

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, June 3, 2010
12:00pm - 4:00pm
Regency B & C Room, Hyatt Hotel, Sacramento, CA

A G E N D A

Presiding: Tony Oliveira, President

12:00pm BUFFET LUNCH

12:30pm PROCEDURAL ITEMS

1. Roll Call Page 1

2. Approval of Minutes of March 25, 2010 Page 3

12:35pm SPECIAL PRESENTATIONS

3. Remarks by Candidates for NACo Second Vice President
- *Burrell Ellis, Chief Executive Ofcr., DeKalb County, Georgia*
 - *Joe Giles, Council Member, Erie County, Pennsylvania*
 - *Chris Rodgers, Commissioner, Douglas County, Nebraska*

4. Governor's May Revision of the 2010-11 State Budget
- *Representative from State Dept. of Finance*

1:30pm ACTION ITEMS

5. Consideration of NACo 2nd Vice President Endorsement
- *Paul McIntosh, CSAC Executive Director*

6. Consideration of Proposed CSAC Budget for FY 2010-11 Page 8
- *Supervisor Susan Cash, CSAC Treasurer*
 - *Paul McIntosh*

7. Consideration of Proposed Litigation Coordination Program
Budget for FY 2010-11 Page 12
- *Jennifer Henning, County Counsel Association Director*

8. Local Taxpayers, Public Safety & Transportation Protection Act of 2010 Page 19
- *Paul McIntosh*

9. CSAC Policy Committee Reports Page 46
Administration of Justice
- *Supervisor Federal Glover, Chair*
 - *Elizabeth Howard Espinosa, CSAC staff*

- Agriculture and Natural Resources Page 52
- *Supervisor John Vasquez, Chair*
 - *Karen Keene, CSAC staff*

- Government Finance and Operations Page 53
- *Supervisor Bruce Gibson, Chair*
 - *Jean Kinney Hurst & Eraina Ortega, CSAC staff*

- Health and Human Services Page 70
- *Supervisor Liz Kniss, Chair*
 - *Farrah McDaid-Ting, CSAC staff*

- Housing, Land Use and Transportation Page 71
- *Supervisor Paul Biane, Chair*
 - *DeAnn Baker, CSAC staff*

3:00pm INFORMATION ITEMS

10. Regulate, Control and Tax Cannabis Act of 2010 Briefing *Page 72*
▪ *Supervisor Mark Lovelace, Co-chair, CSAC Medical Marijuana Work Group*

11. State Budget/Legislative Report *Page 78*
▪ *Jim Wiltshire, CSAC staff*

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

CSAC Institute for Excellence in County Government	<i>Page 91</i>
Institute for Local Government (ILG) Update	<i>Page 97</i>
CSAC Finance Corporation Report	<i>Page 99</i>
CSAC Corporate Associates Report	<i>Page 100</i>
CSAC Litigation Coordination Program Update	<i>Page 102</i>

13. Other Items

4:00pm ADJOURN

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2010

<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	Bill Connelly
R	Calaveras County	Merita Callaway
R	Colusa County	Mark Marshall
U	Contra Costa County	Federal Glover
R	Del Norte County	David Finigan
R	El Dorado County	Norma Santiago
S	Fresno County	Henry Perea
R	Glenn County	John Viegas
R	Humboldt County	Mark Lovelace
S	Imperial County	Gary Wyatt
R	Inyo County	Susan Cash
S	Kern County	Jon McQuiston
R	Kings County	Richard Valle
R	Lake County	Anthony Farrington
R	Lassen County	Lloyd Keefer
U	Los Angeles County	Don Knabe
R	Madera County	Ronn Dominici
S	Marin County	Susan Adams
R	Mariposa County	Lyle Turpin
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jeff Bullock
R	Mono County	Duane "Hap" Hazard
S	Monterey County	Fernando Armenta
S	Napa County	Brad Wagenknecht
R	Nevada County	Ted Owens
U	Orange County	John Moorlach
S	Placer County	Jim Holmes
R	Plumas County	Sherrie Thrall
U	Riverside County	John Tavaglione

U	Sacramento County	Roger Dickinson
R	San Benito County	Reb Monaco
U	San Bernardino County	Paul Biane
U	San Diego County	Greg Cox
U	San Francisco City & County	Eric Mar
S	San Joaquin County	Larry Ruhstaller
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Richard Gordon
S	Santa Barbara County	Joni Gray
U	Santa Clara County	Liz Kniss
S	Santa Cruz County	Tony Campos
S	Shasta County	Glenn Hawes
R	Sierra County	Lee Adams
R	Siskiyou County	Jim Cook
S	Solano County	Mike Reagan
S	Sonoma County	Valerie Brown
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Pflueger
S	Tulare County	Steve Worthley
R	Tuolumne County	Richard Pland
U	Ventura County	Kathy Long
S	Yolo County	Matt Rexroad
R	Yuba County	Roger Abe

President: Tony Oliveira, Kings
 First Vice President: John Tavaglione, Riverside
 Second Vice President: Mike McGowan, Yolo
 Immed. Past President: Gary Wyatt, Imperial

SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES
 BOARD OF DIRECTORS
 Thursday, March 25, 2010
 CSAC Conference Center, Sacramento

M I N U T E S

Presiding: Tony Oliveira, President

1. ROLL CALL

Alameda	Keith Carson	Placer	absent
Alpine	Terry Woodrow	Plumas	Sherrie Thrall
Amador	Louis Boitano	Riverside	absent
Butte	Bill Connelly	Sacramento	Roger Dickinson
Calaveras	Merita Callaway	San Benito	Reb Monaco
Colusa	Mark Marshall	San Bernardino	absent
Contra Costa	Federal Glover (audio)	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	Eric Mar (audio)
El Dorado	absent	San Joaquin	absent
Fresno	Henry Perea (audio)	San Luis Obispo	Bruce Gibson (audio)
Glenn	John Viegas (audio)	San Mateo	Richard Gordon
Humboldt	Mark Lovelace	Santa Barbara	Joni Gray
Imperial	Gary Wyatt	Santa Clara	Liz Kniss
Inyo	Susan Cash	Santa Cruz	Tony Campos (audio)
Kern	absent	Shasta	Glenn Hawes
Kings	Tony Oliveira	Sierra	Lee Adams
Lake	absent	Siskiyou	Jim Cook
Lassen	absent	Solano	Mike Reagan
Los Angeles	absent	Sonoma	Shirlee Zane
Madera	Ronn Dominici (audio)	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	Larry Munger
Mariposa	Lyle Turpin	Tehama	Robert Williams
Mendocino	Carre Brown (audio)	Trinity	Judy Pflueger
Merced	absent	Tulare	Steve Worthley
Modoc	Jeff Bullock	Tuolumne	Richard Pland (audio)
Mono	Duane "Hap" Hazard	Ventura	Kathy Long (audio)
Monterey	Fernando Armenta	Yolo	Matt Rexroad
Napa	Brad Wagenknecht	Yuba	Roger Abe
Nevada	Ted Owens	Advisors:	S. Muranishi/S. Woodside
Orange	John Moorlach		

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of November 19, 2009 were approved as previously mailed.

3. STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2010

Staff outlined the proposed Federal Legislative Priorities for 2010 as contained in the briefing materials. In consultation with CSAC's federal advocacy firm, Waterman & Associates, the following eight issues were identified for immediate advocacy:

- o New Authorization of the Nation's Surface Transportation Law (SAFETEA-LU)
- o Health Care Reform
- o State Criminal Alien Assistance Program (SCAAP)
- o Climate Change – renewable energy
- o Native American Affairs
- o Temporary Assistance for Needy Families (TANF) Reauthorization
- o Clean Water Act
- o Extension of ARRA/Support for Federal Jobs Package

It was noted that white papers have been developed on each of the above issues. They are currently available on the CSAC web site.

In addition, CSAC staff will provide internal monitoring of other key federal issues of interest to California counties. For 2010, the proposed topics are:

- o Fuels Management
- o Community Development Block Grant (CDBG)
- o Telecommunications Reform
- o Foster Care Reform
- o Homeland Security
- o Byrne Grant Funding
- o Immigration Reform
- o Cooperative Endangered Species Conservation Fund
- o County Payments/Secure Rural Schools (SRS) Program
- o 2-1-1 Statewide

Staff was directed to add the issue of water to the internal monitoring list. Specifically, staff will monitor federal water legislation to ensure it is consistent with CSAC water policy.

In regards to the Fuels Management issue, staff was directed to put pressure on the federal government to clear their own land and not just focus on clearing private land near homes. Further, staff was directed to expand the scope of the Native American Affairs section to include other facilities besides casinos such as gas stations and landfills.

Supervisor Cox provided a status report on the current federal 2-1-1 Statewide legislation (HR 211) and urged CSAC Board members to contact the California Congressional delegation in support of the bill.

Staff reviewed the proposed State Legislative Priorities for 2010 as contained in the briefing materials. They are as follows:

- o Protect the Health and Safety of all Californians
- o Seek Budget Solutions that Address the Structural Deficit
- o Promote Programs and Services that Stimulate the Economy and Protect Jobs
- o Engage in Long-Term Reform Conversations

Staff reported that CSAC co-hosted a Williamson Act Summit in Fresno yesterday that focused on county concerns about the permanent loss of the program and its potential negative impact on the state's economy. CSAC will move forward in partnership with the various stakeholders in a strong advocacy campaign on this issue.

Motion and second to adopt CSAC State and Federal priorities for 2010 as amended to include internal monitoring of federal water legislation. Motion carried unanimously.

4. JUNE 2010 BALLOT INITIATIVE: PROPOSITION 16

Proposition 16 would enact a constitutional amendment requiring a two-thirds voter approval by any community prior to spending or borrowing money to set up, implement or expand local energy programs, or to create a Community Choice Aggregation program.

Brian Jensen of Pacific Gas & Electric Company spoke in favor of the initiative. Paul Fenn of Local Power Inc. spoke against it. Both the CSAC Agriculture & Natural Resources policy committee and the Executive Committee recommended an "oppose" position on this measure, primarily because it would seek to limit local government's ability to expand local energy programs.

Motion and second to Oppose Proposition 16. Motion carried.

Note: The motion was passed on a voice vote with approximately 40 in favor and 6 opposed.

5. CSAC ADMINISTRATION OF JUSTICE POLICY COMMITTEE REPORT

The CSAC Administration of Justice policy committee met on March 17 to discuss several issues. One item was brought forward to the Board of Directors for consideration. The policy committee is recommending that CSAC approve the pursuit of a joint legislative effort with the Judicial Council/Administrative Office of the Courts (AOC) to enhance efforts to collect court-ordered debt. Improving the collection of court-ordered debt has been a shared commitment of the courts and counties. Counties share the position that an appropriately aggressive and successful collection effort yields important proceeds for both courts and counties. There is currently substantial interest in court-ordered debt programs on the part of the Administration and Legislature.

Drawing from ideas and input of court and county collections professionals, the AOC and CSAC have identified the following five key elements for a potential legislative proposal in 2010:

- Strengthen existing authority and responsibility for a comprehensive collection program of delinquent court-ordered debt.
- Develop and implement an amnesty program.
- Clarify authority related to discharge of accountability.
- Pursue intercept proposal on unclaimed property in cooperation with State Controller's office.
- Clarify authority for enforcing court-ordered debt beyond the 10-year period applicable to civil judgments.

These elements will seek to accomplish the following: improved collections and enhanced revenue recovery; more accurate profile of collectible debt; expanded tools and strategies to maximize courts' and counties' enhanced collections programs; and greater compliance with court orders statewide.

Specifically, the policy committee recommendation is as follows: authorize staff to pursue a joint legislative package with the Judicial Council on strategies to improve the collection of court-ordered debt; solicit input from appropriate county stakeholders including, but not limited to, the auditor-controllers and the county revenue recovery offices; and provide an update on the progress of this effort at the June policy committee meeting.

Motion and second to approve policy committee recommendation as outlined above.
Motion carried unanimously.

6. STATE BUDGET AND LEGISLATIVE UPDATE

Following direction from the Board of Directors in November, staff has been working to develop specific responses to the 2010-11 state budget. These include:

- Avoid new mandates/repeal suspended mandates/suspend pipeline mandates.
- Consider options to mitigate corrections cost shifts.
- Eliminate program growth and funding restoration.
- Maximize federal funds.
- Improve the state-county partnership.
- Preserve programs that prevent costs in the other systems.
- Consider new revenues and modernize the state's tax structure.
- Seek broad government reforms.
- Support county efforts to reduce and contain pension costs.

Details on these items were included in the briefing materials, as well as a chart outlining county impacts of the Governor's proposed budget.

Staff reviewed the current CSAC Pension Reform Guiding Principles and indicated that they will be brought back to the Government Finance & Operations policy committee in June for review and possible amendments in light of the Governor's proposal on pension reform as well as ballot initiatives currently in circulation.

Staff provided a report on California's Section 1115 Medicaid Waiver which will expire on August 31. This federal legislation provides the Secretary of Health and Human Services broad authority to authorize experimental, pilot, or demonstration projects likely to assist in promoting the objectives of the Medicaid statute. Stakeholder groups have been working to develop proposals for California's next waiver.

7. CALIFORNIA COMPLETE COUNT COMMITTEE: UPDATE ON 2010 CENSUS

Staff reported that the California Complete County Committee, appointed by the Governor and including Paul McIntosh, announced the availability of \$1 million to fund County Complete Count Committees in the 13 counties with the highest percentages of the hard to count population. The counties identified are: Los Angeles, San Diego, Orange, San Bernardino, Riverside, Alameda, Santa Clara, Sacramento, Fresno, San Francisco, Kern, Contra Costa and San Joaquin. Those funds were allocated in early 2010. Beginning March 15, census forms will be mailed to all Californians. A statewide event is planned for March 20 and most of the hard to count counties will hold local events in conjunction with the statewide event.

8. CSAC REFORM TASK FORCE REPORT

The CSAC Reform Task Force, chaired by Supervisor Kathy Long, held its first meeting on February 17. The primary purpose of the committee was to discuss reform proposals sponsored by *California Forward*, Repair California (Bay Area Council), and the League of California Cities, and look at the county impacts of each of the proposals.

The task force is recommending that CSAC oppose the League of Cities' initiative. CSAC policy committees will consider the measure prior to the June Board meeting and the full Board of Directors will adopt a formal position on June 3.

Staff announced that both California Forward and Repair California dropped their efforts to qualify measures for the November ballot due to lack of funding. However, many of the California Forward proposals are now contained in two legislative measures – SCA 19 and ACA 4. Staff distributed a summary of these measures.

9. MEDICAL MARIJUANA WORKING GROUP UPDATE

The CSAC Medical Marijuana Working Group, appointed by President Oliveira and co-chaired by Supervisors Mark Lovelace and Susan Adams, held its first meeting on February 24. The scope of the working group is to look at legal, social, public safety, public health, and environmental impacts of the medical marijuana issue. The goal is to provide information about county responsibilities in the regulation of medical marijuana and the location of medical marijuana dispensaries. CSAC will not be developing policy in this area. The counties of Marin, Humboldt, San Francisco, Los Angeles, Sacramento, Tehama, Trinity, Mendocino, Sierra and Calaveras participated in the first meeting. The working group will be developing a series of white papers addressing a variety of issues that counties are faced with when attempting to regulate medical marijuana. The group will also assist in developing model ordinances that can be used locally.

10. CSAC COMMUNICATIONS PLAN UPDATE

CSAC recently developed some new communication tools in the ongoing effort to enhance communications with members, the media, the Legislature and the public. The CSAC Blog "The County Voice" is available via the CSAC web site. McIntosh demonstrated how to access the blog and outlined what is currently posted. CSAC has also begun providing audio summaries of key budget issues. Those summaries are available on the web site. Key messages are also being communicated through Facebook and Twitter. A new electronic publication will be available this spring that incorporates information currently contained in various e-publications such as the Legislative Bulletin and Around Our Counties, into one document. This new publication will be distributed on a weekly basis throughout the year. Links to all of these new tools can be found on the CSAC's web site's home page at www.csac.counties.org.

Staff announced that National County Government week is April 19 – 23. The California State Assembly will be presenting CSAC with a resolution in recognition of County Government week on April 22.

11. OTHER ITEMS

Reports on the CSAC Institute for Excellence in County Government, Institute for Local Government, CSAC Finance Corporation, Corporate Associates, and Litigation Coordination program were contained in the briefing materials for information only.

Meeting adjourned.



June 3, 2010

To: Members, CSAC Board of Directors

From: Susan Cash, CSAC Treasurer
Paul McIntosh, Executive Director

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

As Treasurer of CSAC, it is my pleasure to present the proposed budget for the 2010-11 fiscal year. In conjunction with the Executive Director and Controller, the attached revenue and spending plan for the upcoming year is hereby submitted for your approval.

The budget for the next fiscal year reflects the impacts of the economic downturn nationwide and in California. Not unlike budgets at the county level, CSAC is facing significant fiscal challenges and this budget proposes reductions/savings in nearly all aspects of CSAC's programs. This budget does however continue to support the programs necessary for our members. We are confident that the CSAC staff will maintain programs and expertly represent our interests in Sacramento and Washington D.C.

Overall revenues are anticipated to drop by 10% (or \$857,000). Expenditures are proposed to be reduced by 6% (or \$516,000). The remaining loss of revenues is covered with savings achieved in the current year derived primarily from salary savings.

Revenue Highlights include the fact that there is no dues increase for the second year in a row. The financial contribution from the Finance Corporation has dropped 17% or nearly \$600,000. This is primarily attributable to reduced demand for housing bonds in the dramatically depressed housing market. Interest earnings on cash have decreased. Tenant vacancies are anticipated in the Ransohoff commercial property.

As a result of declining revenues, adjustments have been made to expenditures within the budget that reflect the reduction of 2 staff positions and consolidation of functions. These reductions have been made with a priority of protecting CSAC's core mission and efforts related to that. A review of communications material and media has enabled the elimination of the publishing of a bi-monthly magazine. There have also been significant reductions in reliance on outside contracts.

The CSAC Executive Committee approved the spending plan as submitted at their meeting of April 22 with the caveat that no funds appropriated would be used to provide any adjustments to the salary of CSAC staff until the Executive Committee further discusses the issue at their annual retreat in October. An adjustment to compensation usually occurs on a calendar year basis so this caveat does not interrupt operations. The Board of Directors should note, though, that CSAC staff did not receive a cost of living adjustment (COLA) in the current year, nor is one provided for in this spending plan. The spending plan does include \$110,650 for step increases within established salary ranges, depending upon job performance. These are the funds held in abeyance until the Executive Committee Retreat.

As you review the attached material in preparation for the Board of Director's meeting, I hope that you will feel free to contact me or the CSAC staff if you have any questions or concerns.

Attachments

**FY 10-11
Proposed Budget**

	Budget FY 09-10	Projected FY 09-10	Budget FY 10-11
Revenues:			
Membership Dues	2,799,506	2,799,506	2,799,506
Finance Corp Participation	3,596,339	3,596,339	3,000,000
Rental and Parking Income	1,012,101	980,419	938,922
Administrative Miscellaneous	637,600	625,923	484,100
CSAC Conferences	534,000	500,658	502,000
Outside Contracts	125,000	125,000	125,000
Corporate Associates	90,000	78,000	78,000
CSAC Institute	55,000	59,940	65,000
Total Revenues	8,849,546	8,765,785	7,992,528
Expenditures:			
Salaries/Benefits	4,602,005	4,350,517	4,415,512
Staff Outreach	147,000	138,460	145,000
Leadership Outreach	100,000	95,469	100,000
NACo Meetings & Travel	100,000	103,176	80,000
Public Affairs/Communications	238,000	202,421	80,000
CSAC Conferences	771,598	611,942	729,287
Facilities	1,069,500	1,089,221	1,070,850
Operations	985,116	1,013,409	1,001,606
Outside Contracts	435,000	422,742	325,000
Corporate Associates	157,826	145,443	156,299
CSAC Institute	243,500	226,087	229,300
Total Expenditures	8,849,546	8,398,887	8,332,854
PROFIT/(LOSS)		366,898	-340,327

ACCOUNT EXPLANATIONS -
BUDGET YEAR 10-11

10/11 Budget

ACCT#	EXPLANATION
	INCOME:
	MEMBERSHIP DUES
	ANNUAL DUES FROM COUNTIES. NO INCREASE SCHEDULED THIS YEAR, FOR THE 3RD YEAR IN A ROW.
	FINANCE CORP PARTICIPATION
	CSAC FINANCE CORPORATION CONTRIBUTIONS TO CSAC CSAC MAY BRING OVER ALL FINANCE CORP FUNDS IN EXCESS OF THE REQUIRED RESERVE OF 50% OF THEIR OPERATING EXPENSE.
	RENTAL & PARKING INCOME
	RENTAL INCOME FOR 1100 K STREET AND 1029 K STREET ANTICIPATED 10% VACANCY RATE. ALSO INCLUDES 53 PARKING SPACES FOR STAFF AND TO RENT, AND RENTAL FEES FOR CSAC CONFERENCE CENTER
	ADMINISTRATIVE MISCELLANEOUS
	1) ADMINISTRATION FEES COLLECTED FROM CSAC AFFILIATES FOR PAYROLL AND BENEFIT SERVICES. 2) 15% OF TOTAL DUES COLLECTED FOR SB90
	3) SALES FOR CSAC ROSTERS & LEGISLATIVE BULLETIN 4) PRINTING AND COPYING REVENUE GENERATED FROM THE CSAC PRINT SHOP 5) INTEREST INCOME FROM CHECKING ACCTS AND CAL TRUSTS ACCOUNTS REDUCTION IN PROJECTED AND BUDGET YR DUE TO A DECLINE IN INTEREST RATES. 6) CONTRACT FOR COMPUTER SERVICES WITH LA COUNTY 7) SALE OF DATABASE MAILING LIST, LABELS, SOFT DRINK COMMISSIONS AND FEES FROM JOB ADVERTISING ON CSAC WEBSITE
10	CSAC CONFERENCES
	REGISTRATION FEES FOR CSAC ANNUAL CONFERENCE AND LEGISLATIVE CONFERENCE. CORPORATE SPONSORSHIPS FOR CONFERENCES AND EXHIBITOR REGISTRATIONS.
	OUTSIDE CONTRACTS
	CEAC CONTRACT.
	CORPORATE ASSOCIATES
	CORPORATE ASSOCIATES MEMBERSHIP DUES AND SPONSOR REVENUES FOR MISCELLANEOUS EVENTS.
	CSAC INSTITUTE
	REGISTRATION REVENUE.
	EXPENSES:
	SALARIES/BENEFITS
	1) SALARIES ASSUMES A 2.5 0% MERIT INCREASE IN JANUARY '11. 2) RETIREMENT CURRENTLY AVERAGING 34% OF SALARIES 3) BENEFITS TO INCLUDE HEALTH, DENTAL, VISION EAP, LIFE AND WORKERS COMP. 4) PAYROLL TAX 5) AUTO ALLOWANCE 6) ANNUAL EMPLOYEE WORKSHOP
	STAFF OUTREACH
	INCLUDES ALL IN AND OUT-OF-TOWN BUSINESS EXPENSES FOR LEGISLATIVE AND ADMINISTRATIVE STAFF, AWARDS, PLAQUES FOR MEMBERS AND OTHER MISC EXPENSES FOR EMPLOYEES
	LEADERSHIP OUTREACH
	ALL BUSINESS EXPENSES FOR CSAC BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND OFFICERS

