CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, March 25, 2010
10:00am - 1:30pm
CSAC Conference Center, Sacramento

AGENDA

Presiding: Tony Oliveira, President

10:00am - ***PROCEDURAL ITEMS***

1. Roll Call — Page 1

2. President's Welcome

3. Approval of Minutes of November 19, 2009 — Page 3

10:15am - ***ACTION ITEMS***

4. Consideration of State and Federal Legislative Priorities for 2010 — Page 8
   - *Jim Wiltshire & Karen Keene, CSAC staff*

5. Consideration of June 2010 Ballot Initiative
   Proposition 16: New Two-Thirds Requirement for Local Public Electricity Providers — Page 17
   - *Karen Keene, CSAC staff*
   - *Dana Williamson, PG&E (proponent)*
   - *John Geesman, former CEC commissioner (opponent)*
   - *Paul Fenn, Local Power, Inc. (opponent)*

6. CSAC Administration of Justice Policy Committee Report — Page 19
   - *Elizabeth Howard Espinosa, CSAC staff*

11:00am - ***INFORMATION ITEMS***

7. State Budget and Legislative Issues Update — Page 24
   - *Jim Wiltshire*

8. California Complete Count Committee: Update on 2010 Census — Page 53
   - *Eraina Ortega, CSAC staff*

9. CSAC Reform Task Force Report — Page 54
   - *Supervisor Kathy Long, Task Force Chair*

10. Medical Marijuana Working Group Update — Page 55
    - *Supervisors Susan Adams and Mark Lovelace, Working Group Co-Chairs*

11. CSAC Communications Plan Update — Page 56
    - *Erin Treadwell, CSAC staff*

12:00pm - ***LUNCH***

1:00pm - ***INFORMATION ITEMS (cont.)***

12. ***The following items are contained in your briefing materials for your information, but no presentation is planned:***
    - ❖ Institute for Excellence in County Government Update Page 57
    - ❖ Institute for Local Government (ILG) Update Page 61
    - ❖ CSAC Finance Corporation Report Page 65
    - ❖ CSAC Corporate Associates Report Page 66
    - ❖ Litigation Coordination Program Page 67

13. Other Items

1:30pm - ***ADJOURN***

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2010

Section	County	Director
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	Mike McGowan
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

11/30/09

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, November 19, 2009
Portola Hotel, Monterey, CA

MINUTES

Presiding: Gary Wyatt, President

1. ROLL CALL

Alameda	Keith Carson	Placer	absent
Alpine	Terry Woodrow	Plumas	Ole Olsen
Amador	Louis Boitano	Riverside	John Tavaglione
Butte	Bill Connelly	Sacramento	Roger Dickinson
Calaveras	Merita Callaway	San Benito	Reb Monaco
Colusa	Mark Marshall	San Bernardino	absent
Contra Costa	absent	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	Eric Mar
El Dorado	Norma Santiago	San Joaquin	absent
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas	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
Kern	absent	Shasta	Leonard Moty
Kings	Oliveira/Valle	Sierra	absent
Lake	Anthony Farrington	Siskiyou	Jim Cook
Lassen	Lloyd Keefer	Solano	Mike Reagan
Los Angeles	absent	Sonoma	Valerie Brown
Madera	Tom Wheeler	Stanislaus	Vito Chiesa
Marin	Susan Adams	Sutter	absent
Mariposa	Lyle Turpin	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Pflueger
Merced	Hubert Walsh	Tulare	Steve Worthley
Modoc	Jeff Bullock	Tuolumne	Richard Pland
Mono	Duane Hazard	Ventura	Kathy Long
Monterey	Fernando Armenta	Yolo	Mike McGowan
Napa	absent	Yuba	Roger Abe
Nevada	absent	Advisors:	S. Mauriello/S. Woodside
Orange	John Moorlach		

The presence of a quorum was noted.

2. APPROVAL OF MINUTES
The minutes of September 10, 2009 were approved as previously mailed.

3. ELECTION OF 2010 EXECUTIVE COMMITTEE
The following list of 2010 CSAC Executive Committee was unanimously approved:

President:	Tony Oliveira, Kings
1st Vice President:	John Tavaglione, Riverside
2nd Vice President:	Mike McGowan, Yolo
Immed. Past President:	Gary Wyatt, Imperial

Urban Section
Greg Cox, San Diego
Roger Dickinson, Sacramento
Federal Glover, Contra Costa
Don Knabe, Los Angeles
Liz Kniss, Santa Clara
Kathy Long, Ventura
Richard Gordon, San Mateo (alternate)

Suburban Section
Susan Adams, Marin
Henry Perea, Fresno
Steve Worthley, Tulare
Joni Gray, Santa Barbara (alternate)

Rural Section
Merita Callaway, Calaveras
Robert Williams, Tehama
Lyle Turpin, Mariposa (alternate)

Ex-Officio Members
Valerie Brown, NACo President and Sonoma County Supervisor
Brian Dahle, NACo WIR Immed. Past President and Lassen County Supervisor

Advisors
Susan Mauriello, CAOAC President and Santa Cruz Administrative Officer
Steven Woodside, Sonoma County Counsel

4. CONSIDERATION OF CCS PARTNERSHIP AND CSAC REFORM PRINCIPLES
Supervisor Rich Gordon, chair of the CCS Partnership Fiscal Reform Task Force, presented reform principles which were developed by the task force and adopted by the CCS Partnership Board, as contained in the briefing materials. The purpose is to assist in guiding decisions, actions and focusing the three associations (CSAC, League of Cities, California School Boards Association) as they jointly and separately address the changes necessary to realign the state/local relationship. The nine principles are as follows:

1. Responsive and Accountable Local Governments. Local governments should have broad authority, subject to voter approval for bonds and tax increases, to raise and expend a diverse and

broad set of revenues necessary to provide critical local services. Concentrating these decisions at the local level will ensure greater transparency and accountability to the voters.

2. State Preemption of Local Control. Local control should be the rule and the state preemption of the exception.

3. Enhanced Protection from State Mandates. Local governments need additional protection from state mandates that attempt to micromanage local affairs.

4. Personnel Policies and Pensions. All local governments should have broad authority and flexibility in personnel matters.

5. Focus on Outcomes in State Funding of Locally Delivered Services. When local agencies administer state programs and mandates with state funds, they should be held accountable for the measureable outcomes and given extensive administrative flexibility over the means and methods chosen by local leaders to achieve those outcomes.

6. Modernize State Budgeting. The state budget process should be modernized to reflect the best practices in state financial management from across the county.

7. Update the State and Local Revenue Systems. The laws governing the major state and local tax revenues should be regularly updated and revised to reflect the transformation to a service-based economy and the tax equity concerns that have arisen over time.

8. Governance and Responsiveness. State government should periodically review and recommend improvements to the structure, functions and financing of state government operations in order to assure citizens that decisions are being made and services are being delivered in the most responsive and efficient manner possible.

9. Organization of the State Legislature: The legislature should be modernized in order to achieve greater effectiveness and responsiveness to the priorities of the people of the state, including changes in how legislators are elected, limits on the length of their terms, the duration of the legislative session, and the way in which the legislature operates.

Staff presented a set of reform principles intended to provide a county focus to those endorsed by the CCS Partnership, and are meant to work in concert with the CCS principles. The CSAC reform principles were approved by the various CSAC policy committees. They are as follows:

- Reforms should align responsibility with authority among state and local governments.
- Reforms should result in responsible and transparent decisions in state government.
- Reforms should re-establish accountability and responsibility between California residents and their elected leaders.

Additional details on these principles were contained in the briefing materials.

Motion and second to adopt the CCS Partnership and CSAC Reform Principles. Motion carried unanimously.

5. CSAC COMMUNICATIONS AND LEGISLATIVE ADVOCACY STRATEGY PLAN

Staff presented a draft communications and legislative advocacy/strategy plan which was developed with the assistance of the CSAC Budget Task Force. Components of the proposed strategy include:

- Public education campaign
- Communications plan
- Social networking tools
- Enhancing CSAC Web site as a public education tool
- County supervisors as statewide advocates
- Theoretical "scorecard"
- Coalition-building
- Develop/facilitate collaboration among legislators who are former county supervisors
- State budget principles
- "Restore the Partnership California"
- Focus on Human Services Funding Deficit
- Developing a Realignment Proposal for better outcomes
- Preparing for changes in the California criminal justice system
- Supporting reforms that address the dysfunction of state government.

At the direction of the Executive Committee, an ad hoc committee reviewed the "legislative scorecard" component of the plan and made the following recommendation: Following the deadline for introduction of new legislation, staff will identify the ten most important pieces of legislation affecting county government and circulate the list to all legislators. Staff will then track how each legislator votes on those bills. At the end of the legislative session, a scorecard will be shared with individual legislators so they can see how they voted on the issues most important to counties. The scorecard would not include a letter grade.

Motion and second to approve the CSAC Communications and Legislative Advocacy Strategy Plan including the proposed "scorecard" concept. Motion carried unanimously.

6. CSAC POLICY COMMITTEE REPORTS

Administration of Justice. Staff reported that the Administration of Justice policy committee approved the CSAC Principles for Reform as outlined above. In addition, the committee received reports on the State Prison overcrowding litigation, the Corrections Reform legislative package, AB 900 jail construction funding update, and a preview of the 2010 legislative session.

Agriculture & Natural Resources. Staff reported that the Agriculture & Natural Resources policy committee approved the CSAC Principles for Reform. In addition, the committee received reports on proposed Delta/Water legislation, Federal and State Wildland Fire Protection, the updated Water Efficient Landscape ordinance, and the National Flood Insurance Program.

Government Finance & Operations. Supervisor Worthley, chair of the Government Finance & Operations policy committee, reported that the committee approved the CSAC Principles for Reform. The committee also discussed the government reform initiatives currently in circulation, as well as development of a set of pension reform principles which will be brought back to the committee for consideration.

The Board of Directors heard presentations regarding the proposed government reform initiatives from: Alonzo Gonzales of Repair California, Brandon Castillo of Californians to Protect Local Taxpayers, and Fred Keeley of California Forward.

Health & Human Services. Supervisor Kniss, chair of the Health & Human Services policy committee, reported that the committee approved the CSAC Principles for Reform. In addition,

the committee received reports on Federal Health Care Reform, Medicaid Waiver (Section 1115), and 2010 state budget strategy.

Housing, Land Use & Transportation. Supervisor McGowan, chair of the Housing, Land Use & Transportation policy committee, reported that the committee approved the CSAC Principles for Reform. In addition, the committee received reports on Indian Gaming and Federal Lands into Trust process, SAFETEA-LU Reauthorization, future housing needs in California, Napa County's workforce housing development ordinance, and SB 375 implementation. Supervisor McGowan announced that the committee will be re-establishing the Indian Gaming Working Group.

7. RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO CONDUCT CSAC BUSINESS
Staff presented the annual resolution authorizing the Executive Director and his staff designees to execute and approve bank and other documents on behalf of the association.

Motion and second to approve resolution authorizing executive director to conduct CSAC business. Motion carried unanimously.

8. TRIBAL AFFAIRS ADVOCACY PROPOSAL
During it's October meeting, The CSAC Executive committee conceptually approved entering into a contract agreement for additional outside counsel and legal analysis regarding Federal Indian Gaming issues related to a recent Supreme Court decision (*Carcieri vs. Salazar*). Pursuant to a recommendation from the County Counsel's Native American Affairs Committee, CSAC will be contracting with Washington DC-based Perkins Coie. Staff is working with CSAC federal lobbyists Waterman & Associates to ensure that the scope of the contract avoids redundancy with advocacy services already provided, that objectives are achievable, and that costs are commensurate with these goals. A copy of the proposed contract was contained in the briefing materials.

CSAC met with executive directors from other concerned states and there is interest from several major states in joining in the Perkins Coie agreement. California's share will be $30,000 for a one-year term, which assumes California will be joined by five or six other states at that level to achieve the annual contract goal of $70,000 to $100,000. No action was recommended to the Board of Directors. Staff will work with CSAC leadership to approve a contract that meets necessary objectives.

9. INFORMATION ITEMS
Reports on the CSAC Institute for Excellence in County Government, Institute for Local Government (ILG), CSAC Finance Corporation, CSAC Corporate Associates program, and the Litigation Coordination Program were contained in the briefing materials, but no presentations were made.

The Board of Directors acknowledged and thanked President Wyatt for his dedicated service and hard work during his year as President.

