

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE  
Thursday, August 20, 2009  
10:00am to 1:30pm  
Los Angeles County

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A G E N D A

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Presiding: Gary Wyatt, President

10:00am      PROCEDURAL ITEMS

1.      Roll Call Page 1

2.      Approval of Minutes from April 23, 2009 Meeting Page 2

10:10am      SPECIAL PRESENTATION

3.      Presentation by Supervisor Don Knabe, Los Angeles County

10:30am      ACTION ITEMS

4.      CCS Partnership Summit on Local Governance Reform: Next Steps Page 7  
        ▪ *Supervisor Rich Gordon, Chair, CCS Fiscal Reform Task Force*  
        ▪ *Paul McIntosh, CSAC Executive Director*

5.      State Budget Strategy Discussion/Legislative Report Page 8  
        ➤ Potential Litigation Related to State Budget  
        ▪ *Paul McIntosh*  
        ▪ *Jim Wiltshire, CSAC Staff*

6.      CSAC Agriculture & Natural Resources Policy Committee Report Page 41  
        ▪ *Karen Keene. CSAC staff*

7.      Appointment of New Members to CSAC Audit Committee Page 44  
        ▪ *Paul McIntosh*

11:30am      INFORMATION ITEMS

8.      National Association of Counties (NACo) Report Page 45  
        ▪ *Paul McIntosh*

9.      Federal Legislative Report Page 60  
        ▪ *Karen Keene*

10.      CSAC Institute for Excellence in County Government Update Page 63  
        ▪ *Paul McIntosh*

12:00pm      LUNCH

*The following items are contained in your briefing materials for your information, but no presentation is planned.*

11.      CSAC Finance Corporation Report Page 67

12.      CSAC Corporate Associates Report Page 69

13.      CSAC Litigation Coordination Program Update Page 70

1:30pm      ADJOURN

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE  
2009

President:	Gary Wyatt, Imperial
1 <sup>st</sup> Vice President:	Tony Oliveira, Kings
2 <sup>nd</sup> Vice President:	John Tavaglione, Riverside
Immed. Past President:	Richard Gordon, San Mateo

Urban Section

Greg Cox, San Diego  
Roger Dickinson, Sacramento  
Federal Glover, Contra Costa  
Don Knabe, Los Angeles  
Liz Kniss, Santa Clara  
Kathy Long, Ventura  
Paul Biane, San Bernardino (alternate)

Suburban Section

Susan Adams, Marin  
Phil Cox, Tulare  
Mike Nelson, Merced  
Mike McGowan, Yolo (alternate)

Rural Section

Merita Callaway, Calaveras  
Robert Williams, Tehama  
Susan Cash, Inyo (alternate)

Ex-Officio Members

Valerie Brown, Sonoma, NACo President  
Brian Dahle, Lassen, NACo WIR Immed. Past President  
Joni Gray, CSAC Treasurer, Santa Barbara County

Advisors

Susan Muranishi, CAOAC President and Alameda County Administrator  
Steven Woodside, Sonoma County Counsel

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE

April 23, 2009  
CSAC Conference Center, Sacramento

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MINUTES

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Presiding: Gary Wyatt, President

1. ROLL CALL

Gary Wyatt, President  
Tony Oliveira, 1<sup>st</sup> Vice President  
John Tavaglione, 2<sup>nd</sup> Vice President  
Richard Gordon, Immed. Past President  
Greg Cox, San Diego  
Roger Dickinson, Sacramento  
Federal Glover, Contra Costa – via audio  
Liz Kniss, Santa Clara – via audio  
Kathy Long, Ventura – via audio  
Susan Adams, Marin  
Phil Cox, Tulare – via audio  
Mike Nelson, Merced  
Mike McGowan, Yolo (alternate)  
Merita Callaway, Calaveras  
Robert Williams, Tehama – via audio  
Susan Cash, Inyo (alternate)

Ex-Officio Members

Valerie Brown, NACo Pres. Elect  
Joni Gray, CSAC Treasurer

Advisors

Susan Muranishi, CAOAC Pres.

2. APPROVAL OF MINUTES

The minutes of March 9, 2009 were corrected to reflect that Robert Williams participated via audio.

Motion and second to approve the minutes of January 29, 2009 as presented and March 9, 2009 as corrected. Motion carried unanimously.

3. PROPOSED CSAC BUDGET FOR FY 2009-10

Supervisor Joni Gray, CSAC Treasurer, presented the proposed CSAC Budget for FY 2009-10, as contained in the briefing materials.

It was noted that the proposed budget contains no dues increase and expenses were reduced by 2.4%.

Motion and second to approved the proposed CSAC Budget for FT 2009-10 and recommend adoption by the CSAC Board of Directors. Motion carried unanimously.

4. PROPOSED CSAC LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2009-10

Jennifer Henning, County Counsel's Association Executive Director, presented the proposed CSAC Litigation Program Budget for FY 2009-10, as contained in the briefing materials.

She noted that even though expenses have increased this year, a recently-vacated position will not be filled in order to maintain a budget with no fee increases.

Motion and second to approve the CSAC Litigation Coordination Program Budget for FY 2009-10 as presented and recommend adoption by the CSAC Board of Directors. Motion carried unanimously.

5. FORMATION OF COASTAL COUNTIES REGIONAL ASSOCIATION

Staff requested support of a proposal to form the Coastal Counties Regional Association. Several coastal counties have been meeting informally to discuss shared interests and to work with a number of coastal cities to develop a joint workshop with the California Coastal Commission. The proposal is an attempt to formalize the group's relationship to CSAC and would include staff support and a designated meeting time during the two CSAC conferences held each year.

The group is being co-chaired by Supervisors Rich Gordon and Salud Carbajal, and counties currently participating are: Del Norte, Humboldt, Los Angeles, Marin, Mendocino, Monterey, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Sonoma, and Ventura.

Motion and second to form the Coastal Counties Regional Association. Motion carried unanimously.

6. NATIONAL ASSOCIATION OF COUNTIES (NACo) REPORT

Supervisor Valerie Brown, NACo President-Elect, reported that the NACo 2009 Annual Conference will take place in Nashville, Tennessee on July 24 – 28. In addition, the "Women of NACo (WON)" golf tournament will be held on July 23. She also announced that she has begun working on leadership appointments to the 2009-10 NACo steering committees.

Supervisor Greg Cox, Chair of the NACo Governance Reform Task Force, shared some of the task force recommendations that will be brought before the NACo Board of Directors at their May meeting. One of the recommendations is to expand the Executive Committee to include four regional representatives, bringing the total to eight members; another will be to use the CSAC model of officer rotation. The NACo Board will take final action on the complete set of recommendations during the conference in July.

7. CSAC FINANCE CORPORATION REPORT

Supervisor Joni Gray, a member of the Finance Corporation Board of Directors, presented a program update. She is helping to develop a pilot program that would assist the Finance Corporation in identifying which county departments to approach for each of the numerous programs offered.

Paul McIntosh has been working with the State Treasurer's Office on a proposal to ask the federal government to consider lending additional credit support to the Tax and Revenue Anticipation Notes (TRANS) program by guaranteeing a Letter of Credit through the Troubled Asset Relief Program (TARP).

8. LEGISLATIVE/STATE BUDGET REPORT

Staff reported that AB 155 (Mendoza) will be heard in Assembly Local Government Committee this week. This bill would require cities, counties and special districts to seek approval from the California Debt and Investment Advisory commission (CDIAC) prior to seeking bankruptcy protection in federal court. CDIAC would be able to approve or disapprove a municipality's desire to exercise its right to file a petition under federal Chapter 9. It is being sponsored by the California Professional Firefighters and is in response to the bankruptcy filing by the City of Vallejo. The bill reaches far beyond the current situation in Vallejo. The process envisioned under AB 144 is time-consuming, costly, duplicative and may result in greater fiscal harm to a local agency than would have occurred had the agency gone directly to federal court. Executive Committee members were urged to communicate opposition to this bill.

CSAC and the County Welfare Directors Association (CWDA) released a joint report this week regarding the impact of the recent economic downturn on human services programs, counties diminishing ability to adequately provide those services, and the programs' economic benefit to local communities. It illustrates that investment in human services programs is critical to state and local economies. The report will be shared with boards of supervisors, stakeholders, legislators and our congressional delegation.

Staff reported that AB 1532 (Lieu) was recently introduced. This bill would require counties to use new federal Medicaid dollars to supplement, and not supplant, 2007-08 spending levels on In-Home Supportive Services (IHSS) for 2008-09 and 2009-10. The bill will impact county budgets and raises significant concerns. It has been referred to Assembly Human Services Committee, but a date has not been set for hearing.

The current State Budget shortfall is being estimated at \$8 billion and is expected to grow prior to the release of the Governor's May Revise. Staff was directed to work with the County Counsels Association and the County Administrative Officers Association to develop a list of programs that counties could discontinue if state funding is eliminated. It was noted that individual programs would need to be brought before the State Mandates Commission before any action could be taken.

9. MAY 19 SPECIAL ELECTION UPDATE

The May 19 special election includes six measures that the Legislature passed as part of the negotiated budget agreement. They are as follows:

**Proposition 1A** – creates a new, larger rainy day fund and puts new limits on state spending growth.

**Proposition 1B** – alters repayment schedule for Proposition 98 funds arguably owed by the state to K-14 districts, totaling \$9.3 billion.

**Proposition 1C** – allows state to borrow money from the General Fund, securitized by future revenue from the California Lottery.

**Proposition 1D** – shifts between half and two-thirds of cigarette taxes away from the First 5 Program and into the General Fund for a five year period.

**Proposition 1E** – amends the Mental Health Services Act (Proposition 63) to shift revenue funds from local programs to the benefit of the state General Fund.

**Proposition 1F** – forbids the California Citizens Compensation Commission from raising legislators' and state officers' salaries when the state is running a deficit.

The CSAC Board of Directors previously took a 'Neutral' position on all six measures. Current polling indicates that there is little support for these measures. If they fail, it is anticipated that the state budget deficit will increase to at least \$16 billion.

10. CSAC CORPORATE ASSOCIATES REPORT

There are currently 50 members of CSAC Corporate Associates. Two upcoming events are the business meeting during the CSAC Legislative Conference on May 27 and the golf tournament on May 29.

11. CSAC LITIGATION COORDINATION PROGRAM UPDATE

Jennifer Henning, CSAC Litigation Coordinator, presented a report on the Litigation Coordination program's activities since January 2009. Details of the new case activity were contained in the briefing materials.

12. OTHER ITEMS

Paul McIntosh presented a letter and draft resolution from the League of California Cities endorsing convening a summit of local leaders on reforming the governance of California. The League has invited CSAC and the California School Boards Association (CSBA) to join with them in sponsoring a summit. The summit would build on the work of the Cities, Counties, Schools (CCS) Task Force on Fiscal Reform. Delegates to the summit would review and debate the major reforms identified by the CCS Task Force, California Forward and others, including the

advisability of holding a Constitutional Convention.

A discussion ensued regarding a format for the summit. Concerns were expressed that while the three associations may agree on the problem, there may not be agreement as to the appropriate solution. Staff was directed to work through the CCS Fiscal Reform Task Force to begin preparation on the summit and also bring the resolution to the CSAC Board of Directors for consideration.

Humboldt County submitted a request to change caucus membership from the CSAC Suburban Caucus to the CSAC Rural Caucus in 2009. The current CSAC Constitution states that a change in caucus membership can be made each five years – once at the Annual meeting immediately after the release of the Decennial Census and once at the Annual meeting immediately after the release of the mid-Census population estimate. Under current rules, Humboldt County would not be eligible to change caucus membership this year. Staff recommended that CSAC consider amending the Constitution to provide additional flexibility in the timing of caucus membership selection.

Motion and second to authorize staff to draft an amendment to the CSAC constitution to allow counties to self-identify caucus membership at any time following the release of each Decennial Census, but only once within a decade. Motion carried unanimously.

Staff was directed to bring the proposed amendment to the CSAC Board of Directors at the May 28 meeting.

Meeting adjourned.

# Local Government Summit

July 17-18, 2009

## CSAC Post-Summit Information

July 20 - Over the weekend, more than 100 county supervisors, county administrative officers, and other county leaders joined their city and school board partners at the Local Government Summit on State Governance and Fiscal Reform in Sacramento. More than 500 attendees participated in this important event.

The summit, titled "Rebuilding California - From the Ground Up," is an ongoing effort to hash out the changes the state needs to make to restore effective governance and a sensible fiscal system. It kicked off Friday afternoon with CSAC Past President and San Mateo County Supervisor Rich Gordon giving an overview of the summit agenda, a look at how the summit came about, and the work the Cities Counties Schools (CCS) Partnership has done to develop joint principles as a starting point for discussions. The CCS Partnership is ongoing partnership of CSAC, the League of California Cities and the California School Boards Association.

On Friday, participants heard from several speakers, including Fred Silva of California Forward, former legislator and current Board of Equalization member Bill Leonard, and Jim Wunderman, executive director of the Bay Area Council.

The principle element of the summit was a three-and-a-half hour session Saturday morning where local representatives broke into small groups and had detailed discussions about reform proposals. From those sessions, four top priorities emerged among the group discussions:

1. Protect local revenue.
2. Reform term limits.
3. Approve local taxes with less than a 2/3 vote.
4. Require new funding sources for statewide ballot measures that impose new obligations.

There was no formal endorsement of the priorities at the summit, as each association must further discuss the issues with their respective memberships as part of the next steps in this reform effort. The CCS Partnership will also be further analyzing the summit discussions.





**Revisions to the 2009-10 State Budget  
Week of July 27, 2009**

July 27, 2009

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

FROM: Paul McIntosh, CSAC Executive Director  
Jim Wiltshire, CSAC Deputy Executive Director  
Jean Kinney Hurst, CSAC Legislative Representative

RE: **Budget Action Bulletin #7**

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Over a long and difficult nearly two-day long budget session, the Legislature approved a 27-bill package that revises the 2009-10 spending plan enacted in February. Notably, the budget does not include several of the major elements negotiated among legislative leadership and the Governor in Big Five meetings, leaving the state's fiscal position unclear.

This Budget Action Bulletin outlines the provisions of the 2009-10 state budget revisions as approved by the Legislature. (One thing to make clear: the majority of budget trailer bills were introduced and voted on in the Fourth Extraordinary Session. Measures that received majority vote approval, assuming that the Governor signs them, have an effective date of 90 days post-adjourning of the extraordinary session. The Assembly and Senate adjourned the Fourth Extraordinary Session on July 24, 2009. Urgency measures, those that received a 2/3 vote, will take effect immediately upon the Governor's signature.) As a result of the complex maneuvering that occurred in the wee hours of the morning, a number of components of the package are in question. We are doing our best to attempt to find clarity in some of these provisions; however it is very likely that clean-up legislation will be required in August to resolve some of these issues. Please don't hesitate to contact us if we can offer assistance in resolving your questions.

When the Senate finally convened on Thursday evening, July 23, it appeared that final votes on budget bills were inevitable. However, as the hours waned, Republican and Democratic caucuses continued, and it became clear that, in many instances, bill language was not in final draft form, activity in the Capitol hallways increased, and efforts to influence the package were renewed.

Focusing on the local government components of the package, the \$1.7 billion "take" of local gas tax subventions (also known as the "HUTA take") stalled in the Senate with a vote of 20-20. This occurred even after an additional bill was included in the package to change the HUTA

“take” to a loan, with a 10-year repayment of \$200 million annually. With some half-jokingly calling for Lieutenant Governor John Garamendi to come to the Capitol to cast the deciding vote, the complications involved with a certain congressional race made that seem unlikely. Eventually, one Senator put up a vote on the HUTA take-turned-loan and the bill was moved to the Assembly.

An additional change in the Senate included an amendment to the redevelopment agencies extension/securitization proposal, which contained a trigger that would have *turned off* the HUTA take and the Proposition 1A securitization; the amendment added the \$1.7 billion shift from redevelopment agencies to the items that would have been *triggered off*. The Senate also approved this measure, ABX4 27, which was then moved to the Assembly. Additionally, ABX4 26, the measure that included the \$1.7 billion shift from redevelopment agencies was amended to be a majority vote bill.

Once these controversial measures had arrived in the Assembly, the legislative give-and-take was not over. In an effort to secure votes (according to some, votes were needed on the Proposition 1A suspension; others claim votes were needed for the Proposition 98 maintenance factor measure), the two HUTA measures, the “take” and the loan repayment measure, were moved to the Inactive File. The Assembly adjourned without considering the redevelopment extension/securitization proposal measure, thus essentially eliminating the “trigger” components of that measure. Finally, the Assembly defeated the \$100 million Tranquillon Ridge oil drilling project.

When all voting was completed on the afternoon of Friday, July 24, the Legislature sent a budget revision package to the Governor that was about \$1.1 billion short of the deal agreed to by the Big Five. The Governor is set to sign the package of bills tomorrow (July 28) and is likely to use his line-item veto authority to adjust spending to accommodate the Assembly’s changes. CSAC will report out the Governor’s actions as soon as they are available.

#### **BUDGET AGGREGATES**

The package of bills the Legislature thought they would be passing purported to create \$24 billion in budget savings, including a \$921 million reserve. However, that package changed so significantly before passage and no one can now claim that the Legislature’s actions late last week closed the entire budget gap; even the Governor’s line-item vetoes—likely substantial—might not do that.

Given this, and given that the state’s revenues are still faltering, and that some major pieces of this budget face imminent litigation, many observers expect another budget brannigan before the year is up. If they manage to pass new balancing acts before the scheduled end of this year’s session in mid-September, the state will have enacted four budgets or major budget revisions in the space of twelve months.

With no new revenue as part of the deal, and resistance to cutting entire programs, about a third of the package as passed relies either on local money (Proposition 1A and redevelopment), one-time gimmicks (like moving state workers’ payday from June 30, 2010, one day to July 1), and some borrowing. Legislative leaders and the Governor all seem sure that investors will

believe this budget is sufficiently credible to allow the Treasurer to sell enough intra-year debt for the state to manage its cash flow and stop issuing IOUs, at least for the time being.

### **Building a Deficit**

	\$ in Billions
Starting Reserve	\$2.0
Reduced May Revision Revenues	-12.3
Increased May Revision Expenditures	-3.1
Loss of Special Election Solutions	-5.8
<b>May Revision Projected Shortfall</b>	<b>-19.2</b>
Less \$3 billion in Projected Revenue Loss	-3.1
Less \$536 million Net 2008-09 Loss	-0.5
Lost 2008-09 RDA Cut	-0.4
<b>Projected Budget Shortfall</b>	<b>-23.1</b>

### **STATEWIDE ISSUES**

#### **PROPOSITION 98**

The total combined cut to Proposition 98 for 2008-09 and 2009-10 now totals \$5.7 billion, \$1.7 billion of which is a payment deferral to 2010-11, and \$1.6 billion of which is 2008-09 funding that hasn't been sent to local agencies yet. In addition, \$450 million of federal funds will be used to backfill cuts instead of fulfill their intended purpose.

One of the most contentious parts of the entire package of budget amendments relates to whether or not the Legislature's actions last fiscal year (2008-09) created a "maintenance factor" under the terms of Proposition 98. In the end, one of the bills, ABX4 3, certifies that the maintenance factor owed in 2008-09 was \$11.2 billion.

Under Proposition 98, the state must repay this money and raise the education-funding floor as if the money they had appropriated it from the beginning. However, this repayment requirement does not begin until state revenues rise. School advocates don't expect this to happen for years due to the temporary tax increases running out and the large, future corporate tax cuts recently enacted.

#### **BOARDS AND COMMISSIONS**

The budget abolishes and reorganizes a few state bureaus and boards aside from the California Integrated Waste Management Board, which is covered later in this BAB. These other affected

entities deal with naturopathic medicine, pest control, home appliances and furnishings, insulation, and geologists.

#### **STATE CASHFLOW AND PAYMENT DEFERRALS**

To deal with their cashflow problem, the Legislature approved several payment deferrals in addition to those they passed in February.

Schools share in the deferral pains. Local K-12 agencies will receive only five percent of their state payments in July and August, then nine percent in all subsequent months. These agencies won't see almost \$680 million in April 2010 and \$1 billion in June 2010 until August of the following fiscal year. Furthermore, the state will delay a billion dollars of payments from October to December 2009 and another billion from November 2009 to January 2010, with hardship exceptions.

Higher education also takes deferral hits in addition to those they received in February. UC sees an additional \$750 million deferred from July through September 2009; the state will repay a third of that in October 2009, and the other half-billion between April and June 2010. CSU sees \$290 million in payments moved from July to October 2009. Community colleges see an additional \$115 million deferred from April through June 2009 until July 2010, for a total of \$703 million (when combined with previously planned delays).

