

# CSAC BOARD OF DIRECTORS

## BRIEFING MATERIALS

Thursday, February 19, 2015

10:00 a.m. 1:30 p.m.



Meeting Location:  
CSAC Conference Center  
Sacramento County

California State  
Association of Counties



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
BOARD OF DIRECTORS  
Thursday, February 19, 2015  
10:00am - 1:30pm  
CSAC Conference Center, Sacramento

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**A G E N D A**

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Agenda times are approximate. Matters may be considered earlier than published time.

Presiding: Vito Chiesa, President

**10:00am - PROCEDURAL ITEMS**

1. Roll Call Page 1
  
2. Approval of Minutes of November 20, 2014 Page 3

**10:15am - SPECIAL PRESENTATIONS**

3. Presentation of Distinguished Service Awards to Senator Wolk & Assemblymember Gordon
  - *President Chiesa*
  
4. Corporate Partner Presentation Page 6
  - *Bianna Lierman, California Health & Wellness*
  
5. Report on Governor's Budget for 2015-16
  - *Michael Cohen, Director, CA Department of Finance*
  
6. State Budget Challenges and Opportunities Page 7
  - ❖ The State of Transportation Funding
  - ❖ Poverty Working Group Update
  - ❖ Payment-in-Lieu of Taxes Update
  - *DeAnn Baker & CSAC Advocacy staff*

**11:00am - ACTION ITEMS**

7. Consideration of State and Federal Legislative Priorities for 2015 Page 24
  - *DeAnn Baker & CSAC Advocacy staff*
  
8. Consideration of Amendments to CSAC County Platform Page 38
  - Administration of Justice**
  - *Supervisor John Viegas, Chair*
  - *Darby Kernan, CSAC staff*
  
  - Agriculture, Environment & Natural Resources** Page 50
  - *Supervisor Diane Dillon, Chair*
  - *Karen Keene & Cara Martinson, CSAC staff*
  
  - Health & Human Services** Page 83
  - *Supervisor Ken Yeager, Chair*
  - *Farrah McDaid-Ting, CSAC staff*
  
  - Housing, Land Use & Transportation** Page 106
  - *Supervisor Phil Serna, Chair*
  - *Kiana Buss, CSAC staff*

11:30am - **INFORMATION ITEMS**

9. Strategic Planning Update
  - *Matt Cate, CSAC Executive Director*
10. Section 115 Medicaid Waiver Update
  - *Kelly Brooks-Lindsey, Hurst Brooks Espinosa, LLP*
11. "How to Get Involved in CSAC" Video
  - *Matt Cate, CSAC Executive Director*

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12:00pm - **LUNCH**

12. Informational Reports without Presentation
  - ❖ CSAC Corporate Partnership Update
  - ❖ CSAC Finance Corporation Update
  - ❖ Institute for Local Government (ILG) Update
  - ❖ CSAC Litigation Coordination Program Update
13. Other Items
14. Closed Session
  - A. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Government Code Section 54956.9(e)(1):  
2 cases
  - B. CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code § 54957.6)  
Agency Designated Representative: Matt Cate  
Unrepresented Employees: New Management and Advocacy Positions

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1:30pm - **ADJOURN**

# CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2015

<u>Section</u>	<u>County</u>	<u>Director</u>
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	Maureen Kirk
R	Calaveras County	Michael Oliveira
R	Colusa County	Kim Dolbow Vann
U	Contra Costa County	Federal Glover
R	Del Norte County	David Finigan
R	El Dorado County	Ron Mikulaco
S	Fresno County	Henry Perea
R	Glenn County	John Viegas
R	Humboldt County	Virginia Bass
S	Imperial County	Ryan Kelley
R	Inyo County	Jeff Griffiths
S	Kern County	Leticia Perez
R	Kings County	Doug Verboon
R	Lake County	Anthony Farrington
R	Lassen County	Jim Chapman
U	Los Angeles County	Don Knabe
R	Madera County	Tom Wheeler
S	Marin County	Damon Connolly
R	Mariposa County	John Carrier
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jim Wills
R	Mono County	Larry Johnston
S	Monterey County	Fernando Armenta
S	Napa County	Diane Dillon
R	Nevada County	Ed Scofield
U	Orange County	Lisa Bartlett
S	Placer County	Jim Holmes
R	Plumas County	Terry Swofford
U	Riverside County	John Benoit

U	Sacramento County	Susan Peters
R	San Benito County	Margie Barrios
U	San Bernardino County	James Ramos
U	San Diego County	Greg Cox
U	San Francisco City & County	vacant
S	San Joaquin County	Bob Elliott
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Carole Groom
S	Santa Barbara County	Doreen Farr
U	Santa Clara County	Ken Yeager
S	Santa Cruz County	Bruce McPherson
S	Shasta County	Leonard Moty
R	Sierra County	Lee Adams
R	Siskiyou County	Ed Valenzuela
S	Solano County	Linda Seifert
S	Sonoma County	Efren Carrillo
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Morris
S	Tulare County	Steve Worthley
R	Tuolumne County	Evan Royce
U	Ventura County	Kathy Long
S	Yolo County	Jim Provenza
R	Yuba County	Roger Abe

President: Vito Chiesa, Stanislaus  
 First Vice President: Richard Forster, Amador  
 Second Vice President: Dave Roberts, San Diego  
 Immed. Past President: John Gioia, Contra Costa

SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
 BOARD OF DIRECTORS  
 November 20, 2014  
 Disneyland Hotel, Anaheim, Orange County, CA

M I N U T E S

Presiding: John Gioia, President

1. ROLL CALL

Alameda	Keith Carson	Placer	absent
Alpine	Terry Woodrow	Plumas	absent
Amador	Forster/Novelli	Riverside	John Benoit
Butte	Maureen Kirk	Sacramento	Susan Peters
Calaveras	absent	San Benito	Margie Barrios
Colusa	Denise Carter	San Bernardino	James Ramos
Contra Costa	Gioia/Glover	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	vacant
El Dorado	Norma Santiago	San Joaquin	Bob Elliott
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas	San Mateo	Carole Groom
Humboldt	Virginia Bass	Santa Barbara	absent
Imperial	absent	Santa Clara	Ken Yeager
Inyo	Jeff Griffiths	Santa Cruz	Bruce McPherson
Kern	Leticia Perez	Shasta	Leonard Moty
Kings	Doug Verboon	Sierra	Lee Adams
Lake	Anthony Farrington	Siskiyou	Ed Valenzuela
Lassen	Jim Chapman	Solano	Linda Seifert
Los Angeles	Don Knabe	Sonoma	Efren Carrillo
Madera	absent	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	absent
Mariposa	John Carrier	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Morris
Merced	Hubert "Hub" Walsh	Tulare	Steve Worthley
Modoc	absent	Tuolumne	Evan Royce
Mono	Larry Johnston	Ventura	Kathy Long
Monterey	Fernando Armenta	Yolo	Jim Provenza
Napa	Brad Wagenknecht	Yuba	Roger Abe
Nevada	Ed Scofield	Advisors:	David Twa & Charles McKee
Orange	John Moorlach		

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of September 4, 2014 were approved as previously mailed.

3. CSAC FINANCE CORPORATION REPORT

Rob Bilo of Nationwide Retirement Solutions (NRS), addressed the Board and discussed the long-standing partnership with CSAC and the CSAC Finance Corporation. NRS provides a competitive 457-Deferred Compensation program to county employees throughout California.

4. CSAC CORPORATE PARTNERS REPORT

Paul Mello of Hansen Bridgett, LLP addressed the Board and discussed the legal services that they provide to counties in many areas such as labor, health care, environment and transportation.

Staff reported that the Corporate Partners Program now has 62 members. CSAC will be hosting four mini-summits in 2015, in an effort to create helpful environments for corporate and county members to interact.

5. ELECTION OF 2015 CSAC EXECUTIVE COMMITTEE

In addition to the officers, the following members were elected to the CSAC Executive Committee for 2015:

Urban Section

Keith Carson, Alameda  
Federal Glover, Contra Costa  
Carole Groom, San Mateo  
Don Knabe, Los Angeles  
Susan Peters, Sacramento  
Ken Yeager, Santa Clara  
Kathy Long, Ventura (alternate)

Suburban Section

Bruce Gibson, San Luis Obispo  
Leonard Moty, Shasta  
Henry Perea, Fresno  
Linda Seifert, Solano (alternate)

Rural Section

Virginia Bass, Humboldt  
Ed Valenzuela, Siskiyou  
Kim Dolbow Vann, Colusa (alternate)

Advisors

Rick Haffey, CAOAC Advisor, Nevada  
Charles McKee, County Counsel Advisor, Monterey

6. CSAC POLICY COMMITTEE REPORTS

*Housing Land Use & Transportation.* Staff reported on the meeting held yesterday. The committee discussed legislative priorities for 2015, Tribal Gaming issues, Cap and Trade implementation, and changes for the 2015-16 CSAC Platform. No action items were brought forward for consideration.

*Administration of Justice.* Supervisor John Viegas, Vice-Chair, reported that the committee received reports from the Board of State and Community Corrections, and the Attorney General's office. The policy committee requested Board action on supporting the DMV's request to partner on developing a statewide protocol for issuance of inmate identification cards.

Motion and second to approve policy committee recommendation to partner with DMV on developing a statewide protocol for issuance of inmate identification cards. Motion carried unanimously.

*Agriculture, Environment & Natural Resources.* Supervisor Linda Seifert, Chair, reported that the committee received reports on improving air quality in California, the Sustainable Agricultural Lands Conservation Program, water energy nexus, Community Choice Aggregation (CCA), and the Storm Water Funding Initiative. No action items were brought forward for consideration.

*Government Finance & Operations.* Supervisor Bruce Gibson, Chair, reported that the committee received an economic forecast from the Legislative Analyst's Office, a report on pensionable compensation from CalPERS, and a staff report on mandates. No action items were brought forward for consideration.

*Health & Human Services.* Supervisor Kathy Long, Chair, reported that the committee received reports on federal waivers, Medi-Cal eligibility, and IHSS. No action items were brought forward for consideration.

7. EXECUTIVE DIRECTORS REPORT AND RESOLUTION AUTHORIZING CONDUCT OF CSAC BUSINESS

Matt Cate reported that the CSAC budget situation dramatically improved this year with the sale of one of CSAC's building and other cost savings measures. His vision for the coming year includes involving officers in development of a strategic plan, increasing supervisor-involved lobbying and increased county visits.

Motion and second to approve the annual resolution authorizing the CSAC Executive Director to conduct association business. Motion carried unanimously.

8. INSTITUTE FOR LOCAL GOVERNMENT UPDATE

Martin Gonzalez, Executive Director of the Institute for Local Government (ILG), provided a report on recent ILG activities. He noted that the Cities, Counties Schools (CCS) Partnership dissolved in October and will now instead become an ILG program. The California Special Districts Association (CSDA) recently joined ILG as a partner.

9. COUNTY ADMINISTRATIVE OFFICERS ASSOCIATION OF CALIFORNIA (CAOAC) REPORT

David Twa, Past President of CAOAC, reported that CAOAC held its annual meeting in October. The agenda included sessions on recruiting and retaining department heads; use of diagnostic tools for determining financial health; performance factors that will help counties maximize AB 109 funding; and reports from CSAC staff.

10. CSAC INSTITUTE FOR EXCELLENCE IN COUNTY GOVERNMENT

Bill Chiat, Dean of the CSAC Institute, reported that almost 2600 county representatives have participated in the CSAC Institute since its inception in 2009. He distributed the winter/spring 2015 course guide. He also announced the CSU Northridge Master of Public Administration for Executives program that is now being offered in partnership with the CSAC Institute. The online program includes content specifically designed for California's county employees.

11. POST ELECTION: FEDERAL OUTLOOK

Joe Krahn, CSAC's Washington representative reported that he has observed that DC has become very partisan over the last several years. He noted that Congress will have a "lame duck" session for the remainder of year. Some issues for 2015 include re-authorization of PILT and transportation, remote sales tax, clean energy and fee-to-trust.

Meeting adjourned.



## **California Health & Wellness**

California Health & Wellness is a Medi-Cal plan established in 2013. We were awarded a contract by the California Department of Health Care Services to serve Medi-Cal beneficiaries in 19 counties under the state's Medi-Cal Managed Care Rural Expansion Program. We administer most Medi-Cal benefits and offer a variety of education, outreach and care coordination programs to help our members get and stay healthy. Our goal is to ensure members receive the right care, in the right place, at right time. Our headquarters is in Sacramento and we have additional offices in Chico, El Centro and Placerville. California Health & Wellness is a wholly-owned subsidiary of Centene Corporation, a national leader in healthcare services. For more information, please go to [www.CAHealthWellness.com](http://www.CAHealthWellness.com).

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[blierman@cahealthwellness.com](mailto:blierman@cahealthwellness.com)



February 19, 2015

To: CSAC Board of Directors

From: Kiana Buss, CSAC Legislative Representative  
Chris Lee, CSAC Legislative Analyst

**Re: Transportation Revenue Forecast and Options for New Revenue**

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**Background.** As evidenced by numerous local, state and federal reports, existing revenues for investing in California's transportation infrastructure are not adequate to simply maintain our existing systems, let alone provide a seamless, multi-modal, safe, and efficient transportation system that supports a robust economy and an overall good quality of life. The 2014 California Statewide Local Streets and Roads Needs Assessment Report found that nearly \$8 billion in additional revenues annually is necessary to rebuild and maintain just county roads and city streets (see attachment one for summary results). The state highway system requires \$6 billion more each year for the same purposes.

A confluence of factors and circumstances has elevated the conversation regarding new revenues for transportation in the Legislature and Administration and may provide transportation stakeholders, including counties, a window of opportunity in 2015. These factors include:

- The state gasoline excise tax has not been increased since 1994. Since that time, the purchasing power of transportation dollars has decreased significantly. When adjusted for inflation and gains in vehicle fuel efficiency, the base 18-cent gas tax is only worth 6.8-cents today (attachment two).
- Hybrid, alternative fuel, and electric vehicles do not "pay to play". The traditional pay-at-the-pump taxation method does not account fully for the use of these vehicles and is considered unsustainable in terms of long-term financing (attachment three).
- The use of the transportation system continues to increase. Vehicle miles traveled in the state are still growing, albeit modestly.
- The precipitous drop in gasoline prices will result in an equally sharp decrease in price-based gasoline tax revenues beginning in FY 2015-16 (see attachment four). The Department of Finance is projecting a reduction of \$770 million statewide beginning July 1, 2015. This means \$182 million fewer dollars for the maintenance and preservation of county roads alone. This is an immediate funding issue not contemplated in the shortfall estimates above (attachment five). While industry experts are predicting gas prices to increase over the next few months, it is difficult to predict by how much and how quickly they will rise. Prices will likely still be a \$1 less than a year ago.
- Proposition 1B, the 2006 \$20 billion transportation infrastructure bond, was intended as a general obligation bond. Pursuant to the 2010 tax swap however, the state is receiving approximately \$1 billion annually for transportation bond debt service. Prop 1B is the only bond from the 2006 infrastructure bond package that is now a revenue bond.
- The California Transportation Commission began its study of alternatives to the gas tax. After the CTC concludes its efforts, the California Transportation Agency will design and implement a pilot program to test options on the ground in the state. Under the best

circumstances, replacing the gas tax with a more sustainable revenue source is years away leaving decision-makers facing a short-term funding problem.

**Policy Considerations.** CSAC has long-standing policy in support of new revenues for transportation. Relevant policy principles from the CSAC Platform are provided below. Additionally, the CSAC Board of Directors reaffirmed existing CSAC policy in May 2012 in support of flexible new revenues for transportation that could include a gas tax increase, indexing the gas tax, increasing the vehicle license or registration fee, or a combination of these or other options (attachment six).

*Transportation systems must be regularly and consistently maintained in order to preserve the existing public infrastructure (current revenues are not keeping pace with needs of the local road or state highway or transit systems), reduce the future costs to tax-payers, and to protect the environment. All users of the system have a responsibility to adequately invest in the transportation infrastructure that is so critical to every-day life.*

*Transportation financing needs exceed existing and foreseeable revenues despite growing recognition of these needs at all levels of government. Further, traditional sources of revenue for transportation are declining as communities develop more sustainably and compactly in order to reduce vehicle miles traveled and GHG emissions to meet statewide climate change goals. Additional funding is required and should be supported and any new sources of funding should produce enough revenue to respond significantly to transportation needs.*

**Potential Solutions.** As conversations begin in earnest, legislative leaders and the Governor have asked CSAC for proposed funding solutions. In order to respond affirmatively to these requests and be at the forefront of negotiations and decision-making, CSAC staff has prepared a range of solutions for the Board's consideration and feedback. The immediate solutions are proposed for the 2015-16 fiscal year only. The short-term solutions are designed around the assumption that they would have a 5-year sunset as we await the results of the CTC's road charge study and state pilot program. CSAC staff also assumed the goal of generating \$15-20 billion over the 5-year period and that revenues would be shared equally between local streets and roads and state highways. Any revenue package will likely also address transit needs although those funding solutions are not contemplated below. At the time of this writing, CSAC staff understands that Assembly Speaker Toni Atkins, Assembly Member Jim Frazier, Senator Jim Beall, and other legislative leaders are developing funding packages and that immediate- and short-term solutions will need to be negotiated across houses and need bi-partisan support.

#### Immediate Solutions

1. *Tax swap: hold harmless.* The drop in gas prices means a likely reduction of 5.5-cents in the price-based gas tax starting July 1, 2015. When we negotiated the tax swap, no one envisioned gas prices dropping so severely. The Legislature and Governor could adopt legislation that keeps the rate at 18-cents, or adds the 5.5-cents back to the base, for one or more fiscal years.
2. *Tax swap: smoothing.* The Board of Equalization is charged with adjusting the price-based gas tax rate every March. The process includes forecasting consumption and price of gas for the upcoming fiscal year and looking back two years to determine the difference in revenues generated by the eliminated sales tax on gas and the excise tax rate. More regular adjustments to the price-based rate, such as twice a year or once a quarter, will allow a more real time response to the rise and fall of gasoline prices.

## Short-Term Solutions

1. *Increase the base gas tax.* A one-cent gas tax generates \$150 million a year. To generate \$3-5 billion a year from the gas tax alone, the state would need to increase the gas tax by 20- to 33-cents.
2. *Increase the vehicle license fee.* A one-percent increase in the vehicle license fee (from the current 0.65% to 1.65%) is estimated to generate approximately \$2.9 billion annually.
3. *Increase the vehicle registration fee.* There are approximately 33 million registered vehicles in California, which includes some fee-exempt vehicles. A \$100 registration fee could generate upwards of \$3 billion annually.
4. *Redirect Weight Fees back to Transportation.* Pursuant to the 2010 transportation tax swap, approximately \$1 billion in weight fee revenues that would otherwise go to transportation projects is dedicated to paying off transportation related general obligation bond debt service. This revenue could go back to local streets and roads and state highways on a permanent basis or even one-time to address the immediate needs in FY 15-16.
5. *Reduce the voter threshold for local sales tax measures.* Twenty counties have adopted countywide local sales tax measures for transportation. Another 15 counties predict success if the voter threshold is reduced. This would generate \$300 million for transportation annually and about \$120 million more for the local system.

**Action Requested.** No action is requested at this time.

**Staff Contact.** Please contact Kiana Buss ([kbuss@counties.org](mailto:kbuss@counties.org) or (916) 327-7500 x566) or Chris Lee ([clee@counties.org](mailto:clee@counties.org) or (916) 327-7500 x521) for additional information.

## ATTACHMENTS

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Attachment One .....2014 California Statewide Local Streets  
and Roads Needs Assessment Results  
by County

Attachment Two .....Value of the Base 18-Cent Gas Tax

Attachment Three.....Revenue Loss Due to Increases in Fuel  
Economy

Attachment Four.....Price-Based Excise Tax Comparison

Attachment Five .....FY 2014-15 and FY 2015-16 Gas Tax  
Projections by County

Attachment Six.....CSAC Memo on Options for New  
Transportation Revenues

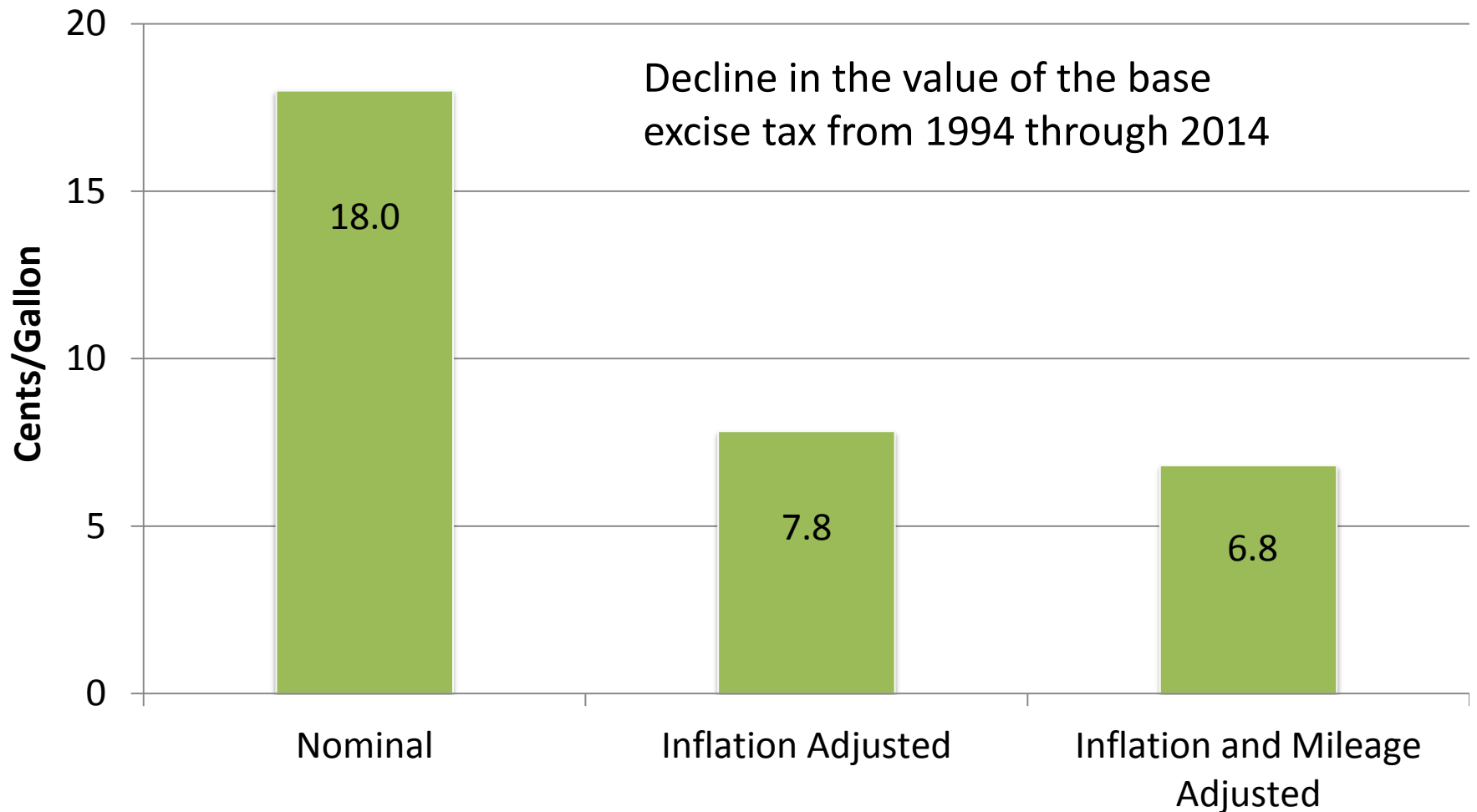
**Table C.1 Pavement Needs by County\* (2014 \$)**

County (Cities included)	Center Line Miles	Lane Miles	Area (sq. yd.)	2014 PCI	10 Year Needs (2014 \$M)
Alameda County	3,538.15	7,999.12	82,401,946	66	\$2,305
Alpine County	135.00	270.00	1,900,800	44	\$48
Amador County	477.96	958.12	6,485,201	33	\$383
Butte County	1,800.07	3,675.85	26,771,323	66	\$658
Calaveras County	716.98	1,332.66	8,937,332	51	\$374
Colusa County	986.70	1,523.51	12,503,304	62	\$317
Contra Costa County	3,376.49	7,047.81	63,500,917	68	\$1,577
Del Norte County	323.88	643.80	5,334,695	63	\$129
El Dorado County	1,252.70	2,508.40	21,671,673	63	\$635
Fresno County	6,195.51	12,679.92	106,057,018	69	\$2,572
Glenn County	910.42	1,821.73	13,917,626	68	\$354
Humboldt County	1,470.96	2,933.21	24,234,864	64	\$683
Imperial County	2,999.96	6,086.66	45,427,410	57	\$1,236
Inyo County	1,134.80	1,802.50	13,700,999	62	\$308
Kern County	5,026.42	11,648.11	103,132,477	64	\$2,927
Kings County	1,328.00	2,795.72	20,026,009	62	\$598
Lake County	752.70	1,494.45	9,997,345	40	\$436
Lassen County	431.41	878.80	6,282,324	66	\$186
Los Angeles County	21,329.61	57,629.56	459,830,656	66	\$12,971
Madera County	1,822.44	3,680.41	23,490,290	47	\$1,019
Marin County	1,021.14	2,055.14	17,166,574	63	\$488
Mariposa County	1,122.00	561.00	3,949,440	44	\$150
Mendocino County	1,124.43	2,255.81	16,004,034	35	\$625
Merced County	2,330.00	4,954.00	37,182,870	58	\$1,224
Modoc County	1,491.48	2,982.97	17,545,534	46	\$566
Mono County	727.38	1,453.39	10,071,369	67	\$147
Monterey County	1,779.28	3,725.79	33,599,361	50	\$1,389
Napa County	725.80	1,507.56	12,896,309	59	\$429
Nevada County	802.04	1,616.70	10,370,868	71	\$234
Orange County	6,600.63	16,808.28	150,276,239	77	\$2,725
Placer County	1,986.35	4,194.49	34,182,680	69	\$799
Plumas County	703.90	1,408.60	11,409,902	64	\$225
Riverside County	7,560.55	16,834.63	149,403,177	70	\$3,551
Sacramento County	5,053.22	11,284.73	95,918,441	62	\$2,939
San Benito County	452.32	916.23	5,951,814	48	\$261
San Bernardino County	9,106.58	22,249.14	181,002,241	71	\$ 4,103
San Diego County	7,813.98	18,596.42	170,696,012	66	\$5,016

California Statewide Local Streets & Roads Needs Assessment 2014

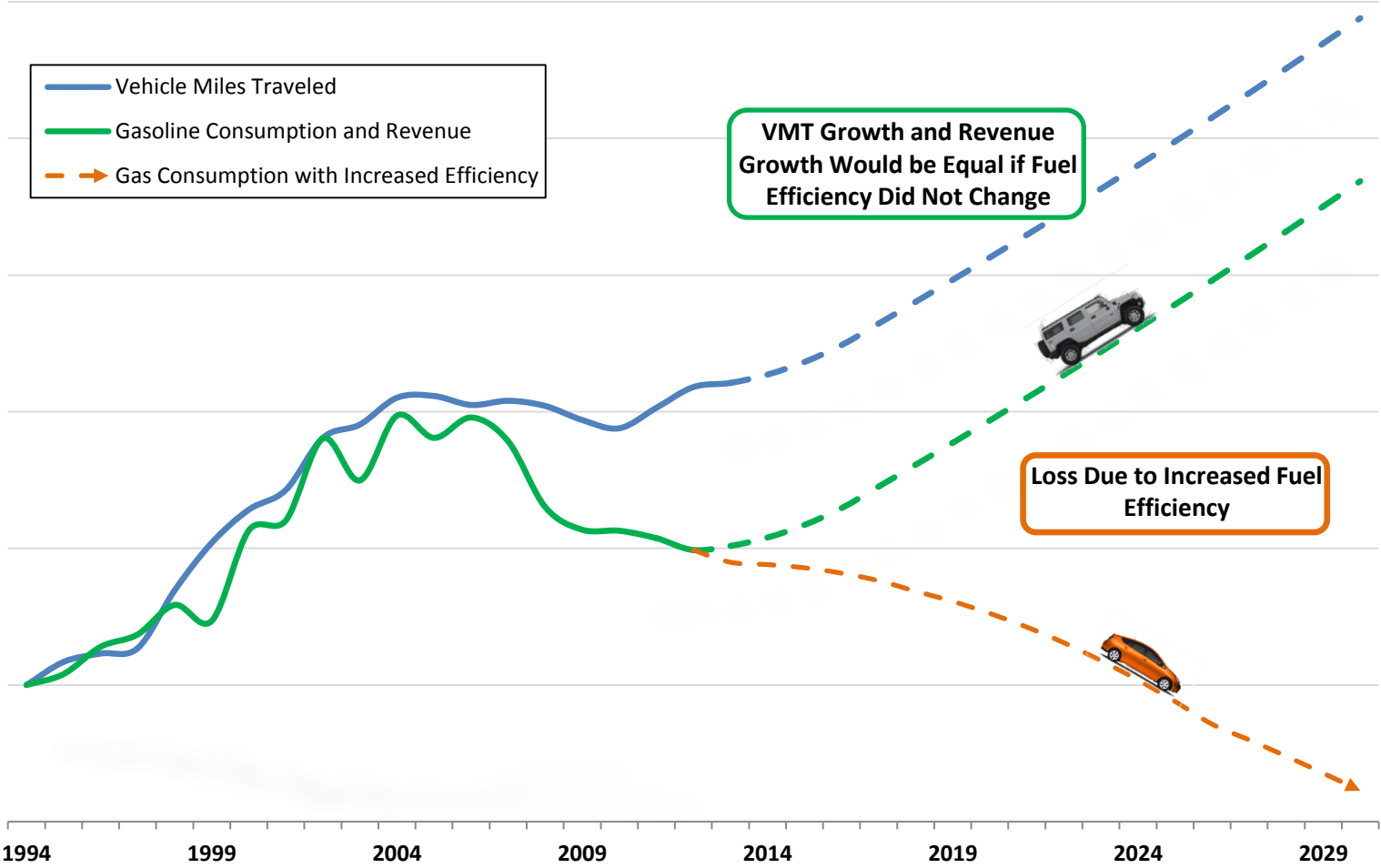
County (Cities included)	Center Line Miles	Lane Miles	Area (sq. yd.)	2014 PCI	10 Year Needs (2014 \$M)
San Francisco County	989.00	2,135.00	17,758,676	66	\$473
San Joaquin County	3,287.78	6,806.76	60,571,515	73	\$1,245
San Luis Obispo County	1,965.93	4,078.93	32,385,537	64	\$887
San Mateo County	1,864.70	3,904.15	33,272,016	70	\$769
Santa Barbara County	1,587.32	3,375.52	30,610,681	66	\$852
Santa Clara County	4,172.80	9,431.15	92,436,719	68	\$2,314
Santa Cruz County	873.65	1,790.15	14,190,207	57	\$480
Shasta County	1,686.97	3,479.08	26,243,076	60	\$799
Sierra County	398.20	798.65	3,669,765	45	\$116
Siskiyou County	1,519.15	3,049.62	20,519,624	57	\$604
Solano County	1,699.55	3,582.19	27,706,938	65	\$744
Sonoma County	2,371.17	4,922.58	39,557,359	52	\$1,540
Stanislaus County	2,916.30	6,031.63	53,459,748	55	\$2,044
Sutter County	981.51	2,010.93	15,199,498	65	\$385
Tehama County	1,197.49	2,400.88	15,834,143	62	\$437
Trinity County	692.97	1,113.86	11,757,354	60	\$352
Tulare County	3,937.17	8,132.39	60,195,390	68	\$1,482
Tuolumne County	552.70	1,115.65	8,200,702	47	\$369
Ventura County	2,512.86	5,530.08	50,382,156	70	\$1,211
Yolo County	1,328.40	2,457.72	21,290,870	60	\$655
Yuba County	724.40	1,504.26	12,862,583	60	\$404
<b>California</b>	<b>143,671</b>	<b>320,466</b>	<b>2,661,335,629</b>	<b>66</b>	<b>\$72,746</b>
* Includes Cities within County					

# What is the 18-cent Gas Tax Worth Today?





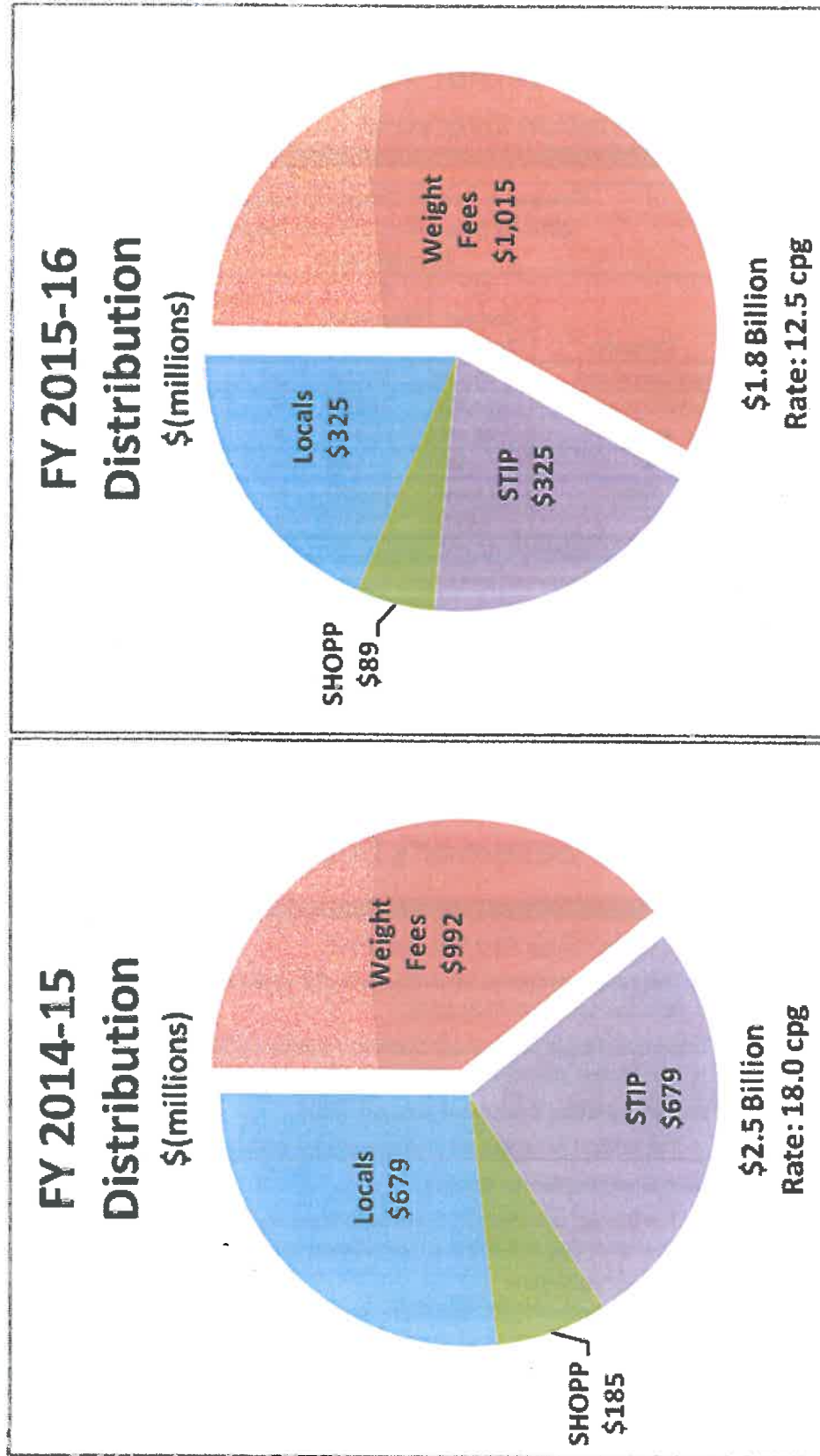
# Revenue Loss Due to Increases in Fuel Economy



Source: California Department of Transportation

# Price-Based Excise Tax Comparison

Estimated based on Governor's Budget



Note: Does not include \$91 million in revenue associated with Off-Highway use.



**Revised Estimated County Highway User Tax Account Revenues - FY 2014-15**

COUNTY	HUTA 2103	HUTA 2104	HUTA 2105	HUTA 2106	TOTAL
ALAMEDA	\$10,866,851	\$14,765,477	\$6,813,563	\$472,528	\$32,918,418
ALPINE	\$204,046	\$268,216	\$130,337	\$23,272	\$625,871
AMADOR	\$968,225	\$723,318	\$525,846	\$185,651	\$2,403,040
BUTTE	\$3,481,114	\$2,722,547	\$1,890,604	\$441,565	\$8,535,831
CALAVERAS	\$1,474,534	\$1,106,409	\$800,824	\$294,867	\$3,676,634
COLUSA	\$1,155,234	\$611,888	\$627,411	\$114,275	\$2,508,808
CONTRA COSTA	\$8,412,694	\$10,991,215	\$5,335,128	\$940,386	\$25,679,423
DEL NORTE	\$600,355	\$333,349	\$326,055	\$105,147	\$1,364,906
EL DORADO	\$3,122,202	\$3,406,448	\$1,864,166	\$762,615	\$9,155,431
FRESNO	\$10,515,677	\$8,785,005	\$5,711,098	\$1,124,900	\$26,136,680
GLENN	\$1,406,777	\$749,755	\$764,025	\$126,417	\$3,046,974
HUMBOLDT	\$2,750,741	\$1,806,909	\$1,493,936	\$394,938	\$6,446,524
IMPERIAL	\$4,700,551	\$2,308,446	\$2,552,884	\$337,808	\$9,899,691
INYO	\$1,694,590	\$989,866	\$920,337	\$117,382	\$3,722,176
KERN	\$10,024,158	\$8,383,530	\$5,444,152	\$2,105,728	\$25,957,568
KINGS	\$2,086,885	\$1,273,096	\$1,133,394	\$198,020	\$4,691,395
LAKE	\$1,480,907	\$1,039,427	\$804,285	\$310,415	\$3,635,034
LASSEN	\$1,436,238	\$941,908	\$780,026	\$126,823	\$3,284,995
LOS ANGELES	\$64,455,221	\$87,870,377	\$40,571,848	\$2,865,414	\$195,762,861
MADERA	\$3,019,140	\$1,574,736	\$1,639,705	\$426,702	\$6,660,282
MARIN	\$2,446,416	\$2,810,368	\$1,391,043	\$300,593	\$6,948,421
MARIPOSA	\$951,803	\$569,517	\$516,927	\$130,362	\$2,168,609
MENDOCINO	\$2,208,475	\$1,370,103	\$1,199,430	\$381,471	\$5,159,480
MERCED	\$3,965,394	\$2,445,319	\$2,153,618	\$502,514	\$9,066,845
MODOC	\$1,388,232	\$832,187	\$753,953	\$60,428	\$3,034,801
MONO	\$1,027,172	\$826,392	\$557,860	\$30,566	\$2,441,990
MONTEREY	\$4,502,596	\$4,198,525	\$2,445,374	\$805,919	\$11,952,414
NAPA	\$1,699,475	\$1,657,062	\$922,990	\$316,102	\$4,595,630
NEVADA	\$1,737,996	\$1,697,292	\$943,911	\$307,004	\$4,686,203
ORANGE	\$21,155,344	\$30,002,910	\$13,727,430	\$697,423	\$65,583,108
PLACER	\$4,497,379	\$5,509,591	\$2,811,385	\$777,854	\$13,596,209
PLUMAS	\$1,143,438	\$1,127,594	\$621,005	\$146,335	\$3,038,373
RIVERSIDE	\$17,157,934	\$20,686,456	\$9,823,822	\$1,283,759	\$48,951,971
SACRAMENTO	\$12,724,312	\$14,253,252	\$7,276,344	\$2,019,728	\$36,273,636
SAN BENITO	\$966,299	\$697,775	\$524,800	\$144,199	\$2,333,073
SAN BERNARDINO	\$16,751,021	\$20,498,478	\$9,768,254	\$1,347,465	\$48,365,217
SAN DIEGO	\$24,379,346	\$31,687,555	\$15,073,469	\$2,023,090	\$73,163,460
SAN FRANCISCO	\$5,085,629	\$5,672,773	\$2,762,022	\$9,600	\$13,530,024
SF (City Portion)	\$8,876,230	\$0	\$5,231,553	\$2,088,527	\$16,196,310
SAN JOAQUIN	\$6,911,265	\$6,878,013	\$3,753,530	\$812,799	\$18,355,606
SAN LUIS OBISPO	\$4,069,827	\$3,431,338	\$2,210,336	\$654,711	\$10,366,213
SAN MATEO	\$5,985,752	\$8,012,187	\$3,737,857	\$347,240	\$18,083,037
SANTA BARBARA	\$4,160,671	\$4,422,475	\$2,331,584	\$791,932	\$11,706,662
SANTA CLARA	\$13,309,208	\$18,065,680	\$8,239,291	\$360,855	\$39,975,035
SANTA CRUZ	\$2,756,461	\$2,942,265	\$1,594,548	\$623,818	\$7,917,092
SHASTA	\$3,227,206	\$2,691,039	\$1,752,706	\$425,456	\$8,096,407
SIERRA	\$552,768	\$597,922	\$300,210	\$32,348	\$1,483,248
SISKIYOU	\$2,284,444	\$1,470,480	\$1,240,689	\$199,581	\$5,195,194

COUNTY	HUTA 2103	HUTA 2104	HUTA 2105	HUTA 2106	TOTAL
SOLANO	\$3,803,257	\$4,410,739	\$2,066,344	\$210,480	\$10,490,820
SONOMA	\$5,779,411	\$5,832,269	\$3,138,817	\$925,085	\$15,675,582
STANISLAUS	\$5,602,630	\$5,273,970	\$3,042,806	\$648,806	\$14,568,212
SUTTER	\$1,744,996	\$1,116,537	\$947,713	\$186,756	\$3,996,002
TEHAMA	\$1,997,719	\$1,017,510	\$1,084,968	\$237,663	\$4,337,860
TRINITY	\$1,063,298	\$721,512	\$577,480	\$98,551	\$2,460,841
TULARE	\$6,837,052	\$4,271,099	\$3,713,225	\$658,693	\$15,480,069
TUOLUMNE	\$1,388,994	\$1,085,190	\$754,367	\$303,597	\$3,532,148
VENTURA	\$6,742,964	\$8,842,813	\$4,241,227	\$642,361	\$20,469,364
YOLO	\$2,443,691	\$2,140,512	\$1,327,176	\$170,493	\$6,081,872
YUBA	\$1,388,983	\$837,377	\$754,361	\$249,832	\$3,230,554
<b>TOTALS</b>	<b>\$348,571,230</b>	<b>\$381,256,000</b>	<b>\$205,444,053</b>	<b>\$33,428,852</b>	<b>\$968,700,135</b>

## Estimated County Highway User Tax Account Revenues - FY 2015-16

COUNTY	HUTA 2103	HUTA 2104	HUTA 2105	HUTA 2106	TOTAL
ALAMEDA	\$5,203,193	\$13,729,438	\$6,381,622	\$400,863	\$25,715,117
ALPINE	\$97,700	\$267,540	\$130,383	\$21,156	\$516,779
AMADOR	\$463,599	\$679,099	\$492,064	\$158,397	\$1,793,159
BUTTE	\$1,666,804	\$2,538,993	\$1,769,147	\$374,693	\$6,349,637
CALAVERAS	\$706,026	\$1,047,614	\$749,377	\$250,706	\$2,753,722
COLUSA	\$553,141	\$605,819	\$587,105	\$98,070	\$1,844,135
CONTRA COSTA	\$4,028,110	\$10,223,392	\$4,976,785	\$796,292	\$20,024,579
DEL NORTE	\$287,458	\$311,598	\$305,108	\$90,356	\$994,520
EL DORADO	\$1,494,952	\$3,231,019	\$1,750,985	\$646,042	\$7,122,998
FRESNO	\$5,035,046	\$8,180,306	\$5,344,203	\$952,242	\$19,511,797
GLENN	\$673,584	\$742,196	\$714,942	\$108,333	\$2,239,054
HUMBOLDT	\$1,317,091	\$1,686,073	\$1,397,962	\$335,285	\$4,736,411
IMPERIAL	\$2,250,687	\$2,272,587	\$2,388,881	\$286,999	\$7,199,153
INYO	\$811,392	\$983,888	\$861,213	\$100,697	\$2,757,190
KERN	\$4,799,701	\$7,805,388	\$5,094,407	\$1,781,229	\$19,480,724
KINGS	\$999,229	\$1,184,973	\$1,060,582	\$168,851	\$3,413,635
LAKE	\$709,078	\$969,676	\$752,616	\$263,846	\$2,695,216
LASSEN	\$687,690	\$934,128	\$729,915	\$108,676	\$2,460,409
LOS ANGELES	\$30,862,020	\$81,713,189	\$37,998,296	\$2,423,309	\$152,996,813
MADERA	\$1,445,604	\$1,467,103	\$1,534,366	\$362,131	\$4,809,204
MARIN	\$1,171,377	\$2,615,467	\$1,296,626	\$255,545	\$5,339,015
MARIPOSA	\$455,736	\$563,553	\$483,718	\$111,667	\$1,614,674
MENDOCINO	\$1,057,447	\$1,278,937	\$1,122,376	\$323,902	\$3,782,662
MERCED	\$1,898,684	\$2,274,761	\$2,015,265	\$426,207	\$6,614,915
MODOC	\$664,704	\$829,312	\$705,517	\$52,560	\$2,252,093
MONO	\$491,824	\$822,725	\$522,022	\$27,320	\$1,863,891
MONTEREY	\$2,155,903	\$3,905,976	\$2,288,277	\$682,642	\$9,032,798
NAPA	\$813,731	\$1,542,710	\$863,695	\$268,653	\$3,488,790
NEVADA	\$832,176	\$1,594,137	\$883,272	\$260,963	\$3,570,547
ORANGE	\$10,129,461	\$27,894,406	\$12,864,746	\$590,942	\$51,479,555
PLACER	\$2,153,405	\$5,189,127	\$2,641,135	\$658,921	\$10,642,589
PLUMAS	\$547,493	\$1,120,621	\$581,110	\$125,167	\$2,374,392
RIVERSIDE	\$8,215,448	\$19,237,290	\$9,178,771	\$1,086,508	\$37,718,017
SACRAMENTO	\$6,092,570	\$13,252,311	\$6,756,722	\$1,708,542	\$27,810,145
SAN BENITO	\$462,677	\$650,537	\$491,086	\$123,362	\$1,727,662
SAN BERNARDINO	\$8,020,612	\$19,136,291	\$9,157,474	\$1,140,351	\$37,454,729
SAN DIEGO	\$11,673,156	\$29,466,497	\$14,080,766	\$1,711,383	\$56,931,803
SAN FRANCISCO	\$2,435,067	\$5,275,604	\$2,584,583	\$9,600	\$10,304,854
SF (City Portion)	\$4,250,058	\$0	\$4,894,463	\$1,765,204	\$10,909,725
SAN JOAQUIN	\$3,309,206	\$6,395,729	\$3,512,394	\$688,456	\$13,905,785
SAN LUIS OBISPO	\$1,948,688	\$3,193,472	\$2,068,339	\$554,842	\$7,765,341
SAN MATEO	\$2,866,058	\$7,450,144	\$3,497,901	\$294,970	\$14,109,073
SANTA BARBARA	\$1,992,185	\$4,115,568	\$2,161,661	\$670,820	\$8,940,234
SANTA CLARA	\$6,372,627	\$16,797,094	\$7,724,431	\$306,478	\$31,200,629
SANTA CRUZ	\$1,319,830	\$2,741,035	\$1,476,714	\$528,732	\$6,066,312
SHASTA	\$1,545,229	\$2,516,784	\$1,640,108	\$361,078	\$6,063,199
SIERRA	\$264,673	\$596,742	\$282,524	\$28,827	\$1,172,765
SISKIYOU	\$1,093,822	\$1,456,660	\$1,160,984	\$170,170	\$3,881,636

<b>COUNTY</b>	<b>HUTA 2103</b>	<b>HUTA 2104</b>	<b>HUTA 2105</b>	<b>HUTA 2106</b>	<b>TOTAL</b>
<i>SOLANO</i>	\$1,821,050	\$4,101,964	\$1,933,570	\$179,382	\$8,035,967
<i>SONOMA</i>	\$2,767,259	\$5,427,325	\$2,937,171	\$783,360	\$11,915,115
<i>STANISLAUS</i>	\$2,682,614	\$4,904,490	\$2,847,329	\$549,851	\$10,984,284
<i>SUTTER</i>	\$835,527	\$1,039,424	\$886,830	\$159,331	\$2,921,112
<i>TEHAMA</i>	\$956,535	\$1,002,648	\$1,015,267	\$202,357	\$3,176,806
<i>TRINITY</i>	\$509,121	\$717,119	\$540,382	\$84,780	\$1,851,402
<i>TULARE</i>	\$3,273,672	\$3,977,129	\$3,474,678	\$558,207	\$11,283,686
<i>TUOLUMNE</i>	\$665,069	\$1,024,313	\$705,905	\$258,083	\$2,653,369
<i>VENTURA</i>	\$3,228,621	\$8,225,841	\$3,960,878	\$544,404	\$15,959,744
<i>YOLO</i>	\$1,170,072	\$1,991,389	\$1,241,915	\$145,585	\$4,548,961
<i>YUBA</i>	\$665,064	\$782,850	\$705,899	\$212,642	\$2,366,455
<b>TOTALS</b>	<b>\$166,900,558</b>	<b>\$355,682,000</b>	<b>\$192,206,463</b>	<b>\$28,339,966</b>	<b>\$743,128,986</b>



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May 31, 2012

To: CSAC Housing, Land Use, and Transportation Policy Committee

From: Mike Penrose, Chair, CEAC Transportation Committee  
DeAnn Baker, CSAC Senior Legislative Representative  
Kiana Buss, CSAC Senior Legislative Analyst

**Re: Recommendations for New Transportation Revenues**

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### **Background**

During the CSAC Housing, Land Use, and Transportation Policy Committee (HLT Committee) meeting in November 2011, after a presentation on the California Transportation Commissions' Statewide Transportation System Needs Assessment Report (CTC Report), Chair, Supervisor Efren Carrillo (Sonoma County), directed staff to develop a list of revenue options for the HLT Committee to consider to address California's enormous and still growing needs on the transportation network. As reported to the HLT Committee, the CTC Report found that the total cost of system preservation, system management, and system expansion over a ten-year period in California is roughly \$536.2 billion. With a total estimated revenue of \$242.4 billion over the same period, Californians are facing a \$293.8 billion shortfall in order to bring the transportation network into a state of good repair and maintain it in that condition into the future.