ACCOUNT EXPLANATIONS -
BUDGET YEAR 10-11

ACCT#	EXPLANATION
NACO MEETINGS & TRAVEL	ALL COSTS ASSOCIATED FOR ALL LEGISLATIVE, ADMINISTRATIVE STAFF AND BOARD MEMBERS TO ATTEND NACO SUPPORTED EVENTS
PUBLIC AFFAIRS/COMMUNICATIONS	1) ALL COSTS ASSOCIATED WITH PRODUCING & DISTRIBUTING THE ROSTER 2) CHALLENGE AWARDS 3) LEGISLATIVE BULLETIN 4) WEB SITE 6) WRITTEN, AUDIO AND VIDEO COMMUNICATIONS
CSAC CONFERENCES	ALL COSTS ASSOCIATED WITH LEGISLATIVE AND ANNUAL CONFERENCE. ALSO INCLUDES MEETING PLANNER'S SALARY AND BENEFITS.
FACILITIES	ALL COSTS ASSOCIATED WITH THE MAINTENANCE OF 1100 K STREET AND 1029 K STREET COST'S INCLUDE REPAIRS, UTILITIES, PHONES, INSURANCE, JANITORIAL, DEBT SERVICE AND PROPERTY TAXES
OPERATIONS	ALL COSTS ASSOCIATED WITH OPERATIONS SUCH AS 1) CELL PHONES 2) MEMBERSHIP FEES 3) OFFICE SUPPLIES 4) POSTAGE/DELIVERY 5) R&M AND PURCHASES OF COMPUTERS AND EQUIPMENT 6) CPAs AND LEGAL CONSULTING 7) PROFESSIONAL SERVICES SUCH AS WATERMAN CONTRACT 8) COPIERS AND BUSINESS EQUIPMENT 9) CSAC'S RENT
OUTSIDE CONTRACTS	CEAC EXPENDITURES AND CONTRIBUTIONS TO CCSP AND ILG
CORPORATE ASSOCIATES	ALL COSTS ASSOCIATED WITH RUNNING CORPORATE ASSOCIATES PROGRAM INCLUDING SALARY AND BENEFITS FOR PROGRAM MANAGER.
CSAC INSTITUTE	ALL COSTS ASSOCIATED WITH RUNNING AND IMPLEMENTING THE CSAC INSTITUTE



County Counsels' Association of California

BOARD OF DIRECTORS

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Mono County

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Patrick K. Faulkner
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Steven M. Woodside
Sonoma County

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Jeanine B. Nadel
Mendocino County
2008-2010

Michael L. Rood
Imperial County
2008-2010

James N. Fincher
Merced County
2009-2011

Warren R. Jensen
San Luis Obispo
2009-2011

EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

**To: Supervisor Tony Oliveira, President, and
Members of the CSAC Board of Directors**

From: Jennifer Henning, Litigation Coordinator

Date: June 3, 2010

Re: 2010 – 2011 Litigation Coordination Budget

Recommended Action:

Adopt the 2010-2011 Litigation Coordination Program budget as proposed.

Reason for Recommendation:

The proposed budget includes a modest fee increase (2%), which amounts to a \$288 increase for the largest counties and \$3 increase for the smallest counties. With the modest increase, the budget remains balanced and can absorb expected increases in employee benefit costs, rent, and other costs associated with operating the Litigation Coordination Program.

Background:

The Litigation Coordination Program is an important service provided by CSAC to its members. The Program allows counties to save litigation costs by coordinating in multi-county cases, and by sharing information and resources. The Program also files *amicus curiae*, or “friend of the court,” briefs on CSAC’s behalf in State and federal appellate cases in order to advance the interests of all counties in the courts.

The Litigation Coordination Program is funded through a fee administered and collected directly by CSAC.¹ The fees are held in a separate fund and

¹ The County Counsels’ Association agreement with CSAC provides: “The Association shall submit a litigation program budget to the CSAC Board of Directors on or before April 1 of each year for the fiscal year commencing July 1 through June 30. The

used to pay for costs of the program, including 80% of Litigation Coordinator's salary, a portion of the County Counsels' Association's office space, and other expenses.

Last year, we made some adjustments to the Litigation Coordination Program budget based on a decision to leave a position on our staff vacant. Those changes included shifting a portion of the Information Technology Specialist's salary to the Association budget in order to take advantage of cost savings realized by the vacancy. The changes allowed us to eliminate a transfer to the Litigation budget from the Association reserves, maintain the current fee structure, and propose a budget with an estimated \$10,993 surplus.

This year, we anticipated some modest increases in Program expenses, including staff health benefits and office rent. In order for the Program to keep pace with cost increases, there is a proposed 2% increase in fees. The increase is quite modest, even for the largest counties. But it will allow the Program to keep ahead of cost increases without requiring additional transfers from reserves.

I am keenly aware that this is a universally difficult budget year throughout the State. However, in past budget years, this program has not received fee increases sufficient to keep up with the costs of running the program.² We have reduced staff by 25%, and gave no salary increases last year. In addition, the demands on the program continue to grow. If the program is not fully funded, we will have to make cuts in our services at a time when our ability to respond with sound legal advice and coordinated litigation if necessary is most critical.

Conclusion

The proposed 2010-2011 Litigation budget is a responsible budget intended to ensure the program services continue with as little impact on county revenues as possible. I remain dedicated to this Program and to providing the highest quality legal representation to CSAC in the courts. I appreciate your support of the

CSAC Board of Directors shall annually adopt a program budget and assess fees from its member counties consistent with the budget. Invoices shall be sent to the counties each year in time to allow inclusion of the fee in the counties' budget process."

² Since 2000 the Program's payroll-related expenses have increased 38.2% and its non-payroll expenses have increased 36.8%. During the same period, the dues have increased by only 10%.

Supervisor Tony Oliveira, President, and
Members of the CSAC Board of Directors
June 3, 2010
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Litigation Coordination Program, and ask that you recommend that you approve the proposed Fiscal Year 2010-2011 Litigation budget.

Attachments:

Proposed 2010-2011 Budget
Budget Comparison for Years 2009 to 2011
Proposed 2010-2011 Dues Schedule

CSAC/County Counsels' Association
LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2010-2011 BUDGET

Approved by Litigation Overview Committee on January 14, 2010
Adopted by County Counsels' Association Board of Directors on January 21, 2010
Approved by CSAC Executive Committee on April 22, 2010
Adopted by CSAC Board of Directors on _____, 2010

INCOME:

Membership Dues	285,098.00
TOTAL INCOME.....	285,098.00

EXPENSES:

Salaries	\$155,291.00
Retirement.....	47,276.00
Employee Group Insurance.....	31,943.00
Payroll Tax.....	3,149.00
CSAC Administrative Fees.....	5,905.00
Law Clerk	2,500.00
Staff Expense and Travel	1,100.00
Communications	950.00
On-Line Expense	2,400.00
Publications.....	1,000.00
Membership Fees.....	410.00
Office Supplies	600.00
Postage/Delivery	1,100.00
Printing - Commercial	150.00
Printing - In House.....	1,500.00
Leases - Property.....	27,917.00
TOTAL EXPENSES.....	283,191.00
Projected Revenue Over Expenses	1,907.00

LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2010-2011 BUDGET

LITIGATION COORDINATION PROGRAM
Budget Comparison (2009-2011)
 Prepared for Fiscal Year 2010-2011 Budget

	2008-09 Actual	2009-10 Budget	2009-10 Projected	2010-11 Budget
INCOME:				
Membership Dues	279,032.00	279,511.00	279,511.00	285,098.00
Misc. Income	10,000.00*	0.00	0.00	0.00
TOTAL INCOME:	289,032.00	279,511.00	279,511.00	285,098.00
EXPENSES:				
Salaries	166,925.88	147,896.00	147,896.00	155,291.00
Retirement	59,495.64	45,024.00	45,024.00	47,276.00
Employee Group Insurance	32,699.73	29,039.00	29,039.00	31,943.00
Staff Travel/ Training	762.17	900.00	846.00	1,100.00
Law Clerk	0.00	2,500.00	0.00	2,500.00
Communications	1,104.77	1,200.00	800.00	950.00
On-Line Expenses	1,934.00	2,100.00	2,100.00	2,400.00
Publications	1,228.22	700.00	985.00	1,000.00
Membership Fees	0.00	425.00	410.00	410.00
Office Supplies	153.00	600.00	536.00	600.00
Postage/Delivery	1,056.63	1,036.00	963.00	1,100.00
Printing- Commercial	96.85	150.00	100.00	150.00
Printing – In-House	1,061.40	1,500.00	1,259.00	1,500.00
Leases – Property	25,321.04	26,825.00	26,588.00	27,917.00
Payroll Tax	2,481.10	2,999.00	2,999.00	3,149.00
Admin Fees	6,282.58	5,624.00	5,624.00	5,905.00
TOTAL EXPENSES	300,603.01	268,518.00	265,169.00	283,191.00
Excess of Revenues Over/(Under) Expenditures	(11,571.01)	10,993.00	14,342.00	1,907.00

* Transferred from County Counsels' Association reserves

Proposed 2010 LITIGATION COORDINATION FEES
(Grouped by 2007 Department of Finance population figures.)

Approved by the Board of Directors of the County Counsels' Association on January 21, 2010.

Approved by the CSAC Executive Committee on April 22, 2010.

Approved by the CSAC Board of Directors on _____, 2010.

(9 counties 1,000,000 or over)

Los Angeles	\$14,720	(current 2009-2010 fee: \$14,432)
San Diego		
Orange		
Santa Clara		
San Bernardino		
Riverside		
Alameda		
Sacramento		
Contra Costa		

(7 counties 500,000 to 999,999)

Fresno	\$9,813	(current 2009-2010 fee: \$9,621)
San Francisco		
Ventura		
San Mateo		
Kern		
San Joaquin		
Stanislaus		

(11 counties 200,000 to 499,99)

Sonoma	\$4,907	(current 2009-2010 fee: \$4,811)
Santa Barbara		
Monterey		
Solano		
Tulare		
Santa Cruz		
Marin		
San Luis Obispo		
Placer		
Merced		
Butte		

(8 counties 100,000 to 199,999)		
Shasta	\$1,964	(current 2009-2010 fee: \$1,925)
Yolo		
El Dorado		
Imperial		
Humboldt		
Napa		
Kings		
Madera		
(8 counties 50,000 to 99,999)		
Nevada	\$981	(current 2009-2010 fee: \$962)
Mendocino		
Sutter		
Yuba		
Tehama		
Lake		
Tuolumne		
San Benito		
(12 counties 10,000 to 49,999)		
Siskiyou	\$491	(current 2009-2010 fee: \$481)
Calaveras		
Lassen		
Amador		
Del Norte		
Glenn		
Plumas		
Colusa		
Inyo		
Mariposa		
Trinity		
Mono		
(3 counties under 10,000)		
Sierra	\$166	(current 2009-2010 fee: \$163)
Alpine		
Modoc		



May 18, 2010

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TO: CSAC Administration of Justice Policy Committee
CSAC Government Finance and Operations Policy Committee
CSAC Health and Human Services Policy Committee
CSAC Housing, Land Use, and Transportation Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary Lamb, AOJ Committee
Jean Kinney Hurst and Geoffrey Neill, GFO Policy Committee
Kelly Brooks and Farrah McDaid Ting, HHS Policy Committee
DeAnn Baker and Kiana Buss, HLT Policy Committee

RE: **Recommended Position on the Local Taxpayers, Public Safety, and Transportation Protection Act of 2010 – ACTION ITEM**

Recommendation: Given the disparate potential impacts on broad array of county services that would likely result if the Local Taxpayers, Public Safety and Transportation Act were passed by the voters, CSAC staff recommends that the four policy committees assigned to review the initiative advance a **“neutral” position** to the CSAC Board of Directors.

Background

The League of California Cities, along with their partners — primarily the California Alliance for Jobs, which represents heavy construction companies and union workers — is working to qualify a ballot initiative for the November 2010 statewide ballot. On Thursday, April 30, the initiative sponsors submitted 1.1 million signatures to the Secretary of State, which all but assures its qualification.

The initiative would more thoroughly secure certain revenue streams that partly or completely flow to local agencies, mostly related to redevelopment, transportation, and transit. Specifically, the measure:

- Prohibits the suspension of Proposition 1A (2004).
- Prohibits property tax transfers to pay for new local mandates.
- Prohibits paying for new local mandates by reallocating 0.65 percent VLF rate.
- Specifies that all net revenues from state excise taxes on motor vehicle fuels, or any successor tax, be deposited in the Highway Users Tax Account (HUTA), which is declared a trust fund to be used solely for public transit infrastructure and for streets and roads costs.
- Requires 2/3 legislative vote to modify the allocation of HUTA from June 30, 2009 formulas.
- Prohibits borrowing, deferring, delaying, or otherwise inhibiting HUTA allocation to locals; for the Legislature to modify the formulas, the California Transportation Commission (CTC) must hold at least four public hearings, publish a report of the hearings, and wait 90 days.
- Limits HUTA use for bonds to 1/4 of state revenues for state bonds and 1/4 of revenues for local bonds.
- Restores traditional (pre-2001) Public Transportation Account (PTA) allocations and declares it a trust fund.
- Prohibits any allocation of Bradley-Burns sales tax to local transportation funds from being reduced below 2008 allocation percentage.

- Requires Proposition 42 sales tax on gas, or any successor tax (such as the new gas excise tax) to go quarterly to a Transportation Investment Fund, which is declared a trust fund, and allocates revenues according to formula; modifying formulas requires the same CTC process as described above for HUTA modifications.
- Protects redevelopment property taxes from state redirection.

This measure has its source in several recent legislative events. As the state's fiscal situation has continued to deteriorate, the Governor and Legislature have invented more ways to use local revenues to help solve their budget deficits, including, relevant to this measure, suspending the recently voter-approved Proposition 1A, proposing to eliminate the local share of HUTA, shifting transit money to the state's General Fund, shifting redevelopment money to the state's General Fund, and significantly and repeatedly delaying various payments to local agencies. Unsurprisingly, these actions have led to growing anger among local officials. They have also led to lawsuits challenging the legality of the redevelopment and transit shifts.

The initiative website lists over 600 organizations and individuals in support – ranging from local law enforcement to city governments and special districts, labor groups, chambers of commerce, councils of governments, and transportation agencies. At this time, the only known opponent is the California Professional Firefighters (CPF), which outlines as its primary concern that locking down state general funds would further constrain resources, likely to the detriment of local public safety. CPF also opposes constitutional locking in of redevelopment provisions.

In addition, the counties of San Bernardino and Stanislaus as well as at least one individual county supervisor have formally endorsed the initiative. Two other CSAC policy committees — Administration of Justice and Health & Human Services — voted to recommend an “oppose” position at their joint meeting on May 6, 2010.

Broad Effects

The possible benefits of this measure for cities, counties, and redevelopment agencies are clear: it would lock down several important revenue streams by eliminating the suspension provisions of Proposition 1A and providing stronger protection for a variety of transportation revenues for transit, state highways, and local streets and roads. Indeed, for cities, as municipal corporations, it would essentially divorce their finances completely from the vagaries of the state's fiscal fortunes, including the economic development funds they gather through the redevelopment tax increment.

As county officials are acutely aware, no other type of entity is as entwined with the state government as are county governments. As legal subdivisions of the state, counties are responsible for the general health and welfare of all California residents. Over time, counties have come to provide nearly all of the important state services on the state's behalf except for prisons and most education functions, making them the buffer between the state's decisions and their effect on residents. And in fact, recent decisions and proposals have even shifted, and would further shift, some prison responsibilities to counties.

In addition to these duties as the state's service providers, counties provide traditionally local services, including road maintenance, criminal prosecution, indigent defense, sheriff and probation services, libraries, parks, and planning and zoning.

Because counties provide so many services in partnership with the state, and because counties serve every California resident, they are almost always the entities most affected by budget proposals to reduce services, cut funding for state services, and shift responsibilities for state services elsewhere. These proposals usually involve either increased responsibility with no new revenue or a cut in funding with no corresponding decrease in responsibilities, and occasionally a proposal will crop up that both cuts funding and increases county responsibilities.

As noted above, the two major state services in which counties are not involved are education and prisons. Funding for K-14 education is protected by the California Constitution (Proposition 98). The state has cut funding for higher education dramatically in recent years, and tuition has commensurately skyrocketed leading to widespread, vocal outrage. Funding for state incarceration is largely outside of state control due in part to escalating sentencing requirements, gross overcrowding, and the commensurate staff requirements, and in part to several federal court requirements imposed on the adult and juvenile systems, including the medical receivership.

So, the state's budget options are already severely constrained, to say the least. If the proposed initiative qualifies for the ballot and passes, it will further limit the choices available to state decision-makers as they face the next several years of budget deficits.

When some areas are excluded from cuts, cuts in other areas must be that much deeper to achieve the same savings. In this case, the initiative would remove transportation and redevelopment, as well as property tax borrowing, from the budget equation, so the Legislature would have to either cut even more deeply in health, human services, public safety, and land conservation programs, for instance, or else raise taxes by that much more. And based on past experience, the Legislature would likely try to mitigate the deeper cuts as much as possible by making counties responsible for at least some of what was previously the state's responsibility.

This is not an argument in favor of the state cutting funding for transportation and redevelopment, but an acknowledgment that, to achieve a balanced budget, completely excluding them from consideration requires deeper cuts other places that would specifically affect counties' finances. Existing CSAC policy supports a balanced approach to solving the state budget problem, and this proposal is antithetical to that policy. The initiative would also prohibit the state from borrowing property taxes pursuant to Proposition 1A. The state did suspend Proposition 1A last year, and even in the midst of the worst borrowing environment yet seen, local agencies were able to securitize the debt and all participating local agencies experienced no actual change in revenue.

Supporting this measure makes a certain sense for cities and redevelopment agencies because it would, for all intents and purposes, utterly remove them from the state's budget debate. For counties though, supporting this measure would be stating that counties specifically and permanently prioritize transportation services and redevelopment funding over health services, human services, local public safety and jail services, and the myriad other programs that counties deliver on the state's behalf and, with dwindling discretionary funds, on their own.

Pros	Cons
<ul style="list-style-type: none"> - Strengthens protection of transportation and transit funding. - Strengthens protection of redevelopment funds. - Prohibits suspension of Prop. 1A. 	<ul style="list-style-type: none"> - Locking some areas of budget leads to deeper cuts elsewhere, program or responsibility shifts, or larger tax increases. - Deeper cuts and program shifts will almost certainly fall on counties. - Permanently prioritizes transportation and redevelopment over other government services.

CSAC Policy Review Process

At its February meeting, the CSAC Reform Task Force considered and discussed the initiative and recommended an “oppose” position, based on the “cons” outlined above. Subsequent to that recommendation, the CSAC Executive Committee referred the initiative to the following four policy committees for consideration and recommendation to the Board of Directors: Administration of Justice; Government Finance and Operations; Health and Human Services; and Housing, Land Use, and Transportation. All four policy committees will meet between early May and early June: the AOJ and HHS committees will consider the matter at a joint meeting on May 6, and the GFO and HLT committees at their separate meetings on June 2. The CSAC Board of Directors will consider the recommendations of the policy committees at its June 3 meeting.

This memo has been prepared jointly by the CSAC staff to each of the four policy committees noted above. It seemed appropriate to lay out the full range of impacts in a single memo so that each policy committee has the benefit of considering the entirety of implications across county programs and services.

Policy Implications by Subject Matter Area

For each policy area, we outline the likely impacts of the initiative, as well as other relevant considerations. We also have assigned an overall assessment of the impacts on each policy area: negative (↓), positive (↑), or a little of both (↔).

Administration of Justice

Overall Impact: ↓

In the justice area, local public safety entities’ reliance on state General Fund subventions has been significant. Counties and cities historically received approximately \$500 million in state General Fund subventions for a variety of local assistance programs, including the Citizens’ Option for Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA), other core probation functions, and booking fees, among others. Last February, the Legislature approved a new funding mechanism for these critical public safety programs by dedicating a portion of the Vehicle License Fee increase to a newly created Local Safety and Protection Account. This funding construct, absent future legislative action to either extend the VLF increase or to find a substitute revenue source, will lapse in July 2011. None of these resources would be protected under the initiative.

Given the state’s continued financial crisis, local public safety funding may be particularly vulnerable were the initiative to pass. With very limited budget options, the Governor or Legislature could see fit to redirect the VLF public safety increment to the state General

Fund or other program priorities, or they could simply let the authority for the increase to lapse. Any further compartmentalization of the state General Fund will put an additional squeeze on very limited discretionary dollars, making all program areas — including local public safety — subject to increased risk. At a time when the state corrections agency is experiencing pressures from many sources to reduce its costs and prison population, the threat of a significant influx of inmates into our communities is real. It is difficult to imagine how counties could be expected to cope with a wave of the formerly incarcerated without additional resources than are made available today; the prospect of potentially losing financial support for programs now funded through VLF (a declining revenue, as it turns out) because of restricted budgeting options is indeed alarming.

It also is important to recall that in 2008, the CSAC Board of Directors considered two ballot initiatives that would have, through very different approaches, also resulted in locked-up state General Fund resources. They were Proposition 5, a proposed expansion of drug treatment that built upon the framework of Proposition 36 of 2000, and Proposition 6, a public safety initiative that would have dedicated nearly \$1 billion annually in state general funds to new and existing public safety programs and services. For both Propositions 5 and 6, there would have been identifiable county benefits: expanded drug treatment and potential lessening of jail and prison costs over time for Proposition 5; and enhanced investment in local prevention, intervention, and enforcement activities for Proposition 6, which also could have resulted in lowered rates of recidivism and easing of jail population pressures. However, each also had similar offsetting effects to the extent that the initiatives would have locked in state General Fund expenditures for specified purposes, leaving even fewer discretionary resources to dedicate to other shared county-state priorities. For these reasons — both in terms of an overall approach to state budgeting and of potential reductions other county programs could suffer — the CSAC Board of Directors took an “oppose” position for both propositions. That same rationale could certainly apply to the initiative in question.