The Rural Caucus reported that a discussion was held during their meeting regarding the marijuana legalization issue and the need to coordinate efforts among counties and share ideas. The officers will discuss this further during their December retreat.

Meeting adjourned.

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March 4, 2010

TO: CSAC Board of Directors

FROM: Paul McIntosh, Executive Director
Jim Wiltshire, Deputy Director
Karen Keene, Federal Legislative Coordinator

RE: Draft 2010 State and Federal Legislative Priorities

Attached please find a draft of the proposed CSAC 2010 state and federal legislative priorities for your review and action.

Like last year, we carefully considered a number of options in this year of unprecedented and sustained fiscal crisis. Once again, we concluded that a single, unifying focus on protecting county programs and services is so fundamental to this association and our members that it warrants standing alone as our primary focus for the year. Our staff will, of course, attend to other key policy areas of significance to counties pursuant to existing policy direction either through CSAC platform or other policy principles and Board of Directors actions.

On the federal side, you will recall that pursuant to a renegotiated contract with Waterman and Associates in 2007, CSAC has a nine-issue advocacy agenda for federal legislative topics. In consultation with the Waterman firm, we have identified eight issues for immediate advocacy. We recommend leaving the one remaining issue in reserve for emerging topics throughout the year.

The eight federal issues of significance recommended for immediate advocacy include:

1. New Authorization of The Nation's Surface Transportation Law (SAFETEA-LU)
2. Health Care Reform
3. State Criminal Alien Assistance Program (SCAAP)
4. Climate Change – Renewable Energy
5. Native American Affairs
6. Temporary Assistance For Needy Families (TANF) Reauthorization
7. Clean Water Act
8. Extension of ARRA/Support for Federal Jobs Package

CSAC will maintain our practice of providing internal monitoring of other key federal issues of interest to California counties, including, for this year, the following proposed topics:

- Fuels Management

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

A brief description on each of the proposed federal priorities — for both direct advocacy and internal monitoring — is provided in the attached materials.

We look forward to discussing these issues and priorities at your March 25 meeting.

California State Association of Counties

CSAC 2010 STATE ADVOCACY PRIORITY

DRAFT – Presented to CSAC Board of Directors (March 2010)*

CSAC State Advocacy Priority: Protecting Programs, Services, and Systems that Sustain Communities

California remains mired in a budget crisis of unprecedented magnitude. Even after nearly $60 billion in budget reductions over the last two fiscal years, the state finds itself facing an estimated $21 billion budget shortfall through 2010-11. Given the dramatic effects of previously implemented budget reductions and the likely consequences of additional cuts affecting all Californians, the California State Association of Counties (CSAC) will focus its 2010 legislative advocacy on protecting county programs, services, and systems. As in 2009, there are a number of potential legislative priorities for counties, but none is as critical as how the Legislature addresses the fiscal crisis.

Perennial fiscal crises over the last 30 years have highlighted the dysfunctional relationship counties share with the state as its local service provider. Counties' fates are inextricably tied to that of the state. Now, though, considering the state's ever-worsening fiscal condition, we are concerned about the California we will leave to the next generation. County governments have an important role in communities; we specialize in helping those most in need, in protecting the public, and in creating living and working environments where individuals and industry can thrive. In one way or another, counties serve every one of California's 38 million residents every day.

Therefore, California counties remain focused on communicating the consequences of state budget actions to decision-makers and encouraging them to assess the cumulative impact of their fiscal decisions on California counties and the citizens we serve. To that end, CSAC will strive to educate state leaders and the public about county government and the many ways we serve and improve the lives of Californians. Further, counties are committed to providing expertise and assistance in creating practical solutions that achieve meaningful reforms and make fiscal sense.

With these goals in mind, CSAC has identified the following principles that will guide our advocacy efforts during the 2010 legislative session. The principles outlined below reflect long-standing policies of the Association as outlined in the California County Platform and both documents will inform the Association's positions on specific budget and fiscal proposals.

→ **Protect the health and safety of all Californians.**
During this time of economic crisis, demands for government health services, human services, and public safety services far outpace resources. Counties across the state are seeing a spike in health care needs and human services caseloads – coming directly on the heels of nine years of severe underfunding of program costs and significant state budget

* Approved by CSAC Executive Committee (1/2010)

reductions. CSAC supports efforts to maintain core public services, including programs that provide assistance to those in need, protect local communities, and that promote economic well-being for Californians of all means.

→ **Seek budget solutions that address the structural deficit.**
The state's chronic budget troubles require meaningful changes that transcend the short-term deficit. Cost shifts, borrowing, delays, deferrals, and other short-term "solutions" only serve to create additional budget stress in the out-years and exacerbate the state's chronic budget imbalance. All levels of government must focus on the long-term objective of cultivating reliable revenue sources that are adequate to fund priority programs, services, and systems when they are run efficiently and effectively. CSAC supports reevaluating the state's revenue structure and reviewing program outcomes, as these are necessary steps in developing a sensible state budget solution.

→ **Promote programs and services that stimulate the economy and protect jobs.**
Counties partner with the state to provide services to Californians in interconnected systems – transportation, flood control and water delivery, health and human services, and corrections, to name a few. These systems are important components to a healthy economy and the quality of life of all residents. CSAC supports evaluation of such systems to ensure they provide cost-effective, adequate, and stable investments that meet current and future needs.

→ **Engage in long-term reform conversations.**
CSAC joins the chorus echoing throughout the state: California government is broken. A renewed state-local partnership is necessary to restore public trust in government and to ensure a sustainable California. Considering our unique role in providing critical programs and services throughout California, counties seek a partnership with the state that allows us to provide services in an efficient, effective, and sustainable manner, which we believe will result in better outcomes and better lives for all Californians. To that end, the Association has adopted CSAC Principles for Reform 2010 to guide our discussions on reform options, whether they appear at the ballot box or within the halls of the State Capitol.

CALIFORNIA Counties

CSAC 2010 FEDERAL ADVOCACY PRIORITIES

DRAFT – Presented to CSAC Board of Directors (March 2010)*

CSAC's contract for federal affairs services with Waterman and Associates provides for a nine-issue agenda. CSAC staff, in consultation with Waterman and Associates, developed the following list of eight federal issues of significance to California's counties, with one issue left in reserve to accommodate emerging topics.

New Authorization of the Nation's Surface Transportation Law (SAFETEA-LU)

The nation's surface transportation law, SAFETEA-LU, is currently operating under an extension that will expire on March 28. As of this writing, it appears as though Congress will renew the current extension through the end of 2010, with authorizers hoping to complete a new six-year transportation bill prior to the next extension's expiration.

For its part, CSAC continues to actively promote its transportation reauthorization agenda with key policymakers. Among things, the association is recommending a more streamlined and flexible approach to allocating federal transportation funds to state, regional, and local agencies. This policy change could take shape by reducing the current 108 programs under SAFETEA-LU into a smaller number of more flexible programs, such as the 10 new federal programs recommended by the National Surface Transportation Policy and Revenue Study Commission.

Health Care Reform

Reform of the nation's health care system has dominated the congressional agenda over the past year, with additional legislative action expected soon. Both the House and Senate have adopted their respective health reform bills, with President Obama releasing his health care outline and urging action on his plan by the end of March.

CSAC supports health system reform legislation to provide health coverage and access to the uninsured and funding for a robust public health system to detect and prevent disease. Medicaid expansion initiatives, however, must minimize the additional fiscal contributions of states and counties to fund such initiatives. CSAC also supports mitigating any reductions in the Medicaid disproportionate share hospital (DSH) payment program, given the federal estimates that 17 to 25 million will remain uninsured after reform is implemented.

State Criminal Alien Assistance Program (SCAAP)

The SCAAP program is a critically important budget item for many California's counties. CSAC is one of the leading local government organizations in the fight to protect and enhance funding for SCAAP, which continues to be underfunded by Congress. CSAC will continue to advocate for maximum funding levels to offset the cost of housing undocumented criminals in county detention facilities.

* Approved by CSAC Executive Committee (1/2010)

Climate Change – Renewable Energy

Climate change and renewable energy legislation has advanced in both chambers of Congress, but much work lies ahead. In the House, lawmakers narrowly approved comprehensive global warming legislation (HR 2454), handing President Obama and House Democratic leaders a key victory. In the Senate, the Environment and Public Works Committee approved its climate change bill on an 11-1 Democratic-only vote after panel Republicans boycotted the committee's markup of the legislation. Before moving to the floor, several other Senate committees must consider the package.

Among other things, CSAC is urging Congress to provide financial incentives to states that adopt and set greenhouse gas emissions reductions targets. CSAC also is urging Congress to provide additional funding for the Energy Efficiency and Conservation Block Grant, which provides resources to local governments for a variety of energy efficiency programs.

Native American Affairs

In the wake of this year's U.S. Supreme Court ruling in *Carcieri v. Salazar,* key members of Congress have introduced legislation that would provide the secretary of the U.S. Department of Interior with authority to take land into trust for Indian tribes regardless of whether they were under federal jurisdiction at the time of the passage of the Indian Reorganization Act of 1934. In response, CSAC has been actively working with the California congressional delegation and other key members of Congress to broaden the scope of the legislation to include much-needed reforms in the fee-to-trust process. CSAC also has been working with the California congressional delegation and the Obama Administration on other key tribal issues, including potential modifications to laws and federal regulations related to off-reservation gaming.

As in the past, CSAC continues to be a leader in promoting legislation that would require tribes, counties, and other local governments to reach judicially enforceable agreements that address mitigation of off-reservation impacts, service impacts, and public safety costs associated with tribal gaming and other related development.

Temporary Assistance for Needy Families (TANF) Reauthorization

Congress must reauthorize the TANF program before September 30, 2010. The Obama administration is proposing an extension of current programs for one more year, with a full review of TANF in 2011. Congress – as well as previously issued regulations – placed additional administrative burdens on the program via the 2005 Deficit Reduction Act. Many of those provisions had the effect of changing the focus on following federally imposed processes to the detriment of moving families into self-sufficiency.

CSAC is urging Congress to restore state and county flexibility to tailor work and family stabilization activities to families' individual needs. CSAC also supports maintaining the focus on work activities under TANF, while recognizing that "work first" does not mean "work only."

On a related matter, the TANF Emergency Contingency Fund enacted under the American Recovery and Reinvestment Act is slated to expire September 30, 2010. California's counties have worked with private and non-profit sectors to create 15,000 subsidized jobs through the program. CSAC urges an extension and expansion of TANF-ECF through September 30, 2011.

Clean Water Act

The Clean Water Act (CWA) and subsequent amendments have positively impacted the health of our nation's rivers and streams, as well as introducing a host of unintended consequences. One of the unintended consequences is the negative impact on the maintenance of flood protection and drainage facilities from CWA Section 404 permitting.

CSAC will continue to collaborate with other interested stakeholders in seeking amendments to Section 404 of the Clean Water Act to define maintenance of flood control channels or facilities as a non-prohibited activity thereby exempting maintenance from requiring Section 404 permits.

Extension of ARRA/Support for Federal Jobs Package

CSAC supports a robust federal jobs package that provides funding for state and local infrastructure, health and human services, community development, energy, and forest restoration programs. With a statewide unemployment rate of 12.3 percent and California's sate budget crisis continuing to threaten the delivery of county services, federal investment in state and local programs is not only critically needed, it represents one of the best ways to spur positive economic growth.

When Congress approved ARRA in 2009, lawmakers made the decision to invest in a host of local programs based on the recognition that county and city governments were capable of implementing shovel-ready projects and delivering services that would help jumpstart the nation's flagging economy. Although certain sectors of the economy have shown signs of improvement, more needs to be done.

California counties have the capacity to deliver projects in a variety of program areas, all of which would assist in economic recovery efforts by putting people back to work. Accordingly, CSAC strongly believes that providing federal dollars for programs such as highways and transit assistance, the Community Development Block Grant, the Energy Efficiency and Conservation Block Grant, Build America Bonds, and Forest Restoration activities represents a prudent investment of federal jobs funds.

CSAC Internal Monitoring

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

Fuels Management

Congress approved as part of the fiscal year 2010 Interior Appropriations bill key provisions of the Federal Land Assistance, Management and Enhancement (FLAME) Act, which creates a separate appropriations account to help fund large-scale federal emergency wildfire suppression activities. Also pending before Congress is legislation that would create a grant program to assist local communities in implementing activities and policies of nationally recognized wildland fire codes and standards. The grants, administered by FEMA, could be used to enforce local ordinances, develop incentive programs to retrofit hazardous structures, create defensible space, and reduce hazardous fuel loads near communities. Additionally, the bill

would authorize the U.S. Forest Service and the Department of the Interior to offer grants to local communities for fire safe practices.