CSAC staff has worked with the County Engineers Association of California (CEAC) to develop a list of possible revenue sources for new transportation funding. In addition to developing the list of possible revenue sources, the CEAC Transportation Committee developed a set of principles for evaluating each possible revenue stream to see how well each option fits within existing CSAC policy and the goals of the HLT Committee and Association as a whole. Staff has also listed the major pros and cons related to each possible revenue stream.

After an in-depth discussion on eleven various revenue options, CEAC agreed that four in particular were the most appropriate to fund the transportation needs that are most important to counties (i.e. local streets and roads, state system, and transit). They are listed in alphabetical order and do not reflect any sense of priority.

### **Principles**

- I. Unified Statewide Solution. All transportation stakeholders must stand united in the search for new revenues. Any new revenues should address the needs of the entire statewide transportation network.
- II. Equity. New revenues should be distributed in an equitable manner, benefiting both the north and south and urban, suburban, and rural areas alike.

- III. System Preservation. Given the substantial needs for all modes of transportation, a significant portion of new revenues should be focused on system preservation. Once the system has been brought to a state of good repair (the most cost effective condition to maintain the transportation network), revenues for maintenance of the system would be reduced to a level that enables sufficient recurring maintenance.
- IV. All Users Based System. New revenues should be borne by all users of the system from the traditional personal vehicle that relies solely on gasoline, to those with new hybrid or electric technology, to commercial vehicles moving goods in the state, and even transit, bicyclists, and pedestrians who also benefit from the use of an integrated transportation network.
- V. Alternative Funding Mechanisms. Given that new technologies continue to improve the efficiency of many types of transportation methods, transportation stakeholders must be open to new alternative funding mechanisms. Further, the goal of reducing greenhouse gases is also expected to affect vehicle miles traveled, thus further reduce gasoline consumption and revenue from the existing gas tax. The existing user based fee, such as the base \$0.18-cent gas tax is a declining revenue source. Collectively, we must have the political will to push for sustainable transportation revenues.

**Local Streets and Roads Revenue Options**

- I. Gas Tax Increase and Indexing. Increase the excise tax on gasoline and/or index the new revenues along with the base \$0.18-cent gas tax to keep pace with inflation. Another option is to just index the existing \$0.18 base portion of the gasoline tax. Per every one-cent gas tax increase, approximately \$150 million is generated. The California Statewide Local Streets and Roads Needs Assessment Report identified a \$79.9 billion shortfall over the next ten years or an \$8 billion annual need just to address the preservation of the local street and road system. Thus, this equates to a 56-cent gas tax increase just to meet local system preservation needs.

Pros	Cons
User-based fee; pay at the pump to use the system	Declining revenue stream – vehicles are more efficient, hybrid and electric technology, less consumption. Further, greenhouse gas reduction goals strive to reduce vehicle miles traveled, less consumption
Indexing makes the tax sustainable by keeping pace with the cost of living and construction costs	



Tax payers pay over time, not in a lump-sum	
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- II. Sales Tax on Gasoline Options. Reinstate the sales tax on gasoline and/or reduce the voter threshold for the imposition of local sales tax measures for transportation purposes. The two options could be implemented individually or together as a package of changes to the sales tax on gas. The sales tax on gasoline would have generated approximately \$2.8 billion in FY 2012-13 if it were still in place. If shared between the State, transit, and cities in the same manner as the previous sales tax, it would generate \$560 million for counties in the same fiscal year. Regarding the local sales tax option, the self-help counties coalition estimates another 15-17 counties could pass local measures with a reduction to a 55% voter threshold.

Pros	Cons
Increasing revenue stream; generates more revenues as the price of gas increases	Unlikely to have support from the Legislature and Governor given the transportation tax swap and 2012 November ballot initiatives
Tax payers pay over time, not in a lump-sum	Also effected by reduced consumption
	Political viability since Prop 42 was passed by the voters to direct sales taxes on gasoline to transportation and was then replaced with the new HUTA by the Legislature in the swap

- III. Transportation System User Fee. Institute a one-percent annual vehicle registration fee based on the value of a vehicle and dedicate revenues to transportation. Research indicates 27 million vehicles would be subject to the fee. Funds would be distributed in the same manner of the old sales tax, 40% to counties and cities, 40% state highways, and 20% transit. The fee would generate \$2.7-\$3 billion annually, which would provide counties \$540-600 million. The Transportation System User Fee is especially intriguing as Transportation California, representing business, construction, and labor groups, has already drafted a proposal and is undertaking an education and outreach campaign to build support for a near-term ballot measure.

Pros	Cons
New idea; different from conventional sales tax or gas tax proposals	Annual fee so taxpayers feel the burden all at once

Sustainable; captures revenues from all vehicle operators of the road system including operators of electric vehicles and other alternative fuel vehicles	A fee based on value of a vehicle is close to VLF, which can be a hot button issue, voters react to it, i.e. Schwarzenegger reducing the VLF and taking over as Governor
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IV. Vehicle Miles Traveled Fee. Institute a fee based on a vehicle miles traveled per registered vehicle, personal and/or commercial. This could require GPS tracking devices to be installed in vehicles or perhaps reporting on a quarterly, semi-annually, or an annual basis to the State on the total number of miles driven per registered vehicle. It is unclear how much such a tax would need to be set at to generate the funds necessary to address California’s transportation revenue shortfalls. In 2010, there was 327 million vehicle miles traveled in the state.

Pros	Cons
User based revenue; pay to use the system	Concerns about privacy rights related to a GPS tracking device
Can link fee to peak driving times like congestion pricing on toll roads	It is a potentially declining revenue source as greenhouse gas reduction goals attempt to reduce VMTs
	Implementation would be significant given there isn’t the same or similar process already set up

The CEAC Transportation Committee also considered the following revenues possibilities but did not conclude that these options were as viable or sustainable or otherwise did not meet the overarching principles:

- Weight Fee Increase
- Regional Fee
- Local Fee
- Public-Private Partnerships
- Infrastructure Bank
- Toll Roads
- Congestion Pricing

**Recommendation.**

Again, the four aforementioned revenue options appear to be the most viable and sustainable opportunities for increased revenues to address the significant funding shortfalls for transportation in California. The CEAC Transportation Committee recommends that the HLT Committee take action to recommend that the CSAC Board of Directors support these options to fund our transportation needs. Policy direction should be broad enough to allow CSAC to support any of the options that meet our overall policy goals.



**California State Association of Counties**

*(As adopted by the CSAC Executive Committee)*

**CSAC 2015 STATE ADVOCACY PRIORITIES**

California counties remain focused on implementing numerous significant reforms involving fundamental shifts of responsibilities in the public safety and health arenas that require flexible and efficient solutions. While economic recovery in California has remained steady, it has been modest and inconsistent throughout our 58 counties. Further, income growth has not been uniform across our communities, thus placing further challenges on counties tasked with providing public services to those in need. With the goal of ensuring that all counties succeed, CSAC is leading efforts to ensure that counties can effectively manage new responsibilities and meet service demands in an ever-changing environment. From working to protect existing revenues and avoiding new costs to encouraging innovation and collaborative problem solving, CSAC remains at the forefront of significant statewide issues, fighting for counties and the Californians we serve.

The 2015 CSAC State Legislative Priorities reflect an ongoing commitment to successful implementation of 2011 realignment and implementation of the Affordable Care Act, as well as seeking resources to address infrastructure deficiencies from transportation to water systems. The chart below outlines areas of opportunity to retain and secure financial resources for counties. Additionally, CSAC will advance county interests within a diverse array of key county issues.

**Protecting Vital County Resources**

Every day, year after year, CSAC works to protect billions of dollars in financial resources that support locally delivered services. For 2015, the priority funding areas below will serve as the focus of CSAC’s advocacy efforts. While other funding sources also require ongoing, permanent vigilance, the list below represents policy areas where CSAC will lead the charge to protect existing resources and secure new or renewed funding for California counties. Brief descriptions of many issues can be found in the pages that follow.

2011 Realignment <i>Ensure proper distribution of 2011 realignment, including the \$1 billion AB 109 allocation and allocation of mental health funds</i>	\$6B
AB 85/Affordable Care Act Implementation <i>Ensure proper distribution of 1991 realignment funds, including retaining funds for public health and returning savings associated with indigent health</i>	\$1.3B
Cap and trade funds <i>Secure additional funding for local government GHG reduction projects and protect funding for affordable housing and sustainable communities</i>	\$0.5B - \$1B
Dept of Fish and Game Payment In-Lieu of Taxes (PILT)	\$18M

<i>Includes payment of past due monies owed to counties since 2002-03</i>	
Water Bond <i>Influence water bond allocation and guideline development for local government access to funding for groundwater implementation, stormwater and flood control programs, regional planning funds and clean drinking water programs</i>	\$2B
Court security funding <i>Maintain recent increases and secure new resources for new facilities</i>	\$2M - \$5M
Mentally Ill Offender Crime Reduction grants (MIOCR) <i>Increase grants for juvenile and adult offenders' mental health services</i>	\$100M
Medi-Cal Administration <i>Protect existing and seek new funding for county outreach, eligibility, and enrollment</i>	\$500M
In-Home Supportive Services (IHSS) Maintenance of Effort <i>Monitor the mechanics of the 2012 IHSS MOE deal</i>	\$1B
Property tax allocation issues <i>Secure continued funding for counties with insufficient ERAF</i>	\$5M
Mandate backlog <i>Secure further repayment of debts for pre-2004 and suspended mandates</i>	\$1.9B
Transportation Funding <i>Ensure existing gas tax revenues are accurately allocated and secure additional transportation revenues for local streets and roads</i>	\$800M - \$1.2B
Special Distribution Fund <i>Secure funding to mitigate gaming impacts on government services</i>	\$9M
<b>TOTAL</b>	<b>\$13B</b>

## 2015 Legislative Priorities

### Budget Priorities

**Pre-2004 Mandate Repayment.** CSAC will continue to support the Administration's commitment to paying down the Wall of Debt mandates and urge the Governor to continue to make the full repayment a priority. Should current year revenues not be sufficient to complete the remaining \$800 million in reimbursements owed to local agencies, we request that the Administration continue to pay down this debt, either through direct appropriation or via the Rainy Day Fund reserve.

**Payment-in-lieu of Taxes (PILT).** CSAC will advocate for approximately \$18 million in PILT owed counties dating back to FY 2002-03. The law clearly indicates that the state owes counties for the loss of local property taxes resulting from the state taking ownership of private lands. PILT funds are discretionary dollars to local governments and remain critical to some of the smallest counties. The non-payment of PILT by the state has a direct impact on local general funds and the ability to provide services, many state mandated.

**Recidivism Reduction Grants / Behavioral Health Interventions.** CSAC will advocate for \$100 million in additional resources for the Mentally Ill Offender Crime Reduction (MIOCR) program to assist with mental health services for both the juvenile and adult criminal justice populations.

**Medi-Cal County Administrative Costs.** CSAC will seek an additional \$100-150 million (split between state and federal funds) for county administration of Medi-Cal in the current year. We continue to develop an estimate for the budget year based on the work counties are required to perform, what counties can reasonably expect to spend, and what appears reasonable to the Administration.

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## **Administration of Justice**

**2011 Public Safety Realignment.** CSAC will continue to actively work in collaboration with the Administration, Legislature, and key public safety stakeholders in addressing public safety realignment implementation issues, primarily related to sentencing changes associated with AB 109. In 2015, CSAC's primary areas of focus will be the long-term impacts associated broadly with county liability, long-term jail offenders, and better managing of behavioral health concerns of the court-involved population. Specifically, CSAC will continue to advocate for a hard cap on felony jail terms, seek – in collaboration with the state – potential remedies and mutually beneficial behavioral health responses and strategies, and promote additional investment of \$100 million in the Mentally Ill Crime Reduction Grant Program. Our ongoing commitment to a robust realignment-related training and education program will continue.

**Supplemental court security funding (new court facilities).** In follow up to last year's success in securing both funding and a process by which counties can seek supplemental court security funding associated with the activation of a new court facility, CSAC – in collaboration with the California State Sheriffs' Association – will advocate for sustained baseline funding for those counties awarded resources in 2014-15, work to identify potential future needs, and undertake individual county outreach where needed. In 2015-16, the funding level for the supplemental court security line item must be calibrated to cover ongoing approved county costs from the current year along with an estimate of the potential new costs in the budget year. In addition, CSAC is requesting elimination of the per-deputy funding cap.

**Criminal Justice/Affordable Care Act Intersection.** The CSAC Administration of Justice and Health and Human Service Policy Committees continue to work collaboratively to promote best practices and encourage maximum participation associated with new opportunities for the court-involved population under the Affordable Care Act. As part of these efforts, CSAC is requesting a statutory change that would expressly grant counties the authority to claim federal financial participation for Medi-Cal eligible inmates who have 24+ hour stays at a hospital if the services delivered are for mental health or psychiatry. Those costs are allowable for the juvenile population. It is our understanding that DHCS indicated its intent to permit claiming only for health (and not mental health) services. We continue to work with the Administration to secure finalized and streamlined claiming protocols as soon as is practical.

**Reinvestment in the Juvenile System.** CSAC will partner with the Chief Probation Officers of California to refocus interest in the juvenile justice system, specifically related to smart and targeted prevention and intervention efforts aimed at preventing deeper downstream involvement in the criminal justice system. This initiative will encompass a commitment of time and resources to exploring counties' gang violence intervention and prevention efforts and well as broad-based framing of issues to help refocus interest and resources on a vital component of the

criminal justice system that largely has been overlooked during the intensive triage period following the October 2011 implementation of public safety realignment.

**Proposition 47.** CSAC anticipates criminal justice system disruption associated with the implementation of the new sentencing structure imposed by Proposition 47, approved by voters in November 2014. To assess impacts and ensure that counties are well positioned to benefit from allocation of any state savings anticipated in 2016-17, CSAC will work closely with counties, our criminal justice system partners, the Administration, Legislature, the California Department of Corrections and Rehabilitation (CDCR), and other key stakeholders in assessing specific operational and fiscal impacts.

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## **Agriculture, Environment and Natural Resources**

**Groundwater Legislation Clean-up & Implementation.** CSAC will work closely with counties, the Administration and the Legislature regarding needed changes to the new groundwater sustainability laws that will facilitate county implementation without threatening the intent of groundwater sustainability. CSAC serves as the county representative contact at the Administration's regular meetings on the groundwater legislation implementation. CSAC is also organizing several educational forums in 2015 for county officials on the groundwater legislation.

**Stormwater Funding.** Counties are having difficulty raising revenue to support flood protection infrastructure upgrades and maintenance and compliance with new water quality requirements because of the vote threshold requirements under Proposition 218. CSAC, in collaboration with other public and private stakeholders, will support legislation that would amend Article XIII D, section 6(c) of the California Constitution (Proposition 218) to expand its exemption from the majority-property-owner or 2/3-registered-voter election requirement from "fees or charges for sewer, water, and refuse collection services" to "fees or charges for storm water and flood control, sewer, water, and refuse collection services".

**Water Bond Implementation.** Proposition 1 (Prop 1), the \$7.5 billion Water Bond was approved by California voters on Nov. 4, 2014. Prop 1 will fund investments in water projects and programs as part of a statewide, comprehensive water plan for California. The ultimate value and effectiveness of the bond will depend on how it is implemented and how the funds are spent. CSAC will work with the Legislature and Administration on the implementation of Prop 1 and guideline development with a specific focus on groundwater management funding, clean drinking water funding, stormwater and flood control programs and Integrated Regional Water Management Planning funds, among other items.

**Marijuana Regulation.** Similar to last year, the California Police Chiefs Association and the California Cannabis Industry Association are planning to sponsor separate pieces of legislation that would, in differing ways, establish a statewide regulatory framework for the cultivation, processing, transportation, testing, recommendation and sale of medical marijuana. As directed by CSAC policy on medical marijuana, CSAC will continue to advocate for strong local control and environmental protections in the legislation relative to cultivation activities and dispensary operations. In addition, CSAC will continue to oppose proposed requirements that would impose unreasonable enforcement responsibilities onto counties.

**Rural Counties Initiative & PILT.** CSAC will continue to advocate for a restoration of funds for Payments in Lieu of Taxes (PILT). Additionally, CSAC will advocate for a Rural Infrastructure Program to provide additional funding to California's smallest counties for critical infrastructure investments that ensure the health and safety of California's unique, rural communities. Furthermore, CSAC will continue to advocate for programs of particular importance to rural areas, including farmland and open space preservation and county fairs.

**Cap and Trade.** The Legislature approved and the Governor signed California's first Cap and Trade Expenditure plan this year, totaling \$872 million in investments to reduce Greenhouse Gas (GHG) emissions in California. In addition, the budget created a framework for how the Legislature will allocate future Cap and Trade auction revenues with 60% of all futures funds dedicated to continuous appropriations for a variety of different program areas (see Housing, Land Use & Transportation section for additional details). However, 40% of Cap and Trade funds have been secured for natural resource investments in future budget years, upon annual appropriation of the Legislature. CSAC will continue to advocate for local government eligibility for these funds, with a focus on programs in the waste management, energy and water resources sectors.

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## **Employee Relations**

**Pensions.** CSAC will participate in a discussion with other public agency stakeholders, the California Public Employees' Retirement System (CalPERS), the Administration and the Department of Finance regarding what should be considered compensation when computing retirement benefits. Since its passage in 2012, the Public Employees' Pension Reform Act (PEPRA) has necessitated cleanup language, including what can be classified as pensionable compensation. CSAC will advocate for maximum flexibility, while maintaining the need for fiscal prudence at both the local and state levels.

CSAC will lead the effort to ensure additional PEPRA cleanup is held as a priority by CalPERS and the Administration, specifically the exemption for public retirees to serve in a locally elected capacity without being forced to reinstate or waive their access to retirement benefits.

**Workers' Compensation.** CSAC will be active in strongly opposing further efforts by labor organizations to increase such benefits at the cost of public employers.

**Open Meetings and Public Records Act.** CSAC will join other public agency advocates in ensuring access to open government remains without imposing greater costs to our public agencies.

**Collective Bargaining.** As is the case each legislative session, labor organizations will undoubtedly attempt to modify the Meyers-Milias Brown Act (MMBA) to make it more difficult for public agencies to balance fair benefits with budgetary needs at the collective bargaining table. CSAC will maintain its strong opposition to any change to MMBA that would provide an unfair advantage to employee organizations.

## **Government Finance and Operations**

***Municipal Bankruptcy.*** The Great Recession has regrettably been marked by three significant municipal bankruptcies in California; the Cities of Vallejo, Stockton, and San Bernardino are going through or have completed the Chapter 9 bankruptcy process in federal court. Stockton's case, however, has brought with it significant implications for other local agencies that find themselves in fiscal crisis. In October, a federal bankruptcy judge ruled that payments to CalPERS (Stockton's pension system) could be reduced by the court.

While Stockton's bankruptcy plan does not include reduced payments to CalPERS, it is likely that the Legislature will view this ruling – the first of its kind in California – as one that poses significant financial risk to CalPERS and its members. CSAC successfully negotiated resolution on the last bill that sought to limit local agencies' access to federal bankruptcy by requiring a neutral mediation process prior to filing (or declaration of a fiscal emergency); however, it is likely that the Legislature will seek to revisit this issue in the coming session.

While legislators have discussed municipal bankruptcy in the past, this new issue brings with it an additional policy consideration: the safety of public employees' retirement provided by CalPERS. We don't yet know where legislative leaders or the Governor will land with regards to an appropriate remedy.

***Vote Thresholds for Locally-Approved Taxes.*** CSAC has long-supported greater revenue raising authority at the local level and will support legislative constitutional amendments to reduce vote thresholds for local taxes. Depending on the outcome of the November election, the Legislature may seriously consider a number of measures that reduce voter approval requirements for a variety of specific purposes; as such a change requires a constitutional amendment, the challenge ahead is to determine the approach that has the best chance for voter support.

***Redevelopment Dissolution.*** Counties remain critical players in the ongoing dissolution of community redevelopment agencies. CSAC is committed to assisting counties in their multiple roles as successor agency, oversight board participants, and tax administrators to ensure consistent and timely communication and coordination among the county, local stakeholders, and the state. Further, CSAC will continue to advocate against unnecessary changes to the current dissolution process in order to ensure that former tax increment revenues flow back to affected taxing entities and that former redevelopment agencies wind down in an expeditious manner. Based on the Governor's veto messages on several bills dealing with redevelopment, the Administration will be taking a leadership role with interested legislators in crafting future solutions.

***Mandates.*** The current process for identifying reimbursable mandates and securing payments owed to local agencies for mandated programs and services is arcane and oftentimes biased against local agencies. While the state is making progress on paying down the debt associated with pre-2004 mandate reimbursements, CSAC will continue to advocate for additional funding to ensure that debt is resolved, as well as future reforms to ensure a more equitable mandate reimbursement process.



## **Health and Human Services**

**Renewal of California's Federal Medicaid Section 1115 Waiver.** With California's current federal Medicaid Section 1115 Waiver ending in October 2015, the Department of Health Care Services will be submitting their proposal for the subsequent waiver in early 2015. CSAC will remain engaged in the stakeholder processes and will be advocating for another five-year waiver that provides at least the same level of funding for county safety-net providers as the current waiver. The waiver concept paper released by the Administration included a proposal to seek federal approval to fund "shelter," or housing, using Medicaid funds. In collaboration with our county partners, CSAC will advocate for federal funding to test county whole person care pilot programs that aim to integrate health, behavioral health and social services that may include utilizing funding for housing and shelter services.

**Drug Medi-Cal Organized Delivery System Waiver.** The Department of Health Care Services plans to request a waiver amendment to California's current Section 1115 waiver to operate the Drug Medi-Cal (DMC) program as a county opt-in organized delivery system. Counties choosing to participate would act as specialty health plans for the delivery of substance use disorder treatment, similar to the existing delivery of specialty mental health services at the county level.

CSAC will be advocating for the waiver amendment to include the flexibility to test pilots allowing some counties to assume the role of the specialty health plan, to make integration as seamless as possible, and considerations for rural counties.

The Administration has yet to finalize the financing considerations. They have proposed creating a county-specific sharing ratio based on history and future projections. CSAC will remain engaged in the development of the financing mechanism as it evolves.

**Connecting Jail and Health and Human Services.** CSAC will continue to seek partnership opportunities with the Department of Health Care services, the Department of Social Services, private foundations and other stakeholders on enrollment, eligibility, quality and improving outcomes for the court-involved population. CSAC will seek opportunities to obtain funds for inpatient hospitalizations, including psychiatric hospitalizations, for adults and juveniles while incarcerated. CSAC will also seek opportunities to connect the court-involved population to social services that will improve outcomes and reduce recidivism.

**AB 85 Formulas.** CSAC will continue to engage the Administration and monitor the integrity of the mechanics associated with the diversion of the 1991 Health Realignment funds under AB 85.

**Poverty.** California's poverty rate continues rank amongst highest in the nation. Poverty undermines the success of our programs and the families we serve. It is anticipated that several bills and issues related to poverty will be introduced in the upcoming legislative session. CSAC will convene a workgroup to establish policies to address poverty and homelessness at the county level.

**Congregate Care Reform.** CSAC will continue to engage the Department of Social Services as their proposal to redesign the foster care agency and group home system moves forward. Counties are especially interested in potential fiscal impacts and retaining the flexibility to ensure the best placement option for each child in the foster care system.

***Eliminating EBT Fees.*** CSAC has joined a coalition to advocate for a reduction in the amount of bank fees that CalWORKs and CalFresh recipients pay through the use of the Electronic Benefit Transfer (EBT) system California families that qualify for and receive public assistance on Electronic Benefit Transfer (EBT) cards currently pay about \$19 million a year from their grant amounts to withdraw cash from ATMs or check their account balances.

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## **Housing, Land Use and Transportation**

***New Revenue for Transportation Infrastructure.*** CSAC will continue to work with a coalition of transportation stakeholders to identify and evaluate viable new revenue options to replace and/or augment the gasoline excise tax (gas tax) for transportation infrastructure investments. The local street and road system is facing a more than \$7 billion annual shortfall for the maintenance and preservation of the existing system, let alone other critical modes of transportation. Mileage-based road user charges seem to be gaining traction as a potential replacement revenue source. Accordingly, CSAC will participate in the California Transportation Commission's Road User Charge (RUC) Technical Advisory Committee (TAC) to inform the development of a vehicle miles traveled based demonstration project in California.

Even if the state moves to replace the gasoline excise tax with a RUC, implementation will take many years. CSAC will also explore interim revenue options to bridge the funding gap in the short-term. This will include options such as securing the near-term repayment of approximately \$1.2 billion in existing transportation loans, returning truck weight fees back to transportation (\$950 million is currently being diverted to pay transportation related general fund bond debt service), identifying a replacement revenue source to pay existing and future transportation bond debt service, new transportation infrastructure bonds, and reducing the voter threshold for local transportation sales tax measures (estimated to potentially generate over \$300 million annually for local transportation priorities). Additionally, CSAC will continue to work with stakeholders to sunset the existing diversion of \$128 million in annual Highway User tax Account (HUTA) revenue to the general fund. Staff will also continue to monitor gas tax subventions to counties to ensure counties receive accurate levels of funding.

***Permanent Source for Affordable Housing.*** Safe, decent and affordable housing is the foundation of healthy and sustainable communities. The Department of Housing and Community Development (HCD) reports that 1 million Californians lack access to affordable housing, that 2 in 3 renters are overpaying, and that 1 in 5 renters have overcrowded households. The Affordable Housing and Sustainable Communities (AHSC) Program provides an opportunity to invest new revenues into building affordable housing in the state but a more flexible permanent source of funding, not limited to GHG-related funds, is also needed. CSAC will support efforts to create a permanent source for affordable housing.

CSAC will continue regular conversations with the department to ensure state oversight of local planning activities is commensurate with statutory authority. The challenge of affordable housing requires a proactive partnership between counties, cities and the state. CSAC staff will work to develop new relationships and find ways to partner together to incentivize and encourage planning for affordable housing in California.

**Cap and Trade Implementation.** A significant majority of cap and trade auction revenues were continuously appropriated in the FY 2014-15 state budget, including 20-percent of all future cap and trade auction proceeds for affordable housing and sustainable communities. With the fuels coming under the cap in 2015, auction revenues are expected to grow significantly into the future. CSAC will continue to work with the Strategic Growth Council (charged with implementing the AHSC program) and other state agencies and departments to ensure all counties are eligible to apply for grants and loans under the program and that eligible projects include improvements to the local street and road network that have greenhouse gas (GHG) emissions reductions benefits and provide the right-of-way for active transportation and mass transit.

Sixty-percent of all cap and trade auction proceeds have been budgeted on an on-going basis. The other 40-percent of revenues were allocated on a one-time basis in FY 2014-15 for energy, water and natural resource programs and projects. This puts the appropriation of 40-percent of cap and trade revenues squarely in the middle of budget negotiations between the Administration and Legislature on an annual basis.

**Tribal and Intergovernmental Affairs.** CSAC will proactively engage with the Administration and Legislature to influence the renegotiation of 1999 Tribal-State Gaming Compacts which are set to expire in 2019. CSAC's priorities for the revised compacts include requiring judicially enforceable local mitigation agreements for any new or expanded gaming or related facilities, a more robust tribal environmental review process with state oversight to ensure adequacy of environmental documents, and ensuring robust mitigation mechanisms for preexisting local off-reservation impacts from gaming enterprises underway prior to date of any new compacts.

The Special Distribution Fund (SDF), the sole mechanism for mitigation of local impacts under the 1999 compacts, is insolvent. Starting in FY 2014-15, counties will no longer receive SDF grants unless the Legislature and Governor backfill the account or gaming revenues paid into the account increase. CSAC will seek a \$9 million appropriation to fund the SDF grants to counties until Tribal-State Gaming Compacts are renegotiated to replace the SDF with local agreements.



## **CSAC 2015 FEDERAL ADVOCACY PRIORITIES**

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CSAC staff, in consultation with Waterman and Associates, developed the following list of federal issues of significance to California's counties. These issues will represent the association's top lobbying priorities for 2015, with CSAC staff and Waterman and Associates working together to identify other emerging topics that may necessitate action throughout the year.

**MAP-21 Reauthorization.** CSAC will continue to promote a number of key transportation priorities as part of the ongoing highway and transit reauthorization process. Among other issues, the association strongly supports a dedicated federal funding stream for local bridges, both on- and off-system. Additionally, CSAC is seeking opportunities to: further streamline the regulatory and project delivery processes; promote programs that increase safety on the existing transportation system; and, advocate for initiatives that protect previous and future investments via system maintenance and preservation.

**State Criminal Alien Assistance Program.** CSAC will continue to serve as a lead advocate in efforts to protect - as well as enhance - the SCAAP program, which is a key source of federal funding for a significant number of California's counties. CSAC will fight to eliminate statutory language that authorizes the U.S. Department of Justice to transfer up to 10 percent of SCAAP funding to other justice accounts.

CSAC also will continue to advocate for a long-term reauthorization of SCAAP and will continue to seek several key programmatic changes to the program. Such changes could come about as part of an immigration-reform effort.

**Native American Affairs/Fee-to-Trust Reform.** CSAC will continue to lead local government opposition to any legislative effort that would overturn the Supreme Court's *Carcieri v. Salazar* decision absent concomitant reforms in the Indian fee-to-trust process; likewise, the association will continue to promote its comprehensive legislative reform proposal. CSAC will continue to oppose administrative changes to the federal acknowledgment process that would diminish the role of local governments and other interested parties.

**Payments-in-lieu-of-Taxes.** CSAC will continue to advocate for a long-term reauthorization of mandatory entitlement funding for the PILT program. In the absence of a long-term renewal, CSAC will support full funding for PILT via the appropriations process. Mandatory funding for PILT expired in fiscal year 2014, and final payments were distributed to counties in June.

**Secure Rural Schools Act Reauthorization.** CSAC will maintain efforts aimed at securing a multi-year reauthorization of the SRS program. Absent a long-term program renewal, CSAC supports a short-term extension of the Act. The program expired at the end of fiscal year 2013, and final payments were distributed to eligible counties in April of 2014.

**Property Assessed Clean Energy Program.** CSAC supports legislative and administrative remedies that would help expand residential PACE programs. The Federal Housing Finance Agency (FHFA) issued a directive in 2010 that effectively shut down PACE programs in California and across the country. Bipartisan legislation that would prevent FHFA from adopting policies that contravene established state and local PACE laws remains on the table.

**Water Resources.** CSAC will monitor legislative proposals to ensure consistency with the association's comprehensive policy direction on water. Given the ongoing drought, various interests continue to pressure California's congressional delegation and the Obama administration to address the state's chronic water shortage. A range of proposals are being discussed that would address water transfers, endangered species laws, water quality, and California Bay-Delta protections, to name a few.

CSAC will continue to promote legislation that would provide a *Clean Water Act* Section 404 permitting exemption for maintenance removal of sediment, debris, and vegetation from local flood control channels and basins.

CSAC also will continue to monitor and support congressional efforts to block EPA's administrative actions aimed at expanding regulatory authority over certain bodies of water. The EPA's proposed "Waters of the U.S." regulation remains highly controversial and is opposed by a variety of stakeholders, including state and local governments, agricultural interests, and the Small Business Administration.

**Remote Sales Tax Legislation.** CSAC will continue to advocate for federal legislation - the *Marketplace Fairness Act* - that would authorize state and local governments to require tax collection and remittance by remote sellers. Under current law, online retailers are exempt from collecting sales taxes in states where they have no physical presence, or "nexus." In these situations, the consumer is responsible for calculating the use tax and remitting the payment to the relevant jurisdictions, but compliance is low. As online sales continue to grow, local governments are losing billions of dollars in uncollected sales tax revenue.

**Temporary Assistance for Needy Families Reauthorization.** CSAC will continue to promote TANF reauthorization legislation that would restore state and county flexibility to tailor work and family stabilization activities to families' individual needs. The association also supports maintaining the focus on work activities under TANF, while recognizing that "work first" does not mean "work only."

**Child Welfare Services.** CSAC supports increased federal funding for services and income support needed by parents seeking to reunify with children who are in foster care. The association also supports increased financial support for programs that assist foster youth in the transition to self-sufficiency, including post-emancipation assistance such as secondary education, job training, and access to health care.

In addition, CSAC supports retaining the entitlement nature of the Title IV-E Foster Care and Adoption Assistance programs and elimination of outdated rules that base the child's eligibility for funds on parental income and circumstances. Finally, CSAC supports federal funding to address the service needs of youth who are victims of commercial sexual exploitation.

In 2014, Congress approved the *Preventing Sex Trafficking and Strengthening Families Act* (HR 4980). The new law makes several federal reforms to better serve foster youth and includes provisions that focus on the emerging issue of sex trafficking of minors. While the Act exemplifies the bipartisan approach that Congress typically takes on child welfare issues, sufficient funding is needed to support the goals of the law.

## CSAC Internal Monitoring

*In addition, CSAC will continue to provide internal monitoring on a number of issues that are of significance to California's counties.*

***U.S. Army Corps of Engineers' Levee Vegetation Removal Policy.*** In 2014, Congress approved a major water resources reform bill known as the *Water Resources Reform and Development Act* (PL 113-121). Among other things, the legislation includes language championed by CSAC that requires the U.S. Army Corps of Engineers to undertake a comprehensive reexamination of its controversial levee vegetation removal policy. CSAC will actively monitor the Corps' review process, which, under the law, must be concluded by December 10, 2015.

***Health Reform Implementation.*** CSAC will support continued federal funding for the Affordable Care Act, including measures supporting state and county administration of the law.

***Pension Tier Changes - Conflict with IRS Requirements.*** CSAC will continue to support legislation (HR 205) that would clarify the authority of local governments to propose and implement creative solutions to rising pension costs. At the same time, the association will urge the Internal Revenue Service (IRS) to remove regulatory barriers that prevent local governments from implementing their own local pension reforms.

***Tax-Exempt Status of Municipal Bonds.*** CSAC will oppose any proposal that seeks to limit or eliminate the tax treatment of municipal bonds. Under current law, investors are not required to pay federal income taxes on interest earned from most bonds issued by state and local governments. The tax exempt status of municipal bonds therefore provides counties with a cost-effective tool to finance public infrastructure projects and capital improvements.

***National Flood Insurance Program (NFIP).*** CSAC supports the creation of a new agricultural flood hazard area under the National Flood Insurance Program (NFIP). Specifically, Congress should establish a FEMA flood zone for agriculturally-based communities to allow replacement or reinvestment development in historically agricultural floodplains. This program would not require expensive elevation of structures or dry flood proofing, but would still have requirements for wet flood proofing certain structures. Congress should instruct FEMA - for these special agricultural zones - to adjust the NFIP rate to be more actuarially structured in order to evaluate the actual flood risk based on levees providing historical protection, as opposed to assuming that no protection exists.

It should be noted that Congressman John Garamendi (D-CA) introduced such legislation - the *Flood Insurance for Farmers Act of 2012* (HR 4020) - in the 112th Congress. The congressman is expected to reintroduce the bill in the 113th Congress.

***Community Development Block Grant.*** CSAC will promote increased funding for the CDBG program to allow localities to continue to provide a wide variety of economic and community

development activities, such as home rehabilitation loans, public works and infrastructure projects, and various youth-related services. CDBG funds have been targeted for cuts in recent budget cycles, making it increasingly challenging to maintain adequate funding for the block grant.

***Eliminate Inmate Exception.*** CSAC supports the elimination of the federal health benefits "inmate exception" for persons in county jails and detention centers who are in custody pending disposition of charges. Counties are prohibited from billing federal programs for the health services provided to jail inmates prior to adjudication.

***Digital Goods and Services Tax Fairness Act.*** CSAC will oppose legislation that would prohibit state and local governments from imposing taxes on digital goods and services that are taxable under current law. Digital goods and services are online purchases that are downloaded directly by consumers, including music downloads, movies, and newspaper subscriptions. House Judiciary Chairman Bob Goodlatte (R-VA) may seek to package such a proposal with remote sales tax legislation.

***Byrne Grant Funding.*** CSAC strongly supports prioritizing Byrne funding in the annual appropriations process and will work collaboratively with the California congressional delegation and others to secure and promote increased funding for the program and the positive local outcomes it helps achieve.

***Federal Geothermal Royalties.*** CSAC opposes any legislative effort that would discontinue geothermal royalty payments to county governments. The Geothermal Steam Act of 1970 specifies a formula for the distribution of geothermal revenues to federal, state, and county governments. Under the formula, the federal government retains 25 percent of the revenue, the States receive 50 percent, and county governments receive 25 percent. Several recent attempts have been made to permanently repeal the sharing of geothermal revenues with counties.

***Transient Occupancy Tax.*** CSAC will work to ensure counties' continued authority to assess and collect transient occupancy taxes on the full rate paid by the consumer for all appropriate transient lodging, regardless of whether the consumer pays through a hotel or any other vendor.

***2-1-1 Statewide.*** CSAC has actively supported both state and federal legislation to help build and fund a statewide 2-1-1 referral system. 2-1-1 is a free, easy-to-remember telephone number that connects people to essential community information and services. In 2009, over 1.6 million Californians called 2-1-1 to find needed community services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and senior care. 2-1-1 also plays an informational role during emergencies and disasters and relieves pressure on the 9-1-1 system at these critical times. The value of this service was evident during the 2007 San Diego wildfires when 2-1-1 call centers provided information and support to more than 130,000 callers in five days. Currently, just 27 of California's 58 counties have 2-1-1 service covering 92 percent of the population. CSAC will continue to work at both the state and federal levels to promote the need for a comprehensive statewide 2-1-1 system.

***Medical and Long-Term Care Premiums.*** CSAC supports federal legislation to extend to all retirees the option to use tax free distribution from qualified retirement plans to pay for medical and long-term care premiums. In the Pension Protection Act of 2006, Congress granted specified

public safety officers the ability to use up to \$3,000 per year of tax-free dollars from their qualified retirement plans to pay for medical and long-term care premiums. Extension of this benefit to all retirees who participate in a qualified retirement plan could encourage people to save more while lessening the burden on government budgets to cover rising health care costs.

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DATE: February 3, 2015

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, Hurst Brooks Espinosa  
Darby Kernan, CSAC Legislative Representative

RE: **Proposed Changes to the Administration of Justice (AOJ) Platform – ACTION ITEM**

**Background.** The policy committees of the California State Association of Counties (CSAC) are required to review and, if appropriate, revise their respective planks of the association’s policy platform on a biannual basis. The last set of modifications to the platform was approved by the CSAC Board of Directors in 2013 for the 2013-14 legislative session. At that time, with respect to the AOJ section, the Board incorporated 2011 Realignment policy statements as an addendum to the platform. That action was taken jointly and concurrently with the Government Finance and Operations Committee as well as the Health and Human Services Committee.

At our November 2014 policy committee meeting, the committee was provided with a set of potential changes outlined in the table below and shown in the attached mark-up. However, to give committee members an opportunity to consider both these and potentially other new suggestions that come forward, the committee was not asked to take action on the platform. The primary purpose of the February 2015 AOJ policy committee meeting is to review the proposed changes and formalize action on the platform for the full Board of Directors review and approval.