Government Finance and Operations

Overall Impact: ⇔

From a general government perspective, the initiative provides additional constitutional protections for local revenues that have been subject to state taking, borrowing, deferral, and outright elimination. For county budget managers, these protections would create some certainty in preparing for counties’ annual expenditures, as counties could rely on these revenues without fear of state interference.

At the same time, that concern would only be shifted to the remainder of the county budget, recognizing that the state, when faced with a fiscal crisis, would have fewer options with which to manage its budget problems. As outlined in this memo, there are a variety of means by which the state could act to reduce, eliminate, or shift its responsibilities for a variety of programs.

Using the enacted 2009-10 budget, staff attempted to assess the extent to which the state's budget is already constrained. While it is difficult to place exact dollar figures on the impact in the future, some relevant experience may prove useful in evaluating the extent to which certain budget items are protected.

2009-10 Budget Act: Total State General Fund \$84.6 billion

<i>Protected (existing)</i>		
Proposition 98 Guarantee	\$50.4 billion	This is an estimate. Proposition 98 funding is not certified until the end of the fiscal year.
Proposition 98 Maintenance Factor	\$1.2 billion	This represents the payment due on an outstanding balance of \$11.2 billion.
Corrections	\$8.2 billion	Expenditure reductions of \$1.2 billion in the 2009-10 budget are not expected to be met.
<i>Partly Protected (existing)</i>		
Transit Spillover Revenues	\$876 million	Transit interests successfully challenged the diversion of their spillover revenues in court.*
Redevelopment Tax Increment	\$1.7 billion	The 2009-10 redevelopment property tax shift is being challenged in court with an expected decision on May 3.
<i>Proposed Protected</i>		
Proposition 1A: Local Property Taxes	\$2 billion	The 2009-10 budget suspended the provisions of Proposition 1A; legislation authorized local agencies to securitize this suspension, holding local governments harmless for the loss.
Proposition 42 to Cities and Counties	\$600 million	Proposition 42 funds were delayed for a six-month period in 2009-10 to assist the state in meeting its cashflow needs.*
Proposition 42 to State Transportation Improvement Program (STIP)	\$600 million	*
Proposition 42 to Transit	\$300 million	*
State HUTA	\$2 billion	
HUTA to Cities and Counties	\$1.1 billion	The proposal to eliminate the local share of HUTA failed in the Assembly. Instead, HUTA revenues were deferred for nine months during 2009-10 to assist the state in meeting its cashflow needs.

**This chart does not reflect the changes to transportation funding that resulted from the transportation tax swap approved earlier this year. The initiative would protect replacement revenues for the spillover and Proposition 42 components of the chart, an estimated \$450 million in transit revenues from the sales tax on diesel and an estimated \$2.52 billion in revenues from the new 17.3-cent excise tax on gasoline. The revenue from the new replacement gas tax will vary from year to year, but after 2010-11 will be dedicated to transportation bond debt (about \$1 billion annually), \$745 million for STIP, \$745 million for local streets and roads, and \$203 million for freeway maintenance and safety (SHOPP).*

The replacement revenue under the swap will generate about \$3 billion annually, which the initiative would protect and which is synonymous with the Proposition 42 and spillover revenues noted above. The initiative would more strongly protect an additional \$3.1 billion in existing state and local HUTA for a total of about \$6 billion.

Health and Human Services

Overall Impact: ↓

Counties, as subdivisions of the state, are tasked with financing and providing a wide array of health and human services to all California residents. These services include, but are not limited to, public health programs, mental health care, medical care, indigent care, general assistance, and child welfare services. Over the last decade the state has eroded state contributions to jointly administered and financed health and human service programs.

The state's chronic underfunding of health and human service programs strains the ability of counties to meet accountability standards, and shifts costs to counties through either outright increases in sharing ratios or deep program cuts that force counties to backfill the costs of necessary programs.

If the state's fiscal choices are further constrained by dictating the expenditures for single-issue services, as prescribed in the Local Taxpayers, Public Safety and Transportation Protection Act of 2010, then counties have both history and reason to believe that the state will try to eliminate or seek spending reductions in other "unprotected" programs.

The Local Taxpayers, Public Safety and Transportation Protections Act of 2010 will lock down more parts of the state budget, akin to what Proposition 98 has done for education funding. The measure will leave health and human service programs more vulnerable than they are today to state cuts. During state budget deficits, counties should expect the state to cut funding for jointly-administered and financed health and human services programs. The state will continue its de facto cost shifts to counties. To further constrain the state's budget flexibility, particularly with state budget deficits projected through the foreseeable future, is not in the best interest of counties or the residents they serve.

Housing, Land Use, and Transportation

Overall Impact: ↑

The three important and interrelated policy areas of housing, land use, and transportation, while not typically general fund dependent, do depend on state subventions (e.g., gas tax revenues) and other state financial support (e.g., bond proceeds for housing and transportation purposes). As a result, these areas have experienced a significant lack of state financial support, though policy, planning, and regulatory responsibilities continue to be passed on to the local level.

Further, in the transportation area, local governments are responsible for 82 percent of the state's maintained miles and as such receive state subventions to the tune of over \$1.5 billion annually (currently generated by a combination of per gallon sales taxes [Proposition 42] and state excise taxes [Highway User Tax Account or HUTA], but beginning in July under the transportation tax swap will be generated solely from the excise taxes). Due to the state's fiscal instability, counties have lost all certainty of infrastructure revenue streams. Recent budget proposals considered and acted upon have ranged from borrowing, raiding, or outright taking both the local HUTA and Proposition 42 funds. Additionally, cities and counties will lose significant constitutional protection currently guaranteed by Proposition 42 when the transportation tax swap becomes effective July 1, 2010.

Reform that provides greater stability and certainty in state subventions would greatly improve local agencies' ability to plan and build viable, livable, and healthy communities.

Within the specific purview of this committee, the Local Taxpayers, Public Safety and Transportation Protection Act of 2010 would certainly meet the CSAC policy objective of providing greater certainty for transportation revenue streams in order to plan for and meet transportation needs.

Summary

While the Local Taxpayers, Public Safety and Transportation Protections Act of 2010 offers identifiable benefits for counties in the form of greater revenue protection and certainty for transportation funding, those benefits do not by any means reach the totality of counties'

responsibilities. How future governors and legislators would respond to accommodate the further constraints on what arguably is a wholly dysfunctional state budget process is difficult to predict. But it is certainly reasonable to assume that state funding for county health and human service programs could experience further reduction, which could have resulting deleterious effects at the local level for residents and communities in need. Further, this initiative could put at risk public safety resources that counties – and cities – rely on for core programs and services, not to mention subventions and reimbursement for mandates, elections, libraries and other services.

Counties are complex animals. Given our involved and convoluted relationship with the state, it would be impossible for counties to wall ourselves off from the state budget. Despite the potential benefits of avoiding future Proposition 1A borrowing and other revenue protections offered by this initiative, other county programs and services would be exposed to far more intense risk as a result. This initiative would elevate the priority of certain services' revenue sources over other critical public services, particularly in the public safety and safety net program areas. CSAC represents the full range of county interests, and it does not seem appropriate to favor one significant and critical component of counties' broad set of responsibilities over another.

For ease of reference, the overarching impacts by policy committee are as follows:

Administration of Justice	Overall Impact: ↓
Government Finance and Operations	Overall Impact: ↔
Health and Human Services	Overall Impact: ↓
Housing, Land Use, and Transportation	Overall Impact: ↑

Recommended Action

For these reasons, CSAC staff recommends to the AOJ, GFO, HHS, and HLT policy committees a **“neutral”** position on the Local Taxpayers, Public Safety and Transportation Protections Act of 2010.

Staff Contacts

For questions about the policy implications of the Local Taxpayers, Public Safety and Transportation Protection Act of 2010 on a particular program and policy area, please contact one of the CSAC staff at 916/327-7500 (extensions given below) or by email:

Administration of Justice	Elizabeth Howard Espinosa (ext. 537, ehoward@counties.org) Rosemary Lamb (ext. 503, rlamb@counties.org)
Government Finance and Operations	Jean Kinney Hurst (ext. 515, jhurst@counties.org) Geoffrey Neill (ext. 567, gneill@counties.org)
Health and Humans Services	Kelly Brooks (ext. 531, kbrooks@counties.org) Farrah McDaid Ting (ext. 559, fmcdaid@counties.org)
Housing, Land Use, and Transportation	DeAnn Baker (ext. 509, dbaker@counties.org) Kiana Buss (ext. 566, kbuss@counties.org)

October 26, 2009

09 - 0063

Amdt. #1NS

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED

OCT 26 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request to Make Non-Substantive Amendments to Initiative No. 09-0063

Dear Mr. Brown:

Attached are two Amendments to Initiative No. 09-0063, filed October 20, 2009. First, the Initiative designates two sections, the Findings and Declarations and Statement of Purpose, as "Section Two." The first amendment renumbers the Statement of Purpose as "Section Two and One-Half." Second, in Section 7 of the Initiative, the numbering of the subdivisions in Cal. Const. Art. XIX B, section 2 jumps from "(d)" to "(f)" without including a subdivision "(e)." The second amendment renumbers subdivisions (f) through (i) of section 2 of Article XIX B as subdivisions (e) through (h) so that a subdivision (e) is included between subdivisions (d) and (f). The proponents believe these changes are non-substantive.

Thank you for your assistance.

Sincerely,

Enclosure: Proposed Initiative

PROPONENTS:

Joshua Shaw

Christopher K. McKenzie

James N. Earp

Section One. Title.

This act shall be known and may be cited as the "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010."

Section Two. Findings and Declarations.

The people of the State of California find and declare that:

(a) In order to maintain local control over local taxpayer funds and protect vital services like local fire protection and 9-1-1 emergency response, law enforcement, emergency room care, public transit, and transportation improvements, California voters have repeatedly and overwhelmingly voted to restrict state politicians in Sacramento from taking revenues dedicated to funding local government services and dedicated to funding transportation improvement projects and services.

(b) By taking these actions, voters have acknowledged the critical importance of preventing State raids of revenues dedicated to funding vital local government services and transportation improvement projects and services.

(c) Despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects and services, state politicians in Sacramento have seized and borrowed billions of dollars in local government and transportation funds.

(d) In recent years, state politicians in Sacramento have specifically:

(1) Borrowed billions of dollars in local property tax revenues that would otherwise be used to fund local police, fire and paramedic response and other vital local services;

(2) Sought to take and borrow billions of dollars in gas tax revenues that voters have dedicated to on-going transportation projects and tried to use them for non-transportation purposes;

(3) Taken local community redevelopment funds on numerous occasions and used them for unrelated purposes;

(4) Taken billions of dollars from local public transit like bus, shuttle, light-rail and regional commuter rail, and used these funds for unrelated state purposes.

(e) The continued raiding and borrowing of revenues dedicated to funding local government services and dedicated to funding transportation improvement projects can cause

severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services.

(f) State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these dedicated funds.

(g) It is hereby resolved, that with approval of this ballot initiative, state politicians in Sacramento shall be prohibited from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services or dedicated to transportation improvement projects and services.

Section Two and One-Half. Statement of Purpose.

The purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services.

Section Three. Section 24 of Article XIII of the California Constitution is hereby amended to read as follows:

(a) The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

(b) The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes.

(c) Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

(d) Money subvended to a local government under Section 25 may be used for state or local purposes.

Section Four. Section 25.5 of Article XIII of the California Constitution is hereby amended to read as follows:

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

(B) ~~Beginning with the 2008-09~~ In the 2009-10 fiscal year only, and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a that fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

~~(C)(i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.~~

~~(ii) Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.~~

~~(iii) Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).~~

~~(iv)~~ (C) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2)(A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.

(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring. The Legislature shall not change the pro rata shares of ad valorem property tax pursuant to this paragraph, nor change the allocation of the revenues described in Section 15 of Article XI, to reimburse a local government when the Legislature or any state agency mandates a new program or higher level of service on that local government.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(7) Require a community redevelopment agency (A) to pay, remit, loan or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008; or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

(3) "Jurisdiction" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

Section Five. Article XIX of the California Constitution is hereby amended to read as follows:

SECTION 1. The Legislature shall not borrow revenue from the Highway Users Tax Account, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

SEC. 2. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be deposited into the Highway Users Tax Account (Section 2100 of the Streets and Highways Code) or its successor, which is hereby declared to be a trust

fund, and shall be allocated monthly in accordance with Section 4, and shall used solely for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

~~SEC. 2.~~ SEC. 3. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section ~~1~~ 2 of this article.

~~SEC. 3.~~ SEC. 4. (a) Except as provided in subdivision (b), the Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas in effect on June 30, 2009 which allocate the revenues described in Section 2 to for cities, counties, and areas of the State shall remain in effect.

(b) The Legislature shall not modify the statutory allocations in effect on June 30, 2009 unless and until both of the following have occurred:

(1) ~~it~~ The Legislature determines in accordance with this subdivision that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall (A) provide for the allocation of these revenues, together with other

similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population; and (B) be consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan;

(2) The process described in subdivision (c) has been completed.

(c) The Legislature shall not modify the statutory allocation pursuant to subdivision (b) until all of the following have occurred:

(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the local and regional goals for ground transportation in that part of the State;

(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is consistent with the orderly achievement of local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan; and

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(d) A statute enacted by the Legislature modifying the statutory allocations must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision.

(e) The revenues allocated by statute to cities, counties, and areas of the State pursuant to this article may be used solely by the entity to which they are allocated, and solely for the purposes described in Sections 2, 5, or 6 of this article.

(f) The Legislature may not take any action which permanently or temporarily does any of the following: (1) changes the status of the Highway Users Tax Account as a trust fund; (2) borrows, diverts, or appropriates these revenues for purposes other than those described in subdivision (e); or (3) delays, defers, suspends, or otherwise interrupts the payment, allocation, distribution, disbursal, or transfer of revenues from taxes described in Section 2 to cities, counties, and areas of the State pursuant to the procedures in effect on June 30, 2009.

~~SEC. 4.~~ SEC. 5. Revenues allocated pursuant to Section ~~3~~ 4 may not be expended for the purposes specified in subdivision (b) of Section ~~4~~ 2, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of

such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 4 2.

~~SEC. 5. SEC. 6. (a) The Legislature may authorize Up to 25 percent of the revenues available for expenditure by any city or county, or by the State, allocated to the State pursuant to Section 4 for the purposes specified in subdivision (a) of Section 4 2 of this article may be pledged or used by the State, upon approval by the voters and appropriation by the Legislature, for the payment of principal and interest on voter-approved bonds for such purposes issued by the State on and after November 2, 2010 for such purposes.~~

(b) Up to 25 percent of the revenues allocated to any city or county pursuant to Section 4 for the purposes specified in subdivision (a) of Section 2 of this article may be pledged or used only by any city or county for the payment of principal and interest on voter-approved bonds issued by that city or county for such purposes.

~~SEC. 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as~~

~~described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.~~

SEC. 7. If the Legislature reduces or repeals the taxes described in Section 2 and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Highway Users Tax Account, dedicated to the purposes listed in Section 2, and allocated to cities, counties, and areas of the State pursuant to Section 4. All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in Section 2.

~~SEC. 7.~~ SEC. 8. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.

~~SEC. 8.~~ SEC. 9. Notwithstanding Sections ~~1 and 2 and 3~~ of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.

~~SEC. 9.~~ SEC. 10. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections ~~1 and 2 and 3~~ and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the State to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.

Section Six. Article XIX A of the California Constitution is hereby amended to read as follows:

SECTION 1. (a) The Legislature shall not borrow revenues from the Public Transportation Account, or any successor account, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

(b) The funds in the Public Transportation Account in the State Transportation Fund, or any successor account, is a trust fund. The Legislature may not change the status of the Public Transportation Account as a trust fund. Funds in the Public Transportation Account may

not be loaned or otherwise transferred to the General Fund or any other fund or account in the State Treasury. may be loaned to the General Fund only if one of the following conditions is imposed:

(c) All revenues specified in paragraphs (1) through (3), inclusive, of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as that section read on June 1, 2001, shall be deposited no less than quarterly into the Public Transportation Account (Section 99310 of the Public Utilities Code), or its successor. The Legislature may not take any action which temporarily or permanently diverts or appropriates these revenues for purposes other than those described in subdivision (d), or delays, defers, suspends, or otherwise interrupts the quarterly deposit of these funds into the Public Transportation Account.

(d) Funds in the Public Transportation Account may only be used for transportation planning and mass transportation purposes. The revenues described in subdivision (c) are hereby continuously appropriated to the Controller without regard to fiscal years for allocation as follows:

(1) Fifty percent pursuant to subdivisions (a) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(2) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

~~(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

(e) For purposes of paragraph (1) of subdivision (d), "transportation planning" means only the purposes described in subdivisions (c) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(f) For purposes of this article, "mass transportation," "public transit," and "mass transit" have the same meaning as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

SEC. 2. (a) As used in this section, a "local transportation fund" is a fund created under Section 29530 of the Government Code, or any successor to that statute.

(b) All local transportation funds are hereby designated trust funds. The Legislature may not change the status of local transportation funds as trust funds.

(c) A local transportation fund that has been created pursuant to law may not be abolished.

(d) Money in a local transportation fund shall be allocated only by the local government that created the fund, and only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature

may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision.

(e) This section constitutes the sole method of allocating, distributing, and using the revenues in a local transportation fund. The purposes described in subdivision (d) are the sole purposes for which the revenues in a local transportation fund may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues in a local transportation fund for any other purpose than those described in subdivision (d);

(2) Authorizes the expenditures of the revenue in a local transportation fund for any other purpose than those described in subdivision (d);

(3) Borrows or loans the revenues in a local transportation fund, regardless of whether these revenues remain in the Retail Sales Tax Fund in the State Treasury or are transferred to another fund or account.

(f) The percentage of the tax imposed pursuant to section 7202 of the Revenue and Taxation Code allocated to local transportation funds shall not be reduced below the percentage that was transmitted to such funds during the 2008 calendar year. Revenues allocated to local transportation funds shall be transmitted in accordance with Section 7204 of the Revenue and Taxation Code and deposited into local transportation funds in accordance with Section 29530 of the Government Code, as those sections read on June 30, 2009.

Section Seven. Article XIX B of the California Constitution is hereby amended to read as follows:

SECTION 1. The Legislature shall not borrow revenues from the Transportation Investment Fund, or its successor, and shall not use these revenues for purposes, or in ways, other than those specifically permitted by this article.

SEC. 2. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all ~~moneys~~ revenues that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), ~~and that are deposited in the General Fund of the State pursuant to that law,~~ shall be transferred to deposited into the Transportation Investment Fund or its successor, which is hereby created in

the State Treasury and which is hereby declared to be a trust fund. The Legislature may not change the status of the Transportation Investment Fund as a trust fund.

(b)(1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation. Moneys appropriated for public transit and mass transportation shall be allocated as follows: (i) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; (ii) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009; and (iii) Fifty percent for the purposes of subdivisions (a) and (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund are hereby continuously appropriated to the Controller without regard to fiscal years, which shall be allocated, ~~upon appropriation by the Legislature,~~ as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

~~(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:~~

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

~~(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.~~

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

~~(e) (d) The Legislature may not enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b) until all of the following have occurred:~~

~~(1) The California Transportation Commission has held no less than four public hearings in different parts of the State to receive public input about the need for public transit, mass transportation, transportation capital improvement projects, and street and highway maintenance;~~

~~(2) The California Transportation Commission has published a report describing the input received at the public hearings and how the modification to the statutory allocation is~~

consistent with the orderly achievement of local, regional and statewide goals for public transit, mass transportation, transportation capital improvements, and street and highway maintenance in a manner that is consistent with local general plans, regional transportation plans, and the California Transportation Plan;

(3) Ninety days have passed since the publication of the report by the California Transportation Commission.

(4) The statute enacted by the Legislature pursuant to this subdivision must be by a bill passed in each house of the Legislature by roll call vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the revenues described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

~~(f)~~ (e)(1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

(f) This section constitutes the sole method of allocating, distributing, and using the revenues described in subdivision (a). The purposes described in paragraph (2) of subdivision (b) are the sole purposes for which the revenues described in subdivision (a) may be used. The Legislature may not enact a statute or take any other action which, permanently or temporarily, does any of the following:

(1) Transfers, diverts, or appropriates the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b);

(2) Authorizes the expenditures of the revenues described in subdivision (a) for any other purposes than those described in paragraph (2) of subdivision (b) or;

(3) Borrows or loans the revenues described in subdivision (a), regardless of whether these revenues remain in the Transportation Investment Fund or are transferred to another fund or account such as the Public Transportation Account, a trust fund in the State Transportation Fund.

(g) For purposes of this article, "mass transportation," "public transit" and "mass transit" have the same meanings as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(h) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited into the Transportation Investment Fund, dedicated to the purposes listed in paragraph (2) of subdivision (b), and allocated pursuant to subdivision (c). All other provisions of this article shall apply to any revenues adopted by the Legislature to replace the moneys derived from the taxes described in subdivision (a).

Section Eight. Article XIX C is hereby added to the Constitution to read as follows:

SECTION 1. If any challenge to invalidate an action that violates Articles XIX, XIX A, or XIX B of the California Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of revenue necessary to restore the fund or account from which the revenues were unlawfully taken or diverted to its financial status had the unlawful action not been taken.

SEC. 2. If any challenge to invalidate an action that violates Section 24 or Section 25.5 of Article XIII of this Constitution is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the local government an amount of revenue equal to the amount of revenue unlawfully taken or diverted.

SEC. 3. Interest calculated at the Pooled Money Investment Fund rate from the date or dates the revenues were unlawfully taken or diverted shall accrue to the amounts required to be restored pursuant to this section. Within thirty days from the date a challenge is successful, the Controller shall make the transfer required by the continuous appropriation and issue a notice to the parties that the transfer has been completed.

SEC. 4. If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

Section Nine.

Section 16 of Article XVI of the Constitution requires that a specified portion of the taxes levied upon the taxable property in a redevelopment project each year be allocated to the redevelopment agency to repay indebtedness incurred for the purpose of eliminating blight within the redevelopment project area. Section 16 of Article XVI prohibits the Legislature from reallocating some or that entire specified portion of the taxes to the State, an agency of the State, or any other taxing jurisdiction, instead of to the redevelopment agency. The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, that the redevelopment agency transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction.

Section Ten. Continuous Appropriations.

The provisions of Sections 6, 7, and 8 of this Act that require a continuous appropriation to the Controller without regard to fiscal year are intended to be "appropriations made by law" within the meaning of Section 7 of Article XVI of the California Constitution.