CSAC has actively supported legislation that would provide at-risk communities with incentives to improve fire prevention efforts. The Association also has supported federal fuels management, fire preparedness, and state and local fire assistance programs.

Community Development Block Grant (CDBG)

The fiscal year 2010 federal budget included nearly $4.5 billion for HUD's Community Development Fund, or a roughly $600 million increase over fiscal year 2009 spending levels. Of the total amount, almost $4 billion is available for the Community Development Block Grant (CDBG) program.

The CDBG funding provided in the fiscal year 2010 budget is on top of the $1 billion in funding that was included as part of ARRA. CSAC has actively promoted full funding for the CDBG.

Telecommunications Reform

Unlike its predecessor, the 110th Congress did not consider major video franchising reform legislation. Looking ahead, it remains to be seen if the 111th Congress and Obama Administration will promote a telecommunications overhaul.

For its part, CSAC has resisted efforts in Congress to grant the Federal Communications Commission with additional decision-making authority over state and local telecommunications matters. However, CSAC supports funding for increased broadband penetration to rural and hard-to-serve areas.

Foster Care Reform

As part of TANF reauthorization, Congress may consider legislation to reform the foster care financing system, as well as provide additional resources to stabilize families and train and retain child welfare staff. CSAC supports additional programmatic flexibility along with an updated foster care payment methodology.

Homeland Security

The fiscal year 2010 appropriations bill for homeland security-related programs included level funding for the state homeland assistance program ($890 million) and a $50 million increase to $887 million for the Urban Area Security Initiative. The Emergency Management Performance Grant program received a $25 million boost for a fiscal year 2010 level of $340 million.

CSAC has successfully advocated for increased funding for first responder programs, including the State Homeland Security Grant Program and Emergency Management Performance Grants. The association also has successfully lobbied to ensure that high-threat states, such as California, receive a greater share of homeland security grant funds.

Byrne Grant Funding

The American Recovery and Reinvestment Act (ARRA) made significant investments in the Byrne Memorial Justice Assistance Grant (JAG). CSAC strongly supports prioritizing Byrne funding in

fiscal year 2011, and we will continue to work collaboratively with our congressional delegation and others in the coming year to secure and promote increased funding for this program and the positive local outcomes it helps achieve.

Immigration Reform

CSAC supports comprehensive immigration reform that recognizes the role that county governments play in the immigration arena. Any federal reform efforts should include the following elements: (1) a state and local impact grant program for health and education services; such a grant program should recognize that county governments – particularly along the southwest border – incur significant unreimbursed health care costs related to the provision of services to undocumented immigrants; (2) full funding for SCAAP; (3) border security strategic planning; (4) federal training dollars for county law enforcement officers targeted to jurisdictions along the borders; and, (5) the promotion of access to health care.

Cooperative Endangered Species Conservation Fund

CSAC supports increased funding for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Conservation Fund from the $73.8 million current-year level to $125 million in FY2010. This increase will restore the fund to approximately its fiscal 2001 level (adjusted for inflation) and provide much needed support to regional Habitat Conservation Plans (HCPs) in California and nationally.

County Payments/Secure Rural Schools Program

In 2008, Congress approved a four-year renewal of the Secure Rural Schools (SRS) program, which provided $1.6 billion in SRS funding through 2011. Counties rely on this funding to maintain local roads and other public infrastructure, operate search and rescue missions, and provide many other essential local services. Stakeholder discussions are currently underway regarding the next reauthorization. CSAC will monitor these efforts to ensure that California county interests are protected.

2-1-1 Statewide

CSAC has actively supported both state and federal legislation to help build and fund a statewide 2-1-1 referral system. 2-1-1 is a free, easy-to-remember telephone number that connects people to essential community information and services. In 2008, over one million Californians called 2-1-1 for help finding needed community services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and senior care. 2-1-1 also plays an informational role during emergencies and disasters and relieves pressure on the 9-1-1 system at these critical times. This value of this service was evident during the 2007 San Diego wildfires when 2-1-1 call centers provided information and support to more than 130,000 callers in five days.

Currently, just 21 of California's 58 counties have 2-1-1 service. Some funding for 2-1-1 infrastructure may become available via federal economic stimulus funds or federal legislation. CSAC will continue to work at both the state and federal levels to promote the need for a comprehensive statewide 2-1-1 system.

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March 10, 2010

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

Re: Proposition 16: New Two-Thirds Requirement for Local Public Electricity Providers

Staff Recommendation: The CSAC Agriculture & Natural Resources Policy Committee as well as the CSAC Executive Committee have both recommended an "oppose" position on this measure. Proposition 16 would seek to limit local government's ability to expand local energy programs by imposing a new two-thirds voter approval requirement on local governments before they can establish a Community Choice Aggregation (CCA) program, expand a service area of a municipal utility district or use public funds to implement a plan to become a CCA. The ballot measure will go before voters on the June 2010 ballot.

Existing CSAC Policy: CSAC has existing policy to support measures that enhance public power options available to local governments. Specifically, chapter four of the CSAC Platform states that "counties support measures that enhance local government's ability to become community aggregators of electricity."

Background: According to the LAO, Californians generally received their electricity service from one of three types of providers: investor-owned utilities (IOUS), publically owned electric utilities, and electric service providers (ESPs), which serve customers who have chosen not to receive their service from the IOU or publically owned utility. Another option, Community Choice Aggregation, allows for electrical service within a CCA defined territory through a contract with an ESP.

Community Choice Aggregation AB 117 (Chapter 838, 2002) established the Community Choice Aggregation option. This program gives cities and counties, or groups of cities and counties, the ability to supply electricity to the customers within their borders. However, a CCA does not necessarily own the transmission and delivery systems. Instead, a CCA is responsible for providing the energy commodity to its constituents—which may or may not entail ownership of electric generating resources. A CCA gives local governments more control over the amount of renewable energy they use and supply to their constituents as well as more local control over retail electricity rates. CCA also gives local governments the ability to issue low-interest revenue bonds to finance community-scale renewable energy projects. Currently, numerous cities and counties are in the process of developing CCAs, including San Diego County, San Francisco, Marin County and the Kings River Conservation District (12 cities in the Fresno area and Kings County), among others. Under current law, CCAs must be approved by local elected officials but not by the public at large. Individuals also have the opportunity to "opt out" of a CCA if they so choose.

Initiative Summary: 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. According to an LAO analysis of the initiative, if an authorized local government entity seeks to start up electricity service, it must receive approval by two-thirds of the voters in the area proposed to be served. Also, if an existing publicly owned utility seeks to expand

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its electric delivery service into a new territory, it must again receive an approval of two-thirds of the voters in both the area currently served by the utility and the proposed area. Finally, the initiative would require two-thirds voter approval for a local government to create a CCA.

Impact on Local Government: This measure would put further constraints on local governments when seeking to implement public power options and alternatives to investor owned utilities. With regard to the creation of a CCA, the current process allows rate payers to opt out of CCA programs, if they so choose. The current process for establishing a CCA or a municipal utility district (MUD) is carried out in a very transparent and public manner. Additionally, the measure appears to blur the difference between ratepayer and taxpayer. Debt incurred by a CCA or MUD is the responsibility of the ratepayers and not the general fund of the associated local government.

Support/Sponsors of Initiative: PG& E appears to be the sole sponsor of the initiative.

Opposition:

Local Governments/Public Utilities
Burbank Water & Power
City of Berkeley
City of Glendale
City of Gridley
City of Lodi
City of Palo Alto
City of Redding
City of Roseville
City of San Francisco
County of San Francisco
City of Santa Clara
City of Sebastopol
CMUA Board of Governors
Marin County Board of Supervisors
Marin Energy Authority (representing 9 cities and the County of Marin)
Northern California Power Agency Commission
Sacramento Municipal Utility District Board of Directors
San Francisco Local Agency Formation Commission
Town of Fairfax

Organizations:
AARP
Agricultural Energy Consumers Association
Bay Localize
California Association of Realtors
California Tax Reform Association
Climate Protection Campaign
League of California Cities
League of Women Voters of California
Local Power Inc.
Local Clean Energy Alliance
Sierra Club of California
The Utility Reform Network

Administration of Justice Policy Committee

Wednesday, March 17, 2010 ▪ 3:00 to 4:30 p.m.
CSAC Offices ▪ Peterson Conference Room*
1100 K Street ▪ First Floor ▪ Sacramento, California
Conference Call-in Number: (800)867-2581 ▪ Passcode: 7500513#

**Limited seating available.*

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

3:00 p.m. **I. Welcome and Introductions**
Supervisor Federal Glover, Contra Costa County

3:05 **II. Enhancing Court-Ordered Debt Collections: Proposed 2010 Joint Court/County Legislative Package – ACTION ITEM**
Elizabeth Howard Espinosa, CSAC Legislative Representative

3:20 **III. Update on AB 900 County Jail Construction Funding**
Bob Takeshta, Corrections Standards Authority (CSA)

3:35 **IV. Update on Federal Three-Judge Panel on Prison Overcrowding**
Elizabeth Howard Espinosa and Rosemary Lamb, CSAC Administration of Justice Staff

3:45 **V. 2010-11 State Budget Update**
Elizabeth Howard Espinosa, CSAC Legislative Representative

4:00 **VI. 2010 Legislative Session: Overview of Key Justice-Related Measures**
Rosemary Lamb, CSAC Legislative Analyst

4:15 **VII. Update on Other Corrections-Related Efforts and Working Group Activities**
Elizabeth Howard Espinosa and Rosemary Lamb, CSAC Administration of Justice Staff

4:25 **VIII. Closing Remarks and Adjournment**
Supervisor Federal Glover, Contra Costa County

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March 9, 2010

TO: CSAC Administration of Justice Policy Committee

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

RE: Enhancing Court-Ordered Debt Collections: Proposed 2010 Joint Court/County Legislative Package – ACTION ITEM

Recommendation. Staff recommends that the CSAC Administration of Justice Policy Committee approve the pursuit of joint legislative effort with the Judicial Council/ Administrative Office of the Courts (AOC) to enhance existing efforts to collect court-ordered debt.

Overview. Courts and counties collaborate on local collections efforts of court-ordered debt. The organizational structure of collection programs varies from jurisdiction to jurisdiction. In some counties, the court undertakes the collections responsibility on behalf of both the court and county; in others, the county has responsibility over the function. In yet a third model, some jurisdictions share the responsibility, with functions divided in some fashion between the local court and county — perhaps based on the type of debt or on the age of the account. Within the county structure, collection efforts reside in various departments, depending on the jurisdiction. County court-ordered debt collection efforts exist in the offices of auditor-controller, the treasurer, and as a stand-alone department under the county administrative officer, as a few examples.

Improving the collection of court-ordered debt has been a shared commitment of the courts and counties, and a top personal priority of Chief Justice Ronald George. Counties share the position that an appropriately aggressive and successful collection effort yields important proceeds for both courts and counties. In many counties, the revenue collected from delinquent court debts is used to meet statutorily required Maintenance of Effort (MOE) payments to the state, so we have a significant stake in the area of collections. In addition, many fines, penalty assessments, and surcharges support a range of local initiatives and programs, as specified in statute.

Over the last decade or so, significant court and county resources have been dedicated to improving and enhancing court-ordered debt collection efforts across the state. The AOC in particular has built a staff of subject matter experts to work with court collections programs statewide to ensure that courts and counties alike are working to ensure maximum enforcement of court orders. A joint task force — the Collaborative Court-County Working Group — created statutorily in 2003 (SB 940, Escutia) developed and recommended to the Judicial Council guidelines for a comprehensive collection program. SB 940 also authorized courts and counties to create collaborative collection programs to implement these guidelines.

More recently, the Judicial Council sponsored AB 367 (DeLeon, 2007) which, among other things, required the development of performance measures and benchmarks to review the effectiveness of the cooperative superior court and county collection programs. Pursuant to the provisions of AB 367, the Judicial Council collected

information from collections programs statewide during 2009 and produced a baseline report, issued in January 2010, regarding best practices, program performance, and a range of recommendations for improved collection outcomes. That effort will be updated annually in future years and will serve as an important information resource as courts and counties seek to improve collection efforts statewide.