While there have been no other changes suggested by members of the committee since the initial review in November, there will be an opportunity to discuss other ideas at the February 17 conference call meeting.

Page/line number	Change	Rationale/Need
Page 6 / lines 9-18	Add new section on <b>Enrollment of Court-involved Population in Public Programs</b>	<b>Substantive</b> This section is proposed for inclusion to reflect CSAC’s commitment to maximizing opportunities for securing access for the court-involved population to health care, behavioral health, and other supportive services. Because of the cross-cutting nature of this policy, both the AOJ and Health and Human Services Policy Committee

Page/line number	Change	Rationale/Need
		would be asked to adopt this section.
Page 6 / lines 20-34	Add new section on <b>Incompetent to Stand Trial/Department of State Hospitals/Conservatorship</b>	<p><b>Substantive</b></p> <p>This section is proposed for inclusion in recognition of the fact that 1. The state’s IST waiting lists continue to grow to unacceptably high levels, resulting in long jail stays for persons awaiting availability of an appropriate Department of State Hospitals bed and 2. Policy interest in this area is increasing, with a continued potential for legislative action. Because of the cross-cutting nature of this policy, both the AOJ and Health and Human Services Policy Committee would be asked to adopt this section.</p>
Page 6 / line 36	Changed paragraph number from 8 to 10 for “Private Programs” section	<p><b>Technical/Non-substantive</b></p> <p>The “Private Programs” paragraph has been renumbered given the proposed addition of two immediately preceding sections.</p>

The platform, containing page and line numbers referenced to each of the changes above, is attached for your review and reference.

1 Chapter Two

2  
3  
4 Administration of Justice

5 [Last update adopted 2013]

6  
7 **Section 1: GENERAL PRINCIPLES**

8 This chapter is intended to provide a policy framework to direct needed and inevitable change in our  
9 justice system without compromising our commitment to both public protection and the preservation of  
10 individual rights. CSAC supports improving the efficiency and effectiveness of the California justice  
11 systems without compromising the quality of justice.

12  
13 **A. The Role of Counties**

14 The unit of local government that is responsible for the administration of the justice system must be close  
15 enough to the people to allow direct contact, but large enough to achieve economies of scale. While  
16 acknowledging that the state has a constitutional responsibility to enact laws and set standards, California  
17 counties are uniquely suited to continue to have major responsibilities in the administration of justice.  
18 However, the state must recognize differences arising from variations in population, geography, industry,  
19 and other demographics and permit responses to statewide problems to be tailored to the needs of  
20 individual counties.

21  
22 We believe that delegation of the responsibility to provide a justice system is meaningless without  
23 provision of adequate sources of funding.

24  
25 **Section 2: LEGISLATIVE AND EXECUTIVE MATTERS**

26 **A. Board of Supervisors Responsibilities**

27 It is recognized that the state, and not the counties, is responsible for trial court operations costs and any  
28 growth in those costs in the future. Nevertheless, counties continue to be responsible for justice-related  
29 services, such as, but not limited to, probation, prosecutorial and defense services, as well as the  
30 provision of local juvenile and adult detention facilities. Therefore, county board of supervisors should  
31 have budget control over all executive and administrative elements of local justice programs for which  
32 we continue to have primary responsibility.

33  
34 **B. Law Enforcement Services**

35 While continuing to provide the full range of police services, county sheriffs should move in the direction  
36 of providing less costly specialized services, which can most effectively be managed on a countywide  
37 basis. Cities should provide for patrol and emergency services within their limits or spheres of influence.  
38 However, where deemed mutually beneficial to counties and cities, it may be appropriate to establish  
39 contractual arrangements whereby a county would provide law enforcement services within incorporated  
40 areas. Counties should maintain maximum flexibility in their ability to contract with municipalities to  
41 provide public safety services.

42  
43 **C. District Attorney Services**

44 The independent, locally-elected nature of the district attorney must be protected. This office must have  
45 the capability and authority to review suspected violations of law and bring its conclusions to the proper  
46 court.

1 **D. Victim Indemnification**

2 Government should be responsive to the needs of victims. Victim indemnification should be a state  
3 responsibility, and the state should adopt a program to facilitate receipt of available funds by victims,  
4 wherever possible, from the perpetrators of the crime who have a present or future ability to pay, through  
5 means that may include, but are not limited to, long-term liens of property and/or long-term payment  
6 schedules.

7  
8 **E. Witness Assistance**

9 Witnesses should be encouraged to become more involved in the justice system by reporting crime,  
10 cooperating with law enforcement, and participating in the judicial process. A cooperative anonymous  
11 witness program funded jointly by local government and the state should be encouraged, where  
12 appropriate, in local areas.

13 **F. Grand Juries**

14 Every grand jury should continue to have the authority to report on the needs of county offices, but no  
15 such office should be investigated more than once in any two-year period, unless unusual circumstances  
16 exist. Grand juries should be authorized to investigate all local government agencies, not just counties.  
17 Local government agencies should have input into grand jury reports on non-criminal matters prior to  
18 public release. County officials should have the ability to call the grand jury foreman and his or her  
19 representative before the board of supervisors, for the purpose of gaining clarification on any matter  
20 contained in a final grand jury report. Counties and courts should work together to ensure that grand  
21 jurors are properly trained and that the jury is provided with an adequate facility within the resources of  
22 the county and the court.

23  
24 **G. Public Defense Services**

25 Adequate legal representation must be provided for indigent persons as required by constitutional,  
26 statutory, and case law. Such representation includes both criminal and mental health conservatorship  
27 proceedings. The mechanism for meeting this responsibility should be left to the discretion of individual  
28 counties.

29  
30 Counsel should be appointed for indigent juveniles involved in serious offenses and child dependency  
31 procedures. The court-appointed or -selected attorney in these procedures should be trained specifically  
32 to work with juveniles.

33  
34 Adult defendants and parents of represented juveniles who have a present and/or future ability to pay part  
35 of the costs of defense should continue to be required to do so as determined by the court. The  
36 establishment of procedures to place the responsibility for the cost of juvenile defense rightfully upon the  
37 parents should be encouraged. The state should increase its participation in sharing the costs of public  
38 defense services.

39  
40 **H. Coroner Services**

41 The independent and investigative function of the coroner must be assured. State policy should  
42 encourage the application of competent pathological techniques in the determination of the cause of  
43 death.

44  
45 The decision as to whether this responsibility should be fulfilled by an independent coroner, sheriff-  
46 coroner combination, or a medical examiner must be left to the individual boards of supervisors. In rural  
47 counties, the use of contract medical examiners shall be encouraged on a case-by-case basis where local  
48 coroner judgment is likely to be challenged in court. A list of expert and highly qualified medical  
49 examiners, where available, should be circulated to local sheriff-coroners.

1  
2 **I. Pre-Sentence Detention**

3 **1. Adults**

4 **a. Facility Standards**

5 The state’s responsibility to adopt reasonable, humane, and constitutional standards for  
6 local detention facilities must be acknowledged.

7  
8 Recognizing that adequate standards are dynamic and subject to constant review, local  
9 governments must be assured of an opportunity to participate in the development and  
10 modification of standards.

11  
12 It must be recognized that the cost of upgrading detention facilities presents a nearly  
13 insurmountable financial burden to most counties. Consequently, enforcement of  
14 minimum standards must depend upon state financial assistance, and local costs can be  
15 further mitigated by shared architectural plans and design.

16  
17 **b. Pre-sentence Release**

18 Counties’ discretion to utilize the least restrictive alternatives to pre-sentence  
19 incarceration that are acceptable, in light of legal requirements and counties’  
20 responsibility to protect the public, should be unfettered.

21  
22 **c. Bail**

23  
24 We support a bail system that would validate the release of pre-sentence persons. We  
25 also believe that public protection should be a criterion considered when setting bail.

26  
27 Any continuing county responsibility in the administration or operation of the bail  
28 system must include a mechanism to finance the costs of such a system.

29  
30 **2. Juveniles**

31 **a. General**

32 We view the juvenile justice system as being caught between changing societal attitudes  
33 calling for harsher treatment of serious offenders and its traditional orientation toward  
34 assistance and rehabilitation. Therefore, we believe a thorough review of state juvenile  
35 laws is necessary. Any changes to the juvenile justice system should fully involve and  
36 draw upon the experience of county officials and personnel responsible for the  
37 administration of the present system. CSAC must be involved in state-level discussions  
38 and decision-making processes regarding changes to the juvenile justice system that will  
39 have a local impact. There must also be recognition that changes do not take place  
40 overnight and that an incremental approach to change may be most appropriate.

41 Counties must be given the opportunity to analyze the impact, assess the feasibility, and  
42 determine the acceptability of any juvenile justice proposal that would realign services  
43 from the state to the local level. As with any realignment, responsibility and authority  
44 must be connected, and sufficient resources — with a built-in growth factor adjustment  
45 — must be provided. Any shift in juvenile detention or incarceration from large state-  
46 run facilities to local facilities — if determined to be appropriate — must be pre-planned  
47 and funded by the state. However, counties believe that a class of juvenile offenders  
48 exists that is best treated by the state. These juvenile offenders are primarily those

1 offenders whose behavioral problems, treatment needs, or criminogenic profile are so  
2 severe as to outstrip the local ability to properly treat.

3 We support a juvenile justice system that is adapted to local circumstances and increased  
4 state and federal funding support for local programs that are effective.  
5

6 **b. Facility Standards**

7 The state's responsibility to adopt reasonable, humane, and constitutional standards for  
8 juvenile detention facilities is recognized. The adoption of any standards should include  
9 an opportunity for local government to participate. The state must recognize that local  
10 government requires financial assistance in order to effectively implement state  
11 standards, particularly in light of the need for separating less serious offenders from  
12 more serious offenders.

13 **c. Treatment and Rehabilitation**

14 As with adult defendants, counties should have broad discretion in developing programs  
15 for juveniles.  
16

17 To reduce overcrowding of juvenile institutions and to improve the chances for treatment  
18 and rehabilitation of more serious offenders, it is necessary that lesser offenders be  
19 diverted from the formal juvenile justice system to their families and appropriate  
20 community-based programs. Each juvenile should receive individual consideration and,  
21 where feasible, a risk assessment.  
22

23 Counties should pursue efficiency measures that enable better use of resources and  
24 should pursue additional funding from federal, state, and private sources to establish  
25 appropriate programs at the county level.  
26

27 Prevention and diversion programs should be developed by each county or regionally to  
28 meet the local needs and circumstances, which vary greatly among urban, suburban, and  
29 rural areas of the state. Programs should be monitored and evaluated on an ongoing basis  
30 to ensure their ability to protect public safety and to ensure compliance with applicable  
31 state and federal regulations. Nevertheless, counties believe that the state must continue  
32 to offer a commitment option for those juvenile offenders with the most serious  
33 criminogenic profile and most severe treatment needs.  
34

35 **d. Bail**

36 Unless transferred to adult court, juveniles should not be entitled to bail. Release on their  
37 own recognizance should be held pending the outcome of the proceedings.  
38

39 **e. Separation of Offenders**

40 We support the separation of juveniles into classes of sophistication. Separation should  
41 be based upon case-by-case determinations, taking into account age, maturity, need for  
42 secure custody among other factors, since separation by age or offense alone can place  
43 very unsophisticated offenders among the more mature, sophisticated offenders.  
44

45 In view of the high cost of constructing separate juvenile hall facilities, emphasis should  
46 be placed on establishment of facilities and programs that facilitate separation.  
47

1                   **f. Removal of Serious Offenders to Adult Court**

2                   To the greatest extent possible, determinations regarding the fitness of serious offenders  
3                   should be made by the juvenile court on a case-by-case basis.

4  
5                   **g. Jury Trial for Serious Offenders**

6                   Except when transferred to adult court, juveniles should not be afforded the right to a  
7                   jury trial — even when charged with a serious offense.

8  
9                   **J. General Principles For Local Corrections**

10                  **1. Purpose**

11                  We believe that swift and certain arrest, conviction, and punishment is a major deterrent to  
12                  crime. Pragmatic experience justifies the continuation of rehabilitative programs for those  
13                  convicted persons whom a court determines must be incarcerated and/or placed on probation.

14  
15                  **2. Definition**

16                  Local corrections include maximum, medium and minimum security incarceration, work  
17                  furlough programs, home detention, county parole, probation, and community-based programs  
18                  for convicted persons.

19  
20                  **3. Equal Treatment**

21                  Conditions, treatment and correctional opportunities that are equal for all detainees, regardless of  
22                  gender, are strongly supported. State policy must allow recognition of the individual’s right to  
23                  privacy and the differing programmatic needs of individuals.

24  
25                  **4. Community-Based Corrections**

26                  The most cost-effective method of rehabilitating convicted persons is the least restrictive  
27                  alternative that is close to the individual’s community and should be encouraged where possible.

28  
29                  State policy must recognize that correctional programs must always be balanced against the need  
30                  for public protection and that community-based corrections programs are only successful to the  
31                  extent that they are sufficiently funded.

32  
33                  **5. Relationship to Human Services Systems**

34                  State policy toward corrections should reflect a holistic philosophy, which recognizes that most  
35                  persons entering the correctional system should be provided welfare, medical, mental health,  
36                  vocational and educational services. Efforts to rehabilitate persons entering the correctional  
37                  system should involve these other services, based on the needs — and, when possible, a risk  
38                  assessment — of the individual.

39  
40                  **6. Relationship to Mental Health System: Mentally Ill Diversion Programs**

41                  Adequate mental health services can reduce criminal justice costs and utilization. Appropriate  
42                  diagnosis and treatment services, as well as increased use of diversion programs, will result in  
43                  positive outcomes for offenders with a mental illness. Ultimately, appropriate mental health  
44                  services will benefit the public safety system. Counties continue to work across disciplines to  
45                  achieve good outcomes for persons with mental illness and/or co-occurring substance abuse  
46                  issues.

1           **7. Inmate Medical Services**  
2

3           CSAC supports efforts at the federal level to permit local governments to access third-party  
4           payments for health care provided in detention facilities, including medical services provided for  
5           those who are accused, but not yet convicted. CSAC also supports efforts to ensure continuity of  
6           benefits for those detained in county detention facilities – adult and juvenile – and for swift  
7           reenrollment in the appropriate benefits program upon a detainee’s release.  
8

9           **8. Enrollment of Court-involved Population in Public Programs**  
10

11           Counties recognize the importance of enrolling the court-involved population into Medi-  
12           Cal and other public programs. Medi-Cal enrollment provides access to important mental  
13           health, behavioral health and primary care services that will improve health outcomes and  
14           may reduce recidivism. CSAC continues to look for partnership opportunities with the  
15           Department of Health Care Services, foundations, and other stakeholders on enrollment,  
16           eligibility, quality and improving outcomes for this population. Counties are supportive of  
17           obtaining federal Medicaid funds for inpatient hospitalizations, including psychiatric  
18           hospitalizations, for adults and juveniles while they are incarcerated.  
19

20           **9. Incompetent to Stand Trial/Department of State Hospitals/Conservatorship**  
21

22           Counties affirm the authority of County Public Guardians under current law to conduct  
23           conservatorship investigations and are mindful of the potential costs and ramifications of  
24           additional mandates or duties in this area.  
25

26           Counties support collaboration among the California Department of State Hospitals,  
27           county Public Guardians, Behavioral Health Departments, and County Sheriffs to find  
28           secure supervised placements for individuals originating from DSH facilities, county  
29           jails, or conserved status. Counties support a shared funding and service delivery model  
30           for complex placements, such as the Enhanced Treatment Program.  
31

32           Counties recognize the need for additional secure placement options for individuals who  
33           are conserved or involved in the local or state criminal justice systems, including  
34           juveniles.  
35

36           **810. Private Programs**

37           Private correctional programs should be encouraged for those categories of offenders that can  
38           most effectively be rehabilitated in this manner.  
39

40           **K. Adult Correctional Institutions**

41           Counties should continue to administer adult correctional institutions for those whose conviction(s)  
42           require and/or results in local incarceration.  
43

44           The state and counties should establish a collaborative planning process to review the relationship of  
45           local and state corrections programs.  
46

47           Counties should continue to have flexibility to build and operate facilities that meet local needs. Specific  
48           methods of administering facilities and programs should not be mandated by statute.  
49



1 **L. Adult Probation**

2 Counties should continue to provide adult probation services as a cost-effective alternative to post-  
3 sentence incarceration and to provide services—as determined appropriate—to persons released from  
4 local correctional facilities. Counties should be given flexibility to allocate resources at the local level  
5 according to the specific needs of their probation population and consideration should be granted to  
6 programs that allow such discretion. State programs that provide fiscal incentives to counties for keeping  
7 convicted offenders out of state institutions should be discouraged unless such programs – on balance –  
8 result in system improvements. State funding should be based upon a state-county partnership effort that  
9 seeks to protect the public and to address the needs of individuals who come into contact with the justice  
10 system. Such a partnership would acknowledge that final decisions on commitments to state institutions  
11 are made by the courts, a separate branch of government, and are beyond the control of counties. Some  
12 integration of county probation and state parole services should be considered. Utilization of electronic  
13 monitoring for probationers and parolees should be considered where cost-effective and appropriate for  
14 local needs.

15  
16 **M. General Principles for Juvenile Corrections**

17 We believe that efforts to curtail the criminal behavior of young people are of the highest priority need  
18 within the correctional area. The long-term costs resulting from young offenders who continue their  
19 criminal activities justifies extraordinary efforts to rehabilitate them.

20  
21 Efforts should be made to force parents to assume greater responsibility for the actions of their children,  
22 including fines and sanctions, if necessary. Counties should be given flexibility to allocate resources at  
23 the local level according to the specific needs of their probation population and consideration should be  
24 granted to programs that allow such discretion. State programs that provide fiscal incentives to counties  
25 for keeping convicted offenders out of state institutions should be discouraged unless such programs – on  
26 balance – result in system improvements. Any program should recognize that final decisions on  
27 commitments to state institutions are made by the courts, a separate branch of government, and are  
28 beyond the control of counties.

29  
30 **N. Juvenile Correctional Institutions**

31 Counties should continue to administer juvenile correctional institutions and programs for the majority of  
32 youths requiring institutionalization. Retention of youths at the local level benefits the state by reducing  
33 demands on programs and institutions operated by the California Division of Juvenile Justice.

34  
35 While counties believe that a state-operated rehabilitation and detention system is a necessary component  
36 of the continuum of services for juvenile offenders, CSAC opposes efforts that would require any  
37 additional county subsidy of that system. The state should provide subvention for these activities at a  
38 reasonable level, with provisions for escalation so that actual expenses will be met.

39  
40 **O. Juvenile Probation**

41 Counties should continue to provide juvenile probation services as a cost-effective alternative to post-  
42 adjudication and to provide juvenile probation services to individual youths and their families after the  
43 youth’s release from a local correctional facility.

44  
45 Truants, run-a-ways, and youths who are beyond the control of their parents should continue to be  
46 removed from the justice system except in unusual circumstances. These youths should be the  
47 responsibility of their parents and the community, not the government. Imposing fines and/or sanctions  
48 on parents to prompt their participation in their children’s lives and involvement in the process should  
49 remain an option.

50

1 **P. Gang Violence Prevention**

2  
3 Counties recognize the devastating societal impacts of gang violence – not only on the victims of gang-  
4 related crimes, but also on the lives of gang members and their families. Counties are committed to  
5 working with allied agencies, municipalities, and community-based organizations to address gang  
6 violence and to promote healthy and safe communities. These efforts require the support of federal and  
7 state governments and should employ regional strategies and partnerships, where appropriate.

8 **Q. Human Services System Referral of Juveniles**

9 State policy toward juvenile corrections must be built on the realization that a juvenile offender may be  
10 more appropriately served in the human services system. Considering the high suicide potential of  
11 youths held in detention facilities and, acknowledging the fact that juvenile offenses are more often  
12 impulse activities than are adult offenses, juvenile cases and placement decisions should be reviewed  
13 more closely under this light.

14  
15 **R. Federal Criminal Justice Assistance**

16 The federal government should continue to provide funding for projects that improve the operation and  
17 efficiency of the justice system and that improve the quality of justice. Such programs should provide for  
18 maximum local discretion in designing programs that are consistent with local needs and objectives.

19  
20 **Section 3: JUDICIAL BRANCH MATTERS**

21 **A. Trial Court Management**

22 The recognized need for greater uniformity and efficiency in the trial courts must be balanced against the  
23 need for a court system that is responsive and adaptable to unique local circumstances. Any statewide  
24 administrative structure must provide a mechanism for consideration of local needs.

25  
26 **B. Trial Court Structure**

27 We support a unified consolidated trial court system of general jurisdiction that maintains the  
28 accessibility provided by existing trial courts. The state shall continue to accept financial responsibility  
29 for any increased costs resulting from a unified system.

30  
31 **C. Trial Court Financing**

32 Sole responsibility for the costs of trial court operations should reside with the state, not the counties.  
33 Nevertheless, counties continue to bear the fiscal responsibility for several local judicial services that are  
34 driven by state policy decision over which counties have little or no control. We strongly believe that it is  
35 appropriate for the state to assume greater fiscal responsibility for other justice services related to trial  
36 courts, including collaborative courts. Further, we urge that the definition of court operations financed by  
37 the state should include the district attorney, the public defender, court appointed counsel, and probation.

38  
39 **D. Trial Court Facilities**

40  
41 The court facility transfers process that concluded in 2009 places responsibility for trial court facility  
42 maintenance, construction, planning, design, rehabilitation, replacement, leasing, and acquisition  
43 squarely with the state judicial branch. Counties remain committed to working in partnership with the  
44 courts to fulfill the terms of the transfer agreements and to address transitional issues as they arise.

45  
46 **E. Court Services**

47 Although court operation services are the responsibility of the state, certain county services provided by  
48 probation and sheriff departments are directly supportive of the trial courts. Bail and own recognizance

1 investigations, as well as pre-sentence reports, should be provided by probation, sheriff, and other county  
2 departments to avoid duplication of functions, but their costs should be recognized as part of the cost of  
3 operating trial courts.

#### 4 **F. Jurors and Juries**

6 Counties should be encouraged to support programs that maximize use of potential jurors and minimize  
7 unproductive waiting time. These programs can save money, while encouraging citizens to serve as  
8 jurors. These efforts must consider local needs and circumstances. To further promote efficiency,  
9 counties support the use of fewer than twelve person juries in civil cases.

#### 10 **G. Collaborative Courts**

12 Counties support collaborative courts that address the needs and unique circumstances of specified  
13 populations such as the mentally ill, those with substance use disorders, and veterans. Given that the  
14 provision of county services is vital to the success of collaborative courts, these initiatives must be  
15 developed locally and entered into collaboratively with the joint commitment of the court and county.  
16 This decision making process must include advance identification of county resources – including, but  
17 not limited to, mental health treatment and alcohol and drug treatment programs and services,  
18 prosecution and defense, and probations services – available to support the collaborative court in  
19 achieving its objectives.

#### 20 **H. Court and County Collection Efforts**

22 Improving the collection of court-ordered debt is a shared commitment of counties and courts. An  
23 appropriately aggressive and successful collection effort yields important benefits for both courts and  
24 counties. Counties support local determination of both the governance and operational structure of the  
25 court-ordered debt collection program and remain committed to jointly pursuing with the courts  
26 strategies and options to maximize recovery of court-ordered debt.

### 27 **Section 4: FAMILY VIOLENCE**

29 CSAC remains committed to raising awareness of the toll of family violence on families and  
30 communities by supporting efforts that target family violence prevention, intervention and treatment.  
31 Specific strategies for early intervention and success should be developed through cooperation between  
32 state and local governments, as well as community, and private organizations addressing family violence  
33 issues.

### 34 **Section 5: GOVERNMENT LIABILITY**

36 The current government liability system is out of balance. It functions almost exclusively as a source of  
37 compensation for injured parties. Other objectives of this system, such as the deterrence of wrongful  
38 conduct and protection of governmental decision-making, have been largely ignored. Moreover, as a  
39 compensatory system of ever-increasing proportions, it is unplanned, unpredictable and fiscally unsound  
40 – both for the legitimate claimant and for the taxpayers who fund public agencies.

42 Among the principal causes of these problems is the philosophy – expressed in statutes and decisions  
43 narrowing governmental immunities under the Tort Claims Act – that private loss should be shifted to  
44 society where possible on the basis of shared risk, irrespective of fault or responsibility in the traditional  
45 tort law sense.

47 The expansion of government liability over recent years has had the salutary effect of forcing public  
48 agencies to evaluate their activities in terms of risk and to adopt risk management practices. However,  
49  
50

1 liability consciousness is eroding the independent judgment of public decision-makers. In many  
2 instances, mandated services are being performed at lower levels and non-mandated services are being  
3 reduced or eliminated altogether. Increasingly, funds and efforts are being diverted from programs  
4 serving the public to the insurance and legal judicial systems.  
5

6 Until recently, there appeared to be no end to expansion of government liability costs. Now, however, the  
7 "deep pocket" has been cut off. Insurance is either unavailable or cost prohibitive and tax revenues are  
8 severely limited. Moreover, restricted revenue authority not only curtails the ability of public entities to  
9 pay, but also increases exposure to liability by reducing funding for maintenance and repair programs. As  
10 a result, public entities and ultimately, the Legislature, face difficult fiscal decisions when trying to  
11 balance between the provision of governmental service and the continued expansion of government  
12 liability.  
13

14 There is a need for data on the actual cost impacts of government tort liability. As a result of previous  
15 CSAC efforts, insurance costs for counties are fairly well documented. However, more information is  
16 needed about the cost of settlements and awards and about the very heavy "transactional costs" of  
17 administering and defending claims. We also need more information about the programmatic decisions  
18 being forced upon public entities: e.g., what activities are being dropped because of high liability? CSAC  
19 and its member counties must attempt to fill this information gap.  
20

21 CSAC should advocate for the establishment of reasonable limits upon government liability and the  
22 balancing of compensatory function of the present system with the public interests in efficient, fiscally  
23 sound government. This does not imply a return to "sovereign immunity" concepts or a general turning  
24 away of injured parties. It simply recognizes, as did the original Tort Claims Act, that: (1) government  
25 should not be more liable than private parties, and (2) that in some cases there is reason for government  
26 to be less liable than private parties. It must be remembered that government exists to provide essential  
27 services to people and most of these services could not be provided otherwise. A private party faced with  
28 risks that are inherent in many government services would drop the activity and take up another line of  
29 work. Government does not have that option.  
30

31 In attempting to limit government liability, CSAC's efforts should bring governmental liability into  
32 balance with the degree of fault and need for governmental service.  
33

34 In advocating an "era of limits" in government liability, CSAC should take the view of the taxpayer  
35 rather than that of counties per se. At all governmental levels, it is the taxpayer who carries the real  
36 burden of government liability and has most at stake in bringing the present system into better balance. In  
37 this regard, it should be remembered that the insurance industry is not a shield, real or imagined, between  
38 the claimant and the taxpayer.  
39

#### 40 **Attachments**

41  
42 CSAC Corrections Reform Policies and Principles (adopted by the CSAC Board of Directors November  
43 30, 2006; amended on May 22, 2008)  
44

45 Sex Offender Management: County Principles and Policies (adopted by CSAC Board of Directors on  
46 May 22, 2008)



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February 2, 2015

To: CSAC Board of Directors  
From: Supervisor Diane Dillon, Chair, AENR Policy Committee  
Supervisor Pam Giacomini, Vice-Chair, AENR Policy Committee

**Re: Proposed Changes to the CSAC Platform**

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**I. Recommendation.** The CSAC Agriculture, Environment & Natural Resources (AENR) Policy Committee recommends that the CSAC Board of Directors approve the proposed changes to the California County Platform (Platform), specifically the proposed changes to Chapter Three, Four and Fourteen under the purview of the AENR Policy Committee.

**II. Proposed Changes.** The following is a summary of substantive changes the AENR Committee recommends to Chapter Three and Fourteen of the CSAC Platform. In addition, there are a number of non-substantive, technical and grammatical changes included throughout the Platform Chapters.

### **Chapter 3: Agriculture, Environment & Natural Resources**

Section 6H - Stormwater Funding. This is a new subsection under Water Resource Management. This paragraph supports language in the Government, Finance and Operations Chapter to support enhanced local revenue-generating authority to respond to unique circumstances in each county to provide needed infrastructure and county services. This change will support CSAC's work to support a Constitutional Amendment to grant local government agencies an exemption to the voting requirements for establishing fees and charges for stormwater services similar to the exemption currently in place for water and wastewater services.

Section 10F – Fire Protection. A sentence was added to this section to support working with the Sierra Nevada Conservancy on areas of mutual interest.

### **Chapter 14: Climate Change**

Section 3 – Disadvantaged Communities. A paragraph was added to the Climate Change Chapter to recognize Disadvantaged Communities. CSAC recognizes the unique issues that people in these communities face and supports planning for, and investment in critical health and safety infrastructure for these communities. CSAC also supports flexibility to determine where these communities exist throughout the state based on local conditions and circumstances.

**III. Action Requested.** The AENR Policy Committee recommends that the CSAC Board take action to approve the proposed amendments and updates to the CSAC Platform.

## CHAPTER THREE

# Agriculture, Environment and Natural Resources

### **Section 1: GENERAL PRINCIPLES**

Counties recognize the necessity of balancing the need to develop and utilize resources for the support of our society and the need to protect and preserve the environment. Counties also recognize that climate change and the release of greenhouse gases (GHG) into the atmosphere have the potential to dramatically impact our environment, public health and economy. Due to the overarching nature of the climate change issues, all sections in this chapter should be viewed in conjunction with chapter fifteen.

Counties assert that solutions necessary to achieve this delicate balance can best be formulated at the local level in cooperation with public and private industry and state and federal government.

Over-regulation is not the answer. Processes must be adopted for all federal and state proposed rules and regulations that include a detailed environmental and economic cost/benefit analysis. Additionally, proposed and existing state rules and regulations that exceed federal standards should be evaluated and justified.

### **Section 2: AGRICULTURE**

Counties recognize the importance of agriculture and its contribution to the state's economy. If California is to continue as the leading agriculture state in the nation, the remaining viable agricultural lands must be protected. In order to ensure that agricultural land protection is a statewide priority, the state, in cooperation with local governments, must continue to implement existing policies or adopt new policies which accomplish the following:

1. Provide innovative incentives that will encourage agricultural water conservation and retention of lands in agricultural production;
2. Promote agricultural economic development activities.
3. Support allocation of transportation resources ~~for the~~ improvement of important goods movement corridors and farm-to-market routes.
4. Encourage the development of new water resources;
5. Provide research and development for biological control and integrated pest management practices;
6. Ensure water and air quality standards are retained at a level that enables agricultural production to continue without significant lessening in the quantity or quality of production;

7. Support the continuation of statewide public education curricula that address es the essential role that agriculture plays in California and world economics;
8. Promote California agriculture, protect it from pests and diseases and ensure the safety and wholesomeness of food and other agricultural products for the consumer;
9. Foster a decision-making environment based upon input from all interested parties and analysis of the best available information, science and technology;
10. Continue to build consumer and business confidence in the marketplace through inspection and testing of all commercial weighing and measuring devices;
11. Encourage low impact/sustainable agricultural practices;
12. Support the elimination of inheritance taxes on agricultural lands; and,
13. Support full funding for UC Cooperative Extension given its vital role in delivering research-based information and educational programs that enhance economic vitality and the quality of life in California counties.

#### **A. Working with other Entities**

In addition the University of California's Cooperative Extension Service, County Agriculture Commissioners, Sealers of Weights and Measures, Resource Conservation Districts (RCDs), local farm bureaus, Coordinated Resource Management Planning committees (CRMPs), and Resource Conservation & Development Councils (RC&Ds) are valuable resources that can be relied upon to assist state and local governments with the implementation of the policy directives noted above, as well as other programs supporting agricultural and natural resources. Given the long-standing relationship between local cooperative extension offices, county agricultural departments (i.e. County Farm Advisors and Agricultural Commissioners), RCDs, local farm bureaus, CRMPs, RC&Ds and individual counties, it is imperative that state and county officials develop ongoing support for these programs. Further, state and county officials are encouraged to remind other policy and decision makers of the importance of these entities and their value to agriculture, natural resources, the environment and community development.

#### **B. Williamson Act**

Counties support revisions to the California Land Conservation Act of 1965, also known as the Williamson Act, that provide property owners greater incentives to continue participation under the Act. Additionally, counties are committed to support other reasonable legislative changes which preserve the integrity of the Williamson Act and eliminate abuses resulting in unjustified and premature conversions of contracted land for development.

Counties support the restoration of Williamson Act subventions. The state subventions to counties also must be revised to recognize all local tax losses.

### **Section 3: FORESTS**

Counties recognize the importance of forests to the state's economy. California is the second leading timber producing state in the nation. As with agriculture, to remain so, the state must protect and

maintain its viable timberland base. Counties also recognize the importance of forestry in the context of climate change. Effectively managed forests have less of a probability of releasing harmful greenhouse gases (GHG) into the atmosphere and increase the potential for carbon sequestration. To ensure protection of a the viable timberland base, ~~the state must it must become a statewide priority to~~ implement existing policies or adopt new policies that accomplish the following:

1. Continue reimbursement to counties for lost timber related revenues as currently provided under the Secure Rural Schools and Community Self-Determination Act of 2000;
2. Encourage sustainable forestry practices through the existing regulatory process;
3. Encourage continued reforestation on private timberlands;
4. Provide new and innovative incentives that will encourage good management practices and timberland retention;
5. Support the State Fire Safe Council's mission to preserve California's natural and man made resources by mobilizing all Californians to make their homes, neighborhoods and communities fire safe; and,
6. Oppose any net increase in state or federal land acquisition, unless otherwise supported by the affected local governments and until all of their issues and concerns are addressed or mitigated to their satisfaction.

#### A. Biomass

~~Increased bioenergy production and the use of sustainable biomass can provide a range of economic and environmental benefits. CSAC encourages the state to implement strategies put forth in its Bioenergy Action Plan, which calls for the increase in bioenergy production, the commercialization of next generation conversion technologies, the removal of statutory hurdles and streamlining of the existing regulatory process. Counties recognize the problems and opportunities presented by biomass bi-product and accumulated fuels reduction efforts. The state of California must develop a coherent, integrated biomass policy that will guide regulation and investment for the next 20 years.~~ The state must give highest priority in the near term to the retention of its unique biomass energy industry, which is in danger of disappearing as the result of electric services restructuring and changes in energy markets. By integrating State and local air quality goals, wildfire prevention and waste management strategies into a statewide biomass policy, California will solve several critical environmental problems and create viable private industries, which will serve the public need.

#### **Section 4: MINERAL RESOURCES**

The extraction of minerals is essential to the needs and continued economic well-being of society. To ensure the viability of this important industry and to protect the quality of the environment, existing and new statewide policies concerning mineral resources must accomplish the following:

1. Encourage conservation and production of known or potential mineral deposits for the economic health and well-being of society;
2. Ensure the rehabilitation of mined lands to prevent or minimize adverse effects on the environment and to protect public health and safety;



3. Recognize that the reclamation of mined lands will allow continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land;
4. Recognize that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and the specifications thereof may vary accordingly;
5. Oversee surface, pit, in-stream and off-site mining operations so as to prevent or minimize adverse environmental effects;
6. Specify that determination of entitlements to surface mining operations is a local land use issue provided that reclamation plans are obtained and enforced.

### **Section 5: AIR QUALITY**

Counties fully recognize that clean air laws have been enacted to protect the public from the adverse and deleterious health effects of air pollution. However, any rules and regulations aimed at improving California's air quality must not be developed without the input of local government. Rule makers working on air quality issues must ensure a balance between economic advancement, health effects and environmental impacts.

Counties assert that federal and state agencies, in cooperation with local agencies, have the ability to develop rules and regulations that implement clean air laws that are both cost-effective and operationally feasible. In addition, state and federal agencies should be encouraged to accept equivalent air quality programs, thereby allowing for flexibility in implementation without compromising air quality goals.

As it pertains to air quality regulations, distinctions need to be drawn between different types of open burning (i.e. wildland fuel reduction programs using prescribed fire v. agricultural burning). Efforts should continue to find economical alternatives to open burning in general.

Failure to meet air quality standards may jeopardize federal transportation funding statewide. Counties continue to work closely with congestion management agencies, air quality districts, metropolitan organizations and regional transportation agencies to ensure that transportation planning is coordinated with air quality objectives.

Many portions of the state, including the broader Sacramento area and mountain counties air basin, have been formally identified by the California Air Resources Board (CARB) as receptors of ozone-related air pollution transported from the San Francisco Bay Area and the San Joaquin Valley. Although ~~the CARB California Air Resources Board~~ is considering actions that will help mitigate air pollution transport, the receptor counties are still potentially subject to sanctions if they do not take sufficient steps to achieve and maintain healthy air quality. Sanctions can take many forms, including lowered New Source Review thresholds in the receptor districts as compared to transporting districts and through transportation conformity. Given the potential impacts on the receptor counties, legislation and/or policy measures must be enacted that provide reasonable sanction protection for counties impacted by air pollution transport from upwind areas. Other legislative or policy measures that would require the upwind areas to implement air pollution mitigation measures should also be considered.

Given its longstanding support of local autonomy, CSAC opposes the addition of state appointees to local air districts. Such an action would result in a loss of local control without perceived improvements to the public process and clean air efforts. However, technical support services at the state level, such as research, data processing and specialized staff support should be maintained and expanded to assist local air quality management efforts.

**Section 6: WATER RESOURCE MANAGEMENT**

**A. Water Resources Development**

Counties recognize the complexities of water use and distribution throughout the state, and therefore should be officially represented geographically on all federal, state, and/or regional water policy bodies and decision-making authorities. A comprehensive statewide water resource management plan – one that includes the upper watershed areas – is essential to the future of California. Such a plan should include a full assessment of needs for all users.

In relation to any specific water project, counties support statutory protection of counties of origin and watershed areas. These protections provide that only water that is surplus to the reasonable ultimate human and natural system needs of the area of origin should be made available for beneficial uses in other areas. A natural system includes the ecosystem, meaning a recognizable, relatively homogeneous unit that includes organisms, their environment, and all interactions among them. Additionally, the cost of water development to users within the areas of origin should not be increased by affecting a water export plan. Furthermore, in all federal and state legislation, county of origin protections should be reaffirmed and related feasibility studies should clearly identify and quantify all reasonable future needs of the counties of origin to permit the inclusion of specific guarantees. Existing water rights should be recognized and protected.

Counties must be compensated for any third party impacts, including, but not limited to, curtailed tax revenues and increases in costs of local services occasioned by an export project.

With California's population expected to increase to 40 million by 2020, there is a need for new solutions to expand water resources to meet the growing demands presented by population growth, agricultural needs and industrial development. ~~There currently exists a need for the development of new solutions to expand water resources to meet the growing needs of the state. The increased demand for water is due to the rapid population growth, agricultural needs and industrial development.~~ Projects should be considered that will create new water supplies through a variety of means such as conservation, recycling, water neutral ~~development~~developments, storm water capture, desalinization, waste water reclamation, watershed management, and the development of additional water storage, and conservation. In building any new water projects, the state must take into account and mitigate any negative socio-economic impacts on the affected counties.

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Counties support the incorporation of appropriate recreational facilities into all water conservation and development projects to the extent feasible.

**B. Water Rationing**

Counties oppose statewide mandatory water rationing programs that would establish unrealistic and unnecessary restrictions on some areas of the state and which establish inadequate goals for other areas. Instead, counties support a voluntary approach to water conservation that promotes a permanent "conservation ethic" in California. If water rationing does become necessary in certain

areas of the state, counties will need statutory authorization to impose water rationing decisions at the county government level.

### **C. Water Conservation**

The Legislature has recognized the need for water conservation. Counties recognize the need for local programs that promote water conservation and water storage. Water conservation may include reuse of domestic and industrial wastewater, reuse of agriculture water, groundwater recharge, or economic incentives to invest in equipment that promotes efficiency. No conservation of water shall be recognized if the conservation arises from the fallowing of agricultural land for compensation, unless the board of supervisors of the county in which the water has been devoted to agricultural use consents to the fallowing.

The Regional Water Quality Control Boards need to direct staff to issue permits for direct discharge of properly treated wastewater to promote reuse.

### **D. Ground Water Management**

It is CSAC's position that ground water management is necessary in California and that the authority for ground water management resides at the county level. Adequate management of water supply cannot be accomplished without effective administration of both surface and ground water resources within counties. Ground water management boundaries should recognize natural basins and responsibilities for administration should be vested in organizations of locally elected officials. Private property rights shall be addressed in any ground water management decisions.

Ground water management programs should maintain the flexibility to expeditiously address critical localized and basin-wide problems. Studies necessary to design ground water programs should be directed by local agencies with technical or economic support from state and federal programs.

### **E. Financing of Water Conservation and Ground Water Management**

Area-wide water conservation and ground water management programs are costly. Those benefiting should pay a fair share of these costs. Local agencies should have the discretion to recover those costs.

### **F. Flood Control**

*The following policy guidance on flood control shall be followed in conjunction with CSAC's Flood Management Principles and Policy Guidelines.*

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Long-term flood control improvements are necessary in order to provide improved flood protection and minimize future damages. Local, state and federal agencies should work to improve communications, coordination and consistency prior to and following a flood disaster. Counties are encouraged to look for funding opportunities to move structures out of flood plains.

CSAC supports and encourages the U.S. Army Corps of Engineers, through the Waterways Experiment Stations, to adopt innovative geo-technical (high-tech) inspections systems to identify unexpected voids and saturated sand lenses in government-authorized levees. CSAC further supports follow up by the Army Corps with a recommendation for non-federal sponsors to add these techniques to their annual levee inspection programs.

Counties continue to experience frustration when applying for the state and federal permits that are required to repair, restore and maintain flood control facilities. Counties support streamlining of such permits or any other efforts that would allow expeditious implementation of such activities.

Counties recognize the need for environmental mitigation measures to protect endangered species. The unique need for ongoing and routine levee maintenance must be reconciled with reasonable mitigation requirements. Solutions could include a blanket "take permit" exempting levee maintenance from compliance and a more efficient process for routine maintenance.

Counties further recognize that providing habitat and flood control may not be mutually achievable goals within river, stream or ditch channels. However, ecosystem restoration projects may provide flood control benefits and will require detailed hydraulic and other engineering studies to assess the individual and cumulative hydraulic impacts in floodways. Counties also recognize that habitat areas shall be maintained in such a manner as to not obstruct the flow of water through the channel. Further, the river, stream and ditch channels should also have blanket "take permits" issued to allow for proper cleaning of obstructions to the water flow and/or carrying capacity.

Federal and state agencies that have the expertise and have been funded to identify, protect and are responsible for species that would be harmed in the course of flood control projects – such as levee reconstruction, maintenance or repairs – must be charged with the rescue of these species and not the local government performing such activities. These local governments have little, if any, expertise in the identification and rescue procedures of threatened and endangered species. This identification and rescue should be accomplished in the most expedient time frame practicable. The federal agencies should be required to consult with the local action agencies within thirty days of any species rescue determination.

In respect to locally sponsored flood control projects, CSAC shall continue to urge the administration and the legislature to fully fund the State Flood Control Subvention Program.

## **G. Delta**

CSAC believes that any proposed Delta solutions be implemented in a manner that:

- Respects the affected counties' land use authority, revenues, public health and safety, economic development, water rights, and agricultural viability;
- Promotes recreation and environmental protection;
- Ensures Delta counties' status as voting members of any proposed Delta governance structure;
- Improves flood protection for Delta residents, property, and infrastructure.

- Improves and protects the Delta ecosystem, water quality, flows and supply;
- Ensures consistency with affected counties adopted policies and plans;
- Secures financial support for flood management, improved emergency response, preservation of agriculture, protection of water resources, and enhancement and restoration of habitat;
- Accords special recognition, and advances the economic vitality of “heritage” or “legacy” communities in the Delta.
- Demonstrates a clearly evidenced public benefit to any proposed changes to the boundaries of the Delta;
- Support development of adequate water supply, utilizing the concept of "Regional Self Sufficiency" whereby each region maximizes conservation and recycled water use, implements storage (surface and groundwater) and considers desalination, as necessary.

#### **H. Stormwater Funding**

Counties recognize stormwater as an important resource that must be cleaned of pollutants to be useful for other purposes, and the need to protect business districts, schools, and other properties from flooding when stormwater becomes a force of nature. Counties support adequate funding for all sectors of water in California; drinking water, wastewater, and stormwater. Counties support adequate funding for stormwater and to have a similar process for funding stormwater projects and programs as water districts and wastewater districts fund their projects and programs. Counties support providing the authority to fund stormwater statewide, but the decision on how to fund stormwater programs will reside locally within each County.

CSAC supports a Constitutional Amendment to grant local government agencies an exemption to the voting requirements for establishing fees and charges for stormwater services similar to the exemption currently in place for water and wastewater services.