Lastly, the Legislature changed rules about state agencies' fees for past due collections, attempting to focus staff on larger receivables, and loosened rules that trigger the state needing to pay penalties on late payments it makes.

Explanations of the Proposition 42 and HUTA payment delays are located in the Housing, Land Use & Transportation section of this BAB.

#### **SELLING PART OF SCIF**

The budget deal authorizes the Director of Finance, in consultation with the State Treasurer, to sell part of the State Compensation Insurance Fund (SCIF) by January 10, 2012, with the intent of raising \$1 billion.

#### **SURPLUS PROPERTY**

The budget gives the Department of General Services (DGS) broad authorization to lease out most types of state property if it's not immediately needed. It also authorizes the sale of the Orange County Fairgrounds and the sale or long-term lease of 17 other properties. These 17 properties may not be sold at less than fair market value—as the state often does when selling property to local agencies—and are exempt from CEQA requirements if leased “as is” or subject to CEQA through local land use restrictions.

#### **STATE PROCUREMENT**

The budget also tightens requirements that some state procurement contracts have related to disabled veteran participation in the businesses receiving the contracts. The deal also gives DGS

more flexibility on awarding IT procurement contracts and on how much of the contract price to withhold until final delivery.

#### **STATE CASH MANAGEMENT**

Part of the budget deal will expand the market for California's debt instruments by allowing various state entities to buy them. Specifically, it gives the Lottery Commission and the State Compensation Insurance Fund permission to invest in state-issued general obligation bonds, RANs, and RAWs. It also clarifies that the Treasurer may invest the state's surplus money in IOUs (registered warrants) as well as bonds and notes. Further, the Treasurer will now have permission to invest state funds in Negotiable Order or Withdrawal (NOW) Accounts.

#### **TAX WITHHOLDING**

The budget amendments change personal income and corporate tax withholding schedules. Employers will now have to withhold 10% more than they did before of employees' paychecks for personal income tax purposes, with conforming changes to stock options and bonuses.

For corporations and people with non-wage incomes, withholdings also rise. Current requires payments to the state of 30 percent of estimated annual tax liability in the first two quarters and 20 percent in the third and fourth quarters (through last year, most taxpayers had to send four quarterly payments of 25 percent each). Under the terms of the budget amendments, the second quarter payment will increase to 40 percent, the third quarter payment would lapse, and the fourth quarter payment in December would increase to 30 percent of annual tax liability.

The deal also requires businesses to withhold seven percent of reportable, non-wage compensation like gambling winnings and other forms of income if the IRS determines a condition for withholding exists, generally conforming California to federal rules.

The independent contractor withholding that the Governor and Legislature at one time considered was not a part of the final agreement.

#### **STATE EMPLOYEES**

State employees will continue three unpaid furlough days per month with many state offices closed on alternating Fridays.

The deal also permanently moves the day state workers are paid for the pay period ending June 30 from that day to July 1 (the next fiscal year), for savings that are essentially one-time in nature.

#### **THE CAPITOL**

Also, in the interest of putting their fiscal house in order, the Governor and Legislature are willing to let their actual house decay a little. By suspending Capitol repairs, the General Fund will save \$5 million.

## WHAT'S BEEN HAPPENING

### ADMINISTRATION OF JUSTICE

In the Administration of Justice (AOJ) area, a few last-minute restorations took two problematic budget proposals off the table. The budget package passed last week **rejects both** (1) the proposal to charge state and local agencies for the use of Department of Justice (DOJ) forensic lab services and (2) the \$20 million reduction to the DOJ's Bureau of Narcotics Enforcement, which would have affected local multiagency gang/drug task forces.

As detailed below, most of the justice-related changes are contained within the judiciary/public safety trailer bill (SBX4 13). As for policy changes related to achieving a \$1.2 billion unallocated reduction to the Department of Corrections and Rehabilitation (CDCR), the Legislature put off the detailed policy discussion until it returns in August. The budget package contains only an unallocated cut to CDCR, but does not specify the means by which the corrections agency might achieve it.

### MONTHLY COURT CLOSURES/JUDICIAL BRANCH

The judiciary/public safety trailer bill (SBX4 13) gives the Judicial Council the authority to close the courts one day per month as a cost-cutting means to help absorb the various reductions to the judicial branch budget. The monthly closure day will be treated as a court holiday for purposes of various deadlines defined in statute. The Judicial Council is scheduled to meet on July 29 presumably to exercise its court-closure authority. It is widely believed that the third Wednesday of the month will be the day selected for the monthly statewide court closure, but that decision will only be finalized following Judicial Council discussion and action.

The court closure will affect court security contracts between the sheriff and local court. Specifically, the trailer bill requires good faith negotiation of any court security Memorandum of Understanding (MOU) to reduce the compensation due the sheriff for the provision of court security services by 4.62 percent (equivalent to 12 monthly closure days). A similar provision applies the reduction in those counties in which an MOU has not been executed. The court closure provisions are operative only through the end of the fiscal year. As part of the court closure agreement, court employees will be "held harmless" for purposes of retirement benefits meaning they will not lose any service credit due to the furlough. For those counties and courts in a joint contract with the California Public Employees' Retirement System (CalPERS), CalPERS may require additional administrative steps to implement this "hold harmless" provision. To the extent that your county reports payroll data to CalPERS for the court, your county may be affected.

In addition, SBX4 13 also increases the court security fee by \$10 (from \$20 to \$30) for a period of two years, with the proceeds helping bridge the shortfall in the court security funding line item.

Other items of note within the judiciary/public safety trailer bill:

- A transfer not to exceed \$25 million in funds from the Immediate and Critical Needs Account (established pursuant to SB 1407, Perata (2008)) of the State Court Facilities Construction

Fund to the Trial Court Trust Fund. (This action will help offset other reductions to the courts' overall budget.)

- Other increases to court fees, including a \$10 increase in various post judgment fees and a \$5 increase in the uniform filing fee.
- Required public disclosure, when requested, of an array of contract, salary, and expenditure information relating to the courts' budgets — both at the statewide level (Administrative Office of the Courts (AOC)) and at the local trial court level.
- Additional budget reporting requirements from the Judicial Council to the Legislature.
- Expanded use of electronic reporting for the purpose of monitoring judicial officer performance.
- Cap on rates that the state corrections agency is authorized to pay a provider of hospital, physician, or ambulance services.
- Conversion of the annual Youthful Offender Block Grant (YOBG) allocation (funds counties receive pursuant to SB 81, 2007 to serve and supervise the transferred juvenile offender population) to quarterly allocations, to be paid in four equal installments in September, December, March and June of each fiscal year.
- Expanded reporting requirements for the YOBG.

#### COURT SECURITY

In addition to the impact on court security contacts contemplated by the court closure proposal, counties also should be aware that the judiciary/public safety trailer bill also contains two notable policy changes that affect court security budgeting. First, SBX4 13 limits, for purposes of court security funding, the cost of services to the average cost of salary and benefits for court security officers (based on equivalent classifications within the individual county) rather than actual costs. Secondly, the trailer bill also excludes the cost of retiree health benefits from the definition of "benefits" used in the context of allowable court security costs. For several years, the Legislature has contemplated these policy changes, but, until now, has not acted on them.

#### REDUCTIONS TO CDCR

AB X4 1 applies an unallocated reduction of nearly \$800 million to the California Department of Corrections and Rehabilitation's (CDCR) budget in 2009-10. This reduction is in addition to the unallocated reduction of \$400 million the Governor imposed while exercising his line-item veto at the time of the initial signing of the 2009-10 budget in February. Taken together, these two reductions bring CDCR's total cut for 2009-10 to roughly \$1.2 billion. As indicated above, the Legislature took no specific action in the budget to direct CDCR as to how to achieve a savings of this size. Over the last many months, a range of cost-savings proposals has been put on the table by various sources, from parole reforms and sentencing/credit earning changes to the reduction of property crime thresholds and conversion of wobblers to misdemeanors. To view the proposed policy changes the Administration is advocating, please refer to the first two documents posted under "Budget Update" on the CSAC AOJ page. It is anticipated that many of these policy options remain open for discussion when the Legislature returns in August.

#### BYRNE-JAG FEDERAL STIMULUS FUNDING

AB X4 1 contains language directing the California Emergency Management Agency (CalEMA) to distribute \$135 million in Byrne-JAG federal stimulus funding. The measure outlines the specific programs and funding levels, as summarized below:

- **Adult Probation Services** – CalEMA is directed to distribute \$45 million proportionately to all county probation departments that submit a qualifying application based on each county's population of adults aged 18 to 25 years. These funds are the intended to serve as "seed money" to get the probation incentive funding program, which will be established pursuant to SB 678 (Leno and Benoit), up and running. The AOC is to receive \$424,000 off the top of the overall allocation for the provision of technical assistance to recipient county probation departments.
- **Offender Treatment Program (OTP)** – To offset reductions to the OTP and the elimination of Proposition 36 funding, \$45 million in Byrne JAG funds will be added to the OTP and used to provide substance abuse treatment to criminal offenders in a drug court setting. CalEMA is to provide \$600,000 through an interagency agreement with the State Department of Alcohol and Drug Programs (DADP) to administer the OTP funds.
- **Anti-Drug Abuse (ADA) Enforcement Program** – \$ 19.75 million dedicated to support multijurisdictional drug task forces that combat mid-level drug sales, manufacturing, and distribution at the local level.
- **Reentry Courts** – The Judicial Council is to receive \$10 million to create, in partnership with CDCR, collaborative reentry courts with enhanced supervision and services for parole violators.
- **California Multijurisdictional Methamphetamine Enforcement Teams (Cal-MMET) Program** – \$4.5 million in funding to combat mid-to-high level methamphetamine manufacturing and drug trafficking organizations.
- **Human Trafficking Task Forces** – \$3.75 million in funding to increase coordination among law enforcement agencies, district attorneys, victim services groups, and others to improve or increase training in human trafficking cases and investigation and prosecution of such cases.
- **Firearm Trafficking Programs** – \$3.3 million to increase coordination among state, federal and local law enforcement agencies in California's border region.
- **Regional Anti-Gang Intelligence-Led Policing Program** – \$2.1 million to establish a statewide network of anti-gang coordinators among law enforcement agencies and community anti-gang efforts to support intelligence-led policing focused on gang violence.
- **Victim Information and Notification Everyday (VINE) Program** – \$1.5 million to improve victims' access to offender information.
- **California District Attorneys Association (CDA) Training Program** – \$150,000 for training related to the aforementioned ADA Enforcement Program's multijurisdictional drug task forces.

It is important to note that the federal stimulus Byrne-JAG funds are one-time allocations, and recipient county programs receiving have three years to expend the funds. Further, there will be additional reporting requirements for these funds per the American Recovery and Reinvestment Act (ARRA).



## **OTHER NOTABLES**

We should also note that the revised 2009-10 budget does not make any changes to the public safety VLF increment dedicated to local public safety programs. (See a jointly published CSAC-CPOC-CSSA document [here](#) for further information on the funding structure established in February 2009.) VLF revenue is down considerably, and counties are now working through various implementation issues as funding transitions to a VLF funding base for such programs as Citizens' Option to Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA), and booking fee replacement revenue, to name a few. Based on information from state finance officials, it is expected that a supplemental 4<sup>th</sup> quarter payment for 2008-09 may come in August from late VLF payments, which should help offset the lower-than-anticipated funding levels.

Counties should also be aware of another proposal that surfaced in the days leading up to the budget agreement. Proposed for inclusion in the transportation trailer bill that would have codified the two-year take of the local gas tax funds (ABX4 30), a provision would have given counties for the 2009-10 and 2010-11 the authority to loan "any available funds" in the county recorder's modernization fund (Government Code Section 27361(c)) to the county road fund in an amount not to exceed the local gas tax diverted to the state. Of course, because the Assembly did not approve ABX4 30, the recorder loan language also now is obsolete.

## **AGRICULTURE AND NATURAL RESOURCES**

### **WILLIAMSON ACT**

The final budget package includes an additional one year 20 percent reduction to Williamson Act subvention funding, leaving a total of \$27.7 million in the program.

### **EMERGENCY RESPONSE INITIATIVE/SRA FEE**

The Emergency Response Initiative (ERI) and State Responsibility Area (SRA) Fee proposals were not included in the final budget package. The ERI proposal would have included a 4.8 percent surcharge on all residential and commercial property insurance statewide for the purposes of funding fire prevention and forestry activities. Additionally, the budget package did not include the SRA fee, which would have charged a \$30 to 50 fee on structures located within the State Responsibility Areas.

### **STATE PARKS FEES**

The final budget spared the closure of the majority of California's state parks, as previously proposed. Instead, the Department of Parks and Recreation took an \$8 million cut, which will result in some park closures. Decisions as to which parks will close have not yet been made.

### **CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD**

As part of the final budget package, the Legislature approved the dismantling of the California Integrated Waste Management Board (CIWMB). In its place, the Legislature approved the creation of the Department of Natural Resources, Recycling and Recovery within the Natural

Resources Agency. Duties and responsibilities of the CIWMB will be transferred to the new department, as well as the management of the Bottle Bill recycling program.

#### **ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS**

Language included in ABX4 11, the resources trailer bill, provides counties with the necessary legislative fix to the Energy Efficiency and Conservation Block Grant Program (EECBG). The bill includes needed clarifying language related to EECBG eligibility, allowing all counties not eligible for the large city/county EECBG program to be eligible for the small city/county program administered by the California Energy Commission. The bill also contains language that expressly allows cities and counties to use EECBG funding for the purpose of climate change planning.

#### **GOVERNMENT FINANCE AND OPERATIONS**

##### **PROPOSITION 1A**

The budget package approved by the Assembly includes two measures related to the suspension of Proposition 1A, ABX4 14 and ABX4 15. ABX4 14 suspends the Proposition 1A protection of local property tax revenues, thereby authorizing a "loan" of local revenues to the state. The measure also provides that the Governor's proclamation calling the Legislature into special session due to a fiscal emergency meets the requirements of the Constitution under Proposition 1A. ABX4 14 is an urgency statute, taking effect immediately upon the Governor's signature.

ABX4 15 outlines the repayment provisions for Proposition 1A, as well as authorizes securitization of the Proposition 1A receivable. The statutory provisions mirror those of the Vehicle License Fee (VLF) securitization of 2003. A joint powers authority (JPA) of no fewer than 100 local agency members is authorized to purchase the Proposition 1A receivable and issue bonds with the receivable pledged as payment. This provision will enable local agencies to receive cash upfront instead of waiting for the state's repayment. As of this writing, we understand that the California Statewide Communities Development Authority (CSCDA) would be the issuer of bonds, as it meets the statutory requirements.

The terms and conditions of the JPA's bond issuance must be approved by the Director of Finance and the Treasurer. The aggregate principal amount of the bonds may not exceed \$2.25 billion (to include principal, plus credit enhancements and cost of issuance) and the interest rate is capped at 8%. The state covenants that it will not take any action that would materially adversely affect the interest of the bond holders or otherwise impair the security of the bonds.

ABX4 15 also authorizes a county to borrow its Proposition 1A amount from its redevelopment agency with repayment required within three years.

The amount shifted from each local agency equals 8% of the total amount of ad valorem property tax revenue that was apportioned to the local agency for the 2008-09 fiscal year. The statute explicitly includes amounts that were transferred for the VLF Swap and Triple Flip.

For those communities experiencing extreme fiscal hardship, upon written request, the Director of Finance may decrease the reduction amount. Extreme fiscal hardship may include: whether the community is in bankruptcy proceedings or that the reduction would likely cause the local

agency to seek bankruptcy protection; or whether the requesting local agency has available reserves and whether the reduction would impair the ability of the local agency to provide a basic level of core services. If the Director of Finance decreases a local agency's reduction as a result of hardship, the amount of the decrease will be allocated proportionately among other local agencies within the county, not to exceed more than 10 percent of the total reduction amounts for all local agencies within the county.

Two or more local agencies are able to reallocate their reduction amongst themselves.

These amounts are then transferred to a Supplemental Revenue Augmentation Fund (SRAF) and will be allocated to the county office of education, which will then transfer them to the Controller to reimburse the state for costs of providing health care, trial court, correctional, or other state-funded services and costs until the funds are exhausted. The funds are required to be used to reimburse costs within the county only. Any remaining funds are held over to fund state costs in the following fiscal year. Some funds will be transferred to Educational Revenue Augmentation Funds (ERAF), but will only be transferred in amounts that allow the state to continue to meet its federal Maintenance of Effort (MOE) requirement to draw down federal stimulus funds for schools.

ABX4 15 provides that the state will pay principal amounts of the bonds on the date of maturity, periodic interest (if applicable), and accrued interest. There is also the option for a local agency to not securitize its repayment, but instead receive repayment from the state within the three year period at an interest rate set by the Director of Finance at a rate higher than the Pooled Money Investment Account (PMIA) rate but capped at 6%.

The repayment is continuously appropriated in the General Fund, with authorization for the Controller to make the repayment by June 30, 2013. The repayment is a priority payment behind obligations to schools and general obligation bonds. If the state has not fully reimbursed local agencies by June 30, 2013, local agencies or the bond issuer may seek a writ of mandamus to compel the Controller to fully pay the amounts the state is obligated to pay. The petition for writ of mandamus has priority and preference in setting and review and may be filed in the California Supreme Court.

Please note that there are a number of provisions that require clean-up legislation in order to ensure timely issuance of bonds. Since the redevelopment extension/securitization measure did not pass, many of the dates in ABX4 15 will likely need to change. We will keep counties posted as to the progress of clean-up legislation.

#### **REDEVELOPMENT**

As reported earlier, the budget includes \$1.7 billion in total shifts from redevelopment agencies, plus, an additional one-year, \$350 million SRAF shift from redevelopment agencies in 2010-11. Counties will recall that the California Redevelopment Association (CRA) sued the state over the 2008-09 \$350 million ERAF shift and won in Superior Court; the language in ABX4 26 attempts to address the issues raised in that decision. In this instance, county auditors will calculate the

amount of funds shifted from each redevelopment agency to schools in a manner proportionate to its statewide share of tax increment. These funds will then be allocated to a K-12 school district or county office of education located partially or entirely within any project area of the redevelopment agency in proportion to the average daily attendance of each school district. The auditor must then reduce the allocation of property taxes to the school district in an amount equal to the amount transferred from redevelopment agencies and deposit those funds in the SRAF. The SRAF will then be allocated to fund state costs as outlined in the ABX4 15 (the Proposition 1A suspension).

The \$350 million shift scheduled for 2010-11 is drafted to work in the same manner.

Redevelopment agencies may extend their time limits for plan effectiveness and for receipt of tax increment revenues by one year after they meet their payment obligation for 2009-10.

During the 2009-10 fiscal year, the agency is not required to allocate funds to its low- and moderate-income housing fund and must pay back its fund by June 30, 2015. If it does not fully repay its low- and moderate-income housing fund by that time, its set-aside requirement for low- and moderate-income housing increases from 20% to 25%.

It is widely anticipated that the CRA will challenge this statute in court. We urge counties that are interested in participating in such litigation or learning more about it to visit the CRA [website](#) or call them at 916-448-8760.

#### **STATE MANDATES**

As previously reported, the budget agreement decreases funding for state mandates from \$142 million to about \$76.4 million. A list of all mandates funded in the February budget deal and their disposition in the current set of budget amendments is included as an attachment to this BAB.

#### **USE TAX COMPLIANCE**

The budget amendments add \$9.6 million to the Board of Equalization's budget to register businesses that do not require a seller's license and have receipts over \$100,000 per year. Their intent is to increase use tax compliance to the tune of \$26 million for the General Fund in 2009-10, \$122 million in 2010-11, and more in future years. These businesses will have to file annual use tax returns by April 15 of each year. This program will also increase use tax revenue for many local agencies.

#### **BOE TAX ADMINISTRATION COSTS**

The budget deal rejects a request from the Board of Equalization (BOE) to reallocate \$6.4 million sales tax administrative costs from local governments to the state's General Fund. The BOE requested the change to align the distribution of administrative costs with revenue benefits, just as counties do in allocating property tax administrative costs. The budget deal includes an exception to the usual method for allocating these costs because "there was no actual increase in costs."

#### **SPECIAL ELECTION REIMBURSEMENT**

The budget deal does not include a repayment of counties' cost to run the May 19 special election. A comprehensive survey conducted by elections officials show a statewide cost of just over \$68 million.

#### **CALIFORNIA STATE MEDIATION AND CONCILIATION SERVICE**

AB X4 12 authorizes the Director of the Department of Industrial Relations to seek and collect reimbursement from private and public sector employers, labor unions, and employee organizations for election, arbitration, and training and facilitation services provided by the California State Mediation & Conciliation Service (SMCS). The bill requires the Director to adopt regulations to implement this provision. SMCS currently provides their services to cities and counties for free, including administering elections and other disputes on elections, mediating impasses, and providing training. Some county Employer-Employee Relations Resolutions may require the parties to use SCMS.

