider wages and/or benefits after July 1, 2012 and before the state takes over bargaining.
- An inflation factor of 3.5 percent. The inflation factor is applied annually beginning July 1, 2014. In years when 1991 Realignment revenues decline (year-over-year negative growth), the inflation factor is zero. DOF shall provide notification to the appropriate legislative fiscal committees and CSAC by May 14 of each year whether the inflation factor will apply for the following fiscal year.

The county IHSS MOE would be adjusted for the annualized cost of locally-negotiated, mediated, or imposed increases in provider wages and/or health benefits.

State Bargaining

SB 1036 moves collective bargaining from the local level to the state for IHSS providers. AB 1496 specifies that collective bargaining would transition to the state once the director of DHCS certifies that enrollment into CCI has finished. SB 1036 and SB 1008 tie the transition to statewide bargaining to enrollment into the CCI. The Legislature approved eight county CCI sites. Please recall that the Administration had originally proposed to transition all 58 counties to state bargaining over a three year period (2014-2016). SB 1008 includes legislative intent language that the CCI will transition statewide. Further legislation will be necessary to move to statewide bargaining in all 58 counties.

A locally bargained memorandum of understanding (MOU) or contract that is in place on the county implementation date remains in effect until it would otherwise expire – unless the union and the Statewide Authority mutually agree to reopen the contract. After the county implementation date, once a locally bargained MOU or contract expires, the Statewide Authority and the union begin negotiations on a new agreement. The Statewide Authority is required to notify the county 90 days prior to making any changes to locally administered health benefits.

ACTION

SB 1036 states that the scope of representation at the state level includes all matters related to wages, benefits and other terms and conditions of employment. The bill specifically excludes functions performed by or on behalf of counties including:

- Eligibility determination for IHSS
- Assessing, approving and authorizing IHSS services
- Enrolling providers and conducting provider orientation
- Conducting criminal background checks
- Providing assistance to recipients in finding providers through establish of a provider registry, as well as providing orientation to recipients
- Pursuing overpayment recovery collection
- Performing quality assurance activities
- Performing any other function or responsibility required pursuant to statute or regulation to be performed by the county.

SB 1036 contains a new provision not previously discussed with CSAC that allows the state to weigh in on non-economic terms of a contract (Section 110011, paragraph(e)) while local entities are still bargaining. The language requires after July 1, 2012 that any new MOUs or alterations to existing MOUs to be submitted to the CDSS for review. CDSS or the Statewide Authority may determine if there are newly negotiated non-economic terms that are objectionable for a business-related reason, and if so, shall provide written notice to the union. Upon demand from the union, CDSS or the Statewide Authority shall meet and confer with the union over the objection. CSAC is conferring with counsel on this language.

Once the state takes over collective bargaining, state-negotiated changes in provider wages and/or benefits will exclusively be state and federal costs. There is no county share.

Local Bargaining

Counties will continue to collectively bargain until the state takes over collective bargaining upon certification by the director of DHCS. Local bargaining ceases once the state once the director of DHCS certifies that enrollment into CCI has finished.

The state will continue to approve rates, per existing law (Welfare and Institutions Code Section 12306.1). If the state approves a county-negotiated rate, the state and counties will share in those costs per existing law, and the MOE will be adjusted accordingly.

SB 1036 clarifies that rates and other economic terms will be presumed to be approved by DSS if:

ACTION

- The combined total of wage and health benefits are up to 10 percent above the current combined total of wages and health benefits paid in that county.
- The rate includes a cumulative total of 20 percent of changes to wages and/or health benefits until the Statewide Authority assumes collective bargaining for a county.

Statewide Authority

SB 1036 creates a joint powers authority, the California In-Home Supportive Services Authority – referred to as the Statewide Authority. The Statewide Authority will meet and confer on wages, benefits and other terms and condition of employment for IHSS providers. The Authority is comprised of five members – two county officials appointed by the Governor, the Director of CDSS, the Director of dhcs, and the Director of the DOF.

SB 1036 also creates an advisory committee of the Statewide Authority comprised of no less than 13 members. No less than 50 percent of the members shall be current or past users of IHSS. At least two members shall be current or former providers. Each union representing IHSS providers shall have a representative on the committee. The advisory committee may include individuals representing organizations that advocate for people with disabilities or seniors.