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#### **Section 7: PARKS AND RECREATION**

Counties are encouraged to consider supporting the efforts of the California Association of Regional Park and Open Space Administrators to provide for the health, safety and quality of life for all Californians by protecting parkland and open space.

#### **Section 8: SOLID WASTE MANAGEMENT**

1. CSAC supports policies and legislation that aim to promote improved markets for recyclable materials, and encourages:
  - The use of recycled content in products sold in California;
  - The creation of economic incentives for the use of recycled materials; and,
  - The expansion of the Beverage Container Recycling Program.
2. CSAC shall oppose legislation that:

- Preempts local planning decisions regarding solid waste facility siting;
- Preempts local solid waste and AB 939 fee-setting authority; and,
- Requires burdensome changes to locally adopted plans.

3. CSAC shall support legislation that:

- Protects local solid waste franchising and fee-setting authority;
- Provides for the use of performance standards and alternative daily cover for landfills; and,
- Requires state facility cooperation with local jurisdictions on waste reduction to meet AB 939 goals.
- Promotes the development of conversion technologies as an alternative to land filling, and provides state funding to local jurisdictions for such projects; provides full diversion credit and greenhouse gas emission reduction credits under applicable State law; and, provides that all energy produced by these conversion technology facilities be designated as renewable energy (CSAC Staff suggested edits).

CSAC does not oppose legislation that assesses fees on solid waste that is disposed of out of state, as long as the fees reflect the pro-rata share of the Department of Resources, Recycling and Recovery (Cal Recycle) California Integrated Waste Management Board services used.

In order to comply with the diversion requirements of Cal Recycle-the California Integrated Waste Management Act, local governments must continue to have the ability to direct the flow of waste. Given fFederal and sState court decisions which restrict this ability, counties are encouraged to consider supporting legislation which ensures local governments' authority to direct the flow of waste.

### **Section 9: ENDANGERED SPECIES**

Because of widespread impacts of the state and federal endangered species acts on public projects, agriculture, timber and other industries in California, including the resulting impact on county revenues, both acts should be amended to provide for the following:

1. Recognition and protection of private property rights and local government's land use authority;
2. All those who benefit should pay the costs. It should be recognized that inequity exists concerning the implementation of the existing Aacts in that the cost of species protection on private property is borne by a few property owners for the benefit of all;
3. If Congress and the state-Legislature deem the protection of certain species is of national interest, then the responsibility for that protection, including the costs, should be assumed by all who benefit through federal and/or state funding, and a process should be adopted which is consistent with other public projects of national interest;
4. Applications for a listing should be required to include a map of critical habitat, a recovery plan and an economic and environmental analysis of costs and benefits;

5. The development of a delisting process that is as aggressively adhered to as the listing process;
6. The creation of a scientifically-based and efficient process for delistings;
7. Include independent scientific peer review, local public hearings, and equal access to judicial review;
8. Delegation of implementation of the Federal Endangered Species Act to the state;
9. Full compensation to property owners when historical or future use of their land is diminished;
10. Use of public lands first for multi-species protection;
11. Prohibit the distribution of public grant funds to private entities for the primary purpose of supporting or opposing listings or delistings of endangered species;
12. Control of protected species that prey upon and reduce either the adult or juvenile population of any listed species;
13. Protection of current land uses;
14. Support recovery efforts of endangered species;
15. The ability to produce food, fiber, and all other agricultural products is not abridged;
16. Agricultural producers should not be held liable for any “take” that occurs during normal agricultural operations.

## **Section 10: PUBLIC LANDS**

Plans for state and federal public lands shall be coordinated and compatible with local general plans and zoning. Private uses on public federal lands, exclusive of Native American lands, should be required to comply with applicable state and local laws. In addition, counties should be reimbursed for lost tax revenues when land is transferred for non-profit or public uses.

Counties should have an opportunity to review and comment on management decisions affecting their economies, general plans and resources. Public participation, including public hearings, should be required in land use planning on public lands to ensure that economic or environmental concerns are addressed.

Counties encourage the operation and ownership of land resources under private rather than governmental control. Lands acquired by government or utilities for particular purposes which are no longer essential should be returned to private ownership – with preference to previous owners where possible – and without reservation of water and mineral rights. Small isolated units of publicly held property should be offered for sale to private operators, with preference to adjacent owners.

Government should be required to demonstrate, using reliable data, an integrated program of land use and the need for the acquisition before being permitted to purchase, further expand or transfer land from one governmental agency to another. Management plans and budgetary information should be required on all lands proposed for acquisition by governmental agencies prior to such acquisition, so that they can be made part of the public hearing process.

The practice of government funding through grants or other means to organizations and foundations in order to purchase private land that will be resold or donated to some governmental entity threatens to diminish the tax base of local units of government. As a result, counties' tax base should be kept whole in the event of federal or state purchase of land.

Counties support the multiple use of public lands. Uses of these lands include grazing, mining, timber, wildlife and recreation. Lands under governmental control should be actively managed in concert with private activities to encourage the greatest use and improvement. Counties believe that timber harvest, mining, and grazing activities are a valuable component of ecosystem management in some instances and that recreational activities, impacts on wildlife and natural events like fires and floods must be considered. Properly managed land results in higher sustained yields of water, forage, timber, minerals, and energy. Grazing and logging are important elements of the multiple-use concept. Therefore, counties support efforts to minimize additional acreage designated as wilderness, unless otherwise supported by the affected local governments, and all of their issues and concerns are addressed or mitigated to their satisfaction.

Reforestation and continued management of public lands with suitable soils for producing forest crops are essential to maintaining a viable forest industry in California. Timber stand improvement is needed and required for producing maximum yields both for quality and quantity of timber products. Additionally, comprehensive fuels management programs are encouraged for the protection and sustainability of timber producing lands. Counties support economically and environmentally sound management of public forests for the production of forest products, which support local industry and, in the case of National Forests, maximize federal payments for support of local government.



## A. Federal and State Compensation

Adequate compensation must be made available to local governments to offset the costs of providing services to public lands. Current federal compensation programs such as the Secure Rural Schools and Community Self Determination Act (SRS)–PL–106–393, should be retained with respect to land where harvesting is severely limited or no longer occurs. Counties continue to support a per acre charge for any land which has historically received revenue timber receipts.

Information regarding county revenues generated from federal lands indicates that receipts are down, will continue to go down, and are not likely to change direction in the near future. In order to ensure that a system is in place that is fair and equitable, a revenue sharing and/or payment in-lieu of taxes system must meet three criteria:

1. Equitable - The federal government must compensate the state and counties at a level that is consistent with revenues that would be expected to be generated if such lands were not in federal ownership and management.
2. Predictable – The system in place must provide some assurance and predictability of the level and timing of revenues; and,
3. Sustainable - Revenues should be maintained over time; and changes in federal policies in the future should not adversely affect local communities.

CSAC shall continue to pressure the state and the federal government to meet its statutory obligation to annually pay local agencies full in-lieu fees and payments in-lieu of taxes for state and federal purchased properties. CSAC supports the premise that no new state or federal acquisitions of private property shall occur until state in-lieu fees and federal payments in-lieu of taxes are fully funded. Federal legislation is needed to provide additional compensation for those public land counties that meet specified hardship criteria.

## B. Forest Service and Bureau of Land Management Exchanges

Counties recognize that efficient management of public lands requires land adjustments to ensure manageable units and prevent conflicts with adjacent private land uses.

Land exchanges and purchases are the usual means available to the two federal agencies. Tripartite and direct timber for land exchange are permitted under federal law.

Counties will support the federal agencies in these exchange and consolidation efforts when:

1. Better and more productive management of public land will result;
2. Counties affected are consulted and given opportunity to help determine acquisition of local lands in exchange process and negative effects are fully mitigated;
3. County revenues, ~~including including SRS PL–106–393~~ and ~~P~~payment in ~~L~~lieu of ~~T~~taxes (PILT) are protected or enhanced;
4. Areas slated for disposal in exchanges are included in the county general plan and classified as to probable use (e.g. residential, TPZ, commercial); and

5. Land-for-land exchanges enhance the counties and result in no net loss of value.

Counties support efforts to streamline and shorten the federal land exchange procedure so mutually beneficial consolidations will be more attractive and expeditious.

### **C. Local Use of Public Lands**

Counties support legislation and land management policies to enable local agencies to acquire state and federal lands for public purposes.

### **D. Waste Disposal on Public Lands**

Counties experience considerable difficulty locating and maintaining facilities to dispose of solid waste. Counties with large areas of state and federal lands used for recreation are required to assume the responsibility of disposing solid waste generated by these recreational activities. The entities that administer these public lands should assume responsibility for providing sites for solid waste disposal and funds for development, maintenance and operation of such sites.

### **E. Predator Control**

Counties benefit from the established federal-state Cooperative Animal Damage Control program through reduced livestock depredation, and property damage as well as public health protection.

Counties support predator control and promoting program efficiency through cooperative federal-state-county programs.

Changes in state law have removed many tools previously utilized by landowners and Animal Damage Control professionals for use in predator control. The result is an increased need for additional Animal Damage Control professionals.

Counties support expanded program funding through the current Federal-State Cooperative Animal Damage Control program and strongly support equal cost sharing between counties and cooperative agencies.

### **F. Fire Protection**

Fires are best prevented and fought through long-term fuels management and other anticipatory actions. Such fire protection efforts must be integrated and supported by other natural resource programs and policies. Counties support the achievement of a sustainable ecosystem and the maintenance of healthy forests while providing defensible space for protection of life and property. Governmental agencies alone cannot achieve fire safe communities; private property owners are also obligated to take necessary actions to reduce their fire risk.

Counties further support an increase in state and federal funding for fuels management. However, given existing concerns expressed by counties regarding the allocation of fire protection resources, it is imperative that local governments be included in any effort to develop appropriate allocation of these resources between pre-fire management and fire suppression.

Fires are best fought by rapid response from trained firefighters. Counties support Cal Fire's CDF's reconnaissance and rapid response systems. Counties support state funding of local fire agencies – both paid and volunteer – and local Fire Safe Councils for wildland fire response. Counties support

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working with the Sierra Nevada Conservancy on areas of mutual interest to support collaborative projects in partnership with local government, nonprofit organizations, state and federal government organizations.

#### G. Prescribed Fire

The state of California should pursue alternate methods of biomass disposal that conserves energy in order to reduce the wildland fuel volumes consumed by prescribed fire.

Where alternative methods are not available, the state of California should assume greater responsibility in the development of a less restrictive program of prescribed fire for forest and range improvement, enhancement of wildlife, watershed management and reduction of major wildfire hazards.

Solutions must be found to the problems of liability when a county maintains a controlled burning program.

The State Department of Forestry and the State Air Resources Board should arrive at a joint policy concerning controlled burning so that counties will be dealing with one state government policy, rather than with two conflicting state agency policies.

#### H. Invasive Species Control

Invasive species can have a devastating impact on California's wildlife, environment and infrastructure. Counties support aggressive action by federal, state, and local agencies to limit the spread, and to enhance the eradication of, identified invasive plants and animal species, and support prioritizing the efforts that are most attainable and cost-effective.

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#### **Section 11: ENERGY**

*This section should be viewed in conjunction with Chapter 4, which includes CSAC's Energy Policy Guidelines.*

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It is CSAC's policy that the state and the 58 counties should seek to promote energy conservation and energy efficiency. Counties are encouraged to undertake vigorous energy action programs that are tailored to the specific needs of each county. When developing such action programs counties should: (1) assess available conservation and renewable energy options and take action to implement conservation, energy efficiency and renewable energy development when feasible; (2) consider the incorporation of energy policies as an optional element in the county general plan; and, (3) consider energy concerns when making land use decisions and encourage development patterns which result in energy efficiency.

In order to meet the state's energy needs, counties fully recognize the importance of establishing a cooperative relationship between other levels of government and the private sector. This includes working with public and private utilities that serve their areas to develop energy transmission corridors and to minimize delays in approvals and land use conflicts.

With respect to alternative and renewable energy sources, the state and counties should encourage use of agricultural, forestry and non-recyclable urban wastes for generating usable energy. They should also take into consideration the other benefits of waste-to-energy production. Additionally,

the state should encourage, and counties should explore, the development of cogeneration and conversion technology projects at the local level. In respect to public power options, counties support efforts that enhance local governments' ability to become community aggregators of electricity.

Counties support the encouragement of new generation facilities by the provision of increased incentives and a streamlined permitting process. However, state government needs to maintain regulatory oversight of these facilities. Lastly, counties oppose state acquisition and/or management of electric generating or transmission facilities.

## CHAPTER FOUR

# CSAC Energy Policy Guidelines

The following policy guidelines cover a wide range of energy issues of significant interest to county governments. This policy direction will assist CSAC with its efforts to represent county interests on energy proposals moving through the legislative process.

### **Section 1: TAX AND REVENUE IMPACTS**

- Legislative, Public Utility Commission (PUC), and State Board of Equalization (**BOESBE**) decisions concerning energy issues shall include provisions to avoid negative impacts on local government and schools.
- Local governments rely on property tax revenues and franchise fees from utilities to provide essential public services. These revenues, as well as property tax revenues from alternative energy facilities, must be protected to ensure that local governments can continue to provide essential services, and support statewide energy needs by siting new power plants, and alternative energy facilities, bringing old power plants back on line and enacting long-term conservation measures.

### **Section 2: GENERATION**

- Counties support efforts to ensure that California has an adequate supply of safe, reliable energy at the most competitive prices possible, while adhering to the state's **preferred resources**~~expressed order~~ of priorities of conservation, renewables, new generation and new transmission.
- Counties support establishing incentives that will encourage the development and use of alternative energy sources such as wind, solar, biomass, hydropower, and geothermal resources. Counties also support promoting the timely development of new infrastructure, such as new electric transmission, needed to facilitate renewable energy development. Such efforts will lead to the state realizing its goal of having 33% of its electricity supply come from renewable sources by 2020. To encourage local siting of renewable energy facilities, counties support restoring authority to assess alternative energy facilities such as commercial solar facilities currently exempt under AB 1451.
- While CSAC supports a statewide assessment and planning for future transmission needs, we oppose transmission corridor designations that ignore the local land use decision-making process.
- Counties support the construction and operation of biomass facilities through the establishment of state policies that will ensure sustainable long-term commitments to resource supply and electrical generation purchases at a price that supports resource-to-energy conversion.
- Counties shall commit to examine their own policies on alternative energy for any potential impacts that discourage the use of such systems.

- Counties support efforts to allow local agencies to retain regulatory oversight over generators by statutorily changing the threshold from 50 megawatts to 100 megawatts.
- Counties support additional state grant funding for back-up generation for essential facilities.
- Counties support additional state grant funding for air quality compliance for emergency generation facilities.
- Provide incentives to local agencies to site energy facilities. Some of the financial incentives that would stimulate the development and siting of more energy generation facilities in California include:
  1. Funding to streamline the siting process at the local level. Funds would be available to reimburse cities and counties for the costs of permits, environmental review and other local expenses in order to expedite the process at the local level.
  2. Energy facility incentive payments to cities and counties that approve new generating facilities, and/or the expansion of existing generation facilities, to replace them with more efficient facilities, or to build renewable projects, including photovoltaics, fuel cells or cogeneration. Increased incentives would be given to those facilities that generate power beyond the demand of the host jurisdiction's facilities alone.
  3. Any city or county that approves siting of a privately developed generating facility should receive 100% of the property tax of that facility.
  4. To stimulate development of projects such as cogeneration facilities, standby charges for generating facilities should be waived.
  5. Streamlining of timeframes currently associated with the state and federal regulatory process for siting power generating facilities.
- Counties support an amendment to the California Integrated Waste Management Act to provide full diversion credit for cogeneration facilities to further encourage their development. The CIWM Act currently establishes a 10% limitation on solid waste diversion that occurs through transformation.
- Counties support streamlining the approval and environmental review process for new power plants and any building using alternative sources of energy.
- Counties support payments to qualified facilities consistent with state and federal standards for renewable energy sources.
- Counties oppose state ownership of power plants because of the impact on local government revenue streams, water rights, the re-operation of hydro facilities, and the efficient management of such systems, including the economic uncertainty associated with state ownership of power plants. In the event of state ownership, all impacts on local government shall be mitigated.

### **Section 3: PUBLIC POWER**

- Counties support measures that enhance public power options available to local governments.
- Counties support measures that enhance local government's ability to become community aggregators of electricity.

### **Section 4: CONSERVATION**

- CSAC and its member counties are committed to reducing electricity use and increasing efficiency in their facilities.
- Counties support development of a statewide grant program to fund energy conservation and energy management equipment in local government facilities.
- Counties support a rate structure that recognizes conservation efforts.
- Counties support grants and loans that promote energy efficiency among businesses and homeowners.
- Counties support the adoption of real-time metering and time-of-use metering, allowing consumers to make choices about their consumption of electrical energy based on the real-time price of electricity.
- Counties support providing incentives, including the use of new technologies, for businesses that generate their own energy, and support encouraging them to make their excess capacity available to the utilities.

### **Section 5: ECONOMIC DEVELOPMENT**

- Counties support the development and implementation of a statewide "proactive" California business retention strategy, led by the California Business, Transportation and Housing Agency in partnership with local economic development organizations, including support of legislation that would provide funding for this effort through emergency legislation.
- Counties support the development and execution of a statewide, consistent and balanced message campaign that presents the true business climate in California.
- Counties support efforts to encourage alternative energy solutions to be instituted in businesses and residences.
- Counties support the right to implement Property Assessed Clean Energy (PACE) programs and establish property assessment liens for energy conservation and renewable energy investments. PACE programs create jobs, stimulate business growth, reduce greenhouse gas emissions and add lasting value to residential and commercial properties without increasing risks of mortgage defaults.

### **Section 6: NOTIFICATION OF POWER OUTAGES**

- Counties, as providers of essential services, must be provided with adequate notice regarding any planned rotating block outages.



**Section 7: MISCELLANEOUS**

- Counties support a utility market structure that ensures that energy supply and demand is not unreasonably constrained by artificially imposed price caps.

## Chapter Fourteen

# CSAC Climate Change Policy Guidelines

### **Section 1: GENERAL PRINCIPLES**

- CSAC recognizes that sustainable development and climate change share strong complementary tendencies.
- CSAC recognizes that mitigation and adaptation to climate change – such as promoting sustainable energy, improved access and increased walkability, transit oriented development, and improved agricultural methods – have the potential to bolster sustainable development.
- CSAC recognizes that climate change will have a harmful effect on our environment, public health and economy. Although there remains uncertainty on the pace, distribution and magnitude of the effects of climate change, CSAC also recognizes the need for immediate actions to mitigate the sources of greenhouse gases.
- CSAC recognizes the need for sustained leadership and commitment at the federal, state, regional and local levels to develop strategies to combat the effects of climate change.
- CSAC recognizes the complexity involved with reducing greenhouse gases and the need for a variety of approaches and strategies to reduce GHG emissions.
- CSAC supports a flexible approach to addressing climate change, recognizing that a one size fits all approach is not appropriate for California’s large number of diverse communities.
- CSAC supports special consideration for environmental justice issues, disadvantaged communities, and rural areas that do not have the ability to address these initiatives without adequate support and assistance.
- CSAC supports cost-effective strategies to reduce GHG emissions and encourages the use of grants, loans and incentives to assist local governments in the implementation of GHG reduction programs.
- CSAC recognizes that adaptation and mitigation are necessary and complementary strategies for responding to climate change impacts. CSAC

encourages the state to develop guidance materials for assessing climate impacts that includes adaptation options.

- CSAC finds it critical that the state develop protocols and GHG emissions inventory mechanisms, providing the necessary tools to track and monitor GHG emissions at the local level. The state, in cooperation with local government, must determine the portfolio of solutions that will best minimize its potential risks and maximize its potential benefits. CSAC also supports the establishment of a state climate change technical assistance program for local governments.
- CSAC believes that in order to achieve projected emission reduction targets cooperation and coordination between federal, state and local entities to address the role public lands play in the context of climate change must occur.
- CSAC recognizes that many counties are in the process of developing, or have already initiated climate change-related programs. CSAC supports the inclusion of these programs into the larger GHG reduction framework and supports acknowledgement and credit given for these local efforts.
- CSAC acknowledges its role to provide educational forums, informational resources and communication opportunities for counties in relation to climate change.
- CSAC recognizes that collaboration between cities, counties, special districts and the private sector is necessary to ensure the success of a GHG reduction strategy at the local level.
- CSAC encourages counties to take active measures to reduce greenhouse gas emissions and create energy efficiency strategies that are appropriate for their respective communities.

## **Section 2: FISCAL**

The effects of climate change and the implementation of GHG reduction strategies will have fiscal implications for county government.

- CSAC recognizes the potential for fiscal impacts on all levels of government as a result of climate change, i.e. sea level rise, flooding, water shortages, increased wildfire intensity and other varied and numerous consequences. CSAC encourages the state and counties to plan for the fiscal impacts of climate change adaptation, mitigation and strategy implementation.

- CSAC supports the use of grants, loans, incentives and revenue raising authority to assist local governments with the implementation of climate change response activities and GHG reduction strategies.
- CSAC continues to support its state mandate principles in the context of climate change. CSAC advocates that new GHG emissions reduction programs must be technically feasible for counties to implement and help to offset the long-term costs of GHG emission reduction strategies.
- CSAC advocates that any new GHG reduction strategies that focus on city-oriented growth and require conservation of critical resource and agricultural lands within the unincorporated area should include a mechanism to compensate county governments for the loss of property taxes and other fees and taxes.

### **Section 3: DISADVANTAGED COMMUNITIES**

CSAC recognizes that disadvantaged communities exist throughout the State of California. People in these areas typically suffer disproportionate impacts from environmental pollution or exposure to other environmental hazards that lead to adverse health outcomes. Those in disadvantaged communities also experience high unemployment, low homeownership rates, disproportional rental burdens, and low educational attainment, among other factors.

- CSAC supports planning for, and investment in, critical health and safety infrastructure for disadvantaged communities.
- CSAC supports investment of cap and trade auction proceeds throughout the state of California, including focusing on disadvantaged communities. SB 535 (Chapter No. 830, Statutes of 2012) requires that, at a minimum, 25-percent of cap and trade auction proceeds be invested to benefit disadvantaged communities. CSAC will continue to support cap and trade allocation to assist disadvantaged communities, and in particular advocate to ensure equitable funding distribution is based on well-reasoned analysis.
- Counties must retain flexibility to determine these areas within their jurisdiction based on local conditions and circumstances. The state's tool for identifying disadvantaged communities – the California Communities Environment Health Hazard Assessment (CalEnviroScreen) – which takes into account 17 different environmental and socioeconomic factors, is only one way to identify communities for purposes of investing state resources.
- CSAC supports using other complementary methods to best identify and understand conditions and circumstances associated with disadvantaged communities:

- median household income less than 80% of the statewide median based on the most current census tract level data from the American Community Survey; or
- at least 75% of public school students in the project area are eligible to receive free or reduced-price meals under the National School Lunch Program.

### **Section 43: LAND USE, TRANSPORTATION, AND HOUSING**

CSAC recognizes that population growth in the state is inevitable, thus climate change strategies that affect land use must focus on how and where to accommodate and mitigate the expected growth in California. Land use planning and development plays a direct role in transportation patterns, affecting travel demands and in turn vehicle miles traveled (VMT) and fuel consumption. It is recognized that in addition to reducing VMTs, investing in a seamless and efficient transportation system to address congestion also contributes to the reduction of GHG emissions. The provision of housing affordable to all income levels also affects the ability to meet climate change goals. Affordable housing in close proximity to multi-modal transportation options, work, school, and other goods and services is a critical element to reducing GHG emissions in the state. Smart land use planning and growth, such as that required by SB 375 (Chapter 728, Statutes of 2008), remains a critical component to achieve the GHG emission reduction targets pursuant to AB 32 (Chapter 488, Statutes of 2006), particularly to address the emissions from the transportation sector (i.e. vehicle, air and train). With the first round of SB 375 sustainable communities strategies complete, it is critical that the state deliver on its promise to fund the transportation, housing and land use projects within the regional strategies that will make the plans a reality. ~~In order to better understand the link between land use planning, transportation, housing, and climate change further modeling and consideration of alternative growth scenarios is required to determine the relationship and benefits at both the local and regional levels.~~

- CSAC supports measures to achieve reductions in GHG emissions by promoting housing/jobs proximity and transit-oriented development, and encouraging high density residential development along transit corridors. CSAC supports these strategies through its support for SB 375 and other existing smart growth policies for strategic growth. These policies support new growth that results in compact development within cities, existing unincorporated urban communities and rural towns that have the largest potential for increasing densities, and providing a variety of housing types and affordability. CSAC also supports policies that efficiently utilize existing and new infrastructure investment and scarce resources, while considering social equity as part of community development, and strives for an improved jobs-housing balance.

- CSAC existing policy also supports the protection of critical lands when it comes to development, recognizing the need to protect agricultural lands, encourage the continued operations and expansion of agricultural businesses, and protect natural resources, wildlife habitat and open space.
- CSAC policy also acknowledges that growth outside existing urban areas and growth that is non-contiguous to urban areas may be necessary to avoid the impacts on critical resource and agricultural lands that are adjacent to existing urban areas.
- CSAC policy supports providing incentives for regional blueprint and countywide plans, outside of SB 375, to ensure that all communities have the ability to plan for more strategic growth and have equitable access to revenues available for infrastructure investment purposes. ~~It is CSAC's intent to secure regional and countywide blueprint funding for all areas.~~
- CSAC supports new fiscal incentives for the development of countywide plans to deal with growth, adaptation and mitigation through collaboration between a county and its cities to address housing needs, protection of resources and agricultural lands, and compatible general plans and revenue and tax sharing agreements for countywide services.
- CSAC recognizes that counties and cities must strive to promote efficient development in designated urban areas in a manner that evaluates all costs associated with development on both the city and the county. Support for growth patterns that encourage urbanization to occur within cities must also result in revenue agreements that consider all revenues generated from such growth in order to reflect the service demands placed on county government. As an alternative, agreements could be entered into requiring cities to assume portions of county service delivery obligations resulting from urban growth.
- While local governments individually have a role in the reduction of GHG emissions through land use decisions, CSAC continues to support regional approaches to meet the State's GHG emission reduction and climate change goals, such as SB 375 efforts, ~~which~~ build upon existing regional blueprint and transportation planning processes. CSAC continues to support regional approaches ~~over~~ any statewide "one size fits all" approach to addressing growth and climate change issues. Further, CSAC supports countywide approaches to strategic growth, resource and agricultural protection, targeting scarce infrastructure investments and tax sharing for countywide services.
- CSAC finds it critical that state and federal assistance is provided for data and standardized methodologies for quantifying GHG emissions for determining and quantifying GHG emission sources and levels, vehicle miles traveled and other important data to assist both local governments and regional agencies in addressing climate change in environmental documents for long-range plans.

## **Section 54: ENERGY**

Reducing energy consumption is an important way to reduce GHG emissions and conserve. Additionally, the capture and reuse of certain GHGs can lead to additional sources of energy. For example, methane gas emissions, a mixture of methane, carbon dioxide and various toxic organic and mercuric pollutants, from landfills and dairies have been identified as potent GHGs. Effective collection and treatment of these gases is not only important to the reduction of GHG emissions, but can also result in an additional source of green power.

- CSAC supports incentive based green building programs that encourage the use of green building practices, incorporating energy efficiency and conservation technologies into state and local facilities. A green building is a term used to describe structures that are designed, built, renovated, operated or reused in an ecological and resource-efficient manner. Green buildings are designed to meet certain objectives using energy, water and other resources more efficiently and reducing the overall impact to the environment.
- CSAC supports the state's development of green building protocols sustainable building standards, including guidelines for jails, hospitals and other such public buildings.
- CSAC supports the use of grants, loans and incentives to encourage and enable counties to incorporate green building practices into their local facilities.
- CSAC supports the use of procurement practices that promote the use of energy efficient products and equipment.
- CSAC supports state efforts to develop a dairy digester protocol to document GHG emissions reductions from dairy farms. CSAC supports funding mechanisms that support the use of dairy digesters to capture methane gas and convert it to energy.
- CSAC supports state efforts to capture methane gases from landfills; and supports its development of a reasonable regulatory measure with a feasible timeline, that will require landfill gas recovery systems on landfills that can support a self-sustaining collection system. CSAC supports the development of a guidance document for landfill operators and regulators that will recommend technologies and best management practices for improving landfill design, construction, operation and closure for the purpose of reducing GHG emissions. CSAC also supports funding mechanisms, including grants, loans and incentives to landfill operators to help implement these programs.

- CSAC continues to support its existing energy policy, which states that counties should seek to promote energy conservation and energy efficiency and broader use of renewable energy resources. Counties are encouraged to undertake vigorous energy action programs that are tailored to the specific needs of each county. When developing such action programs counties should: (1) assess available conservation and renewable and alternative energy options and take action to implement conservation, energy efficiency and renewable energy development when feasible; (2) consider the incorporation of energy policies as an optional element in the county general plan; and, (3) consider energy concerns when making land use decisions and encourage development patterns which result in energy efficiency.
- CSAC continues to support efforts to ensure that California has an adequate supply of safe and reliable energy through a combination of conservation, renewables, new generation and new transmission efforts.

## **Section 65: WATER**

According to the Department of Water Resources, projected increases in air temperature may lead to changes in the timing, amount and form of precipitation – (rain or snow), changes in runoff timing and volume, effects of sea level rise and changes in the amount of irrigation water needed. CSAC has an existing policy that recognizes the need for state and local programs that promote water conservation and water storage development.

- CSAC supports the incorporation of projections of climate change into state water planning and flood control efforts.
- CSAC recognizes that climate change has the potential to seriously impact California’s water supply. CSAC continues to assert that adequate management of water supply cannot be accomplished without effective administration of both surface and ground water resources within counties, including the effective management of forestlands and watershed basins.
- CSAC supports water conservation efforts, including reuse of domestic and industrial wastewater, reuse of agriculture water, groundwater recharge, and economic incentives to invest in equipment that promotes efficiency.
- CSAC continues to support the study and development of alternate methods of meeting water needs such as desalinization, wastewater reclamation, watershed management, the development of additional storage, and water conservation measures.

## **Section 76: FORESTRY**

With a significant percentage of California covered in forest land, counties recognize the importance of forestry in the context of climate change. Effectively managed forests have



less of a probability of releasing large amounts of harmful GHG emissions into the atmosphere in the form of catastrophic wildfires. Furthermore, as a result of natural absorption, forests reduce the effects of GHG emissions and climate change by removing carbon from the air through the process of carbon sequestration, and- properly managed forests can significantly decrease the amount of water runoff and increase the amount of water recharge and infiltration available for downstream beneficial uses, such as urban and agricultural uses. CSAC also recognizes the benefits of biomass energy as an alternative to the burning of traditional fossil fuels, as well as the benefits of carbon sequestration through the use of wood products.

- CSAC continues to support its existing policy on sustainable forestry, encouraging sustainable forestry practices through the existing regulatory process, and encouraging continued reforestation and active forest management on both public and private timberlands.
- CSAC supports responsible optimum forest management practices that ensure continued carbon sequestration in the forest, provide wood fiber for biomass-based products and carbon-neutral biomass fuels, and protect the ecological values of the forest in a balanced way.
- CSAC supports the state's development of general forestry protocols that encourage private landowners to participate in voluntary emission reduction programs and encourage National Forest lands to contribute to the state's climate change efforts.
- It is imperative that adequate funding be provided to support the management of forest land owned and managed by the federal government in California in order to ensure the reduction of catastrophic wildfires.
- CSAC supports additional research and analysis of carbon sequestration opportunities within forestry.

## **Section 87: AGRICULTURE**

The potential impacts of climate change on agriculture may not only alter the types and locations of commodities produced, but also the factors influencing their production, including resource availability. Rising temperatures, changes to our water supply and soil composition all could have significant impacts on California's crop and livestock management. Additionally, agriculture is a contributor to GHG emissions in form of fuel consumption, cultivation and fertilization of soils and management of livestock manure. At the same time, agriculture has the potential to provide offsets in the form of carbon sequestration in soil and permanent crops, and the production of biomass crops for energy purposes.

- CSAC supports State efforts to develop guidelines through a public process to improve and identify cost effective strategies for nitrous oxide emissions reductions.
- CSAC continues to support incentives that will encourage agricultural water conservation and retention of lands in agricultural production.
- CSAC continues to support full funding for UC Cooperative Extension given its vital role in delivering research-based information and educational programs that enhance economic vitality and the quality of life in California counties.
- CSAC supports additional research and analysis of carbon sequestration opportunities within agriculture.

### **Section 98: AIR QUALITY**

CSAC encourages the research and development and use of alternative, cleaner fuels. Further, air quality issues reach beyond personal vehicle use and affect diesel equipment used in development and construction for both the public and private sector.

- CSAC supports state efforts to create standards and protocols for all new passenger cars and light-duty trucks that are purchased by the state and local governments that conform to the California Strategy to Reduce Petroleum Dependency. CSAC supports state efforts to revise its purchasing methodology to be consistent with the new vehicle standards.
- CSAC supports efforts that will enable counties to purchase new vehicles for local fleets that conform to state purchasing standards, are fuel efficient, low emission, or use alternative fuels. CSAC supports flexibility at the local level, allowing counties to purchase fuel efficient vehicles on or off the state plan.
- CSAC supports identifying a funding source for the local retrofit and replacement of county on and off road diesel powered vehicles and equipment.
- CSAC opposes federal standards that supercede California's ability to adopt stricter vehicle standards.
- Counties continue to assert that federal and state agencies, in cooperation with local agencies, have the ability to develop rules and regulations that implement clean air laws that are both cost-effective and operationally feasible. In addition, state and federal agencies should be encouraged to accept equivalent air quality programs, thereby allowing for flexibility in implementation without compromising air quality goals.

- CSAC also recognizes the importance of the Air Pollution Control Districts (APCDs) and Air Quality Management Districts (AQMDs) to provide technical assistance and guidance to achieve the reduction of GHG emissions.
- CSAC supports the development of tools and incentives to encourage patterns of product distribution and goods movement that minimize transit impacts and GHG emissions.
- CSAC supports further analysis of the GHG emission contribution from goods movement through shipping channels and ports.

### **Section 109: SOLID WASTE AND RECYCLING**

The consumption of materials is related to climate change because it requires energy to mine, extract, harvest, process and transport raw materials, and more energy to manufacture, transport and, after use, dispose of products. Recycling and waste prevention can reduce GHG emissions by reducing the amount of energy needed to process materials, and reducing the amount of natural resources needed to make products.

- CSAC continues to support policies and legislation that aim to promote improved markets for recyclable materials, and encourages:
  - The use of recycled content in products sold in California;
  - The creation of economic incentives for the use of recycled materials;
  - Development of local recycling markets to avoid increased emissions from transporting recyclables long distances to current markets;
  - The expansion of the Electronic Waste Recycling Act of 2003 and the Beverage Container Recycling Program;
  - The use of materials that are biodegradable;
  - Greater manufacturer responsibility and product stewardship.

### **Section 110: HEALTH**

CSAC recognizes the potential impacts of land uses, transportation, housing, and climate change on human health. As administrators of planning, public works, parks, and a variety of public health services and providers of health care services, California's counties have significant health, administrative and cost concerns related to our existing and future built environment and a changing climate. Lack of properly designed active transportation facilities have made it difficult and in some cases created barriers for pedestrians and bicyclists. Lack of walk ability in many communities contributes to numerous chronic health related issues, particularly obesity which is an epidemic in this country. Heat-related illnesses, air pollution, wild fire, water pollution and supply issues, mental health impact and infectious disease all relate to the health and well-being of county residents, and to the range and cost of services provided by county governments. CSAC recognizes that there are direct human health benefits associated with improving our built environment and mitigating greenhouse gas emissions, such as lowering rates of

obesity, injuries, and asthma. Counties believe that prevention, planning, research, education/training, and preparation are the keys to coping with the public health issues brought about by our built environment and climate change. Public policies related to land uses, public works, climate change and public health should be considered so as to work together to improve the public's health within the existing roles and resources of county government.

- CSAC supports efforts to provide communities that are designed, built and maintained so as to promote health, safety and livability through leadership, education, and funding augmentations.
- CSAC supports efforts to improve the public health and human services infrastructure to better prevent and cope with the health effects of climate change through leadership, planning and funding augmentations.
- CSAC supports state funding for mandated local efforts to coordinate monitoring of heat-related illnesses and responses to heat emergencies.
- CSAC supports efforts to improve emergency prediction, warning, and response systems and enhanced disease surveillance strategies.

# Glossary of Terms

## **Climate change**

A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

*United Nations Framework Convention on Climate Change*

## **Carbon Sequestration**

Carbon sequestration refers to the provision of long-term storage of carbon in the terrestrial biosphere, underground, or the oceans so that the buildup of carbon dioxide (the principal greenhouse gas) concentration in the atmosphere will reduce or slow. In some cases, this is accomplished by maintaining or enhancing natural processes; in other cases, novel techniques are developed to dispose of carbon.

*US Department of Energy*

## **Environmental Justice**

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

*US Environmental Protection Agency*

## **Greenhouse gas**

A gas that absorbs radiation at specific wavelengths within the spectrum of radiation (infrared radiation) emitted by the Earth's surface and by clouds. The gas in turn emits infrared radiation from a level where the temperature is colder than the surface. The net effect is a local trapping of part of the absorbed energy and a tendency to warm the planetary surface. Water vapour (H<sub>2</sub>O), carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>) and ozone (O<sub>3</sub>) are the primary greenhouse gases in the Earth's atmosphere.

*United Nations Intergovernmental Panel on Climate Change*



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February 4, 2015

To: CSAC Board of Directors

From: Ken Yeager, Chair, CSAC HHS Policy Committee  
Hub Walsh, Vice Chair, CSAC HHS Policy Committee  
Farrah McDaid Ting, Legislative Representative  
Michelle Gibbons, Legislative Analyst

Re: **2015-16 Health and Human Services Platform Documents**

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**Background.** The policy committees of the California State Association of Counties (CSAC) review and, if appropriate, revise their respective planks of the Association's policy platform on a biannual basis. Attached you will find the proposed drafts of the CSAC Health and Human Services (HHS) chapters as unanimously approved by the Health and Human Services Policy Committee on January 14, 2015. The proposed texts will serve as the guiding policy documents for 2015-16.

**Process.** The CSAC HHS policy committee reviewed and discussed the proposed changes, including soliciting input from county staff, affiliates, and other stakeholders. The attached platforms were approved by the policy committee for Board consideration on January 14.

**Staff Comments.** For 2015-16, some of the updates and changes proposed include:

Federal Waivers: We anticipate work on two major federal waivers in 2015 – the renewal of the Section 1115 Medicaid Waiver and the creation of a new Organized Delivery System waiver for the Drug Medi-Cal program. We have updated the federal waiver section of the attached draft in anticipation of the major issues surrounding these efforts.

Intersection of Health and Human Services with the Court Involved Population: In the wake of 2011 Realignment and the implementation of the Affordable Care Act, counties have worked to enroll the court-involved population into Medi-Cal and other health and human services programs. Counties are supportive of obtaining federal funds to assist in these efforts, including Medicaid funds for inpatient hospitalizations – including psychiatric hospitalizations – and any state funding available to reduce recidivism.

Poverty Issues: The CSAC Executive Committee has indicated an interest in appointing a working group in 2015 to examine poverty issues from the county perspective. We expect to add language to the policy platform as a result of the working group's work.

Commercial Sexual Exploitation of Children (CSEC): We have added policy on the special needs and services required for the population of children and youth who have been sexually abused for commercial profit. This population is increasing and county child welfare services systems are working to create an array of supports to meet the special needs of this traumatized and often hard-to-reach population.

Federal Mental Health and Substance Use Disorder Parity: We have added a section to address the implementation of federal mental health and substance parity.

Aging: We have added language in support of federal and state funding to support those impacted by Alzheimer's disease.

Public Health: We have added detail to the role of county public health departments to include chronic disease prevention through policy, system and environmental changes promoting healthier communities.

Incompetent to Stand Trial: Given the challenges many counties are currently facing with placing this population, we have added language affirming our role, support of collaboration amongst entities, and support for funding sources.

There are additional edits and minor corrections throughout the attached draft platform documents.

**Recommendation.** The CSAC Health and Human Services Policy Committee adopted both policy platforms as attached. Staff recommends approval of the proposed platforms by the Board of Directors.

**Attachments:**

**CSAC Health Platform (DRAFT)**

**CSAC Human Services Platform (DRAFT)**

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Chapter Six  
DRAFT January 2015

## Health Services

### Section 1: GENERAL PRINCIPLES

Counties serve as the front-line defense against threats of widespread disease and illness and promote health and wellness among all Californians. This chapter deals specifically with health services and covers the major segments of counties' functions in health services. -Health services in each county shall relate to the needs of residents within that county in a systematic manner without limitation to availability of hospital(s) or other specific methods of service delivery. The board of supervisors in each county sets the standards of care for its residents.—

Local health needs vary greatly from county to county. Counties support and encourage the use of multi-jurisdictional approaches to health care. Counties support efforts to create cost-saving partnerships between the state and the counties in order to achieve better fiscal outcomes for both entities. Therefore, counties should have the maximum amount of flexibility in managing programs. Counties should have the ability to expand or consolidate facilities, services, and program contracts to provide a comprehensive level of service and accountability and achieve maximum cost effectiveness. Additionally, as new federal and state programs are designed in the health care field, the state must work with counties to encourage maximum program flexibility and minimize disruptions in county funding, from the transition phase to new reimbursement mechanisms. -

Counties also support a continuum of preventative health efforts – including mental health services, ~~substance use disorder drug and alcohol~~ services, nutrition awareness and disease prevention – and healthy living models for all of our communities, families, and individuals. Preventative health efforts have proven to be cost effective and provide a benefit to all residents.

The enactment and implementation of the federal Patient Protection and Affordable Care Act (ACA) of 2010 provides new challenges, as well as opportunities, for counties. Counties, as providers, administrators, and employers, are deeply involved with health care at all levels and must be full partners with the state and federal governments in the effort to expand Medicaid and provide health insurance and care to millions of Californians. Counties believe in maximizing the allowable coverage expansion under the ACA, while also preserving access to local health services for the residual uninsured. Counties remain committed to serving as an integral part of ACA implementation, and support initiatives to assist with outreach efforts, access, eligibility and enrollment services, and delivery system improvements.—

At the federal level, counties also support economic stimulus efforts that help maintain services levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. -People who have never sought public assistance before are arriving at county health and human services departments. For these reasons, counties strongly urge that any federal stimulus funding, enhanced matching funds, or innovation grants that have a county share of cost must be shared directly with counties. ~~for programs that have a county share of cost.—~~



### **A. Public Health**

The county public health departments and agencies are the only health agencies with direct day-to-day responsibility for protecting the health of every person within each county. The average person does not have the means to protect him or herself against contagious and infectious diseases. Government must assume the role of health protection against contagious and infectious diseases. It must also provide services to prevent disease and disability and encourage the community to do likewise. —These services and the authority to carry them out become especially important in times of disaster and public emergencies. To effectively respond to these local needs, counties must be provided with full funding for local public health communicable disease control and surveillance activities.

County health departments are also charged with responding to terrorist and biomedical attacks, including maintaining the necessary infrastructure – such as laboratories, hospitals, medical supply and prescription drug caches, as well as trained personnel – needed to protect our residents. Furthermore, counties play an integral role in chronic disease prevention through policy, system and environmental changes promoting healthier communities. Counties welcome collaboration with the federal and state governments on the development of infrastructure for bioterrorism and other disasters. Currently, counties are concerned about the lack of funding, planning, and ongoing support for critical public health infrastructure.

Counties also support the mission of the federal Prevention and Public Health Fund, and support efforts to secure direct funding for counties to meet the goals of the Fund

### **B. Health Services Planning**

Counties believe strongly in comprehensive health services planning. —Planning must be done through locally elected officials, both directly and by the appointment of quality individuals to serve in policy and decision-making positions for health services planning efforts. Counties must also have the flexibility to make health policy and fiscal decisions at the local level to meet the needs of their communities.—

### **C. Mental Health**

Counties support community-based treatment of mental illness. —Counties also accept responsibility for providing treatment and administration of such programs. It is believed that the greatest progress in treating mental illness can be achieved by continuing the counties' current role while providing flexibility for counties to design, implement, and support mental health services that best meet the needs of their community. Programs that treat mental illness should be designed to meet local requirements – within statewide and federal criteria and standards – to ensure appropriate treatment of persons with mental illness.—

The adoption of Proposition 63, the Mental Health Services Act of 2004, assists counties in service delivery. However, it is intended to provide new funding that expands and improves the capacity of existing systems of care and provides an opportunity to integrate funding at the local level. We strongly oppose additional reductions in state funding for mental health services that will result in the shifting of state or federal costs to counties. These cost shifts result in reduced services available at the local level and disrupt treatment options for mental health clients. Any shift in responsibility or funding must hold counties fiscally harmless and provide the authority to tailor mental health programs to individual community needs. We also strongly oppose any effort to redirect the Proposition 63 funding to existing

state services instead of the local services for which it was originally intended.—

The realignment of health and social services programs in 1991 restructured California's public mental health system. Realignment required local responsibility for program design and delivery within statewide standards of eligibility and scope of services, and designated revenues to support those programs to the extent that resources are available. —Counties are committed to service delivery that manages and coordinates services to persons with mental illness and that operates within a system of performance outcomes that assure funds are spent in a manner that provides the highest quality of care. The 2011 Realignment once again restructured financing for the provision of Medi-Cal services for children and adults.—

California law consolidated the two Medi-Cal mental health systems, one operated by county mental health departments and the other operated by the state Department of Health Services on a fee-for-service basis, effective in fiscal year 1997-98. —Counties supported these actions to consolidate these two systems and to operate Medi-Cal mental health services as a managed care program. Counties were offered the first opportunity to provide managed mental health systems, and every county chose to operate as a Medi-Cal Mental Health Plan. —This consolidated program provides for a negotiated sharing of risk for services between the state and counties.