#### **CALPERS-SPONSORED PREFERRED PROVIDER ORGANIZATION HEALTH PLANS**

AB 4X 12 authorizes the Board of Administration of the California Public Employees' Retirement System (CalPERS) to use reserves to reduce the premiums charged in self-funded health benefit plans. According to CalPERS, self-funded Preferred Provider Organization (PPO) health plans have generated funds beyond what is required for their reserves. In consideration of the unique economic climate, CalPERS proposes to offset employer and subscriber premium payments with the excess reserves. This proposal will provide relief to employers and employees in these health plans. This trailer bill will replace the similar provisions found in Assembly Bill 399 by Assembly Member Julia Brownley.

#### **HEALTH AND HUMAN SERVICES**

The 2009-10 revised budget includes significant changes to the safety net, most notably to the CalWORKs program. The Administration pushed very hard for cuts and policy changes that will result in people being unable to access health and social services programs. It is unclear what the long-term ramifications of these changes will be on counties and communities, although children, families and seniors will have fewer services available and, in some cases, may be unable to access services.

The trailer bills with the vast majority of health and human services provisions include the following:

- ABX4 4: Human Services Omnibus trailer bill
- ABX4 5: Health Omnibus trailer bill
- ABX4 6: Medi-Cal Managed Care changes
- ABX4 7: Centralized Eligibility proposal
- ABX4 8: CalWORKs changes
- ABX4 19: In-Home Supportive Services (IHSS) fraud initiative

## **CALWORKS**

The Governor sought significant changes to the CalWORKs program during the recent budget negotiations, and was successful in securing \$528 million in cuts and/or anticipated savings, with many of the scored savings slated to be realized in the out years. Though the Governor originally sought to abolish the entire CalWORKs program in May, the reform proposals as voted on by the Legislature represent significant and wholesale changes in the way the program is administered and will ultimately result in fewer grants to needy Californians.

ABX4 4 is the omnibus human services trailer bill and includes some of the CalWORKs provisions. Additional changes to CalWORKs, including sanctions, self-sufficiency reviews and the COLA changes, are in ABX4 8.

**County Single Allocation Cut.** Of the \$528 million in cuts to the CalWORKs program, \$375 million come from a straight cut to county Single Allocation funding. Counties use this funding to administer the program, including providing employment and child care services, and to meet local needs. A cut of this magnitude guts each county's ability to meet its obligation to assist CalWORKs program participants on the road to self sufficiency. This cut represents 71 percent of the total reduction to the program and is effective in the current fiscal year.

ABX4 4 provides some flexibility in determining how to prioritize resources and services. The measure provides exemptions from work for parents with children age 12 to 23 months or two or more children under age six. The trailer bill language sunsets this provision on July 1, 2011. ABX4 4 also includes language to increase county flexibility to transfer funds from the mental health and substance abuse accounts to the single allocation if needed.

**COLA Elimination.** The Governor pushed for, and got, the elimination of automatic cost of living adjustments (COLAs) for CalWORKs grants.

ABX4 8 did not include any of the Governor's proposals to eliminate the safety net and child-only programs or an across-the-board grant reduction.

**Time Limit Changes.** ABX4 8 reduces length of time an adult recipient who fails to meet work participation requirements may collect continuous CalWORKs benefits from 60 months to 48 months. However, after a 12-month "time out" from the program, that recipient may receive CalWORKs grants for an additional 12 months before being permanently sanctioned due to a failure to meet work participation requirements. These changes will take effect on July 1, 2011 and represent a significant administrative and fiscal challenge for counties.

**Increased Sanctions.** The language in ABX4 8 directs counties to perform interventions for families that are in danger of incurring sanctions through a failure to meet work requirements, and, if the adult recipient is still unable to meet work requirements, reduces the family grant by 25 percent and, after nine months of noncompliance, 50 percent of the total grant. Also, families that have received aid for more than 60 months through California's safety net program will see a 25 percent cut to the child portion of the grant. These changes will take effect on July 1, 2011.

**Semi-Annual Self Sufficiency Reviews.** Requires self-sufficiency reviews to be conducted six months after a determination of eligibility for recipients not in compliance with work requirements and after each annual redetermination if work requirements continue to not be met. Counties would also be required to conduct an intensive assessment of families entering the safety net. If the recipient fails to attend the review, the county shall reduce the recipient's benefits by 60 percent after 30 calendar days, unless the participant has complied or provided good cause. These changes will take effect on July 1, 2011 and carry with them significant administrative costs.

Further, ABX4 8 also requires counties, by January 1, 2013, to provide the Department of Social Services with an evaluation of the implementation of the requirement regarding semi-annual self-sufficiency reviews and requires the Department to send those evaluations to the Legislature.

**Child Care.** The package restores child care services for CalWORKs families and families transitioning off of CalWORKs, and does not increase family fees. It also retains funding for ROC/P and Adult Education CalWORKs services. However, the Extended Day Care (Latchkey) program is eliminated, although funding is provided until the start of the 2009-10 school year. The package also keeps Regional Market Reimbursement rates at 2005 levels, and only provides reimbursement up to a maximum of the 85<sup>th</sup> percentile. Finally, the budget deal directs \$10 million in federal American Recovery and Reinvestment Act (ARRA) stimulus funds to hold program levels constant for this fiscal year and increase child care slots in the voucher program when possible.

#### **PRIVATIZING ELIGIBILITY**

The final budget package included the Governor's proposal to privatize eligibility for CalWORKs, Medi-Cal, and the Supplemental Nutrition Assistance Program (SNAP, formerly known as the federal Food Stamp program). Embodied in ABX4 7, the Governor's plan is to develop a centralized statewide eligibility and enrollment determination process for these programs.

The state Department of Health Care Services and Department of Social Services are tasked with developing a comprehensive plan for such a system, including cost benefit analysis, benefits and drawbacks of procuring a new statewide process, an assessment of risks that includes other states' experiences, and budget. However, the departments must first convene a stakeholder steering committee, of which CSAC is a named member, to review all of the above. After this process is completed the departments' comprehensive plan shall be submitted to the fiscal and applicable policy committees of the Legislature at least 45 days prior to a request for an appropriation. The departments cannot proceed with the procurement activities without legislative approval and an appropriation.

This proposal is strongly opposed by CSAC, county affiliates, and other stakeholders, based on evidence from other states (Texas and Indiana) that such efforts are likely to fail and often harm clients. CSAC will participate in the stakeholder process and continue to make our concerns with the overall proposal known.

### **IN-HOME SUPPORTIVE SERVICES (IHSS)**

Two bills contain major provisions related to the In Home Supportive Services (IHSS) program: ABX4 9 and ABX4 19. Many of the provisions either were written to address perceived fraud or contain cuts that, taken in total, are estimated to add up to \$211 million. However, counties note that the centerpiece fraud initiatives are costly to implement, difficult to administer, and create no long-term net savings.

**Fraud Provisions.** The fraud provisions as contained in ABX4 19 include criminal background checks for all IHSS providers (and which the provider must pay for) fingerprinting requirements for both providers AND recipients, and more strict timesheet standards

Counties are required to deny or terminate providers who have been convicted of specified offenses, including:

- Conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act,
- Child abuse (Section 273a of the Penal Code),
- Elder and dependent adult abuse (Section 368 of the Penal Code), or
- Similar violations in another jurisdiction.

Though ABX4 19 is not entirely clear on who bears the costs of the fingerprinting requirement, it appears providers are required to pay for their background checks and that these checks must be completed for current providers by July 1, 2010. The requirement on fingerprinting recipients is effective April 1, 2010 for new applicants and at the time of the next reassessment for existing consumers after April 1. There is also language in the measure requiring the state DSS to seek federal financial participation.

The measure also provides \$10 million for local home visits, but places additional duties on county workers to conduct unannounced visits for certain high-risk cases and complete additional fraud-detection training.

The fraud proposal also includes changes to time sheets. ABX4 19 establishes a civil penalty for time-sheet fraud and requires both the provider and recipient to sign time sheets. Additionally, providers and recipients will be required to place a fingerprint on the time sheets. The measure also requires in-person verification of employment documents by a county worker.

**Other Savings.** Additionally, there are several major program changes:

- **Eliminate IHSS Services Entirely.** ABX4 4 eliminates all IHSS services for recipients with Functional Index (FI) scores below 2, effective September 1, 2009. Recipients with paramedical services, protective services, and recipients receiving 120 or more overall hours per month would be exempted.
- **Eliminates Domestic Services.** ABX4 4 eliminates IHSS domestic and related services for recipients with FI rankings below 4. Recipients with paramedical services, protective



services, and recipients receiving 120 or more overall hours per month would be exempted. This is also effective on September 1, 2009. Combined, the two proposals to eliminate and reduce services to contain costs generate savings of \$53.2 million General Fund.

- **Share of Cost.** Increases the share of cost by 50 percent for IHSS recipients receiving a state buyout effective September 1, 2009. This proposal saves \$20 million General Fund in 2009-10 and \$24 million in 2010-11.
- **Public Authorities.** The budget reduces Public Authority administration rates by 20 percent for a General Fund savings on \$4.6 million.

#### **MEDI-CAL**

**Medi-Cal Savings.** The budget includes an unallocated cut of \$323.2 million General Fund to the Medi-Cal program. The Medi-Cal provisions of the budget are contained in ABX4 5.

**Governor's Federal Medi-Cal Flexibility and Stabilization.** The budget package includes \$1 billion General Fund savings assumption from the Medi-Cal program. The Committee adopted budget bill language to provide for the state to obtain federal funds owed to California, including but not limited to: (1) disability insurance benefits which resulted in state expenditures instead of federal Medicare expenditures; (2) the retroactive payment of Medicare Part B premiums dues to systemic errors by the Social Security Administration; (3) adjustments to formulas that penalize California, such as the Medicare Part D "clawback"; and (4) receipt of federal funds due to California under various existing Medi-Cal waiver programs.

The \$1 billion in savings comes from the following assumptions: receiving \$700 million owed to the state from disability insurance expenditures, receiving \$75 million in Medicare Part D clawback, and receiving over \$400 million from other waivers.

**Medi-Cal Managed Care.** The budget package also includes a stand alone measure, ABX4 6, to require the Department of Health Care Services to submit a waiver to the federal government to implement mandatory enrollment of seniors or persons with disabilities in Medi-Cal managed care OR a medical home model.

The bill also contains a provision authorizing the Department of Health Care Services to maximize federal funds by claiming federal reimbursement for programs that receive realignment funds, including the County Medical Services Program; expenditures in programs funded by the Mental Health Services Act; and other public expenditures and state-only funded programs.

**Hospitals.** The budget reduces the Distressed Hospital Fund by \$23 million General Fund. Additionally, it reduces payments to private hospitals by \$23.9 million General Fund to reflect a ten percent reduction in disproportionate share hospital funding.

**Drug Medi-Cal.** The budget reduces Drug Medi-Cal rates by 10 percent. This provision was originally proposed in the May Revision, and nets the state \$8.8 million in General Fund savings.

The budget package adopts several Medi-Cal pharmacy reforms included in the May Revision for an estimated savings of \$109 million General Fund.

**Long-Term Care.** The budget expands long-term care fees for \$18 million in revenue and reduces long-term care rates for a savings of nearly \$76 million General Fund. The final package did not adopt the May Revision proposal to eliminate Adult Day Health Care benefits, but it does institute a temporary 3-day cap, minimum standard on medical necessity, and some anti-fraud measures for approximately \$25 million in General Fund savings.

**Community Clinics.** The bill reduces General Fund support for community clinic programs by 30 percent, including Rural Health Services (\$2.2 million); Seasonal Migratory Worker Program (\$1.9 million); Indian Health Program (\$1.5 million); and Expanded Access to Primary Care Program (\$4.5 million General Fund and \$3.9 million Proposition 98 funds).

#### **HEALTHY FAMILIES PROGRAM**

The Healthy Families Program (HFP) is slated for \$124 million in cuts, with no changes to eligibility in the final legislation. Officials at the Managed Risk Medical Insurance Board (MRMIB), which administers the HFP, having already instituted a waiting list on July 17, are expected to close enrollment for the remainder of the fiscal year. Furthermore, the shortfall in funding may require MRMIB to disenroll eligible children at their annual renewal dates, a move that would essentially dismantle the program.

ABX4 5 does contain language to allow outside sources of funding for HFP, and the state First 5 Commission may also meet in the coming week to authorize a transfer of funds that would at least stave off disenrollment for children aged 5 and under. This move would be similar to the combined efforts of the state and individual county First 5 Commissions undertaken to support the HFP earlier this year.

MRMIB is slated to meet to discuss the above measures July 30.

The HFP currently serves 900,000 children statewide, with about 400,000 expected to join the waiting list over the course of the 2009-10 fiscal year. Created in 1997, the program offers low-cost health insurance for children aged 0-18 in families earning up to 250 percent of the federal poverty level.

#### **SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTARY PAYMENT (SSI/SSP)**

The package adopts the Governor's proposal to reduce SSI/SSP grants for couples to the federal minimum of \$1,047, and reduces grants for individuals by \$5 per month to \$845 for a savings of \$155 million annually. This provision would take effect on October 1.

Further, the Governor pushed for, and got, the elimination of automatic cost of living adjustments for SSI/SSP grants.

#### **AID FOR IMMIGRANTS**

ABX4 4 allows preserves the Cash Assistance Program for Immigrants (CAPI) and the California Food Assistance Program. However, under the bill, CAPI grants are aligned with those in SSI/SSP for a General Fund reduction of \$1 million.

#### **PROPOSITION 36/OFFENDER TREATMENT PROGRAM (OTP)**

The budget package eliminates all \$90 million in General Fund support for Proposition 36 Substance Abuse and Crime Prevention Act programs, but maintains \$18 million General Fund for the Offender Treatment Program. The budget includes \$45 million of Edward Byrne Memorial Justice Assistance Grant program funding provided through the ARRA for the Offender Treatment Program. This is a one-time fund source. Therefore, \$63 million is available in 2009-10 for the Offender Treatment Program.

#### **CHILD WELFARE SERVICES**

The budget packages does not include the May Revision proposal to reduce Child Welfare Services funding by \$70 million or reduce the Supplemental Clothing Allowance and Specialized Care Increment rates, but it does make a number of cuts and changes to related programs, including:

- Reduces rates for Group Homes, Foster Family Agencies, and Seriously Emotionally Disturbed programs by 10 percent for savings of \$26.6 million General Fund (before federal stimulus funds are taken into account).
- Adopts a one-time \$5 million General Fund cut to the Transitional Housing Program – Plus (THP-Plus).
- Reforms the Adoption Assistance Program to tie benefit levels to need, rather than increase grants based on age. This proposal is estimated to save the state \$900,000 General Fund.

#### **HEALTH**

**AIDS/HIV Program.** The budget rejects the May Revision Proposal to eliminate all General Fund support for the AIDS Drug Assistance Program and other Office of AIDS Programs by \$80 million, but reduces these programs by \$35 million.

**Immunizations.** The budget eliminates \$18 million General Fund for the Immunization Program on a one-time basis.

**Aid to Infants and Mother (AIM).** This program takes a \$4.9 million reduction in Proposition 99 funding.

**Maternal and Child Health.** The budget rejects the May Revision proposal to eliminate all General Fund support for Maternal, Child, and Adolescent Health (MCAH) programs but does implement the following reductions:

- \$900,000 from the Black Infant Health Program

- \$1.75 million from the Adolescent Family Life Program
- \$2.1 million from local County Maternal and Child Health Grants
- \$3.5 million from MCAH state support

**Poison Control.** Reduces funding for the California Poison Control System by 50 percent to \$2.95 million. This program had been proposed for elimination in the May Revision.

**Managed Risk Medical Insurance Program (MRMIP).** The budget reduces \$6.6 million in Proposition 99 funding for the MRMIP program.

**Aging.** The budget approves smaller reductions than proposed in the May Revision for the Linkages Program, cutting \$2.5 million General Fund from a local assistance budget of \$6 million, and cuts \$1.2 million General Fund from Alzheimer's Day Care Resource Centers.

#### **MENTAL HEALTH**

Most of the mental health provisions, since they are cuts, are contained in the revised 2009-10 budget bill, AB4X 1.

- **Early Periodic Screening Diagnosis and Treatment (EPSDT) Program.** The budget package includes the Administration's proposal for EPSDT funding 2009-10. The total amount of adjustment approved for EPSDT funds is \$364.8 million (with an additional \$674.1 million expected for federal reimbursements), which overall reflects a reduction over the current year of \$14.6 million.
- **Prior Year Cost Settlement for EPSDT.** The defers funding a deficiency that the state owes counties for cost report settlements in the amount of \$15.8 million for 2006-07. The budget package, defers payment of the deficiency to 2010-11.
- **Medi-Cal Managed Care.** The budget essentially cuts in half (from \$225 million to \$113.4 million) the allocation to counties for the Medi-Cal Managed Care program.
- **Defer \$52 Million in AB 3632 Mandate Payment to Counties.** The budget package includes a deferral of \$52 million of the \$104 million that is in the approved 2009-10 budget to pay counties for past mandate claims (2006-07 and 2007-08).
- **Proposition 63 Funding.** The budget defers \$300 million in Proposition 63 funding to counties during the 2009-10 fiscal year.

#### **CHILD SUPPORT**

AB4X 4 calls for a new \$25 administrative fee on child support collections to increase the speed and efficiency of child support enforcement efforts. The language in the bill is hopeful at best, promising to incur no state or county costs due to the projection of increased collections and welfare recoupment funded by the fee. This provision would be implemented by October 1, 2010.

The language also specifies that 100 percent of the new funds must be used by a local child support agency to maintain staffing levels in order to stabilize child support collections. Once collected, the funds will be distributed based on two performance measures: Collections on

Current Support and Cases with Collections in Arrears. Finally, custodial parties must collect at least \$500 annually for the \$25 administrative fee to kick in.

## **HOUSING, LAND USE AND TRANSPORTATION**

### **HIGHWAY USERS TAX ACCOUNT**

While revisions to the 2009-10 state budget ultimately did not take the local share of the gas tax, also known as the Highway User Tax Account (HUTA), monthly payments are being deferred from July through December 2009 to be repaid at an unspecified date in the future sometime after January 10, 2010 (contained in AB 4X 16). While it has yet to be confirmed with the State Controller's Office (SCO), CSAC interprets budget trailer bill language to mean that monthly HUTA payments will not be made starting this July 31<sup>st</sup>. Also, CSAC has already made inquiries with the SCO to learn of their plans for paying back this deferral to cities and counties. We will update you as we learn more.

### **PROPOSITION 42**

The 2009-10 state budget defers the first two quarterly payments of Proposition 42 (the October 2009 and January 2010 payments) to cities and counties until May 2010. These deferrals total \$288 million dollars, \$144 million of which is a direct hit to counties. At this point in time, cities and counties are slated to receive their third and fourth quarterly payments on schedule (April and July 2010). Please note that this action is a deferral and not a loan, thus the Proposition 1A protections for Proposition 42 funds are not triggered and the State will not pay back the funds with interest.

### **PROPOSITION 1B LOCAL STREETS AND ROADS ACCOUNT**

The remaining \$700 million in Proposition 1B Local Streets and Roads (LSR) monies were appropriated in the 2009-10 budget revisions with approximately \$442 million for counties (see attached chart for a county by county breakdown of remaining Proposition 1B funds). The budget trailer bill provides cities and counties the ability to backfill the Proposition 42 deferrals with LSR funds during the period of the deferral as long as Proposition 1B is made whole upon repayment by the State.

The budget trailer bill package did not provide this same authority for cities and counties to backfill the HUTA deferrals with LSR funds so we will seek clean-up language to address this when the Legislature returns in August.

Furthermore, trailer bill language added a number of new requirements in order for counties to access the 2009-10 Proposition 1B appropriation. A city, county, or city and county must meet the following requirements:

- Shall have received its full allocation for 2007–08.
- Shall have submitted annual reporting information to the State for 2007–08.
- Shall agree that 2009-10 funds received will be used for projects that are not currently fully funded with a dedicated funding source or sources.

- Shall agree to encumber the funds before July 1, 2010.
- Shall report to the Department of Finance the total balance of unencumbered funds in the road fund.
- Shall certify that the total balance of unobligated or unencumbered funds in the road fund is no more than the sum balance of three months of anticipated apportionments from the Highway Users Tax Account in the Transportation Tax Fund and from the Transportation Investment Fund.
- Any of the funds that are not allocated by July 1, 2010, shall revert to the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006 to be appropriated in future years.

#### **WHAT YOU SHOULD DO**

Take a break and prepare yourself for another round of severe cuts when new revenue estimates are prepared and lawsuits decided, perhaps as early as August.

#### **WHAT'S GOING TO HAPPEN NEXT**

The Governor will sign the budget package tomorrow. We will report to you the details of any line-item vetoes as soon as that information becomes available.