Training

SB 1036 requires CDSS to develop a training curriculum for IHSS providers by January 1, 2014. The training shall be voluntary. The state is not required to fund the training.

IHSS as a Managed Care Benefit

IHSS will become a managed care benefit no sooner than March 1, 2013 and where CCI is being implemented.

Poison Pill

SB 1036 contains a poison pill trailer bill that would allow the state to end the CCI. If the CCI is halted, state collective bargaining would return to counties and the MOE would revert to the existing share of cost. The MOE would end at the end of a fiscal year.

Under one poison pill, if the federal government does not provide by February 1, 2013 federal approval – or notification indicating pending approval – of a mutual rate setting process, shared federal savings and a six-month enrollment period in the CCI, the act becomes inoperative on March 1, 2013. SB 1036 includes a methodology for determining shared federal savings.

2. SB 1008 – Coordinated Care Initiative: Health

Poison Pills

SB 1008 contains two poison pills, including one identical to the poison pill outlined above.

Additionally, SB 1008 allows the director of DHCS – after consulting with the Director of Finance, stakeholders and the Legislature – to halt all or part of the CCI. This determination can be made if the director determines the quality of care for managed care beneficiaries, efficiency or cost-effectiveness of the program would be jeopardized. If the CCI is halted, state collective bargaining would return to counties and the MOE would revert to the existing share of cost. The MOE would end at the end of a fiscal year.

There is no specificity in the trailer bills about how the MOE would revert back to a share of cost. Likewise, there is no specificity about how the CCI would end. Outstanding questions include:

- Would counties have to pay for state-negotiated changes in wages and benefits under a reversion to a share of cost?
- How does Proposition 1A interact with a change from a MOE to a share of cost?
- Does every aspect of CCI end – such as mandatory enrollment into Medi-Cal managed care and the inclusion of Long Term Services and Supports into managed care?
- Once the director of DHCS triggers the poison pill, can it be executed without additional legislation?

CCI Expansion

SB 1008 includes intent language that the CCI be expanded statewide within three years of the start of the demonstration project, contingent upon statutory authorization and a subsequent budget appropriation.

General Provisions

SB 1008 contains the main elements of the Governor’s CCI, which includes major policy changes within the Medi-Cal program aimed at improving care coordination, particularly for people on both Medi-Cal and Medicare.

SB 1008 would establish the CCI and allow up to eight counties to begin demonstration sites no sooner than March 1, 2013. The bill requires dual eligible beneficiaries to enroll into a demonstration site unless the beneficiary makes an affirmative choice to opt out

of enrollment. The measure defines health plan readiness, increase legislative oversight, and specifies additional consumer protections and notification.

The CCI saves \$611.5 million General Fund.

MEDI-CAL

Co-Payments

Despite the federal government's rejection of the state's 2011-12 budget proposal to implement co-payments for Medi-Cal beneficiaries, lawmakers and the Governor have included modified co-payments in the 2012-13 budget act (AB 1467).

The previous co-payments had ranged from \$5 for non-emergency medical services, \$1 for a medical visit, and \$1 for prescription drugs. While these amounts remain in AB 1467, Section 85 has been added that outlines the following co-payments.

- \$50 for nonemergency services received in an emergency department or emergency room when the services do not result in the treatment of an emergency medical condition or admittance to the hospital
- \$50 for emergency services received in an emergency department that treat an emergency medical condition or result in admittance.
- \$3 for each drug prescription or refill, and \$5 for nonpreferred drugs
- \$5 for each physician visit
- \$100 for each hospital inpatient day, up to a maximum of \$200.

These new copayments do not affect the reimbursements for providers. Services that do not require a copayment include emergency services, family planning services, children in AFDC-foster care, a person under 18 years of age or over 65, a person who is an inpatient at a health facility, or a woman receiving perinatal care. The state must garner federal approval before the above co-payments are implemented.

Managed Care Shift in Rural Counties

AB 1467 codifies the state's proposal to shift the current 28 Medi-Cal fee-for-service counties into Medi-Cal Managed Care. The shift is expected to begin in June of 2013 and would affect Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Lassen, Mariposa, Modoc, Nevada, Mono, Placer, Plumas, San Benito, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Tuolumne, and Yuba Counties (Section 78).