In 2011, Counties became solely responsible for managing the nonfederal share of cost for these mental health services.—

In response to county concerns, state law also provides funds to county programs to provide specialty mental health services to CalWORKs recipients who need treatment in order to get and keep employment. Counties have developed a range of locally designed programs to serve California's diverse population, and must retain the local authority, flexibility, and funding to continue such services. Similar law requires county mental health programs to provide specialty mental health services to seriously emotionally disturbed children insured under the Healthy Families Program. The Healthy Families Program was dissolved in the 2012-13 Budget Act, and counties will continue to provide specialty mental health services to this population under Medi-Cal. However, counties anticipate increased demand for these services under Medi-Cal, and must have adequate revenues to meet the federal standards and needs of these children.—

Adequate mental health services can reduce criminal justice costs and utilization. —Appropriate diagnosis and treatment services will result in positive outcomes for offenders with mental illness and their families. Ultimately, appropriate mental health services will benefit the public safety system. Counties continue to work across disciplines and within the 2011 Realignment structure to achieve good outcomes for persons with mental illness and/or co-occurring substance abuse issues to help prevent incarceration and to treat those who are about to be incarcerated or are newly released from incarceration and their families.—

Despite the passage of federal parity laws (the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008), access to mental health and substance use treatment remains elusive for many Californians. Counties recognize that millions of Californians are suffering from mental health and substance use disorders and support policies to ensure adequate resources are available for effective implementation of federal mental health and substance use parity requirements.

#### **D. Children's Health**

##### **California Children's Services**

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Counties provide diagnosis and case management services to ~~the approximately overmore than 175200,000~~ children enrolled in the California Children's Services (CCS) program, whether they are in Medi-Cal, ~~Healthy Families~~ or the CCS-Only program. Counties also are responsible for determination of medical and financial eligibility for the program. Counties also provide Medical Therapy Program (MTP) services for both CCS children and special education students, and have a share of cost for services to non-Medi-Cal children.

Maximum federal and state matching funds for CCS program services must continue in order to avoid the shifting of costs to counties. Counties cannot continue to bear the rapidly increasing costs associated with both program growth and eroding state support. Counties support efforts to redesign or realign the program with the goal of continuing to provide the timely care and services for these most critically ill children. Counties also support efforts to test alternative models of care under CCS pilots in the 2010 Medicaid Waiver and subsequent waivers.

### State Children's Health Insurance Program

The State Children's Health Insurance Program (SCHIP) is a federally funded program that allows states to provide low- or no-cost health insurance to children up to 250 percent of the Federal Poverty Level (FPL). ~~California's SCHIP program is called the Healthy Families Program. CSAC supports federal reauthorization of the SCHIP program, including an eligibility increase of up to 300 percent of the FPL for the state's children. Many of these children will be Medi-Cal eligible under the ACA. CSAC supports a four-year extension of funding for the federal Children's Health Insurance Program (CHIP/Healthy Families). As a block grant, the appropriation for the program expires on September 30, 2015. Without federal funding, some families risk losing coverage for their children if their income is too high to qualify for Medicaid/Medi-Cal and too low to purchase family coverage through Covered California.~~

~~The 2012-13 Budget Act authorized the transfer of Healthy Families Program children into Medi-Cal. The transfer will begin in 2013 and consist of several phases. CSAC supports the transfer of all Healthy Families Program enrollees into Medi-Cal. The state must work to ensure network adequacy and access, as well as timely transitions on the technological systems that support eligibility, enrollment, and case management. Further, the state must work in partnership with counties to ensure a seamless transition for these children regardless of arbitrary timelines.~~

### Proposition 10

Proposition 10, the California Children and Families Initiative of 1998, provides significant resources to enhance and strengthen early childhood development. ~~Local children and families commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must maintain the full discretion to determine the use of their share of funds generated by Proposition 10. Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to the most appropriate needs of their communities, including childhood health, childhood development, nutrition, school readiness, child care and other critical community-based programs. Counties oppose any effort to diminish Proposition 10 funds or to impose restrictions on their local expenditure.~~

In recognition that Proposition 10 funds are disseminated differently based on a county's First 5 Commission structure and appropriated under the premise that local commissions are in a better position to identify and address unique local needs, counties oppose any effort to lower or eliminate state support

for county programs with the expectation that the state or local First 5 commissions will backfill the loss with Proposition 10 revenues.

#### **E. Substance Use Disorder Prevention and Treatment**

Counties have been, and will continue to be, actively involved in substance use disorder prevention and treatment, especially under the 2011 Realignment rubric, where counties were given responsibility for substance abuse treatment and Drug Medi-Cal services. Counties believe the best opportunity for solutions reside at the local level. -Counties continue to provide a wide range of substance use disorder treatment services, but remain concerned about evidence-based treatment capacity for all persons requiring substance abuse treatment services.—

Adequate early intervention, substance use disorder prevention and treatment services have been proven to reduce criminal justice costs and utilization. -Appropriate funding for diagnosis and treatment services will result in positive outcomes for non-offenders and offenders alike with substance use disorders. Therefore, appropriate substance use disorder treatment services will benefit the public safety system. Counties will continue to work across disciplines to achieve good outcomes for persons with substance use disorder issues and/or mental illness.—

Counties continue to support state and federal efforts to provide substance use disorder benefits under the same terms and conditions as other health services and welcome collaboration with public and private partners to achieve substance use disorder services and treatment parity.—

With the enactment of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, the demand for substance use disorder treatment and services on counties continues to increase. Dedicated funding for Proposition 36 expired in 2006, and the 2010-11 state budget eliminated all funding for Proposition 36 and the Offender Treatment Program. -However, the courts can still refer individuals to counties for treatment under state law, and counties are increasingly unable to provide these voter-mandated services without adequate dedicated state funding.—

#### **F. Medi-Cal, California's Medicaid Program**

California counties have a unique perspective on the state's Medicaid program. Counties are charged with preserving the public health and safety of communities. As the local public health authority, counties are vitally concerned about health outcomes. Undoubtedly, changes to the Medi-Cal program will affect counties. Even as the Affordable Care Act is implemented, counties remain concerned about state and federal proposals that would decrease access to health care or shift costs and risk to counties.

Counties are the foundation of California's safety net system. Under California law, counties are required to provide services to the medically indigent. To meet this mandate, some counties own and operate county hospitals and clinics. These hospitals and clinics also provide care for Medi-Cal patients and serve as the medical safety net for millions of residents. These local systems also rely heavily on Medicaid reimbursements. Any Medi-Cal reform that results in decreased access to or funding of county hospitals and health systems will be devastating to the safety net. The loss of Medi-Cal funds translates into fewer dollars to help pay for safety net services for all persons served by county facilities. Counties are not in a position to absorb or backfill the loss of additional state and federal funds. Rural counties already have particular difficulty developing and maintaining health care infrastructure and ensuring access to services.

Additionally, county welfare departments determine eligibility for the Medi-Cal program. County mental health departments are the health plan for Medi-Cal Managed Care for public mental health services.

Changes to the Medi-Cal program will undoubtedly affect the day-to-day business of California counties.

In the area of Medi-Cal, counties have developed the following principles:

1. **-Safety Net.** It is vital that changes to Medi-Cal preserve the viability of the safety net and not shift costs to the county.
  2. **-Managed Care.** Expansion of managed care must not adversely affect the safety net and must be tailored to each county's medical and geographical needs. Due to the unique characteristics of the health care delivery system in each county, the variations in health care accessibility and the demographics of the client population, counties believe that managed care systems must be tailored to each county's needs. The state should continue to provide options for counties to implement managed care systems that meet local needs. -The state should work openly with counties as primary partners in this endeavor. The state needs to recognize county experience with geographic managed care and make strong efforts to ensure the sustainability of county organized health systems. The Medi-Cal program should offer a reasonable reimbursement mechanism for managed care.
  3. **Special Populations Served by Counties – Mental Health, Substance Use Disorder Treatment Services, and California Children's Services (CCS).** Changes to Medi-Cal must preserve access to medically necessary mental health care, drug treatment services, and California Children's Services. The carve-out of specialty mental health services within the Medi-Cal program must be preserved, if adequately funded, in ways that maximize federal funds and minimize county risks. Maximum federal matching funds for CCS program services must continue in order to avoid the shifting of costs to counties. Counties recognize the need to reform the Drug Medi-Cal program in ways that maximize federal funds, ensure access to medically necessary evidence-based practices, -allow counties to retain authority and choice in contracting with accredited providers, and minimize county risks. Any reform effort should recognize the importance of substance use disorder treatment and services in the local health care continuum.
  4. **-Financing.** Counties will not accept a share of cost for the Medi-Cal program. Counties also believe that Medi-Cal long-term care must remain a state-funded program and oppose any cost shifts or attempts to increase county responsibility through block grants or other means. The state should fully fund county costs associated with the administration of the Medi-Cal program.—
  5. **-Simplification.** Complexities of rules and requirements should be minimized or reduced so that enrollment, retention and documentation and reporting requirements are not unnecessarily burdensome to recipients, providers, and administrators and are no more restrictive or duplicative than required by federal law. Simplification should include removing barriers that unnecessarily discourage beneficiary or provider participation or billing and timely reimbursements. Counties support simplifying the eligibility process for administrators of the Medi-Cal program.
- The State should consider counties as full partners in the administration of Medi-Cal and its expansion under ACA, and consult with counties in formulating and implementing all policy, operational and technological changes.

#### **G. Medicare Part D**

In 2003, Congress approved a new prescription drug benefit for Medicare effective January 1, 2006. The new benefit will be available for those persons entitled to Medicare Part A and/or Part B and for those dually eligible for Medicare and Medi-Cal.

Beginning in the fall of 2005, all Medicare beneficiaries were given a choice of a Medicare Prescription Drug Plan. While most beneficiaries must choose and enroll in a drug plan to get coverage, different rules apply for different groups. Some beneficiaries will be automatically enrolled in a plan.

The Medicare Part D drug coverage plan eliminated state matching funds under the Medicaid program and shifted those funds to the new Medicare program. The plan requires beneficiaries to pay a copayment and for some, Medi-Cal will assist in the cost.

For counties, this change led to an increase in workload for case management across many levels of county medical, social welfare, criminal justice, and mental health systems. Counties strongly oppose any change to realignment funding that may result and would oppose any reduction or shifting of costs associated with this benefit that would require a greater mandate on counties.

#### **H. Medicaid and Aging Issues**

Furthermore, counties are committed to addressing the unique needs of older and dependent adults in their communities, and support collaborative efforts to build a continuum of services as part of a long-term system of care for this vulnerable but vibrant population. Counties also believe that Medi-Cal long-term care must remain a state-funded program and oppose any cost shifts or attempts to increase county responsibility through block grants or other means.—

Counties support the continuation of federal and state funding for the In-Home Supportive Services (IHSS) program, and oppose any efforts to shift additional IHSS costs to counties. Counties support the IHSS Maintenance of Effort (MOE) as negotiated in the 2012-13 Budget Act.

Counties also support federal and state funding to support Alzheimer's disease research, community education and outreach, and resources for caregivers, family members and those afflicted with Alzheimer's disease.

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#### **Section 2: AFFORDABLE CARE ACT (ACA) IMPLEMENTATION**

The fiscal impact of the federal ACA on counties is uncertain and there will be significant county-by-county variation. However, counties support health care coverage for all persons living in the state. The sequence of changes and implementation of the Act must be carefully planned, and the state must work in partnership with counties to successfully realize the gains in health care and costs envisioned by the ACA.

Counties also caution that increased coverage for low-income individuals may not translate into savings to all county health systems. Counties cannot contribute to a state expansion of health care before health reform is fully implemented, and any moves in this direction would destabilize the county health care safety net. Counties must also retain sufficient health revenues for residual responsibilities, including public health.

#### **A. Access and Quality**

- Counties support offering a truly comprehensive package of health care services that includes mental health and substance use disorder treatment services at parity levels and a strong prevention component and incentives.

- Counties support the integration of health care services for prisoners and offenders, detainees, and undocumented immigrants into the larger health care service model.
- Health care expansion must address access to health care in rural communities and other underserved areas and include incentives and remedies to meet these needs as quickly as possible.

### **B. Role of Counties as Health Care Providers**

- Counties strongly support maintaining a stable and viable health care safety net. An adequate safety net is needed to care for persons who remain uninsured as California transitions to universal coverage and for those who may have difficulty accessing care through a traditional insurance-based system.
- The current safety net is grossly underfunded. Any diversion of funds away from existing safety net services will lead to the dismantling of the health care safety net and will hurt access to care for all Californians.
- Counties believe that delivery systems that meet the needs of vulnerable populations and provide specialty care – such as emergency and trauma care and training of medical residents and other health care professionals – must be supported in any universal health coverage plan.
- Counties strongly support adequate funding for the local public health system as part of a plan to achieve universal health coverage. Counties recognize the linkage between public health and health care. A strong local public health system will reduce medical care costs, contain or mitigate disease, and address disaster preparedness and response.

### **C. Financing and Administration**

- Counties support increased access to health coverage through a combination of mechanisms that may include improvements in and expansion of the publicly funded health programs, increased employer-based and individual coverage through purchasing pools, tax incentives, and system restructuring. The costs of universal health care shall be shared among all sectors: government, labor, and business.
- Efforts to achieve universal health care should simplify the health care system – for recipients, providers, and administration.
- The federal government has an obligation and responsibility to assist in the provision of health care coverage.
- Counties encourage the state to pursue ways to maximize federal financial participation in health care expansion efforts, and to take full advantage of opportunities to simplify Medi-Cal, the Healthy Families Program, and other publicly funded programs with the goal of achieving maximum enrollment and provider participation.
- County financial resources are currently overburdened; counties are not in a position to contribute permanent additional resources to expand health care coverage.
- A universal health care system should include prudent utilization control mechanisms that are appropriate and do not create barriers to necessary care.

- Access to health education, preventive care, and early diagnosis and treatment will assist in controlling costs through improved health outcomes.

#### D. Role of Employers

- Counties, as both employers and administrators of health care programs, believe that every employer has an obligation to contribute to health care coverage. Counties are sensitive to the economic concerns of employers, especially small employers, and employer-based solutions should reflect the nature of competitive industries and job creation and retention. Therefore, counties advocate that such an employer policy should also be pursued at the federal level and be consistent with the goals and principles of local control at the county government level.
- Reforms should offer opportunities for self-employed individuals, temporary workers, and contract workers to obtain affordable health coverage.

#### E. Implementation

The sequence of changes and implementation must be carefully planned, and the state must work in partnership with the counties to successfully realize the gains in health and health care envisioned by the ACA.

#### Section 3: CALIFORNIA HEALTH SERVICES FINANCING

Those eligible for Temporary Assistance for Needy Families (TANF)/California Work Opportunity and Responsibility to Kids (CalWORKs), should retain their categorical linkage to Medi-Cal as provided prior to the enactment of the federal Personal Responsibility Work Opportunity Reconciliation Act of 1996.

Counties are concerned about the erosion of state program funding and the inability of counties to sustain current program levels. As a result, we strongly oppose additional cuts in county administrative programs as well as any attempts by the state to shift the costs for these programs to counties. Counties support legislation to permit commensurate reductions at the local level to avoid any cost shifts to local government.

With respect to the County Medical Services Program (CMSP), counties support efforts to improve program cost effectiveness and oppose state efforts to shift costs to participating counties, including administrative costs and elimination of other state contributions to the program. Counties believe that enrollment of Medi-Cal patients in managed care systems may create opportunities to reduce program costs and enhance access. Due to the unique characteristics of each county's delivery system, health care accessibility, and demographics of client population, counties believe that managed care systems must be tailored to each county's needs, and that counties should have the opportunity to choose providers that best meet the needs of their populations. The state must continue to provide options for counties to implement managed care systems that meet local needs. Because of the significant volume of Medi-Cal clients that are served by the counties, the state should work openly with counties as primary partners.

Where cost-effective, the state should provide non-emergency health services to undocumented immigrants. The State should seek federal reimbursement for medical services provided to undocumented immigrants. [The ACA provides federal Medicaid funds for emergency services for undocumented immigrants.](#)



Counties oppose any shift of funding responsibility from accounts within the Proposition 99 framework that will negatively impact counties. -Any funding responsibilities shifted to the Unallocated Account would disproportionately impact the California Healthcare for Indigents Program/Rural Health Services (CHIP/RHS), and thereby potentially produce severe negative fiscal impacts to counties.

Counties support increased funding for trauma and emergency room services. Trauma centers and emergency rooms play a vital role in California's health care delivery system. -Trauma services address the most serious, life-threatening emergencies. -Financial pressures in the late 1980s and even more recently have led to the closure of several trauma centers and emergency rooms. -The financial crisis in the trauma and emergency systems is due to a significant reduction in Proposition 99 tobacco tax revenues, an increasing number of uninsured patients, and the rising cost of medical care, including specialized equipment that is used daily by trauma centers. -Although reducing the number of uninsured through expanded health care coverage will help reduce the financial losses to trauma centers and emergency rooms, critical safety-net services must be supported to ensure their long-term viability.—

#### **A. Realignment**

In 1991, the state and counties entered into a new fiscal relationship known as ~~the 1991~~ Realignment. Realignment affects health, mental health, and social services programs and funding. -The state transferred control of programs to counties, altered program cost-sharing ratios, and provided counties with dedicated tax revenues from ~~the state~~ sales tax and vehicle license fees to pay for these changes.

Counties support the concept of state and local program realignment and the principles adopted by CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of realignment should be protected. -However, counties strongly oppose any change to realignment funding that would negatively impact counties. -Counties remain concerned and will resist any reduction of dedicated realignment revenues or the shifting of new costs from the state and further mandates of new and greater fiscal responsibilities to counties in this partnership program.—

With the passage of Proposition 1A, the state and counties entered into a new relationship whereby local property taxes, sales and use taxes, and Vehicle License Fees are constitutionally dedicated to local governments. -Proposition 1A also provides that the Legislature must fund state-mandated programs; if not, the Legislature must suspend those state-mandated programs. Any effort to realign additional programs must occur in the context of these constitutional provisions. Further, any effort to realign programs or resources must guarantee that counties have sufficient revenues for residual responsibilities, including public health programs.—

In 2011, counties assumed 100 percent fiscal responsibility for Medi-Cal Specialty Mental Health Services, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT); Drug Medi-Cal; drug courts; perinatal treatment programs; and women's and children's residential treatment services as part of the 2011 Public Safety Realignment. Please see the Realignment Chapter of the CSAC Platform and accompanying principles.—

#### **B. Hospital Financing**

In 2014, 12 counties own and operate 16 hospitals statewide, including Alameda, Contra Costa, Kern, Los Angeles, Monterey, Riverside, San Bernardino, San Francisco, San Joaquin, San Mateo, Santa Clara, and Ventura Counties. These hospitals are a vital piece of the local safety net, but also serve as

indispensable components of a robust health system, providing both primary and specialized health services to health consumers in our communities, as well as physician training, trauma centers, and burn care.

County hospitals could not survive without federal Medicaid funds. CSAC has been firm that any proposal to change hospital financing must guarantee that county hospitals do not receive less funding than they currently do, and are eligible for more federal funding in the future, as needs grow. California's current federal Section 1115 Medicaid waiver (implemented in SB 208 and AB 342, Chapter 714 and 723, respectively, Statutes of 2010) provides county hospitals with funding for five years. Counties believe implementation of the waiver is necessary to ensure that county hospitals are paid for the care they provide to Medi-Cal recipients and uninsured patients and to prepare counties for federal health care reform implementation in 2014.

California's existing Section 1115 "Bridge to Reform" Medicaid Waiver expires in October 2015. The Waiver is a five-year demonstration of health care reform initiatives that invested in the state's health care delivery system to prepare for the significant changes spurred on by the Affordable Care Act (ACA). Continuance of the federal government's commitment to the implementation of the ACA through a successor Waiver will allow the state and counties to further improve care delivery and quality. Through the Waiver, counties seeks federal and state support to promote and improve health outcomes, access to care and cost efficiency, building upon the system of care delivery models developed under the 2010 Waiver. Counties support a five-year state Medicaid Waiver that provides funding to counties at current levels. The successor waiver should: 1) support a public integrated safety net delivery system; 2) build on previous delivery system improvement efforts for public health care systems so that they can continue to transform care delivery; 3) allow for the creation of a new county pilot effort to advance improvements through coordinated care, integrated physical and behavioral health services and provide robust coordination with social, housing and other services critical to improve care of targeted high-risk patients.; 4) improve access to share and integrate health data and systems; 5) and provide flexibility for counties/public health care systems to ~~more~~ provide more coordinated care and effectively serve individuals who will remain uninsured.

Counties are supportive of opportunities to reduce costs for county hospitals, particularly for mandates such as seismic safety requirements and nurse-staffing ratios. Therefore, counties support infrastructure bonds that will provide funds to county hospitals for seismic safety upgrades, including construction, replacement, renovation, and retrofit.

Counties also support opportunities for county hospitals and health systems to make delivery system improvements and upgrades, which will help these institutions compete in the modern health care marketplace.

#### **Section 4: FAMILY VIOLENCE**

CSAC remains committed to raising awareness of the toll of family violence on families and communities by supporting efforts that target family violence prevention, intervention, and treatment. Specific strategies for early intervention and success should be developed through cooperation between state and local governments, as well as community, and private organizations addressing family violence issues.

#### **Section 5: HEALTHY COMMUNITIES**

Built and social environments significantly impact the health of communities. Counties acknowledge the role of public policy as a tool to reshape the environment and Counties support policies and programs that aid in the development of healthy communities which are designed to provide opportunities for people of all ages and abilities to engage in routine physical activity or other health-related activities. To this end, Counties support the concept of joint use of facilities and partnerships, mixed-use developments and walkable developments, where feasible, to promote healthy community events and activities.—

#### **Section 6: VETERANS**

Counties provide services such as mental health treatment, substance use disorder treatment, and social services that veterans may access. Specific strategies for intervention and service delivery to veterans should be developed through cooperation between federal, state and local governments, as well as community and private organizations serving veterans.

#### **Section 7: EMERGENCY MEDICAL SERVICES**

Counties are tasked with providing critical health, safety, and emergency services to all residents, regardless of geography, income, or population. Because of this responsibility and our statutory authority to oversee pre-hospital emergency medical services, including ambulance transport service, counties are forced to operate a balancing act between funding, services, and appropriate medical and administrative oversight of the local emergency medical services system. Counties do not intend to infringe upon the service areas of other levels of government who provide similar services, but will continue to discharge our statutory duties to ensure that all county residents have access to the appropriate level and quality of emergency services, including medically indigent adults. Counties support ensuring the continuity and integrity of the current emergency medical services system. Reductions in authority for counties in ~~this~~ these areas will be opposed. Counties recognize that effective administration and oversight of local emergency medical services systems includes input from key stakeholders, such as other local governments, private providers, state officials, local boards and commissions, and the people in our communities who depend on these critical services.—

#### **Section 8: Court-involved population**

Counties recognize the importance of enrolling the court-involved population into Medi-Cal and other public programs. Medi-Cal enrollment provides access to important ~~mental health~~, behavioral health and primary care services that will improve health outcomes and may reduce recidivism. CSAC continues to look for partnership opportunities with the Department of Health Care Services, foundations, and other stakeholders on enrollment, eligibility, quality and improving outcomes for this population. Counties are supportive of obtaining federal Medicaid funds for inpatient hospitalizations, including psychiatric hospitalizations, for adults and juveniles while they are incarcerated.

#### **Section 9 placeholder poverty**

#### **Section 109. –Incompetent to Stand Trial**

Counties affirm the authority of County Public Guardians under current law to conduct conservatorship investigations and are mindful of the potential costs and ramifications of additional mandates or duties in this area.

Counties support collaboration among the California Department of State Hospitals, county Public

Guardians, Behavioral Health Departments, and County Sheriffs to find secure supervised placements for individuals originating from DSH facilities, county jails, or conserved status. Counties support a shared funding and service delivery model for complex placements, such as the Enhanced Treatment Program.

Counties recognize the need for additional secure placement options for individuals who are conserved or involved in the local or state criminal justice systems, including juveniles.

#### **Section 11: MENTAL HEALTH AND SUBSTANCE USE DISORDER PARITY**

Despite the passage of federal parity laws (the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008), access to mental health and substance use treatment remains elusive for many Californians. Counties recognize that millions of Californians are suffering from mental health and substance use disorders and support policies to ensure adequate resources are Moved to Mental Health Section

## Chapter Twelve

### DRAFT January 2015

# Human Services

#### Section 1: GENERAL PRINCIPLES

Counties are committed to the delivery of public social services at the local level. However, counties require adequate and ongoing federal and state funding, maximum local authority, and flexibility for the administration and provision of public social services.

Inadequate funding for program costs strains the ability of counties to meet accountability standards and avoid penalties, putting the state and counties at risk for hundreds of millions of dollars in federal penalties. Freezing program funding also shifts costs to counties and increases the county share of program costs above statutory sharing ratios, while at the same time running contrary to the constitutional provisions of Proposition 1A.

At the federal level, counties support economic stimulus efforts that help maintain service levels and access for the state's neediest residents. Counties are straining to provide services to the burgeoning numbers of families in distress. People who have never sought public assistance before are arriving at county health and human services departments. Counties report long lines in their welfare departments as increasing numbers of people apply for programs such as Medicaid, Supportive Nutrition Assistance Program (SNAP or Food Stamps), Temporary Assistance to Needy Families (TANF), and General Assistance. For these reasons, counties strongly urge that any federal stimulus funding must be shared directly with counties for programs that have a county share of cost.

Counties support federal economic stimulus efforts in the following areas: An increase in the Federal Medical Assistance Percentage (FMAP) for Medicaid and Title IV-E, and benefit increases for the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance for Needy Families (TANF); the Child Abuse Prevention and Treatment Act (CAPTA); Community Services Block Grants (CSBG); child support incentive funds; and summer youth employment funding.

Counties support the full implementation of the federal Patient Protection and Affordable Care Act of 2010 (ACA) and the expansion of coverage to the fullest extent allowed under federal law. Health care eligibility and enrollment functions must build on existing local infrastructure and processes and remain as accessible as possible. Counties are required by law to administer eligibility and enrollment functions for Medi-Cal, and recognize that many of the new enrollees under the ACA may also participate in other human services programs. For this reason, counties support the continued role of counties in Medi-Cal eligibility, enrollment, and retention functions. The state should fully fund county costs for the administration of the Medi-Cal program, and consult with counties on all policy, operational, and technological changes in the administration of the program. Further, enhanced data matching and case management of these enrollees must include adequate funding and be administered at the local level.

Prior to Proposition 13 in 1978, property taxes represented a stable and growing source of funding for county-administered human services programs. Until SB 154 (1978) and AB 8 (1979), there was a gradual

erosion of local control in the administration of human services due to legislation and regulations promulgated by the state, which included dictating standards, service levels and administrative constraints.

Despite state assumption of major welfare program costs after Proposition 13, counties continue to be hampered by state administrative constraints and cost-sharing requirements, which ultimately affect the ability of counties to provide and maintain programs. The state should set minimum standards, allowing counties to enhance and supplement programs according to each county's local needs. If the state implements performance standards, the costs for meeting such requirements must be fully reimbursed.

Counties also support providing services for indigents at the local level. However, the state should assume the principal fiscal responsibility for administering programs such as General Assistance. The structure of federal and state programs must not shift costs or clients to county-level programs without full reimbursement.

### **Section 2: HUMAN SERVICES FUNDING DEFICIT**

While counties are legislatively mandated to administer numerous human services programs including Foster Care, Child Welfare Services, CalWORKs, Adoptions, and Adult Protective Services, funding for these services was frozen at 2001 cost levels. The state's failure to fund actual county cost increases led to a growing funding gap of nearly \$1 billion *annually*. This put counties in the untenable position of backfilling the gap with their own limited resources or cutting services that the state and county residents expect us to deliver.

2011 Realignment shifted fiscal responsibility for the Foster Care, Child Welfare Services, Adoptions and Adult Protective Services programs to the counties. Counties remain committed to the overall principle of fair, predictable and ongoing funding for human services programs that keeps pace with actual costs. [Please see the Realignment Chapter of the CSAC Platform and accompanying principles.](#)

### **Section 3: CHILD WELFARE SERVICES/FOSTER CARE**

A child deserves to grow up in an environment that is healthy, safe, and nurturing. To meet this goal, families and caregivers should have access to public and private services that are comprehensive and collaborative. [Further, recent policy and court-ordered changes, such as those proscribed in the \*Katie A.\* settlement require collaboration between county child welfare services/foster care and mental health systems.](#)

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The existing approach to budgeting and funding child welfare services was established in the mid 1980's. Since that time, dramatic changes in child welfare policy have occurred, as well as significant demographic and societal changes, impacting the workload demands of the current system. 2011 Realignment provides a mechanism that will help meet the some of the current needs of the child welfare services system, but existing workload demands and regulations remain a concern.

[Further, recent court settlements \(\*Katie A.\*\) and policy changes \(\*AB 12 Fostering Connections to Success Act of 2010\*\) require close state/county collaboration with an emphasis on ensuring adequate ongoing funding that adapts to the needs of children who qualify.](#)

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[Counties support efforts to reform the congregate care – or youth group home – system and strongly support efforts to recruit, support, and retain foster family homes to address the decline of foster family home placements in California today. Any reform efforts must consider issues related to collaboration, capacity and funding. Additionally, reform efforts must take into account the needs of juveniles who are wards of the](#)

court.

Counties support efforts to build capacity within local child welfare agencies to serve child victims of commercial sexual exploitation. Commercial sexual exploitation of children (CSEC) is an emerging national and statewide issue. In fact, three of the top ten highest trafficking areas in the nation are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas. Counties believe this growing and complex problem warrants immediate attention in the Golden State, including funding for prevention, intervention, and direct services through county child welfare services (CWS) agencies. Counties also support close cooperation on CSEC issues with law enforcement, the judiciary, and community-based organizations to ensure the best outcomes for child victims.

When, despite the provision of voluntary services, the family or caregiver is unable to minimally ensure or provide a healthy, safe, and nurturing environment, a range of intervention approaches will be undertaken. When determining the appropriate intervention approach, the best interest of the child should always be the first consideration. These efforts to protect the best interest of children and preserve families may include:

1. A structured family plan involving family members and all providers, with specific goals and planned actions;
2. A family case planning conference;
3. Intensive home supervision; and/or
4. Juvenile and criminal court diversion contracts.

When a child is in danger of physical harm or neglect, either the child or alleged offender may be removed from the home, and formal dependency and criminal court actions may be taken. Where appropriate, family preservation and support services should be provided in a comprehensive, culturally appropriate and timely manner.

When parental rights must be terminated, counties support a permanency planning process that quickly places children in the most stable environments, with adoption being the permanent placement of choice. Counties support efforts to accelerate the judicial process for terminating parental rights in cases where there has been serious abuse and where it is clear that the family cannot be reunified. Counties also support adequate state funding for adoption services.

Furthermore, counties seek to obtain additional funding and flexibility at both the state and federal levels to provide robust transitional services to foster youth such as housing, employment services, and increased access to aid up to age 25~~6~~. Counties also support such ongoing services for former and emancipated foster youth up to age 26~~5~~, and pledge to help implement the Fostering Connections to Success Act of 2010 to help ensure the future success of this vulnerable population.

With regards to case~~load~~- and workload standards in child welfare, counties remain concerned about increasing workloads and fluctuations in funding, both of which threaten the ability of county child welfare agencies to meet their federal and state mandates in serving children and families impacted by abuse and neglect. —

Counties support a reexamination of reasonable caseload levels at a time when cases are becoming more complex, often more than one person is involved in working on a given case, and when extensive records have to be maintained about each case. Counties support ongoing augmentations for Child Welfare Services to partially mitigate workload concerns and the resulting impacts to children and families in crisis. Counties also support efforts to document workload needs and gather data in these areas so that we may ensure adequate funding for this complex system.

As our focus remains on the preservation and empowerment of families, we believe the potential for the public to fear some increased risk to children is outweighed by the positive effects of a research-supported family preservation emphasis. Within the family preservation and support services approach, the best interest of the child should always be the first consideration. The Temporary Assistance for Needy Families (TANF) and California Work Opportunity and Responsibility to Kids (CalWORKs) programs allow counties to take care of children regardless of the status of parents.

#### **Section 4: EMPLOYMENT AND SELF- SUFFICIENCY PROGRAMS**

There is strong support for the simplification of the administration of public assistance programs. The state should continue to take a leadership role in seeking state and federal legislative and regulatory changes to achieve simplification, consolidation, and consistency across all major public assistance programs, including Temporary Assistance for Needy Families (TANF), California Work Opportunity and Responsibility to Kids (CalWORKs), Medicaid, Medi-Cal, and Food Stamps. In addition, electronic technology improvements in welfare administration are an important tool in obtaining a more efficient and accessible system.

California counties are far more diverse from county to county than many regions of the United States. The state's welfare structure should recognize this and allow counties flexibility in administering welfare programs. Each county must have the ability to identify differences in the population being served and provide services accordingly, without restraints from federal or state government. There should, however, be as much uniformity as possible in areas such as eligibility requirements, grant levels and benefit structures. To the extent possible, program standards should seek to minimize incentives for public assistance recipients to migrate from county to county within the state.

A welfare system that includes shrinking time limits for assistance should also recognize the importance of and provide sufficient federal and state funding for education, job training, child care, and support services that are necessary to move recipients to self-sufficiency. There should also be sufficient federal and state funding for retention services, such as childcare and additional training, to assist former recipients in maintaining employment. Any state savings from the welfare system should be directed to counties to provide assistance to the affected population for programs at the counties' discretion, such as General Assistance, indigent health care, job training, child care, mental health, alcohol and drug services, and other services required to accomplish welfare-to-work goals. In addition, federal and state programs should include services that accommodate the special needs of people who relocate to the state after an emergency or natural disaster. It is only with adequate and reliable resources and flexibility that counties can truly address the fundamental barriers that many families have to self-sufficiency.—

The state should assume ~~the~~ principal fiscal responsibility for the General Assistance program. —

Welfare-to-work efforts should focus on prevention of the factors that lead to poverty and welfare dependency including unemployment, underemployment, a lack of educational opportunities, food security issues, and housing problems. Prevention efforts should also acknowledge the responsibility of absent parents by improving efforts for absent parent location, paternity establishment, child support award establishment, and the timely collection of child support.

California's unique position as the nation's leading agricultural state should be leveraged to increase food security for its residents. Also, with the recent economic crisis, families and individuals are seeking food stamps and food assistance at higher rates. Counties support increased nutritional supplementation efforts at the state and federal levels, including increased aid, longer terms of aid, and increased access for those in need.



Counties also recognize safe, dependable and affordable child care as an integral part of attaining and retaining employment and overall family self-sufficiency, and therefore support efforts to seek additional funding to expand child care eligibility, access and quality programs.

Finally, counties support efforts to address housing supports and housing assistance efforts at the state and local levels. Long-term planning, creative funding, and accurate data on homelessness are essential to addressing housing security and homelessness issues.

#### **Section 5: CHILD SUPPORT ENFORCEMENT PROGRAM**

Counties are committed to strengthening the child support enforcement program through implementation of the child support restructuring effort of 1999. Ensuring a seamless transition and efficient ongoing operations requires sufficient federal and state funding and must not result in any increased county costs. Further, the state must assume full responsibility for any federal penalties for the state's failure to establish a statewide automated child support system. Any penalties passed on to counties would have an adverse impact on the effectiveness of child support enforcement or other county programs.

More recently, the way in which child support enforcement funding is structured prevents many counties from meeting state and federal collection guidelines and forces smaller counties to adopt a regional approach or, more alarmingly, fail outright to meet existing standards. Counties need an adequate and sustainable funding stream and flexibility at the local level to ensure timely and accurate child support enforcement efforts, and must not be held liable for failures to meet guidelines in the face of inadequate and inflexible funding.

Moreover, a successful child support enforcement program requires a partnership between the state and counties. Counties must have meaningful and regular input into the development of state policies and guidelines regarding child support enforcement [and the local flexibility to organize and structure effective programs](#).

#### **Section 6: PROPOSITION 10: THE FIRST FIVE COMMISSIONS**

Proposition 10, the California Children and Families Initiative of 1998, provides significant resources to enhance and strengthen early childhood development. Local children and families commissions (First 5 Commissions), established as a result of the passage of Proposition 10, must maintain the full discretion to determine the use of their share of funds generated by Proposition 10. Further, local First 5 commissions must maintain the necessary flexibility to direct these resources to the most appropriate needs of their communities, including childhood health, childhood development, nutrition, school readiness, child care and other critical community-based programs. Counties oppose any effort to diminish local Proposition 10 funds or to impose restrictions on their local expenditure authority.—

In recognition that Proposition 10 funds are disseminated differently based on a county's First 5 Commission structure and appropriated under the premise that local commissions are in a better position to identify and address unique local needs, counties oppose any effort to lower or eliminate the state's support for county programs with the expectation that the state or local First 5 commissions will backfill the loss with Proposition 10 revenues.

#### **Section 7: REALIGNMENT**

In 1991, the state and counties entered into a new fiscal relationship known as [1991 R](#)ealignment.

Realignment affects health, mental health, and social services programs and funding. The state transferred control of programs to counties, altered program cost-sharing ratios, and provided counties with dedicated tax revenues from ~~state~~ sales tax and vehicle license fees to pay for these changes.

Counties support the concept of state and local program realignment and the principles adopted by CSAC and the Legislature in forming realignment. Thus, counties believe the integrity of realignment should be protected. However, counties strongly oppose any change to realignment funding that would negatively impact counties. Counties remain concerned and will resist any reduction of dedicated realignment revenues or the shifting of new costs from the state and further mandates of new and greater fiscal responsibilities in this partnership program.

With the passage of Proposition 1A, the state and counties entered into a new relationship whereby local property taxes, sales and use taxes, and Vehicle License Fees are constitutionally dedicated to local governments. Proposition 1A also provides that the Legislature must fund state-mandated programs; if not, the Legislature must suspend those state-mandated programs. Any effort to realign additional programs must occur in the context of these constitutional provisions.

In 2011, counties assumed 100 percent fiscal responsibility for Child Welfare Services, adoptions, adoptions assistance, Child Abuse Prevention Intervention and Treatment services, foster care and Adult Protective Services as part of the 2011 Public Safety Realignment. Please see the Realignment chapter of the CSAC Platform and accompanying principles.

#### **Section 8: FAMILY VIOLENCE**

CSAC remains committed to raising awareness of the toll of family violence on families and communities by supporting efforts that target family violence prevention, intervention, and treatment. Specific strategies for early intervention and success should be developed through cooperation between state and local governments, as well as community and private organizations addressing family violence issues.

#### **Section 9: AGING AND DEPENDENT ADULTS**

California is already home to more older adults than any other state in the nation, and the state's 65 and older population is expected to double over the next 20 years, from 3.5 million in 2000 to 8.2 million in 2030. The huge growth in the number of older Californians will affect how local governments plan for and provide services, running the gamut from housing and health care to transportation and in-home care services. While many counties are addressing the needs of their older and dependent adult populations in unique and innovative ways, all are struggling to maintain basic safety net services in addition to ensuring an array of services needed by this aging population.

Counties support reliable funding for programs that affect older and dependent adults, such as Adult Protective Services and In-Home Supportive Services, and oppose any funding cuts, or shifts of costs to counties without revenue, from either the state or federal governments. Furthermore, counties are committed to addressing the unique needs of older and dependent adults in their communities, and support collaborative efforts to build a continuum of services as part of a long-term system of care for this vulnerable but vibrant population.

Counties also support federal and state funding to support Alzheimer's disease research, community education and outreach, and resources for caregivers, family members and those afflicted with Alzheimer's disease.

## Adult Protective Services

The Adult Protective Services (APS) Program is the state's safety net program for abused and neglected adults and is now solely financed and administered at the local level by counties. As such, counties provide around-the-clock critical services to protect the state's most vulnerable seniors and dependent adults from abuse and neglect. Timely response by local APS is critical, as studies show that elder abuse victims are 3.1 times more likely to die prematurely than the average senior. Counties must retain local flexibility in meeting the needs of our aging population.

## In-Home Supportive Services

The In-Home Supportive Services (IHSS) program is a federal Medicaid program administered by the state and run by counties that enables program recipients to hire a caregiver to provide services that enable that person to stay in his or her home safely. Individuals eligible for IHSS services are disabled, age 65 or older, or those who are blind and unable to live safely at home without help. All Supplementary Income/ State Supplemental Payment recipients are also eligible for IHSS benefits if they demonstrate an assessed need for such services.

As part of the 2012-13 state budget, the Legislature and Governor approved major policy changes within the Medi-Cal program aimed at improving care coordination, particularly for people on both Medi-Cal and Medicare. Also approved as part of this Coordinated Care Initiative (CCI) are a number of changes to the In-Home Supportive Services (IHSS) program, including state collective bargaining for IHSS, creation of a county IHSS Maintenance of Effort (MOE), and creation of a Statewide Authority. County social workers evaluate prospective and ongoing IHSS recipients, who may receive assistance with such tasks as housecleaning, meal preparation, laundry, grocery shopping, personal care services such as bathing, paramedical services, and accompaniment to medical appointments. Once a recipient is authorized for service hours, the recipient is responsible for hiring his or her provider. Although the recipient is considered the employer for purpose of hiring, supervising, and firing their provider, state law requires counties to establish an "employer of record" for purposes of collective bargaining to set provider wages and benefits. In 2014, the state ~~will be~~ became the employer of record for the eight Coordinated Care Initiative (CCI) counties.

IHSS cases are funded by one of three programs in California: the Personal Care Services Program (supported by federal Medicaid funds, state funds and county funds), the IHSS Residual Program (supported by state and county funds), or the IHSS Plus Waiver (supported by federal Medicaid funds, state funds and county funds). IHSS Program Administration is supported by a combination of federal, state and local dollars.

Costs and caseloads for the program continue to grow. State General Fund costs for the IHSS program have quadrupled from 1998 to 2008. Federal funds have almost quadrupled. County costs have grown at slightly slower pace – tripling over ten years. According to the Department of Social Services, caseloads are projected to increase between five and seven percent annually going forward.

Counties support the continuation of federal and state funding for IHSS, and oppose any efforts to further shift IHSS costs to counties. Furthermore, counties are committed to working with the appropriate state departments and stakeholders to draft, submit, and implement new ideas to continue and enhance federal support of the program.

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**Section 10: VETERANS**

Counties provide services such as mental health treatment, substance use disorder treatment, and social services that veterans may access. Specific strategies for intervention and service delivery to veterans should be developed through cooperation between federal, state and local governments, as well as community and private organizations serving veterans.



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February 19, 2015

To: CSAC Board of Directors

From: Supervisor Phil Serna, Sacramento County, Chair, HLT Policy Committee  
Supervisor David Rabbitt, Sonoma County, Vice-Chair, HLT Policy Committee

**Re: Proposed Changes to the CSAC Platform – ACTION ITEM**

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**Recommendation.** The CSAC Housing, Land Use and Transportation Policy Committee recommends that the CSAC Board of Directors approve the proposed changes to the California County Platform (Platform), specifically the proposed changes to Chapters Seven and Eleven which fall under the purview of the HLT Policy Committee. The HLT Policy Committee also recommends adoption of Chapter Sixteen related to Tribal Intergovernmental Relations. However, CSAC staff received additional clarifying edits and one proposed amendment from CSAC members following the HLT Policy Committee's last meeting; these changes are outlined below.

**Proposed Changes.** The following is a summary of substantive changes the HLT Committee recommends to Chapters Seven, Eleven and Sixteen of the CSAC Platform. In addition, there are a number of non-substantive, clarifying, technical, and grammatical changes included throughout the Platform Chapters.

#### **Chapter 7: Planning, Land Use and Housing**

Section 2G – Environmental Justice. A reference to greenhouse gas emissions reductions was added to the list of environmental issues as a means of supporting environmental justice.