Section Eleven. Liberal Construction.

The provisions of this Act shall be liberally construed in order to effectuate its purposes.

Section Twelve. Conflicting Statutes.

Any statute passed by the Legislature between October 21, 2009 and the effective date of this measure, that would have been prohibited if this measure were in effect on the date it was enacted, is hereby repealed.

Section Thirteen. Conflicting Ballot Measures.

In the event that this measure and another measure or measures relating to the direction or redirection of revenues dedicated to funding services provided by local governments and/or transportation projects or services appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

Section Fourteen. Severability.

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.



CSAC Legislative Conference

Administration of Justice Policy Committee

Wednesday, June 2, 2010 ▪ 2:30 – 4:30 p.m.

Regency D ▪ Hyatt Regency Hotel

1209 L Street ▪ Sacramento, CA ▪ 95814

Supervisor Federal Glover, Contra Costa County, Chair Supervisor Merita Callaway, Calaveras County, Vice-Chair

- 2:30 **I. Welcome and Introductions**
Supervisor Federal Glover, Contra Costa County
- 2:35 **II. Panel Discussion: How are Jail Standards Developed and What is Their Purpose? – POTENTIAL ACTION ITEM**
Supervisor Merita Callaway, Calaveras County; Gary Wion, Deputy Director, Facilities Standards and Operations Division, Corrections Standards Authority; Sheriff Curtis Hill, San Benito County & President of the California State Sheriffs Association; Carol Woodward, San Mateo Deputy County Counsel
- 3:05 **III. Update on Court/County Collection Enhancement Efforts**
Elizabeth Howard Espinosa, CSAC Legislative Representative; Donna Hershkowitz, Assistant Director, Office of Governmental Affairs, Judicial Council/Administrative Office of the Courts
- 3:25 **IV. 2010-11 Budget Update – Governor's May Revision**
Elizabeth Howard Espinosa and Rosemary Lamb, CSAC Administration of Justice Staff
- CSAC Highlights of the Governor's 2010-11 May Revision
- 3:45 **V. Effective Tools for Engaging the Public on Community Corrections**
Terry Amsler, Program Director, Collaborative Governance Initiative, Institute for Local Government
- 4:00 **VI. Public Safety Affiliate Report**
Tom Renfree, Executive Director, County Alcohol and Drug Program Administrators Association of California (CADPAAC)
- 4:15 **VII. Legislative Update**
Elizabeth Howard Espinosa and Rosemary Lamb, CSAC Administration of Justice Staff
- Medical Parole: SB 1399 (Leno)
- 4:25 **VIII. Closing Remarks and Adjournment**
Supervisor Federal Glover, Contra Costa County



May 13, 2010

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary Lamb
CSAC Administration of Justice Staff

RE: **Jail Standards: How are they developed and what purpose do they serve?**

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Recommended Action. CSAC policy committee staff is seeking broad policy direction from the Administration of Justice Policy Committee on the issue of minimum jail standards.

As counties are aware, at last count, 32 jurisdictions in California are operating either under a court-imposed (20 counties) or self-imposed (12 counties) jail population cap. State support for local jail construction was most recently tendered in AB 900 (Solorio), the Public Safety and Offender Rehabilitation Services Act of 2007, which gives counties that agree to help the state site a reentry facility funding preference for local jail projects. In Phase I of jail construction funding, bids totaling \$1.24 billion were submitted, with \$750 million in total grant funds available to award. (Note that after the proposal review process, only \$617 million has been conditional awarded.) Nevertheless, there is a clear need and demand for county jail construction funds. Counties' efforts to identify their local short- and long-term jail capacity and construction needs have led some jurisdictions to question the expense of construction projects. It is against that backdrop that CSAC brings the issue of jail standards to the Administration of Justice (AOJ) policy committee.

Background. Jail standards were first created and implemented in 1945 at the request of the California State Sheriffs Association (CSSA) as a means to protect county, city and state interests. Pursuant to Penal Code Section 6030, jail standards must cover at a minimum the following areas: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training. Statute does not specify the standards themselves, but, rather, relegates the responsibility for ensuring compliance with minimum standards requirements to the Corrections Standards Authority (CSA), formerly known as the Board of Corrections. The CSA is the state entity charged with the creation and maintenance of jail standards; it is required by law to convene a biennial review of jail standards as well as inspect local jail facilities. Members can find the current Title 15 and Title 24 jail standards on the CSA website at: www.cdcr.ca.gov/CSA/FSO/Regulations.html (due to their size we did not include them within our agenda packet).

Jail Standards Review Process. The biennial review process for jail standards is a collaborative effort between the state and local officials. It is during this process that changes to jails standards are reviewed on regular intervals, with a multi-agency review panel considering the need for and appropriate approaches to identified areas for modification. Changes to the minimum standards are typically recommended when they (1) are representative of updated correctional practices, (2) reflect changes to the law, and/or (3) are targeted to reduce or eliminate outdated standards.

The CSA jail standards review process typically involves the CSA convening an executive steering committee (ESC) with representatives from the following groups: CSA, sheriffs, district attorneys, county supervisors, formerly incarcerated individuals, and labor organizations, among others. Additionally, work groups are created that focus on specific components of the Titles 15 and 24 Jail Standards. The work groups analyze current jail standards for their fiscal impacts, cost effectiveness, and response to contemporary correctional needs. These work groups make recommendations to the ESC, which has ultimate decision-making authority. If a jurisdiction or group has concerns with a specific standard, they are asked to bring the concern to the attention of the workgroup.

Public hearings are held to review any changes proposed to Title 15 (primarily regarding programming and operational matters) and Title 24 (related to specific building and construction requirements). Once the public review process is complete, the ESC makes a final recommendation on the revised jail standards, which then go before the CSA Board for review and action. The Board votes on the jail construction standards in a public board meeting and, after such, affected entities must comply with the revised standards.

The purpose and purported benefit of the executive steering committee approach – to jail standards or any other policy issue for which this policy-development and decision-making model is used – are to involve stakeholders, allow for adequate input along the way, and provide for a transparent process. Generally speaking, the ESC process – one in which county elected officials and department heads very frequently participate – has been a positive, responsive, and fair policy development process, yielding a reasonable and well-researched work product. CSA historically has reached out to CSAC to identify potential candidates for participation in the ESC process.

Existing CSAC Policy. It should be noted that the existing CSAC Administration of Justice policy platform addresses the issue of adult detention facility standards. (A similar section in the platform exists for juvenile detention facility standards.) The relevant section of adult facility standards is excerpted below:

Adult Facility Standards

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

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

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

Additional Policy Considerations. Outside of the policy committee's regular consideration of the standards policy within the context of CSAC's regular, biennial review of the association's platform, the AOJ policy committee has not undertaken a thorough discussion on jail standards in recent memory. There are many ways in which counties are impacted by the jail standards implemented by the CSA. Primarily, jail standards offer counties protection in litigation. Building to standards that have been sanctioned by the state provides the public entity a defense against litigation that could be brought forth by inmates, their family, or other interest groups. By the same token, building to the standard also can be a significant cost driver for both construction and maintenance. The question before the AOJ policy committee today is two-fold: First, how are jail standards developed and what is their purpose? Secondly, and perhaps more significantly, is for counties to understand the extent to which we are involved in the minimum standards review and revision process and whether we wish to seek any changes to the process or approach?

CSAC has invited a range of policy experts to participate in a panel discussion on these matters. This discussion forum will allow AOJ committee members to gain a better understanding of how jail standards are created, what protections they offer counties, and perhaps what impediments they may or may not create for counties.

Several policy considerations would be worthy to consider as committee members listen to the presentations on jail standards, participate in follow up discussions and review our current policy on jail standards. Chief among these questions are:

1. Does CSAC's existing policy on jail standards adequately address this issue?
2. Do counties feel they are adequately represented within CSA's current jail standards review structure?

3. Are there jail standards that counties believe to be unreasonable?
4. Do counties believe the current jail standards review process is functioning well and serving its purpose?
5. To what extent, if at all, is the cost of implementation considered in the standards review process?
6. Is there an area within current jail standards where legislative or other relief is warranted?
7. How should counties and/or other stakeholders in the minimum standards review process balance the protections offered by the standards versus the long-term costs of implementation?
8. Does the broad issue of jail standards warrant further review by the policy committee?

Panel Presentation. To vet these issues and others, CSAC AOJ policy committee staff invited a number of participants to join a panel discussion on jails standards. Individual panelists will offer their unique perspective gained through involvement in either the creation, review, implementation, or litigation of jail standards. Issues to be discussed range from the origins of jail standards, the jails standards review process, liability concerns, and actual implementation of jail standards locally. Below, we briefly highlight each speaker and their background as it pertains to this issue.

Supervisor Merita Callaway. Supervisor Callaway is the current vice-chair of the Administration of Justice Policy Committee. In the past she has served as the CSAC representative on a CSA jail standards executive steering committee. Through her work on the ESC, she will be able to share her experiences with the jail standards review process and offer a broad county perspective on this issue.

Sheriff Curtis Hill. Sheriff Hill is the sheriff in San Benito County and current President of the California State Sheriffs Association (CSSA). As sheriff, he has ensured that his county jail is in compliance with Titles 15 and 24 jail standards. Additionally, he has worked with CSA as they have inspected his local detention facility to ensure that it was not in violation of current jail standards. We look forward to Sheriff Hill sharing his first-hand perspective on jail standards.

Gary Wion. Mr. Wion is currently the Deputy Director of CSA's Facilities Standards and Operations Division. He has served in this capacity since 2007 and seen the CSA through its jail standards review process. In that role, he works to balance the interests of a broad group of stakeholders and the entire CSA board as he works to oversee the jail standards review process and implement new standards. Previously to his employment with CSA, Mr. Wion dedicated 18 years of his career to working in local law enforcement.

Carol Woodward. Carol Woodward is a Deputy County Counsel in San Mateo County. This will be the second time Ms. Woodward addresses our policy committee over the last year. In her role within the county counsel's office, Ms. Woodward has had to review jail standards and their applicability to county detention facilities. Additionally, she is able to offer a legal perspective as to the utility of jail standards and how they can offer protection to counties.

Potential Action Requested. CSAC staff is asking that policy committee members review the current jail standards process and, following the panel discussion, consider whether and how they would like to direct staff for further involvement and research on this issue. Among the options for potential action:

- Survey counties on the significance of this issue, areas of specific interest, and potential areas for future action;
- Attend public meetings in next round of jail standards review; and/or
- Work to develop recommended policy changes to CSAC's platform during the regularly schedule update in late 2010/early 2011.



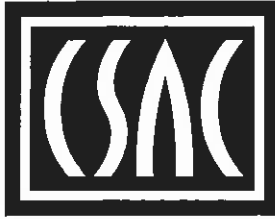
Agriculture and Natural Resources Policy Committee

**Wednesday, June 2, 2010 · 2:30 p.m. – 4:30 p.m.
Sacramento Hyatt Regency
Regency Ballroom E & F**

AGENDA

Supervisor, John Vasquez, Solano County, Chair
Supervisor Richard Forster, Amador County, Vice- Chair

- 2:30- 2:40 p.m. **I. Welcome and Introductions**
*Supervisor John Vasquez, Solano County
Supervisor Richard Forster, Amador County*
- 2:40- 3:00 **II. Williamson Act**
• Budget/Advocacy Campaign Update
• CSAC/RCRC Working Group Report
*Supervisor Richard Forster, Amador County
Karen Keene, CSAC Senior Legislative Representative*
- 3:00- 4:30 **III. Panel Discussion: Local Water Challenges – Perspectives
from Around the State**
*Supervisor Mike McGowan, Yolo County, CSAC Second Vice
President, Moderator
Supervisor Jim Provenza, Yolo County
Todd Manley, Director of Government Affairs, Northern California
Water Association (NCWA)
Representative, Metropolitan Water District (MWD)
Representative, Santa Ana Water Project Authority (SAWPA)
Representative, East Bay Municipal Utility District (EBMUD)*
- 4:30 **IV. Adjournment**



Government Finance and Operations Policy Committee
CSAC Legislative Conference
Wednesday, June 2, 2010 — 10:00 a.m. – 12:00 p.m.
Regency E-F Room, Hyatt Regency Hotel
Sacramento County, California

Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair

- 10:00 a.m. **I. Welcome and Introductions**
Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair
- 10:05 a.m. **II. Local Taxpayer, Public Safety and Transportation Act —**
ACTION ITEM
Jean Kinney Hurst, Legislative Representative, CSAC
- 10:45 a.m. **III. Pension Update: Reform Efforts and Pending Legislation —**
ACTION ITEM
Eraina Ortega, Legislative Representative, CSAC
- 11:05 a.m. **IV. Nothing New Under the Sun: The State's Budget Deficit and**
Economic Outlook
Marianne O'Malley, Principal Fiscal & Policy Analyst, Legislative
Analyst's Office
Lori Hsu, Senior Fiscal & Policy Analyst, Legislative Analyst's Office
- 11:35 p.m. **V. Thou Shalt (or Shalt Thou?): The Mandate Process Mandate**
and Mandate Redetermination
Marianne O'Malley, Principal Fiscal & Policy Analyst, Legislative
Analyst's Office
Jean Kinney Hurst, Legislative Representative, CSAC
Geoffrey Neill, Legislative Analyst, CSAC
- Noon **VI. Closing Comments and Adjournment**
Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair



May 18, 2010

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To: Supervisor Bruce Gibson, San Luis Obispo County, Chair
Supervisor John Moorlach, Orange County, Vice Chair
Members, Government Finance and Operations Policy Committee

From: Eraina Ortega, Legislative Representative, Employee Relations
Faith Conley, Legislative Analyst, Employee Relations

Re: Pension Update: Reform Efforts and Pending Legislation

Recommendation. Staff recommends the Government Finance and Operations Committee reaffirm the CSAC Guiding Principles for Pension Reform without specific reform proposals and to direct staff to return to the committee's next meeting with modified reform proposals for review.

Background. In 2005, CSAC adopted a set of guiding principles and reform proposals to assist staff in the public pension reform discussions of 2005-2006. After the defeat of legislative and initiative efforts in 2006, pension reform lost favor. The unprecedented market downturn in 2007-2008 resulted in a 24 percent loss to the California Public Employees' Retirement System fund and similar losses in county retirement systems. While pension funds have made a considerable recovery, employers are facing increased rates both to make up the losses and to fund benefit increases that were approved in the late 1990s. These factors, on top the budget crisis facing state and local governments, has once again pushed pension reform to the forefront. Following is an update on various topics facing pension policy makers.

Pension Reform Efforts

Governor Schwarzenegger proposed to increase retirement ages and reduce benefit formulas for new state employees during his State of the State address in 2010. To date the administration has not introduced legislation to implement the proposal. At his May Revise press conference on May 14, the Governor said he would not sign a budget without pension reform. The state budget proposal also includes savings associated with requiring state employees to pay an additional five percent contribution towards their retirement costs. It is unclear whether the state will seek these pension changes through legislation or through negotiations with state employees.

The California Foundation for Fiscal Responsibility (CFFR), founded by former Assembly Member Keith Richman, proposed an initiative to significantly reduce pension benefits for all new public employees. CFFR failed to qualify their initiative for the ballot. A separate effort to prohibit pensions over \$100,000 per year also did not qualify for the ballot.

Senator Dennis Hollingsworth amended SB 919 on April 21, 2010 to change the retirement ages and formulas of new state employees, similar to what the Governor proposed in January. SB 919 would also require state employees' retirement benefits be calculated based on the average of the last three years of compensation rather than the highest single year. There is one provision of the bill that would provide contracting agencies with the California Public Employees' Retirement System (CalPERS), including counties, with more flexibility to negotiate different health benefit rates for active and retired members. The Senate Public Employment and Retirement Committee held a lengthy hearing on SB 919 on May 12 but as of this writing, the bill has not been taken up for a vote.

Pending legislation to minimize pension spiking.

Assembly Member Ma and Senators Correa and Simitian introduced AB 1987 and SB 1425, respectively, to address the issue of pension spiking, the practice of securing pay increases or maximizing opportunities to cash out vacation and other benefits for the purpose of increasing a retirement allowance beyond what it would have otherwise been. CSAC initially adopted an oppose unless amended position on these bills because of a provision that would require a retiree to have a 180 day separation from employment prior to returning to work for an employer in the same retirement system from which the employee retired. Recently AB 1987 was amended to also broaden several definitions related to the determination of final compensation that CSAC believes will result in additional opportunities to spike pensions and therefore additional costs to counties with 1937 Act retirement systems. CSAC staff is working with county staff to draft appropriate amendments to address these concerns.

CalPERS conducts asset allocation and liability review.

In March, 2010 CalPERS began a review of its five broad asset classes, risks, and key drivers of asset returns. The review has several parts, including a review of capital market assumptions, major risk factors, and new approaches to asset allocation. A final review of alternative asset mixes is expected in November with formal action expected on the proposal in December. This work will culminate in the consideration of a change to the assumed investment rate of return or discount rate in February 2011. This decision is critical for counties. As you know, employers and employees may contribute to pension funds, but the vast majority of the funds are made up of investment returns. If CalPERS decreases the investment rate of return, increased contributions will be required to meet the benefits guaranteed to retirees and current employees. CSAC will keep you apprised of these efforts as it may be necessary to weigh in on behalf of the 38 counties contracting with CalPERS for retirement benefits.

Policy Considerations. CSAC's Employee Relations Platform states the basic principle of county employer-employee relations is one of balancing the legitimate desires and needs of employees against the public's right to economical, efficient, effective and stable government. At no time in recent history has this tension been more apparent; the challenges facing public employers and labor representatives are great.

In the absence of statewide pension reform, across the state groups of city managers have been meeting regionally, in most cases with county representatives, to discuss strategies for reducing retirement benefit costs on a regional basis. While these conversations continue, several counties have reached agreement with labor representatives to adopt a second tier for public safety retirement. For Orange and Shasta, newly hired deputies will receive a 3% at 55 benefit rather than the current 3% at 50 formula. In Alameda, an agreement was reached that will provide newly hired deputies a choice between two formulas and to the extent the employee choose the more expensive plan, the employee will be responsible for the difference in cost (legislation is pending to implement this proposal). Last year Orange County reached an agreement with its non-safety employees that would allow newly hired employees to choose a hybrid pension benefit comprised of a lower defined benefit formula than current employees receive but with a 401k style supplement.

In light of all the changes being discussed locally, the County Administrative Officers Association of California (CAOAC) will consider an update to the reform proposals portion of the 2005-06 Guiding Principles document at their June 2, 2010 meeting. CSAC staff will work with the CAOAC and others to bring a recommendation to adopt an updated Guiding Principles document to the next meeting of the Government Finance and Operations Policy Committee for review and possible action.

Action Requested. Reaffirm the CSAC Guiding Principles for Pension Reform without the specific reform proposals and direct staff to return at the committee's next meeting with modified reform proposals for review.

Staff Contact. Please contact Eraina Ortega (eortega@counties.org or 916/327-7500 x521) or Faith Conley (fconley@counties.org or 916/327-7500 x527) for additional information.

Materials.

CSAC Guiding Principles for 2005-06 Pension Reform
CSAC Guiding Principles for Pension Reform (updated and without reform proposals)
SB 1425 (Simitian and Correa)—CSAC bill summary and letter.
AB 1987 (Ma)—CSAC bill summary and letter.

CSAC Guiding Principles for Pension Reform

Preamble

Public pension reform has garnered widespread interest and has generated significant debate among policy leaders about the appropriate remedy for actual and perceived abuse, rising costs, and accountability to taxpayers. CSAC welcomes this discussion and approaches the concept of reform with the overarching goal of ensuring public trust in public pension systems, and empowering local elected officials to exercise sound fiduciary management of pensions systems, as well as maintaining a retirement benefit sufficient to assure recruitment and retention of a competent local government workforce. Proposed reforms should meet these broad goals, as well as CSAC's guiding principles.

The guiding principles are intended to apply to new public employees in both PERS and 1937 Act retirement systems.

Guiding Principles

PROTECT LOCAL CONTROL AND FLEXIBILITY

Local elected officials should be able to develop pension systems that meet the needs of their workforce, maintain principles of sound fiduciary management, and preserve their ability to recruit and retain quality employees for key positions that frequently pay less than comparable positions in the private sector. A statewide mandated retirement system is neither appropriate nor practical, given the diversity of California's communities. Further, a mandated defined contribution retirement system could force a reconsideration of the decision of local governments not to participate in Social Security.

ELIMINATE ABUSE

Public pension systems provide an important public benefit by assisting public agencies to recruit and retain quality employees. Any fraud or abuse must be eliminated to ensure the public trust and to preserve the overall public value of these systems.

REDUCE AND CONTAIN COSTS

Public pension reform should provide for cost relief for government, public employees, and taxpayers.

INCREASE PREDICTABILITY OF COSTS AND BENEFITS FOR EMPLOYEE AND EMPLOYER

Responsible financial planning requires predictability. Employers must be able to predict their financial obligations in future years. Employees should have the security of an appropriate and predictable level of income for their retirement after a career in public service.

STRENGTHEN LOCAL CONTROL TO DEVELOP PLANS WITH EQUITABLE SHARING OF COSTS AND RISKS BETWEEN EMPLOYEE AND EMPLOYER

Equitable sharing of pension costs and risks promotes shared responsibility for the financial health of pension systems and reduces the incentive for either employees or employers to advocate changes that result in disproportionate costs to the other party, while diminishing the exclusive impact on employers for costs resulting from increases in unfunded liability.

INCREASE PENSION SYSTEM ACCOUNTABILITY

Public pension systems boards have a constitutional duty to (a) protect administration of the system to ensure benefits are available to members and (b) minimize employer costs. The constitutional provisions and state statutes governing such boards should promote responsible financial management and discourage conflicts of interest.

SB 1425 (Simitian/Correa) Public retirement: final compensation: computation: retirees. As amended May 4, 2010.

Summary of provisions:

SECTION 1

Uncodified findings and declarations.

SECTIONS 2-8

Applies to school members.

SECTION 9

Accountability-Requires the board of each state and local public retirement system to establish, by regulation, accountability provisions that include an ongoing audit process to validate compliance with this section and to include penalty provisions for noncompliance.

Earnable compensation-Prohibits any payrate, salary, special compensation, or other remuneration paid for the principal purpose of enhancing a member's benefits from inclusion in any calculation of compensation earnable.

Prohibits cash conversions of accrued employee benefits in amounts that exceed the amount that is both earned and payable to the member during a pay period from credit or inclusion in any calculation of compensation earnable.

Prohibits final settlement or termination pay or similar payment that is received by a member in anticipation of retirement, upon retirement, or separation from employment from credit or inclusion in compensation earnable.