The measure also identifies a number of factors that a managed care health plan will have to meet to be considered by DHCS, including an action of support by each county's board of supervisors. DHCS will also set up a stakeholder process and has the authority

to implement this transition while regulations are being developed (with a deadline of emergency regulations slated for July 1, 2014).

Further, the shift to managed care must be cost-neutral for the state and receive all federal approvals before proceeding. Lastly, DHCS must provide quarterly updates on the shift to managed care in these counties to the Legislature, beginning January 1, 2014 and ending on January 1, 2016.

Shift Funding from Designated Public Hospitals

AB 1467 (Section 99) also allows the state to sweep an additional \$21.5 million from the designated public hospitals in 2013-14 to pay for health care coverage for children. Section 110 deletes the “milestone incentive payments” to designated public hospitals under the Medicaid Waiver delivery system reform incentive payments once federal approval of the above methodology and payment changes receive federal approval.

Unexpended Federal Waiver Funds

If the state is unable to claim the maximum annual amount of Safety net Care Pool funds, then the excess certified public expenditures are to be allocated equally between the state and designated public hospitals. This produces \$100 million in General Fund savings.

Non-Designated Public Hospital Payment Changes

Non-designated public hospitals have historically been funded similar to private hospitals (50 percent General Fund, 50 percent federal funds), rather than like designated public hospitals (no state General Fund; local funds are used to draw down federal match) for inpatient Medi-Cal fee-for-service. The Legislature approved the Governor’s proposal to align non-designated hospital funding with designated hospitals funding methodology for inpatient Medi-Cal fee-for-service in AB 1467. The sections of AB 1467 described below implement this change. This change results in \$94.4 million GF savings.

- Section 92 allows nondesignated public hospitals to receive safety net care pool payments and delivery system reform incentive pool payments for uncompensated care costs to the extent that additional federal funding is made available or there is leftover funding after payments are made to designated public hospitals.
- Also allows the state to increase the percentage of each intergovernmental transfer (IGT) that it retains for administrative costs to 20 percent. This funding would be used for the Medi-Cal program.

Quality Assurance Fee

The Legislature approved the Governor's proposal to redirect hospital quality assurance fee revenue that was intended to fund supplemental payments to a private hospital. This proposal saves \$150 million General Fund. AB 1467 (Sections 100-103) states that California has received the necessary federal approvals to implement the Low Income Health Program MCE Out-of-Network Emergency Care Services Fund. All funds would come out of the Quality Assurance Fee or federal funds.

The bill also specifies that federal approval of both the Quality Assurance Fee and the supplemental payments to hospitals must be in place. Section 104-5 increases the amount the state can sweep from the Quality Assurance fee for children's health care from \$85 million to \$96.7 million each quarter during the 2012-13 fiscal year and \$144.2 million for each quarter in 2013-14.

Section 106-7 specifies that the state will not make increased capitation payments from the Hospital Quality Assurance Fund until federal approval is gained. Also, that no hospitals will make QA payments until federal approval is received.

Denti-Cal Oversight in Sacramento and Los Angeles Counties

Sections 79-80 of AB 1467 pertain to the Denti-Cal programs in Sacramento and Los Angeles Counties, where significant problems with access to timely care and service delivery for pediatric dental services have been identified. The first section (79) allows Sacramento County to establish a stakeholder advisory group to increase program delivery, with participation by DHCS.

The second section (80) allows the state to invoke its authority to establish a beneficiary dental exception (BDE) process in Sacramento County. The BDE will allow Medi-Cal dental managed care beneficiaries in Sacramento County who are unable to secure timely access to services through their managed care plan. The beneficiary can opt out and move into fee-for-service Denti-Cal and choose their provider. This exception process will remain in effect for as long as all beneficiaries in Sacramento County are mandatorily enrolled in dental health plans. Further, DHCS will administer the BDE process, including emergency visit requests and data collection on outcomes.

Section 115 of AB 1467 also requires DHCS to report to the Legislature on the progress of the Denti-Cal programs in Sacramento and Los Angeles Counties.

Low Income Health Program (LIHP).

- **Capitation Rates.** Section 117 of AB 1467 allows the federally approved capitation rates to apply to the LIHP year, which is July 1, 2011, to June 30, 2012, inclusive, even if federal approval and the necessary contract amendments are not finalized until after June 30, 2012.