#### **Chapter 11: Transportation and Public Works**

Sections 1 and 2 – General Principles and Balanced Transportation Policy. Staff made edits to improve clarity and style.

Section 3B – Streets and Highways. Edits were made to

#### **Chapter 16: Tribal and Intergovernmental Relations**

*Changes recommended by the Housing, Land Use and Transportation Committee:*

Section 1 – General Principles. A comprehensive statement outlining CSAC's key policy goals related to intergovernmental relationships with Tribes was added as a concluding paragraph.

Section 2 – Federal Acknowledgement. This section was added to explicitly state CSAC's policies with regard to the federal government's process for establishing that a Native American group exists as a Tribe. The policy statements are based upon prior



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Board-approved comments to the Bureau of Indian Affairs in response to proposed changes to the federal acknowledgement process (see attachment five).

Section 3 – Federal Tribal Lands Policy/Development on Tribal Land. This section was updated in accordance with CSAC’s Board-adopted proposal for Fee-to-Trust reforms. CSAC’s proposal encourages the federal government to adopt an incentive-based system that allows tribes to take land into trust more quickly when they reach prior written agreement with the surrounding local government(s) as to the impacts of a proposed acquisition on land use policy and local government services (see attachment six).

Section 4 – Intergovernmental Relations. This section was added to express CSAC’s support for policies that create opportunities for intergovernmental collaboration, including non-gaming economic development.

Section 5 – Tribal-State Gaming Compacts. This section was revised and renumbered for clarity and style. The introductory paragraphs were updated to reflect changes between now and the prior revisions in 2006. Other key changes include:

Section 5.3: The mitigation and analysis requirements of the Tribal Environmental Impact Report (TEIR) process in recent compacts are only triggered when a new project is proposed, but many tribes operating under existing compacts are unlikely to expand their casinos in the foreseeable future. Accordingly, this policy was amended to say that the state should provide mechanisms, similar to the Special Distribution Fund (SDF) created in the 1999 compacts, to ensure that pre-existing impacts are addressed. Such policies could include improvements to the existing SDF programs, as outlined in Section 5.10.

Section 5.5: Counties have reported difficulties in negotiating agreement with tribes to mitigate off-reservation impacts of casinos when a TEIR prepared for a project has failed to provide sufficient analysis. To address this problem, the policy was revised to say that compacts should include a process to determine whether a TEIR is adequate prior to negotiation of a mitigation agreement with a local government.

Section 5.10: This policy was revised to outline the shortcomings of the existing SDF program, including the need for greater reliability of funding and increased flexibility.

Section 5.12: This paragraph was added to require that a compact specifically identify the site of a proposed casino project rather than allowing a blanket authorization for two casinos, as was allowed by the 1999 compacts.

Appendix – Glossary of Terms. The HLT Committee requested a glossary with definitions of common terms to make the platform chapter more easily understandable.

*Additional edits proposed by counties following the committee meeting, and clarifying edits proposed by staff:*



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Section 3.6: Clarify that this policy seeks to amend standards established through the Bureau of Indian Affairs and federal regulations.

Section 3.12: Clarify that changing the treatment of Class-II gaming devices would require an amendment to the Indian Gaming Regulatory Act.

Section 5.3: Add statement that compacts should consider the differences between tribes with very small casinos, especially limited gaming tribes that are eligible for payments from the revenue sharing trust fund, and tribes permitted to operate larger facilities.

Section 5.1 and Section 5.5: Clarify that the CSAC's policy supports analysis of and mitigation for the impacts tribal casino projects based on standards that are at least as rigorous as what would be required if NEPA and CEQA applied to the project. (Note: CEQA does not apply to projects on tribal lands and NEPA only applies if there is a federal action, e.g. an acquisition of land to be held in trust for the benefit of a tribe).

Section 5.5: Clarify that a tribal environmental impact report should be determined to be adequate prior to the negotiation of a local government mitigation agreement rather than the beginning of arbitration.

**Action Requested.** The Housing, Land Use and Transportation Policy Committee recommends that the CSAC Board take action to approve the proposed amendments and updates to the CSAC Platform.

**Staff Contact.** Please contact Kiana Buss ([kbuss@counties.org](mailto:kbuss@counties.org) or (916) 327-7500 x566) or Chris Lee ([clee@counties.org](mailto:clee@counties.org) or (916) 327-7500 x521) for additional information.

## ATTACHMENTS

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- Attachment One..... Chapter 7 – Planning, Land Use and  
Housing (Revisions Shown)
- Attachment Two..... Chapter 11 – Transportation and Public  
Works (Revisions Shown)
- Attachment Three..... Chapter 16 – Tribal and  
Intergovernmental Relations (Revisions  
Shown)
- Attachment Four ..... Chapter 16 – Tribal and  
Intergovernmental Relations (Revised)
- Attachment Five ..... CSAC Letter on Federal Acknowledgment
- Attachment Six..... CSAC Comprehensive Fee-to-Trust  
Reform Proposal



## CHAPTER SEVEN

### Planning, Land Use and Housing

#### **Section 1: GENERAL PRINCIPLES**

General purpose local government performs the dominant role in the planning, development, conservation, and environmental [review](#) processes. Within this context it is essential that the appropriate levels of responsibility at the various levels of government be understood and more clearly defined. These roles at the state, regional, county, and city level contain elements of mutual concern; however, the level of jurisdiction, the scale of the problem/issue, available funding and the beneficiaries of the effort require distinct and separate treatment.

The following policies attempt to capture these distinctions and are intended to assist government at all levels to identify its role, pick up its share of the responsibility, and refrain from interfering with the details of how other agencies carry out their responsibility.

The housing needs throughout the state, lack of revenue, and controversial planning law in the area of housing have resulted in the need for new focus on housing planning law. Housing principles are identified and included under a separate heading in this section.

Counties are charged with comprehensive planning for future growth, the management of natural resources and the provision of a variety of public services both within the unincorporated and incorporated areas.

Although Agriculture and Natural Resources are in this Platform as a separate chapter, there is a correlation between Planning and Land Use, and Agriculture and Natural Resources (Chapter III). These two chapters are to be viewed together on matters where the subject material warrants.

Additionally, climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use, public health, and our economy. Due to the overarching nature of climate change issues this chapter should also be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Counties have and must retain a primary responsibility for basic land use decisions.

Counties are cognizant of the need for resource conservation and development, maintaining our economic and social well being, protecting the environment and guiding orderly population growth and property development.

Counties are responsible for preparing plans and implementing programs to address land use, transportation, housing, open space, conservation, air quality, water distribution and quality, solid waste, and liquid waste, among other issues.

Counties play a major role in facilitating inter-jurisdictional cooperation between all levels of government in order to achieve the balanced attainment of these objectives.

Counties must have sufficient funding from state sources to meet state mandated planning programs.

Counties define local planning needs based on local conditions and constraints.

## **Section 2: THE COUNTY ROLE IN LAND USE**

### **A. General Plans and Development**

Counties should protect vital resources and sensitive environments from overuse and exploitation. General and specific plans are policy documents that are adopted, administered, and implemented at the local level. State guidelines can serve as standards to insure uniformity of method and procedure, but should not mandate substantive or policy content.

State requirements for general plan adoption should be limited to major planning issues and general plan mandates should include the preparation of planning elements only as they pertain to each individual county. Zoning and other implementation techniques should be a logical consequence to well thought out and locally certified plans. Counties support a general plan judicial review process which first requires exhaustion of remedies before the Board of Supervisors, with judicial review confined to a reasonable statute of limitations and limited to matters directly related to the initial hearing record. Counties also support retaining the current judicial standard whereby the courts defer to the judgment of the local agency when that judgment is supported by substantial evidence in the record.

Land use and development problems and their solutions differ from one area to another and require careful analysis, evaluation, and appraisal at the local government level. Local government is the best level of government to equitably, economically and effectively solve such problems. Further, it is important that other public agencies, (e.g. federal, state, regional, cities, schools, special districts, etc.) participate in the local general planning process to avoid conflicts with future local decisions that are consistent with the general plan.

Policy development and implementation should include meaningful public participation, full disclosure and wide dissemination in advance of adoption.

## **B. Public Facilities and Service**

Within the framework of the general plan, counties should protect the integrity and efficiency of newly developing unincorporated areas and urban cores by prohibiting fringe area development, which would require services and compete with existing infrastructure. Counties should accept responsibility for community services in newly developing unincorporated areas where no other appropriate entity exists.

In the absence of feasible incorporation, County Service Areas or Community Service Districts are appropriate entities to provide needed services for urbanizing areas. They work against proliferation of single purpose districts, allow counties to charge the actual user for the service, permit direct control by the Board of Supervisors, and set the basis of reformation of multi-purpose districts.

County authority to require land and/or in-lieu fees to provide public facilities in the amount needed to serve new development must be protected.

## **C. Environmental Analysis**

The environmental review process under the California Environmental Quality Act (CEQA) provides essential information to be constructively used in local decision-making processes. Unfortunately, the CEQA process is too often used as a legal tool to delay or stop reasonable development projects.

The CEQA process and requirements should be simplified wherever possible including the preparation of master environmental documents and use of tiered EIRs and negative declarations, including Climate Action Plans and associated environmental impact reports for tiering under CEQA. The length of

environmental reports should be minimized without impairing the quality. Further, other public agencies (federal, state, regional, affected local jurisdictions, special districts, etc.) should participate in the environmental review process for plans and projects in order to provide a thorough review and analysis up front and avoid conflicts in future discretionary actions.

Counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.

CEQA documents should include economic and social data when applicable; however, this data should not be made mandatory.

#### **D. Coastal Development**

Preservation, protection, and enhancement of the California coastline is the planning responsibility of each county and city with shoreline within its boundaries. Planning regulation and control of land use are the implementation tools of county government whenever a resource is used or threatened.

Counties within the coastal zone are also subject to the California Coastal Act which is implemented via cooperative agreements between the California Coastal Commission and counties and cities. Most development in the coastal zone requires a coastal development permit issued by local agencies with a certified Local Coastal Plan or by the Commission in the absence of a cooperative agreement. LCPs link statewide coastal policies to local planning efforts in an attempt to protect the quality and environment of California's coastline.

Counties are committed to preserve and provide access to the coast and support where appropriate beach activities, boating activities, and other recreational uses in developing and implementing precise coastal plans and appropriate zoning. Comprehensive plans should also include preservation of open space, development of commercial and recreational small craft harbor facilities, camping facilities, and commercial and industrial uses.

Local jurisdictions must have the statutory and legal authority to implement coastline programs. Statewide efforts related to the California coastline must respect local land use authority. The State should collaboratively and cooperatively work with counties and cities to ensure decisions do not erode local control and decision-making. The State, counties, and cities should mutually encourage, seek, and support efforts to streamline, improve, and modernize coastal development

permit and local coastal planning processes, without compromising or undermining the original intent and tenets of these laws. Counties support measures to streamline the process for approving and amending Local Coastal Plans. Measures should re-prioritize Commission staff and resources to the early scoping phase of any proposed amendment, to help identify key issues early on. Measures should identify standard timelines for each stage of the amendment process and develop specific procedures/mechanisms for adhering to those timelines, and should also require clearly identified reasons for any extensions requested by Commission staff. Counties support legislative funding options that will enhance efficiency and accountability in the local coastal planning process.

### **E. Open Space Lands**

Counties support open space policy that sets forth the local government's intent to preserve open space lands and ensures that local government will be responsible for conserving natural resources and developing and implementing open space plans and programs.

In order for counties to fully implement open space plans, it will be necessary to have:

1. Additional revenues for local open space acquisition programs, such as the subvention funds formerly provided by the Williamson Act.
2. Reimbursement to local agencies for property tax losses.
3. Greater use of land exchange powers for transfer of development rights.
4. Protection of current agricultural production lands through the purchasing of development rights.

In some cases, open space easements should be created and used by local jurisdictions to implement open space programs, like the Williamson Act program. Timber preserve zones and timber harvesting rules should enhance protection of this long-term renewable resource.

### **F. Healthy Communities**

Counties support policies and programs that aid in the development of healthy communities, which are designed to provide opportunities for people of all ages and abilities to engage in routine daily physical activity. This encompasses promoting active living via bicycle- and pedestrian-oriented design, mixed-use

development, providing recreation facilities, and siting schools in walkable communities.

## **G. Environmental Justice**

Counties support policies and programs that ensure environmental justice--or the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies--by providing information and raising awareness on a number of environmental issues, such as air quality, [greenhouse gas \(GHG\) emissions](#), water quality, noise and heavy industrial uses. Counties also support environmental justice by providing sufficient services and infrastructure; protecting and conserving open space, natural and resource areas, and making them accessible; preventing and minimizing pollution impacts; [reducing GHG emissions](#) and facilitating stakeholder participation in planning efforts.

### **Section 3: STATE ROLE IN LAND USE**

Local government recognizes that state government has a legitimate interest in proper land use planning and utilization of those lands which are of critical statewide concern. The state interest shall be statutorily and precisely defined and strictly limited to those lands designated to be critical statewide concern in concert with attainable and specified state goals and policies.

The state's participation in land use decisions in those designated areas shall be strictly limited to insuring the defined state interest is protected at the local level. Any regulatory activity necessary to protect the state's interest, as defined in statute, shall be carried out by local government.

Counties enforcement procedures for violations of zoning and building ordinances should not be hampered by State established maximum fines that in some cases do not serve as a deterrent and are merely incorporated into the cost of doing business.

In determining those lands of crucial statewide concern, a mechanism should be created which ensures significant local involvement through a meaningful state/local relationship. The state should prepare a statewide plan that reconciles the conflicts between the various state plans and objectives in order to provide local governments with greater certainty in areas of statewide concern. This is not intended to expand the State's authority over land use decisions; rather it should clarify the state's intent in relation to capital projects of statewide significance.

Climate change is a programmatic issue of statewide concern that requires a clear understanding of the roles and responsibilities of each level of government as well as the state's interest in land use decisions to ensure statewide climate change goals are met. Population growth in the state is inevitable, thus climate change strategies will affect land use decisions in order to accommodate and mitigate the expected growth in the state. Local government, as the chief land use decision-maker and integral part of the housing planning process, must have a clearly defined role and be supported with the resources to achieve the State's climate change goals.

Adequate financial resources shall be provided, before a state-mandate is activated, to insure local government has the ability to carry out state-mandated planning requirements.

#### **Section 4: REGIONAL GOVERNMENTS**

Counties support voluntary participation within regional agencies as appropriate to resolve regional problems throughout the State. Regional approaches to planning and resolution to issues that ~~cross-jurisdictional~~cross-jurisdictional boundaries are increasingly important. While California's growth rate has slowed since the boom in the 1980's, the State will still see significant population gains over the next 50-years with the total population projected to reach 51.62.7 million by 2060. Within that same time frame, 143 counties will have one million or more residents and seven six of those counties will have a population of two million or more residents.

Regional agencies in California play an important role in the allocation of regional housing need numbers, programming of Federal and State transportation dollars, in addressing air quality non-attainment problems, and climate change to name a few. Regional collaboration remains important to address issues associated with growth in California, such as revenue equity issues, service responsibilities, a seamless and efficient transportation network, reducing GHGs and tackling climate change, job creation, housing, agricultural and resource protection, and open space designation. The passage of SB 375 in 2008 and the preparation of regional Sustainable Communities Strategies in most of the State's regions elevate the importance of regional collaboration. Regional agencies must make genuine and substantive efforts to include local governments in their regional planning efforts.

While planning at the regional scale is increasingly important, land use decisions shall remain the exclusive province of cities and counties based on state planning and zoning law and the police powers granted to them under the State Constitution. Further, cities and counties are responsible for a vast infrastructure system, which requires that cities and counties continue to receive direct allocations of revenues

to maintain, operate and expand a variety of public facilities and buildings under their jurisdiction. As an example, cities and counties own and operate [over 80-2](#) percent of the state's publically maintained road miles, thus must retain direct allocations of transportation dollars to address the needs of this critical network and protect the public's existing investment.

Regional approaches to tax sharing and other financial agreements are appropriate and often necessary to address service needs of future populations; however, cities and counties must maintain financial independence and continue to receive discretionary and program dollars directly. Counties support voluntary revenue-sharing agreements for existing revenues at the regional level, and any mandated revenue sharing must be limited to new revenues.

Regional agencies must consider financial incentives for cities and counties that have resource areas or farmland instead of (or in addition to) high growth areas. For example, such incentives should address transportation investments for the preservation and safety of city and county road systems, farm to market transportation, and interconnectivity transportation needs.

Regional agencies should also consider financial assistance to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities and existing urbanized areas.

## **Section 5: SPECIAL DISTRICTS**

In recent years, Local Agency Formation Commissions (LAFCOs) have been generally successful at regulating incorporations, annexations, and the formation of new special districts. However, the state has a legacy of a large number of independent special districts that leads to fragmentation of local government. There are many fully justified districts that properly serve the purpose for which they were created. However, there are districts whose existence is no longer "defensible." Nothing is served by rhetorically attacking "fragmentation." LAFCOs should retain the authority to evaluate special districts to test their value to the community for whom they were initially formed to serve and identify those districts that no longer serve the purposes for which they were created.

## **Section 6: HOUSING**

Housing is an important element of economic development and essential for the health and well being of our communities. The responsibility to meet the state's



housing needs must be borne by all levels of government and the private sector. CSAC supports a role by the state Department of Housing and Community Development that focuses on assisting local governments in financing efforts and advising them on planning policies--both of which strive to meet the state's housing needs. HCD's role should focus on facilitating the production of housing, rather than an onerous and unpredictable housing element compliance process that detracts from local governments' efforts to seek funding and actually facilitate housing production. Counties support the following principles in relation to housing:

1. Reform housing element law. Existing housing element law must be streamlined and simplified. A greater emphasis should be placed on obtaining financing and enabling production, rather than the overly-detailed data analysis now required under state law. A sweeping reform of the current requirements should be undertaken. Housing element reform should provide local governments with the flexibility and creativity to adopt local housing elements, comprehensive housing assistance strategies, and other local plans and programs that will be effective in their communities. Reform should conserve state and local resources by promoting predictable HCD review consistent with statutory requirements including transparent standards that are uniformly applied and includes timelines for comment periods and decision-making.
2. Identify and generate a variety of permanent financing resources and subsidy mechanisms for affordable housing, including a statewide permanent source for affordable housing. These sources need to be developed to address California's housing needs, particularly with the reduction of federal and state contributions in recent years. The elimination of redevelopment in 2012 redirected most public funds previously dedicated to affordable housing development and preservation, as it ended all future receipts of affordable housing set-aside funds, as well as recapturing many millions of dollars in housing funds that had been received in prior years and were being held for affordable housing projects some of which are already in progress and many of which were being planned for the next few years.

The need for new affordable housing units exceeds the number of new units for which financing and subsidies will be available each year. Therefore, additional funding is necessary to insure (a) production of new subsidized units, and (b) adequate funds for housing subsidies to households. Policies should be established to encourage continued flow of capital to market rate ownership housing in order to assure an adequate supply of low-cost, low-down payment mortgage financing for qualified buyers. In addition, a need exists to educate

the private building and financial communities on the opportunities that exist with the affordable housing submarket so as to encourage new investments.

3. Restructure local government funding to support housing affordability. The current property and sales tax systems in California are not supportive of housing development and work against housing affordability because housing is not viewed as a "fiscal winner" by local governments as they make land use and policy decisions. Local government finance should be restructured at the state level to improve the attractiveness and feasibility of affordable housing development at the local level. At a minimum, there should be better mechanisms to allow and encourage local governments to share tax revenues.
4. Promote a full range of housing in all communities. Local governments, builders, the real estate industry, financial institutions and other concerned stakeholders should recognize their joint opportunities to encourage a full range of housing and should work together to achieve this goal. This will require a cooperative effort from the beginning of the planning and approval process as well as creatively applying incentives and development standards, minimizing regulations and generating adequate financing. Using this approach, housing will become more affordable and available to all income groups.
5. Establish federal and state tax incentives for the provision of affordable housing. The tax codes and financial industry regulations need to be revised to provide stimulus to produce affordable housing, particularly for median, low and very low-income households.

These principles must be taken as a whole, recognizing the importance of their interdependence. These principles provide a comprehensive approach to address the production of housing, recognizing the role of counties, which is to encourage and facilitate the production of housing. They should not be misinterpreted to hold counties responsible for the actual production of housing; instead they should recognize the need for various interests to cooperatively strive to provide affordable housing that is accessible and available to meet the needs of California residents at all income levels and in all geographic areas.

## CHAPTER ELEVEN

### Transportation and Public Works

#### **Section 1: GENERAL PRINCIPLES**

Transportation ~~infrastructure and multi-modal transportation choices services and facilities~~ are essential for the current and future well-being of the State of California. A balanced transportation system utilizes all ~~available means~~ modes of travel ~~cooperatively and~~ in a ~~mutually~~ complimentary manner to provide all users access and mobility options to safely move about their community ~~a total service for the needs of the community.~~

Transportation ~~services~~ infrastructure investments should ~~also~~ responsibly ~~meet~~ balance the competing ~~future~~ needs of all segments of ~~industry and~~ society and the economy with maximum coordination between all levels of government and reasonable amounts of free choice for the consumer ~~of the transportation service.~~

~~Balanced transportation does not simply mean the provision of highways or public transit devices. A balanced transportation system is a method of providing services for the mobility requirements of people and goods according to rational needs.~~

Transportation systems must be fully integrated with planned land use; support the lifestyles desired by the people of individual areas; and be compatible with the environment by considering greenhouse gas (GHG) emissions, air and noise pollution, aesthetics, ecological factors, cost benefit analyses, and energy consumption measures.

Counties also recognize that climate change and the release of ~~greenhouse gases~~ (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use decisions, transportation networks, and the economy. Due to the overarching nature of climate change issues, all sections in this chapter should be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Transportation systems should be designed to serve the travel demands and desires of all the people of the state and, support a robust economy, recognizing the principles of local control and the unique restraints of each area. Local control recognizes that organizational and physical differences exist and that governments

should have flexibility to cooperatively develop systems by which services are provided and problems resolved.

## **Section 2: BALANCED TRANSPORTATION POLICY**

### **A. System Policy and Transportation Principles**

~~Government belongs as close to the people and their related problems as possible. The system of transportation services, similarly, must recognize various levels of need and function.~~

It is of statewide interest to provide for a balanced, seamless, multi-modal transportation system on a planned and coordinated basis consistent with social, economic, political, and environmental goals within the state. The statewide network includes the local streets and roads, state highways, transit, bicycle and pedestrian facilities, rail, and ports.

Rural and urban transportation needs must be balanced so as to build and operate a single transportation system. While urban transportation systems support significant daily vehicle miles traveled and the transportation of millions of people, the rural transportation network connects communities together and plays a critical role in the movement of goods for the entire state.

~~The statewide transportation systems should be an asset to present and future generations. It must consider and protect the natural and built environmental and support economic development of the state, within a framework of its ability to invest.~~

~~All people of the state bear a share of the responsibility to ensure proper environmental elements of the transportation system.~~

Transportation systems must be regularly and consistently maintained in order to preserve the existing public infrastructure (current revenues are not keeping pace with needs of the local road or state highway or transit systems), reduce the future costs to tax-payers, and to protect the environment. All users of the system have a responsibility to adequately invest in the transportation infrastructure that is so critical to every-day life.

The local road system, a large component of the State's transportation network, is critical in order to address congestion, meet farm to market needs, address freight and goods movement, and provide access to other public transportation systems.

Public safety, particularly access for public safety services, is dependent on a well-maintained local road network.

Analysis of the cost effectiveness of all modes of transportation, existing and proposed, is needed in order to provide the most coordinated and efficient transportation system.

Additionally, repairs to local access roads that are damaged in the course of emergency operations (for example, in fighting a fire or flood) should be eligible for reimbursement under the same programs as roads which are directly damaged by the event.

System process modifications are needed to expedite project delivery and minimize project cost.

## **B. Financing Policy and Revenue Principles**

Transportation financing needs exceed existing and foreseeable revenues despite growing recognition of these needs at all levels of government. Further, traditional sources of revenue for transportation are declining as communities develop more sustainably and compactly in order to reduce vehicle miles traveled and ~~greenhouse gases~~ GHG emissions to meet statewide climate change goals. Additional funding is required and should be supported and any new sources of funding should produce enough revenue to respond significantly to transportation needs.

As the owner and operator of a significant portion of the local system, counties support continued direct funding to local governments for preservation and safety needs of that system. Further, counties support regional approaches for transportation investment purposes for capital expansion projects of regional significance and local expansion and rehabilitation projects through regional transportation planning agencies, ~~both metropolitan planning organizations and countywide transportation agencies.~~

Single transportation funds--comprised of state and federal subventions--should be available at each of the local, regional and statewide levels for financing the development, operation, and/or maintenance of highways, public transit, airports or any other modal system as determined by each area in accordance with local, regional, and statewide needs and goals. The cooperative mechanisms established by counties and cities to meet multi-jurisdictional needs should be responsible for

the financing, construction, operation and maintenance of regional transportation systems utilizing--as appropriate--existing transportation agencies and districts.

Federal and state funds for safety and preservation purposes should be sent directly to applicable operational levels without involvement of any intermediate level of government. Pass-through and block grant funding concepts are highly desirable.

The cost of transportation facilities and services should be fairly shared by the users and also by indirect beneficiaries.

Transportation funding should be established so that annual revenues are predictable with reasonable certainty over several years to permit rational planning for wise expenditure of funds for each mode of transportation.

Financing should be based upon periodic deficiency reports by mode to permit adjustment of necessary funding levels. Additional elements such as constituent acceptance, federal legislative and/or administrative actions, programmatic flexibility, and cost benefit studies should be considered.

Efforts to obtain additional revenue should include an examination of administrative costs associated with project delivery and transportation programs.

Funding procedures should be specifically designed to reduce the cost of processing money and to expedite cash flow. Maximum use should be made of existing collection mechanisms when considering additional financing methods.

In the development of long-range financing plans and programs at all levels of government, there should be a realistic appreciation of limitations imposed by time, financing, availability, and the possibility of unforeseen changes in community interest.

~~Rural and urban transportation funding needs must be balanced so as to build and operate a single transportation system.~~

Existing funding levels must be maintained with historical shares of current funding sources ensured for counties (e.g. state and federal gas tax increases, etc.).

Although significant transportation revenues are raised at the local level through the imposition of sales taxes, additional state and federal revenue sources are needed such as additional gas and sales taxes, congestion pricing, public-private partnerships, and user or transaction fees to provide a diverse financing strategy.

Further, additional revenue raising authority at the local and regional level is needed as well as other strategies as determined by individual jurisdictions and regions.

Transportation revenues must be utilized for transportation purposes only and purposes for which they are dedicated. They should not be diverted to external demands and needs not directly related to transportation activities.

Revenue needed for operational deficits of transit systems should be found in increased user fees, implementation of operating efficiencies and/or new sources, rather than existing sources depended upon by other modes of transportation.

Future revenues must be directed to meet mobility needs efficiently and cost effectively with emphasis on current modal use and transportation choices for the public.

### **C. Government Relations Policy**

The full partnership concept of intergovernmental relations is essential to achieve a balanced transportation system. Transportation decisions should be made comprehensively within the framework of clearly identified roles for each level of government without duplication of effort.

Counties and cities working through their regional or countywide transportation agencies, and in consultation with the State, should retain the ability to program and fund transportation projects that meet the needs of the region.

No county or city should be split by regional boundaries without the consent of that county or city.

Counties and cities in partnership with their regional and state government, should attempt to actively influence federal policies on transportation as part of the full partnership concept.

### **D. Management Policy**

Effective transportation requires the definite assignment of responsibility for providing essential services including fixed areas of responsibility based upon service output.

Greater attention should be devoted to delivery and maintenance of ~~overall~~ transportation infrastructure products and services in a cost-effective manner with flexibility in delivery methods and project management. ~~attendant management flexibility at the implementation level of the management system.~~

Special transportation districts should be evaluated and justified in accordance with local conditions and public needs.

The State Department of Transportation should be responsible for planning, designing, constructing, operating, and maintaining a system of transportation corridors of statewide significance and interest. Detailed procedures should be determined in concert with regional and local government.

Restrictive, categorical grant programs at federal and state levels should be abandoned or minimized in favor of goal-oriented transportation programs which can be adjusted by effective management to best respond to the social and economic needs of individual communities.

Policies and procedures on the use of federal and state funds should be structured to minimize "red tape," recognize the professional capabilities of local agencies, provide post-audit procedures and permit the use of reasonable local standards.

### **Section 3: SPECIFIC MODAL TRANSPORTATION POLICIES**

#### **A. Aviation**

Air transportation planning should be an integral part of overall planning effort and airports should be protected by adequate zoning and land use. Planning should also include consideration for helicopter and other short and vertical take-off aircraft.

State and federal airport planning participation should be limited to coordination of viable statewide and nationwide air transportation systems.

Local government should retain complete control of all airport facilities, including planning, construction, and operation.

#### **B. Streets and Highways**

The local street and road system, over 80-percent of the total maintained miles in the state, continues to play an important role in the mobility of Californians and



critical for a vibrant economy. Further, local roads serve as the right-of-way for active transportation and transit. Counties and cities must work cooperatively with regional agencies, the state, and the federal government to ensure the local system is maintained in a cost-effective and efficient condition and that is fully integrated into the statewide transportation network.

Highways ~~and transit~~ in a coordinated statewide transportation system will continue to carry a great percentage of the goods and people transported within the state. A program of maintenance and improvement of this modal system must be continued in coordination with the development of other modal components.

Efforts to maximize utilization of transportation corridors for multi-purpose facilities should be supported.

Non-motorized transportation facilities, such as pedestrian and bicycle facilities are proper elements of a balanced transportation system. Support efforts to design and build complete streets, ensuring that all roadway users – motorists, bicyclists, public transit vehicles and users, and pedestrians of all ages and abilities – have safe access to meet the range of mobility needs. Given that funding for basic maintenance of the existing system is severely limited however, complete streets improvements should be financed through a combination of sources best suited to the needs of the community and should not be mandated through the use of existing funding sources.

### **C. Public Transit**

Counties and cities should be responsible for local public transit systems utilizing existing transportation agencies and districts as appropriate.

Multi-jurisdictional public transit systems should be the responsibility of counties and cities acting through mechanisms, which they establish for regional decision-making, utilizing existing transportation agencies, and districts as appropriate.

The State should be responsible for transportation corridors of statewide significance, utilizing system concepts and procedures similar to those used for the state highway system. Contracts may be engaged with existing transit districts and public transportation agencies to carry out and discharge these state responsibilities.

Consideration of public transit and intercity rail should be an integral part of a local agency's overall planning effort and should maximize utilization of land for multi-purpose transportation corridors.

Public transit planning should include a continuing effort of identifying social, economic, and environmental requirements.

#### **D. Rail**

Railroads play a key role in a coordinated statewide transportation system. In many communities, they form a center for intermodal transportation.

Rail carries a significant portion of goods and people within and out of the state. The continued support of rail systems will help balance the state's commuter, recreational, and long distance transportation needs. Support for a high-speed rail system in California is necessary for ease of future travel and for environmental purposes.

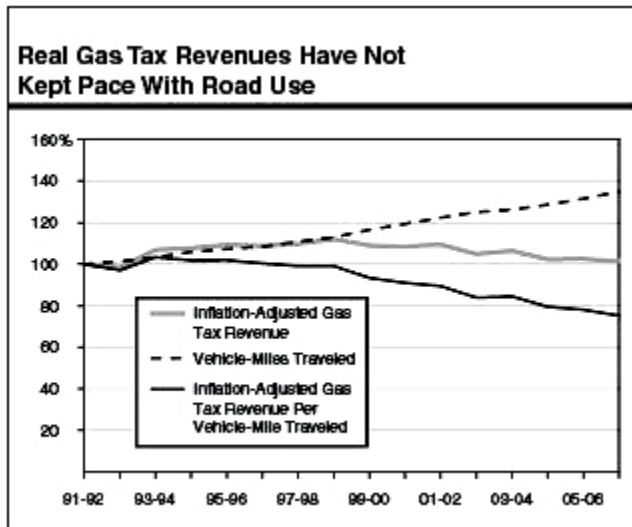
Rail should be considered, as appropriate, in any local agency's overall planning effort when rail is present or could be developed as part of a community.

Research and development of innovative and safe uses of rail lines should be encouraged.

#### **Section 4: CONCLUSION**

Since 1970, transportation demands and needs have out-paced investment in the system. An examination of transportation revenues and expenditures compared to population, travel and other spending in the state budget, adjusted for inflation, shows a long period of under-investment in transportation continuing through the 1990s and into the next decade.

Between 1990 (when the gas excise tax was increased) and 2004, California's population increased 20.6%, while travel in the state increased 36.3% and the number of registered vehicles in California increased 43.2%. According to the Legislative Analyst's Office, travel is outpacing gas tax revenue (see chart, below).



Source: Legislative Analyst's Office, Budget Analysis 2006

Further, inflation has seriously eroded the buying power of gas tax dollars. While revenues from the gas tax increase in the 1990s roughly kept pace with miles traveled, with no increases since 1994, travel has now outpaced revenues, creating not only chronic congestion but also extreme wear and tear on the state highway and local road system. Further, the sufficiency of gas tax revenues to fund transportation has declined over time as cars have become more fuel efficient and as project costs have increased. Inflation-adjusted gas tax revenues declined 8% just in the last seven years.

The gas tax once funded most transportation programs in the state, including operations and construction. Now the per-gallon fuel tax collected at both the state and federal levels and the state weight fees does not even provide enough revenue to meet annual maintenance, operations, and rehabilitation needs for the state highway system (the State Highway Operation and Protection Program or SHOPP). Counties and cities dependent upon a portion of the State's gas tax revenues are in the same situation in that revenues are short of meeting their preservation needs of the local system. Basic Maintenance programs for California's aging system now consume 100% of gas tax revenues in most local jurisdictions.

In 2010, the State enacted a historic transportation tax swap in which the excise tax on gasoline was increased by 17.3-cents and the sales tax on gasoline (Proposition 42) was eliminated. Counties, cities, and the State Transportation Improvement Program (STIP) will receive similar amounts from the increase in excise tax as would have been provided by the sales tax. However, the local and state systems are still woefully underfunded. The 2014 California Statewide Local Streets and Roads Needs Assessment Report Update found that the statewide average local

street and road Pavement Condition Index (PCI), which ranks roadway pavement conditions on a scale of zero (failed) to 100 (excellent), is 66, an “at risk” rating. ~~Approximately 67% of the local streets and roads system are “at risk” or in “poor” condition.~~ The condition is projected to deteriorate to a PCI of 54 by 2020. In addition, the percentage of “failed” streets will grow from 6.1% to almost 25% of the network by 2020. Furthermore, the funding shortfall considering all existing revenues is \$78.39 billion over the next 10 years.

The bottom line is that the current revenue system is not providing the funding necessary to maintain existing transportation systems, much less to finance operation, safety, and expansion needs.

The citizens of California have invested significant resources in their transportation system. This \$3 trillion investment is the cornerstone of the state's commerce and economic competitiveness. Virtually all vehicle, pedestrian, and bicycle trips originate and terminate on local streets and roads. Emergency response vehicles extensively use local roads to deliver public service. Public safety and mobility rely on a well-maintained transportation infrastructure. Transportation funding is important to the economy and the economic recovery of the state. Increased investment in the transportation network is essential to stimulate the economy, to improve economic competitiveness and to safeguard against loss of the public's existing \$3 trillion investment in our transportation system.

(The source of information for the statistics provided is from the Transportation California website and includes reports from the: California Transportation Commission (CTC), Legislative Analyst Office (LAO), United States Department of Transportation (USDOT), and Federal Highway Administration (FHWA)).

## Chapter Sixteen

### Tribal and Intergovernmental Relations

#### Section 1: GENERAL PRINCIPLES

CSAC supports government-to-government relations that recognize the unique roles and unique interests of tribes, states, and counties, ~~and other local governments to in~~ protecting all members of their ~~communities-mutual constituents~~ and ~~to provide-providing~~ governmental services and infrastructure beneficial to all—~~Indian and non-Indian alike~~.

CSAC recognizes and respects the tribal right of self-governance to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, CSAC recognizes and promotes ~~self-governance~~ self-governance by counties as a means to provide for the health, safety and general welfare of all residents of their communities. To that end, CSAC supports active participation by counties on issues and activities that have an impact on counties' abilities to ~~ensure the ability to~~ provide for the public safety, health, and welfare of all ~~community members~~ county constituents, including tribal members.

~~Nothing in f~~ederal or state law should not interfere with the provision of public health, safety, welfare or environmental services by local government. CSAC will support legislation and regulations that preserve—and do not impair—the ability of counties to provide these services ~~to the community~~. CSAC will work to mitigate any impacts on the ability of counties to provide these critical functions and services should federal or state law or regulations propose to hamper the ability of counties to protect all residents of their communities and the environment.

Accordingly, CSAC's fundamental goals for county-tribal intergovernmental relations are to facilitate intergovernmental agreements, develop mechanisms to mitigate for the off-reservation impacts of tribal developments on local government services and the environment, and to promote best practices and models of successful tribal-county relationships.

#### Section 2: FEDERAL ACKNOWLEDGEMENT

Due to the potential interaction between Federal Acknowledgement, Restoration, and Reaffirmation decisions and the Indian Gaming Regulatory Act (IGRA), as well as the potential for such decisions to impact the services provided by counties, CSAC recommends that federal law or policy include the following steps in the acknowledgement process:

1. CSAC supports requirements for the Bureau of Indian Affairs to solicit input from and convene consultation meetings with local governments, including counties, concerning acknowledgment petitions, at the earliest opportunity. Counties have government-to-government relationships with tribes affecting a variety of important interests, including child welfare, gaming, environmental protection and mitigation of

off-reservation impacts created by on-reservation development, including gaming in particular.

2. CSAC supports requirements for Bureau of Indian Affairs consultation with counties prior to authorizing re-petition by a previously denied petitioner.
3. CSAC recognizes that newly acknowledged tribes are a clear exception under section 20 of IGRA. Although it is separate from the acknowledgement process, CSAC supports a stringent and transparent fee to trust process with significant input from all stakeholders considered regarding “initial” reservation lands.

### **Section 3: FEDERAL TRIBAL LANDS POLICY/DEVELOPMENT ON TRIBAL LAND**

~~The 1999 Compacts allow tribes to develop two casinos, expand existing casinos within certain limits, and do not restrict casino development to areas within a tribe’s current trust land or legally recognized aboriginal territory.~~

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal law, then the state should negotiate in good faith with tribes to secure gaming compacts that require judicially enforceable mitigation agreements between counties and tribal governments. These agreements should ~~must~~ fully mitigate local impacts from a tribal government’s gaming activities and fully identify the governmental services to be provided by the county to that tribe.

Additionally, ~~in some counties, land developers are seeking partnerships with~~ when tribes seek to acquire additional trust land, subsequent tribal development projects, which may ~~in order to~~ avoid local land use controls and to build projects, which would ~~not have~~ otherwise been allowed consistent with ~~under the~~ local land use regulations, could have impacts to off-reservation local government services and the environment. As such, federal law and regulations should incentivize intergovernmental agreements between counties and tribes to address the impacts of non-gaming development projects on proposed trust lands. Such agreements could also establish a process to identify and mitigate off-reservation impacts of future projects not envisioned or described in a fee-to-trust application.

~~Some tribes are seeking to acquire land outside their current trust land or their legally recognized aboriginal territory and to have that land placed into federal trust and beyond the reach of a county’s land use jurisdiction.~~

~~Furthermore, Congress continues to show an interest in the land into-trust process and revisiting portions of IGRA.~~

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal legislation, then judicially enforceable agreements between

~~counties and tribal governments must be required in the legislation. These agreements would fully mitigate local impacts from a tribal government’s business activities and fully identify the governmental services to be provided by the county to that tribe.~~

CSAC believes that existing law fails to address the off-reservation impacts of tribal land development, ~~particularly in those instances when local land use and health and safety regulations are not being fully observed by tribes in their commercial endeavors.~~

The following provisions would address this issue while emphasizeing that counties and tribal governments need to each carry out their governmental responsibilities in a manner that respects the governmental responsibilities of the other.

~~1. Nothing in federal law should interfere with provision of public health, safety, welfare or environmental services by local governments, particularly counties.~~

**Comment [CL1]:** Duplicative of “general principles” above

~~2.1. Consistent with this policy,~~ CSAC ~~is~~ supportives of all federal legislation that gives counties an effective voice in the decision-making process for taking lands into trust for a tribe and furthers the overriding principle discussed above.

~~3.2.~~ CSAC supports federal legislation and policy regulations to provide that lands are not to be placed into trust and removed from the land use jurisdiction of local governments without adequate and timely notice and opportunity for consultation and the consent of the State and the affected county.

~~Federal legislation is deserving of CSAC’s support if that legislation requires counties’ consent to the taking of land into trust for a tribe.~~

~~4.3.~~ CSAC supports federal legislation and regulations which ensure ~~that counties receive timely notice of all trust applications and an adequate time to respond to the Tribe and BIA. In addition~~that; material changes in the use of trust land, particularly from non-gaming to gaming purposes, shall require separate approval and environmental review by the Department of the Interior.

~~5.4.~~ CSAC reiterates its support of the need for enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land. CSAC opposes any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements, including any federal prohibitions on deed restrictions mutually agreed to by tribal and local governments.

5. CSAC supports legislation or policy to incentivize intergovernmental agreements between counties and Tribes concerning an application to acquire additional trust lands. Agreements should include provisions related to environmental review and mitigation measures for off-reservation impacts of projects planned at the time of the acquisition, as well as future.

projects that would represent a material change in land use from the projects envisioned and described by a fee-to-trust application.

6. CSAC supports Bureau of Indian Affairs standards and regulations requiring justification of the need and purpose for acquisition of additional trust lands. CSAC also supports a lower threshold for acquisition of trust land that will be restricted to only non-gaming or non-intensive economic purposes, including development of housing for tribal members, and religious, cultural, and governmental uses for tribes that lack sufficient trust lands for these purposes.

6.7. CSAC opposes the practice commonly referred to as “reservation shopping” where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county.

7.8. CSAC will support federal legislation that addresses “reservation shopping” or consolidations in a manner that is consistent with existing CSAC policies, particularly the requirements of consent from Governors and local governments and the creation of judicially enforceable local agreements.

8.9. CSAC ~~does not oppose~~ supports the use by a tribe of non-tribal land for economic development purposes. CSAC recognizes that existing law requires tribes to provided the ~~tribe~~ fully complies with state and local government laws and regulations applicable to all other development projects, including full compliance with environmental laws, health and safety laws, and mitigation of all environmental impacts of that development on the affected county community.

10. In recognition of the unique relationship between tribal governments and the federal government, CSAC will support changes in federal legislation-law that furthers the ability of counties to require and enforce compliance with all environmental, health and safety laws. Counties and tribes need to negotiate in good faith over what mitigation is necessary to reduce all off-Reservation impacts from an Indian gaming establishment to a less than significant level and to protect the health and safety of all of a county's residents and visitors.

11. CSAC opposes legislation to authorize the Secretary of the Interior to take land into trust for tribes that were not under federal jurisdiction in 1934 unless it includes additional reforms that ensure a meaningful role for counties in the fee-to-trust process and includes standards requiring justification of the need and purpose for acquisition of additional trust lands.

11.12. CSAC supports the position that all Class II and class bingo-style video gaming devices have similar off-reservation impacts to the environment and local government services as those of class III gaming devices, should be subject to IGRA. CSAC supports requiring tribes that operate such machines to work with local governments to mitigate all impacts caused by such businesses. This would require an amendment to the Indian Gaming Regulatory Act.

**Comment [CL2]:** Staff rec: Remove; duplicative of gaming compact section.



~~CSAC is concerned about the current definition of Class II, or bingo style, video gaming machines as non casino gaming machines. These machines are nearly indistinguishable from Class III, slot style gaming machines, and thereby generate the same type of impacts on communities and local governments associated with Class III gaming.~~

~~CSAC believes that operation of Class II gaming machines is a form of gaming, and tribes that install and profit from such machines should be required to work with local governments to mitigate all impacts caused by such businesses.~~

#### **Section 4: INTERGOVERNMENTAL RELATIONS**

The relationships between tribes and counties are not limited to gaming and issues related to development on tribal lands. Counties and tribes have shared interests in promoting economic development and self-sufficiency for their overlapping constituencies, promoting the general health, safety and well-being of the entire community, and protecting natural resources.

1. CSAC supports policy to encourage and incentivize collaboration between counties and tribes on state and federal grant applications and other funding sources.
2. CSAC supports policies, including the recently-created tribal nations grant fund, which will devote a portion of tribal gaming revenues to provide equitable opportunities for economic development for tribes and tribal members that do not participate in gaming.

#### **Section 25: TRIBAL-STATE GAMING COMPACTS**

CSAC recognizes that Indian Gaming in California is governed by a unique structure that combines federal, state, and tribal law.

While the impacts of Indian gaming fall primarily on local communities and governments, Indian policy is largely directed and controlled at the federal level by Congress.