Legislative Interest and Other Relevant Background. It should be noted that there is substantial interest in court-ordered debt programs on the part of the Administration and Legislature. On the one hand, the interest is financial. To the extent that there is a significant amount of outstanding debt – a figure that is difficult to quantify, but could be in the several billion dollar range – efforts to improve debt recovery are of interest in that they have the potential to yield revenue during these extraordinarily difficult fiscal times. At the same time, interest in collection efforts is programmatic in nature: the variety and differences among how collection efforts are organized at the local level make it difficult to neatly and concisely articulate the operations and outcomes of statewide collection efforts.

Indeed, efforts to mandate streamlined governance of collections programs have emerged. In 2007, the Governor's May Revision proposed a unilateral transfer of authority and governance for collection of court-ordered debt. The rationale for this recommended policy change was that a unified collections effort governed by Judicial Council rules, policies and procedures would produce a greater benefit and enhanced accountability. Counties were strongly opposed to this effort for a variety of reasons ranging from staffing concerns, extensive county investment in customized programs and software, contractual obligations, and financial risks if revenue levels could not be assured. The proposal was ultimately unsuccessful, but interest remains high in assuring that counties and the courts are doing everything they can to recover debt ordered by the courts.

Legislative Directive in 2008. In more recent legislative action, SB 1407 — the 2008 measure authored by Senate Preside pro Tempore Don Perata that authorized increases for a range of fees, penalties and assessments to support the state's courthouse capital plan — codified a joint commitment between the AOC and CSAC regarding improvements to court-ordered debt collection programs. The expression of this commitment in Penal Code Section 1463.010[1] reflects the courts' and counties' shared objective of strengthening and improving, where appropriate, existing collaborative collection efforts across the state.

In response to this legislative directive, the AOC and CSAC convened meetings beginning last fall with a group of collection professionals – representing programs administered through both the counties and the court – to brainstorm ideas of mutual interest and benefit that would help achieve the objectives set forth in PC Section 1463.010. The group reviewed dozens of potential options for process improvement and provided valuable input and insights; those discussions produced a set of items identified for legislative action described below.

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[1] Relevant excerpt from Penal Code Section 1463.010: *The California State Association of Counties and the Administrative Office of the Courts are jointly committed to identifying, improving, and seeking to expand access to mechanisms and tools that will enhance efforts to collect court-ordered debt.*

2010 Legislative Objectives. Drawing from the 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-order debt***. Under current law (outlined in Penal Code Section 1463.007), the structure and approach of court and county enhanced collections programs for delinquent payments are incentivized by requiring certain collection activities in order for programs to qualify as a "comprehensive collection program" and enabling them to recover the costs of running the program. Drawing from input and data collected as part of the report on court and county collection programs (pursuant to AB 367, DeLeon[2]), the structure and content of the list of required or recommended collection practices will be revisited and recast. This effort is intended to further incentivize the most effective collection practices with a view toward improving program performance.
- ***Develop and implement an amnesty program***. To encourage a one-time infusion of revenue and help reduce the level of debt currently uncollected, the courts and counties plan to seek the authority to jointly pursue a targeted amnesty program for traffic violations and non-traffic infractions (and possibly some non-serious misdemeanors) – but excluding all serious misdemeanors and felony violations – over a fixed period of time. The last time an amnesty program was pursued was in 1996, pursuant to AB 3095 (Villaraigosa)[3].
- ***Clarify authority related to discharge of accountability***. Under existing law (Government Code Section 25250 et seq.), the authority to discharge local debt resides exclusively with the county board of supervisors, including debt ordered by the court. In view of realigned and clearly defined responsibilities between courts and counties following trial court funding reforms of the last decade or more, it is appropriate to align the discharge authority with the entity to whom the debt belongs. An added benefit of clarifying the discharge authority would be a statewide effort to encourage local collections programs to reexamine practices around the discharge of accountability so that uncollectible debt can be discharged, setting more accurate and realistic expectations regarding debt recovery – that is, better defining "uncollected" vs. "uncollectable" debt.
- ***Pursue intercept proposal on unclaimed property in cooperation with State Controller's Office***. The State Controller's Office unclaimed property program would be extended to allow for the offset against the payment of unclaimed cash payment toward delinquent court-ordered debt. This effort would likely involve amendment of Government Code Section 12419.8.
- ***Clarify authority for enforcing court-ordered debt beyond the 10-year period applicable to civil judgments***. Under current law (Penal Code Section 1214), it is unclear whether a fine remains enforceable after the 10-year period applicable to enforcement of civil judgments. Restitution fines and restitution orders are explicitly exempted from the 10-year limitation. Extending this exemption to other types of court-ordered debt will give collection programs the option of enforcing older delinquent debt if adequate resources exist to do so.

[2] Chapter 132, Statutes of 2007.
[3] Chapter 742, Statutes of 1996.

Taken together, 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.

Process. Given the timing of this committee's meeting and the need to put in motion the process for seeking an appropriate legislative vehicle, CSAC and AOC staff have made preliminary contact with Assembly Member Juan Arambula's office. Mr. Arambula serves as the chair of the Assembly Budget Subcommittee No. 4 with jurisdiction over the courts; he has expressed an interest in collections programs in the past and has indicated a willingness to incorporate a jointly sponsored package on collections into the budget process.

The development of the joint package is a work in progress. CSAC and the AOC continue to vet specific legislative language through its original discussion group of collections professionals, and each entity must then further vet the proposals through the appropriate policy channels. On the CSAC side, we have committed to soliciting the input of auditor-controllers (who would likely have an interest in the discharge of accountability provisions) and a broader set of county revenue recovery officers (i.e., collections professionals) as well as other county groups with an interest in this area. We intend to bring this matter back to the Administration of Justice policy committee at its June meeting for a detailed update. At this time, we are asking the AOJ policy committee for the authority to pursue the jointly sponsored legislative package with the AOC/Judicial Council, with the understanding that we remain mindful of the need to solicit input from affected parties.

Requested Action. CSAC staff is requesting the following direction from the AOJ policy committee:

- 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 officers; and
- Provide an update on the progress of this effort at the June meeting of the CSAC AOJ policy committee.

Any action taken by the AOJ policy committee on March 17 will be advanced to the CSAC Board of Directors for its review and action on March 25.

Staff Contact. Please contact Elizabeth Howard Espinosa (ehoward@counties.org or 916/650-8131) or Rosemary Lamb (rlamb@counties.org or 916/650-8116) for additional information on this issue.

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March 10, 2010

To: CSAC Board of Directors

From: Paul McIntosh, Executive Director

Re: **Budget Strategy Update and Discussion**

Recommendation. This item is for your review and discussion. Based upon our conversations at the November meeting of the Board of Directors and subsequent meetings with the Executive Committee, staff has prepared the attached materials to assist in providing budget information.

Background. At your November meeting, we discussed with you a number of items to enhance CSAC's communications and legislative advocacy for 2010. To that end, staff has worked to develop more 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 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

Additional detail on these items is included in the "Our View: California Counties Respond to the Governor's 2010-11 Budget" attached to this memo and will be discussed at this meeting.

We have also attached "County Impacts of Governor's 2010-11 Proposed Budget," which lists the most egregious proposals in the Governor's budget from a county perspective; "Options for County Fiscal Relief," which was borne out of a legislative request last year for our suggestions for legislative actions that would provide counties with some fiscal relief; and six "white papers" on various proposals in the Governor's budget.

As it appears that legislative action in the extraordinary session has been completed, our attention now focuses on the May Revision. Staff will discuss the outcomes of the budget special session, as well as expected next steps.

Action Requested. While we are not looking for specific action today, we do want to hear your feedback on the various aspects of our efforts. We have committed to provide regular updates to the CSAC officers, the Executive Committee, and to your Board.

Staff Contact. For additional information, please contact Paul McIntosh at pmcintosh@counties.org or 916.327.7500 ext. 506 or Jean Kinney Hurst at jhurst@counties.org or 916.327.7500 ext. 515.

Our View: California Counties Respond to the Governor's 2010-11 Budget

The California State Association of Counties (CSAC), recognizing the serious and significant budget deficit facing state government, offers the following for consideration as the Legislature attempts to address the Governor's budget proposals to resolve the estimated $20 billion deficit through 2010-11.

Regrettably, the Governor's proposed budget is based on unrealistic assumptions, significant risks, and cost shifts to counties. Just as the Governor seeks a fair and flexible relationship with the federal government, counties urge an equally fair and flexible relationship between the state and local governments as partners in the provision of services to all Californians.

Below we have offered other suggestions for approaching this fiscal crisis. Additionally, understanding that cuts must be made, we offer options for county fiscal relief and alternatives to the Governor's budget proposals, where possible. Our suggestions include the following alternatives proposed for your consideration and discussion:

- **Avoid new 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 other systems**
- **Eliminate/consolidate state programs and services**
- **Consider new revenues and modernize the state's tax structure**
- **Seek broad government reforms**
- **Support county efforts to reduce and contain pension costs**

AVOID NEW MANDATES/REPEAL SUSPENDED MANDATES/SUSPEND PIPELINE MANDATES

Given the serious fiscal crises facing the state and local governments, counties urge the Legislature to stop approving new mandates and consider suspending mandates that are currently awaiting adjudication by the Commission on State Mandates. The state has suspended funding for most reimbursable mandates and owes more than $1 billion in payments to local governments. It is irresponsible to continue to pass new laws that will likely require eventual reimbursement, while requiring local agencies to foot the bill for the near future when the state cannot fund the services required by existing law.

Since a number of mandates have been long-suspended, and counties consider a second year of mandate suspensions, CSAC supports two options for managing the problem of unpaid mandates:

1. **Repeal suspended mandates.** While many mandated services and programs are worthy policy objectives, it is unlikely that the state will be able to afford appropriate reimbursement of such mandates in the near term. Thus, counties support repeal of suspended mandates, so as to not shift the costs of these programs to local governments.
2. **Give a time-certain for mandate suspensions.** If the state is not willing to repeal suspended mandates, it should provide a time certain for suspension to allow counties some predictability in managing their own budgets and services.

Further, while awaiting action by the Commission on mandate claims, local agencies are required to provide the services outlined by new legislation. Given that the mandate determination process can take years to finalize, counties suggest that the Legislature suspend provisions of law associated with mandate claims awaiting action by the Commission. (The mandate adjudication process at the Commission could continue as usual.) Undoubtedly, many of these claims will result in reimbursable mandates that the state can ill afford.

> ***Budget alternative:***
> *Hold bills that mandate new programs or higher levels of service on local governments. Either repeal suspended mandates or provide a time certain for suspension of such mandates. Consider suspending provisions of law that are the subject of mandate claims currently before the Commission.*

CONSIDER OPTIONS TO MITIGATE CORRECTIONS COST SHIFTS

The Governor's budget includes a proposal to increase county responsibility for incarceration of certain felons in county jails at a time when the state also is implementing a range of legislatively approved policy changes designed to offload prison costs and populations. The 2010-11 budget proposal contemplates changing sentencing law so that certain felons would serve time in jail rather than state prison. This proposal is nothing short of a wholesale cost shift to counties that many – if not all – jurisdictions are ill-equipped to manage, given that 32 counties currently are operating under a jail population cap. Further, counties contend that the state cannot escape paying for this obligation because it is effectively requiring the counties to take on a new or higher level of service – a clear violation of Proposition 1A (2004).

This proposal will undoubtedly result in more offenders being released early from our jails and expose counties to more lawsuits regarding overcrowding conditions. Further, these offenders — and others who likely will end up in our communities as a result of policy changes enacted in 2009 — will require reentry services if there is any hope of mitigating recidivism rates. This proposal — along with continued pressures to reduce state prison costs and population — will impact not only our criminal justice system and

public safety partners, but will increase demands for alcohol and drug treatment, mental health care and vocational education programs.

Is it appropriate, for example, to consider dedicating a new revenue source, like the VLF, to counties to address the detention and service needs of this new population? Shedding of prison costs and population shifts the burden – directly or indirectly – to local government. Counties are being asked to deal with a population of criminal offenders in great need of services with few resources available to provide such services. Without action, the state is likely to see little progress in addressing its chronic recidivism problem and all levels of government will face increased costs. If counties do not advocate for funding to address the needs of this group – even while opposing the "jail dump" proposal outright – we will acquire more offenders locally and be forced to address their needs within our current program capacity.

Budget alternative:
The Legislature should consider increasing the VLF back to 2% and dedicate the new increment (0.85%) to build service capacity locally to manage this population.