- **CMSP LIHP Loan.** Section 118 of AB 1467 authorizes a cash flow loan of up to \$100 million to the County Medical Services Program (CMSP) in 2012-13 and 2013-14 to cope with expenses related to the Health for All LIHP program. Interest on the loan will be pegged to the rate earned in the Pooled Money Investment Account (PMIA). This language was originally contained in SB 1517 (Wolk).
- **Shift Ryan White Patients to LIHPs:** Section 119 of AB 1467 codifies the state's intention to shift persons receiving federal Ryan White Act services to the county LIHPs.

HEALTHY FAMILIES PROGRAM (HFP) SHIFT TO MEDI-CAL

The Legislature, after much debate, passed AB 1494 (Chapter No. 28, Statutes of 2012), which shifts all 875,000 HFP beneficiaries into the Medi-Cal program in four phases. AB 1494 was approved once lawmakers were able to insert language requiring close oversight and timely reporting by DHCS to the Legislature on the progress of the shift and its effects on children.

The shift would begin on January 1, 2013 and occur in four phases:

- **Phase 1:** Begins January 2013 and includes roughly 415,000 children currently enrolled in a HFP health plan that matched with an existing Medi-Cal health plan in their area.
- **Phase 2:** Begins April 2013 and includes 249,000 children in a HFP health plan that is a subcontractor of a Medi-Cal managed care health plan in their area.
- **Phase 3:** Begins August 2013 and transitions 173,000 children enrolled in a HFP plan that is not a Medi-Cal managed care plan and does not contract or subcontract with a Medi-Cal managed care plan into a Medi-Cal managed care plan in their county.
- **Phase 4:** Begins no earlier than September 2013 and transitions 43,000 HFP children who live in a county that does not yet have Medi-Cal managed care into a Medi-Cal fee-for-service delivery system. (Please note that AB 1467 authorizes the state to shift the remaining 28 Medi-Cal fee-for-services counties into Medi-Cal managed care starting in June of 2013 – see above for more details)

The measure also requires the Health and Human Services Agency to work with the Managed Risk Medical Insurance Board, DHCS, and the Department of Managed Health Care to develop a transition plan for this transition of children from HFP to Medi-Cal no later than October 1, 2012. It also requires DHCS to submit an implementation plan for

each phase prior to transitioning children, reports on performance and readiness measures of the health plans, and monthly status reports.

CALIFORNIA CHILDREN'S SERVICES (CCS) PROGRAM

AB 1467 included a provision to allow the use of federal Disabilities Education Act (IDEA) school funding for California Children's Services (CCS) Program costs that are incurred as part of the child's Individualized Education Program (IEP)(Section 1). However, **AB 1494 rescinded this provision**. If enacted, it would have saved the state \$12 million General Fund in 2012-13.

COST OF DOING BUSINESS

Section 87 of AB 1467 enacts the further suspension of the cost of doing business funding for counties in 2011-12 and 2012-13. This funding has been suspended for more than a decade, and used to assist counties for the cost of eligibility determinations, eligibility redeterminations and case maintenance activities for applicants and recipients of social service and health programs.

MENTAL HEALTH

Mental Health Services Act (MHSA) Changes

AB 1467 contains a number of provisions related to how counties develop their three-year MHSA plans that were originally contained within SB 1136 (Steinberg). Below are some specific changes in the measure.

- Creates a new position within DHCS: the Deputy Director of Mental Health and Substance Use Disorder Services, to be appointed by the DHCS Director and the Governor (Section 47).
- Includes language drawn from SB 1136 (Steinberg) that changes the entity to which counties must submit their mental health needs assessments from the Department of Mental Health to the Office of Statewide Health Planning and Development (OSHPD). OSHPD will release the next five-year plan on April 1, 2014 (Sections 55-57). The measure also slightly modifies the requirements for each county's innovative program portion of the mental health plan (Section 58).
- Allows counties to use prevention and early intervention funding to broaden community-based mental health services (Section 59).
- Requires the Mental Health Services Oversight and Accountability Commission to work in collaboration with the State Department of Health Care Services and the California Mental Health Planning Council, and in consultation with the California Mental Health Directors Association (CMHDA), to design a joint plan for a

coordinated evaluation of client outcomes in the community-based mental health system. This effort will be led by the California Health and Human Services Agency (Sections 60-61).