### **STAY TUNED FOR THE NEXT BUDGET ACTION BULLETIN!**

*If you would like to receive the Budget Action Bulletin electronically, please e-mail Amanda Yang, CSAC Legislative Assistant, at [ayang@counties.org](mailto:ayang@counties.org). We're happy to accommodate you!*

**2009-10 Revised Budget  
Budget and Trailer Bill List**

<b>Bill #</b>	<b>Description</b>
	<b>4th Extraordinary Session</b>
AB 1	Changes to 2009-10 Budget
AB 2	Education / Higher Education
AB 3	Education: 2008-09 Reversion, Certification
AB 4	Human Services
AB 5	Health
AB 6	Medi-Cal Managed Care
AB 7	Centralized Eligibility
AB 8	CalWORKs Policy, IHSS Fraud, COLA Changes
AB 9	Developmental Disabilities
AB 10	Transportation
AB 11	Resources
AB 12	General Government
SB 13	Public Safety / Judicial
AB 14	Proposition 1A Suspension
AB 15	Proposition 1A Payback
SB 16	Cash Deferrals
AB 17	Revenues #1
AB 18	Revenues #2
AB 20	Boards—Consolidations and Eliminations
AB 21	Procurement
AB 22	Asset Management
AB 25	Cash Management
AB 26	RDA Shift
	<b>Regular Session</b>
SB 63	Integrated Waste Management Board
SB 90	Supplemental Appropriations for 2007-08 and 2008-09

## 2009-10 Proposition 1B Estimated Disbursement

COUNTY	NO. OF REGISTERED VEHICLES (4/08)	NO. OF MAINTAINED MILEAGE (4/08)	PROJECTED REVENUE FY 2009-10 (Estimated)
Alameda	1,149,575	495.39	\$ 13,907,616
Alpine	2,038	134.96	\$ 248,464
Amador	51,051	410.84	\$ 1,266,680
Butte	211,423	1,353.70	\$ 4,665,358
Calaveras	67,318	689.22	\$ 1,916,456
Colusa	25,929	716.75	\$ 1,491,453
Contra Costa	851,398	659.84	\$ 10,789,247
Del Norte	25,932	300.88	\$ 797,314
El Dorado	209,802	1,075.50	\$ 4,182,539
Fresno	670,649	3,563.16	\$ 13,578,853
Glenn	33,370	863.19	\$ 1,820,572
Humboldt	137,005	1,205.06	\$ 3,570,464
Imperial	139,950	2,561.57	\$ 5,868,293
Inyo	26,116	1,133.10	\$ 2,188,573
Kern	630,683	3,327.67	\$ 12,731,008
Kings	98,731	946.10	\$ 2,702,690
Lake	79,421	612.36	\$ 1,925,879
Lassen	35,722	878.64	\$ 1,873,121
Los Angeles	7,054,048	2,966.98	\$ 85,218,652
Madera	120,519	1,532.06	\$ 3,928,710
Marin	226,626	419.82	\$ 3,279,491
Mariposa	26,599	560.41	\$ 1,238,111
Mendocino	104,206	1,018.92	\$ 2,886,541
Merced	190,480	1,726.96	\$ 5,050,111
Modoc	13,187	987.40	\$ 1,798,248
Mono	16,452	684.42	\$ 1,329,653
Monterey	326,055	1,242.60	\$ 5,784,271
Napa	129,175	445.01	\$ 2,212,669
Nevada	120,739	560.79	\$ 2,309,942
Orange	2,353,013	313.86	\$ 27,298,200
Placer	346,883	1,052.75	\$ 5,704,366
Plumas	33,470	687.96	\$ 1,529,210
Riverside	1,577,871	2,671.26	\$ 22,413,100
Sacramento	1,140,198	2,194.40	\$ 16,636,956
San Benito	51,651	383.63	\$ 1,228,086
San Bernardino	1,548,162	2,822.22	\$ 22,327,038



COUNTY	NO. OF REGISTERED VEHICLES (4/08)	NO. OF MAINTAINED MILEAGE (4/08)	PROJECTED REVENUE FY 2009-10 (Estimated)
San Diego	2,451,387	1,921.25	\$ 31,100,668
San Francisco	448,004	930.75	\$ 6,651,350
San Joaquin	532,969	1,653.70	\$ 8,824,912
San Luis Obispo	267,197	1,321.49	\$ 5,246,228
San Mateo	650,661	313.12	\$ 7,926,365
Santa Barbara	345,484	892.68	\$ 5,421,257
Santa Clara	1,399,998	684.10	\$ 17,072,115
Santa Cruz	225,039	602.94	\$ 3,567,101
Shasta	206,029	1,191.19	\$ 4,332,712
Sierra	5,289	390.25	\$ 711,601
Siskiyou	62,487	1,361.34	\$ 2,983,410
Solano	348,017	586.95	\$ 4,939,745
Sonoma	450,716	1,384.62	\$ 7,439,821
Stanislaus	420,414	1,545.37	\$ 7,363,345
Sutter	87,191	786.69	\$ 2,305,289
Tehama	64,133	1,089.38	\$ 2,548,175
Trinity	19,367	698.14	\$ 1,385,725
Tulare	322,713	3,047.10	\$ 8,758,367
Tuolumne	71,821	607.16	\$ 1,830,722
Ventura	699,159	545.51	\$ 8,866,119
Yolo	167,229	794.60	\$ 3,229,222
Yuba	62,559	650.59	\$ 1,797,827
<b>TOTAL</b>	<b>29,133,310</b>	<b>66,198.30</b>	<b>\$442,000,000</b>

## Disposition of Mandates

Please note that this list only details mandates that were previously funded in the 2009-10 state budget as passed in February 2009.

Mandate	Funding Level (\$ In thousands)	Disposition In 2009-10 Budget Revision
Allocation of Property Tax Revenue (Chapter 697; 1992)	\$580	Fund.
Crime Victim Rights (Chapter 441; 1995)	580	Suspend. Redraft law to link to Proposition 9 (Marsy's Law).
Crime Victim's Domestic Violence Incident Reports (Chapter 1022; 1999)	160	Fund.
Domestic Violence Arrests and Victims Assistance	2,400	Fund, but require DOJ and DOF report on viability of consolidating mandate with Marsy's rights cards.
Domestic Violence Arrest Policies (Chapter 246; 1995)	7,300	Fund.
Domestic Violence Treatment Services (Chapter 183; 1992)	2,500	Fund.
Firefighter's Cancer Presumption (Chapter 1568; 1982)	7,000	Delete funding (mandate ended).
Health Benefits for Survivors of Peace Officers and Firefighters (Chapter 1120; 1996)	1,000	Fund.
Peace Officer Personnel Records: Unfounded Complaints and Discovery (Chapter 630; 1978)	700	Fund.
Peace Officer's Cancer Presumption (Chapter 1171; 1989)	6,400	Delete funding (mandate ended).
Racial Profiling: Law Enforcement	9,500	Delete funding (requirements completed).
Rape Victim Counseling (Chapter 999; 1991)	370	Fund.
Senior Citizens Property Tax Deferral (Chapter 1242; 1977)	250	Delete funding (program no longer operative).
Sexually Violent Predators (Chapters 762 and 763; 1995)	17,200	Delete funding. Redraft law to link to Proposition 83 (Jessica's Law).
Threats Against Peace Officers (Chapter 1248; 1992 / Chapter 666; 1995)	60	Fund.
Unitary Countywide Tax Rates (Chapter 921; 1987)	210	Fund.
Peace Officer Procedural Bill of Rights	2,900	Delete funding (annual reimbursements not required).
Administrative License Suspension (Motor Vehicle Account)	2,600	Fund.
Pesticide Use Reports (Pesticide Regulation Fund)	75	Fund.
Absentee Ballots (Chapter 77; 1978)	22,500	Fund, but require report from counties and DOF prior to disbursement. Report to propose simpler reimbursement methodology.
Absentee Ballots-Tabulation by Precinct (Chapter 697; 1999)	30	Fund, but require report from counties and DOF prior to disbursement. Report to propose simpler reimbursement methodology.
AIDS/Search Warrant (Chapter 1088; 1988)	780	Suspend.
Animal Adoption (Chapter 752; 1998)	22,600	Suspend and reestablish local requirements in effect before the mandate was established.
Binding Arbitration	200	Suspend.
Brendon Maguire Act (Chapter 391; 1988)	—	Continue mandate. Mandate serves statewide funding and could be continued at no cost.
Conservatorship: Developmentally Disabled Adults (Chapter 1304; 1980)	160	Suspend.
Coroners Costs (Chapter 498; 1977)	100	Suspend.
Custody of Minors-Child Abduction and Recovery (Chapter 1399; 1976 / Chapter 162; 1992 / Chapter 988; 1996)	14,000	Fund. Mandate suspension may conflict with inter-state agreements.
Developmentally Disabled Attorneys' Services (Chapter 694; 1975)	550	Suspend.

## Disposition of Mandates

Please note that this list only details mandates that were previously funded in the 2009-10 state budget as passed in February 2009.

<b>Mandate</b>	<b>Funding Level (\$ in thousands)</b>	<b>Disposition in 2009-10 Budget Revision</b>
DNA Database & Amendment to Postmortem Examinations (Chapter 822; 2000)	160	Suspend.
False Reports of Police Misconduct (Chapter 590; 1995)	6	Suspend.
Firearm Hearings for Discharged Inpatients	10	Suspend.
Fire Safety Inspections of Care Facilities	700	Modify law to allow local governments to charge fee to offset cost of mandate.
Judicial Proceedings (Chapter 644; 1980)	100	Suspend.
Medi-Cal Beneficiary Death Notices (Chapters 102 and 1163; 1981)	10	Fund.
Mentally Disordered Offenders' Extended Commitments Proceedings (Chapter 435; 1991)	3,000	Suspend.
Mentally Disordered Sex Offenders' Recommitments (Chapter 1036; 1978)	250	Suspend.
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,000	Suspend.
Mentally Retarded Defendants Representation (Chapter 1253; 1980)	10	Suspend.
Not Guilty by Reason of Insanity (Chapter 1114; 1979)	2,000	Suspend.
Pacific Beach Safety (Chapter 961; 1992)	200	Suspend.
Perinatal Services (Chapter 1603; 1990)	1,200	Suspend.
Permanent Absent Voters (Chapter 1422; 1982)	5,800	Fund, but require report from counties and DOF prior to disbursement. Report to propose simpler reimbursement methodology.
Photographic Record of Evidence (Chapter 875; 1985)	160	Suspend.
Post Conviction: DNA Court Proceedings	190	Suspend.
Postmortem Examinations (Chapter 284; 2000)	500	Suspend.
Stolen Vehicle Notification (Chapter 337; 1990)	530	Suspend.
Voter Registration Procedures (Chapter 704; 1975)	1,600	Fund, but require report from counties and DOF prior to disbursement. Report to propose simpler reimbursement methodology.
Open Meeting Act.	15,000	Fund.
Mandate Reimbursement Process.	10,000	Request report from DOF as to how to simplify mandate and reduce costs.
AB 3632 (funded under Department of Mental Health, Department of Social Services, and California Department of Education).	176,100	Defer \$52 million in funding.



**2009-10 State Budget Revision – Governor's Vetoes  
Week of July 27, 2009**

July 28, 2009

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

FROM: Paul McIntosh, CSAC Executive Director  
Jim Wiltshire, CSAC Deputy Executive Director  
Jean Kinney Hurst, CSAC Legislative Representative

RE: **Budget Action Bulletin #8**

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Governor Arnold Schwarzenegger signed the 2009-10 budget revision this morning, after making significant reductions to health and human services programs, eliminating funding for the Williamson Act, and applying additional funding reductions to numerous other state departments. In his press conference today, the Governor expressed frustration that the Legislature sent him a budget package that eliminated the reserve and then some, creating a plan that was an estimated \$156 million in the red. As a result, he line-item vetoed spending to achieve his goal for a reasonable reserve of \$500 million. In fact, in most instances, the Governor prefaces his veto message with: "In order to create a reasonable reserve..."

Director of Finance Mike Genest briefed the media after the budget signing and indicated that the Governor would be open to discussions with the Legislature focused on reversing some of these reductions. However, he cautioned that the \$500 million reserve was "skimpy" and the budget summary document indicates a 2010-11 budget deficit of \$7 to \$8 billion, with even larger shortfalls projected in the out years. The Department of Finance is scheduled to meet with the Treasurer and Controller tomorrow to discuss the state's cash situation and should have its cash projections completed in the coming weeks.

The Governor's action set off a heated exchange among the legislative leaders, with Senate President Pro Tempore Darrell Steinberg vowing to fight the vetoes to health and human services programs. "We question whether the majority of these vetoes are legal," Steinberg told the press.

This Budget Action Bulletin outlines the Governor's final actions on the 2009-10 budget revision. For a detailed list of vetoes and a summary of the budget plan, please visit the Department of Finance's [website](#). Please refer to [Budget Action Bulletin No. 7](#) issued yesterday for a recap of the package approved by the Legislature.

## How the \$60 Billion Budget Gap Was Closed

(dollars in millions)

	2009-10 Budget Act enacted in February	Amendments to the 2009-10 Budget Act	Total Solutions
Cuts	\$14,893	\$16,125	\$31,018
Taxes	12,513	-	12,513
Federal Stimulus	8,016	-	8,016
Other	402	8,034	8,436
<b>Total</b>	<b>\$35,824</b>	<b>\$24,159</b>	<b>\$59,983</b>

## Solutions Adopted in the Budget Amendments

(dollars in millions)

	2008-09	2009-10	Total	
Expenditure Reductions	\$3,708	\$12,417	\$16,125	67%
Fund Shifts	6	999	1,005	4%
Revenue Increases	-	3,492	3,492	14%
Borrowing	-	2,182	2,182	9%
Other	-	1,355	1,355	6%
<b>Total</b>	<b>\$3,714</b>	<b>\$20,445</b>	<b>\$24,150</b>	<b>100%</b>

## WHAT'S BEEN HAPPENING

### ADMINISTRATION OF JUSTICE

The Governor's line-item vetoes do not affect any local public safety programs. In the justice area, the only items of interest include his veto of several provisions relating to the budget for California Department of Corrections and Rehabilitation (CDCR). Under the corrections agency budget, the Governor deletes various provisions that would have required additional expenditure reporting and imposed certain expenditure restrictions. The Governor also rejected the Legislature's effort to restrict further expenditures — until certain, specified conditions were met — to remedy the condemned inmate housing at San Quentin; this action will allow the construction project to move forward.

It is also worth noting that in the budget summary document, the Administration provides additional details on the \$785 million reduction to CDCR's budget. The Governor confirms that legislation to be discussed later this summer — likely to include a combination of policy reforms in the areas of parole, custody, and program credit reforms — will help direct the specific means to achieve the needed reductions. The Governor also clarifies that the certain actions taken in the budget, along with authorities vested through the Constitution, permit the implementation of the following reductions without further action on the part of the Legislature:

- **Select commutation and deportation of undocumented persons in state prison** – \$182.1 million in savings;
- **Rehabilitative program reductions** – \$175 million in savings associated with eliminating or scaling back of rehabilitative programs for prison inmates and parolees;
- **Operational savings** – \$147.6 million in a one-time reduction for facility repairs, efficiencies within the state juvenile justice systems; and other operational savings;
- **Contract Medical Rates** – \$50 million associated with a cap (in SBX4 13) on contract reimbursement rates for inmate medical services.

The remaining savings needed — approximately \$631 million, which includes the unallocated \$400 million cut the Governor imposed in February at the time of the initial enactment of the 2009-10 budget — will be achieved through the reforms to be discussed when the Legislature returns in August.

## **AGRICULTURE AND NATURAL RESOURCES**

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### **ELIMINATION OF WILLIAMSON ACT SUBVENTIONS**

The Governor used his blue pencil to effectively eliminate the Williamson Act subventions, taking the appropriation from \$27.8 million to \$1,000. His veto cited the need to “provide a prudent reserve in the General Fund.”

### **STATE PARKS**

The Governor made an additional cut of \$14.2 million to the Department of Parks and Recreation. According to the Governor, this reduction — coupled with previous cuts — will reduce State Parks funding by \$22.2 million when fully implemented. The cuts will result in the closure of probably more than 100 parks, which will be identified once the Department has been able to complete a full assessment of its remaining resources.

## **HEALTH AND HUMAN SERVICES**

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The Governor made a total of \$656 million in line-item vetoes, \$397.6 million (more than 60 percent) of which were in the health and human services area.

### **CHILD WELFARE SERVICES**

The Governor line-item vetoed a total of \$124 million (\$80 million General Fund) from Child Welfare Services, which is more than the \$70 million cut he had proposed in his May Revision, including:

- \$60.9 million unallocated reduction to county CWS programs. This cut affects 56 counties; Los Angeles and Alameda are not included in this reduction.
- \$19.1 million from Alameda and Los Angeles Counties, which participate in a federal Title IV-E Waiver.

The funds cut by the Governor would fund 755 social workers caring for abused and neglected children. The funding reduction comes without direction about how to implement the cut – all state requirements related to the child welfare system remain in place. Counties are expected to do the same amount of work with significantly less funds, putting children at great risk of harm.

#### **COUNTY ADMINISTRATION OF MEDI-CAL**

The Governor vetoed \$120 million (\$60 million General Fund) in funding for county administration of the Medi-Cal. The funding reduction essentially eliminates funding to account for the increased workload due to the uptick in Medi-Cal applications related to the down economy.

#### **IN HOME SUPPORTIVE SERVICES (IHSS)**

The Governor line-item vetoed an additional \$37.5 million from the IHSS program, including:

- **Domestic Services for Medically Fragile Recipients.** The Governor vetoed \$28.9 million and included language eliminating domestic and related services for all IHSS recipients. The budget as passed by the Legislature (ABX4 4) had eliminated these services for all but those receiving paramedical services, protective services, and 120 or more overall hours per month; the Governor's action today eliminates domestic services for these recipients as well.
- **Public Authorities.** The Governor also cut \$8.7 million from IHSS Public Authority Administration, leaving \$10 million General Fund in 2009-10.

#### **HEALTHY FAMILIES PROGRAM (HFP)**

The Governor made what he characterized as an "ugly" cut of an additional \$50 million from the state's Healthy Families Program for a total 2009-10 cut of \$172.6 million.

The budget as passed by the Legislature last week reflected a \$125 million cut; the Governor's additional \$50 million cut will likely result in longer wait lists and possibly even some current recipients losing insurance. The Managed Risk Medical Insurance Board (MRMIB), which administers the program, had already instituted a waiting list on July 17; MRMIB will meet this Thursday to discuss options, including soliciting funding help from the California Children and Families (First 5) Commission and possibly local county commissions. Please note that the First 5 funds can only be used for children age 0 to 5. Therefore, these funds cannot be used to backfill the full amount of the hit.

The Healthy Families Program provides low-cost health insurance to children aged 0 to 18 whose families' income falls at or below 250 percent of the Federal Poverty Level. HFP program currently serves 900,000 children statewide and expects to have 400,000 children on the waiting list at the end of this fiscal year.

#### **HIV/AIDS PROGRAMS**

The Governor eliminated \$52.1 million from several key programs and services within the Office of AIDS, including:

- Education and Prevention,
- Therapeutic Monitoring .
- Counseling and Testing
- Early Intervention,
- Home and Community Based Care
- Housing.

The Governor did leave in place some funding for the AIDS Drug Assistance Program to help low-income individuals access drug therapies. However, these eliminations will affect all program participants and may threaten federal matching funds for core surveillance activities and the state's ability to meet federal reporting requirements.

#### **PUBLIC HEALTH**

In addition, the Governor vetoed \$16.3 million from the Domestic Violence Program; \$9.0 million from the Adolescent Family Life Program; and \$3.0 million from the Black Infant Health Program.

#### **COMMUNITY CLINICS**

The Governor cut \$25 million from the Primary and Rural Health Program, which all but eliminates General Fund support of community clinics. The Governor states that these clinics are still eligible for certain federal, state, nonprofit, and local funding.

#### **AGING**

The Governor cut funding by \$6 million for various aging programs. The cuts include elimination of funding for the Linkages program. This program provides comprehensive care management to allow frail seniors to remain in their homes.

In addition, the Governor also eliminated funding for other Community Based Services programs, including the Brown Bag program (monthly donated food to seniors), Senior Companions, caregiver respite care, and Alzheimer's Day Care Resource Centers. The Governor stated that these were non-mandated programs and that they cannot be continued due to the state's severe budget constraints.

#### **SMOKING PREVENTION**

The Governor deleted the one-time augmentation of \$6.8 million in Proposition 99 funds for the tobacco control program contained in the budget package. This one-time augmentation had been proposed by the Administration, but in his veto message, the Governor stated that tobacco tax revenues have declined to levels insufficient to support these efforts. The money would have been used to fund anti-tobacco media campaigns and competitive grants to local entities.