The Indian Gaming Regulatory Act of 1988 (IGRA) is the federal statute that governs Indian gaming. IGRA requires compacts between states and tribes to govern the conduct and scope of casino-style gambling by tribes. Those compacts may allocate jurisdiction between tribes and the state.

~~The Governor of the State of California entered into the first Compacts with California tribes desiring or already conducting casino style gambling in September 1999. Since that time tribal gaming has rapidly expanded and created a myriad of significant economic, social, environmental, health, safety, and other impacts.~~

~~Some Compacts have been successfully renegotiated to contain most of the provisions recommended by CSAC including the requirement that each tribe negotiate with the appropriate~~

~~county government on the impacts of casino projects, and impose binding “baseball style” arbitration on the tribe and county if they cannot agree on the terms of a mutually beneficial binding agreement~~

~~However~~While subsequent compacts provide a better framework to promote effective intergovernmental relationships between counties and tribes that seek to develop a casino and supporting facilities, CSAC believes that the 1999 Compacts fail to adequately address these impacts and/or to provide meaningful and enforceable mechanisms to prevent or mitigate impacts.

~~The overriding purpose of the principles presented below is to harmonize existing policies that promote tribal self-reliance with policies that promote fairness and equity and that protect the health, safety, environment, and general welfare of all residents of the State of California and the United States.~~

~~In the spirit of developing and continuing government-to-government relationships between federal, tribal, state, and local governments, CSAC specifically requests that the State request negotiations with tribal governments pursuant to section 10.8.3, subsection (b) of the Tribal-State Compact, and that it pursue all other available options for improving existing and future Compact language.~~

~~The overriding purpose of the principles presented below is to harmonize existing policies that promote tribal self-reliance with policies that promote fairness and equity and that protect the health, safety, environment, and general welfare of all residents of the State of California and the United States.~~ Towards that end, CSAC urges the State to consider the following principles when it negotiates or renegotiates Tribal-State Compacts:

1. Compacts should require a tribal government operating a casino or other related businesses to analyze and mitigate all off-reservation impacts caused by that business through the development of tribal environmental impact reports. In order to ensure consistent regulation, public participation, and maximum environmental protection, Tribes will promulgate and publish environmental protection laws that have standards for environmental analysis and mitigation that are at least as stringent as state and federal environmental laws, including the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) with judicial review in the California courts.
2. Compacts should require tribes to meet and negotiate judicially-enforceable mitigation agreements with local jurisdictions prior to the construction of new or expanded gaming facilities.
3. Compacts should include robust mechanisms for mitigation of the impacts on local government services of casino developments that pre-exist the date of the compact. The compacts should consider the differences between tribes with very small pre-existing casinos and those that are permitted to operate larger facilities.

4. Compacts should impose binding “baseball style” arbitration on the tribe and county if the parties cannot agree on the terms of a mutually-beneficial enforceable agreement related to mitigation of the impacts of a new or expanded casino or related project.
5. Compacts should provide a process to determine whether tribal environmental impact reports are provide analysis and mitigation measures consistent with what NEPA and CEQA standards would require and provide adequate information to fully assess the impacts of a project. In order to properly address the impacts of a project, this process should occur prior to negotiation of an intergovernmental agreement between a tribe and local government, and therefore prior to construction of a new facility or an expansion of an existing facility.
6. The compact should require A Tribal Government constructing or expanding a casino or other related businesses that impacts off-reservation land will-to seek review and approval of the local jurisdiction to construct off-reservation improvements consistent with state law and local ordinances, including the CEQA with the tribal government acting as the lead agency and with judicial review in the California courts.

~~2. The Compact shall provide a process to ensure that Tribal environmental impact reports are consistent with CEQA standards and provide adequate information to fully assess the impacts of a project before a facility may operate and prior to mitigation disputes being subject to arbitration.~~

**Comment [CL3]:** Revised and moved to Section 5.5

~~3. A Tribal Government operating a casino or other related businesses will mitigate all off-reservation impacts caused by that business. In order to ensure consistent regulation, public participation, and maximum environmental protection, Tribes will promulgate and publish environmental protection laws that are at least as stringent as those of the surrounding local community and comply with CEQA with the tribal government acting as the lead agency and with judicial review in the California courts.~~

**Comment [CL4]:** Revised and moved to Section 3

~~7. A Tribal Government operating a casino or other related businesses will be subject to the authority of a local jurisdiction~~The compact should require counties and tribes to negotiate local agreements as to the applicability of local and state regulations concerning health and safety issues, including, but not limited to, water service, sewer service, fire inspection and protection, rescue/ambulance service, and food inspection, and law enforcement, and reach written agreement on such points.

8. A Tribal Government operating a casino or other casino-related businesses will pay to the local jurisdiction the Tribe’s fair share of appropriate costs for local government services. These services include, but are not limited to, water, sewer, fire inspection and protection, rescue/ambulance, food inspection, health and social services, ~~law enforcement~~the full range of public safety functions, roads, transit, flood control, and other public infrastructure. Means of reimbursement for these services include, but are not limited to, in lieu payments equivalent to property tax, sales tax, transient occupancy tax, benefit assessments,

appropriate fees for services, development fees, impacts fees, and other similar ~~types of costs typically paid by non-Indian businesses~~ payments.

9. To address socioeconomic impacts and other impacts of casinos that are not easily quantifiable, in addition to direct mitigation offsets, the Compact shall provide for an appropriate percentage of Net Win to go to the affected county to address in-direct impacts.

~~9-10.~~ The Indian Gaming Special Distribution Fund (SDF) has not been sufficiently funded, nor has it been adequate to serve as the exclusive source of casino mitigation funding for many counties., will. If the SDF is retained in new and amended compacts, it should serve as not be the exclusive source of mitigation, but will be an additional mechanism to ensure that counties are guaranteed funds to mitigate off-reservation impacts caused by tribal gaming. Special Distribution Funds should be provided directly to the Indian Gaming Community Benefit Committee in each county that receives this funding. The SDF program should be amended to provide greater reliability of local government funding, as well as increased flexibility in the use of mitigation funding to reasonably address casino impacts.

~~10. To fully implement the principles announced in this document and other existing principles in the Tribal State compact, Tribes will meet and reach a judicially enforceable agreement with local jurisdictions on these issues before a new compact or an extended compact becomes effective.~~

**Comment [CL5]:** Revised and moved to Section 5.2

~~11.~~ 11. The Governor should establish and follow appropriate criteria to guide the discretion of the Governor and the Legislature when considering whether to consent to tribal gaming on lands acquired in trust after October 17, 1988 and governed by IGRA (25 U.S.C § 2719). The Governor should also establish and follow appropriate criteria/guidelines to guide his/her participation in future compact negotiations.

13. (12) Compacts should be specific to a particular tribal casino location rather than pertaining to a potential casino an indeterminate location.

#### **Section 46: SACRED SITES**

California's ever-increasing population and urbanization threatens places of religious and social significance to California's Native American tribes.

In the spirit of government-to-government relationships, local governments and tribal governments should work cooperatively to ensure sacred sites are protected at the earliest possible time, without undue delay to the development process, and ideally well before environmental review for a specific development project begins.

1. Local governments should consult with tribal governments when adopting or amending general plans to ensure that long-range development plans do not interfere with efforts to preserve and/or mitigate impacts to Native American historical, cultural, or sacred sites.
2. Local governments should also consult with tribes during the review of individual development projects to avoid and mitigate impacts to tribal cultural resources.
3. The state should provide counties with technical and financial assistance in identifying tribes whose cultural resources may be affected by a plan or project, and in determining how to mitigate or avoid impacts to these resources.
4. In the spirit of government to government collaboration, tribes should also consult with counties on the off-reservation impacts of projects proposed on tribal lands early in the development process.

## Glossary of Terms

### **Fee Simple (Fee Land)**

Land ownership status in which the owner, for instance a tribal government, holds title to and control of the property. The owner may make decisions about land use or sell the land without federal government oversight.

### **Fee-to-Trust Conversion**

When fee simple lands are converted to trust status and title is transferred to the federal government. Tribes or individual Indians can initiate the process on fee lands they already own or lands they acquire.

### **Indian Gaming Regulatory Act (IGRA) of 1988**

The United States Congress passed IGRA and President Reagan signed it into law on October 17, 1988. The Act established a statutory framework for tribal government gaming operations and regulation. Among others, the Act defines three classes of gaming and requires negotiation of a Tribal-State gaming compact before an Indian tribe can conduct Class III (casino style) gaming on their lands.

### **Tribal Gaming**

A business enterprise of a tribe. Tribal governments initiated gaming on reservations to create jobs and generate revenue for tribal government operations, programs and services and to create/sustain an economy on reservations.

### **Tribal-State Gaming Compact**

IGRA requires states to negotiate in good faith with Indian tribes that seek to enter into Tribal-State compacts to conduct Class III gaming on Indian lands. Class III gaming includes slot machines and banked card games. Although the content of these compacts vary from state-to-state and from tribe-to-tribe, the Act specifies that these agreements cover two primary issues: 1) the scope of gaming that is to be conducted at the tribal gaming facility, and 2) a system of regulation for the gaming activity on Indian lands. In California, the Tribal-State gaming compact provides for revenue sharing with tribes that have little or no gaming, funding and mitigation agreements for local governments to assist in addressing the impacts of tribal gaming, and the Tribal Labor Relations Ordinance, which prescribes a process for collective bargaining.

### **Trust Land**

Land owned either by an individual Indian or a tribe, the title to which is held in trust by the federal government. Most trust land is within reservation boundaries, but trust land can also be off-reservation, or outside the boundaries of an Indian reservation.

## Chapter Sixteen

### Tribal and Intergovernmental Relations

#### **Section 1: GENERAL PRINCIPLES**

CSAC supports government-to-government relations that recognize the unique roles and interests of tribes, states, and counties in protecting their mutual constituents and providing governmental services and infrastructure beneficial to all.

CSAC recognizes and respects the tribal right of self-governance to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, CSAC recognizes and promotes self-governance by counties as a means to provide for the health, safety and general welfare of all residents of their communities. To that end, CSAC supports active participation by counties on issues and activities that have an impact on counties' abilities to provide for the public safety, health, and welfare of all county constituents, including tribal members.

Federal or state law should not interfere with the provision of public health, safety, welfare or environmental services by local government. CSAC will support legislation and regulations that preserve—and do not impair—the ability of counties to provide these services. CSAC will work to mitigate any impacts on the ability of counties to provide these critical functions and services should federal or state law or regulations propose to hamper the ability of counties to protect all residents of their communities and the environment.

Accordingly, CSAC's fundamental goals for county-tribal intergovernmental relations are to facilitate intergovernmental agreements, develop mechanisms to mitigate for the off-reservation impacts of tribal developments on local government services and the environment, and to promote best practices and models of successful tribal-county relationships.

#### **Section 2: FEDERAL ACKNOWLEDGEMENT**

Due to the potential interaction between Federal Acknowledgement, Restoration, and Reaffirmation decisions and the Indian Gaming Regulatory Act (IGRA), as well as the potential for such decisions to impact the services provided by counties, CSAC recommends that federal law or policy include the following steps in the acknowledgement process:

1. CSAC supports requirements for the Bureau of Indian Affairs to solicit input from and convene consultation meetings with local governments, including counties, concerning acknowledgment petitions, at the earliest opportunity. Counties have government-to-government relationships with tribes affecting a variety of important interests, including child welfare, gaming, environmental protection and mitigation of off-reservation impacts created by on-reservation development, including gaming in particular.

2. CSAC supports requirements for Bureau of Indian Affairs consultation with counties prior to authorizing re-petition by a previously denied petitioner.
3. CSAC recognizes that newly acknowledged tribes are a clear exception under section 20 of IGRA. Although it is separate from the acknowledgement process, CSAC supports a stringent and transparent fee to trust process with significant input from all stakeholders considered regarding “initial” reservation lands.

### **Section 3: FEDERAL TRIBAL LANDS POLICY/DEVELOPMENT ON TRIBAL LAND**

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal law, then the state should negotiate in good faith with tribes to secure gaming compacts that require judicially enforceable mitigation agreements between counties and tribal governments. These agreements should fully mitigate local impacts from a tribal government’s gaming activities and fully identify the governmental services to be provided by the county to that tribe.

Additionally, when tribes seek to acquire additional trust land, subsequent tribal development projects, which may not have otherwise been consistent with local land use regulations, could have impacts to off-reservation local government services and the environment. As such, federal law and regulations should incentivize intergovernmental agreements between counties and tribes to address the impacts of non-gaming development projects on proposed trust lands. Such agreements could also establish a process to identify and mitigate off-reservation impacts of future projects not envisioned or described in a fee-to-trust application.

CSAC believes that existing law fails to address the off-reservation impacts of tribal land development. The following provisions would address this issue while emphasizing that counties and tribal governments need to each carry out their governmental responsibilities in a manner that respects the governmental responsibilities of the other.

1. CSAC supports federal legislation that gives counties an effective voice in the decision-making process for taking lands into trust for a tribe and furthers the overriding principle discussed above.
2. CSAC supports federal legislation and regulations to provide that lands are not to be placed into trust and removed from the land use jurisdiction of local governments without adequate and timely notice and opportunity for consultation and the consent of the State and the affected county.
3. CSAC supports federal legislation and regulations which ensure that material changes in the use of trust land, particularly from non-gaming to gaming purposes, shall require separate approval and environmental review by the Department of the Interior.



4. CSAC reiterates its support of the need for enforceable agreements between tribes and local governments concerning the mitigation of off-reservation impacts of development on tribal land. CSAC opposes any federal or state limitation on the ability of tribes, counties and other local governments to reach mutually acceptable and enforceable agreements, including any federal prohibitions on deed restrictions mutually agreed to by tribal and local governments.
5. CSAC supports legislation or policy to incentivize intergovernmental agreements between counties and Tribes concerning an application to acquire additional trust lands. Agreements should include provisions related to environmental review and mitigation measures for off-reservation impacts of projects planned at the time of the acquisition, as well as future, projects that would represent a material change in land use from the projects envisioned and described by a fee-to-trust application.
6. CSAC supports Bureau of Indian Affairs standards and regulations requiring justification of the need and purpose for acquisition of additional trust lands. CSAC also supports a lower threshold for acquisition of trust land that will be restricted to only non-gaming or non-intensive economic purposes, including development of housing for tribal members, and religious, cultural, and governmental uses for tribes that lack sufficient trust lands for these purposes.
7. CSAC opposes the practice commonly referred to as “reservation shopping” where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county.
8. CSAC will support federal legislation that addresses “reservation shopping” or consolidations in a manner that is consistent with existing CSAC policies, particularly the requirements of consent from Governors and local governments and the creation of judicially enforceable local agreements.
9. CSAC supports the use by a tribe of non-tribal land for economic development purposes. CSAC recognizes that existing law requires tribes to fully comply with state and local laws and regulations applicable to development projects, including environmental laws, health and safety laws, and mitigation of environmental impacts on the affected community.
10. In recognition of the unique relationship between tribal governments and the federal government, CSAC will support changes in federal law that further the ability of counties to enforce compliance with all environmental, health and safety laws. CSAC opposes legislation to authorize the Secretary of the Interior to take land into trust for tribes that were not under federal jurisdiction in 1934 unless it includes additional reforms that ensure a meaningful role for counties in the fee-to-trust process and includes standards requiring justification of the need and purpose for acquisition of additional trust lands.
11. Class II bingo-style video gaming devices have similar off-reservation impacts to the environment and local government services as those of class III devices. CSAC supports

requiring tribes that operate such machines to work with local governments to mitigate all impacts caused by such businesses. This would require an amendment to the Indian Gaming Regulatory Act.

#### **Section 4: INTERGOVERNMENTAL RELATIONS**

The relationships between tribes and counties are not limited to gaming and issues related to development on tribal lands. Counties and tribes have shared interests in promoting economic development and self-sufficiency for their overlapping constituencies, promoting the general health, safety and well-being of the entire community, and protecting natural resources.

1. CSAC supports policy to encourage and incentivize collaboration between counties and tribes on state and federal grant applications and other funding sources.
2. CSAC supports policies, including the recently-created tribal nations grant fund, which will devote a portion of tribal gaming revenues to provide equitable opportunities for economic development for tribes and tribal members that do not participate in gaming.

#### **Section 5: TRIBAL-STATE GAMING COMPACTS**

CSAC recognizes that Indian Gaming in California is governed by a unique structure that combines federal, state, and tribal law.

While the impacts of Indian gaming fall primarily on local communities and governments, Indian policy is largely directed and controlled at the federal level by Congress.

The Indian Gaming Regulatory Act of 1988 (IGRA) is the federal statute that governs Indian gaming. IGRA requires compacts between states and tribes to govern the conduct and scope of casino-style gambling by tribes. Those compacts may allocate jurisdiction between tribes and the state.

While subsequent compacts provide a better framework to promote effective intergovernmental relationships between counties and tribes that seek to develop a casino and supporting facilities, CSAC believes that the 1999 Compacts fail to adequately address these impacts and/or to provide meaningful and enforceable mechanisms to prevent or mitigate impacts.

The overriding purpose of the principles presented below is to harmonize existing policies that promote tribal self-reliance with policies that promote fairness and equity and that protect the health, safety, environment, and general welfare of all residents of the State of California and the United States. Towards that end, CSAC urges the State to consider the following principles when it negotiates or renegotiates Tribal-State Compacts:

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6. The compact should require a tribal government constructing or expanding a casino or other related business that impacts off-reservation land to seek review and approval of the local jurisdiction to construct off-reservation improvements consistent with state law and local ordinances, including the CEQA with the tribal government acting as the lead agency and with judicial review in the California courts.
7. The compact should require counties and tribes to negotiate local agreements as to the applicability of local and state regulations concerning health and safety issues, including, but not limited to, water service, sewer service, fire inspection and protection, rescue/ambulance service, and food inspection.
8. A Tribal Government operating a casino or other casino-related businesses will pay to the local jurisdiction the Tribe’s fair share of appropriate costs for local government services. These services include, but are not limited to, water, sewer, fire inspection and protection, rescue/ambulance, food inspection, health and social services, the full range of public safety functions, roads, transit, flood control, and other public infrastructure. Means of reimbursement for these services include, but are not limited to, in lieu payments equivalent

to property tax, sales tax, transient occupancy tax, benefit assessments, appropriate fees for services, development fees, impacts fees, and other similar payments.

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10. The Indian Gaming Special Distribution Fund (SDF) has not been sufficiently funded, nor has it been adequate to serve as the exclusive source of casino mitigation funding for many counties. If the SDF is retained in new and amended compacts, it should serve as an additional mechanism to ensure that counties are guaranteed funds to mitigate off-reservation impacts caused by tribal gaming. Special Distribution Funds should be provided directly to the Indian Gaming Community Benefit Committee in each county that receives this funding. The SDF program should be amended to provide greater reliability of local government funding, as well as increased flexibility in the use of mitigation funding to reasonably address casino impacts.
11. The Governor should establish and follow appropriate criteria to guide the discretion of the Governor and the Legislature when considering whether to consent to tribal gaming on lands acquired in trust after October 17, 1988 and governed by IGRA (25 U.S.C § 2719). The Governor should also establish and follow appropriate criteria/guidelines to guide his/her participation in future compact negotiations.
12. Compacts should be specific to a particular tribal casino location rather than pertaining to a potential casino an indeterminate location.

## **Section 6: SACRED SITES**

California's ever-increasing population and urbanization threatens places of religious and social significance to California's Native American tribes.

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1. Local governments should consult with tribal governments when adopting or amending general plans to ensure that long-range development plans do not interfere with efforts to preserve and/or mitigate impacts to Native American historical, cultural, or sacred sites.
2. Local governments should also consult with tribes during the review of individual development projects to avoid and mitigate impacts to tribal cultural resources.

3. The state should provide counties with technical and financial assistance in identifying tribes whose cultural resources may be affected by a plan or project, and in determining how to mitigate or avoid impacts to these resources.
4. In the spirit of government to government collaboration, tribes should also consult with counties on the off-reservation impacts of projects proposed on tribal lands early in the development process.

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September 18, 2013

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**RE: Preliminary Discussion Draft Comments - Chapter 1 Bureau of Indian Affairs, Department of the Interior: Part 83 Procedures for Establishing that an American Indian Group Exists as an Indian Tribe**

Dear Information Collection Clearance Officer,

The California State Association of Counties (CSAC) submits these comments on the preliminary discussion draft to identify for the Bureau of Indian Affairs (Bureau) potential improvements to the federal acknowledgment process to improve the integrity of the Bureau's decisions to acknowledge particular groups as Indian Tribes. Federal acknowledgment grants Indian Tribes a number of rights and privileges, only one of which includes the ability to have the federal government take land into trust on a Tribe's behalf. CSAC respects the rights of Indian Tribes to seek federal recognition and in so doing be granted sovereign status and gain access to and a host of federal programs and services. While acknowledgement by the federal government is a necessary step for a Tribe to have land taken into trust, recognition does not guarantee that a Tribe will seek trust lands.

Already home to 109 federally recognized tribes, California has potentially hundreds of Indian groups which may desire acknowledgment from the federal government as an Indian tribe, and which may desire to have land removed from state and local jurisdiction through the fee to trust process, particularly for gaming purposes, upon or in connection with acknowledgment. Since the acknowledgement process can be a precursor to Tribes taking land into trust for gaming and other non-gaming development and activities, counties have an interest in the regulations governing decisions related to federal acknowledgement. CSAC advocates for federal legislation and regulations that gives counties an effective voice in the decision making process that may lead to the removal of land from state and local jurisdiction for the benefit of an Indian tribe. As a result, we take very seriously the process and criteria guiding acknowledgement decisions for the recognition of a group as an Indian tribe, where such recognition would allow the federal government to remove land from state and local jurisdiction for the benefit of such tribe.

We recognize that we are not obligated to comment since there is no OMB Control Number assigned to this draft. However, we would like to make some recommendations for the collection of information that may be helpful in preparation of an official proposed rule for Part 83. In addition, for the reasons discussed in this letter, we would oppose many aspects of the preliminary discussion draft if set forth as proposed rules.

**Discussion**

CSAC understands that the current acknowledgment process has been criticized as expensive, burdensome, less than transparent, and inflexible. CSAC, however, believes that modifications to the current process, if any, to address these criticisms, must not compromise the integrity of the Bureau's decisions to recognize a group as an Indian tribe – a political entity with a distinct "government-to-government relationship with the United States" that has been in continuous existence as a political entity and social community since the time of first contact with non-Indians. Acknowledgement confers

significant political and economic benefits to the recognized tribe and creates a powerful government-to-government relationship stretching into perpetuity. County governments interact on a government-to-government basis with federally recognized tribes on important matters ranging from child welfare to economic development to prevention of environmental and cultural degradation. County governments, therefore, are particularly interested in the accuracy of acknowledgement decisions. Moreover, County governments often already have a relationship with an unrecognized Tribe or group, and can contribute directly to the Bureau's investigation. We believe that the acknowledgment process would be greatly improved if the Bureau was required to affirmatively seek input from local governments concerning petitions for acknowledgments at the earliest opportunity. We believe acknowledgment must be objective, based on verifiable evidence received from all interested parties, and made according to uniformly applied and rigorous criteria. In short, such an important decision should be made with deliberate care.

We are concerned about changes to the rights of local governments to participate. The current Part 83 process does provide for limited and constructive participation of Informed and Interested Parties. There is a comment period of 180 days to submit arguments and evidence on the proposed finding and an opportunity to participate in a formal meeting. However, such a meeting must be requested by the tribal group or the Interested Parties. Unfortunately, the last opportunity for Informed and Interested Parties is an Appeal Process on the final determination. An Appeal or Reconsideration usually involves difficult, adversarial and protracted litigation, none of which is efficient, cost- or time-saving. *If* the current process needs improvement, it is in the area of inclusion of the public and greater input from affected state and local governments, particularly counties. Unfortunately, the preliminary discussion draft does not strengthen the role of interested parties; it diminishes their rights. We object to the proposed requirement that evidence must be read in a light most favorable to the petitioner. The current rules impose a rigorous burden of proof on the petitioner; a reasonable requirement considering the extensive benefits that are conferred on federally recognized tribes. We also object to the unfair page limit imposed on interested party submissions; the one-way requirement that interested parties must submit their evidence and argument to petitioners, but not vice versa; the ability for petitioners to cease active review whenever they want, despite the cost and disruption caused to interested parties; the elimination of the requirement for an interested party to file a notice of intent, which serves as early notice to local governments; the elimination of the administrative appeal to the Interior Board of Indian Appeals, which provides a check on improper decisions by BIA; the denial of technical assistance to interested parties, even though it is provided to petitioners; and providing petitioners, but not interested parties, the right to submit evidence at a hearing. These changes are all one-sided in favor of petitioners, and they go too far.

Also, if adopted, the proposed changes would significantly loosen the evidentiary showing needed to qualify for acknowledgment. Moreover, if adopted, the proposed changes would permit a previously denied applicant to re-petition for acknowledgement if "by a preponderance of the evidence, that a change from the previous version of the regulations to the current version of the regulations warrants reversal of the final determination." We are concerned that revised criteria will lead to a significant increase in the number of recognized tribes in California in particular, some of which may have overlapping traditional territories, and to a loss of significant acreage from state and local jurisdiction primarily for the purpose of gaming, without protections in place to guarantee mitigation of impacts experienced by state and local governments due to such tribal economic or other development. Taken together, these proposed changes suggest that the purpose of the proposal is not to improve the efficiency of the acknowledgment process but instead to simply lower the bar to make possible a very significant increase in the number of federally recognized tribes.



### Recommendations for Information Collection

Because of the impact that Indian Gaming Regulatory Act (IGRA) has had on Acknowledgement, Restoration, and Reaffirmation, CSAC recommends that, in addition to removing the problematic proposals discussed above, the Bureau should include the following steps in the “conversation of the draft discussion”:

- Solicit input from and convene consultation meetings with local governments, including counties in particular, concerning acknowledgment petitions, at the earliest opportunity. Counties have government-to-government relationships with tribes affecting a variety of important interests from child welfare, to gaming, to environmental protection and mitigation of off-reservation impacts created by on-reservation development, including gaming in particular. As a result, counties are uniquely positioned to contribute important evidence to the acknowledgment process. Additionally, counties should be consulted prior to the Bureau authorizing re-petition by a previously denied petitioner.
- Facilitate and encourage constructive public participation in the review process. Several consultation hearings should be scheduled in California where there are more tribes than any other state petitioning for federal recognition or seeking reaffirmation.
- Additionally, since newly acknowledged tribes are a clear and indisputable exception under section 20 of IGRA, although a separate process, a stringent and transparent fee to trust process with significant input from all stakeholders must be considered regarding “initial” reservation lands. Of course, Bureau-acquired trust land is not currently available to newly acknowledged tribes as a result of the *Carcieri* decision, and this fact should be acknowledged by BIA.

California counties are uniquely interested in the acknowledgement process not only because of the sheer number of current and potential petitions, but also due to the potential for tribal recognition to lead to the removal of land from state and local jurisdiction. Additionally, due to their government-to-government relations with tribes that span a host of matters important to the federal government, tribal governments, and state government, California counties have significant interests in the process through which groups are granted federal recognition. Finally, California counties have important information to contribute to the acknowledgement process that should be considered when acknowledgement decisions are made. Towards these ends, the Bureau should be required to fully engage and solicit information from counties concerning acknowledgement petitions, or authorization for re-petitions. CSAC welcomes the opportunity to fully engage in the acknowledgment process and is available to work with federal, tribal, state, and local governments regarding draft proposals designed to improve the acknowledgment process.

Sincerely,



Matt Cate  
Executive Director  
California State Association of Counties



COMPREHENSIVE FEE-TO-TRUST REFORM PROPOSAL

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**Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465**

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed \$2,000,000 in any one fiscal year: Provided, that no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona, nor in New Mexico, in the event that legislation to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, or similar legislation, becomes law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

The Secretary may acquire land in trust pursuant to this section where the applicant has identified a specific use of the land and:

- (a) the Indian tribe or individual Indian applicant has executed enforceable agreements with each jurisdictional local government addressing the impacts of the proposed trust acquisition; or
- (b) in the absence of the agreements identified in subsection (a):
  - (1) the Indian tribe or individual Indian demonstrates, and the Secretary determines, that:
    - (A) the land will be used for non-economic purposes, including for religious, cultural, tribal housing, or governmental facilities, and the applicant lacks sufficient trust land for that purpose; or
    - (B) the land will be used for economic or gaming purposes and the applicant has not achieved economic self-sufficiency and lacks sufficient trust land for that purpose;

and

- (2) the Secretary determines, after consulting with appropriate state and local officials, that the acquisition would not be detrimental to the surrounding community and that all significant jurisdictional conflicts and impacts, including increased costs of services, lost revenues, and environmental impacts, have been mitigated to the extent practicable.
- (c) notice and a copy of any application, partial or complete, to have land acquired in trust shall be provided by the Secretary to the State and affected local government units within twenty (20) days of receipt of the application, or of any supplement to it. The Secretary shall provide affected local governmental units at least ninety (90) days to submit comments from receipt of notice and a copy of the complete application to have land acquired in trust.
- (d) a material change in use of existing tribal trust land that significantly increases impacts, including gaming or gaming-related uses, shall require approval of the Secretary under this section, and satisfy the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., and, if applicable, the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.;
- (1) the Secretary shall notify the State and affected local government units within twenty (20) days of any change in use in trust land initiated by an applicant under this subsection.
- (2) as soon as practicable following any change in use in trust land initiated prior to review and approval under this section, the Secretary shall take steps to stop the new use, including suit in federal court, upon application by an affected local government;
- (3) any person may file an action under 5 U.S.C. § 701 et seq. to compel the Secretary to enjoin any change in use in trust land initiated prior to review and approval under this section.
- (e) notwithstanding any other provisions of law, the Secretary is authorized to include restrictions on use in the deed transferred to the United States to hold land in trust for the benefit of the Indian tribe or individual Indian and shall consider restricting use in cases involving significant jurisdictional and land use conflicts upon application of governments having jurisdiction over the land;
- (f) any agreement executed pursuant to subsection (a) of this section shall be deemed approved by the Secretary and enforceable according to the terms of the agreement upon acquisition in trust of land by the Secretary;
- (g) the Secretary shall promulgate regulations implementing these amendments within 365 days of enactment.



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February 4, 2015

To: Members, CSAC Board of Directors

From: Farrah McDaid Ting, Legislative Representative  
Michelle Gibbons, Legislative Analyst

Re: Federal Medicaid Waiver Update

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California's existing Medicaid Section 1115 "Bridge to Reform" Waiver expires in October 2015. The Department of Health Care Services (DHCS) has begun work on developing a five year extension to the Bridge to Reform Waiver.

CSAC has contracted with Kelly Brooks-Lindsey to represent CSAC on this multi-faceted project. She is also regularly convening county affiliates to discuss content, strategy, and fiscal issues.

In the attached memo, Mrs. Brooks-Lindsey provides an update on the working groups associated with the waiver effort, with an emphasis on the proposed fiscal mechanics of the proposed waiver.

For more information about the state's proposal and working groups, please visit the Department of Health Care Service's Section 1115 Waiver Renewal page at:  
<http://www.dhcs.ca.gov/provgovpart/Pages/WaiverRenewal.aspx>

Staff contacts:

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February 3, 2015

TO: Matt Cate, Executive Director, CSAC

FROM: Kelly Brooks-Lindsey, Partner, Hurst Brooks Espinosa, LLC

**Re: Medicaid Section 1115 Waiver Renewal Update**

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The following memorandum provides: 1) an update on the process to renew California’s “Bridge to Reform” Medicaid Section 1115 Waiver; 2) background on major components of the waiver; 3) an update on the workgroups that the state Department of Health Care Services (DHCS) created to assist with waiver development; and 4) an overview of the DHCS financing proposal.

California’s “Bridge to Reform” Medicaid Section 1115 Waiver expires on October 31, 2015. The current waiver provides approximately \$10 billion to California over its five-year life, with \$2 billion directly benefiting the state General Fund. The Brown Administration, under the leadership of DHCS, is moving forward to renew the waiver. DHCS is interested in better care coordination, improved patient care, improved population health and improved efficiencies.

**PROCESS TO DEVELOP CALIFORNIA’S NEXT MEDICAID SECTION 1115 WAIVER**

DHCS has outlined their process to develop a new waiver as follows:

- **Convene stakeholders.** DHCS has convened seven stakeholder workgroups to inform the development of the waiver. The stakeholder process began in November 2014 and will continue through the end of January 2015, with a few workgroups that will continue meeting beyond January.
- **Write the proposal.** DHCS will be writing the waiver proposal in the month of February and plans to submit the waiver proposal to the federal Centers for Medicare and Medicaid Services (CMS) in late February/early March. The proposal must be submitted at least six months before the current waiver expires October 31, 2015.
- **Negotiations.** Once the proposal is submitted to CMS, California will begin its federal negotiations in earnest. It is not unusual for waiver negotiations to take several months.
- **State Terms and Conditions (STCs).** When negotiations between the state and federal governments conclude on the major concepts, CMS will create the STCs, the legal document governing the waiver.
- **Implementation.** Finally, once the STCs are complete, state implementation of the waiver can begin. The goal is to begin implementation in November 2015.

The seven workgroups that are meeting related to the development of the waiver proposal are:

- 1) Disproportionate Share Hospital /Safety Net Care Pool Funding Reform.
- 2) Managed Care Organization and Provider Payment Reform.
- 3) Delivery System Reform Incentive Program Successor.
- 4) Federally Qualified Health Centers (FQHC) Payment Reforms.
- 5) California Children's Services (CCS).
- 6) Housing.
- 7) Workforce.

More details on each of the workgroups are provided in the "Waiver Workgroup" section of this memo.

### **BACKGROUND**

There are a number of major priorities for counties heading into the waiver renewal discussions, including ensuring that the next waiver includes the same level of funding for public hospitals and counties. Additionally, it is important that another Medicaid waiver include a Delivery System Reform Incentive Program (DSRIP) that will allow public hospitals and health systems to continue the important transformation work, continue to improve outcomes, and increase efficiencies. There are also important opportunities for improving care coordination – through a county-based whole person care pilot and in better integrating primary care and behavioral health services.

There are several components of the existing waiver that may change as DHCS moves forward with a waiver renewal proposal. Below is additional background on two of the topics that are under discussion, Disproportionate Share Hospital funding and Safety Net Care Pool funding.

#### **Disproportionate Share Hospital (DSH) Funding**

Currently, DSH payments are not part of the existing waiver. However, DHCS is interested in including those payments in the next Medicaid Section 1115 waiver.

DSH payments are federal payments that provide additional reimbursement to those hospitals that serve a significantly disproportionate number of low-income patients (both Medicaid and uninsured). States receive an annual federal DSH allotment to pay for a portion of the uncompensated care costs. California's allotment is approximately \$1.188 billion, with designated public hospitals receiving approximately \$1.176 billion (federal funds). Non-designated public hospitals (district hospitals) receive approximately \$10 million. Private DSH hospitals receive DSH look-alike payments of \$530 million that do not come from the federal DSH allotment.

The annual DSH allotment is calculated by federal law and is capped at not higher than their actual uncompensated costs for care to the uninsured and Medicaid beneficiaries – known as the Omnibus Budget Reconciliation Act (OBRA) limit. Federal law includes a provision specific to California that the OBRA limit for public hospitals is 175 percent of uncompensated costs.

Federal health care reform included provisions to reduce DSH; those reductions are slated to begin in 2016-17. The DSH reductions increase each year until 2022 when they stabilize. Nationally, the DSH cut is approximately 50 percent of the current DSH total. It is not yet clear how the DSH reduction formula will work in the context of state Medicaid expansions (i.e. how the DSH cuts will be implemented in

states that chose not do a Medicaid expansion v. those states, like California, that opted to expand Medicaid).

California receives the second largest DSH allotment in the country. The top five states account for 60 percent of DSH allotment. It appears unlikely that California can escape a sizable reduction in DSH given its proportion of funding. DSH cuts will impact payments to public hospitals, non-designated public hospitals and private hospitals that receive DSH replacement funds.

### **Safety Net Care Pool Background**

The Safety Net Care Pool was an element of the 2005-2010 waiver, as well as the current waiver. The state and designated public hospitals are eligible to claim uncompensated costs of services to the uninsured using certified public expenditures (CPEs). Private hospitals and non-designated public hospitals cannot access the SNCP.

At the height of the SNCP, over \$900 million was available for the state and designated public hospitals to claim. In 2015, less than \$636 million in federal funding is available. The state is able to claim \$400 million per year out of the SNCP. Public hospitals are eligible to claim approximately \$177 million in the final 12 months of the waiver.

The SNCP is not available for the costs of providing services to the undocumented; the STCs include a reduction factor of 13.95 percent in the current waiver.

Post-ACA implementation, CMS is no longer as focused on coverage for the uninsured; generally, these types of uncompensated care pools are falling out of favor with CMS. For example, California recently made an attempt to create a SNCP for California's non-designated public hospitals and CMS did not approve the state's request.

### **WAIVER WORKGROUPS**

**Disproportionate Share Hospital /Safety Net Care Pool Funding Reform.** DHCS is interested in exploring ways to move away from volume-based and cost-based care and, instead, towards risk-based care for the remaining uninsured. DHCS is hoping to incentivize coordination of care for the remaining uninsured, including rewarding the provision of primary care. DSH funds currently provide reimbursement for hospital-based services. DHCS is exploring a statewide pool of funding for the remaining uninsured by combining federal DSH and Safety Net Care Pool SNCP funds. They have presented a proposal to move away from cost-based CPE claiming and shift to a global budget approach for the uninsured. DHCS is calling their proposal global budget/coordinated care for the uninsured. The workgroup's final meeting has been postponed until February.

Elements of this new global budget/coordinated care for the uninsured pool of funds include:

- Each individual public hospital system would have its own "global budget" from within the pool of overall federal funding. Individual budgets would allow each hospital system more certainty about its budget and how much federal funds would be available.

- Funding would be claimed quarterly with the public hospital providing the necessary IGT, which moves away from cost-based methodology.
- A public hospital system would achieve “points” for threshold service targets, with a base level of points required for each system to earn their full global budget.
- Partial funding would be available for partial achievement of points.
- Points would allow for the continuation of traditional services but encourage more appropriate and innovative care. Additionally, point values would be developed for innovative or alternative services where there is currently little to no reimbursement.
- Higher values would be assigned to services that meet criteria such as preventative services; bringing a patient into a coordinated system health and wellness education that result in improved patient decisions and overall health status; potential to avoid future costs.
- Five categories for developing point values:
  - 1) **Face-to-face outpatient visits** (examples: traditional primary or specialty care, dental, mental health or SUD visits, public health visit, group visits)
  - 2) **Technology based outpatient encounters** (examples: telephone consultations, physician to physician eConsults for specialty care, telemedicine, nurse advice line, email between physician and patient, video observed therapy)
  - 3) **Non-office based outpatient encounters** (examples: home nursing visits post-hospital discharge, community health worker encounters, mobile clinics, paramedic treat and release)
  - 4) **Preventative health, education, care management, and patient support encounters** (examples: health education/community wellness encounters, patient support/disease management groups, substance use disorder counseling groups, palliative care, pain management programs, immunization outreach, supportive housing case management services)
  - 5) **Inpatient/facility stays** (examples: acute hospital care days, acute psychiatric care days, subacute care days, skilled nursing facility days, recuperative/respice care days, sober center days)

Point values would recognize the high-value of services designed to improve health, prevent unnecessary emergency room/inpatient stays, and prevent longer term health complications. Point values would be established for each tier within each of the five categories outlined above. Services within each category will be grouped into tiers of similar activity.

The proposal would also include an evaluation component. California would be seeking to demonstrate that shifting payment away from cost and toward value can encourage care in more appropriate settings, to ensure that patients are seen in the right place and given the right care at the right time. DHCS would establish clear metrics to measure whether the pooled funding is successful. The evaluation would focus on the resource allocation and workforce investments and the extent to which services shift the balance of care.



The following chart provides an overview of how DSH and SNCP are used today and how they compare to the global budget approach outlined by DHCS:

	DSH today	SNCP today	Global Budget
Uncompensated costs related to Medi-Cal	✓		
Uncompensated costs related to the uninsured	✓	✓	✓
Uncompensated costs related to undocumented persons	✓		✓
Hospital costs	✓	✓	✓
Non-hospital costs		✓	✓
Intergovernmental transfers (IGTs)	✓		✓
Certified Public Expenditures (CPEs)	✓	✓	

The DSH/SNCP Reform workgroup cancelled its January 29 meeting and is scheduled to meet again later in February, pending the outcome of initial conceptual discussions between DCHS and CMS regarding the creation of one pool of funds for uncompensated care.

**Managed Care Organization and Provider Payment Reform.** The Managed Care Organization and Provider Payment Reform workgroup is scheduled to conclude its meetings on January 23. The workgroup discussed a number of proposals around how to incentivize health plans and providers to work together on achieving outcomes. The group heard eight straw proposals and most of the workgroup participants indicated an interest in behavioral health proposals, specifically a shared savings program to build infrastructure for care coordination between Medi-Cal managed care plans and county mental health plans.

**Delivery System Reform Incentive Program Successor.** The Delivery System Reform Incentive Program (DSRIP) is a five-year, federal pay-for-performance quality improvement initiative for California's 21 public hospitals in the existing waiver, which provides \$3.3 billion over five years. DSRIP funding has been used to expand access to primary care, improve quality of care and health outcomes and increase efficiency at public hospitals.

As California seeks to renew the "Bridge to Reform Waiver," the state will be looking to create a successor to the existing DSRIP. To date the workgroup has been focused on concrete proposals with a number of priorities, projects and metrics. Many of these ideas align with the work that public hospitals have done in preparing for a successor DSRIP. The workgroup recently had discussions about how to more explicitly include behavioral health in the DSRIP and how to include cultural competency, racial disparities and workforce proposals.

**Federally Qualified Health Centers (FQHC) Payment Reforms.** Currently, FQHCs are reimbursed via the Prospective Payment System (PPS) rate and, for a smaller number of patients, fee-for-service Medi-Cal. Both reimbursement mechanisms are based on volume, which incentivizes visits but not necessarily quality.

The Administration is interested in FQHC payment reforms that improve patient care, improve population health and decrease overall costs. The California Primary Care Association (CPCA) and the California Association of Public Hospitals and Health Systems (CAPH) have met over the last year and worked together on payment reform pilot ideas, and they continue to work with DHCS. The two associations are interested in creating more flexibility for FQHCs to provide better care. DHCS is building on the collaboration between the department and CPCA and CAPH and have not established a formal workgroup.

**California Children's Services (CCS).** Please recall that counties administer the CCS program at the local level and that counties have a share of cost for a small portion of the population served by the CCS program.

The existing waiver included the development of five pilots to test new models for the CCS program, but to date only one pilot in San Mateo County has been implemented. DHCS wants to include a CCS proposal in the waiver renewal; however, the CCS workgroup is on a different timeline than the others, slated to conclude in July 2015. DHCS has stated that their goal is to improve care for children in the CCS program. It is unclear how the CCS workgroup will be integrated into the waiver proposal which will be submitted to CMS several months before the workgroup concludes.

**Housing.** DHCS is interested in obtaining federal flexibility to use Medicaid funds for supportive housing services. They have discussed two target populations – chronically homeless individuals and individuals residing in nursing homes. DHCS estimates that there are 60,000 chronically homeless Californians and approximately 7,000 nursing home patients who could move to a lower level of care with health, social and housing supports.

DHCS does not believe CMS will provide funding for a rental subsidy. Instead, their effort is focused on obtaining federal Medicaid funds for supportive services that allow an individual to get into and remain housed. DHCS is interested in finding ways to incentivize health plans and local governments to participate in a housing pilot. The workgroup heard several options for including a housing component in the waiver at its January 14 meeting. The workgroup meets for the final time on January 28.

The following is a summary of the four options, which are not mutually exclusive, discussed on January 14:

- 1) **Whole person care pilot.** Create partnerships between health plans, counties, behavioral health plans, hospitals, housing providers and service providers to provide whole person care, including housing.
- 2) **Partnerships between housing-based case management and housing agencies** (at the state and local levels); would include targeting of eligible populations for housing.
- 3) **Incentive payments to create respite care.** Incentives would be provided to achieve specific goals such as a reduction in hospital admissions. The payments would be used for

shelter/hospital beds during care and would also include a housing navigator. The respite care beds would be reserved for individuals exiting hospitals and needing nurse care. Pilot sites would need to include a link to permanent housing.

- 4) **Create a “housing” benefit.** Create a case rate for housing, potential for coordinated funding through partnership between DHCS and the Housing and Community Development Department (HCD) at state level. This option is very unlikely to gain CMS approval.