- Also requires counties to submit their three-year program and expenditure plan and annual updates – as adopted by the county board of supervisors – to the Mental Health Services Oversight and Accountability Commission within 30 days of adoption. These plans and expenditures must be certified by each county’s mental health director and auditor-controller, and expenditures must be in accordance with the Mental Health Services Act (Sections 62-63).
- In Section 63 of AB 1467, the language imposes a new mandate on counties during the development of the three-year plan requiring them to “demonstrate a partnership with constituents and stakeholders throughout the process that includes meaningful stakeholder involvement on mental health policy, program planning, and implementation, monitoring, quality improvement, evaluation, and budget allocations.”
- Section 66 adds “innovative programs” to the list of areas eligible for MHSAs funding, and Section 68 allows 20 percent of MHSAs funds to be used for prevention and early intervention services.
- Allows DHCS to provide a methodology for the distribution of MHSAs funding based on each county’s three-year expenditure or annual report (Section 67).
- Creates a new state Annual Mental Health Services Act Revenue and Expenditure Report to be issued by DHCS, in consultation with the Mental Health Services Oversight and Accountability Commission and the California Mental Health Directors Association, and allocates \$200,000 to the project.

State Hospitals and Bed Rate Increase

AB 1470 creates the state Department of State Hospitals and transfers all duties related to state hospitals from the now-defunct Department of Mental Health to the new department. The measure also allows county jail treatment facilities to be treated similarly to state treatment facilities and establishes a regulatory framework for voluntary and involuntary treatment in these facilities.

Sections 113-120 of AB 1470 relate to the state’s plan to increase the rate counties pay to the state for civil commitments in state hospitals. This change will result in at least \$20 million in new costs for counties in 2012-13.

FIRST 5 FUNDING

The Administration had proposed sweeping \$40 million of state First 5 Commission funds for use in the Medi-Cal program for services to children aged birth through 5. The Legislature approved the shift.

ACTION

CHILD SUPPORT

In January, the Governor asked to suspend the county share of child support collections and redirect it to the state's General Fund. This proposal was approved by the Legislature on a one-time basis for fiscal year 2012-13.

INFORMATION TECHNOLOGY

LEADER Replacement System

The May Revision included \$36.5 million (\$15.3 General Fund) in 2012-13 to replace the existing Los Angeles Eligibility, Automated Determination, Evaluation and Reporting System (LEADER). The Legislature reduced the funding by \$4.7 million, and the new funding level was signed into law by the Governor.

New Office of Systems Integration (OSI)

AB 1467 creates the new Office of Systems Integration within the California Health and Human Services Agency. The new OSI would oversee the Statewide Automated Welfare System (SAWS), the Child Welfare Services/Case Management System (CWS/CMS), Electronic Benefit Transfer (EBT), Statewide Fingerprint Imaging System (SFIS), Case Management Information Payrolling System (CMIPS), and Employment Development Department Unemployment Insurance Modernization (UIMOD) Project (Section 3).

OSI Exchange Loan

AB 1467 allows the new OSI to make a \$5 million loan to the California Health Benefits Exchange (Exchange) for the establishment and operation of the health benefits exchange. The Exchange must repay the loan by June 30, 2016, and the interest on the loan will be pegged at the PMIA interest rate.

NEW CALIFORNIA HEALTH ACCESS MODEL PROGRAM

AB 1467 Creates the California Health Access Model Program and authorizes up to \$1.5 million in the first round and \$5 million in the second round of grant funding for health facilities to demonstrate new or enhanced cost-effective methods of delivering health care services and preventative care for vulnerable populations in a community setting. The funding is provided by the California Health Facilities Financing Authority (Section 5).

PUBLIC HEALTH

AB 1467 repeals a number of state health-related offices and delegates authority for those issues to a new Office of Health Equity (OHE) within the Department of Public

Health (DPH) (Section 8 -14). The measure then establishes the duties of OHE to work toward excellent health and mental health and eliminate disparities in these areas for all Californians. The new OHE shall incorporate the Health in All Policies task force recommendations and research, a deputy director will be appointed by the Governor, an advisory committee will be established, and DPH must work with DHCS to ensure the success of OHE's mission (Sections 42-43).

AB 1467 removes Local Authority to Enforce Public Wading Pool Requirements: Sections 30 -31 repeal the authority of local public health departments to take any enforcement action or collect an annual fee of up to \$6 for enforcement of public wading pools.