Limits the final compensation of a member, who is not in a group or class, to an amount that cannot exceed the average salary or compensation increase received by employees in the closest related group or class as the member within the final compensation period and the two preceding years.

Return to service-Prohibits a retiree, who retires on or after January 1, 2011 and who has not reinstated, from performing service as an employee, through a third party, or as an independent contractor for an employer covered by a state or local retirement system from which the member has retired, unless the member has a separation from service of at least six months.

Additional definitions are included in this section.

SECTION 10

New reporting requirements for counties contracting with CalPERS.

Requires counties to provide immediate notice to CalPERS that a new employee has been hired.

Requires counties to provide immediate notice to CalPERS when there has been a change that may impact a member's payrate or special compensation, due to the adoption, termination, or amendment of any labor policy or agreement.

Adds the authority for CalPERS to seek information about an employer if it is deemed necessary for the administration of the system.

Authorizes CalPERS to assess a reasonable fee on any employer who fails to provide this information within applicable time limits.

SECTION 11

New fees for non-compliance. Authorizes CalPERS to assess reasonable costs against an employer for the audit, adjustment, or correction for non-compliance with new guidelines for reporting earnable compensation.

SECTION 12

Special compensation.

Requires special compensation be reported separately from payrate.

Authorizes a written petition to request an addition to the exclusive list that identifies and defines special compensation.

Requires CalPERS to respond in 90 calendar days to written requests submitted to determine whether specific compensation items meet the definition of special compensation.

SECTION 13

Applies to school members.

SECTIONS 14 and 15

Additional provisions to prohibit retirees, who retire on or after January 1, 2011 and who have not reinstated, from performing service for an employer covered by a state or local retirement system, as an employee, through a third party, or as an independent contractor, unless the member has a separation from service of at least six months.

SECTION 16

States that, except where otherwise provided, the bill shall become operative on July 1, 2011.

SECTION 17

Requires that AB 1987 (a similar bill applying to the 1937 Act retirement systems) also be enacted in order for SB 1425 to be effective.



April 16, 2010

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The Honorable Christine Kehoe
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

**Re: SB 1425 (Simitian and Correa) – Public Retirement: final compensation:
computation: retirees
As amended April 5, 2010 – Oppose Unless Amended
Set for hearing April 26, 2010 – Senate Appropriations Committee**

Dear Senator Kehoe:

The California State Association of Counties (CSAC) generally supports the efforts of Senators Simitian and Correa to curb pension spiking, however we must oppose the bill unless it is amended to remove the provisions related to a retiree's ability to return to county service.

The unprecedented market decline of 2008 has serious and long-term consequences for public retirement funds. As rate increases begin to take effect, counties can expect employer contributions for pensions to account for a larger and growing share of our budgets. Because increased employer costs are coming at a time when counties are facing severe state budget cuts and unprecedented declines in local revenue, the sustainability of public pensions and public scrutiny is an evermore present issue.

We appreciate that Senators Simitian and Correa introduced SB 1425 to address "pension spiking" abuses, where employees artificially inflate their compensation in the year(s) immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. Eliminating abuse is one of CSAC's guiding principles for pension reform and we agree that the spiking cases that have been identified, while isolated, are inappropriate and need to end.

Regrettably, we must oppose SB 1425 unless the provisions that require a retiree to have a six-month separation in service prior to returning to public employment are deleted or amended to address our concerns. This provision limits all flexibility for counties in dealing with shrinking budgets and the "brain drain" that occurs when long time county employees retire. Counties want to recruit the best candidates available. This provision eliminates a class of employees from consideration for public service; would we exclude retirees from the federal government, a private employer with a pension, or another state?

Counties have legitimate needs for the use of retired annuitants. Counties hire retirees as extra help in times of crisis and to fill short-term needs in all areas: public safety, health and human services, road maintenance, etc. A county may hire a new department head or other key employee who decides he or she is not the right fit. The recent retiree from that position is the obvious choice to fill the position while a new

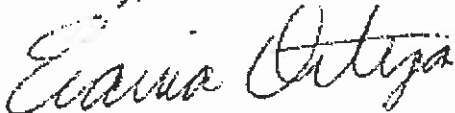
recruitment begins. In this case, a six-month wait would result in an unmanageable vacancy in that position. Also, after a six-month absence from a Sheriff's Department, a new background investigation is required. Background checks are time-consuming and costly; this would limit the flexibility to bring back retired annuitants in all positions in our public safety departments.

Many counties have adopted reasonable local rules for retired annuitants, for example requiring employees who are not of normal retirement age to wait 30, 60, or 90 days before returning to service. Employees of normal retirement age are typically allowed to work for the county immediately. Caps on the number of hours annuitants can work already exist.

Addressing the most egregious abuses of returning to service makes sense; perhaps a ban on a return to service, without reinstatement, for any employee who receives an early retirement incentive or "golden handshake". A six-month wait for every retiree is overly broad and is an inappropriate interference on a local public employer's ability to choose the best candidate for a job and to efficiently and effectively manage resources.

In conclusion, we oppose SB 1425 unless the provisions related to retirees' ability to return to public employment are removed or amended to provide counties with more flexibility to hire retirees. If you have any questions about our position, please do not hesitate to contact me at 916-650-8180 or eortega@counties.org.

Sincerely,

A handwritten signature in cursive script that reads "Eraina Ortega".

Eraina Ortega
Legislative Representative

cc: The Honorable Joe Simitian, California State Senate
The Honorable Lou Correa, California State Senate
Members/Consultant, Senate Appropriations Committee
Consultant, Senate Republican Fiscal

AB 1987 (Ma) Public retirement: final compensation: computation: retirees.
As amended April 29, 2010. Amends the 1937 Act.

Summary of provisions:

SECTION 1

Uncodified findings and declarations.

SECTION 2

Accountability-Requires the board of each state and local public retirement system to establish, by regulation, accountability provisions that include an ongoing audit process to validate compliance with this section and to include penalty provisions for noncompliance.

Earnable compensation-Prohibits any payrate, salary, special compensation, or other remuneration paid for the principal purpose of enhancing a member's benefits from inclusion in any calculation of compensation earnable.

Prohibits cash conversions of accrued employee benefits in amounts that exceed the amount that is both earned and payable to the member during a pay period from credit or inclusion in any calculation of compensation earnable.

Prohibits final settlement or termination pay or similar payment that is received by a member in anticipation of retirement, upon retirement, or separation from employment from credit or inclusion in compensation earnable.

Limits the final compensation of a member, who is not in a group or class, to an amount that cannot exceed the average salary or compensation increase received by employees in the closest related group or class as the member within the final compensation period and the two preceding years.

Return to service-Requires state and local public retirement boards to adopt a regulation to prohibit a retired member, that has not reinstated, from performing service for an employer covered by the state or local retirement system from which he or she retired, as an employee, through a third party, or as an independent contractor, unless the member has a bona fide separation from service of at least six months.

Additional definitions are included in this section.

SECTION 3

Defines "compensation" for member's services performed during normal working hours or for time during which the member is excused from work due to sick leave, industrial disability leave under Section 4850 of the Labor Code, vacation,

compensatory time off, or leave of absence. Compensation excludes board, lodging, fuel, laundry, or other advantages furnished to a member.

Requires the county to identify the pay period in which compensation was earned regardless of when reported or paid. Allows the retirement board to assess a reasonable amount to cover the cost of audit, adjustment, or correction where it determines the county did not comply with the compensation reporting requirement. Prohibits the county from passing any assessed cost to the employee.

SECTION 4

Defines "labor policy or agreement" to mean any written policy, agreement, MOU, legislative action of the board of supervisors or the district board, or any other document used by the county or district to specify the payrate, special compensation, and benefits of represented and unrepresented employees.

SECTION 5

Defines "compensation earnable" to include payrate and special compensation as defined. Requires all schedules, ordinances, or similar documents related to payrate and special compensation be available for public scrutiny.

Payrate-Defines payrate to include any amount deducted from a member's salary for any of the following: participation in a deferred compensation plan or retirement plan, payment into a money purchase pension plan, participation in a flexible benefits program, any cash payment to one other than the employee for the purpose of purchasing an annuity, employer "pick up" of member contributions, any disability payments or workers compensation payments to safety members in accordance with Section 4850 of the Labor Code.

Special compensation-Defines special compensation to that cash remuneration, in addition to payrate received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law to a similarly situated member of a group or class of employment.

Defines special compensation for an individual who is not part of a group or class to that cash remuneration that the board determines is received by similarly situated members in the closest related group or class. Any increases are limited during the final compensation period applicable to the employee, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable during the same period for all similarly situated members in the closest related group or class.

Excludes the monetary value of any service or noncash advantage furnished by the employer from the definition of special compensation unless provided by law or unless regulations promulgated by the retirement board specifically determine that value to be special compensation.

Requires the retirement board to promulgate regulations that delineate more specifically what shall be excluded from special compensation.

Includes uniform allowances, the monetary value of employer-provided uniforms, holiday pay, premium pay, and those items of remuneration indentified by the retirement board and consistent with the *Ventura County and In re Retirement* cases and any related settlements.

Excludes final settlement pay, payments made for services rendered outside of normal working hours, payments that exceed that which is earnable and payable in a 12-month period for unused vacation, annual leave, personal, leave, sick leave, or compensatory time off.

Group or class-Defines a group or class to be a number of employees considered toether because they share job similarities, work location, collective bargaining unit, or other logical work-related grouping. Under no circumstances shall one employee be considered a group or class.

Final settlement pay-Defines final settlement pay and requires the retirement board to promulgate regulations to the extent necessary to delineate more specifically what constitutes final settlement pay consistent with the *Ventura County and In re Retirement* cases and any related settlements.

SECTION 6

Excludes overtime from final compensation calculation.

SECTION 7

Repeals Section 31539 of the Government Code related to the correction of a retired member's monthly allowance and the 10 year period of limitation for making corrective action.

SECTION 8

Establishes obligations of the board of retirement and the county to retired employees throughout their lives.

Sets a three year period of limitation for correction of errors in cases in which the retirement system makes an erroneous payment. Caps the period of collection of an overpayment at three years. The period of limitation does not apply in cases where the member or beneficiary is owed payment.

Establishes a 10 year period of limitation for correcting errors related to the death of a member or beneficiary or a remarriage of a beneficiary.

Establishes a 10 year period of limitation for correcting errors made as a result of fraud.

SECTION 9

Gives the board of retirement additional discretion to correct errors or omissions of any active or retired member or beneficiary, subject to specified conditions.

SECTION 10

Requires the county to report to the retirement board within 30 days any of the following: a new pay item, any change in an existing pay item, a change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, death, any change that may impact the payrate or special compensation of a member resulting from an MOU, information concerning members with claims against the board.

Requires the retirement board to determine within 90 days whether the pay item is included in the definition of compensation and compensation earnable. The decision may be appealed by the county or member.

Authorizes the retirement board to assess a reasonable fee for noncompliance with these reporting requirements.

SECTION 11

Authorizes the retirement board to require a county to provide information or make information available, as specified, to determine the correctness of retirement benefits.

SECTION 12

Requires any county that fails to enroll an employee into membership, within 90 days of when he or she becomes eligible, to pay all arrears costs for member contributions and administrative costs of \$500 per member.

SECTION 13

Prohibits any person who has been retired from service on or after January 1, 2011, as a member of a county retirement system, who has not reinstated, from performing service for an employer covered by a county retirement system as an employee, through a third party, or as an independent contractor, unless the member has a bona fide separation from service of at least six months.

SECTIONS 14-18

Applicable to city retirement systems.

SECTION 18

Except where specified, provides that the bill is operative July 1, 2011.

SECTION 19

Requires that SB 1425 also be enacted in order for this bill to become effective.



May 7, 2010

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The Honorable Felipe Fuentes
Chair, Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

Re: AB 1987 (Ma) – Public Retirement: final compensation: computation: retirees

**As amended April 29, 2010 – Oppose Unless Amended
Set for hearing May 12, 2010 – Assembly Appropriations Committee**

Dear Assembly Member Fuentes:

The California State Association of Counties (CSAC) generally supports efforts to curb pension spiking, however this letter identifies concerns we have with the bill's spiking provisions and explains our request that you amend AB 1987 to provide counties with more flexibility related to reinstatement to county employment (7500.5 (f)).

First, we provide background and the context through which CSAC analyzes pension issues. The unprecedented market decline of 2008 has serious and long-term consequences for public retirement funds. As rate increases begin to take effect, counties can expect employer contributions for pensions to account for a larger and growing share of our budgets. Because increased employer costs are coming at a time when counties are facing severe state budget cuts and unprecedented declines in local revenue, the sustainability of public pensions and public scrutiny is an evermore present issue.

We appreciate that Assembly Member Ma introduced AB 1987 to address "pension spiking" abuses, where employees artificially inflate their compensation in the year(s) immediately preceding retirement in order to receive larger pensions than they otherwise would be entitled to receive. Eliminating abuse is one of CSAC's guiding principles for pension reform and we agree that the spiking cases that have been identified, while isolated, are inappropriate and need to end.

Unfortunately, AB 1987 falls short of a complete fix by targeting those members not in a group or a class and protecting any spiking that may occur as a result of pay differentials or remuneration that is included in a Memorandum of Understanding. Court decisions interpreting the law have led to the inclusion of education incentives, uniform allowances, shift differentials, and longevity pay, among other things, in the calculation of final compensation simply because they are provided for in a labor contract. The direct solution to pension spiking is to reverse the impacts of the *Ventura County* and subsequent judicial decisions that expand the factors used to determine final compensation. Instead, AB 1987 codifies those legal interpretations, possibly broadening their applicability and thereby increasing the costs of retirement benefits.

AB 1987 appears to also include "employer pick-up" of employee contribution to retirement systems as pay-rate factor for compensation earnable. This is practice not used in all 1937 Act counties. To the extent this provision requires all 1937 Act retirement systems to adopt this practice; retirement costs for employers in those plans could increase. These and additional changes made in the April 29 amendments to the bill are under review by county counsel and other staff.

Another concern counties have with AB 1987 is that by requiring each retirement system to enact regulations to determine whether remuneration has been paid "for the principal purpose of enhancing a member's benefits" and creating a presumption which the employee has the burden to rebut, AB 1987 will result in unequal and disparate treatment of members of state and local public retirement systems. The Legislature should provide standards to guide the various retirement systems in devising and applying such regulations so there can be consistent application of the rules.

Finally, we raise the issue of retirees' ability to return to work for a public agency. Regrettably, we must oppose AB 1987 unless this section is deleted or amended to address our concerns. This provision limits all flexibility for counties in dealing with shrinking budgets and the "brain drain" that occurs when long time county employees retire. Counties want to recruit the best candidates available. This provision eliminates a class of employees from consideration for public service; would we exclude retirees from the federal government, a private employer with a pension, or another state?

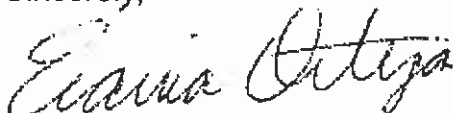
Counties have legitimate needs for the use of retired annuitants. Counties hire retirees as extra help in times of crisis and to fill short-term needs in all areas: public safety, health and human services, road maintenance, etc. A county may hire a new department head or other key employee who decides he or she is not the right fit. The recent retiree from that position is the obvious choice to fill the position while a new recruitment begins. In this case, a six-month wait would result in an unmanageable vacancy in that position. Also, after a six-month absence from a Sheriff's Department, a new background investigation is required. Background checks are time-consuming and costly; this would limit the flexibility to bring back retired annuitants in all positions in our public safety departments.

Many counties have adopted reasonable local rules for retired annuitants, for example requiring employees who are not of normal retirement age to wait 30, 60, or 90 days before returning to service. Employees of normal retirement age are typically allowed to work for the county immediately. Caps on the number of hours annuitants can work already exist.

Addressing the most egregious abuses of returning to service makes sense; perhaps a ban on a return to service, without reinstatement, for any employee who receives an early retirement incentive or "golden handshake". A six-month wait for every retiree is overly broad and is an inappropriate interference on a local public employer's ability to choose the best candidate for a job and to efficiently and effectively manage resources.

In conclusion, while we support efforts to curb the pension spiking abuses that shake the public's faith in the integrity of public employment and benefits, we are concerned that in an attempt to address single class spiking, AB 1987 codifies what some may see as "group" spiking simply because the added benefits are included in a collective bargaining agreement. The addition of the "employer pick-up" in the calculation of final compensation is also of great concern due to the potential cost increases that could result. And, we ask that you amend section (7500.5 (f)) of the bill related to retirees' ability to return to public employment to provide counties with more flexibility. If you have any questions about our position, please do not hesitate to contact me at 916-650-8180 or eortega@counties.org.

Sincerely,

A handwritten signature in cursive script that reads "Eraina Ortega".

Eraina Ortega
Legislative Representative

cc: The Honorable Fiona Ma
Members/Consultant Assembly Appropriations Committee



Health and Human Services Policy Committee
Thursday, June 3, 2010 · 9:00 – 11:00 a.m.
Hyatt Regency Sacramento · Regency E-F · 1209 J Street ·
Sacramento, CA 95814

AGENDA

Supervisor Liz Kniss, Santa Clara County, Chair
Supervisor Terry Woodrow, Alpine County, Vice Chair

- 9:00 a.m. I. **Welcome and Introductions**
Supervisor Liz Kniss, Santa Clara County
- 9:05 – 10:00 II. **California's Next Section 1115 Medicaid Waiver: Panel Discussion**
Moderator: Lee Kemper, Administrative Officer, County Medical Services Program (CMSP)
Panelists: Toby Douglas, Deputy Director, California Department of Health Care Services (invited)
Erica Murray, Vice President, California Association of Public Hospitals and Health Systems (CAPH)
Elizabeth Landsberg, Legislative Advocate, Western Center on Law and Poverty
Patricia Ryan, Executive Director, California Mental Health Directors Association (CMHDA)
John Ramey, Executive Director, Local Health Plans of California (invited)
- 10:00 – 10:20 III. **Health Information Technology: What is California's Plan?**
Jonah Frohlich, Deputy Secretary, California Health and Human Services Agency
- 10:20 – 10:40 IV. **2010-11 State Budget: How the May Revision Impacts the Health and Human Services Safety Net**
Cathy Senderling-McDonald, CWDA
Patricia Ryan, CMHDA
Farrah McDaid Ting, Senior Legislative Analyst, CSAC
- 10:20 – 10:55 V. **Federal Health Reform: Federal and State Updates**
Farrah McDaid Ting, Senior Legislative Analyst, CSAC
- 10:55 – 11:00 VI. **Closing Comments and Adjournment**
Supervisor Liz Kniss, Santa Clara County



Housing, Land Use & Transportation Policy Committee
2010 CSAC Legislative Conference
Wednesday, June 2, 2010 ■ 10:00 a.m. to 12:00 Noon
Sacramento Convention Center ■ Room 315 ■ 3rd Floor
Sacramento ■ California

FINAL AGENDA

Chair, Supervisor Paul Biane, San Bernardino County
Vice Chair, Supervisor Efren Carrillo, Sonoma County

- 10:00 a.m. I. **Welcome, Introductions, and Approval of the Agenda**
Supervisor Paul Biane, Chair, San Bernardino County
Supervisor Efren Carrillo, Vice Chair, Sonoma County
- 10:05 a.m. II. **Permanent Source for Affordable Housing Legislative Proposal**
Lynn Jacobs, Director, Housing and Community Development Department
- 10:20 a.m. III. **Local Taxpayer, Public Safety & Transportation Protection Act – Action Item**
DeAnn Baker, CSAC Senior Legislative Representative
Attachment One: CSAC Policy Committee Memo on League Initiative
Attachment Two: League Initiative Text
- 10:40 a.m. IV. **Indian Gaming Update**
Supervisor Mike McGowan, Yolo County
Bruce Goldstein, Assistant County Counsel, Sonoma County
- 11:00 a.m. VI. **SB 375 & Regional Targets Update**
Representative, California Air Resources Board
DeAnn Baker, CSAC Senior Legislative Representative
Kiana Buss, CSAC Legislative Analyst
- 11:20 a.m. VII. **Prop 84 Planning Grants Update**
Julia Lave Johnston, Deputy Director, Planning and Policy, Governor's Office of Planning & Research
- 11:30 a.m. VIII. **Legislative Discussion:**
- Land Use: AB 853 (Arambula): Unincorporated Fringe & Island Communities; SB 1174 (Wolk): General Plan: Disadvantaged Unincorporated Communities.
 - Land Use/Transportation: SB 1445 (DeSaulnier): Regional Planning: Sustainable Communities Strategies
- DeAnn Baker, CSAC Senior Legislative Representative*
Kiana Buss, CSAC Legislative Analyst
Attachment Three: AB 853 (Arambula)
Attachment Four: SB 1174 (Wolk)
Attachment Five: SB 1445 (DeSaulnier)
- 11:50 a.m. IX. **Federal Transportation (Re)Authorization Update**
Joe Krahn, Waterman and Associates
Kiana Buss, CSAC Legislative Analyst
- 11:55 a.m. X. **Other Items & Adjournment**



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May 19, 2010

To: CSAC Board of Directors
From: Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Legislative Analyst

Re: The Regulate, Control and Tax Cannabis Act of 2010

The Regulate, Control and Tax Cannabis Act of 2010, which would amend the California Constitution and state statute to legalize marijuana, will go before the voters on the November 2010 ballot. At the request of the CSAC Medical Marijuana Working Group, CSAC staff prepared the following analysis. The purpose of this memo is to provide a detailed description of the initiative, existing law, and possible effects on counties to facilitate discussion about the measure at the June 3, 2010, CSAC Board of Directors meeting. The Officers will then determine if CSAC will take a position on the measure and which policy committees will review it.

I. The Regulate, Control and Tax Cannabis Act of 2010

The Regulate, Control and Tax Cannabis Act of 2010 (Act) would legalize the personal consumption, cultivation, and sale of cannabis (marijuana) in California, and allow adults 21 and older to possess up to one ounce. The Act would authorize local governments to adopt ordinances to regulate the possession, transportation, cultivation, processing, and sale of marijuana, and to impose fees and taxes on it.

Specifically, the Regulate, Control and Tax Cannabis Act of 2010 would do the following:

A. *Legalization of Marijuana Activities*

- The Act would allow persons 21 years of age and older to personally possess, process, share, and transport — but not sell — up to one ounce of marijuana, solely for personal consumption. It would permit personal consumption in “non-public” places, defined as including a residence or a public establishment licensed for on-site marijuana consumption.
- The Act would allow marijuana cultivation on up to 25 square feet of private property, and would permit the possession of harvested and living marijuana plants cultivated in such an area as well as equipment and other paraphernalia associated with cultivation and consumption.
- The Act specifies that smoking marijuana in the presence of minors or the consumption of marijuana by the operator of a motor vehicle would be prohibited. In addition, the Act states that it would not amend various existing statutes related to marijuana, such as laws that prohibit driving under the influence of drugs or that prohibit possessing marijuana on the grounds of elementary, middle, and high schools.