## **OTHER HHS CUTS**

### **DEVELOPMENTAL SERVICES**

The Governor reduced funding for Regional Center Purchase of Service by \$50 million for services to children up to age 5. The Governor states that services are "eligible for funding for the California Children and Families Commission. I am directing the Secretary for the Health and Human Services Agency, the Department of Developmental Services, and the Department of Finance to immediately request funds from the Commission for this purpose. I do not intend to pursue separate legislation changing eligibility or services for these children for purposes of achieving these savings. I urge the Commission to provide supplemental funding for the growth in these services."

### **CAREGIVER RESOURCE CENTERS**

The Governor cut another \$4 million in funding for the Caregiver Resource Centers, beyond the Legislature's reduction.

## **WHAT'S GOING TO HAPPEN NEXT**

Hold your breath ... we will certainly keep counties advised about post-budget discussions and impending decisions about the state's cash management plan.

## **STAY TUNED FOR THE NEXT BUDGET ACTION BULLETIN!**

*If you would like to receive the Budget Action Bulletin electronically, please e-mail Amanda Yang, CSAC Legislative Assistant, at [ayang@counties.org](mailto:ayang@counties.org). We're happy to accommodate you!*



## **Agriculture and Natural Resources Policy Committee**

**VIA Conference Call 916-445-5476**

**Friday, August 14, 2006 10:00 – 11:00 a.m.**

### **AGENDA**

Supervisor Mike Nelson, Merced County, Chair  
Supervisor Jon Vasquez, Solano County, Vice- Chair

- I. Welcome and Introductions**  
Supervisor Mike Nelson, Merced County  
Supervisor Jon Vasquez, Solano County
- II. Williamson Act (WA) Budget Overview**
- III. WA Coalition Status Update**
- IV. Discussion of Proposals for County Relief:**
  - a. ACTION ITEM: Proposed WA Non-Renewal Bill Language**  
ATTACHMENT ONE: WA Proposed Language
  - b. Other Ideas**
- VI. Next Steps**



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To: CSAC Executive Committee

From: Supervisor Mike Nelson, Agriculture and Natural Resources Policy  
Committee, Chair  
Supervisor John Vasquez, Agriculture and Natural Resources Policy  
Committee, Vice Chair

RE: **ACTION ITEM: Williamson Act Reform Legislative Proposal**

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**Recommendation:** Staff is recommending that CSAC "support in concept" Yolo County's Williamson Act Reform legislative proposal, with the caveat that CSAC will consider co-sponsorship of the proposal if the proposed language is consistent with existing CSAC policy.

**Background.** The Legislature and Governor are considering elimination of subventions for the Williamson Act program, an important farmland and open space preservation planning tool for counties. Enacted in 1965, the Williamson Act is a voluntary program that provides lower property taxes to agricultural landowners in exchange for their contractual commitments with participating counties to keep their land in agricultural or open space uses for at least 10 years.

For counties, this financial support has provided a tangible incentive for local governments to stay in the program and initiate more contracts by partially replacing property tax revenues lost on enrolled land. Property tax revenue growth has dropped considerably in many parts of the state and will continue to decline as the housing market continues to slow. If the subventions are not funded, there is no doubt that counties will be forced to discontinue their participation in the Act given local budgetary conditions.

The Williamson Act Reform proposal, proposed by Yolo County, would seek to eliminate several loopholes within the Williamson Act and restore the true purpose of the Act, the preservation of valuable farmland. Several potential solutions proposed include: increasing local enforcement authority, providing local resources for enforcement, increasing education efforts, and requiring proof of agricultural income for Williamson Act contracts. The direction of Yolo County's proposal is consistent with CSAC's existing policy, which specifies that, "counties are committed to support other reasonable legislative changes which preserve the integrity of the Williamson Act and eliminate abuses..."

**Action Requested.** Yolo County is requesting CSAC's co-sponsorship of the attached Williamson Act Reform legislative proposal. CSAC staff is recommending to the CSAC Agriculture and Natural Resources Committee and Executive Committee that, CSAC "support in concept" Yolo County's Williamson Act Reform legislative proposal, with the caveat that CSAC will consider co-sponsorship of the proposal if the proposed language is consistent with existing CSAC policy.

**Staff Contact.** Please contact Karen Keene ([kkeene@counties.org](mailto:kkeene@counties.org) or (916)327-7500 x511) or Cara Martinson ([caramartinson@counties.org](mailto:caramartinson@counties.org) or (916) 327-7500 x504) for additional information.

## **Williamson Act - Accelerated Re-inflation upon Nonrenewal**

The following amendment would provide local governments with the ability to accelerate gradual re-inflation upon non-renewal of a contract immediately, as opposed to waiting four years in the event of a landowner protest.

426. (a) Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Government Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(b) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (c) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (c) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted. This subdivision shall only apply to contracts for which a notice of nonrenewal has been served, by either party, before January 1, 2010.

~~(c) Where any of the conditions in subdivision (b) apply, the owner of land, or the county, city, or nonprofit organization serves notice of nonrenewal on or after January 1, 2010, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:~~

(1) Determine the value of the land pursuant to Section 110.1. If the land is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if it were free of contractual restriction. If the land will be subject to a use for which this code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (b).

(3) Subtract the value determined in paragraph (2) of subdivision (c) by capitalization of income from the full value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) to obtain its assessed value.



August 5, 2009

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To: CSAC Executive Committee  
From: Kelli Osborne, CSAC Controller  
Re: Audit Committee Appointees

Every year CSAC has an audit conducted by an independent auditor, currently John Waddell and Associates. John Waddell reports directly to the CSAC Audit Committee with the current year's report. The California Nonprofit Integrity Act requires an audit committee for 501(c) (3)'s and 501(c) (4)'s with more than \$2 million in revenue.

For the 2008/2009 fiscal year the Audit Committee consisted of:

Richard Arrow, Committee Chair, Marin County Auditor & Controller  
Tony Oliveira, CSAC Treasurer, Kings County Supervisor  
John Tavaglione, Riverside County Supervisor

With the retirement of Richard Arrow, CSAC staff is recommending the Executive Committee appoint a new audit committee for 2009/2010. It is recommended that the following be appointed:

Tony Oliveira, Committee Chair, Kings County Supervisor  
Joni Gray, CSAC Treasurer, Santa Barbara County Supervisor  
John Tavaglione, Riverside County Supervisor

# **Proposed Bylaws Amendments**

**National Association of Counties  
Business Meeting  
Nashville/Davidson County, Tennessee  
Tuesday, July 28, 2009**

## **Recommendation 1 and Proposed Implementing Bylaws**

### **Recommendation 1:**

**Amend the NACo bylaws to indicate that the President is the chief elected officer of the organization and that the Executive Director is the chief executive officer.**

### **Proposed Implementing Bylaws:**

#### **Article VIII, Section 2. is amended to read as follows:**

##### **Section 2. Authority of the President**

The president shall be the chief ~~executive officer~~elected official, preside at all meetings of active member counties, all meetings of the board of directors, and supervise all business of the association. He or she shall appoint members of all committees except for the audit committee and those committee members whose positions are designated by these bylaws.

#### **Article IX, Section 2. is amended to read as follows:**

##### **Section 2. Responsibilities**

The executive director shall be the chief ~~operating~~executive officer of the association. Under the general direction of the board of directors and the executive committee, he or she shall establish, maintain, manage, and generally control the executive office or offices of the association. He or she will do or cause to be done on behalf of the association all actions directed by the board of directors. He or she shall have authority generally to carry on the business of the association and to execute necessary or appropriate policies, decisions, and instructions of the board, including the approval of all contracts, vouchers, and other documents involving in any manner the disbursement of association funds. However, all contracts, vouchers, loans and other actions involving in any manner the disbursement or commitment of association funds in excess of an amount to be determined by the board of directors, shall be approved by the president and the president-elect and such information shall be promptly forwarded to the audit committee.

## **Recommendation 2 and Proposed Implementing Bylaws**

### **Recommendation 2:**

**Decrease the number of elected officers of NACo to four: the President, First Vice President, Second Vice President and Immediate Past President.**

### **Proposed Implementing Bylaws:**

**Article VI, Section 1. A. is amended to read as follows:**

- A. ~~Members of the executive committee~~Officers of the association, as specified in Article ~~VII~~VIII, Section ~~2~~1.

**Article VIII, Section 1. is amended to read as follows:**

#### **Section 1. ~~Titles and~~ Terms and Responsibilities**

The officers of the association shall be elected officials of active member counties: they shall consist of a president, ~~president elect~~, first vice president, ~~and second vice president and the immediate past president~~. Each officer (except for the immediate past president) shall be elected by those members qualified to vote pursuant to Article XII of these bylaws. Each officer shall serve a term of office of one year. They shall be responsible for the property, funds and business affairs of the association in the absence of the board of directors. They shall have and exercise all powers and authority granted by the board of directors. They may establish such positions and salary schedules as necessary to conduct the affairs of the association subject to the approval of the board of directors.

**Article IX, Section 1 is amended to read as follows:**

#### **Section 1. Appointment**

The board of directors, upon recommendation of the executive committee, shall appoint the executive director ~~and fix the salary and other compensation related to the position. The executive committee shall establish all other terms and conditions of the employment of the executive director.~~

**Article X, Section 2. A. is amended to read as follows:**

A. There shall be a finance committee consisting of thirteen persons from active member counties. One member shall be the chair of the audit committee. Three members shall be those members of the board of directors who represent the National Association of County Collectors, Treasurers and Finance Officers (NACCTFO), the National Association of County Civil Attorneys (NACCA) and the National Association of County

Administrators (NACA). Nine members, of whom two shall be county finance officers or finance directors, shall be appointed from active member counties to serve staggered three-year terms. The President of NACo shall appoint members to fill those vacancies in July of each year. The ~~President-Elect~~First Vice President shall serve as chair of the committee.

**Article XI, Section 1. is amended to read as follows:**

**Section 1. Role of the ~~Executive Committee~~Officers**

The ~~executive committee~~officers shall prepare and recommend to the board of directors an annual budget for the association for each fiscal year. This budget shall be presented in sufficient detail to permit an informed evaluation of the association's proposed programs and the staff and financial resources necessary to conduct these programs. The finance committee shall review the proposed budget and provide advice and comment regarding it to the executive committee prior to its submission to the board of directors. The budget document shall be transmitted to the members of the board of directors at least two (2) weeks prior to the last scheduled meeting of the board in each ~~calendar~~fiscal year.

## **Recommendation 3 and Proposed Implementing Bylaws**

**Recommendation 3:**

**Increase the size of the Executive Committee by adding four regional (geographic) members from among the Board of Directors and define their responsibilities.**

**Proposed Implementing Bylaws:**

**Article VI, Section 1. E. is amended to read as follows:**

E. One elected official from each regional district that has been authorized by the board and approved by the voting members (except for those regional districts created by the board of directors pursuant to Article VII, Section 2 solely for the purpose of electing regional members of the executive committee).

**Article VI, Section 7. is amended to read as follows:**

**Section 7. Indemnification and Insurance**

The association may, by resolution of the board of directors, provide for indemnification by the association of any and all of its directors, executive committee members or officers or former directors, executive committee members or officers against expenses actually and necessarily incurred by them in connection with the defense of any action,



suit, or proceeding, in which they or any of them are made parties or a party, by reason of having been directors, executive committee members or officers of the association, to the fullest extent possible under Delaware law. The association shall also be entitled to purchase and maintain insurance for such indemnification to the full extent as determined from time to time by the board of directors.

**Article VI, Section 8. is amended to read as follows:**

**Section 8. Conflicts of Interest**

- A. No director, executive committee member or other officer of the association shall receive, directly or indirectly, any salary, compensation, or emolument from the association unless authorized by the bylaws of the association, or by the affirmative vote of two-thirds (2/3) of all other directors at a duly held meeting.
- B. Each director, executive committee member and officer of the association agrees to abide by the conflict-of-interest policy as adopted and from time-to-time amended by the board of directors.
- C. Each director, executive committee member and officer of the association must complete, sign and submit a conflict-of-interest disclosure statement each year. Except at the first meeting of each new board of directors, submission of a completed and signed conflict-of-interest disclosure ~~form~~statement is a prerequisite to service on the board of directors.

**Article VII, Section 1 is amended to read as follows:**

**Section 1. Composition and Responsibilities**

- ~~A. There shall be an executive committee which shall be responsible for the property, funds and business affairs of the association in the absence of the board of directors composed of the association's president, first vice president, second vice president, immediate past president and four (4) regional members elected at regional caucuses held pursuant to Section 2. of this Article. The immediate past president is the most recent past president who is still an elected county official of an active member county.~~
- B. ~~The executive committee shall have and exercise all powers of authority granted by the board of directors. It~~The executive committee shall recommend the appointment and compensation of the executive director to the board of directors, and, subject to budget limitations established by the board of directors, shall fix the salary and other compensation related to the position, and shall establish all other terms and conditions of his or her employment. The executive committee may establish such positions and salary schedules as necessary to conduct the affairs of the association subject to the approval of the board of directors. Regional members of the executive committee shall also provide input to the President and the other officers with respect to policy and

business matters on behalf of their regions' members of the board of directors between board meetings, provide close contact with counties within their regions, keep member counties informed of association activities and assist in membership recruitment and retention in the regions.

**Article VII, Section 2. is amended to read as follows:**

**Section 2. ~~Composition~~Regional Executive Committee Members: Eligibility, Election Procedures, Terms of Office and Vacancies**

- A. ~~The executive committee shall be composed of the association's president, president-elect, first vice president, second vice president, and immediate past president. The immediate past president is the most recent past president who is still an elected county official of an active member.~~One (1) regional member of the executive committee shall be elected from each of four (4) geographic regions, from among those elected members of the board of directors who represent the states in each region.
- B. Elections of regional executive committee members shall occur during regional caucuses held each year immediately following the organizational meeting of the board of directors and at such other times as necessary to fill vacancies. The states comprising each region shall be determined by the board of directors prior to the regional caucuses, and may be changed by the board from time to time. Members of the board of directors from each state shall caucus with members of the board of directors from other states within the same region; however, each state is allowed only one vote during each regional executive committee member election ballot. The board of directors may establish such other rules regarding regional executive committee elections not in conflict with these bylaws.
- C. A past president of the association is ineligible to serve as a regional member of the executive committee; however, he or she may participate in regional caucuses in all other respects.
- D. A regional member of the executive committee may not be elected from a state that is the home of a current officer of the association.
- E. The term of office for a regional member of the executive committee is two (2) years. There are no limits on the number of terms a regional member of the executive committee may serve.
- F. Vacancies occurring among the regional members of the executive committee shall be filled for the unexpired term by the same regional caucus that originally elected him or her. A regional caucus to fill the unexpired term of a regional member of the executive committee shall be held before the next regularly-scheduled meeting of the board of directors, under such rules as the board of directors may prescribe.
- G. This subsection applies to initial elections for regional executive committee members to be held in July, 2009. The board of directors shall select two (2) regions by lot. The regional executive committee members elected from the two (2) selected regions shall serve initial terms of two (2) years each, while the

regional executive committee members elected from the two (2) regions not selected shall serve initial terms of one (1) year each. Subsequent terms for regional executive committee members elected from those two (2) regions shall be for two (2) years. Except for subsection E of this Section, all other provisions of this Section pertaining to the election of regional executive committee members remain applicable. This subsection expires on July 31, 2009.

**Article XI, Section 4. is amended to read as follows:**

Section 4. Expense Reimbursements for Officers, Executive Committee Members, Directors and Staff

The budget may include sums sufficient for reimbursement of actual, reasonable expenses, as follows:

Officers and Staff: For all official duties.

Executive Committee Members and Directors: For official duties other than attending regular meetings of the association and of the board of directors.

All expense reimbursements shall be reported quarterly to the board of directors by name of payee, purpose of expense, and amount of reimbursement.

## **Expanded Executive Committee Regions**

On Monday, July 27, the following regions were created by the NACo Board of Directors, contingent upon the membership's adoption of the bylaws amendments contained in Proposal 3. One board member from each region will be elected by regional caucus to membership on an expanded Executive Committee.

### **West Region:**

Alaska, Hawaii, Washington, Oregon, California, Idaho, Nevada, Montana,  
Wyoming, Utah, Colorado, Arizona, New Mexico, North Dakota, South Dakota  
(15 States; 2008 population: 72,300,623)

### **Central Region:**

Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana,  
Oklahoma, Ohio, Michigan  
(11 States; 2008 population: 68,758,134)

### **South Region:**

Texas, Louisiana, Mississippi, Kentucky, Tennessee, Alabama, South Carolina,  
Georgia, Florida, Arkansas, Virginia, North Carolina  
(12 States; 2008 population: 99,163,198)

### **Northeast Region:**

Maine, New Hampshire, Massachusetts, New York, Pennsylvania, New Jersey,  
Delaware, Maryland, West Virginia, District of Columbia,  
(10 States, including D. C.; 2008 population: 58,664,459)

## Expanded Executive Committee Regions

**West Region:** Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The region contains 15 states, with a population in 2008 of 72,300,623 and with 544 NACo member counties.

**Central Region:** Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, and Wisconsin. The region contains 11 states, with a 2008 population of 68,758,134 and with 669 NACo member counties.

**South Region:** Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. The region contains 12 states with a 2008 population of 99,163,198 and with 959 NACo member counties.

**Northeast Region:** Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and West Virginia (note that Vermont, Connecticut and Rhode Island would also be a part of the Northeast Region, but do not have NACo members). The region contains 10 states (including DC), with a 2008 population of 58,664,459 and with 195 NACo member counties.



**FINAL REPORT AND RECOMMENDATIONS**  
**NACo Task Force on Governance and Structure**  
**May 2009**

**INTRODUCTION**

The NACo Task Force on Governance and Structure was appointed by President Don Stapley immediately after he took office at the Annual Conference in Jackson County, Missouri, in July, 2008. The Task Force is composed of 25 members from 21 states. A membership roster is attached to this report.

As you recall, President Stapley created the Task Force in response to recommendations that had been sent to him by member counties in Minnesota and Virginia in the form of proposed bylaws amendments. **Under the NACo bylaws, as few as ten member counties from just five states can submit proposed bylaws amendments that then must be voted upon by the NACo membership at the Annual Conference. If he had not created the Task Force, those recommendations would have gone to the full membership last July in Jackson County without any opportunity for discussion and review.** The author of the amendments graciously agreed to withdraw them so that a Task Force could fully evaluate them, improve upon them, eliminate some and suggest others, if appropriate.

The Task Force held its first meeting in San Diego County on October 2, 2008. The all-day meeting was chaired by San Diego County, California, Supervisor Greg Cox and was facilitated by Valsin A. Marmillion of Marmillion + Associates (as were all subsequent meetings), and covered a wide range of issues. Members actively participated and contributed to the discussion. The task force chose to work by consensus; thus, votes were not taken at that meeting on any proposed recommendation.

The Task Force met again by conference call on November 20, 2008. During that meeting, a draft preliminary report was discussed, amended and approved by the Task Force. It was presented to the Board of Directors at its meeting in Maricopa County, Arizona, on December 10, 2008. Using breakout sessions, the board had the opportunity to make comments and suggestions regarding the report and recommendations. With those comments and suggestions in hand, the Task Force met again by conference call on February 17, 2009. Further suggestions and amendments were made to the report. The Task Force met again during the Legislative Conference and approved a revised report. The Board of Directors made additional comments and suggestions at its meeting held during the Legislative Conference, and the Task Force met once again on April 21, 2009 to consider them. This Final Report and Recommendations includes the changes made during that meeting, and attempt to respond to questions, concerns and comments made by board members at its March meeting. **After the Board of Directors acts on the report at its WIR meeting in May, bylaws amendments and other documents that are necessary to implement the recommendations will be drafted for review by the Board of Directors at its Annual Conference meeting in Davidson County, Tennessee, in July.** Ultimately, the membership will vote on any bylaws amendments at the 2009 Annual Conference.

The Task Force focused on three major areas: leadership selection, leadership authority, and organizational issues. To aid in its work, the Task Force reviewed the results of a detailed opinion survey that was sent to 208 persons – all members of the Board of Directors, all state association executive directors, all steering committee chairs and vice chairs and all past presidents not currently on the Board of Directors. Over 100 persons responded to the survey.