AB 1467 also Transfers the Office of AIDS, the Office of Binational Border Health, the Division of Communicable Disease Control, the Division of Chronic Disease and Injury Control, the Office of Oral Health, the California Tobacco Control Program, the Childhood Lead Poisoning Prevention Program, and others to the Department of Public Health. Additionally, the bill transfers the IMPACT Prostate Cancer Treatment Program, the Every Woman Counts program, the Office of Family Planning, the Family PACT Program, and the Women, Infants and Children (WIC) program, among others, to the Department of Health Care Services (Sections 44-46).

HOUSING, LAND USE AND TRANSPORTATION

TRANSPORTATION

Transportation Tax Swap

The final budget appropriates \$708.5 million to counties and cities from new gasoline excise tax revenues, or the Highway User Tax Account (HUTA), pursuant to the Transportation Tax Swap (Swap) and formerly Proposition 42 revenues. Counties are estimated to receive approximately \$354 million. This amount is consistent with estimates DOF has provided since January. State highways would receive \$901.7 million, specifically \$193.2 million for the State Highway Operation and Protection Program (SHOPP) and \$708.5 for the State Transportation Improvement Program (STIP). Further, cities would receive an equivalent amount to counties - \$354 million.

HUTA for General Fund Relief

In accordance with budget trailer bill language (SB 1006, which is identical to AB 1466) adopted by the Legislature and signed by the Governor, the State will take a share of new HUTA for General Fund relief. This action will result in a total loss of \$312 million in state and local transportation funding through 2012-13 and another \$128 million annually on a permanent basis beginning in 2013-14.

ACTION

The State is able to sweep this share of new HUTA due to an unintended consequence resulting from the Swap. Specifically, existing law directs a specified percentage of old HUTA revenues attributable to OHV to special funds including the OHV Trust Fund, the Harbors and Watercraft Revolving Fund, and the Department of Agriculture Account. This provision of law applies to the base 18-cent HUTA, but was not intended to apply to the new HUTA which replaced Proposition 42 revenues. However, the State Controller has been applying this statute and taking a share of new HUTA since the enactment of the Swap in 2010-11. This money was intended to flow through the new HUTA formula: 12 percent to SHOPP, 44 percent to STIP and 44 percent to cities and counties for local streets and roads.

The Governor included this proposal in the May Revision and, understanding the State's current fiscal situation and that other programs of great importance to counties are facing severe continued cuts in the state budget, CSAC did not outright oppose the proposal to sweep the new HUTA funds in the short term. CSAC did, however, oppose the idea of redirecting these funds on a permanent basis.

CSAC was successful in getting a three-year sunset (and permanent fix to direct these funds to transportation purposes starting in 2015-16) included in the transportation budget trailer bill (AB 1465) which the Legislature passed on June 15. Unfortunately, the Administration was adamantly opposed to a sunset and insisted on a permanent sweep in the final state budget package. While the Governor did sign the transportation trailer bill, the provisions in SB 1006 override the HUTA provisions in AB 1465.

Ultimately, the new HUTA sweep only represents about eight percent of the county share of new HUTA. The specific fiscal impact to counties as a result of this action is the loss of \$40 million in 2010-11 and 2011-12 and \$28 million in 2012-13 and every year thereafter. Further, cities will suffer an identical loss and the State system will experience a significant loss as well.

Important to note is that counties will not actually notice a reduction in funding in 2012-13 and into the future as counties have never received this money because the State Controller has been holding it since the Swap in 2010. Counties will still receive their full share of old HUTA (around \$500-\$550 million annually statewide) and new HUTA which is approximately \$354 million statewide.

CSAC continues to oppose the permanent take and will pursue a sunset and permanent fix in the future.

State Funding for Local Project Initiation Documents

The final budget package also restores funding from the State Highway Account (SHA) for Project Initiation Documents, or PIDs, in lieu of using local funds. A PID is an initial report that outlines the potential scope, cost, and schedule for a transportation project that impacts the state highway. The Administration had originally proposed that the state oversight be funded with local reimbursement rather than SHA funding. While the final package does appropriate funds from the SHA for PIDs, unfortunately, the Governor used his line item veto authority to reduce the amount of funding by \$4.5 million. The final amount appropriated from the SHA for PIDs is \$3.8 million.