ELIMINATE PROGRAM GROWTH AND FUNDING RESTORATION

With the exception of federally mandated funding for caseload growth, no program or department should be provided funding for growth of any kind, whether it be caseload or enrollment growth. When significant program reduction and elimination is considered for the basic safety net for California's most vulnerable—seniors and children—funding growth does not make sense. State departments should be forced to live with what they have for at least another year. Likewise, any restoration of funding should be delayed until at least next year.

Budget alternative:
Given the severity of the budget reductions currently on the table, it is reasonable to ask the state to hold programs and services to base funding for another year.

MAXIMIZE FEDERAL FUNDS

A number of the Governor's proposed budget cuts will be counterproductive if the federal government extends federal funding to states. For example, it appears likely that the federal government may extend temporary enhancements for Medicaid, Temporary Assistance for Needy Families (TANF), and other programs for at least two additional quarters. Therefore, counties suggest the Legislature take no action on the reductions in the Special Session that may impact these opportunities for federal funding. For example, the proposals to reduce CalWORKs will interact with any extension of the TANF Emergency Contingency funding. Until the extent of federal funding is known later this spring, counties strongly urge the Legislature to withhold action. As the Legislative

Analyst points out, savings from CalWORKs grant cuts would be seriously eroded if the TANF Emergency Contingency is extended.

> ***Budget alternative:***
> *Focus on securing additional federal funds where possible and avoid action in the Special Session on any budget proposal that will negatively impact the ability of the state to secure additional federal flexibility or funding. CSAC will coordinate federal advocacy efforts with those of the Administration and Legislature.*

IMPROVE THE STATE-COUNTY PARTNERSHIP

The Governor's budget includes a number of proposals that would permanently shift new populations to counties for services and eligibility. Other proposals shift costs to counties. While the Governor is critical of the federal government for dumping significant costs on states, his own spending plan does exactly that to counties. Such actions only further damage the government-to-government spirit of partnership that counties believe is integral to the success of any fiscal solutions. The Legislature should engage counties directly in discussions about implementation of budget solutions and should consider the broader implications of state budget decisions on local governments. Additionally, we encourage the Legislature to take meaningful action to offer at least some flexibility or fiscal relief to counties, as we grapple with the same economic realities as those facing the state. CSAC has prepared a list of options for local fiscal relief and mitigations, attached.

> ***Budget alternative:***
> *While counties realize that state budget reductions are imminent and that counties will likely see caseload and service increases as a result, we urge the Legislature to consider mitigations and other opportunities for local fiscal relief to allow counties to better manage the impacts.*

PRESERVE PROGRAMS THAT PREVENT COSTS IN OTHER SYSTEMS

Counties are very concerned that cuts to alcohol and drug treatment, mental health services, CalWORKs, and child welfare will lead to costs in other systems, particularly the justice system. The Governor proposes to eliminate the remaining $18 million for the Offender Treatment Program and shift $452 million out of local mental health (Proposition 63 ballot measure). In addition, CalWORKs grants would be cut by 16 percent. As the state struggles to reduce costs in the corrections systems, cuts to prevention programs are exceedingly short-sighted.

Budget alternative:
The state should place a priority on funding programs that reduce or avoid out-year costs in other programs. Given the state's chronic structural imbalance, investment in programs that reduce costs in other systems makes sense for long-term state fiscal planning.

CONSIDER NEW REVENUES AND MODERNIZE THE STATE'S TAX STRUCTURE

Over the last two fiscal years, $60 billion in spending has been cut from the budget and yet the state remains $19 billion in deficit. The Governor's proposal to rely on nearly $7 billion in federal revenue has been widely panned by experts, including members of California's Congressional delegation. In all likelihood, the Governor's assumption about the receipt of federal funds will not materialize, meaning draconian "trigger cuts" to eliminate basic safety net programs will be on the table this year. Many believe at this point that the long-term budget crisis cannot be solved through additional cuts alone and that the one-time tricks and gimmicks have been exhausted. A number of interest groups, and even the non-partisan Legislative Analyst's Office, have urged the Legislature and Governor to consider new revenues. It is time that the state, with its county partners, consider which programs are vital and must be preserved. Once that determination is made, those priorities must be reconciled with the funding available. Potential ways to close the gap include, but are not limited to: closing tax loopholes, extending the tax increases that will expire in 2011, revisiting the VLF reduction, and pursuing some of the tax issues that have long been part of CSAC's platform – like lowering the vote threshold for local revenues to support local programs.

CSAC also supports modernizing the state's outdated tax structure, which relies heavily on revenue from a very few Californians and a goods-based economy. Broadening the sales tax base and reducing the overall sales tax rate, for example, could be an important step to restoring stability to state and local revenues.

Budget alternative:
The Legislature should consider reasonable revenue reforms that stabilize the state's boom-and-bust revenue cycle and provide stable and adequate funding for public services.

SEEK BROAD GOVERNMENT REFORMS

Counties support broad government reforms that:

- Align responsibility with authority among state and local governments.
- Result in responsible and transparent decisions in state government.
- Reestablish accountability and responsibility between California residents and their elected leaders.

CSAC is continuing to evaluate the various reform proposals currently in circulation and will work with the Legislature on its own reform plans. However, it is imperative that reform proposals address the serious dysfunction that exists between the state and local governments.

> ***Budget alternative:***
> *The state's long-term fiscal stability requires meaningful government reforms, including appropriate financial support of jointly administered programs, flexibility to allow locals to adapt services and operations to meet local needs, reasonable local revenue-raising authority, focused legislative oversight, open and public legislative hearings, thorough fiscal review of legislative proposals, sound budgeting practices, and rational limits on legislative terms.*

Support County Efforts to Reduce and Contain Pensions Costs

The unprecedented market decline of 2008 has serious and long-term consequences for public retirement funds. As employer rate changes begin to take effect, counties can expect employer contributions for pensions to account for a larger and growing share of their 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.

CSAC approaches the concept of pension reform and ongoing local negotiations over pension benefits with the overarching goal of ensuring trust in public pension systems and empowering local elected officials to exercise sound fiduciary management. In response to pension reform initiatives under consideration in 2005, CSAC adopted a set of guiding principles that reflect local priorities and values. (See Appendix A.) At the June 2010 Government Finance and Operations Committee meeting, staff will recommend an update to the principles.

Statewide pension reform has found renewed interest over the last two years. Governor Schwarzenegger proposed changes to retirement ages and formulas for new state employees as part of the budget process in 2009-2010 and in his State of the State address in 2010. The California Foundation for Fiscal Responsibility (CFFR), founded by former Assembly Member Keith Richman, proposed an initiative to significantly reduce pensions for all new public employees. There does not however, appear to be a viable statewide proposal for CSAC to consider at this time; the Governor has not introduced legislation on this topic and CFFR has struggled to raise funds to qualify their initiative for the ballot.

Instead, there are minor reforms proposed at the state level and counties are taking the challenge on directly in their negotiations with employees. Assembly Member Hernandez and Senators Correa and Simitian introduced identical bills, 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. Counties, including Alameda, Orange, and Shasta, have recently negotiated contract changes that address the long-term sustainability of the pension benefits provided to public safety employees.

Statewide reform may soon return to the forefront as it's been widely reported that gubernatorial candidates Meg Whitman and Jerry Brown have stated a willingness to address pension costs. Albeit from very different perspectives, with Whitman supporting a 401k style defined contribution plan and Brown supporting the defined benefit structure currently in place.

Appendix A. Additional Resources on Pension Reform

Pension Reform 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.

County impacts of Governor's 2010-11 Proposed Budget		
Proposal	Summary	**Fiscal Impact**
Felons to jail, not prison.	By changing sentencing statutes, offenders convicted of specified non-serious, nonviolent, non-sex felonies including drug possession could be incarcerated for up to one year in local jails rather than state prison. More than 30 counties already are operating jails within a population cap. Proposal to shift state's prison overcrowding problem to crowded local jails will be difficult – if not impossible – to manage.	Proposal assumes a state savings of $291.6 million annually; unknown but significant county fiscal impact.
Reducing state placement option for juvenile offenders.	By reducing the age jurisdiction of the Division of Juvenile Justice (DJJ) from 25 to 21, the state would achieve $41.3 million in DJJ savings in addition to $6.7 million in Proposition 98 savings attributable to the population reduction that would result. The state also proposes to reduce the use of time-adds to juvenile offenders sentences. Certain of the juveniles who "age out" would be transferred from DJJ detention facilities to state prison; some – who are not eligible to serve time in adult institutions – would return to their communities. The proposal could result in more proceedings in adult criminal court for juveniles.	More than $40 million savings to the state; unknown local impact.
CalWORKs reductions.	The Governor proposes to reduce CalWORKs grants by 16 percent, reduce child care provider reimbursements, and eliminate benefits to legal immigrants who have been in the U.S. less than five years (24,000 people). The proposals threaten the success of the program in moving families to self-sufficiency, push families into deeper poverty and shift costs to counties. Disinvestments in CalWORKs will have broad economic impacts across both the private and public sectors.	Proposal assumes $141.6 million in savings if cut effectuated in June 2010.

Proposal	Summary	Fiscal Impact
Eliminate immigrant assistance.	The Governor proposes to eliminate the Cash Assistance Program for Immigrants (CAPI), which impacts 12,000 seniors and persons with disabilities. In addition, the Governor proposes to eliminate the California Food Assistance Program (CFAP), impacting 22,000 individuals. Another 24,000 persons would lose CalWORKs assistance under the Governor's budget. Many of these individuals would become eligible for county general assistance programs.	The budget proposes to eliminate the CAPI program effective June 1, 2010 for savings of $8.1 million General Fund in the current year and $107.3 million General Fund in 2010-11. The budget proposes to eliminate the CFAP effective June 1, 2010 for General Fund savings of $3.8 million in 2009-10 and $56.2 million General Fund in 2010-11. Potential impact on counties in the tens of millions.
New county share of cost for children's programs.	The Administration proposes redirecting the county "savings" created by reductions to the CalWORKs and IHSS programs. These program reductions will create $505.5 million in county savings; in turn, the state would decrease state General Fund expenditures for children's programs and impose an increased county share of cost for Foster Care, Adoptions Assistance, and Child Welfare Services. The Administration's language provides no stop-gap if sufficient funding via savings fails to materialize for these woefully underfunded programs.	Counties would assume $505.5 million in new shares of costs. Under the proposals the new shares of cost would be: Foster Care: 25% state/75% county (currently 40% state/60% county) Adoptions: 41% state/59% county (currently 75% state/25% county) CWS: 30%state/70%county (currently 70% state/30% county)
Eliminate Substance Abuse Offender Treatment Progam.	The Governor proposes to zero out funding ($18 million) for the Substance Abuse Offender Treatment Program. No support for Proposition 36 is provided for in the Governor's proposed budget. The statutory requirements for treatment remain in effect, meaning that counties will be required to provide services at their own cost.	$18 million direct impact to counties.

Proposal	Summary	Fiscal Impact
Redirect Proposition 63 (Mental Health Services Act) funds.	The Governor also proposes to place another ballot measure before voters in June 2010 to redirect $452.3 million in Mental Health Services Act funds to mental health programs currently supported with General Fund resources. This will eliminate current programming at the local level for community mental health.	Shift of $452.3 million to existing state General Fund programs from local community programs.
In-Home Supportive Services wage participation cut.	The Governor proposes to reduce wages to minimum wage for a savings of $115 million. There is no proposed change to the statutory collective bargaining mandate. Counties would be responsible for the full cost of wages above minimum wage if they continue to pay wages at current levels.	Savings of $26.5 million General Fund in the current year and $338.2 million General Fund in 2010-11. Unknown impact on counties.
Medi-Cal proposals.	The Governor's proposed budget outlines a $750 million General Fund reduction for the implementation of cost containment strategies. Though there is little detail on the proposal, the Administration describes increased cost sharing through co-payment requirements and/or premiums. Co-payments proposals will shift costs to county hospitals and clinics. In addition, the proposal to eliminate full-scope Medi-Cal for certain immigrants ($118 million General Fund savings) will also shift costs to county providers	Hundreds of millions of savings to the state General Fund. Potential impact on counties in the tens of millions of dollars.