## **TASK FORCE RECOMMENDATIONS THAT DO NOT REQUIRE BYLAWS AMENDMENTS (1 – 7)**

### **1. DURATION AND COSTS OF CAMPAIGNS FOR NACo VICE PRESIDENT**

**RECOMMENDATION:** The task force recommends that candidates for the position of Second Vice President:

- notify the NACo President in writing of his or her intent to run for NACo Second Vice President between January 1 and January 31 of the year of the election;
- include in that letter a resume or other description stating how the candidate's background and experience meets or exceeds the certification requirements established by the Board of Directors;
- voluntarily agree to limit non-travel-related campaign expenses to no more than \$25,000;
- agree to complete a candidate certification questionnaire as adopted by the Board of Directors; and
- agree that campaigning, and spending campaign funds, would be restricted to the period beginning on the first day the Legislative Conference and ending on the day of the election at the Annual Conference.

The Task Force also recommends that:

- all candidates' letters of intent and completed questionnaires be published in a February edition of *County News* and posted on the NACo Web site; and
- each candidate for NACo Second Vice President be introduced at a Legislative Conference general session and be allowed to briefly address the delegates.

**RATIONALE:** This recommendation stems from concerns about the duration and cost of campaigns for Second Vice President. The Task Force believes that those campaigns have become too expensive and too long and that these factors discourage many potential candidates from running for NACo office. The Task Force also believes that shorter campaigns and voluntary spending limits would solve this problem. Enforcement of the spending limitation should be voluntary because the association lacks an effective enforcement mechanism. The candidates would be asked to sign a "good faith" pledge agreeing to the campaign duration and spending limitations.

THESE RECOMMENDATIONS WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS; RATHER, THEY COULD BE IMPLEMENTED BY A POLICY ADOPTED BY THE NACo BOARD OF DIRECTORS.

### **2. ELECTION CHALLENGES**

**RECOMMENDATION:** Specify the procedure for challenging an election at the Annual Conference Business meeting.

A simple procedure for challenging an election at the Annual Conference Business Meeting would be to require a time interval of at least thirty minutes between the time the last state's member counties cast their votes and time the results of the election are announced. The President would ask if there are any objections and/or challenges, and then require the challenger (a voting delegate) to state the reasons for such objection or challenge.

**RATIONALE:** The purpose of this recommendation is to avoid the confusion that surrounded the outcome of the election held at the NACo Annual Conference in Richmond in 2007.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS, BUT RATHER COULD BE ADOPTED AS PART OF THE ELECTION RULES.**

**3. NACo AFFILIATE ORGANIZATIONS**

**RECOMMENDATION:** Review the current criteria established for recognizing affiliate organizations.

**RATIONALE:** Such a review would insure that all currently recognized affiliates continue to meet the existing criteria.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS, BUT COULD BE DONE BY STAFF, WITH APPROVAL OF THE BOARD OF DIRECTORS.**

**4. STEERING COMMITTEE CHAIRS AND VICE CHAIRS**

**RECOMMENDATION:** Develop guidelines, to be approved by the Board of Directors, for the presidential appointments of steering committee chairs and vice chairs.

**RATIONALE:** The Task Force believes that guidelines would be of assistance to the NACo President and would encourage leadership rotation and would also encourage broader participation in leadership positions. The President would continue to have the final decision regardless of the guidelines.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS. A COMMITTEE COMPOSED OF THE 11 STEERING COMMITTEE CHAIRS, WITH THE ASSISTANCE OF THE LEGISLATIVE AFFAIRS STAFF, WOULD BE TASKED WITH DEVELOPING THE RECOMMENDATION FOR APPROVAL BY THE BOARD OF DIRECTORS.**

**5. ADMINISTRATIVE PROCEDURES MANUAL**

**RECOMMENDATION:** Direct NACo staff to compile and publish an Administrative Procedures Manual for adoption by the board of directors.

**RATIONALE:** Procedures for applying for an appointment to a NACo steering or standing committee, credentials procedures, voting procedures and the NACo policy process currently are found in separate documents. They should be restated and published in an Administrative Procedures Manual and made easily available to members and interested persons.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BY-LAWS, BUT COULD BE DONE BY STAFF FOR RECOMMENDATION TO THE BOARD OF DIRECTORS AT ITS DECEMBER 2009 MEETING.**

**6. BOARD OF DIRECTORS RESPONSIBILITIES**

**RECOMMENDATION:** The Board of Directors should review the existing guidelines, expectations, and responsibilities for members of the NACo Board of Directors, modify them as necessary, and reaffirm them.



**RATIONALE:** The Task Force believes it is timely to review and update the existing guidelines for the Board of Directors.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS, BUT COULD BE DONE BY RESOLUTION OF THE BOARD OF DIRECTORS.**

## **7. STEERING COMMITTEE ACTIONS AND VOTES**

**RECOMMENDATION:** Revise the process for reporting actions and votes taken by steering committees, to require that minority votes be reported to the Board of Directors sitting as a resolutions committee, and permitting a minority report if there is a “substantial voting minority”. A “substantial voting minority” is defined as 25% of those present and voting.

The Task Force also recommends that if a policy resolution is defeated or tabled in the steering committee to which it was originally referred, then any recommendation(s) made by any other steering committee to which the policy resolution may also have been referred are moot. And, for a period of one year following its defeat or tabling, the policy resolution may only be reconsidered by the steering committee of original referral.

**RATIONALE:** The Task Force believes that, in the interests of openness and fairness, the steering committee chairs should report the committee’s vote on resolutions that do not pass unanimously.

**THIS RECOMMENDATION WOULD NOT REQUIRE AN AMENDMENT TO THE NACo BYLAWS, BUT COULD BE DONE BY RESOLUTION OF THE BOARD OF DIRECTORS.**

### **TASK FORCE RECOMMENDATIONS THAT REQUIRE BYLAWS AMENDMENTS (8 – 11)**

## **8. NACo OFFICERS**

**RECOMMENDATION:** Decrease the number of elected officers of NACo to four: the President, First Vice President, Second Vice President and Immediate Past President.

**RATIONALE:** The primary reason for this recommendation is the belief that many persons are unable to make the current five year commitment necessary to move up the chairs in the leadership structure, especially for county officials in counties with term limits. This change would allow more county officials to consider running for NACo office.

**NACo OFFICER RESPONSIBILITIES:** The responsibilities of the NACo Officers shall be the same as stated in the existing by-laws for the existing Executive Committee. These responsibilities include: responsible for the property, funds and business affairs of the association in the absence of the Board of Directors; have and exercise all powers of authority granted by the Board of Directors; establish such positions and salary schedules as necessary to conduct the affairs of the association subject to the approval of the Board of Directors.

The other responsibility in the existing bylaws relating to “recommending the appointment and compensation of the Executive Director to the Board of Directors” would, in part, become the responsibility of the new, expanded Executive Committee as outlined in Recommendation #9 below.

THIS RECOMMENDATION WOULD REQUIRE AN AMENDMENT TO THE NACo BYLAWS: PRIMARILY ARTICLE VII. If adopted by the membership in July 2009, there would be no election for Second Vice President in 2010.

## **9. NACo EXECUTIVE COMMITTEE**

**RECOMMENDATION:** Increase the size of the Executive Committee by adding four regional (geographic) members from among the members of the Board of Directors and define their responsibilities.

**RATIONALE:** An expanded Executive Committee would provide closer contact with counties within each region, keep members in those regions better informed, and allow for membership recruitment activities and appropriate visits to in-region state association meetings by the geographic representatives. It would also allow for input from the regions regarding NACo policy and business matters between meetings of the Board of Directors. The four new members of the Executive Committee would help bridge the gap between the relatively small number of officers (4) and the large number of members of the Board of Directors (131).

**RESPONSIBILITIES:** Although not having responsibility for the day-to day policy matters of the association, the new Executive Committee could provide input to the President and the other officers with respect to policy and business matters on behalf of their regional members of the Board of Directors between Board meetings. They would meet with the officers at the Legislative Conference, the Western Interstate Region Conference, the Annual Conference and the fall board meeting. This would not be an additional expense to NACo, since they would be attending the Board of Directors meetings anyway. Other meetings could take place at the call of the President by conference call. If additional face-to-face meetings were required, the association would reimburse the travel expenses of the regional members of the Executive Committee.

If asked to attend state association or other meetings by the President on behalf of NACo, the regional members of the Executive Committee would also be reimbursed for their travel expenses for those activities.

The new Executive Committee would recommend the appointment of the Executive Director to the Board of Directors. Rather than recommending the compensation of the Executive Director to the Board of Directors, the new Executive Committee would act as a "compensation committee" that would review and set, subject to budgetary approval, the compensation of the Executive Director each year. This practice is in keeping with practices in other associations that have large boards like NACo's.

**ELECTION OF REGIONAL EXECUTIVE COMMITTEE MEMBERS:** The Regional Members of the Executive Committee would be elected by caucuses of members of the Board of Directors from each of the four geographic regions. A Past President of NACo would not be eligible for election as a regional member of the Executive Committee, but would be eligible to caucus with his or her respective region.

The Regional Executive Committee election process would be as follows:

- The board members from the states comprising each region would caucus immediately following the conclusion of the organizational meeting of the Board of Directors at the 2010 Annual Conference.

- Each board member from a region is entitled to vote for their regional representative on the Executive Committee.
- Any board member from the region may nominate any other board member from the region who is an elected official (except current officers and NACo Past Presidents).
- If there are more than two nominees, after each ballot the nominee with the lowest number of votes will be dropped from subsequent ballots.
- Voting will be by secret ballot.
- Election is by majority vote of the board members present and voting.
- Terms of regional executive committee members are for one year.
- There are no limits on the number of terms regional executive committee members may serve.

**COMPOSITION OF THE FOUR REGIONS:** The Board of Directors will make the final determination of the states that comprise the four regions, a decision that must be made prior to the organizational meeting of the Board of Directors at the 2010 Annual Conference. The Task Force makes no recommendation on regional state composition, but suggests that several factors could be considered, including the population of the states, the number of member counties per state, the population of member counties in each state and the number of board members that represent each state. The Task Force also thinks it would be desirable to maintain the integrity of the Western Interstate Region and, possibly, the Northeast Counties Caucus.

**THIS RECOMMENDATION WOULD REQUIRE AMENDMENTS TO THE NACo BYLAWS: PRIMARILY ARTICLE VII.**

## **10. CANDIDATE CERTIFICATION REQUIREMENTS**

**RECOMMENDATION:** The NACo Board of Directors should establish the certification requirements for potential candidates for NACo office.

**RATIONALE:** This recommendation would apply to candidates for Second Vice President under Recommendation 8. The only current function of the NACo Nominating Committee is to determine whether or not a candidate for NACo office is an elected official from a member county (Article VIII, Section 6). The Task Force recommends that the board establish objective candidate certification requirements that reflect such matters as each candidate's prior service with NACo and whether or not the candidate has the support of his or her home county board and/or state association.

**PROCESS:** A candidate questionnaire should be developed and used as a method for assembling this information. The Nominating Committee would review candidates' completed questionnaires after receipt of candidates' letters of intent, which must be submitted prior to the Legislative Conference each year. Nominations could still be made from the floor at the Annual Conference. Further, if the Nominating Committee determined that a candidate did not meet all of the certification requirements, that would not prevent a candidate from continuing to seek election.

**THIS RECOMMENDATION WOULD REQUIRE AMENDMENTS TO THE NACo BYLAWS: ARTICLE VIII AND ELSEWHERE.**

## **11. CHIEF ELECTED OFFICER AND CHIEF EXECUTIVE OFFICER**

**RECOMMENDATION:** Amend the NACo bylaws to indicate that the President is the chief elected officer of the organization and that the Executive Director is the chief executive officer.

**RATIONALE:** The bylaws now state that the President is the chief executive officer and that the Executive Director is the chief operating officer. This change would clarify the proper roles of the two positions.

THIS RECOMMENDATION WOULD REQUIRE AN AMENDMENT TO ARTICLE VIII, SECTION 2 AND ARTICLE IX, SECTION 2 OF THE BYLAWS.

### **TIMELINES, EFFICIENCIES AND COST SAVINGS**

**BYLAWS AMENDMENTS:** For those recommendations that require amendments to the bylaws, proposed amendments would be recommended to the NACo President by the Task Force (sitting as a presidentially-appointed Bylaws Review Committee). They would then be reviewed by the Board of Directors at its Annual Conference meeting in Davidson County, Tennessee in July, 2009. The board is not required to approve proposed amendments, but is required to review them.

Bylaws amendments would then be voted upon by the membership at the Annual Conference in Davidson County, Tennessee in July 2009. If adopted, the changes would take effect in time for elections at the 2010 Annual Conference.

**POLICY CHANGES:** For those recommendations that require staff and/or Board of Directors action, most could be completed in time for the fall Board of Directors meeting in December 2009, or earlier if directed.

**EFFICIENCIES AND COST SAVINGS:** Staff will prepare notes on the efficiencies and cost savings for Task Force and Board review at the WIR meeting in May 2009.



## MEMORANDUM

TO: CSAC Executive Committee

FROM: Waterman & Associates

CC: Paul McIntosh, CSAC Executive Director  
Karen Keene, CSAC Deputy Director of Federal Affairs

DATE: August 5, 2009

SUBJECT: Issues Update – CSAC 2009 Federal Legislative Priorities

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With a little under three months remaining in the first session of the 111<sup>th</sup> Congress, Democratic congressional leaders have marshaled a significant portion of their Party's agenda through various stages of the legislative process. To date, committee and/or floor action has been completed on a number of high-profile issues, including health care reform, climate change and renewable energy legislation, and the fiscal year 2010 budget.

Despite making considerable progress in advancing their priorities, Democratic leaders will be hard pressed to complete action on their agenda prior to this year's target adjournment date. In reality, there are only 40 legislative days remaining on the current legislative schedule, meaning lawmakers will have little time upon returning from the summer recess to reach consensus on health care reform and other major issues.

Below is a status report on CSAC's federal legislative priorities for 2009.

### HEALTH REFORM

In the House, the three committees with jurisdiction over health care reform have completed their work, using one bill (HR 3200) as the primary template. In order to ensure that the measure would clear his panel, Energy and Commerce Committee Chairman Henry Waxman (D-CA) agreed to reduce subsidies given to individuals to purchase insurance and to require a public plan to negotiate rates with providers instead of pegging them to rates slightly higher than Medicare. The modifications were necessary to win the support of several fiscally conservative Democratic members of the E&C Committee.

Faced with little to no Republican support for HR 3200, House Democratic leaders must craft a compromise between the 51-member conservative Blue Dog Coalition and the 60 members of the liberal wing of the Party in order to ensure passage of the bill on the House floor. Those discussions will likely come to a head this fall as House Democrats ready the legislation for floor consideration.

Across Capitol Hill, a bipartisan group of six senators has been meeting around-the-clock in an attempt to craft a Senate Finance Committee health reform bill that could garner some level of Republican support. The Finance Committee has jurisdiction over Medicare and Medicaid, and has the authority to raise revenues to pay for health reform. At this point, no announcement of a Senate Finance agreement, if any, is expected until September.

Once Congress returns from the August recess, county health reform issues will continue to revolve around the expansion of Medicaid to low-income individuals not previously eligible and the protection of the disproportionate share payment program (DSH) to hospitals serving large numbers of Medicaid and medically-indigent individuals.

#### **CLIMATE CHANGE-RENEWABLE ENERGY**

In late June, the House narrowly approved comprehensive global warming legislation (HR 2454), handing President Obama and House Democratic leaders a key victory. The centerpiece of the bill is a proposed cap-and-trade system whereby companies that emit greenhouse gases would have to reduce their pollution output or buy emissions allowances.

The bill also would require utilities to produce 15 percent of the nation's electricity from renewable energy sources by 2020, with another five percent of energy savings coming from improved efficiency. States could petition to bring the renewable energy standard down to 12 percent, with eight percent achieved through efficiency measures.

In the Senate, Environment & Public Works (EPW) Committee Chairwoman Barbara Boxer (D-CA) is working with moderate Democrats in an effort to forge a compromise cap-and-trade measure. The EPW Committee is expected to mark up a bill in September, which would likely be combined with the draft renewable energy package that was approved by the Senate Energy and Natural Resources Committee.

#### **STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

In a major victory for California's counties, the House approved on June 16 an amendment to the fiscal year 2010 Commerce-Justice-Science (CJS) Appropriations bill (HR 2847) that restored the legislation's funding for the State Criminal Alien Assistance Program (SCAAP). The amendment – championed by Congressman Mike Honda (D-CA) – added \$100 million in SCAAP funding to HR 2847. As passed by the House, the bill would provide \$400 million for SCAAP, or level funding.

Across Capitol Hill, the Senate Appropriations Committee approved its version of the fiscal year 2010 CJS spending measure in late June. The bill includes \$228 million for SCAAP, or a proposed \$172 million reduction. Notably, the Senate, due to a variety of factors, has traditionally approved a lower funding figure for SCAAP. Differences over the House and Senate CJS spending bills will be reconciled in a conference committee later this year.

## **REAUTHORIZATION OF SAFETEA-LU**

It appears increasingly likely that a new multi-year highway and transit bill will be put on hold as transportation leaders in the Senate and the Obama administration push for an 18-month extension of SAFETEA-LU. Although transportation leaders in the House continue to insist on the need to approve a six-year package worth \$500 billion, there will be little time this fall for lawmakers to hammer out an agreement on how to finance the new transportation spending.

On a related matter, in late July Congress approved legislation (HR 3357) – which is awaiting President Obama’s signature – that would transfer \$7 billion from the General Fund to the Highway Trust Fund (HTF) to keep the HTF solvent through the end of fiscal year 2009. The infusion of cash is necessary due to depleting revenues flowing into the trust fund.

## **INDIAN GAMING**

It remains unclear if Congress will exercise its legislative authority in an attempt to bring legal clarity to the recent U.S. Supreme Court decision in *Carciari v. Salazar*. Under the Court’s holding, the authority of the Secretary of Interior to take land into trust for tribes extends only to those tribes under federal jurisdiction in 1934, when the Indian Reorganization Act was enacted.

Because the Court did not define the term “under federal jurisdiction,” some observers expect Congress to consider legislation that would clarify the *Carciari* decision. The U.S. Department of Interior also is expected to review regulatory options for clarifying the law.

## **FUELS MANAGEMENT**

Earlier this year, the House approved legislation (HR 1404) that would create a separate fund for suppressing large-scale wildfires. Under the bill, funds would be made available to the U.S. Departments of Interior and Agriculture to pay for the costs of catastrophic wildland fire suppression activities that are separate from amounts appropriated for the predicted annual workload for such activities. The measure has been referred to the Senate Energy and Natural Resources Committee.

On a related matter, to date, there has been no movement on Senator Dianne Feinstein’s (D-CA) Fire Safe Communities Act (S 762). The bill, among other things, would provide enhanced federal funding for firefighting and emergency expenses for communities that implement a nationally recognized wildland fire code or have mandated the retrofit of structures known to be vulnerable to wildfire. The legislation also would create a \$25 million grant program to assist local communities in implementing activities and policies of nationally recognized wildland fire codes and standards.

## **SHORT-TERM CASH FLOW BORROWING**

With the U.S. Department of the Treasury earlier this year deciding against the creation a local government credit market stabilization program, the focus has shifted to Capitol Hill, where the House Financial Services Committee may consider a package of municipal bond-related legislation sometime later this year. Although the Treasury Department has not completely ruled tapping the Troubled Asset Relief Program (TARP) to assist states and localities during the economic downturn, it does not appear likely that the Obama administration will extend TARP assistance to public instrumentalities.

We hope this information is useful to you. If you have any questions, please feel free to contact us.



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## **CSAC Institute Update**

CSAC Executive Committee

20 August 2009

### **14 Courses; 183 Participants**

As of 20 August, the CSAC Institute will have offered 14 courses for county supervisors and senior executives. To date 183 county officials have attended at least one Institute course and many have attended multiple courses. Several county supervisors and county executives are working on their CSAC Institute Credential and have attended most of the Institute courses offered!

### **Full Semester of 19 Courses**

The Institute is in the midst of the Summer/Fall Semester with 19 courses planned for July through December, 2009. This semester includes four courses offered in Southern California locations and four courses offered in conjunction with the CSAC Annual Conference in November. Courses cover practical knowledge competencies in such areas as labor negotiations, capital finance, performance measurement, and meeting management. They also cover important leadership competencies such as coping with ambiguity, values-based leadership, negotiations, and organizational leadership.

### **Courses Highly Rated**

Every institute course is rated at the end of the class. On a six-point scale (with six being excellent), the overall rating of the courses offered through July has been a very positive 5.4. The Institute has placed a great deal of emphasis on selecting and preparing outstanding instructors which is reflected in the overall instructor rating of 5.6.