B. *Commercial Regulations and Controls*

- The Act would only authorize the sale of marijuana by a person who is licensed or permitted to do so.

- Under the Act, a local government could adopt ordinances or regulations regarding the cultivation, processing, distribution, transportation, sale, and possession of marijuana.
 - The Act would permit local authorities to authorize the possession and cultivation — including commercial production — of larger amounts of marijuana. However, retail sales would be limited to one ounce per transaction in licensed premises.
 - The Act would allow local governments to control the licensing of establishments for the sale of marijuana, including limits on zoning and land use, locations, size, hours of operation, occupancy, advertising, and signs and displays.
 - The Act would allow local governments to ban the sale of marijuana within their respective jurisdictions. However, the possession and consumption of up to one ounce would be permitted.
- The Act would authorize the Legislature to amend the Act's provisions as long as they further the purposes of the Act. The Act lists examples, including: creating a statewide system of regulation for the commercial cultivation of marijuana, authorizing the production of hemp, and increasing quantitative limits.

C. *Taxes and Fees*

- The Act would allow local governments to impose general, excise, and transfer taxes. It would also authorize benefit assessments and fees on marijuana-related activities to raise revenue or recoup direct or indirect costs associated with authorized activities, including permitting, licensing, and enforcement.
- The Act requires licensed marijuana establishments to pay all applicable federal, state, and local taxes, fees, fines, penalties, and other financial responsibilities imposed on similar businesses.

D. *Criminal and Civil Penalties*

- Under the Act, any licensed marijuana distributor that sells or gives marijuana to a person under the age of 21 could not own, operate, or be employed by a licensed marijuana establishment for one year.
- Under the measure, persons age 21 or older who knowingly give marijuana to a person age 18-20 could be sent to county jail for up to six months and fined up to \$1000.
- The Act does not change existing criminal statute related to penalties for furnishing marijuana to persons under the age of 18.
- The Act authorizes local governments to impose additional penalties or civil fines on marijuana activities not in conflict with the goals of the Act.
- The Act states that no individual could be punished, fined, or discriminated against for engaging in any conduct permitted by the measure. The Act does specify that employers retain their existing rights to address consumption of marijuana by employees.
- The Act states that no state or local law enforcement agency or official shall attempt to, or threaten to seize or destroy any marijuana that is lawfully cultivated, processed or sold.

II. EXISTING STATE LAW

Existing law decriminalizes the use of marijuana for certain medical purposes. The following is a description of existing statute relating to the use of medical marijuana.

A. Proposition 215 - The Compassionate Use Act of 1996

Proposition 215, the Compassionate Use Act of 1996, amended state law to allow persons to grow or possess marijuana for medical use when recommended by a physician. Proposition 215 also allows caregivers to grow and possess marijuana for a person for whom the marijuana is recommended. It states that no physician shall be punished for having recommended marijuana for medical purposes. Additionally, Proposition 215 specifies that it is not intended to overrule any law that prohibits marijuana use for nonmedical purposes.

B. Senate Bill 420 - The Medical Marijuana Program Act

Senate Bill 420 (Chapter 875 of 2003), established the Medical Marijuana Program Act (MMPA). The MMPA, among other things, requires the California Department of Public Health to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system.

According to the Office of the Attorney General, medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. SB 420 requires that all counties participate in the identification card program by:

- Providing applications upon request to individuals seeking to join the identification card program;
- Processing completed applications;
- Maintaining certain records;
- Following state implementation protocols; and
- Issuing DPH identification cards to approved applicants and designated primary caregivers.

Participation by patients and primary caregivers in the identification card program is voluntary. In addition to establishing the identification card program, the MMPA also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana.

Specifically, SB 420 states that qualified patients and primary caregivers who possess a state issued identification card may possess 8 ounces of dried marijuana and may maintain no more than 6 mature or 12 immature plants per qualified patient. In addition, the law allows counties and cities to adopt regulations that allow qualified patients or primary caregivers to possess medical marijuana in amounts that exceed the MMPA's possession guidelines.

III. EXISTING FEDERAL LAW

Federal law continues to treat marijuana as an illegal substance and considers the manufacture, distribution, and possession of marijuana as federal criminal offenses. The Controlled Substances Act of 1970 (CSA) established a federal regulatory system designed to combat drug abuse by making it unlawful to manufacture, distribute, dispense, and possess any controlled substance. The CSA reflects the federal government's view that marijuana is a controlled substance with no medical use.

In March 2009, the federal government announced that it would no longer prosecute medical marijuana patients and providers whose actions were consistent with state law, but would continue to enforce its prohibition on non-medical activities. It is unclear how the federal government will react if this Act is approved by the voters.

IV. EFFECTS

The Regulate, Control and Tax Cannabis Act is loosely drafted, leaving a great deal open for interpretation and legal review. The language is not specific in many instances and appears to be internally inconsistent in certain areas. The main questions surrounding the Act's implementation include:

- Would the Act be in direct violation of federal law? To what extent would the federal government impede the Act's implementation?
- Would local governments be able to impose adequate fees and taxes to cover all the costs associated with the Act's implementation?
- Would local governments be able to control personal marijuana cultivation with land use and zoning authority?
- How would the creation of a statewide regulatory framework for a commercial marijuana industry affect local regulation?
- How would the legalization of marijuana impact public safety?

A. Regulation

The Act does not include a specific framework for implementation and regulation; rather, it would place the regulatory burden of legalizing marijuana on local governments. The Act authorizes the Legislature to amend the Act to further its purposes, including creating a statewide regulatory system for a commercial marijuana industry. However, the Act specifically delegates this regulatory authority to local governments along with the ability to impose fees and taxes. It is unclear whether the state would assume the burden of regulation, or how their authority would interact with a local government's ability to regulate local commercial activity. This specific clause appears to be inconsistent with the purpose of the Act, which appears to focus on local regulation.

The Act authorizes cities and counties to adopt ordinances to control, license, and permit the sale of marijuana within their respective boundaries. The initiative also allows a local government to prohibit the sale of marijuana within its jurisdiction. However, personal consumption and cultivation would still be permissible by law.

This could create a patchwork-like system of local regulation. For example, local governments could authorize an increase in the possession limit to an amount greater than one ounce, or choose to not permit the sale of marijuana at all. Possession, sales, and distribution limits would almost certainly differ throughout the state, as would the fees and taxes on marijuana and its related activities. This has the potential to create an uneven system of regulation, but it does allow for local control and flexibility and would allow local governments to have greater control over the sale and distribution of marijuana within their respective jurisdictions.

B. Taxation

The preamble of the Act states that taxing marijuana will generate billions of dollars for the state and local governments. However, the amount of revenue that the Act would generate is difficult to predict. Most notably, it is unclear how the federal government would react if this initiative passes. For instance, would they challenge the ability of local agencies to collect taxes on activities that remain illegal under federal law? Due to these questions, any revenue directly associated with the legalization of marijuana would be subject to great uncertainty.

The initiative would authorize local governments to impose a wide variety of fees and taxes on marijuana-related activities. The Act specifies that the purpose of these fees and taxes would be to allow local governments to raise revenue or to offset any costs associated with its regulation. This could create a new source of revenue for local governments who might realize additional revenues from both sales and property taxes generated by the commercial cultivation and sale of marijuana. However, the loss in revenues from the collection of fines established in current law for criminal offenders could marginally reduce the amount of revenue the taxes and fees generate.

The Act does not expressly authorize the State to impose taxes or fees on marijuana. However, longstanding case law indicates that the Legislature's authority to impose taxes and regulate the collection thereof exists unless it has been expressly eliminated by the Constitution.

C. Public Safety

The Act specifies that no state or local law enforcement agency would be able to seize marijuana that is legally cultivated or sold in California. This presents several questions with regard to public safety. Would taxes and fees on marijuana create a greater incentive for a black market? Would increased protection from seizure by law enforcement allow drug cartels to operate more freely? Would the legalization of marijuana detract from illegal activity, or increase the prevalence of a cheaper, black market product?

With respect to costs, the Act presents potential cost increases associated with an increase in participation in publicly funded substance abuse treatment services. Alternatively, the Act has the potential to decrease costs associated with marijuana offenders incarcerated in state prisons and local jails as well as a potential reduction in court costs.

D. Medical Marijuana and Cultivation

With respect to medical marijuana, the Act would not change current law. Legalization of marijuana has the potential to reduce the number patients participating in the MMPA

program and its associated costs. The Act would clarify some issues facing local governments related to regulating medical marijuana, and would also resolve the legal ambiguity surrounding medical marijuana.

If legalized, the state and local governments would also have the ability to regulate the quality of marijuana consumed. Currently, authorities are not able to regulate the quality of medical marijuana in the state because the law only decriminalized its use for certain medical purposes. Current statute does not treat marijuana as a legal substance and therefore the state and local governments do not have the ability to regulate the pesticides used in its cultivation or any additives used in its production.

The Act would also create a personal right to cultivate marijuana on private property in an area up to 25 square feet. It is unclear if local governments would be able to regulate this activity under its existing zoning and land use authority. This could result in marijuana cultivation next to sensitive use areas, such as schools and playgrounds.

E. Proponents and Opponents

The Act's main proponent is Richard Lee, an Oakland-based medical marijuana dispensary owner. Other known proponents include the Drug Policy Alliance and the Marijuana Policy Project. The proponents' arguments focus on the Act's ability to regulate and control marijuana cultivation and use similar to alcohol. They also state that taxes and fees imposed on marijuana have the potential to generate billions in revenue for the state and local governments.

The Act's known opponents include the California Police Chiefs Association, California Narcotics Officers Association, and Mothers Against Drunk Driving. The arguments on the opponents' side focus on the potential for increased crime and substance abuse and the difficulty of enforcing "regulated" use and cultivation.

V. Conclusion

It is clear that the development of a regulatory framework to control the legal use and production of marijuana would consume a tremendous amount of time and resources. Given the uncertainty of federal involvement, it is unclear whether the potential benefits of new tax revenues would compensate for resources expended by the state and local governments. The Act also presents several questions with respect to actual implementation. Many provisions in the Act would likely be challenged in court, adding to the costs of implementing it.

Needless to say, there would also be social impacts associated with the legalization of marijuana, though what they would be can and will be the subject of considerable debate. The social costs and benefits of legalizing a controlled substance go beyond the scope of this analysis, but would undoubtedly affect the state and local governments.



Highlights of the Governor's 2010–11 May Revision

May 14, 2010

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

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

RE: **Budget Action Bulletin #4**

This afternoon, a very somber Governor Arnold Schwarzenegger unveiled the final May Revision of his governorship. While the 2010-11 budget revision provides increases to higher education and spares the judicial branch and some other areas from additional cuts, the Governor's proposal would decimate the social safety net, particularly community mental health services and CalWORKs. The Governor's budget proposes no new taxes or significant new revenue proposals. It relies primarily on spending reductions (\$12.4 billion) and assumed receipt of federal funds.

In his comments just preceding the release of the budget document, the Governor made clear that he would only sign a budget that contains major budget and pension reforms. In the Governor's words, there are no more low-, medium-, or high-hanging fruits. Only tough decisions remain. He urged the Legislature to work in a bipartisan fashion to deliver an on-time budget.

Reaction from the Capitol was swift. The Republican caucuses indicated that the Governor's budget was a good starting point for discussion, given that it takes into account the state's fiscal reality and that it holds the line against new taxes. The response from Senate Democrats was especially critical and offered alternatives to the draconian proposals such as the elimination of corporate tax loopholes and potential realignment of state responsibilities to local government. (Please see CSAC's initial reaction to the Governor's budget revisions in the attached press release.)

This document attempts to summarize the Governor's revised budget proposals based on the written materials, various briefing calls by the Administration, and press accounts. However, because today was a Furlough Friday for state employees, supplemental detailed document from state departments was not available. CSAC will provide more information as we learn it.

STATEWIDE ISSUES

The purpose of the May Revision is to update the Governor’s January budget proposal based on actual revenues, as opposed to projected revenues, through the major tax season. After the May release, the Constitution gives the Legislature a month to adopt a budget, though they often seem to take a bit longer than this.

This year, due to updated revenue estimates and the changes adopted earlier this year in the Special Session, the Governor calculates a total deficit of \$19.1 billion. Of that imbalance, \$7.7 billion (40%) is due to the current year, \$10.2 billion (53%) accrues to the budget year, and \$1.2 billion (6%) is to build a reserve.

Changes in the Budget Gap (in billions)

Projected Shortfall in January Budget Proposal	-\$19.9
Special Session Solutions	\$1.4
Achieved Federal Funds	\$0.7
Revenue Decline	-\$0.6
Cost Increases	-\$0.5
Increase in Reserves	-\$0.2
Total Budget Solutions Proposed	-\$19.1

The Governor’s proposal relies mainly on cuts (\$12.4 billion, or 65%); the rest of the gap is bridged with federal funds (\$3.4 billion, or 18%), and fund shifts and other “revenues” (also \$3.4 billion, or 18%).

Proposed Budget Solutions (in millions)

	January Budget Proposal	May Revision	Total	Percent
Expenditure Reductions	\$5,844.5	\$6,523.4	\$12,367.9	64.6%
Federal Funds	\$1,967.9	\$1,414.1	\$3,382.0	17.7%
Alternative Funding	\$1,025.9	\$252.4	\$1,278.3	6.7%
Fund Shifts & Other Revenues	\$477.1	\$1,636.5	\$2,113.6	11.0%
Total	\$9,315.4	\$9,826.4	\$19,141.8	

Counties will recall that the Governor’s January budget proposal assumed \$6.9 billion in various federal funds; if this money failed to materialize, it would trigger the elimination of or dramatic funding reductions for various programs. Since he could only muster promises for about \$3.7 billion during his trip to Washington, DC earlier this year, some trigger cuts are now real proposals. You can find them detailed in the Health and Human Services section of this document.

Regardless of the details of this year's final budget, the size of government in California has dropped precipitously over the past several years, by any measure. General Fund spending has dropped from a high of nearly \$105 billion in 2007-08 to a proposed \$83.4 billion in 2010-11, and, after adjusting for inflation and population growth, the General Fund is significantly below spending levels of the late 1990s. Special funds, not represented in the charts above, are proposed to receive \$26.5 billion and spend \$30.9 billion.

General Fund Revenue Sources – Change from 2009-10
(in millions)

	2009-10	2010-11	\$ Change	% Change
Personal Income Tax	\$44,021	\$46,245	\$2,224	5.1%
Sales Tax	\$26,852	\$26,967	\$115	0.4%
Corporation Tax	\$9,386	\$9,779	\$393	4.2%
Motor Vehicle Fees	\$1,416	\$1,503	\$87	6.1%
Insurance Tax	\$2,027	\$1,967	-\$60	-3.0%
Estate Taxes	-	\$892	\$892	∞%
Liquor Tax	\$332	\$354	\$22	6.6%
Tobacco Taxes	\$99	\$97	-\$2	-2.0%
Other	\$2,388	\$3,647	\$1,259	52.7%
Total	\$86,521	\$91,451	\$4,930	5.7%

General Fund Expenditures by Agency
(in millions)

	2009-10	2010-11	\$ Change	% Change
Legislative, Judicial, Executive	\$1,828	\$2,905	\$1,077	58.9%
State & Consumer Services	\$510	\$599	\$89	17.5%
Business, Transportation & Housing	\$2,512	\$765	-\$1,747	-69.5%
Natural Resources	\$1,873	\$2,037	\$164	8.8%
Environmental Protection	\$71	\$65	-\$6	-8.5%
Health & Human Services	\$24,408	\$22,859	-\$1,549	-6.3%
Corrections & Rehabilitation	\$8,186	\$8,981	\$795	9.7%
K-12 Education	\$35,869	\$35,133	-\$736	-2.1%
Higher Education	\$10,570	\$11,794	\$1,224	-11.6%
Labor & Workforce Development	\$57	\$58	\$1	1.8%
General Government:				
Non-Agency Departments	\$497	\$588	\$91	18.3%
Tax Relief/Local Government	\$470	\$534	\$64	13.6%
Statewide Expenditures	-\$386	-\$2,914	-\$2,528	654.9%
Total	\$86,465	\$83,404	-\$3,061	-3.5%

Not directly reflected in the charts above is that the Governor proposes to spend \$419.4 million less on borrowing costs, including a decrease of \$197.5 million less in debt service due to lower-than-expected General Obligation (GO) costs and reduced interest rate assumptions for future sales. The lower interest rates also resulted in significant savings for cash flow borrowing costs in both the current year (\$135 million) and the budget year (\$190 million).

CASH FLOW CONCERNS

The state will have sufficient cash to repay the current year's \$8.8 billion of Revenue Anticipation Notes (RANs) this month and next, but will of course have to secure new external financing early in the budget year. In the Special Session, the Legislature authorized various deferrals to aid the state's cash flow situation, but the Governor alludes to possibly requiring "additional cash solutions" to reduce the need for external borrowing. Director of Finance Ana Matosantos mentioned a potential cash problem in late summer that they are still working to identify and, if necessary, resolving. She reported that the Controller told the Department of Finance that they will have updated cash flow projections next week.

BUDGET REFORM

The Governor began his presentation of this updated budget proposal by stating that a budget should be a reflection of what California values most, and that it should safeguard the most vulnerable, but that this budget does neither. The reason he gave for that failure was the broken state of our budget system. Pointing out that if budget reform had been in place years ago the current deficit would be \$10 billion less, he boldly stated that he will not sign a budget without serious reforms to the budget system and to pensions.

WHAT'S BEEN PROPOSED

ADMINISTRATION OF JUSTICE

State and Local Corrections. The Governor proposes a range of changes to state/local corrections programs and services. These proposals would enable the state to achieve savings in the corrections budget, reduce the state prison population, share a portion of that savings with counties, and direct new responsibilities to the local level. These proposals are explained briefly below:

- **Detaining felony state inmates in county jails.** The Governor proposes a new program under which non-serious, non-violent, non-sex offenders sentenced to state prison terms of 36 months or less would serve their time in county jail. In exchange, counties would receive local block grant funding – derived from the savings the state would see from the reduction of state prison population – based on approximately \$11,500 for each inmate, which would be allocated for such purposes as probation programming, drug courts, and alternative custody. It is our understanding that the mitigating funding is not intended to fully cover the costs of the new detention responsibilities but to address the needs of jail detainees displaced by incoming state inmates. This proposal would provide the state with \$243.8 million in General Fund (GF) savings.
- **Transferring supervision of juvenile parolees to county probation departments.** The Governor proposes to give county probation departments the responsibility of supervising

state juvenile parolees released from the Division of Juvenile Justice (DJJ). Counties would receive \$15,000 annually per juvenile parolee, based on the average length of stay, to supervise this population.

Further, it is our understanding that the Governor is withdrawing the January budget proposal that would have revised the jurisdictional age in the DJJ from 25 to 21.

Funding for Local Public Safety Programs and Facilities. As counties will recall, the 2009-10 budget deal struck in February 2009 authorized a temporary increase in the Vehicle License Fee (VLF) and dedicated a portion of the increase to a range of local public safety programs previously supported through state GF appropriations. The Department of Finance estimates this public safety increment will reach \$416 million in the current year, more than \$80 million short of what historically was appropriated for such programs as rural and small county sheriffs grants, Citizens' Option for Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA), Juvenile Probation and Camps Funding (JPCF), and alternative booking fee revenue, to name a few. The VLF increase lapses at the end of the 2010-11 fiscal year, and the Governor's May Revision proposes no changes to the funding mechanism in the current year.

However, the Governor's revised budget plan proposes to make a continuous appropriation of \$502.9 million, beginning in 2011-12 and going forward, from the state general fund for local programs (see page 2 of this [document](#) for a list), which would effectively bring funding back to its 2008-09 levels.

The Governor's May Revision proposes to increase lease-revenue bond authority by \$300 million for the construction of local youthful offender rehabilitative facilities.

Judicial Branch. There are several items within the judicial branch budget of interest to counties.

- **Court Security.** The Governor proposes to increase funding to the Trial Court Trust Fund by \$19 million, which will be dedicated to closing the court security funding shortfall. This increase would be achieved by imposing an additional \$15 court security fee on court users.
- **Automated Speed Enforcement.** The Governor continues to advance his Automated Speed Enforcement (ASE) proposal to offset general fund obligations to the trial courts. This proposal – which would give local governments the option of using red light camera technology to capture speed violators – was initially introduced as part of the Governor's January spending plan. In the May Revision, the revenue expected to be generated by the ASE proposal has been adjusted downward to \$206.1 million; further, the carve out of a portion of the ASE proceeds for court security has been abandoned, in favor of the court security fee increase. (For a full description of the Governor's January 2010 original ASE proposal, please see the CSAC Administration of Justice section of the February 5, 2010 [Legislative Bulletin](#).)

AGRICULTURE AND NATURAL RESOURCES

Williamson Act. The Governor's May Revision fails to restore the Williamson Act subventions. The proposed 2010-11 budget includes a token \$1,000 for Williamson Act subventions.

State Parks. Given his recent withdrawal of support for a plan to expand oil drilling off the California coast (Tranquillon Ridge), the Governor is no longer proposing to fund state parks from the revenues generated by the proposed Tranquillon Ridge oil lease. Consequently, the May Revision fully restores \$140 million GF to state parks in 2010-11.

Fish and Game. The May Revision reduces funding for the Department of Fish and Game habitat conservation and restoration programs by \$5 million. This reduction will impact marine protection, timber harvest plan review, and grants for fisheries restoration programs.

CAL FIRE. The May Revision augments the Department of Forestry and Fire Protection by \$124 million to reflect the loss of revenues from the delay in the enactment of the Emergency Response Initiative (ERI). As described in the May Revision Summary, the Governor's January Budget assumed the enactment of a 4.8 percent statewide surcharge on all residential and commercial property insurance by March 1, 2010, to fund state and local fire protection and emergency response activities. The May Revision assumes enactment of the ERI by July 1, 2010 and builds in \$76 million GF savings associated with its implementation.

Water Board. The Governor's May Revision proposes to reduce \$6.1 million from the State Water Resources Control Board's Basin Planning program and replaces that funding with Waste Discharge Permit Fee revenues.

GOVERNMENT FINANCE AND OPERATIONS

Elections. The Governor's May Revision continues to reimburse counties for the cost of conducting last year's special statewide election.

State Mandates. The May Revision also makes no substantive changes in the mandates section of the budget, except to the AB 3632 (Mental Health Services for Special Education Pupils) mandate. Please see the Health and Human Services for additional detail.