Proposal	Summary	Fiscal Impact
Transportation fund swap.	The Governor proposes to eliminate the sales tax on gasoline and diesel. As a replacement for the sales tax elimination, the Governor proposes to institute a 10.8-cent excise tax on gasoline (Highway User Tax Account or HUTA) for allocation of $629 to the STIP, $629 to local streets and roads and $603 million to the general fund for transportation bond debt service. This increase falls short of being revenue neutral by approximately $976 million, or the equivalent of a 5-cent per gallon tax cut in the initial year. The proposal would allow the State to increase the gas tax up to 5-cents for increasing debt service, but it is unclear how revenue available beyond the debt service obligation would be distributed.	Based on the very limited data available, no specific dollar amount can be identified with respect to the long-term loss for transportation funding under this scenario. However, comparing growth rates for both Prop 42 and HUTA demonstrates how the proposal negatively affects transportation funding: From 2003-04 through 2007-08, Prop 42 grew on average approximately 4%, whereas during the same period HUTA only grew by 1%.

Options for County Fiscal Relief		
Proposal	**Proposal Summary**	**Potential Annual Local Fiscal Relief**
Amend Government Code Section 27585 to allow counties to collect the allowed monument preservation fee by local ordinance on all real property transfers rather than selected ones.	Would eliminate confusion at the Recorder's Offices and allow the fee to be collected in a more equitable manner. Existing law is inadequate because counties cannot recover sufficient funds to preserve the aging survey monumentation infrastructure due to the limitations of current law.	Unknown.
Approve SCA 18 (Liu), which exempts stormwater and urban runoff management fees or charges from Prop 218.	Would assist counties in securing fee revenue to provide for stormwater and urban runoff management projects.	Potentially hundreds of millions of dollars.
Extend authority for dedicated VLF rate to local public safety programs.	Would provide fiscal stability for critical local public safety programs with funding outside the state General Fund.	Potentially hundreds of millions of dollars.
Support enhancements to court-ordered debt collection program.	Strengthen guidelines and requirements for enhanced collection programs; implement an amnesty program on infractions and traffic violations; clarify authority for discharging uncollectable court-ordered debt	Unknown, but potentially significant.

Proposal	Proposal Summary	Potential Annual Local Fiscal Relief
Do not expand existing or add new workers' compensation presumptions that require counties to prove that an injury did not occur at work. (See opposition to AB 128, AB 664, AB 586)	California workers' compensation law provides that certain medical conditions suffered by public safety officers (e.g., cancer, hernia, heart trouble, pneumonia, tuberculosis, blood-borne infectious disease, meningitis, and exposure to biochemical substances) are presumed to have arisen in the course of employment. The purpose of these statutory presumptions is to provide additional compensation benefits to employees who provide vital and hazardous services by easing their burden of proof of industrial causation. Attempts to expand existing presumption coverage and to provide presumptions to additional classes of employees, if enacted, could result in hundreds of millions in additional personnel costs to employers.	Potentially hundreds of millions of dollars.
Reinstate apportionment provisions that allow counties to appropriately apportion a percentage of disability to non-industrial factors.	If enacted would protect employers from compensating employees for non-industrial factors.	Unknown.

Proposal	Proposal Summary	Potential Annual Local Fiscal Relief
Ensure changes to the permanent partial disability ratings are based on the experience of employers and employees and not arbitrarily adjusted. (See opposition to SB 773)	The 2004 workers' compensation reforms in SB 899 (Poochigian) addressed a wide range of issues, including the permanent disability (PD) system. SB 899 brought standard guidelines and objective, formula-based calculations to a system that had been criticized as being overly subjective. In the four years preceding the reforms, counties experienced a 66 percent increase in their workers' compensation costs. Any legislation to alter the formulas established in SB 899 should be based on the actual experience of employers and employees under the current system consistent with the analysis completed by the Division of Workers' Compensation.	Potentially tens of millions of dollars.
Repeal minimum rate for temporary disability payments paid to county jail inmates. (Support AB 516 Niello)	This minimum temporary disability rate paid to injured workers also applies to inmates of county jails who sometimes work in or outside of the jail in order to meet their sentencing requirements. An inmate with no earnings prior to incarceration is entitled to $148 per week because of an injury that occurs while working in jail. If an inmate were to receive this amount for the full two years allowed under law, then they would receive $15,392 even though they had no earnings prior to incarceration.	Unknown.
Allow public agencies contract flexibility under PEMHCA. (Support SB 628 Ashburn).	Allow public agencies that contract for health care under the Public Employee Medical Hospital Care Act (PEMHCA) the flexibility to negotiate employee contributions for existing employees that are different from retirees.	Potentially tens of millions of dollars.

Proposal	Proposal Summary	Potential Annual Local Fiscal Relief
Do not approve any legislation that will require reimbursement due to state-local mandate.	While legislation is moving through the legislative process, counties respectfully suggest that any bill with the potential to include mandated requirements on local agencies be held in the Appropriations Committees. The state can ill afford the mandate reimbursement payments that are already on the books; it simply cannot afford any new ones. Likewise, local governments are not in a position to provide new programs or a higher level of service in these economic conditions.	Unknown, but potentially significant.
Suspend all mandates in process at the Commission, except those related to safety, elections, or property tax administration.	Would result in savings to counties depending on option exercised.	Potentially tens of millions of dollars to counties and the state.
Authorize all-mail ballot elections at county option, especially for local-only and special elections.	Would result in savings to counties depending on option exercised.	Potentially tens of millions of dollars.
Increase the number of registered voters allowed per precinct at county option, especially in areas with a high vote-by-mail ratio.	Would result in savings to counties depending on option exercised.	Potentially tens of millions of dollars.
Authorize state reimbursement for state/federal vacancy elections.	Would result in savings to counties depending on vacancy elections required.	Potentially tens of millions of dollars.
Authorize collection of schools' share of property tax administration costs.	Would assist counties by ensuring that all taxing entities pay for their share of costs associated with property tax administration. The property tax system is the only tax system in the state that is not fully funded by the beneficiaries of the system.	Estimated $200+ million.

Proposal	Proposal Summary	Potential Annual Local Fiscal Relief
Eliminate the AB 3632 (mental health services for special education students) mandate on counties.	Federal law requires that schools provide these services. The mandate has been chronically underfunded and is extremely costly to counties.	Approximately $160 million and growing.
Relieve counties of certain reporting requirements.	County health and human services departments are required to frequently report to state agencies as to caseloads, service demand and usage, and outcomes for jointly-administered programs. While federal reporting requirements should continue, the Legislature should consider relieving some of the reporting requirements on counties to allow for cost savings and flexibility.	Unknown, depending on type and extent of reporting relief.

GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

Governor's Proposals Could Shift $200 Million in Costs to Counties as General Relief Cases Rise

California's counties will bear the potentially large fiscal impact – up to $200 million a year – of the Governor's proposals to eliminate three immigrant assistance programs in 2010-11. Once the programs – CAPI, CFAP, and CalWORKs for recent non-citizen legal immigrants – are eliminated, former recipients, many of whom are seniors and/or disabled, will turn to the last aid available: County General Relief/ General Assistance.

Using data from the Department of Social Services on the number of cases and statewide average grant amount for November 2009, CSAC estimates that the Governor's proposals to eliminate CAPI, CFAP, and CalWORKs benefits for recent immigrants could result in 72,144 new General Relief and General Assistance cases. With the average monthly grant of $232, these cuts could cost counties nearly $17 million a month and $200 million a year – a direct cost shift to counties almost equivalent to the estimated savings for the state.

Each county is solely responsible for funding General Assistance or General Relief benefits. The program is designed to provide support to indigent adults who are not supported by their own means, other public funds, or assistance programs. Grants include cash aid and may include transportation and housing vouchers, gift cards and/or donations of needed supplies such as clothing and toiletries.

Governor's Budget Proposals

Program	Proposed Cut	Population	Estimated State Savings	Number of Recipients
Cash Assistance Program for Immigrants (CAPI)	Eliminate the program	Aged, blind, and disabled immigrants	$107.3 million GF	10,886
California Food Assistance Program (CFAP)	Eliminate the program	Aged, blind, and disabled immigrants	$56.2 million	37,258
CalWORKs for Legal Immigrants	Eliminate CalWORKs Grants for Recent Non-Citizen Legal Immigrants	All non-citizen legal immigrants who have been in the U.S. less than five years	$57.6 million	24,000
TOTALS			**$221 million**	**72,144 recipients**

All proposals assume an effective date of June 1, 2010, but estimated state savings are listed only for the 2010-11 fiscal year.

CSAC Staff Contacts. For further information regarding this budget proposal, please contact CSAC Health and Human Services staff: Kelly Brooks at 916/327-7500 x531 or kbrooks@counties.org or Farrah McDaid Ting at 916/327-7500 x 559 or fmcdaid@counties.org.

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NOTES

Source: General Relief/General Assistance Data, November 2009; California Department of Social Services; http://www.cdss.ca.gov/research/PG343.htm

GENERAL RELIEF/GENERAL ASSITANCE: County General Assistance or General Relief is designed to provide relief and support to indigent adults who are not supported by their own means, other public funds, or assistance programs. Each county's GA program is established by the Board of Supervisors, and benefits, payment levels, number of recipients, and eligibility requirements vary among each of California's 58 counties. Each county is solely responsible for funding General Assistance or General Relief benefits.

CAPI: Created in 1997, the CAPI assists aged, blind, and disabled people who do not qualify for federal Supplemental Security Income (SSI) because of their immigration status.

CFAP: Created in 1997, the CFAP provides state-funded food stamp benefits to qualified non-citizens who are not eligible for federal food stamp benefits.

CalWORKs: The Governor's proposed cut would affect non-citizen legal immigrants who have been in the U.S. less than five years, including the following individuals: Parolees; Conditional Entrants; Legal Permanent Residents; Permanently Residing in the U.S. Under Color of Law (PRUCOL); and Battered Non-citizens.

GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

Sweeping Proposition 63 Funds for Two Years Would Gut Local Mental Health Services

The Governor has recycled a proposal from last year to sweep Mental Health Services Act (MHSA) funds for two years, but has upped the ante by doubling the amount to be taken each year to $452 million. Just last May, the voters soundly rejected his previous attempt at sweeping these funds.

The Governor proposes to use these MHSA funds to backfill the state funding in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and Medi-Cal Mental Health Managed Care. In other words, it would raid the MHSA to backfill the state's General Fund spending in other areas. However, the cost of decimating community mental health programs will be far larger, as untreated mental illness is the leading cause of disability and suicide and costs state and county governments billions of dollars each year in emergency medical care, long-term nursing home care, unemployment, state hospitals, juvenile justice, and jails and prisons.

This proposal comes at a time when the behavioral health needs of our communities are increasing due to the influx of Iraq and Afghanistan veterans, the stress of the economic crisis, and the elimination of funding for prevention and drug and alcohol treatment programs statewide. Furthermore, disinvestments out of mental health services will certainly lead to increased homelessness and increased pressure on General Assistance programs in our counties.

The Facts

- **County MHSA allocations will be reduced by:**
  - 50 percent in 2011-12
  - 29 percent in 2012-13

- **Loss of Federal Funding**
  California receives approximately $1.6 billion in FFP for the Medi-Cal program each year. If the Governor's proposal were to pass, the state would lose approximately $250 million in FFP each year.

- **Jobs and Opportunities Will Be Lost**
  With revenue losses of that magnitude, counties will layoff employees and eliminate contracts with private providers and community based organizations. In addition, fewer individuals will be served by the mental health system – imperiling the ability of individuals to recover and lead productive lives, with tax-paying jobs. The *indirect costs* of all mental illness imposed a nearly $79 billion loss on the U.S. economy in 1990 (the most recent year for which estimates are available) (*Rice & Miller, 1996*).

- **The Ballot Measure Includes Language to Divert an Additional $847 Million**
  The proposed ballot measure would also include language to allow the state to take and additional $847 million in 2010-11 if sufficient federal revenues do not materialize.

Where would the proposal leave us? The community mental heath safety net is the only tool we have to prevent individuals with serious mental illness from becoming homeless, institutionalized, or incarcerated. The Governor's scheme to use MHSA funding to reduce the state's funding responsibilities

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for other existing key statewide mental health programs is complicated and ill-conceived and will have long-term implications for counties' ability to provide services to our communities.

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GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

Recipe for Chaos: Shift of Responsibility for Felons to County Jails

The Governor is proposing to modify sentencing practices by allowing offenders convicted of specified non-serious, nonviolent, non-sex felonies to be incarcerated for up to one year and one day in local jails. The state would achieve savings of $291.6 million as a result. Crimes eligible under this proposal include auto theft, check fraud, grand theft, drug possession, grand theft, petty theft with a prior, possession for sale, receiving stolen property and theft with felony prior.