Institute courses are coordinated through three excellent institutions along with the CSAC Institute staff. The institutions include:

- ◆ **USC-State Capitol Center School of Public Policy Planning and Development and the Marshall School of Business**
- ◆ **Sacramento State University Center for California Studies**
- ◆ **Institute for Local Government**

### **Outstanding Feedback from Participants**

The feedback from participants addresses the value of the Institute to California Counties:

I was planning to write to you over the weekend, to congratulate you on your work. When I reviewed the binder on Wednesday evening I was kicking myself at failing to bring some of my staff and for not pushing our CAO to have staff there. Now, having seen the program, feel stronger about that and also am looking at your other programs for the same purpose. You have something really good going here and you know how to deliver a quality product. Your program is badly needed. Our County Counsel internal education programs are specific and technical. The CSAC conferences are policy level and more advocacy than education. Your program fills a gap that is practical and interdisciplinary. Thanks for the opportunity to be



there and participate. Keep up the good work. – Richard E. Winnie, County Counsel, County of Alameda

This is the second course in a row that was excellent and well worth the time. – Rick Haffey, CEO, Nevada County

Another awesome, cutting edge, CSAC seminar! (county manager)

I now have the right questions to ask that will help our county planning process. – Supervisor Tom Sweeny, Alpine County

Yes, Absolutely valuable. In addition to being timely, it effectively helped in “seeing the forest for the trees” relative to state-county financing. – Kevin Carunchio, CEO, Inyo

Absolutely valuable. Incredible knowledge gained on history of county finance by a well-informed presenter. Makes current budget problems easier to understand – Supervisor Margie Barrios, San Benito

The instructors were very knowledgeable and seemed to really enjoy teaching the course content, which is important from a learner’s perspective. They also tried to get us to think more proactively about the role of counties in bringing people together to work on issues that involve many, many stakeholders, and in explaining the sometimes long and conflict-ridden democratic process to the public. – Reyna Farrales, Deputy County Manager, San Mateo County

#### **Participation from Senior County Staff and Corporate Associates**

The Institute is successfully integrating qualified instructors from county executives and corporate associates. CSAC Financial Corporation brought in a number of its private-sector members for the “County Finances” course. Corporate associate Liebert Cassidy Whitmore along with the Institute for Local Government produced the very timely “Labor Relations in Local Government” course. Institute staff is working with Vanir Corporation and several senior county staff to produce the upcoming “Capital Improvement Planning” and “Project Management” courses.

#### **Continue to Spread the Word**

As with any new opportunity, the key is making supervisors and senior staff aware of the Institute and the value of the courses. Word of mouth is spreading news about the Institute as are e-mail blasts and other communications. The Institute maintains a website for detailed information and registration at [www.csacinstitute.org](http://www.csacinstitute.org).

## 2009 SUMMER/FALL COURSE SCHEDULE

### JULY

#### 153 Labor Relations in Local Government – *The UnCOLA: Negotiating Contract Changes*

How do you approach labor to change contracts? Why do employee costs continue to rise, even when COLA's are limited? This course examines the basics of labor negotiations and renegotiations, keys to concession bargaining, unfair practices, and employee benefits. Participants explore the Board role versus staff in negotiations, negotiating layoffs and furloughs, and strategies for negotiating contract changes and limiting contract costs. The class also examines the techniques for maintaining the ongoing relationships with employee organizations.

Friday, 10 July 2009 10:00–3:00  
Sacramento • \$75/member • 3 credits • Board/Execs

#### 154 County Finances: *It's A Whole New World*

The world of financing California counties has changed dramatically in the last year. Some traditional methods remain, others are less productive and new methods are becoming available. This class will unravel the mysteries of bonds, securitization, trans, notes, credit swaps, derivatives, pension obligation bonds and examine where counties should be concerned; how have the markets and options changed; and what's in the future for county financing?

Thursday, 23 July 2009 10:00–3:00  
Sacramento • \$75/members • 3 credits • Board/Execs

### AUGUST

#### 150 Local Governance in California

California has a complex system of providing state, federal and local services through local governments. It is often difficult to understand or explain the broad responsibilities counties have to provide a vast range of often unrelated services. This course provides an overview of government structure and responsibilities in California with a focus on how it relates to counties.

Thursday, 13 August 2009 10:00–3:00  
San Diego • \$75/members • 3 credits • Board/Execs

#### 351 Managing Effective Meetings

Dread the thought of chairing – or attending – another meeting? This class will help you make meetings more productive and valuable. Whether you are the chair or a participant this course will provide you with techniques and tips for making effective use of meetings: preparing agendas and people, moving the agenda, follow up, managing distractions and dealing with difficult situations and people ... and more. Counties spend a lot of resources at meetings. This class will help you make them constructive.

Friday, 14 August 2009 9:00–12:30  
Sacramento • \$50/members • 2 credits • Board/Execs

#### 357 When Bad Things Happen

How well are you prepared for the unexpected? Most counties are ready for natural disasters. This course explores the

strategies when unanticipated crises occur that directly affect or are a result of county operations: death or resignation of elected or appointed officials, neglect in oversight, mistakes, fiscal emergency, and others. Strategies for planning, recovery, media and community relations, handling protests, and related issues are discussed.

Thursday, 20 August 2009 10:00–3:00  
Sacramento • \$75/members • 3 credits • Board/Execs

### SEPTEMBER

#### 155 Capital Improvement Planning and Financing

You've heard about "CIP." This class will help you better understand what it is, how they are developed, management of CIP programs, funding sources, and what questions you should be asking. The class is an in-depth examination of an important aspect of county capital improvements.

Friday, 11 September 2009 10:00–3:00  
Sacramento • \$75/members • 3 credits • Board/Execs

#### 356 Negotiation and Collaboration in Complex Environments

Negotiation and collaboration in the public sector is difficult at best, but there are effective approaches you can employ with intergovernmental, labor, community groups and other negotiations to get results. This course is designed for senior staff and focuses on the strategies and techniques to negotiate agreements and collaborate together on problem solving when easy solutions don't work.

Thursday, 24 September 2009 10:00–3:30  
Sacramento • \$75/members • 3 credits • Board/Execs

### OCTOBER

#### 370 Performance Measurement

This class provides an overview to performance measurement and its techniques to measure and share with community on what citizens are getting for their money. The class highlights the benefits and costs of performance measurement, how it can be of value to counties, how to design and implement a measurement system, and the pitfalls to avoid. The session also examines resources available, such as the ICMA Center for Performance Measurement.

Friday, 2 October 2009 10:00–3:30  
Sacramento • \$75/members • 3 credits • Board/Execs

#### 120 The Art & Practice of Organizational Leadership

This interactive course explores the art and practice of leadership in helping create a high-performing county organization, especially in tough financial times. Topics include key practices in formal and informal leadership, particularly in promoting change; employee engagement and team-building strategies; leadership when you are not in charge; and techniques for developing a vital workplace culture that supports organizational members.

Friday, 9 October 2009 10:00–3:30  
San Diego • \$75/members • 3 credits • Execs



To register for classes please visit: [www.csacinstitute.org](http://www.csacinstitute.org)

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### 372 Problem Solving and Process Improvement

Before throwing more people and resources at a problem, try some proven techniques in problem solving and process improvement. Counties are often faced with complex and cumbersome processes and procedures. You know it could be better, but you're not sure where to start. This course examines a step-by-step approach to process improvement. Agencies have found amazing results; often seedling up processes such as records processing and building permits while at the same time reducing costs and staff. With the financial and staffing challenges facing counties today, part of the answer may come from more efficient processes.

Friday, 23 October 2009 10:00-3:30  
Sacramento • \$75/members • 3 credits • Board/Execs

## NOVEMBER

### 151 Financing California Counties

Have you found yourself overwhelmed trying to understand the financial reports from county programs? Or worse yet, trying to explain county finances and revenues to your constituents? This course provides an in-depth examination of the federal, state and local county funding sources and how those funds are typically spent. The class explores county discretionary levels with key funding sources and how the funds may be spent. Participants discuss various methods to communicate the challenges of county finances to the community.

Friday, 6 November 2009 10:00-3:30  
Ventura • \$75/members • 3 credits • Board/Execs/Staff

## COURSES AT CSAC ANNUAL CONFERENCE

### 122 Values-Based Leadership: Strategies for Success In Public Service

Understanding the relationship of values to decisions can be a helpful decision-making tool. Focusing on commonly held (although sometimes competing) values underlying difficult policy dilemmas can help leaders bridge differing perspectives—either while policies are being debated or after difficult decisions have been made and need to be explained. In addition, clearly articulated organizational values provide staff with important information on an organization's priorities. This course explores the role values play in both personal and organizational leadership, strategies to consider in modeling organizational values, and approaches to making and explaining difficult decisions.

Monday-Tuesday, 16-17 November 2009  
Monday 1:00-4:30; Tuesday 8:30-noon  
Monterey • \$75/members • 3 credits • Board/Execs

### 140 Interpersonal Effectiveness: Why Won't They Change for Me?

The key to interpersonal effectiveness – and improving your interaction with others – is better understanding yourself. Effective elected officials and senior executives have discovered that the more they understand their reactions to others, know how to capitalize on their personal strengths, are able to exude an air of confidence, and have the ability to adopt their behavior to meet the needs of others – the more effective they become in achieving results with others. Learn how in this lively and insightful class.

Tuesday, 17 November 2009 9:30-noon  
Monterey • \$25/members • 1 credit • Board/Execs

### 375 Coping with Ambiguity: Leadership for Challenging Times

Counties operate in complex and changing environments. Within these unpredictable economic contexts and unprecedented challenges, county leaders find themselves trying to make past practices and models fit current realities. But that may be a mistake in coping with ambiguity. This class provides a new way to think about applying leadership practices – at both elected and senior executive levels – to help your county organization and community find new realities and ways of effectively working in uncertain times.

Thursday, 19 November 2009 1:30-5:00  
Monterey • \$50/members • 2 credits • Board/Execs

### 359 Beyond the Brochure: Recruiting & Hiring Senior Executives

How do counties attract and hire the best senior staff? This course is designed for county supervisors and human resource staff responsible for recruiting senior executive such as the CAO, county counsel and department directors. You can use a recruiter, but still how do you know it's the best person for the job? The class examines techniques to market your opening, determine cultural fit; assess skills; and go beyond references.

Friday, 20 November 2009 8:30-11:30  
Monterey • \$50/members • 2 credits • Board/Execs

## DECEMBER

### 309 Shaping Federal Legislation, Regulations and Rule Making

How are laws and rules made in Washington that affect counties? How California counties can lobby in Washington and make a difference with both Congress and federal agencies in rule making. This class will introduce you to the basics of federal law and rule making and provide tips and contacts for making your counties' voice heard in Washington ... even when you don't have a lobbyist!

Thursday, 10 December 2009 9:00-12:30  
Sacramento • \$50/members • 2 credits • Board/Execs

### 140 Interpersonal Effectiveness: Why Won't They Change for Me?

See previous description.

Thursday, 10 December 2009 1:00-3:30  
Sacramento • \$25/members • 1 credit • Board/Execs

### 373 Project Management

Help make those projects come in on schedule and within budget with the techniques presented in this class. Ideal for project managers, this course explores the basic tools for managing county projects: planning tools, establishing and leading project teams (especially when you don't supervise the team members), problem solving tools, and techniques for managing projects in complex, multi-year environments.

Friday, 11 December 2009 9:00-3:00  
Sacramento • \$75/members • 3 credits • Execs

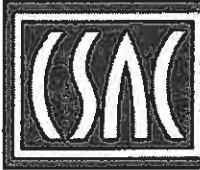
### 370 Performance Measurement

See previous description.

Thursday, 17 December 2009 10:00-3:30  
Southern California • \$75/members • 3 credits • Execs

To register for classes please visit: [www.csacinstitute.org](http://www.csacinstitute.org)

UPDATED 20 June 2009



## CALIFORNIA STATE ASSOCIATION OF COUNTIES FINANCE CORPORATION

August 20, 2009

**To:** CSAC Executive Committee

**From:** Tom Sweet, Executive Director, CSAC Finance Corporation

**RE: Finance Corporation Program Update  
INFORMATION ITEM**

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The following are highlights of the numerous programs that the CSAC Finance Corporation offers to your counties:

### **CalTRUST**

- On August 4<sup>th</sup> the CalTRUST Board of Trustees held a meeting. Paul McDonnell, Chief Financial Officer of Riverside County tendered his resignation. Two new trustees were appointed to the board; Don Kent, Treasurer-Tax Collector of Riverside County and John Colville, Senior Investment Officer of City of Sacramento.
- A new Money Market Fund has been established for the CalTRUST pool and will be launched on September 1<sup>st</sup>. The new Fund provides a third active account option, in addition to the short and medium term accounts, and provides more flexibility as it allows for same-day liquidity.
- CalTRUST currently has 73 participants and current assets exceed \$575 million.

### **California Communities**

- A partial closing of the TRANs pool was celebrated on July 1st. A total of \$202,300,000 was closed for the following stand-alone issuances; City of Fresno, County of Monterey, County of Mendocino, County of Tulare. On July 28, the closing for Riverside County was celebrated for a total of \$293,000,000. Stand-alone issuances for Butte County and City of Stockton are currently in progress.
- AB 811 Renewable Energy program will be delayed past the original rollout date of Summer, 2009 due to issues concerning two main areas. The first being the need for additional credit due diligence necessary for protecting homeowners and bond investors. The second relates to more study regarding costs and debt service requirements.
- California Communities will be very involved with the securitization of the Prop 1A portion of the budget agreement.

### **U.S. Communities**

- U.S. Communities has issued a clarification regarding a number of news reports about investigations by several states' attorney general where the U.S. Communities program has been mentioned. U.S. Communities is not the target of any investigation by any attorney general. In its response to reporters' questions, Office Depot referenced its involvement in "the U.S. Communities program" and that reference was picked up in the media coverage. In reality, Office Depot has been included in four recent audits and all indicated little or no price inaccuracies. Any inaccuracies that were found were quickly corrected and the customer credited back the minimal overcharges.
- Autozone has announced greater discounts for U.S. Communities participants. Effective July 20th, they will provide a discount of 20% off Autozone best zone pricing.

### **Nationwide Retirement Solutions**

- Maria Pe, Assistant Treasurer-Tax Collector, San Diego County, was appointed by Valerie Brown to serve on the NACo Deferred Compensation Committee. Maria manages San Diego County's deferred compensation programs.

**General Information**

- The CSAC Finance Corporation and California Communities offered 4 full tuition scholarships to the Berkeley Executive Seminar. Scholarships were announced via email and have been awarded to: Allison Picard, Human Resources Director Kings County; Pat Wright, Assistant Auditor-Controller, Yolo County; Shirley Ryan, Assistant CAO, Calaveras County; and Jim Porter, Director of Public Works, San Mateo County. Additionally, the Berkeley Executive Seminar granted one additional scholarship to the CSAC Finance Corporation to award. That scholarship was awarded to Xenia Tihomirova, Fiscal and Policy Analyst, Santa Barbara County.
- We continue to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

If you have any questions regarding these programs or any other CSAC Finance Corporation programs please do not hesitate to contact us via phone, 916.327.7500 x556, or via email, [tsweet@counties.org](mailto:tsweet@counties.org); Laura Labanieh at 916.327.7500 x536 or [llabanieh@counties.org](mailto:llabanieh@counties.org); Laura Li at 916-327-7500 x560 or [lli@counties.org](mailto:lli@counties.org).



## MEMORANDUM

August 5, 2009

To: CSAC Executive Committee

From: Paul McIntosh, CSAC Executive Director  
Lindsay Pangburn, CSAC Corporate Relations Manager

Re: **Corporate Associates Program Updates**  
**INFORMATION ITEM**

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Following please find updates on the CSAC Corporate Associates program activities so far this year:

- Membership and sponsorship solicitation efforts for 2009 remain underway; we currently have 77 member organizations, and total membership and event sponsorship income for the year to-date stands at \$255,150.
- The program has gained nine new members so far this year, including two at the new Small Business level. We introduced the Small Business membership earlier this year, to offer sole proprietors and small businesses who work with California Counties an opportunity to join the program at a special, discounted rate for their first year.
- Plans are in place for two Annual Meeting sessions featuring Corporate Associates members: a major session presentation dealing with healthcare reform, as well as a workshop on privacy rights and background checks.
- The Exhibit Hall for the 2009 CSAC Annual Meeting in Monterey County is approximately 60 percent committed; we anticipate another sold-out hall for this year.
- We are continuing to distribute regular communications to all Corporate Associates members, including a monthly e-newsletter, *Around Our Counties* Newsletter, *California Counties* magazine and the Executive Director's Watch.
- Upcoming events:
  - 1) CSAC Board of Directors/Corporate Associates Event – September 9, CSAC Conference Center, Sacramento
  - 2) Annual Meeting "President's Cup" Golf Tournament – November 16, Poppy Hills Golf Course, Carmel

If you have any questions about the Corporate Associates program, please feel free to contact Lindsay Pangburn, at (916) 327-7500 ext. 528, or [lpangburn@counties.org](mailto:lpangburn@counties.org).



# County Counsels' Association of California

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## BOARD OF DIRECTORS

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Contra Costa County

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#### 2007-2009 (South)

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Mendocino County

#### 2008-2010 (South)

Michael Rood  
Imperial County

## EXECUTIVE DIRECTOR

Jennifer B. Henning

## MEMORANDUM

**To:** Supervisor Gary Wyatt, President, and  
Members of the CSAC Executive Committee

**From:** Jennifer Henning, Litigation Coordinator

**Date:** August 20, 2009

**Re:** Litigation Coordination Program Update

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At your Executive Committee's request, this memorandum will provide you with information on the Litigation Coordination Program's activities since your last meeting in April. If you have questions about any of these cases, please do not hesitate to contact me.

### I. New Case Activity Since Last Executive Committee Meeting

#### ***Crime, Justice & America, Inc. v. Reniff***

Pending in the Ninth Circuit Court of Appeals (filed Apr. 21, 2009)(09-15768)

Plaintiff is a magazine called *Crime, Justice & America* (essentially an advertisement for bail bond companies and defense attorneys. Plaintiff asked the Butte County Sheriff to distributed unsolicited copies of the magazine to inmates in the county jail. The Sheriff refused, and plaintiff brought this action in federal district court alleging a violation of the First Amendment. The court agreed with the county that the Sheriff's refusal to distribute the publication is rationally related to legitimate penological interests. Plaintiff has appealed to the Ninth Circuit, and CSAC will file a brief in support of Butte County.

#### ***California Redevelopment Association v. Genest***

Pending in the Third District Court of Appeal (filed May 26, 2009)(C062011)

CRA filed this action against the State challenging last year's budget trailer bill. The bill language redefines redevelopment to include operating expenses for schools (finding that good schools are necessary to meet the goals of redevelopment) and then shifts redevelopment funds from redevelopment agencies to schools. The petition argued the budget trailer bill contravenes the constitutional requirements related to redevelopment funding, as well as the federal takings clause and provisions against impairment of contract. The court found that the legislative findings on the relationship between the economic development and adequate funding of school programs was entitled to deference. But the court concluded "that the required payments by RDAs to their county ERAFs during the 2008-2009 fiscal year are inconsistent with the intent of section

16 to use tax increment revenue for the financing of redevelopment projects insofar as tax increment revenues paid into the ERAF are unlikely to be distributed from the ERAFs for educational purposes related to the redevelopment projects.” The State has appealed, and CSAC will file an amicus brief in support focusing on arguments that strengthen Prop. 1A.

***EHP Glendale v. County of Los Angeles***

Pending in the Second District Court of Appeal (filed June 17, 2009)(B217036)

This case raises the question of the proper appraisal method for a change in ownership of a franchise hotel. LA County reassessed the Glendale Hilton after it was purchased by plaintiff. Plaintiff appealed to the Assessment Appeals Board, which affirmed. On appeal, the trial court noted that under the Revenue and Taxation Code, intangible assets are excluded from property tax even when they are in connection with real property. The court ruled against the county, finding that the valuation method used by the county (known as a “going concern” valuation) failed to provide for a return on the non-taxable operating assets in the total amount deducted from the hotel’s income stream. LA County has appealed and CSAC will file a brief in support.

***Greene v. Marin County Flood Control and Water Conservation District***

Previously published at: 171 Cal.App.4th 1458 (1st Dist. Mar. 11, 2009)(A120228),  
*petition for review granted* (June 24, 2009)(S172199)

A county flood control and water conservation district held a Prop. 218 election on whether to impose a new storm drainage fee. In the district’s election, voters’ names and addresses were printed on the ballots and voters were directed to sign their ballots. The fee was approved. However, a voter contested the election, claiming the election procedures violated the voting secrecy requirement of article II, section 7 of the California Constitution. The superior court denied the election contest. The First District reversed, holding that in approving article XIII D, section 6, subdivision (c) of the California Constitution, the voters intended the fee elections to be secret. The court set aside the district’s election results because voters’ names were printed on the ballots and ballots had to be signed, yet voters were provided no assurances that their votes would be kept secret. The California Supreme Court has granted review. CSAC filed a letter in support of review and will file a brief on the merits in support of the district.