**Workforce.** The Workforce Workgroup concluded their meetings earlier this month. Topics of discussion included alternative methods for delivering care, training incentives, and technology as a workforce tool. The workgroup discussed several proposals and concepts including:

- 1) Financial incentives to increase Medi-Cal participation amongst providers;
- 2) Peer providers in behavioral health;
- 3) Screening, Brief Intervention and Referral to Treatment (SBIRT);
- 4) Expanding cross-training and multi-disciplinary teams;
- 5) Training for In-Home Supportive Services (IHHS) providers;
- 6) Increasing residency training slots; and
- 7) Expanding the use of telehealth.

DHCS is very interested in addressing participation of providers in the Medi-Cal program.

**Behavioral Health Opportunities.** All of the workgroups have discussed behavioral health issues – mental health and substance use disorder treatment. Additionally, DHCS indicates that further integration of behavioral health and primary care is a priority. Please recall that DHCS submitted an amendment to the existing waiver on November 21, 2014 to create an organized delivery system for the Drug Medi-Cal program. There appears to be strong interest from CMS in California’s Drug Medi-Cal waiver amendment, which would become part of the waiver renewal. CMS also supports with more behavioral health and primary care integration. Both the state and federal government recognize that behavioral health services are a key component to bending the cost curve.

In the DSH/SNCP Funding Reform workgroup, DHCS included specific mental health and substance use disorder treatment services examples within the five categories for developing the global budgets points system. DHCS also alluded to data regarding much county hospitals have spent on mental health services for uninsured individuals.

There is momentum in the Managed Care Organization and Provider Payment Reform Workgroup around a shared savings program to build infrastructure for care coordination between Medi-Cal managed care plans and county mental health plans. Similarly, the DSRIP successor will include projects, priorities and metrics related to behavioral health. The workforce workgroup also discussed behavioral health issues.

Finally, the housing workgroup’s focus on the chronically homeless necessitates consideration of the mental health and substance use disorder treatment needs of that population. The workgroup has been

more focused on the technical aspects of developing a housing proposal, rather than on the clinical needs of the chronically homeless population. However, as conversation turns to implementation behavioral health treatment needs will clearly be a priority.

DHCS is going to require that county Drug Medi-Cal Waiver implementation plans (for those counties that opt into the waiver) include sections on integration with Medi-Cal managed care plans – for primary health and for mild to moderate mental health issues – and integration with county mental health plans for severe mental illness.

The waiver will highlight county behavioral health systems in the context of care coordination and integration and emphasize the importance of county behavioral health systems continuing to develop, strengthen and expand partnerships with public hospitals, Medi-Cal managed care plans, providers, and others.

#### **FINANCING**

DHCS provided an overview of their financing proposal for the renewal of California's "Bridge to Reform" Medicaid Section 1115 waiver on January 30. The current waiver has provided approximately \$10 billion in federal funds over the five-year life of the waiver. The Brown Administration unveiled a \$17 billion federal waiver renewal proposal at the January 30 meeting.

DHCS is proposing to continue a number of elements from the current budget neutrality calculation into the 2015 waiver renewal, which assists in California's case for \$7 billion in additional federal funds.

Funding details include:

- **Delivery System Reform Incentive Program (DSRIP) successor:** \$750 million in federal funds each year for five years (\$3.75 billion total). The current waiver contains approximately \$3.3 billion for DSRIP. DHCS is proposing to include non-designated hospitals, or district hospitals, in the DSRIP successor in the 2015 waiver. Currently DSRIP is available only to designated public hospitals.
- **State designated health programs:** \$400 million in federal funds each year for five years (\$2 billion total) for state designated health programs. The current waiver contains \$2 billion for state designated health programs.
- **Former Safety Net Care Pool (SNCP):** \$236 million each year in federal funds for five years to transform SNCP payments into global budgets (\$1.18 billion total). The current waiver includes \$236 million in SNCP funds in the final 16-months of the waiver.

Please recall that the Administration is proposing to combine SNCP and Disproportionate Share Hospital (DSH) funds into global budgets as part of its safety net payment reforms. Currently DSH and SNCP are only available for designated public hospitals; the global budgets proposal funding source would only be available for designated public hospitals in the 2015 waiver.

The current waiver does not include DSH payments in the budget neutrality calculation. The Administration is assuming that the federal DSH allotment that California would otherwise receive will be part of the global budgets. It is anticipated DSH payments will be approximately \$1.1 billion in 2016. DSH payments will decline over the life of the waiver due to cuts slated to occur at the federal level. DSH payments are included in the 2015 waiver budget neutrality calculation on both the “without” and “with” waiver.

- Delivery system incentive payments:** \$2 billion each year for five years in federal funds (\$10 billion total) for the delivery system changes under discussion in the various workgroups, including workforce, housing and supportive services, and plan/provider incentive payments. DHCS has no detail regarding how the \$2 billion would be allocated across the various proposals that will be developed to address workforce, housing/supportive services, regional partnerships through managed care incentives and fee-for-service quality improvement initiatives. The \$2 billion figure assumes that the federal government agrees to allow California to keep the state and federal shares of savings associated with the budget neutral calculation.

**California’s 2015 Waiver Financing Proposal Summary Chart**

	Each Year	5-Year Total	Comparison to 2010 Waiver
<b>Delivery System Reform Incentive Program (DSRIP)</b>	\$750 million	\$3.75 billion	Slightly more than the \$3.3 billion in the 2010 waiver. However, DSRIP will include non-designated public hospitals (district hospitals).
<b>State designated health programs</b>	\$400 million	\$2 billion	The same as the 2010 waiver.
<b>Former Safety Net Care Pool (SNCP):</b> transform SNCP payments into <u>global budgets</u>	\$236 million	\$1.18 billion	The 2010 waiver included \$236 million in the last 16-months of the waiver for SNCP.
<b>Delivery system incentive payments:</b> workforce, housing and supportive services, and plan/provider incentive payments	\$2 billion	\$10 billion	There is not a similar element in the 2010 waiver.
<b>TOTAL</b>	<b>\$3.386 billion</b>	<b>\$16.93 billion</b>	<b>\$10 billion</b>

**Budget Neutrality Background.** Part of the budget neutrality calculation requires states to calculate their costs without the waiver and then to update those costs with the waiver. The difference between the “without” waiver and “with” waiver costs is the basis for budget neutrality. States use the budget neutrality calculation to inform how they approach CMS in asking for additional federal funds. DHCS is proposing to continue a number of elements from the current budget neutrality calculation into the 2015 waiver renewal, which assists in California's case for \$7 billion in additional federal funds.

California's current waiver uses fee-for-service (FFS) costs in its budget neutrality calculation. The movement of seniors and persons with disabilities into Medi-Cal Managed Care occurred in the existing waiver. In the 2010 waiver, DHCS's budget neutrality calculation included a comparison of per member per month costs of Medi-Cal beneficiaries in FFS and in Medi-Cal managed care.

DHCS is proposing to continue to calculate budget neutrality by using a comparison of FFS costs with managed care costs. DHCS staff acknowledged that CMS will likely raise questions with the continued assumption of FFS for the “without” waiver calculation. Counties should anticipate that this will likely be a negotiation point between the state and federal governments.

Additionally, DHCS is proposing to add the new Medi-Cal enrollees (the 2014 expansion population) into the “without” and “with” waiver calculation. However, DHCS's calculations provided on Friday did not include the FFS per member per month costs for the expansion population. More work will be done on this for the budget neutrality calculation.

In addition, the Drug Medi-Cal Organized Delivery System is not included in the budget neutrality calculation. The Drug Medi-Cal costs will be included both in the “without” and “with” waiver sides. DHCS is still working on developing its methodology for estimating costs for the Drug Medi-Cal waiver amendment.

The budget neutrality calculation for 2015 also includes the estimated certified public expenditures for the FFS payments for designated public hospitals (aka separate limit B), as it does today.

HBE will continue to provide updates to counties on the waiver development as other details become available. For additional questions, please contact Kelly Brooks-Lindsey at [kbl@hbeadvocacy.com](mailto:kbl@hbeadvocacy.com) or 916.753.0844.

## CSAC Board of Directors Report – 2.19.15

1. **Partnership Program Update:** We now are at 61 partners and are currently in “selling season.” We expect to add a number of new partners by the end of the first quarter.
  - 21 Premier Partners (New 2015: CGI, CSAC–EIA will be moving to Premier in July)
  - 7 Executive Partners (New 2015 : Molina Healthcare, others considering)
  - 33 Associate Partners (New 2015: AARP, ESRI, Dewberry Architects, and Northrop Grumman Aerospace Systems). In summary, we are currently set to receive \$614,000 in partner revenue, with a goal of \$750,000 by year end.
  
2. **Regional Mini-Summits:** These one day regional events are designed to bring together our members and leaders from regional counties, our CSAC Executive and Advocacy Team members and our Premier and Executive level partners. Presentations and round table discussions help foster the sharing of information and creative solutions critical to excellent county governance.
  - San Bernardino – January 22 COMPLETED. We had over 50 in attendance, 6 counties participated as we discussed HHS, Cap and Trade, Live Well San Diego, and Public/Private partnerships with DLR.
  - We will be hosting three other Mini-Summits in 2015. Tehama/Shasta – March 12, Central Counties – August, Bay Area Counties – October.
  
3. **Premier Leadership Forum – Feb. 11-12, San Diego County:** We are putting the final touches on the agenda for this annual Forum. This two day event is designed for our Premier Partners and our Executive Committee. Topics to include: Political forecast, CAO Panel, Partner presentations and an overview of CSAC initiatives.

Thank you again for your support of our Partnership Program.

Respectfully submitted,



Jim Manker  
CSAC Director of Corporate Relations

**Premier Partners (as of 2.1.2015)****1. Argyle Security**

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- 2. Molina Healthcare**  
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- 5. Santa Ynez Band of Chumash Indians**  
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CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

February 19, 2015

**To:** CSAC Board of Directors

**From:** Nancy Parrish, Executive Director, CSAC Finance Corporation

**RE:** **Finance Corporation – 2014 Year in Review**

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The CSAC Finance Corporation had a fantastic 2014. We have not only experienced growth in our existing programs, we were able to launch and see our first successes with our two newest program partners; Medcor and Towers Watson. We wish to thank all 58 California counties for your participation in our programs. As a result of your support, the CSAC Finance Corporation was again able to provide CSAC with a \$3.3 million contribution this year to support CSAC's advocacy on behalf of California's counties.

Our program with Medcor provides onsite health clinics for county employees. Realizing that a healthy workforce is a happy workforce and that counties are dealing with spiraling healthcare costs, this program places onsite employee health clinics in counties to provide customized services tailored to the needs of your employees. Our first Medcor clinic launched this October in Kings County and is already popular among county employees. With the Onsite Employee Health Clinic Program, the potential for savings is significant in general health, increased productivity, and workers compensation; Kings County expects to save \$1 million in their first year.

Our OneExchange program with Towers Watson offers your Medicare eligible retirees a wide array of health plans to choose from at significantly lower costs than they currently pay to participate in your group plan. This program recognizes the mounting pressure on California counties to maximize tax dollars while meeting commitments to retirees by providing a means to remove the burden of retiree healthcare administration and offer retirees more healthcare options. Earlier this year we were pleased to see the complete implementation of the OneExchange program with the Alameda County Employee's Retirement Association. By all accounts this implementation was successful with 1,300 retirees transitioned to the OneExchange model. The program is projected to save ACERA \$2 million in the first-year and to save each retiree \$300-\$1,500 per year.

The California Statewide Communities Development Authority (CSCDA) continued to benefit California counties this year and received an additional \$38 million allocation for the New Markets Tax Credits Program. Four projects were successfully allocated under this program including:

- Orange County – Big Brothers Big Sisters of Orange County expansion project to provide greater facilities and mentoring to at-risk youth;
- Del Norte and Humboldt Counties – Open Door Community Health Centers to fund an expansion of future services to underserved and migrant populations;



- Humboldt County – Northern California Indian Development Council to preserve and revitalize the historic Carson Block building which has been nominated to the National Register of Historic Places; and
- Imperial County – City of Imperial Worthington Square new mixed-use construction project to kick-start the redevelopment plans for the downtown center.

In addition, 2014 saw the launch of our CSCDA residential and commercial PACE program, CaliforniaFIRST. This program launched in a limited number of counties but will be expanded statewide with additional PACE financing providers via the Open PACE program in early 2015. In the first five months the CaliforniaFIRST program closed a total of 137 deals totaling approximately \$3.1 million.

Our U.S. Communities purchasing program continues to thrive by leveraging the buying power of over 90,000 governmental agencies across the nation. While California county spend is up 22% over last year the average California county currently utilizes only two U.S. Communities contracts. With over 35 contracts available there are significant savings available to each and every county in the state. New contracts added this year include the following products and services; Garland/DBS roofing and waterproofing, DLT Solutions Oracle products, KONE elevator and maintenance, Hertz equipment rental, BI electronic offender monitoring, Kronos workforce management, and TAPCO traffic control. U.S. Communities offers one of the quickest ways to start seeing immediate savings. This no-cost program is available to all counties, cities, special districts, and non-profits and offers the lowest local government pricing on all contract items.

Our deferred compensation program through Nationwide Retirement Solutions continues to increase the ways we reach out to county employees and help them plan for retirement. Currently used by 29 California counties, Nationwide offers online interactive retirement planners and in-person retirement consultations to help make sense of the daunting world of retirement planning. In California alone, Nationwide's deferred compensation program currently serves over 55,000 employees and has almost \$2.5 billion in assets; these numbers will grow in the next year as Nationwide completes the transition of Fresno County to the program.

The CalTRUST investment pool continued to grow this year, adding over 15 local agency participants and reaching a record high of almost \$2.2 billion in assets. The CalTRUST Education Program provided webinars on Economic Forecast and Investment Guidelines to over 50 public agency participants. If you have any ideas on what educational investment pieces would be beneficial to your county please let us know!

Coast2Coast Rx's prescription drug card continues to be successful among California counties. Currently the Coast2Coast Rx Card is endorsed in 29 California counties. This program requires minimal effort on the part of the county to reach out to residents with prescription drug, lab, and other medical savings. In 2014, the 29 California counties using the Coast2Coast Rx Card have received over \$380,000 in revenue back to their counties.

We look forward to continued success in 2015. If you would like more information on any of our programs or have any suggestions for future programs please do not hesitate to reach out to us.

**CSAC Finance Corporation Board of Directors:**

- **Larry Spikes**, Kings County, *President*
- **Steve Juarez**, Public Member, *Vice President*
- **Les Brown**, Public Member, *Secretary/Treasurer*
- **Robert Bendorf**, Yuba County
- **Matt Cate**, California State Association of Counties
- **Greg Cox**, San Diego County

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- **Mike Johnson**, County Retiree
- **Pat O'Connell**, Alameda County
- **Linda Seifert**, Solano County
- **Tom Ford**, *Board Member Emeritus*
- **Steve Swendiman**, *Board Member Emeritus*

The CSAC Finance Corporation continues to be a resource for California Counties to access enhanced service programs while saving money. All programs are vetted through our eleven-member Board of Directors and a competitive bid process. For more information on any of our programs please contact the CSAC Finance Corporation staff:

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# INSTITUTE FOR LOCAL GOVERNMENT<sup>SM</sup>

*Promoting Good Government at the Local Level*

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## Update on Activities

*February 2015*

The Institute for Local Government (ILG) is the research and education affiliate of the California State Association of Counties and the League of California Cities. ILG promotes good government at the local level with practical, impartial and easy-to-use resources for California communities. Our free resources on ethics and transparency, local government basics, public engagement, sustainable communities and the Cities Counties School (CCS) Partnership are available at [www.ca-ilg.org](http://www.ca-ilg.org).

## Highlights

- New training for newly elected officials in the Redwood Empire was a success. Humboldt County Administrative Officer Phil Smith Hanes and four Humboldt County supervisors participated in the training. Representatives from the Humboldt Council of Governments, Redwood Coast Energy Authority, Fortuna Elementary School District and 6 cities were in attendance as well.
- “The Future of Recycling Programs: Sustainable Funding Sources” webinar draws over 200 participants (see link below).
- ILG has created new resources on community leadership programs, siting and financing for recycling infrastructure and more (see links below).
- ILG released 2014 annual report (see link below)

## Annual Report

The 2014 annual report is a one page report that provides a quick overview of ILG efforts for the past year. The report can be found here [www.ca-ilg.org/post/2014-annual-report](http://www.ca-ilg.org/post/2014-annual-report).

## Program Overviews for 2015

### Ethics and Transparency:

- ILG will continue to host AB 1234 trainings throughout the year.
- Staff is exploring potential webinars and workshops including topics such as: The Brown Act, Form 700s, etc.

### **Local Government Basics:**

- In early January, ILG completed a two-day training for newly elected officials in the Redwood Empire. The training included a welcome dinner and conversation about vision and goals and a full day's training on How Local Agencies Make Things Happen, Basics of County and City Revenues, Open Government Laws and more. The training was well received, and ILG is considering conducting similar trainings in the future.
- Staff will continue to promote and market local government basics materials.

### **Collaboration and Partnerships:**

- **Healthy and Vibrant Communities: An Intergovernmental Approach**
  - The focus of this work funded by a grant from Kaiser is healthy eating/active learning, safety and violence prevention.
  - This work will begin with a survey of local officials to determine their awareness, perceptions and motivations to resolve key community issues through intergovernmental collaboration. This survey again will be conducted at the close of the grant as well to help evaluate impact.
  - In addition to the survey, staff will be developing case stories, webinars and conducting technical assistance in three jurisdictions on these topics.
- **Cities Counties Schools Partnership**
  - In October of 2015 the CCS Partnership voted to dissolve as a 501(c)3 and transition to program of ILG.
  - The former CCS Board of Directors will continue to meet twice a year as a leadership council. The first meeting will take place this spring.
- **Summer Meal Coalition**
  - At the November 2014 meeting, the ILG Board of Directors voted to add the California Summer Meal Coalition as a program of ILG.
  - The Coalition has a National League of Cities CHAMPS grant to conduct technical assistance in three jurisdictions across the state.

### **Public Engagement:**

- The main focus of the Public Engagement Program this year is to reflect upon and evaluate the Program's efforts to date and plan for the future.
- Program staff will also survey local officials to understand their needs related to Immigration Executive Action (federal level) and new state laws (AB 60).
- A major component of 2015 work will be seeking funds to bolster the program and ensure it is sustained in coming years.

### **Sustainable Communities:**

- **Beacon Program**
  - Currently 67 cities and counties participate in the Beacon Program, representing more than 25% of the state's population.
  - A major focus of this year's work will include educating and enlisting Beacon champions to assist in recruiting new participants.
  - Additionally, staff will expand efforts for participant support and recognition.

- Healthy California, Neighborhoods Program
  - A main component of this work funded by The California Endowment will include 2-3 “catalyst projects” in local communities to support local efforts to implement sustainability plans or practices that improve health outcomes and share the lessons with a broad audience of local officials and staff.
    - The first of these projects is with the City of Merced. ILG is assisting the city to increase public participation and community knowledge regarding the city’s implementation program for its climate action plan, with a particular focus on energy efficiency, health and economic development. The first of three public workshop was held December 4<sup>th</sup>. Upcoming workshops are tentatively planned to take place in March and June.
  - Another key component of this work will be organizing a symposium on Cap and Trade funding at the Green California Summit in Sacramento in April, and launching a Cap and Trade funding resource center to provide current information on funding opportunities and processes for local governments.
  - Lastly, ILG will create and/or provide resources to local policy champions and community leaders that can used to capitalize on current and emerging opportunities to integrate health outcomes into local and regional initiatives related to land use, planning, community development and sustainability.
- CalRecycle
  - ILG will be launching a Recycling Resource Center this spring focused on financing and siting recycling infrastructure projects.
  - Webinars, case stories and whitepapers will be completed early this year focusing on permitting, anaerobic digestion, CEQA guidelines and land use facility siting.

## New Resources

- *Community Leadership Programs: Empowering Future Leaders* – includes tips on leaderships programs can help your community and how to find programs in your area ([www.ca-ilg.org/post/community-leadership-programs](http://www.ca-ilg.org/post/community-leadership-programs)).
- *Digital Public Engagement: City of Salinas \$500 Budget Challenge* provides an overview of the \$500 Budget Challenge used by Salinas to gather public input on budget priorities ([www.ca-ilg.org/public-engagement-case-story/digital-public-engagement-city-salinas-500-budget-challenge](http://www.ca-ilg.org/public-engagement-case-story/digital-public-engagement-city-salinas-500-budget-challenge)).
- *City of Turlock District Elections* discusses the community engagement process that Turlock underwent to educate their residents on the potential transition to district elections ([www.ca-ilg.org/public-engagement-case-story/city-turlock-district-elections](http://www.ca-ilg.org/public-engagement-case-story/city-turlock-district-elections)).
- *Portugese American Citizenship Project, Turlock California* discusses the outreach conducted by the Portugese American Citizenship Project to encourage voter registration and voting in their community ([www.ca-ilg.org/public-engagement-newsletter/portugese-american-citizenship-project-turlock-california](http://www.ca-ilg.org/public-engagement-newsletter/portugese-american-citizenship-project-turlock-california)).
- *Engagement Leads to Greater Trust for Town of Paradise* provides an overview of the technical assistance work conducted by ILG to assist the town in gauging resident preferences around four priority budget areas: fire suppression, police, road maintenance

and animal control ([www.ca-ilg.org/public-engagement-case-stories/engagement-leads-greater-trust-town-paradise](http://www.ca-ilg.org/public-engagement-case-stories/engagement-leads-greater-trust-town-paradise)).

- *Partnerships Pave the Way for Expansion in Oroville* outlines how the City of Oroville is working with the Federal Aviation Administration and Graphic Packaging International (GPII) on a potential expansion of the GPII facility ([www.ca-ilg.org/sustainability-case-story/partnerships-pave-way-expansion-oroville](http://www.ca-ilg.org/sustainability-case-story/partnerships-pave-way-expansion-oroville))
- *Webinar – The Future of Recycling Programs: Sustainable Funding Sources* focused on the traditional and innovative ways that cities and counties across the state are funding solid waste and recycling programs ([www.ca-ilg.org/webinar/future-recycling-programs-sustainable-funding-sources](http://www.ca-ilg.org/webinar/future-recycling-programs-sustainable-funding-sources)).

## **Boards of Directors**

- The ILG Board will meet next on February 27<sup>th</sup> in Sacramento. Agenda topics will include: a briefing on cap and trade and its implications for local governments, program overviews and ILG's 2015 budget.
- In October of 2015 the CCS Partnership voted to dissolve as a 501(c)3 and transition to program of ILG. Their Leadership Council (formerly their Board of Directors) will be meeting later this month to discuss the transition and turning their bylaws into policies.



# County Counsels' Association of California

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## BOARD OF DIRECTORS

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*Jennifer B. Henning*

## MEMORANDUM

**To:** Supervisor Vito Chiesa, President, and  
Members of the CSAC Executive Committee

**From:** Jennifer Henning, Litigation Coordinator

**Date:** February 19, 2015

**Re:** Litigation Coordination Program Update

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This memorandum will provide you with information on the Litigation Coordination Program's new case activities since September 4, 2014.

### ***Armato v. City of Manhattan Beach***

Unpublished Opinion of the Second Appellate District, 2014  
Cal.App.Unpub.LEXIS 7760 (2d Dist. Oct. 29, 2014)(B252338), *request for publication denied* (Dec. 17, 2014)

Plaintiffs brought this administrative mandamus action challenging the city's approval of a development permit for a single family residence near plaintiffs' home. They alleged that private meetings between the developer and a member of the city council, and that member's subsequent support of the project, evidenced an unlawful bias in favor of the project. Plaintiff's noticed two deposition on the issue, but the trial court granted the city's motion to quash the deposition notices and imposed sanctions. The Court of Appeal affirmed in an unpublished opinion, noting that administrative mandamus proceedings are limited to the evidence in the administrative record unless there is a showing that "discovery is reasonably calculated to lead to relevant evidence that could not reasonably have been produced at the administrative hearing." As to the suggestion of alleged bias here, the court noted that an elected official meeting with a project proponent is a normal part of the political process, not a suggestion of bias. It was therefore reasonable for the trial court to conclude that the depositions were not reasonably calculated to obtain relevant evidence. CSAC's publication request was denied.

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

Pending in the Second District Court of Appeal (filed July 29, 2014)(B257890)

This case involves five police recruit trainees who were placed on light-duty after sustaining minor injuries in training. Instead of staying in these light-duty assignments temporarily, they stayed for months; one recruit was there for more than a year. When asked, the recruits all said they were not ready to return to the academy, so the LAPD terminated their employment, but invited them to

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re-apply when their injuries healed. Instead, the recruits sued the city for disability discrimination. A jury awarded the recruits total damages of over \$12 million, which included their projected *lifetime* income at the LAPD, police pensions and benefits. Subsequently, the trial court awarded plaintiffs \$1.6 million in attorney fees, including a 2.0 multiplier. The city has appealed, arguing that since police recruits are conditional employees, these recruits could be terminated for failing to meet the conditions of their employment (i.e., completing their training). CSAC will file a brief in support of the City of Los Angeles.

***Center for Biological Diversity v. Dept of Fish and Game (Newhall Ranch)***

Previously published at: 224 Cal.App.4th 1105 (2d Dist. March 20, 2014)(B245131), *petition for review granted* (July 9, 2014)(S217763)

This case involves the development of 12,000 acres into a substantial new mixed used development. The trial court granted a mandate petition filed by conservation groups opposing the project. But the Second District reversed, holding: (1) That using a “trap and transfer” method of protecting endangered species is not an unlawful “take” under the California Endangered Species Act (CESA); (2) Judicial review in a CEQA case is limited to those issues raised to the lead agency before the close of the public comment period on a draft EIR; and (3) The EIR, which set a threshold of significance based on whether the project would impede the State’s compliance with AB 32, was proper. The Air Resources Board has determined that meeting AB 32’s mandates requires a 29% reduction in emissions when compared to “business as usual.” The EIR found the project’s emissions to be 31% less than the “business as usual” scenario. The court found that lead agencies have discretion to make significance determinations, and that for this project use of “business as usual” was shown by substantial evidence to be a permissible threshold of significance for greenhouse gas (GHG) impacts. The California Supreme Court has granted review. CSAC has filed a brief in support of the State.

***City of Montebello v. Vasquez***

Previously published at: 226 Cal.App.4th 1084 (2d Dist. Apr. 30, 2014)(B245959), *petition for review granted* (Aug. 13, 2014)(S219052)

The City of Montebello brought this action under Government Code section 1090 against former city council members after they allegedly accepted money from a waste hauling services company while championing an exclusive city contract with the company. The trial court denied defendants special motion to strike the complaint under Code of Civil Procedure section 425.16, the anti-SLAPP statute. Defendants appealed, contending their motion should have been granted because their actions were protected activity. The Court of Appeal affirmed the trial court’s ruling. The court determined that the action of negotiating/voting on an exclusive city contract while accepting bribes for that contract is not protected activity, and thus not eligible for an anti-SLAPP motion. Specifically, the court found that the council members’ “acts of voting represented the commitment of their legislative power to the approval of a city contract, which did not implicate their own right to free speech nor convey any symbolic message....” The Supreme Court has granted review.

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***City of Palo Alto v. PERB***

To Be Filed in the Third Appellate District

In 2010, the city planned to place a measure before the voters that would repeal interest arbitration procedures in the City Charter for police and firefighter employees. The local union demanded to meet and confer with the city about the rule modifications. The City refused, claiming that interest arbitration was a permissive, not a mandatory, subject of bargaining, and the meet and confer obligations therefor did not apply. The union filed a charge with PERB, which held that the city failed to meet and consult in good faith under section 3507 by refusing to meet with the union. PERB found that the duty to consult under section 3507 is the same as the meet and confer duties under section 3505, and therefore while there is no requirement for employers to meet and confer regarding impasse procedures under section 3505, employers must meet and consult on these subjects under section 3507. CSAC will file a brief in support of the city.

***City of Pasadena v. Superior Court (Mercury Casualty Co.)***

228 Cal.App.4th 1228 (2d Dist. Aug. 14, 2014)(B254800), *petition for review denied* (Nov. 21, 2014)(S221455)

During a windstorm a residence was damaged by a tree owned by the City of Pasadena. The insurer of the residence, Mercury Casualty Company, paid benefits under the homeowner's insurance policy. Mercury then sued the city for inverse condemnation and nuisance based on the damages caused by the tree. The trial court denied the city's summary judgment motion. On appeal, the city argued that summary judgment should have been granted because the tree was not a public improvement, and Mercury failed to submit any evidence that the city was negligent. The Second District disagreed, concluding that the city's forestry program, of which the subject tree is a part, is a public improvement for the purposes of an inverse condemnation claim because it is a deliberate governmental action serving a public purpose, and that the city failed to meet its burden of showing it had fulfilled its duty of care with respect to the property. CSAC supported review and depublication, but both were denied.

***City of San Diego v. Shapiro***

228 Cal.App.4th 756 (4th Dist. Div. 1 Aug. 1, 2014)(D063997), *request for depublication denied* (Nov. 19, 2014)(S221365)

The City of San Diego adopted an ordinance authorizing the city to form a convention center facilities district to help finance the potential expansion of the San Diego Convention Center through the imposition of a special tax. Under the ordinance, only hotels would be subject to the special tax. The electorate for the required vote to adopt the tax was specifically defined to consist solely of (1) the owners of real property in the City on which a hotel is located, and (2) the lessees of real property owned by a governmental entity on which a hotel is located. The special tax was approved by a mailed-ballot to hotel owners and lessees. Following the election, the city filed this validation action, and the trial court validated the city's actions. But the Fourth District reversed, concluding that "the election was invalid under the California Constitution because such landowners and lessees are neither 'qualified electors' of the City for purposes of article XIII A, section 4...nor do they comprise a proper 'electorate' under article XIII C, section 2, subdivision (d)." CSAC's request for depublication was denied.

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***CREED-21 v. San Diego Assn of Governments***

231 Cal.App.4th 1056 (4th Dist. Div. 1 Nov. 24, 2014)(D063288), *petition for review pending* (filed Jan. 6, 2015)(S223603)

The San Diego Regional Association of Governments (SANDAG) was the first region in the State to adopt a regional planning blueprint under the guidelines of SB 375, which is intended to integrate transportation, housing and land use to create more sustainable communities. This case is a CEQA challenge to the plan, alleging a variety of deficiencies in the EIR, including that the EIR was required to be consistent with Executive Order S-03-05. That order, signed by Governor Schwarzenegger in 2005, sets targeted dates for progressive reductions in emissions. The Attorney General intervened to argue that the targets in the Executive Order are mandatory, not aspirational. The San Diego County Superior Court set aside the EIR, rejecting SANDAG's argument that EO S-03-05 only sets goals, not requirements. Instead, the court found that consistency with the Executive Order was required, even though SANDAG could show the plan would comply with the targets set by the Air Resources Board in AB 32 and SB 375. The Fourth District affirmed, concluding that the EIR had an obligation to consider the Executive Order's role in shaping state climate policy. CSAC and the League filed a brief with the court, but the Fourth District rejected all amicus briefs that were filed. CSAC is now supporting a petition for review at the Supreme Court.

***Golden State Water Co. v. Casitas Municipal Water Dist.***

Pending in the Second District Court of Appeal (filed Apr. 9, 2014)(B255408)

Plaintiff Golden State Water (GSW) is a private water company providing water to the City of Ojai. Defendant Casitas Municipal Water District would like to become the service provider for Ojai and acquire GSW's facilities through eminent domain. The Casitas Board established a Community Facilities District (CFD) under the Mello-Roos Act, and authorized the CFD to issue a special tax on the properties in the CFD. Casitas also authorized \$60 million in bonds to finance the acquisition of the water system, subject to voter approval. The bonds were proposed to be repaid with the new special tax from the CFD. After GSW filed this action, the voters approved the bonds, with 87% voting in favor. In this action, GSW argued that Mello-Roos can only be used for purchases, but not to finance a taking by eminent domain. The trial court ruled in favor of Casitas. The court noted that the Mello-Roos statute is silent on the subject of whether the financing can be used for eminent domain actions. But the court was persuaded that the acquisition of property – whether or not by a willing seller – could be funded by Mello-Roos. The court also found that the Mello-Roos statute's authorization to purchase "facilities" includes the intangible assets critical to the operation of the facility targeted for purchase. The case is now pending in the Court of Appeal. CSAC has filed a brief in support of the water district.

***In re A.A. (Sacramento County Department of Health and Human Services v. J.A.)***

Previously published at: 226 Cal.App.4th 1450 (3d Dist. June 16, 2014)(C074264), *petition for review granted* (Sept. 10, 2014)(S220187)

This case involves two children who were declared dependents of the juvenile court. Neither of the children's parents is a member of an Indian tribe. Because the



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Cherokee Nation indicated that the children could be eligible for membership, the juvenile court directed the Sacramento County Department of Health and Human Services (DHHS) to make active efforts to secure membership for the children pursuant to Rules of Court 5.482(c) and 5.484(c)(2); and the court also ordered application of the substantive provisions of the Indian Child Welfare Act (ICWA). On appeal, DHHS contended that the Judicial Council exceeded its authority in adopting court rules that expand the definition of "Indian Child" beyond the federal and state statutory definition. The Third Appellate District agreed, holding that the rules of court requiring counties to make "active efforts" to enroll eligible children as members of Indian tribes are inconsistent with state and federal law. The Supreme Court has granted review. CSAC will file a brief in support of Sacramento County.

***In re Isaiah W. (Los Angeles County Dept of Children and Family Services v. Ashlee R.)***  
Previously published at: 228 Cal.App.4th 981 (2d Dist. Aug. 8, 2014)(B250231), *petition for review granted* (Oct. 29, 2014)(S221263)

Minor was removed from his mother's care at birth. At the detention hearing, mother informed the court that she may have Indian heritage. The Los Angeles Department of Children and Family Services conducted an investigation, and based on the results, the juvenile court concluded that there was no reason to know that the minor was an Indian child as defined by the Indian Child Welfare Act (ICWA). The parents did not object or argue that the ICWA was applicable. Ultimately, the court terminated parental rights. At that hearing, the court again concluded that that minor was not an Indian child, and the parents again did not object to the finding. Mother appealed the termination of parental rights, arguing for the first time on appeal that the juvenile court erred in finding that it had no reason to know minor was an Indian child. The Court of Appeal concluded that the mother was foreclosed from challenging the ICWA determination because she failed to timely appeal from the ICWA finding in the juvenile court's dispositional order. Based on a split of authority in the Courts of Appeal on this issue, the California Supreme Court granted review. CSAC will file a brief in support of Los Angeles County.

***In re Transient Occupancy Cases (City of San Diego v. Priceline.Com)***

Previously published at: 225 Cal.App.4th 56 (2d Dist. Mar. 5, 2014)(B243800), *petition for review granted* (July 30, 2014)(S218400)

This decision, involving the City of San Diego, is another in a round of consolidated cases in which local governments are attempting to impose Transient Occupancy Taxes (TOTs) on online travel companies, such as Hotwire and Priceline. In the cases, cities allege that online travel companies (OTCs) owe TOT on the difference between what the OTCs are paying the hotels for rooms and the amount they are collecting from their customers. A hearing officer concluded that the OTCs were responsible under the ordinance for paying the TOT. The superior court granted the OTCs' writ, finding that the TOT ordinance levies the tax on the amount "charged by the operator," not that paid by the customer. It granted the OTCs' writ and reversed the hearing officer. The Second District affirmed, finding that under the plain language of the ordinance, the OTCs were not responsible for the TOTs. The court found that the tax is imposed on the rent charged by the operator or managing agent, and that the OTCs are not operators or managing agents under the tax ordinance. The Supreme Court has granted review to the following issue:

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When a customer books a hotel room through an online travel company, should the occupancy tax levied on the rent charged by the hotel be calculated based on the retail rate paid by the customer to obtain the right to use the room or on the wholesale amount that the hotel receives from the online travel company after that company has deducted its markup and fees? CSAC will file a brief in support of the cities.

***Mono County v. Superior Court (Luman)***

Pending in the Third Appellate District (filed May 19, 2014)(C076497)

Luman was employed for 15 years as a mechanic in the county's roads division. He was terminated in accordance with the county's Zero-Tolerance Policy for fighting and threats of physical violence in the workplace after he made threats of physical violence and had a physical altercation with his supervisor. His termination was upheld by the county's personal appeals board. The trial court, however, reinstated Luman. The court acknowledged that Luman had made threats of physical violence and misleading statements about the altercation, but concluded that the penalty was grossly excessive given Luman's long tenure with no record of discipline. Mono County has appealed, and CSAC will file a brief in support.

***Olive Lane Industrial Park, LLC v. County of San Diego***

227 Cal.App.4th 1480 (4th Dist. Div. 1 July 18, 2014)(D063337), *request for depublication denied* (Nov. 12, 2014)(S221205)

Olive Lane Industrial Park, LLC owned real property that was taken by eminent domain. Three years later, Olive Lane purchased replacement property. Five and one-half years after the property was condemned, Olive Lane requested that the base year value (which is used to calculate property tax) from the original property be transferred to the replacement property. The Assessor's Office denied the request because the relevant Revenue and Taxation Code statute and guidance from the State Board of Equalization provided that a base year value transfer must be made within four years of the final order of condemnation. Olive Lane appealed contending that the statute is unconstitutional. The Assessment Appeals Board and the trial court upheld the Assessor's denial. The Fourth District determined that the statutory language is reasonably amenable to an interpretation that permits prospective relief for base year value transfer claims filed after the four-year period. CSAC supported depublication, but the request was denied.

***Patel v. City of Los Angeles***

738 F.3d 1058 (9th Cir. Dec. 24, 2013)(08-56567), *petition for cert. granted* (Oct. 20, 2014)(13-1175)

Motel owners in Los Angeles challenged a local ordinance authorizing any police officer to conduct an on-site inspection of hotel guest records without a warrant. The searches were primarily used as a tool against the significant human trafficking problem present in the city. A divided Ninth Circuit Court of Appeal reversed, concluding that the city's ordinance was facially invalid under the Fourth Amendment because it authorizes inspection of records without providing for judicial review prior to imposing penalties. The dissenting judges found that Fourth Amendment challenges must be as-applied, rather than facial, or the court is merely issuing advisory opinions. The dissent also found that plaintiffs failed to establish that the hotel operators have, in every instance, a reasonable

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expectation of privacy in their guest registers. The United States Supreme Court has agreed to review the following issues: (1) Are facial challenges to ordinances and statutes permitted under the Fourth Amendment? and (2) Does a hotel have an expectation of privacy under the Fourth Amendment in a hotel guest registry where the guest-supplied information is mandated by law, and the ordinance authorizes the police to inspect the registry? If so, is the ordinance facially unconstitutional under the Fourth Amendment unless it expressly provides for pre-compliance judicial review before the police can inspect the registry? CSAC has filed a brief in support of the city.

***San Bernardino County Public Attorneys Association v. County of San Bernardino***

Pending in the Fourth District Court of Appeal, Second Division (filed July 3, 2014)(E061507)

For some years, San Bernardino County, which is a 37 Act retirement system county, had in place an ordinance providing that the county would pay (or “pick-up”) a portion of the employee contribution toward retirement benefits (in addition to paying the employer’s contribution). In April, the county, having failed to reach agreement on an MOU with the Public Attorneys Association, adopted a resolution imposing certain terms and conditions, including elimination of the county pick-up of the employee contribution toward retirement benefits. The Association then filed a writ petition, alleging that Government Code section 31631 (added by AB 340 (PEPRA)) only permits elimination of a county pick-up through a negotiated MOU, and may not be unilaterally imposed. The County argued in response that PEPRA did not change existing law allowing counties to impose elimination of the offset/pick-up of the employee contribution toward retirement post-impasse as part of its last, best and final offer. The superior court initially granted the petition for writ of mandate, but one week later it rescinded its order and requested supplemental briefing. On April 11, 2014, the superior court rejected the union’s interpretation of section 31631, and ruled the County may discontinue picking-up the member contributions of its employees. The union has appealed. CSAC will file a brief in support of the county.

***Sierra Club v. County of San Diego***

231 Cal.App.4th 1152 (4th Dist. Div. 1 Oct. 29, 2014)(D064243), *ordered published* (Nov. 24, 2014), *petition for review pending* (filed Jan. 5, 2015)(S223591)

In a case raising the same issues as the *CREED-21* case, the Fourth District has invalidated San Diego County’s Climate Action Plan (CAP). In relevant part, the court concluded that the EIR was required to comply with Executive Order S-3-05’s GHG reduction target. San Diego County is seeking Supreme Court review, and CSAC has filed a letter in support.

***Sierra Club v. County of Fresno***

Previously Published at: 226 Cal.App.4th 704 (5th Dist. May 27, 2014)(F066798), *petition for review granted* (Oct. 1, 2014)(S219783)

Sierra Club contested the County of Fresno’s decision to approve the development of a residential housing project arguing that the EIR failed to adequately address air quality impacts. The Fifth District concluded that: “(1) the EIR was inadequate because it failed to include an analysis that correlated the project’s emission of air pollutants to its impact on

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human health; (2) the mitigation measures for the project's long-term air quality impacts violate CEQA because they are vague, unenforceable and lack specific performance criteria; and (3) the statement that the air quality mitigation provisions will substantially reduce air quality impacts is unexplained and unsupported." The Supreme Court has granted review, making this the ninth CEQA case pending before the Court. CSAC filed a brief on the following issue: Does the substantial evidence standard of review apply to a court's review of whether an EIR provides *sufficient information* on a topic required by CEQA, or is this a question of law subject to independent review by the court?

***Smith v. Superior Court (City of San Jose)***

Previously published at: 225 Cal.App.4th 75 (6th Dist. Mar. 27, 2014)(H039498), *petition for review granted* (June 25, 2014)(S218066)

Plaintiff brought this action after city officials declined to disclose e-mails and texts about government business that were sent and/or received using the officials' private e-mail or text accounts, rather than accounts belonging to the government. The trial court rejected the city's argument that the e-mails and texts are not public records because they are not in the possession of the city, and also rejected the argument that the individuals from whom records were sought are not a "public agency" for purposes of the PRA. But on appeal, the Sixth District reversed, stating that it was "bound to interpret statutory language as written and avoid any encroachment on the province of the Legislature to declare public policy." The court also found that the PRA "does not require public access to communications between public officials using exclusively private cell phones or e-mail accounts." The Supreme Court has granted review, and will consider the following issue: Are written communications pertaining to city business, including email and text messages, which (a) are sent or received by public officials and employees on their private electronic devices using their private accounts, (b) are not stored on city servers, and (c) are not directly accessible by the city, "public records" within the meaning of the California Public Records Act? CSAC will file a brief in support of neither party focusing on the limits of obligation on a public agency to reasonably search for records on private devices.

***Wheatherford v. City of San Rafael***

Previously published at: 226 Cal.App.4th 460 (1st Dist. May 22, 2014)(A138949), *petition for review granted* (Sept. 10, 2014)(S219567)

Plaintiff challenged city vehicle impound policies and practices. She did not have a vehicle impounded by the city, but claimed to have standing to bring the challenge as a resident taxpayer, even though she paid no property tax in the jurisdiction. She argued instead that taxpayer standing was supported through her payment of sales tax, gasoline tax, and water and sewage fees in the city. The First District concluded that, consistent with existing appellate decisions, "payment of an assessed property tax is required in order for a party to have standing to pursue a taxpayer action." The court rejected plaintiff's contention that payment of any tax (sales, gasoline, etc.), conferred taxpayer standing. Further, the court rejected plaintiff's argument that any disparate treatment based upon wealth was subject to strict scrutiny under the equal protection clause. In applying the rational basis test, the court found a rational purpose in limiting taxpayer standing to persons who pay property tax. CSAC will file a brief in support of the city.

# 2015 CSAC Calendar of Events

## January

15 CSAC Executive Committee, Sacramento County

## February

19 CSAC Board of Directors Meeting, Sacramento County

*10:00am – 1:30pm, CSAC Conference Center, 1020 11<sup>th</sup> Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814*

21-25 NACo Legislative Conference, Washington, D.C.

## April

9 CSAC Executive Committee Meeting, Los Angeles County

15-17 CSAC Finance Corporation Meeting, Sonoma County

## May

27-28 CSAC Legislative Conference, Sacramento County

28 CSAC Board of Directors Meeting, Sacramento County

*12:00pm – 3:00pm, CSAC Conference Center, 1020 11<sup>th</sup> Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814*

## July

10-13 NACo Annual Conference, Mecklenburg County/Charlotte, North Carolina

## August

6 CSAC Executive Committee Meeting, Sacramento County

## September

3 CSAC Board of Directors Meeting, Sacramento County

*10:00am – 1:30pm, CSAC Conference Center, 1020 11<sup>th</sup> Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814*

## October

7-9 CSAC Executive Committee Retreat, Location TBD

## December

1-4 CSAC 121st Annual Meeting, Monterey, Monterey County

3 CSAC Board of Directors Meeting, Monterey, Monterey County

*2:00pm – 4:00pm, Monterey Conference Center, One Portola Plaza, Monterey, CA 93940*

16-18 CSAC Officers' Retreat, Napa County

As of 11/7/14