Why does this matter to counties? Currently, 32 county jails are operating under either a court- or self-imposed population cap. Further, approximately 200,000 county jail inmates are released early every year. The Governor's proposal to shift certain felons to county jails would further exacerbate overcrowding at the local level. While the state would benefit from cost savings and reduced prison populations, this proposal would wreak chaos in our county criminal justice systems, making population management of county jails more complex, pushing more county jail systems to the breaking point, forcing counties to release more offenders early with no services and supports to aid in the transition from detention back into the community, and impacting a range of county service departments from probation to mental health and drug and alcohol treatment. The Governor's proposal estimates that approximately 12,600 offenders would serve out felony sentences of up to 366 days in a county jail during 2010-11.

The state can't escape its obligation. The state appears to be relying on a theory that the mandate exemption regarding the creation of a new crime or changing the definition of a crime would allow them to shift the detention responsibility for felons to counties without triggering a violation of Proposition 1A (2004). Counties are not convinced that this theory will stand up given that the function of housing felons is one presently carried out by the state and the act of pushing down that responsibility to counties is indeed a cost shift, because it would require the counties to provide a new or higher level of service. As a practical matter, the shift of this population will result in nothing more that a push of offenders back into our communities. And with no transition plan or targeted treatment to create a smooth reentry, the proposal will only exacerbate the persistent cycle of recidivism that plagues our state. Further, it will do nothing in the short- or long-term to reverse the cycle of reoffending or to alleviate the unsustainable population levels in our state and local detention facilities.

Systemic reform needed. Counties oppose this approach unequivocally. Real solutions will result from comprehensive reform. CSAC's corrections reform policy acknowledges that "local and state corrections systems are interconnected, [and that] true reform must consider the advantage — if not necessity — of investing in local programs and services to help the state reduce the rate of growth in the prison population."

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GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

County "Savings" Proposal Shifts Costs for Children's Programs

The Administration proposes redirecting the county "savings" created by reductions to the CalWORKs and IHSS programs in the 2010-11 budget year. According to the Governor, these program reductions will create an estimated $505.5 million in county savings; in turn, the state would decrease state General Fund expenditures for certain children's programs and impose an increased county share of cost for Foster Care, Adoptions Assistance, and Child Welfare Services.

CUTS

Program	Description	Estimated State Savings	Estimated County Savings
CalWORKs	Reduce grants by 15.7 percent	$604 million	$15 million
CalWORKs	Eliminate services for legal immigrants	$57.6 million	$2.2 million
IHSS	Limit services to recipients with FI score 4 and below	$1.1 billion	$618.6 million
IHSS	Reduce state wage participation to $8.00 per hour	$338 million	Would not create any county savings
TOTALS		**$2.1 billion**	**$635.8 million**

The Administration proposes redirecting the county "savings" created by the proposed reductions above by decreasing state General Fund expenditures for children's programs and imposing an increased county share of cost.

SHARING RATIO CHANGES

Program	Current Sharing Ratio (State/County)	Proposed Sharing Ratio (State/County)
Foster Care	40/60	25/75
Adoptions Assistance	75/25	41/59
Child Welfare Services	70/30	30/70

NOTE: The sharing ratio adjustments would be permanent and the Administration's language provides no mechanism to halt them if the estimated savings fail to materialize.

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GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

In-Home Supportive Services Cuts Problematic

Like the movie Groundhog Day, the Governor has again proposed two significant – and familiar – reductions in the In-Home Supportive Services (IHSS) program for the 2010-11 fiscal year: eliminating services for a majority of current recipients based on the Functional Index (FI), and reducing state participation in wages down to the state minimum wage.

2010-11 Fiscal Year Proposals

Elimination of Services: Would eliminate all services for recipients with FI scores of less than 4. Would affect approximately 400,000 recipients in the current year and 429,000 in 2010-11 and result in estimated state savings of up to $872.6 million General Fund in 2010-11 (if implemented with the wage reduction proposal below).

Reduction in State Wage Participation: Reduce state participation in wages down to $8.00 per hour, which is the state minimum wage. The state's participation in benefits -- .60 cents per hour – would remain the same.

Action: While the Legislature reviewed these proposals during budget hearings held in the Eighth Extraordinary Session, they did not take action. It is understood that they will be part of the larger 2010-11 fiscal year budget discussion this spring.

What Does this Mean for Counties?

The proposal to reduce wages to minimum wage may shift costs to counties. There is no proposed change to the statutory collective bargaining mandate. Counties would be responsible for the full cost of wages above minimum wage if they continue to pay wages at current levels. This is a direct cost shift to counties.

Eliminating IHSS services for more than 400,000 people would eliminate hundreds of thousands of jobs and have a negative effect on the economy – resulting in an estimated 2 percentage point increase in the state unemployment rate. The individuals receiving IHSS are low-income and could not afford to pay out-of-pocket for the services provided through the program. This would have the effect of shifting care to other sectors of the government including the developmental disability system, aging programs, long-term care and emergency rooms. Because the IHSS program is predominantly funded by the federal Medicaid program, reducing these services also would return an estimated $1.7 billion annually to the federal government if fully implemented.

2009-10 (Current Year) IHSS Cuts Under Injunction

Do the above proposals sound familiar? They should: As part of the 2009-10 budget, the Legislature passed and the Governor signed legislation (ABX4 4) to eliminate all IHSS services for recipients with a FI score of 2 or below, and eliminated domestic services for those with FI scores of 4 or below. Under the cuts, an estimated 40,000 recipients would have lost all IHSS services, including personal care; another 90,000 would have lost such services as meal preparation, food shopping and help with laundry and housecleaning.

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The state had estimated savings of $82.1 million in FY 2009-10 if implemented by November 1, 2009. However, a coalition of disability rights and organized labor groups filed suit (*V.L. v Wagner*) on behalf of recipients and caregivers and won an injunction that bars the state from implementing the cuts, and the U.S. Court of Appeals, Ninth Circuit, has just reaffirmed the injunction. It is unclear whether the state will appeal the case to the U.S. Supreme Court.

As for the wage reductions, the Legislature passed and the Governor signed legislation that reduced the state's participation in IHSS provider wages from a maximum of $12.10 per hour to a maximum of $9.50 per hour. Representatives for providers and recipients also sued the state for this action (*Martinez et al v. Schwarzenegger et al*), and were successful in receiving a federal injunction that prevents the state from implementing the wage cut, which the U.S. Court of Appeals, Ninth Circuit, also just upheld.

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GOVERNOR'S PROPOSED 2010-11 BUDGET: COUNTIES RESPOND

Proposed First 5 Sweep Would Gut Existing Local Programs for Children

The Governor, as part of his 2010-11 budget, has again proposed placing before the voters a ballot measure that would redirect up to $550 million in First 5 funding to state programs serving children in 2010-11. While the Legislature did not act to place this on the June ballot, it remains a possibility that this could appear on the November 2 ballot.

The Proposal: The Governor's proposal would shift 50 percent of the First 5 revenues directed to state and local accounts for programs ($242 million in 2010-11) for five years and take a one-time sweep of state and local reserves ($308 million). The redirected First 5 funds would be used to backfill current state General Fund spending on children's health and social services programs.

Please note that an almost identical ballot initiative (Proposition 1D) on the May 2009 special election ballot was rejected by 66 percent of the voters statewide.

First 5 Commissions Meeting Local Needs: The California Children and Families Act, or Proposition 10, which was passed in 1998, collects tobacco taxes to fund health, well-being, and school readiness programs for children aged 0 to 5. The Act created a state First 5 Commission and a commission in each county, known as First 5.

Proposition 10 revenues currently fund all county First 5 Commissions. The First 5 Commissions coordinate a wide range of health and developmental services for our state's youngest children, including child care, preschool, support for at-risk families, child abuse prevention and treatment, parenting education, family literacy, and nutrition and anti-obesity efforts.

Funds are being used for diverse services, including:

- Premiums for health insurance, including outreach and enrollment to connect children to services
- Primary care services, including immunizations
- Oral health services, including screening, treatment and case management for children who would not otherwise have access to dental services
- Comprehensive services (including mental health and substance abuse treatment) for at-risk families
- Home visiting programs for newborns and at-risk families
- Parenting education programs
- High quality preschool programs for 3- and 4-year olds
- High quality child care and early education programs for infants and toddlers

County commissions served more than 500,000 children through health programs funded with First 5 dollars. In addition, child development programs (including preschool and child care programs) served more than 270,000 children. Another 270,000 children were served by programs aimed at improving family functioning, including home visits and services for at-risk families.

In short, county First 5 Commissions play a key role in providing health and human services to children throughout the state. As state and local government revenues decline, local First 5 dollars are helping to

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plug holes in the safety net for California's youngest residents. These flexible local funds are being used to support existing programs that might otherwise be cut further.

The Bottom Line: The Governor's proposal to sweep First 5 revenues for a single year would gut existing local health, mental health, and human services programs that have been tailored to meet the unique needs of each county's youngest residents.

CSAC Staff Contacts. For further information regarding this budget proposal, please contact CSAC Health and Human Services staff: Kelly Brooks at 916/327-7500 x531 or kbrooks@counties.org or Farrah McDaid Ting at 916/327-7500 x 559 or fmcdaid@counties.org.

March 5, 2010

To: CSAC Board of Directors

From: Paul McIntosh, Executive Director
Eraina Ortega, Legislative Representative

Re: California Complete Count Committee: Update on 2010 U.S. Census– INFORMATION ITEM

The 2010 U.S. census is fast approaching and National Census Day, when all census forms should be returned, is April 1, 2010. As you know the federal government relies on census data to determine the number of congressional seats each state is entitled to. An accurate count will ensure California does not lose a congressional seat. Equally important to counties, Washington uses the census data to allocate billions of dollars in funding for health and human services programs, education, and infrastructure projects. It is estimated that for every person counted, $1000 in federal money is allocated. A complete and accurate count is critical to ensuring California gets its fair share of funding.

The California Complete Count Committee, appointed by the Governor and including Paul McIntosh, announced on December 23, 2009 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. Hard to count refers to people and communities shown to be most at risk of being missed in the census.

The top 13 hard to count counties were ranked based on their share of the Census 2000 undercount, 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. The Governor's Office of Planning and Research (OPR) allocated funds in early 2010.

Beginning March 15, census forms will be mailed to all Californians. The Complete Count Committee is planning a statewide event on March 20, 2010 entitled Be California, Be Counted. Most of the hard to count counties and others will hold local events in conjunction with the statewide event.

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

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March 10, 2010

To: CSAC Board of Directors

From: Paul McIntosh, Executive Director

Re: **CSAC Reform Task Force Update**

Recommendation. The CSAC Reform Task Force held its first meeting on Wednesday, February 17. Task Force Chair Supervisor Kathy Long will provide the Board of Directors with a verbal report. There is no action requested at this time.

Background. The CSAC Officers appointed a Fiscal Reform Task Force in December to vet the various reform proposals in circulation for the November ballot. Members include:

Supervisor Kathy Long, Chair
Supervisor John Benoit
Supervisor Ted Novelli
Supervisor Greg Cox
Supervisor Susan Adams
Supervisor Tracey Quarne
Supervisor Matt Rexroad, Vice Chair
Supervisor Bruce Gibson
Supervisor Mark Lovelace
Supervisor Liz Kniss
Supervisor Tom Tryon

The Committee was primarily tasked with discussing reform proposals sponsored by *California Forward*, Repair California (Bay Area Council), and the League of California Cities. Each of these proposals has approached reform in a different way and thus impacts counties differently.

In addition, as recently as last week, two groups – Repair California and California Forward – dropped their efforts to qualify measures for the November ballot due to lack of funding. The League of California Cities, along with the California Transit Association and the California Alliance for Jobs, continues to gather signatures and will likely qualify their measure by June.

We are working to reconvene the Reform Task Force prior to policy committee review of pending ballot measures.

Action Requested. There is no action requested at this time.

Staff Contact. For additional information about the CSAC Reform Task Force, please contact Paul McIntosh at pmcintosh@counties.org or 916.327.7500 ext. 506 or Jean Kinney Hurst at jhurst@counties.org or 916.327.7500 ext. 515.

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March 11, 2010

To: CSAC Board of Directors

From: Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Legislative Analyst

RE: CSAC Medical Marijuana Working Group

The CSAC Rural Caucus voted on November 18, 2009 to initiate a forum to discuss county issues related to medical marijuana. CSAC President Tony Oliveira has since created a CSAC Medical Marijuana Working Group, which held its first meeting on February 24, 2010.