***In re C.C.***

172 Cal.App.4th 1481 (Apr. 13, 2009)(B208675), *request for depublication denied* (July 15, 2009)

In this juvenile dependency case, the juvenile court denied mother visitation with her son. Mother appealed the court’s decision, but during the pendency of the appeal, the juvenile dependency case resolved and the court terminated jurisdiction. The appellate court nevertheless decided to rule on the merits of the appeal because of the possibility that the juvenile court’s findings would have a prejudicial impact on family court proceedings. The appellate court ultimately concluded that the juvenile court’s order denying visitation was not supported by the necessary finding that visitation would jeopardize the minor’s



safety. Los Angeles County, along with several other counties, requested that this case be depublished and CSAC filed a letter in support. Unfortunately the request was denied.

***International Society for Krishna Consciousness of California v. City of Los Angeles***  
530 F.3d 768 (9th Cir. June 9, 2008)(01-56579), *Question Certified to California Supreme Court* (Aug. 13, 2008)(S164272)

Plaintiff challenged in federal court an LAX airport regulation barring the solicitation and immediate receipt of funds within LAX under the free speech clause of the California Constitution. The central issues are whether the airport should be considered a public forum and what level of scrutiny should be given regulations that affect speech on such public property. In order to resolve the case, the federal appellate court certified to the California Supreme Court, and the Court agreed to hear, the following questions: 1 ) Is Los Angeles International Airport a public forum under the Liberty of Speech Clause of the California Constitution? 2) If so, does the ordinance at issue violate the California Constitution? CSAC will file a brief in support of the City of Los Angeles.

***Las Lomas Land Company v. City of Los Angeles***

Pending in the Second District Court of Appeal (filed Jan. 16, 2009)(B213637)

The city began environmental review of incorporation of a 555-acre parcel for purposes of a mixed use development. After several years, but before the EIR was completed, the city made a policy decision to reject the project and not to annex the parcel. The developer sued, alleging that the City was prohibited from rejecting the project until it completed the EIR. The trial court ruled in favor of the city, and the developer has appealed. The primary issue on appeal is the application of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects that are rejected or disapproved. Las Lomas argues that this "project approval" exemption only applies at the beginning of the environmental review process, and that once the agency begins preparation of an EIR, it cannot not reject the project until the EIR is completed. CSAC is filing a brief in support of the city.

***Phelps v. Orange County Assessment Appeals Board No. 1***

175 Cal.App.4th 448 (4th Dist. Div. 3 May 27, 2009)(G040428), *ordered published* (June 24, 2009), *petition for review pending* (filed July 7, 2009)(S174418)

This case involves a reassessment on change of ownership. A trust held some commercial real estate from which it derived income, which was distributed to its beneficiaries. The income from the property was distributed to the trustor's three children and his widow. When one of the children (Wilson) died, his four children become entitled to his share of the income. The Orange County Assessor concluded that this transfer of interest income rights from Wilson to his children was a change in ownership under Revenue and Taxation Code section 60. The Appeals Board affirmed, and this appeal followed. In an unpublished decision, the Fourth District Appellate Court ruled in the County's favor. It found that the transfer met all three prongs of the change in ownership test in section 60—Wilson held a present interest in improvements that had been made on the property, he had beneficial use of the property, and the value of the lifetime interest in

income from the property is substantially equal to the value of a fee interest. Orange County requested publication and CSAC filed a letter in support. The request was granted on June 24.

***Quon v. Arch Wireless Operating Co.***

529 F.3d 892 (9th Cir. June 18, 2008)(07-55282), *petition for rehearing en banc denied* (Jan. 27, 2009), *petition for certiorari pending* (filed Apr. 27, 2009)(08-1332)

Plaintiff, a City of Ontario police officer, challenged the city's review of his text messages on a city-owned pager after he repeatedly went over his word limit. The employee had read and agreed to a city policy, which while not specific to text message pagers, did specify that computers and e-mail were not to be used for personal business and were subject to monitoring. But the police department also had an informal policy that the text messages would not be audited if the employee paid for any overages. A panel of the federal Ninth Circuit Court of Appeal found that the city's action of reading plaintiff's text messages violated his Fourth Amendment rights. The court also found that even if the messages were public records subject to disclosure under the Public Records Act, the Act does not diminish an employee's reasonable expectation of privacy. The full Ninth Circuit Court narrowly rejected rehearing the case, but the city has petitioned for certiorari to the U.S. Supreme Court. CSAC filed a petition in support of certiorari.

***United Farm Workers v. Administrator, EPA***

Pending in the Ninth Circuit Court of Appeals (filed June 19, 2008)(08-35528)

The Federal Insecticide, Fungicide & Rodenticide Act requires all pesticides registered with the EPA before 1984 to go through a reregistration process. This case is a challenge to the EPA's decision to reregister a pesticide known as AZM for certain applications. The statutory scheme provides different appeal mechanisms depending on whether the EPA held a "public hearing" prior to issuing its decision. Where a public hearing is held, an appeal can only be made by a party to the proceeding, and must be made within 60 days directly in the Court of Appeals. Where there is no public hearing, any person adversely impacted by the decision can appeal to a district court within normal statutory timelines, generally 6 years. For the AZM reconsideration, the EPA took public comments on the proposal but held no adjudicative proceedings. Plaintiffs challenged the action in district court, but the court dismissed finding the "public hearing" element had been satisfied and any appeal should have been raised within 60 days in a Court of Appeal. This appeal followed. Santa Clara County has filed an amicus brief supporting a longer appeal period for challenging EPA decisions and CSAC joined the brief.

## **II. Amicus Cases Decided Since Last Executive Committee Meeting**

### ***Ardon v. City of Los Angeles***

174 Cal.App.4th 369 (2d Dist. May 28, 2009)(B201035)

Outcome: Positive

This case is a class action challenge to the application of the city's phone tax. The primary question raised by the case is whether plaintiff was entitled to present a single claim to the city on behalf of himself and the entire class, or whether each member of the purported class is required to file an individual claim with the city prior to filing suit. The court found plaintiff could not assert a class claim under section 910 for a tax refund. In so holding, the court overruled *County of Los Angeles v. Superior Court (Oronoz)* (2008) 159 Cal.App.4th 353, which found in part that class actions against local taxes and fees are permitted. CSAC filed a brief in support of the city.

### ***Building Industry Association of Central California v. City of Patterson***

171 Cal.App.4th 886 (5th Dist. Jan. 30, 2009)(F054785), *ordered published* (Mar. 2, 2009), *request for review and depublication denied* (June 17, 2009)(S171536)

Outcome: Negative

A developer obtained a development agreement and tentative subdivision maps for the construction of two residential subdivisions. At the time those documents were approved, the city allowed developers to pay a fee of \$734 per house in lieu of building affordable housing. About three years later, City increased this fee to \$20,946 per house and sought to apply the increased fee to Developer's two residential projects. Developer sued, claiming that the increased fee violated (1) its vested property rights, (2) its contractual rights under the development agreement, (3) various statutory provisions, and (4) constitutional provisions requiring voter approval of special taxes. The trial court found that the increased in-lieu fee was permitted under the development agreement and the amount of the increase was reasonably justified. The Fifth District reversed, concluding that the meaning of the contractual term "reasonably justified" is meant to incorporate the legal standards generally applied to such fees—namely that the amount of a development fee be limited to the cost of that portion of a public program attributable to the development. The court found the city failed to show that the increase in its in-lieu fee satisfied this standard and, therefore, failed to show that the increase was "reasonably justified" as required by the development agreement. CSAC requested depublication, which was denied.

### ***County of Santa Clara v. Superior Court (California First Amendment Coalition)***

170 Cal.App.4th 1701 (6th Dist. Feb. 5, 2009)(H031658), *request for depublication denied* (May 13, 2009)(S171023)

Outcome: Negative

This case of first impression involves a Public Records Act request for an electronic version of Santa Clara County's Geographic Information System (GIS) basemap, which is comprised of the Assessor parcel map, street centerlines and aerial photos. The county can layer additional information on top of the basemap as needed. The county previously

licensed the map to a few private entities and shared it with other public agencies. Eventually, however, the Department of Homeland Security designated the basemap as "Protected Critical Infrastructure Information" and the county ceased distribution. CFAC requested electronic copies of the basemap, which the county was willing to provide in hard copy or PDF, but not in the format CFAC requested. CFAC sued and the Superior Court ordered the county to produce an electronic copy of the basemap at the direct cost of duplication.

The Sixth District denied the county's writ. The court found that while the Critical Infrastructure Information Act CII Act protects critical infrastructure information (CII) by limiting its public disclosure under the Freedom of Information Act, that protection only applies when the information has been provided to a State or local government, not where, as here, the information is provided by the county. The court also found that Government Code section 6255 did not weigh in favor of nondisclosure, and that the county's copyright assertions did not allow it to limit or condition disclosure. The court did not address: (1) whether the county could demand fees in excess of the direct costs of reproducing the electronic records requested by CFAC; or (2) whether Government Code section 6254.9 (exempting computer software – defined to include computer mapping systems – from the definition of public record) is a basis for nondisclosure. CSAC filed a brief in support of the county, and filed a letter in support of depublication. On May 13, depublication was denied.

***County of Sonoma v. Superior Court (Sonoma County Law Enforcement Assoc.)***  
173 Cal.App.4th 322 (1<sup>st</sup> Dist. Apr. 24, 2009)(A122450), *petition for review denied* (July 8, 2009)(S173345)  
Outcome: Positive

In the first appellate decision on the issue, the First Appellate District has found that SB 440, requiring interest arbitration after impasse with public safety unions, violates the California Constitution. In the case, Sonoma County and its law enforcement union reached an impasse in the negotiation of its MOU. After impasse mediation was unsuccessful, the union requested arbitration under CCP § 1299 (SB 440). The county denied the request and this action was filed. The trial court determined that SB 440 is not facially unconstitutional and the county filed a writ petition. The First District granted the writ, concluding SB 440 intrudes upon the County's constitutional authority to establish compensation and terms of employment for county employees. The court noted that compensation of county employees is a local, not statewide, concern. And while the Legislature can impose procedures regarding labor relations, it cannot impose substantive requirements that interfere with the county's ultimate right to set compensation. The court concluded that SB 440 was substantive in that interest arbitration may "push the arbitrator into the realm of social planning and fiscal policy," requiring the county to make subsequent cuts or seek to raise taxes to fund the interest arbitration award. In other words, it "affects matters ordinarily falling within the legislative powers of a county board of supervisors. The fixing of the salaries of county employees is unquestionably a legislative function." The ability to reject the arbitrator's award by unanimous vote does not save SB 440; it merely places the ability to make decisions with a minority of the Board in violation

of the constitution's requirement that such decisions be made by the "governing body." The court concluded the term governing body, as supported by 100 years of common law, means a majority of the Board. CSAC filed a brief in support of Sonoma County, and filed a letter opposing Supreme Court review.

***Guzman v. County of Monterey***

46 Cal.4th 887 (June 22, 2009)(S157793)

Outcome: Positive

This case addresses the statutes and regulations associated with the operation of small water systems. In general, the regulatory scheme places the responsibility for monitoring compliance with water quality standards, testing, and notice requirements on the operator of the water system. Nevertheless, The Sixth Appellate District found an implied mandatory duty for the county to assume the specified responsibilities of the water system and insure that system users are notified of contaminant levels in excess of MCLs. The California Supreme Court reversed. "Although the County oversees the water systems within its jurisdiction, it does not have the primary responsibility to notify consumers of any contaminated water. This duty rests squarely with the operator of the water system . . . . As discussed in greater detail below, in order to impose a mandatory duty on a public entity (see Gov. Code, § 815.6), 'the mandatory nature of the duty must be phrased in explicit and forceful language' (*In re Groundwater Cases* (2007) 154 Cal.App.4th 659, 689, and the statute must impose a duty on the specific public entity sought to be held liable (*Forbes v. County of San Bernardino* (2002) 101 Cal.App.4th 48, 54)." The Court remanded the case to determine whether plaintiffs have alleged any express mandatory duties that would, in and of themselves, give rise to an action against the county under Government Code section 815.6. CSAC filed a brief in support of the county.

***Hernandez v. City of Pomona***

46 Cal.4th 501 (May 28, 2009)(S149499)

Outcome: Positive

The California Supreme Court has held that a judgment for defendants in a federal court action under Section 1983 alleging excessive force in violation of the Fourth Amendment precludes a state court action for negligence against the same defendants by the same plaintiffs. The Second Appellate District, after noting that the State's appellate courts have reached conflicting conclusions to the question, concluded that the issue comes down to whether the Fourth Amendment's prohibition against unreasonable seizures implicates the same primary right as an action for violation of the right to be free from negligent personal injury. The Second District determined that an excessive force action under the Fourth Amendment and a personal injury action under common law negligence do not involve the same primary right, and the case could go forward. The California Supreme Court reversed, holding that collateral estoppel precludes the relitigation of issues decided in prior proceedings. CSAC filed a brief in support of the city.

***Lonberg v. City of Riverside***

--- F.3d ---, 2009 U.S.App.LEXIS 13823 (9th Cir. June 26, 2009)(06-55781)

Outcome: Positive

This case presents an issue of first impression in the Ninth Circuit: Whether 28 CFR § 35.150(d) is enforceable by individuals under Title II of the Americans with Disabilities Act. Section 35.150(d) requires public entities employing more than 50 persons to develop a transition plan in the event structural changes to facilities will be undertaken to achieve program accessibility. In this case, plaintiff sued under Title II of the ADA challenging the city's transition plan. The district court found plaintiff could maintain a private right of action to challenge the plan, but the Ninth Circuit reversed. The court noted that the issue is decided through an examination of the challenged regulation in the context of the statute it is meant to implement. If the regulation does not encompass the rights protected by the statute and a corresponding remedy, the regulation is not privately enforceable. Here, Section 35.150(d) was meant to implement Section 202 of Title II of the ADA, which prohibits discrimination by public entities based on disability. Section 202 does not refer to a public entity's obligation to draft any plans or create a private right to a plan. Further, Section 202 does not state that a person's remedy lies in private enforcement of Section 35.150(d)'s transition plan requirements. CSAC filed an amicus brief in support of the city.

***Sprint Telephony PCS, L.P. v. County of San Diego***

543 F.3d 571 (9th Cir. Sept. 10, 2008)(05-56076)(en banc), *petition for cert. denied* (June 29, 2009)

Outcome: Positive

In 2003, San Diego County enacted a wireless telecommunications ordinance (WTO) that required one of four different types of permits for a wireless facility depending on the placement, visibility, and height of the proposed structure. Sprint filed a facial challenge to the WTO, arguing that it was prohibited under the literal language of Section 253(a) of the federal telecommunications act, which bars all state and local regulations that "prohibit or have the effect of prohibiting" the ability of any entity to provide interstate or intrastate telecommunication services. Relying on the "clear words" of Section 253, the district court ruled in Sprint's favor. A panel of the Ninth Circuit affirmed, but the en banc court reversed. In so doing, the court reversed its earlier ruling in *City of Auburn v. Qwest Corp.* (9th Cir. 2001) 260 F.3d 1160, and held that a plaintiff suing a municipality under section 253(a) must show actual or effective prohibition, rather than the mere possibility of prohibition. Sprint sought U.S. Supreme Court review, but the Court denied its petition for certiorari. CSAC filed two briefs in support of San Diego County in the Ninth Circuit.

***Vargas v. City of Salinas***

46 Cal.4th 1 (Apr. 20, 2009)(S140911), *petition for rehearing pending* (filed May 5, 2009)

Outcome: Mixed

Plaintiffs are proponents of a ballot measure (Measure O), which would have eliminated the city's utilities users tax, resulting in an \$8 million hit to the city's general fund. The city conducted budgetary studies examining how the loss of funds would impact city services. The result of those studies were distributed to the city's residents via the

city's website, a city newsletter mailed to residents, and a one-page fact sheet that was made available at the city clerk's office. Plaintiffs sued the city alleging it improperly used public money for campaign materials to influence voters against Measure O. The city filed a special motion to strike the complaint (anti-SLAPP), which the trial court granted and the Sixth District affirmed. The court used a bright line standard, finding the city's conduct did not amount to express advocacy and was therefore permissible. The California Supreme Court granted review and affirmed under a different standard. The court rejected the express advocacy standard used by the Sixth District and used instead the more fact-based, analytical approach under its earlier decisions that emphasize such things as the "style, tenor and timing" of communications to determine when public agency ballot measure materials and activities step over the line. Under these facts, the Court found the city's actions were permissible, as the city was "simply informing the public of its opinion on the merits of a pending ballot measure or of the impact on the entity that passage or defeat of the measure is likely to have." For more details on the case, see: [www.ca-ilg.org/vargas](http://www.ca-ilg.org/vargas) . CSAC filed an amicus brief in support of the city

## Calendar of Events

2009

### **January**

- 21-23** CSAC Corporate Associates Steering Committee Meeting, Sonoma County
- 28** Regional Council of Rural Counties (RCRC) Board Meeting, Sacramento
- 29** CSAC Executive Committee Meeting, Sacramento

### **February**

- 19** CSAC Institute for Excellence in County Government, Sacramento  
The Art & Practice of Elected Leadership
- 26-27** CSAC New Supervisors Institute, Session II, Sacramento

### **March**

- 7-11** National Association of Counties (NACo) Legislative Conference, Washington, D.C.
- 13** CSAC Institute, Sacramento - Local Governance in California
- 18** RCRC Board Meeting, Sacramento
- 19** CSAC Board of Directors Meeting, Sacramento
- 25-27** CEAC Spring Conference, Monterey County
- 26** CSAC Institute, Sacramento - The Art & Practice of Institutional Leadership

### **April**

- 9** CSAC New Supervisors Institute, Session III, Sacramento
- 16** CSAC Institute, Sacramento - Effective Electronic Communications & Media Relations
- 17** CSAC Institute, Sacramento - Climate Change, AB 32 & SB 375
- 17** CSAC Institute, Sacramento - Current Policy Issues: County Revenues & the State Financial Crisis
- 23** CSAC Executive Committee Meeting, Sacramento
- 30** CSAC Institute, Sacramento - Getting Things Done: Working Effectively with Others

### **May**

- 7** CSAC Institute, Sacramento - Best Practices: Talent Development & Succession Planning
- 20-22** NACo WIR Annual Conference, Pendleton, OR
- 27-28** CSAC Legislative Conference, Sacramento
- 28** CSAC Board of Directors Meeting, Sacramento
- 28-29** CSAC Institute, Sacramento - Financing California Counties

### **June**

- 17-18** RCRC Board Meeting

### **July**

- 17-18** Local Government Summit on State Governance and Fiscal Reform, Sacramento
- 23** Women of NACo Annual Golf Tournament, Nashville, TN
- 24-28** NACo Annual Conference, Nashville, TN

### **August**



19 RCRC Board Meeting, Sacramento

20 CSAC Executive Committee Meeting, Los Angeles County

### **September**

10 CSAC Board of Directors Meeting, Sacramento

### **October**

14-16 San Joaquin Valley Regional Association of California Counties Fall Conference, Stockton

8-9 CSAC Executive Committee Meeting, Orange County

21-24 National Council of County Association Executives (NCCAE) Annual Meeting, Santa Rosa, CA

28-30 California Association of Local Agency Formation Commissions Annual Conference, Yosemite

### **November**

17-20 CSAC 115th Annual Meeting, Monterey County

19 CSAC Board of Directors Meeting, Monterey County

### **December**

16 RCRC Board Meeting, Sacramento

## **2010**

### **March**

6-10 NACo Legislative Conference, Washington, D.C.

25 CSAC Board of Directors Meeting, Sacramento

### **April**

22 CSAC Executive Committee Meeting, Sacramento

### **June**

2-3 CSAC Legislative Conference, Sacramento

3 CSAC Board of Directors Meeting, Sacramento

### **July**

16-20 NACo Annual Meeting, Washoe County (Reno), Nevada

### **August**

19 CSAC Executive Committee Meeting, Sacramento

### **September**

9 CSAC Board of Directors Meeting, Sacramento

### **November**

15-19 CSAC 116th Annual Meeting, Riverside County

## **2011**

### **March**

5-9 NACo Legislative Conference, Washington, D.C.

### **July**

15-19 NACo Annual Meeting, Multnomah County (Portland), Oregon

**October**

**19-22** NACo National Council of County Association Executives Annual Fall Meeting

**November**

**29-2** CSAC 117th Annual Meeting, San Francisco City & County

2012

**March**

**3-7** NACo Legislative Conference, Washington, D.C.

**July**

**13-17** NACo Annual Meeting, Allegheny County (Pittsburgh), Pennsylvania

**October**

**17-20** NACo National Council of County Association Executives Annual Fall Meeting

2013

**March**

**2-6** NACo Legislative Conference, Washington, D.C.

2014

**March**

**1-5** NACo Legislative Conference, Washington, D.C.