HEALTH AND HUMAN SERVICES

CalWORKs. The Governor proposes the outright elimination of the CalWORKs program on October 1, 2010, for a state savings of \$1.1 billion in 2010-11.

The CalWORKs program injects \$3.7 billion in federal TANF funds annually into the California economy, and 75 percent of recipients are children. If the program is eliminated, more than 540,000 families would seek County General Assistance. Counties are solely responsible for funding General Assistance, and could see a nearly \$2 billion increase in costs as a direct result of the elimination of CalWORKs.

Furthermore, the Governor continues to advocate for the CalWORKs reductions as proposed in his January budget – reducing monthly cash grant payments by 15.7 percent, reducing child care reimbursement rates, and eliminating the Recent Noncitizen Entrants program – to achieve even more state savings (\$488 million GF) before October 1.

Mental Health

- **Realignment Swap.** The Governor is proposing to eliminate \$602 million in Realignment funding for local mental health programs. Under this unorthodox proposal, the state would redirect Realignment funding from the Mental Health subaccount that is generated by sales tax to the Social Services subaccount.

This proposal will require a number of complicated statutory and regulatory changes, including state implementing legislation, changes to Realignment funding formulas, amendments to the state's current Medicaid State Plan, and perhaps even some Medicaid Waivers.

Under this proposal, counties will be required to continue providing federally mandated mental health services, including inpatient services, physician services, crisis services, medication services, and Early Periodic Screening, Diagnosis, and Treatment (EPSDT) services. The Administration is considering county funding of Institutes for Mental Disease (IMDs) and state hospitals to be optional. Remaining mental health Realignment funds would be used to provide these federally mandated mental health services.

The \$602 million that would be shifted into the Realignment Social Services subaccount would be used to fund Child Welfare Programs (\$291 million) and Food Stamps Administration (\$311 million).

- **AB 3632: Mental Health Services for Special Education Pupils.** Please note that the Governor has proposed suspending the AB 3632 mandate to save \$52 million GF in 2010-11. In short, the state expects counties to provide only mental health services that are reimbursable through Medi-Cal, which draws down federal funding. Under federal law, responsibility to provide mental health services to special education services will fall back to schools.

Social Services Impacts of Redirecting County Savings and Mental Health Realignment Funds. The May Revision proposes a total of \$961.4 million in GF savings resulting from the redirection of county savings from the (1) ARRA FMAP and Title IV-E ARRA increases in 2010-11; (2) the IHSS May Revision proposal (discussed below); and (3) mental health realignment funds to offset state costs and increase the county share of costs in Child Welfare Services (CWS), Foster Care, Foster Care Administration, Adoption Assistance Program (AAP), and Food Stamps. As a result of the redirections, the new sharing ratios are as follows:

	Current sharing ratio (state/county)	Proposed sharing ratio (state/county)
Foster Care	40%/60%	20%/80%
Foster Care Administration	70%/30%	48%/52%
AAP	75%/25%	20%/80%
CWS	70%/30%	20%/80%
Food Stamps	70%/30%	19%/81%

The redirections include the following:

- \$102.4 million in county savings resulting from the ARRA FMAP and Title IV-E ARRA increases in the IHSS, Foster Care, and AAP programs will be redirected to offset state costs in Foster Care (\$60.2 million) and AAP (\$42.2 million).
- \$257 million in county savings resulting from the May Revision IHSS proposal to offset state costs in Foster Care (\$91 million), Foster Care Administration (\$6 million), and AAP (\$160 million).
- \$602 million in Mental Health Realignment funds will be redirected to offset state costs in CWS (\$291 million) and Food Stamps (\$311 million).

Child Welfare Services and Foster Care

- **Continuation of 2009-10 Veto.** The May Revision continues the 2009-10 \$80 million GF veto in children’s services programs. CDSS staff indicate that, like last year, the budget does not specify which particular programs should be cut or by how much.
- **Rate Increase for Group Homes.** The May Revision includes \$40 million in 2009-10 and \$69.6 million in 2010-11 to reflect the costs associated with the 32% group home rate increase resulting from the *California Alliance of Child and Family Services v. Cliff Allenby* court ruling. The May Revision also includes \$800,000 (\$400,000 GF) for a multi-year group home rate project to determine the appropriate rate structure for group home payments. The study would be completed in 2013, and will require a total of \$2.5 million (\$1.3 million GF) over the life of the project.
- **Eliminate Redirection of Proposition 10 Funding.** The January budget proposed GF savings of \$550 million through redirection of California Children and Families Act of 1998 (Proposition 10) funds to health and human services programs serving children administered by CDSS and the Department of Developmental Services. This proposal is not included in the May Revision.
- **Delay in Expanded Federal Eligibility for Foster Care.** The January budget assumed that the federal government would provide financial participation to all currently state-only foster care cases in 2010-11 resulting in GF savings of \$86.9 million. Although the Administration continues to pursue expanded federal eligibility for foster care, the savings are no longer assumed to occur beginning in 2010-11.

Child Care. The May Revision proposes to eliminate the remainder of state funding for need-based, subsidized child care except preschool, a reduction of \$1.2 billion. This proposal would

eliminate subsidized slots for approximately 142,000 children; \$594 million in federal funds would remain for 78,000 children.

In Home Supportive Services. The Governor is rescinding his January proposal to save \$637.1 million by limiting IHSS services to consumers with the highest level of need and reducing state participation to \$8 per hour in wages and \$0.60 per hour in health benefits. Instead, the Administration has said it will consult with stakeholders to develop specific IHSS cost-containment measures in time for July 1 legislative enactment to achieve this same level of savings.

Please recall that the state is still involved in litigation regarding previous attempts to limit state participation in wages and service levels.

Drug Medi-Cal. The Governor is proposing to eliminate all Drug Medi-Cal programs, except the Perinatal and Minor Consent programs. The state assumes \$53.4 million in savings if implemented by October 1. Drug Medi-Cal provides substance abuse treatment services for eligible Medi-Cal recipients.

Trigger Cuts. Please note that the Administration is rescinding the entire January proposal to trigger various cuts and revenues if \$6.9 billion in new federal funds do not materialize by July 15, 2010. The Governor withdrew the following cuts in the May Revision:

- Reduce Medi-Cal eligibility to the minimum allowed under current federal law and eliminate most remaining optional benefits for adults.
- Eliminate the In-Home Supportive Services (IHSS) program.
- Eliminate the Healthy Families Program.
- Eliminate the state funding for the Transitional Housing Placement for Foster Youth-Plus Program.

Medi-Cal. The following are the significant new proposals in May.

- **Cost Containment.** The Administration provides detail on its Cost Containment Proposal, which saves \$1.4 billion (\$523 million GF). Please note that the following policies require a state Medicaid plan amendment or federal waiver:

Limit services and establish utilization controls (\$90.2 million General Fund), including:

- Eliminating certain over-the-counter drugs (such as acetaminophen or cough and cold medicine) and nutritional supplements, \$13 GF million.
- Establishing a maximum annual benefit dollar cap on hearing aids at \$1,510, durable medical equipment at \$1,604, incontinence supplies at \$1,659, urological supplies at \$6,435 and wound care supplies at \$391 million (\$3.8 GF million total savings).
- Limiting prescriptions, except life-saving drugs, to six per month (\$4.2 million savings GF).
- Limiting the number of physician or clinic visits to 10 per year (\$69.2 million GF). Ninety percent of Medi-Cal enrollees already have 10 or fewer visits per year.

Increase beneficiary cost sharing, including:

- \$5 co-payments on physician, clinic, and dental visits and pharmacy (\$3 for the lower cost preferred drugs and \$5 for others), \$118.2 million GF savings. Provider rates will be decreased by the amount of the co-pays. The Administration will be pursuing a federal waiver to give these providers the option of serving beneficiaries if they are unable to pay the co-pay (refusal of services is prohibited by federal law, thus the need for the waiver).
- \$50 co-payment on emergency room visits, \$41.5 million GF savings. Provider rates will be decreased by the amount of the co-pays. Hospitals will be required to provide serve regardless of whether the co-payment is made.
- \$100 per day co-payment and \$200 maximum rate for hospital stays, \$59.1 million GF savings. Provider rates will be decreased by the amount of the co-pays. Hospitals will be required to provide services regardless of whether the co-payment is made.

Additional \$213.7 million in savings, including:

- Enrolling seniors and persons with disabilities into Medi-Cal managed care, \$137.3 million GF savings.
 - Reducing radiologist rates to 80 percent of Medicare rates, \$10.5 million GF savings.
 - Freezing hospital rates at the current level, \$64.9 million GF savings. This does not affect the designated public hospitals.
 - No longer paying Medicare Part B premiums for beneficiaries whose income exceeds the Medi-Cal eligibility threshold by less than \$500 per month, \$1 million GF savings.
- **County Administration.** The Governor is proposing to decrease county administration of Medi-Cal by \$44 million GF via a change in the methodology used to determine funding growth.
 - **Federal Medical Assistance Percentage (FMAP).** Rescind the prior proposal to raise California's base Federal Medical Assistance Percentage from 50 to 57 percent. \$1.8 billion was put into the budget to account for this change.
 - **Federal Flexibility.** The Administration assumes savings of \$1.6 billion from additional federal flexibility or support in a number of targeted areas including:
 - Federal reimbursement for the cost of incarcerating undocumented immigrant felons
 - Funds owed to state for incorrect Medicare disability determinations
 - Recalculation of state Medicare Part D clawback payments
 - Possible General Fund relief through the new comprehensive Medicaid Section 1115 Financing Waiver.
 - **Medicare Clawback Payments.** The budget reflects an additional \$447 million in 2009-10 and \$10 million in 2010-11 in federal funds. The federal government decided to apply enhanced ARRA funding to the Medicare clawback payments, which is in addition to the \$225 million in 2010-11 in savings reflected in the January budget.

- **Additional ARRA Funding for Medicaid.** The Administration revised its original estimate of a six-month extension of ARRA funds for Medicaid. The Administration originally estimated \$1.5 billion in savings; it is now estimating \$1.2 billion in savings.
- **Hospital Fees.** The Administration is proposing a two-quarter extension of the AB 1383 (Chapter 627, Statutes of 2009) hospital fee through 2010-11 to conform to expected extension of ARRA. As such, the state anticipates an additional \$160 million in federal funds to offset general funds.
- **Proposition 99.** The Administration is proposing to use \$11.3 million in Proposition 99 tobacco tax funds for Medi-Cal rather than an asthma education program (\$1.3 million) and Expanded Access to Primary Care clinics (\$10 million).

Healthy Families Program

- **Eligibility.** The Administration is proposing to rescind its proposal to reduce eligibility for children in families from 200 to 250 percent of the federal poverty level.
- **Premiums.** The Administration is proposing to increase monthly premiums for families with incomes from 200 to 250 percent of poverty by \$18 per child (\$54 maximum per family with 3 or more children). This would increase the current premium from \$24 to \$42 per child, and the family maximum from \$72 to \$126.
- **Co-payments.** The Administration is proposing to increase copayments for emergency room visits from \$15 to \$50 (\$2.5 million GF savings) and adding co-payments on hospital inpatient services of \$100 per day with a \$200 maximum (\$0.7 million GF).

HOUSING, LAND USE AND TRANSPORTATION

The Governor's May Revision does not propose any further cuts to transportation. The transportation tax swap and local Highway Users Tax Account (HUTA) deferrals adopted by the Legislature in March to address the budget deficit and cash flow problem, respectively, make up a significant contribution from the transportation sector. It appears as though the average \$1 billion a year that transportation committed to state General Fund relief for debt service on the transportation bonds and the \$450 million generated from nine months of local HUTA deferrals, which began in March, have helped to protect transportation funding from further changes in the May Revision.

The May Revision does propose to borrow \$650 million in HUTA to be repaid in June 2013. However, this is a one-time loan and represents the \$650 million that was left unallocated in the swap when the Legislature rejected the Governor's proposal for a 5-cent gas tax reduction. This action would not result in reductions to any transportation programs as this was left uncommitted in the swap proposal.

What's Going to Happen Next

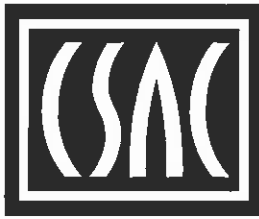
We ask that counties evaluate the entirety of the Governor's revised spending plan and prepare to help CSAC tell the story of the impacts on the vital services counties provide to our citizens. As CSAC further develops its analysis and gets a better read of where discussions will go from here, we will be reaching out to counties for their assistance in delivering our message in your board rooms, in your communities, and in Sacramento.

WHAT'S GOING TO HAPPEN NEXT

Budget subcommittee hearings will begin late next week to consider the Governor's proposals and, based on reaction already coming out of the Capitol, likely will also hear some alternatives to the May Revision. We will keep you advised on the proceedings in Sacramento in the days and weeks to come.

STAY TUNED FOR THE NEXT BUDGET ACTION BULLETIN!

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



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FOR IMMEDIATE RELEASE

May 14, 2010

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Governor's May Revise an Unnatural Disaster for 38 Million Californians

(Sacramento) The Governor's May Revise budget released today proposes such draconian measures that it threatens to create a constant state of emergency in all 58 Counties.

"That ground shaking you feel is the impact of the cuts and costs shifts rolling out of the Capitol and landing at the doorsteps of counties and the communities we serve. If this budget becomes a reality, the devastation upon Californians will be on par with the aftereffects of a major natural disaster," says Tony Oliveira, President of the California State Association of Counties (CSAC) and Kings County Supervisor. "Homelessness, hunger, permanent job losses, elimination of mental health and substance abuse treatment, and more Californians driven into abject poverty are just some of the very real possibilities outlined in the Governor's budget."

Economically speaking, 2010-11 will be the worst year for counties yet. Fifteen of California's largest counties face a combined deficit of \$2.2 billion in the upcoming budget year, which does not include the cuts that the state will now be sending their way. Counties are now balancing their budgets by making steep cuts to services, reducing staff, seeking concessions on labor agreements and raising revenues. This balanced approach, along with meaningful and long-term budget reform should also be sought by the state.

"There is agreement that the infrastructure in this state, both physical and social, is on the brink of collapse," states Paul McIntosh, CSAC Executive Director. "The federal government is not going to come to the rescue. This disaster is a byproduct of our state's dysfunctional budget process and without tangible reform, the human cost will continue to rise."

###

The California State Association of Counties (CSAC) is the voice of California's 58 counties at the state and federal level. The Association's long-term objective is to significantly improve the fiscal health of all California counties – from Alpine County with a little more than 1,200 people to Los Angeles County with more than 10 million – so they can adequately meet the demand for vital public programs and services. CSAC also places a strong emphasis on educating the public about the value and need for county programs and services.

CSAC Institute Governing Council MEETING SUMMARY



4 May 2010 ♦ Conference Call

Facilitator Bill Chiat, Institute Manager
Participants Supervisors John Gioia (Chair), Diane Dillon, Kathy Long, Terry Woodrow David Liebler, Nancy Nittler, Terry Schutten, JoAnne Speers, Donna Vaillancourt

INSTITUTE OPERATIONS

Attendance

The Institute has now held 38 courses. Average attendance for the courses dropped slightly from last October's report of 20.4 to 20.1 per class. To date the Institute has had 744 course attendees which represents over 450 individual participants.

Course Evaluations

Evaluation ratings for the 38 courses remain high, with the average "overall value of the course" at 5.3 on a six point scale for all courses. In October the average overall value stood at 5.4; the value of the 21 courses since then has dropped a slight 0.2. The chart below compares the averages for the 21 courses since the October, 2009 Governing Council meeting with the averages of the first 17 courses offered by the Institute.

	Feb 09 - Oct 09 (17 courses)	Oct 09 - May 10 (21 courses)	All Courses (38 courses)
Organization	5.4	5.2	5.3
Relevancy	5.5	5.4	5.4
Instructor	5.5	5.3	5.4
Facilities	5.3	5.1	5.2
Overall Value	5.4	5.2	5.3

Accreditations

Several Institute courses have now been accredited by the California Bar for MCLE continuing education hours required for attorney licenses. The Institute will be seeking accreditation for future courses and ultimately for permanent accreditation.

The Institute is currently working with CalCPA to consider offering CPE credits for certified public accountants as well as senior level accounting and finance courses. A survey has been sent to county auditors, treasurers, CAO/CEOs, and HHS directors to determine interest. You can see the survey at: <http://www.surveymonkey.com/s/GR2GXWR>.

Institute staff is also working with Sacramento State and USC to determine if completion of a credential can be used as partial credit towards the requirements for a Master in Public Administration degree.

PROPOSED COURSES AND SCHEDULE FOR SUMMER/FALL 2010

The Council reviewed and supported the proposed courses for summer/fall. Several suggestions were made for potential faculty. Bill is currently working with USC and Sac State for a contract to provide selected courses on the schedule.

Suggested Courses

Several suggestions were made for new courses to consider:

- ◆ *Where Do We Go From Here?* Examine strategies for managing county organizations and thriving when we hit the bottom. How do we manage at this new level? Where do we go from here? How do we plan for a recovery? What will the organization look like in three years?

Discussed starting this conversation with course 363 (Thinking Strategically in Trying Times) scheduled for November 19 and continuing it with a course taught in conjunction with the CAO/CEO meeting in January in southern California. Bill will work with Terry on this course.

- ◆ *Group Dynamics and Meeting Management.* Both are courses that are already in the curriculum. *Interpersonal Relations* (140 on 14 November) and *Building and Maintaining a Team Culture* (371 on 16 September) address group dynamic issues. Bill will look at scheduling *Managing Effective Meetings* (351) in the winter semester.
- ◆ *Imposing Agreements: Strategic Planning for Concession Bargaining.* Include a focus on givebacks. Bill will work on offering this course early in 2011.

INSTITUTE POLICIES

The Council discussed several policy issues:

1. *No Shows.* Bill discussed the no show rate at courses. Current no shows for all 38 courses is 13% which is slightly higher than the anticipated no show rate was 10%. The rate has remained relatively constant since the Institute started courses. Current policy provides a refund for cancellations made a week or more in advance. The no show rate reflects individuals who cancelled within a week or did not show up for class. Institute policies allow substitutions at no charge, however there are no credits or refunds for cancellations within a week or no show at a class. Institute staff have received few complaints regarding the policy.

Bill pointed out that while the materials and meals are paid for, a significant number of no shows can reduce the effectiveness of a class by not having a critical mass for dialogue, exercises and other course activities. Bill recommended that staff continue to watch the no show rate and work with the small number of individuals who are repeat 'offenders.' Council agreed with staff recommendation.

2. *Off-Site Courses.* The Institute continues to receive requests to offer courses in locations outside Sacramento. Institute courses have been offered in San Diego, Oakland and Ventura. Only in Ventura was the course specifically requested and hosted by the county. The Institute hosted the courses in Oakland and San Diego. Institute experience showed low enrollments for the San Diego and Oakland courses. The Ventura course was well-attended.

Holding courses off-site increases the costs for instructor and staff travel as well as staff time to locate and coordinate the facility, caterers, material shipments and other factors. Given the added costs and limited success of off-site courses, staff developed a draft request for off-site courses that places much of the burden of filling the courses and handling local arrangements on the requesting county.

MOTION: Approve recommended Request for Off-Site Course policy and form (m/Schutten, s/Woodrow, unanimous).

Terry S. asked about the possibility of offering an Institute-sponsored course in conjunction with the CAO/CEO meeting in southern California. Bill will work with Terry on the idea and will schedule if there is enough interest to fill the class.

RECOGNITION OF CREDENTIALLED SUPERVISORS AND EXECUTIVES

Up to 13 supervisors and executives are expected to receive their credential at the CSAC Legislative Conference. Supervisor Woodrow will present the credentials as Chair Gioia will be arriving later in the day. David will prepare the script for Terry W.

CSAC INSTITUTE FELLOWS

Institute staff proposed a “masters-level” program for individuals who have received their credential. The *Institute Fellows* recognizes those individuals who extend their continuing education beyond the credential and also participate in a Fellows Seminar and on the faculty of at least one Institute course. Council members felt this was an important alumni program and brings participants to a new level of involvement.

MOTION: Approve recommended CSAC Institute Fellows (m/Schutten, s/Long, unanimous).

NEXT MEETING

Council members felt it was important to meet at the CSAC Legislative Conference, even if it's only a short breakfast. They felt the personal reconnection and brief review of the Institute was important.

The breakfast meeting is scheduled for **Thursday, 3 June** from **7:30 to 8:30 a.m.** in the **Capital Board Room at the Hyatt Hotel** (site of the Legislative Conference).

Course Schedule

Summer/Fall 2010



June

17 (Th) 114 **Public Engagement: Involving the Community in Decision Making***
 Explores practical tips to maximize the effectiveness of public forums, hearings, town halls, and other forms of community engagement. Examines techniques that help the public take into account the hard choices and trade-offs in decisions, and how to demonstrate that public ideas and recommendations are taken seriously.

July

9 (F) 306 **Retirement and OPEB: Keeping the County Afloat***
 Examines county retirement systems and other post employment benefits. Describes the various programs, how they originated, and how they are funded. Unveils mysteries of understanding costs and projections. Explores options to reduce county costs.

22 (Th) 353 **Effective Electronic Communications and Media Relations**
 E-mail, websites, pda sites, blogs ... the class explores all of these and examine strengths and weaknesses. In the context of a world of e-communications and virtually instant news, participants discuss media relations and fostering effective relations with electronic media.

August

6 (F) 151 **Financing California Counties: The History of Funding Sources**
 Provides an in-depth examination of the federal, state and local county funding sources, the sources of those fund, historical context of the funding streams, and how those funds interact and are typically spent.

20 (F) 314 **Understanding County Social Services***
 Counties are the vehicle for providing social services in California. This course examines the mandated requirements, programs, and funding streams. Case studies highlight innovative and optional county programs. Future challenges are examined such as realignment.

September

16 (Th) 371 **Building and Maintaining a Team Culture***
 Counties use teams as a method to get work done. Teams can be project-focused, operational, interdepartmental or intergovernmental. It takes a certain organizational culture to support teams. This course examines the culture and attributes of high-performing teams in the public sector. Strategies, tools and resources are shared along with team leadership practices, and how to transition to a team culture.

17 (F) 301 **Legislative Policy and the Legislative Process***
 How is policy developed, validated and implemented? This course examines processes for creating local policies. Do you seek extensive

* New Courses

stakeholder involvement, or implement it in the 'dark of night?' Strategies are explored and criteria for selection discussed. Good policy doesn't just happen; it's planned.