High-Speed Rail Authority

The final state budget included general support for the High Speed Rail Authority of \$24.6 million from state bond funds and federal trust funds. Additionally, an appropriation of \$5.8 billion from state and federal funds was made to begin the construction of the Initial Operating Section. It is our understanding that the Legislature intends to focus on High-Speed Rail in greater detail next week.

HOUSING

Housing Element Review

The final 2012-13 state budget provides bond funding to support five new positions at the Department of Housing and Community Development dedicated to housing element review. The additional positions are in response to the additional work load related to SB 375 synchronizing housing elements with the development of regional transportation plans.

LAND USE

Repealing Local Coastal Plans and Airport Land Use Commissions

The final 2012-13 state budget ultimately suspended a number of mandates that were proposed for elimination under the Governor's January budget proposal. Counties will recall that the Administration proposed to repeal two mandates of particular concern to counties from a land use perspective: the development of Local Coastal Plans (LCPs) and the operation of Airport Land Use Commissions (ALUCs) even though these mandates have been suspended for years. The suspension of these mandates was provided for under the budget trailer bill AB 1464, but not the permanent repeal that CSAC opposed.

RESTRUCTURING AGENCIES & CONSOLIDATING DEPARTMENTS

Government Reorganization Plan (GRP)

In his January budget, Governor Brown proposed to reduce the number of state agencies from 12 to ten and eliminate another 39 state entities and nine programs.

ACTION

Among this reorganization is the consolidation of the California Department of Transportation (Caltrans) with the Department of Motor Vehicles, the High-Speed Rail Authority, the California Highway Patrol, the California Transportation Commission, and the Board of Pilot Commissioners into a new “Transportation Agency”.

The proposal would also transfer the functions of the California Housing Finance Authority (CalHFA) to the Housing and Community Development Department (HCD). It should also be noted that the new HCD will be moved from the former Business, Transportation, and Housing Agency (BTH) to a new agency – the Business and Consumer Services Agency (BCS).

The Legislature has held a number of hearings on the GRP. The Legislature has 60 days to object to the GRP, which ends next week on July 3. The Legislature is currently amending various bills to make statutory changes to the Governor’s plan. Among other things, the Legislature wants to provide greater independence for the California Transportation Commission (CTC) even though it will now fall under the new Transportation Agency. It is uncertain whether or not the Legislature will make a run at objecting to the plan if Governor Brown does not sign the bills. It is unclear how the merge of HCD and CALHFA will proceed, but they will be under BCS. BTH would no longer exist

The GRP will take effect in July 2013, although, once adopted, the affected departments and agencies can begin to make the necessary transitions.

Budget Bill and Trailer Bill List

Bill Number	Subject
<u>AB 1464</u>	2012-13 Budget Bill
<u>AB 1465</u>	Transportation
<u>AB 1467</u>	Health
<u>AB 1470</u>	State Mental Hospitals
<u>AB 1472</u>	Developmental Services
<u>AB 1484</u>	Redevelopment
<u>AB 1485</u>	2011-12 Supplemental Appropriations
<u>AB 1494</u>	Healthy Families
<u>AB 1497</u>	Budget Bill Jr.
<u>AB 1499</u>	Elections
<u>AB 1502</u>	Higher Education
<u>SB 1006</u>	General Government
<u>SB 1008</u>	Health: Coordinated Care Initiative
<u>SB 1009</u>	Mental Health Realignment
<u>SB 1013</u>	Child Welfare Services Realignment
<u>SB 1014</u>	Alcohol and Drug Program Realignment
<u>SB 1015</u>	Tax Compliance
<u>SB 1016</u>	Education
<u>SB 1018</u>	Resources
<u>SB 1020</u>	Realignment Superstructure
<u>SB 1021</u>	Public Safety Omnibus Bill
<u>SB 1022</u>	Public Safety Capital Outlay
<u>SB 1023</u>	Public Safety Realignment (general AB 109 cleanup)
<u>SB 1033</u>	Cash Management
<u>SB 1036</u>	Human Services: Coordinated Care Initiative
<u>SB 1038</u>	State Boards and Commission Reorganization
<u>SB 1041</u>	Human Services

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If you would like to receive the Budget Action Bulletin electronically, please e-mail Stanicia Boatner, CSAC Senior Legislative Assistant at sboatner@counties.org. We're happy to accommodate you!

ACTION