24 (F) 120 **The Art and Practice of Organizational Leadership**
Explores the practice of leadership in creating a high-performing county organization, especially in tough financial times. Topics include key practices in formal and informal leadership, particularly in promoting change; employee engagement and team-building strategies; leadership when you are not in charge; and techniques for developing a vital workplace culture that supports organizational members.

October

1 (F) 152 **Shaping the Landscape: Land Use, Transportation and Environmental Stewardship***
Land use decisions are among the most critical long-term decisions made by counties. This course examines the principles of stewardship and how to integrate transportation, environmental and land use goals. Case studies and rich discussions help participants balance differing values and needs with resource stewardship.

21 (Th) 375 **Coping with Ambiguity: Leadership for Challenging Times**
Provides new ways to think about applying leadership practices – at both elected and senior executive levels – to help county organizations and communities find new realities and ways of effectively working in uncertain times.

29 (F) 374 **Process Improvement***
When counties look at creating efficiencies, it comes down to improving processes. Experience points to significant savings through process improvement. This course provides techniques to identify current processes and find opportunities to improve them. Tools are shared for both identifying process problems and engaging the process participants in the solution. Participants are engaged in using the tools and exploring how to use them on a process improvement at home.

November

15-16 (M-T) 110 **New Supervisors Institute**
First session of this in-depth seminar for newly elected County Supervisors. Introduces Supervisors to the basics of their new role and provides opportunity for them to develop a professional network of peers.

18 (Th) 140 **Interpersonal Effectiveness**
Effective people have discovered that the more they understand their reactions to others, know how to capitalize on their personal strengths, have self- confidence, and can adopt their behavior to meet the needs

of others – the more effective they become in achieving results with others. Learn how in this lively and insightful class.

- 19 (F) 363 **Thinking Strategically In Trying Times: New Ways to Think and Work through Enduring Problems***
This intense seminar discusses the challenges of strategic agility with the critical, enduring problems counties face. The focus is on the art of possibilities. Participants examine separating probabilities (what's likely to happen) from possibilities (what could happen) and applying concepts of creative and strategic thinking to finding different paths to solutions.

December

- 9 (Th) 154 **County Finances: It's A Whole New World**
The world of financing California counties continues to change dramatically. Some traditional methods remain, others are less productive and new methods are becoming available. This class unravels mysteries of bonds, securitization, trans, notes, credit swaps, derivatives, pension obligation bonds and ARRA; examines where counties should be concerned; how markets and options changed; and what's in the future for county financing?



FOUNDED 1955

INSTITUTE FOR LOCAL GOVERNMENT

Update on Activities

June 2010

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The Institute's Board of Directors and staff are very grateful for CSAC's continuing support for the Institute's efforts in service to local officials. The Institute is also mindful of the need to show tangible results for that support.

Thus, for the Institute's quarterly updates to the CSAC Board, our goal is to tie our reports to the following performance indicators of: 1) resources published and disseminated, 2) workshops and conference sessions produced, 3) website usage, 4) specific contributions to CSAC activities, and 5) fundraising. We also have a goal of promoting local control by communicating to the state the various good things local agencies are accomplishing in the Institute's program areas.

Resources Released Since Last Board Meeting

- **Water Conservation Leadership Guide: Issues for Local Officials to Consider.** This short publication identifies options available to local agencies to use water resources more efficiently and comply with various state requirements.
- **Principles of Local Government Public Engagement.** This one-pager draws from other organizations in the public engagement field, as well as from local government experience in California, to suggest key principles to effectively and ethically involve the community in local agency decision making. See <http://www.ca-ilg.org/publicengagementprinciples>

Workshops and Conference Sessions

- **County Counsels Conference.** Institute staff participated on a panel, "Compliance with Greenhouse Gas Regulations," at the County Counsels' Association of California Civil Law and Litigation 2010 Annual Conference in April.
- **CSAC Institute:** The Institute organized the session in May on working with community-based organizations and is organizing the June session on public engagement.

Website Usage

- **Since Site Inception.** Since the launch of the new site last September, we have had over 38,000 visits with an average of 152 a day.

Promoting Good Government at the Local Level

- **How Local Officials Find ILG's Site.** Google is the number one source of traffic to the Institute's site, but the CSAC website is a respectable number 6, directing nearly 700 visitors to the Institute's resources – thank you! Note that Facebook is the number 9 source of referrals. The CSAC Institute website also refers visitors to the Institute's site.

Other Contributions to CSAC Activities

- **Census 2010:** The Institute distributed information to county officials through its website and various CSAC media to support a final push for complete count efforts in the 2010 U.S. Census.
- **May/June California Counties Article:** The Institute's column summarizes the restrictions county officials need to be aware of in terms of using public resources to participate in ballot measure campaigns.
- **First 5 Activities:** The Institute is working with the First 5 Association of California to develop recommendations for practices for local First 5 Commissions to consider in promoting public trust and confidence in commission's decision-making processes, particularly as those decision-making processes relate to funding.

Fundraising

- **Institute Partners Program.** The Institute is grateful to report that the McDonough, Holland and Allen, and Liebert, Cassidy and Whitmore have now renewed their status as Institute Partners for 2010.

INSTITUTE PROJECT STAFF CONTACT INFORMATION WE WELCOME YOUR THOUGHTS

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CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

May 18, 2010

To: CSAC Board of Directors

From: Tom Sweet, Executive Director, CSAC Finance Corporation

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

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

CalTRUST

- CalTRUST currently has over 90 participants and current assets exceed \$1.03 Billion.

California Communities

- The 2010 Tax and Revenue Anticipation Notes (TRANs) and Cash Flow Financing program is in process. This year's program participation includes 9 local agencies for a total of approximately \$103 million.

U.S. Communities

- U.S. Communities has awarded a new contract for art, classroom, and school supplies to School Specialty and Office Depot.
- On a national basis, the average number of U.S. Communities suppliers used by participants is only 2 suppliers per agency. In California, the average number of suppliers used by each County is over 6.

Nationwide Retirement Solutions

- A meeting of the CSAC Deferred Compensation Advisory Committee was held in Sacramento on May 14th. Counties that participate in the program attended to hear updates from Nationwide Retirement Solutions and provide feedback on their services.

General Information

- A meeting of the CSAC Finance Corporation was held April 15-16, 2010. Supervisor Greg Cox of San Diego County was elected as Vice President of the CSAC Finance Corporation.
- On Thursday, June 10, a webinar will be held for cities and counties to inform decision-makers on the benefits available through California Communities finance programs and the U.S. Communities cooperative purchasing program.
- We continue to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

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



Memorandum

May 17, 2010

To: CSAC Board of Directors

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

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

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

- Membership and sponsorship solicitation efforts for 2010 are ongoing, with current efforts geared towards the CSAC Legislative Conference in June, California Caucus dinner in July (NACo Conference), and CSAC Annual Meeting in November.
- We have received 2010 membership commitments from 60 organizations to-date, including eight new members. Attached please find a listing of our current Platinum, Gold, Silver and Bronze members (Basic and Small Business levels not included).
- CSAC Corporate Associates staff continues to schedule in-person meetings with corporate members, to discuss CSAC events/activities and ensure the program is continuing to meet their organization's needs.
- The Exhibit Hall for the CSAC 116th Annual Meeting in Riverside County is approximately 40 percent committed for this year.
- We are continuing to distribute regular communications to all Corporate Associates members, including a monthly e-newsletter and the Executive Director's Watch.
- Plans are in place for an Annual Meeting workshop featuring Corporate Associates members that will cover the topic of cost-savings.
- Upcoming events:
 - Corporate Associates Business Meeting – June 2nd in Sacramento
 - Corporate Associates Golf Tournament – June 4th in Sacramento
 - CSAC Board of Directors/Corporate Associates Event – September 8, Sacramento

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

CSAC Corporate Associates ~ 2010 Program Members

PLATINUM

AT&T
California Communities/U.S. Communities
Eli Lilly and Company
Kaiser Permanente
Nationwide Retirement Solutions
Pacific Gas & Electric Company
Sothern California Gas Company/SDG&E - Sempra Energy Utilities
Southern California Edison

GOLD

CSAC Finance Corporation
Republic Services, Inc.

SILVER

Barclays Capital
Employee Relations, Inc.
HdL Companies
HDR / CUH2A
Merrill Lynch
Morgan Stanley
Office Depot
Siemens Building Technologies
Sierra West Group, LLC
Vanir Construction Management
Wells Capital Management

BRONZE

Aramark
California Tribal Business Alliance
Comcast
Corrections Corporation of America
Hubbert Systems Consulting
Kitchell
PARS
ShoreTel, Inc.
Wedbush Morgan Securities
Xerox Corporation

*Please Note: **Basic Level** and **Small Business** members not listed above.*



County Counsels' Association of California

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EXECUTIVE DIRECTOR
Jennifer B. Henning

To: Supervisor Tony Oliveira, President, and
Members of the CSAC Board of Directors

From: Jennifer Henning, Litigation Coordinator

Date: June 3, 2010

Re: Litigation Coordination Program Update

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

I. New Amicus Case Activity Since March, 2010

County of Butte v. Federal Energy Regulatory Commission

Pending in the Ninth Circuit Court of Appeals (filed Jan. 15, 2010)(10-70140)

Butte is appealing two orders of FERC regarding the costs of providing public safety at the Oroville Dam, which is owned and operated by the California Department of Water Resources. The FERC license to operate the dam requires the licensee to make provisions for public safety and recreational activities. Butte County complained to FERC that DWR was not meeting that requirement because while the County provides first responder and police services at the project site, DWR is exempt from property taxes and does not make any in-lieu payments to compensate the County for the approximately \$5.8 million it spends per year to provide these services at the site. Butte alleged it is the obligation of the licensee to provide these public safety services, and as such requested that FERC order DWR to pay the county \$5.8 million per year for law enforcement and public safety services. FERC rejected the complaint, finding that "it is our policy to require our licensees to implement necessary license conditions and not to fund personnel at local agencies." Butte County has appealed to the Ninth Circuit and CSAC will file an amicus brief in support.

County of Los Angeles v. Humphries

547 F.3d 1117 (9th Cir. Nov. 5, 2008)(05-56467), *cert. granted* (Feb. 22, 2010)(09-350)

Plaintiffs were accused by their rebellious child of child abuse. They were listed on the Child Abuse Central Index, even after the charges were found to be false and the criminal charges dropped. They sued the State and LA County, along with individual county employees. The Ninth Circuit found that plaintiffs

could establish a due process violation. The court went on to find, however, that the individual county defendants were entitled to immunity. It remanded to the trial court for a determination of LA County's liability resulting from county policy. Despite no finding of county liability, the court issued an unpublished order granting interim attorney fees to the plaintiffs. The U.S. Supreme Court will consider whether interim attorney fees may be awarded for a constitutional violation without determining if the constitutional violation was the result of a policy or custom adopted by a municipality. CSAC will file a brief in support of the county.

Espinosa v. City and County of San Francisco

598 F.3d 528 (9th Cir. Mar. 9, 2010)(08-16853), *petition for en banc review pending* (filed May 3, 2010)

Plaintiff family members brought this action after their family member, Sullivan, was shot and killed when officers entered an apartment without a warrant on a tip the place was being used for drugs. The officers entered the home when the door was ajar and a bloody shirt was visible from the doorway. Ultimately, a stand off between Sullivan and the officers ensued, and the officers shot Sullivan when they mistakenly believed he about to fire a weapon. The district court denied the officers' immunity, and the a 3-judge panel of the Ninth Circuit affirmed. The court first found that as a "guest" in the apartment, Sullivan had an expectation of privacy. The court then determined that there was a question of material fact as whether the discovery of the bloody shirt through an open door created an exigent circumstance sufficient to justify a warrantless entry. The court also found it was possible the officers used excessive force, even in the mere act of entering the apartment with their guns drawn. The city is seeking rehearing in the Ninth Circuit, and CSAC has filed a brief in support.

Foster Poultry Farms v. City of Livingston

Pending in the Fifth Appellate District (filed Mar. 2, 2010)(F059871)

The Merced County Superior Court has determined that a multi-year water rate increase adopted by the City of Livingston is unconstitutional. The city's water rate had been so low that for years it was being subsidized by the general fund. After 14 years with no increase, in July 2009, the city raised the water rate following a Prop. 218 process and protest hearing. The Prop. 218 notices offered three scenarios for the new water rates, though none exceeded the cost of service. After the close of the protest hearing, the City Council discussed the matter over the course of several meetings, and ultimately adopted the new rates by resolution on a 3-2 vote. Of the three scenarios set out in the notice, the council adopted the least aggressive rate increase, and in addition, it implemented a 15% across the board reduction for the first six months of the new rate to ease the burden on ratepayers. The city's largest water user brought this Prop. 218 challenge. The court decided, among other things: (1) the city only has authority to impose water rates under Health and Safety Code section 5471 and that a 2/3 vote is required; (2) that an agency cannot set a water rate other than the one for which it gives notice (even for a lower rate); and (3) the agency has to issue a new 45-day notice under Prop. 218 each time it continues a rate hearing. The city has appealed, and CSAC will file a brief in support.

Greene v. Camreta

588 F.3d 1011 (9th Cir. Dec. 10, 2009)(06-35333), *petition for rehearing en banc denied* (Mar. 1, 2010)

The Ninth Circuit Court of Appeals has found that a child protective services caseworker violated the constitutional rights of two minor girls who were interviewed at their school in connection with a sexual abuse investigation. After an arrest was made in connection with sexual abuse of another minor, there was a concern that the two minors involved in this case may have also been abused. The social worker went with a deputy sheriff to interview the girls at their school, and sometime later the mother brought this lawsuit arguing the interview violated the girls' Fourth Amendment rights. The Ninth Circuit agreed, holding that plaintiff stated a claim for a Fourth Amendment violations. The State of Oregon is seeking U.S. Supreme Court review, and CSAC will file a brief in support.

Lobo v. Tamco

182 Cal.App.4th 297 (4th Dist. Div. 2 Feb. 24, 2010)(E047593), *petition for review pending* (filed Apr. 2, 2010)(S181493)

This is a wrongful death action filed by the widow of a San Bernardino County Deputy Sheriff who was killed by an employee of the defendant when their vehicles collided. Though the action alleged the employee was acting in the course and scope of his employment at the time of the accident, the employer moved for summary judgment since the employee driver was not acting within the course and scope of employment, but was driving his personal vehicle on his way home at the end of the work day. The trial court granted summary judgment, but the Fourth District reversed. It applied an exception to the "coming and going" rule for incidental use of a personal vehicle to conduct employer business. Here, the evidence showed that the employee had used his personal vehicle to conduct business 10 or less times during his 16 year employment. The court found this was sufficient incidental use to apply the exception to the "coming and going" rule. CSAC has filed a letter in support of California Supreme Court review.

Priceline, Inc. v. City of Anaheim

180 Cal.App.4th 1130 (4th Dist. Div. 3 Jan. 5, 2010)(G041338), *petition for depublication denied* (Apr. 14, 2010)(S180695)

The city initiated administrative proceedings to collect unpaid Transient Occupancy Taxes from several online travel companies (OTC). The city entered into a contingency fee agreement with outside counsel to handle the tax collection proceeding. The OTCs filed this action, arguing that the city may not employ contingent fee counsel in a tax-collection proceeding. The trial court ruled in favor of the city, and the Fourth District affirmed, concluding that *People ex rel. Clancy v. Superior Court* (1985) 39 Cal.3d 740, does not bar contingency fee lawyers from assisting government lawyers as co-counsel in ordinary civil litigation. The OTCs requested that the case be depublished, which CSAC opposed, and depublication was denied.

City of Scotts Valley v. County of Santa Cruz

Pending in the First Appellate District (filed Jan. 7, 2010)(A126357)

This case involves the proper apportionment of property tax to cities under the Tax Equity Allocation Act (TEA; Rev. & Tax Code § 98), which was enacted to address the inequities created after Prop. 13 by AB 8—the legislative distribution of property taxes following Prop. 13 – for those cities that possessed either no property taxes or a very low tax rate (“Low Tax Cities”). Scotts Valley, a low tax city, challenged the county’s apportionment method of computing TEA payments. That methodology, which arose following a State Controller audit in 1997, required the TEA comparison be done to the “gross” AB 8 Apportionment, without deduction for redevelopment or ERAF II payments. The trial court disagreed, and concluded instead that the City should be reimbursed, in material part, for its ERAF II payment, ERAF III payment, and Redevelopment Contribution. Santa Cruz has appealed. CSAC has filed a brief in support of Santa Cruz County on the issue of the deference due the Auditor Association’s guidelines.

II. Amicus Cases Decided Since March, 2010

In addition to the new amicus cases already decided, which are discussed above, the following amicus cases have been decided since the Board’s last meeting:

Bamonte v. City of Mesa, Arizona

598 F.3d 1217 (9th Cir. Mar. 25, 2010)(08-16206), *petition for rehearing en banc denied* (May 10, 2010)

Outcome: Positive

This case raises the issue of whether the donning and doffing of police uniforms and protective gear is compensable under the Fair Labor Standards Act. The district court granted summary judgment in favor of the city, finding that the donning and doffing of police uniforms and protective gear was not compensable as neither the law, the police department, nor the nature of police work required officers to change at work. The Ninth Circuit affirmed. “[O]ur analysis of the governing statutes, as informed by the DOL interpretation, our precedent, and other analogous cases; leads us to the conclusion that the donning and doffing of police uniforms and related gear are not compensable activities in this case. No requirement of law, rule, the employer, or the nature of the work mandates donning and doffing at the employer’s premises, and none of the other factors articulated in *Alvarez* weigh in favor of a conclusion of compensability. CSAC filed a brief in support of the city in this case.

County of Sacramento v. PERB

Writ Petition Summarily Denied by Third Appellate District (Mar. 12, 2010)(C062484)

Outcome: Negative

Sacramento County received an adverse decision from the Public Employment Relations Board that it appealed to the Third DCA. At issue is whether the county is required to meet and confer prior to making changes to eligibility requirements for retiree health benefits. Prior to June 2007, the county provided a subsidy for retirees to participate

in the County's Retiree Health Insurance Program. In December 2006, recognized employee organizations were informed that the CEO was recommending to the Board of Supervisors that it discontinue the retiree health subsidy for all retirees retired on or after January 1, 2008, and for certain previously retired annuitants. The county initially offered to meet and confer on the issue with the employee organizations, but later withdrew that offer. In June 2007, the Board adopted its Retiree Medical and Dental Insurance Program for 2008. The policy provides that participants who retired on or before May 31, 2007, will continue to receive the subsidy, but the subsidy is eliminated for all participants who retire after May 31, 2007. The unions filed an unfair labor practice charge with PERB alleging the county was required to meet and confer prior to making the policy changes. A PERB ALJ issued a proposed decision holding that there was a duty to meet and confer, and the PERB Board affirmed the decision. The county petitioned for extraordinary relief from the Third District Court of Appeal, which CSAC supported, but the court denied the writ without comment.

Dillingham-Ray Wilson v. City of Los Angeles
182 Cal.App.4th 1396 (2d Dist. Mar. 18, 2010)(B192900)
Outcome: Negative

In this public contract dispute, the city argued it was only required to pay damages that could be proved under Public Contracts Code section 7107 and *Amelco Electric v. City of Thousand Oaks* (2002) 27 Cal.4th 228, but that engineering estimates were not sufficient to estimate costs. The Second District disagreed. It concluded that section 7107 and *Amelco* impact the measure of damages, not the method of proving them. The court also found that a modified total cost theory of measuring damages is permissible. CSAC filed a brief in support of the city.

Grotenhuis v. County of Santa Barbara
182 Cal.App.4th 1158 (2d Dist. Mar. 15, 2010)(B212264)
Outcome: Positive

Revenue and Taxation Code section 69.5 allows persons over the age of 55, and the disabled, to transfer the base year value of an original residence to a replacement residence under certain specified conditions. The code expressly excludes property held by any "corporation, company or other legal entity or organization of any kind." Based on this exclusion, the Santa Barbara County Assessor and the Assessment Appeals Board refused to transfer the base year value of the property owned by the Grotenhuis corporation. The trial court reversed, finding that Mr. Grotenhuis was the alter ego of his investment corporation and was therefore permitted to transfer the base year value under section 69.5. Finding "[t]here is no statutory provision or precedent for this ruling," the court reversed. "Grotenhuis concedes that corporation is the owner of record of the replacement residence but contends that he is the true 'owner' and qualifies for a homeowner's property tax exemption and a base year value transfer. We reject the contention. Grotenhuis did not sell the original principal residence, did not purchase the replacement residence, and rents the replacement residence from corporation." CSAC joined the SBE's amicus brief in support of the county in this case.

International Society for Krishna Consciousness of California v. City of Los Angeles
48 Cal.4th 446 (Mar. 25, 2010)(S164272)

Outcome: Positive

In this case, the Ninth Circuit reviewed an administrative code provision that prohibits persons from soliciting and immediately receiving funds at LAX. In order to resolve the case, the Ninth Circuit certified to the California Supreme Court, and the Court agreed to hear, the following questions: 1) Is Los Angeles International Airport a public forum under the Liberty of Speech Clause of the California Constitution? 2) If so, does the ordinance at issue violate the California Constitution? The Court concluded “whether or not Los Angeles International Airport is a public forum for free expression under the California Constitution, the ordinance is valid as a reasonable time, place, and manner restriction of expressive rights to the extent that it prohibits soliciting the immediate receipt of funds. Accordingly, we do not determine whether Los Angeles International Airport is a public forum under the liberty of speech clause of the California Constitution, because the resolution of that question could not determine the outcome of the present matter.” CSAC filed a brief in support of the city.

Stockton Citizens for Sensible Planning v. City of Stockton
48 Cal.4th 481 (Apr. 1, 2010)(S159690)

Outcome: Positive

This case arises in the context of a challenge to a Wal-Mart Supercenter. The project went into an area covered by a Master Development Plan (MDP). The project was approved by a letter from the Planning Director informing the developer that staff had determined the project was in substantial conformance with the MDP. Plaintiff filed the complaint more than 35 days after the filing of a notice of determination that the project was exempt from CEQA, and the developer argued the statute of limitations had run under Public Resources Code section 21167. The appellate court concluded the limitations period of section 21167 does not apply to the jurisdictional question of whether the Director had authority to act for the City. The California Supreme Court granted review and reversed. “We agree with appellants that flaws in the decision-making process underlying a facially valid and properly filed NOE do not prevent the NOE from triggering the 35-day period to file a lawsuit challenging the agency’s determination that it has approved a CEQA-exempt project. By describing the project in question, setting forth the agency’s action or decision, and detailing the reasons for the exemption finding, this notice tells the public that the brief period within which a CEQA challenge to the propriety of the noticed action or decision may be commenced has begun to run.” CSAC filed an amicus brief in support of the city.