The Working Group, co-chaired by Supervisor Mark Lovelace of Humboldt County and Supervisor Susan Adams of Marin County, was appointed by the CSAC Officers and has the objective of serving as a venue for research and information sharing to help counties navigate the maze of local, state and federal laws and regulations related to medical marijuana.

The Working Group's scope encompasses the legal, social, public safety, public health, and environmental impacts of the medical marijuana issue. This subject spans the entire policy committee framework of CSAC, including revenue and taxation, land use, administration of justice, health and human services and agriculture and natural resources. The goal is to provide information about county responsibilities in the regulation of medical marijuana and the location of medical marijuana dispensaries. It is not CSAC's goal to develop policy in this area, but simply to help provide resources and create a forum for counties to share information.

Recent court decisions and confusion surrounding Proposition 215 and the Medical Marijuana Program Act were the primary topics of discussion at the group's first meeting in February.

Proposition 215 provides certain legal protections for qualified patients and caregivers that cultivate and use marijuana. However, almost immediately following the passage of the ballot measure in 1996, local governments faced various uncertainties with implementation and regulation related to the legal and illegal usage of medical marijuana. Counties have identified issues relating to land use and zoning, environmental problems and public safety and law enforcement issues, to name a few.

The Working Group, which included participation from Marin, Humboldt, San Francisco, Los Angeles, Sacramento, Tehama, Trinity, Mendocino, Sierra and Calaveras County, will be developing a series of white papers addressing a variety of issues that counties are faced with when attempting to regulate medical marijuana. Topics are to include land use issues, costs and taxation issues, law enforcement, public health implications and agriculture/ weights and measures.

For more information about this group, please contact Cara Martinson, CSAC Legislative Analyst at 916-327-7500 ext. 504, or cmartinson@counties.org.

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Phone (916) 327- 7500
Facsimile (916) 321- 5047

Date: March 10, 2010

To: CSAC Board of Directors

From: Paul McIntosh, Executive Director
David Liebler, Director of Public Affairs & Member Services
Erin Treadwell, Communications Coordinator

Re: New CSAC Communications Tools

We wanted to keep you informed of a number of new communications tools that CSAC has rolled out in our ongoing effort to enhance our communications with our members, the media, the Legislature and public. Following is a brief summary of these new communications methods.

CSAC Blog – "The County Voice"
CSAC has recently developed a blog titled "The County Voice." Found on the CSAC Web site, this new blog will provide access to breaking information on issues in Sacramento and Washington DC, as well as provide a forum for the exchange of viewpoints within the California County family. We urge you to not only use this site for information, but also to express your views on topics of interest as well.
Web Page URL: www.csac.counties.org/blogs/

Audio Casts on Web Site
CSAC has begun providing audio summaries of key budget issues and making these summaries available on our Web site. The brief summaries compliment the more detailed information made available through CSAC's Budget Action Bulletins. The audio casts can be found on the CSAC Web site by clicking on the microphone icon found on the Home Page.
Web Page URL: www.csac.counties.org/default.asp?id=2759

Ongoing Use of Social Media Networking Sites
CSAC is utilizing the growing popularity of Facebook and Twitter to communicate our key messages and provide information to new audiences. Viewership of these two methods has been growing steadily over the past few months. CSAC Executive Director Paul McIntosh uses "tweets" on a regular basis under his own name.
Facebook Web Page URL: www.facebook.com/pages/Sacramento-CA/California-State-Association-of-Counties/39393695817?ref=ts
Twitter Web Page URL: www.twitter.com/CSAC_Counties

New Electronic Publication
CSAC is in the process of developing a new electronic publication that will incorporate information currently contained various e-publications, such as the Legislative Bulletin and Around Our Counties. By providing a new "one-stop shop" for our members, readers will now only have to access one source for the latest CSAC news. The new electronic publication will also be published on a weekly basis throughout the year. We expect to roll it out this spring.

Links to all of these new tools can be found off the CSAC Web Site's Home Page at www.csac.counties.org

CSAC INSTITUTE FOR EXCELLENCE IN COUNTY GOVERNMENT

LEARN . GROW . ACHIEVE

CSAC Institute Update

Board of Directors
March 2010

February 19th marked the one-year anniversary of the CSAC Institute for Excellence in County Government. Since that time, the Institute has gradually grown in popularity, with four individuals receiving their credentials at the CSAC Annual Meeting in November.

The Institute Winter/Spring schedule features 17 courses for county supervisors and senior executives. A complete course schedule is attached. The Governing Council will soon begin planning the course schedule for the Summer/Fall.

Enrollment Update

Attendance at Institute classes continues to be strong, averaging around 25 registrants per class. To date, more than 750 students have attended Institute courses. The most popular courses to date have been: *Financing California Counties*, 97 students over three classes; *Water in California,* 55 students; and *Fiduciary Responsibility*, 41 students. All courses continue to receive extremely positive reviews.

Upcoming Courses

The Institute has a busy Spring line-up, as the schedule includes 10 courses that will be held between tomorrow (March 26) and June 3. As part of this, the Institute will be holding a series of courses on health-care issues this Spring: *County Health Care Systems,* April 22; *County Mental Health Obligations, Services and Funding*, May 20, and *Realignment 101*, June 3-4 (See below).

We will also continue to hold courses in the Bay Area in Alameda County in order to minimize travel time and investment for staff in nearby counties.

Institute and the CSAC Legislative Conference

In conjunction with the CSAC Legislative Conference, the Institute will be holding a course titled *Realignment 101: How Did We Get It? Where Did It Go?* The course will be held in two parts – Thursday afternoon, June 3, and Friday morning, June 4. Interested parties can register for the course when they register for the Conference. We are anticipating a good turnout for this class.

We also anticipate holding our second "graduation ceremony" during the Legislative Conference as a number of individuals are nearing the level of credits needed to receive their credentials.

Continue to Spread the Word

The Institute continues to market upcoming courses through its Web site (www.csacinstitute.org), regular e-mail blasts, and free advertising in *California Counties* magazine and the 2010 CSAC Roster. The best marketing, though, continues to be word of mouth. We encourage county supervisors and senior executives to take courses of interest in the coming months. We have found that once an individual takes a course, they return for additional courses and often bring colleagues along.

Low Cost * Professional Development for California Counties

2010 WINTER/SPRING COURSE SCHEDULE

CSAC INSTITUTE FOR EXCELLENCE IN COUNTY GOVERNMENT

LEADERSHIP AND PUBLIC ENGAGEMENT

112 Getting Things Done: The Art of Working with Others to Achieve Objectives

Examines the practices that improve the likelihood of achieving desired objectives. It examines the elements which contribute to success, from interpersonal relations to building a system of monitoring and a culture of accountability.

Friday, 19 February 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

113 Coalition Building: Creating Consensus

Examines the techniques and practices of creating consensus. It provides practice tips for those with a leadership or facilitative role in building coalitions. This course provides hands-on skills in creating, leading, facilitating and keeping coalitions on track.

Friday, 9 April 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

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. Participants examine 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.

Thursday, 17 June 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

360 Managing Conflict (even hostility) and Disagreement in Comfort

Designed to help County Supervisors and executives identify constructive approaches to positively managing conflict whether from the dais, in a meeting, or one-on-one. Participants develop tools to quickly analyze and respond to difficult situations and create practical, positive outcomes.

Friday, 14 May 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

372 To Do or Not to Do: Leadership in Decision Making

This best practice course examines how values and past experience guides one in perceiving facts when engaged in decision making. It introduces a step-by-step approach to problem solving and handy decision making tools.

Thursday, 29 April 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

See also: 352 - Making an Impression, 362 - Communicating Directly with Your Public, and 381 - Creative Budget Solutions

COUNTY GOVERNANCE

150 Local Governance in California

Provides an overview of local government structures – cities, special districts, JPAs, regional agencies, LAFCo, and others – and their responsibilities in California with a focus on how it relates to counties.

Friday, 23 April 2010 10:00-3:30
Oakland • $75/person for counties • 3 credits • Board/Execs

151 Financing California Counties

Provides an in-depth examination of the federal, state and local county funding sources and how those funds are typically spent. The class explores county discretionary levels with key funding sources and how the funds may be spent.

Friday, 26 February 2010 10:00-3:30
Oakland • $75/person for counties • 3 credits • Board/Execs

153 Labor Relations in Local Government – *Negotiating Contract Changes*

Examines the basics of labor negotiations and renegotiations, keys to concession bargaining, unfair practices, and employee benefits. Participants explore roles in negotiations, and strategies to negotiate layoffs, furloughs, and other contract changes to limit contract costs.

Friday, 12 March 2010 10:00-3:30
Oakland • $75/person for counties • 3 credits • Board/Execs

308 Fiduciary Responsibility – *Managing the County Treasury*

Explains the fiduciary standards of diligence, responsibility and honesty as they relate to oversight of investment functions. Participants focus on the critical information that shapes the county investment officer's strategy and what they need to know to perform their oversight role of the county's treasury operations and investment portfolio.

Thursday, 11 March 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

381 Creative Budget Solutions and Innovative Service Redesign

Given mandated services, citizen expectations and the scope of the current economic meltdown, counties across California cannot simply cut their way out of their deep budget challenge. This interactive course will explore the paradoxes and dilemmas of typical budget cutbacks, a menu of creative budget solutions, practical tools , and leadership approaches. Two case studies from San Mateo County will be used to identify innovative approaches and lessons learned.

Thursday, 14 January 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

California State Association of Counties

For more information and to register please visit: **www.csacinstitute.org**

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POLICY DEVELOPMENT
Water

311 Water in California – The Politics, Distribution ... and the Future

Provides the policy overview and history to this complex issue in an interactive and practical manner. Participants explore the current status of water storage and delivery systems in the state, and pressures on the water system outside of drought and growth, including climate change and environmental regulation.

Thursday, 4 February 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

POLICY DEVELOPMENT
Health and Human Services

310 County Health Care Systems – The Responsibilities and Resources

Mandated responsibilities, funding sources, and state/ federal program reductions among the issues explored in this policy-makers course on county public health services. Examines indigent care, Medi-Cal services and public health.

Thursday, 22 April 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

361 Effective Partnerships with County-Funded CBO's

Counties fund and rely on community-based organizations (CBOs) to provide county services. The success of the services delivered depends on the relationship between the county and the CBO. Find out in this course on how to select, establish and maintain effective relationships with CBOs.

Thursday, 6 May 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

303 County Mental Health Obligations, Services and Funding

This survey course introduces the statutorily mandated responsibilities and other services counties provide. It examines innovative approaches to mental health services and highlights funding options for those services. Participants explore county approaches to services for those involuntarily committed and services for special-education students.

Thursday, 20 May 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

307 Realignment 101: How Did We Get It? Where Did It Go?

What is realignment, where did it come from and how does it work? This course examines the history and rationale for establishing it and why programs were included or added over the years. Participants examine the mechanics and what programs realignment funds today.

Following the CSAC Legislative Conference!
Thurs-Friday, **3-4 June 2010** 1:30-4:30 & 8:30-11:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

COMMUNICATION

352 Making an Impression: Media Interviewing and Presentation Skills

Designed for seasoned professionals and elected officials, this course helps polish presentations and strengthen delivery skills in any public setting. It covers practical strategies for planning, preparing and delivering presentations that audiences retain. Hands-on work includes labs and constructive critiques.

Friday, 22 January 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

362 Communicating Directly with Your Public: Using New Media Resources

The traditional news release, news conference or public service announcement is becoming less effective in communicating the county's perspective on issues. This course examines the elements of a communication strategy and how new media tools fit in.

Friday, 26 March 2010 10:00-3:30
Sacramento • $75/person for counties • 3 credits • Board/Execs

See also: 360 - Managing Conflict and Disagreement in Comfort

For more information and to register for these courses, visit: **www.csacinstitute.org**

Look for information on the website about other Institute courses and about becoming a *California Credentialed County Supervisor* or a *California Credentialed County Senior Executive*

UPDATED 14 December 2009. Schedule subject to change. Please see website for current details.

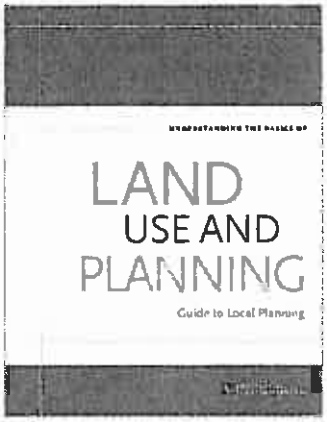
INSTITUTE FOR LOCAL GOVERNMENT

FOUNDED 1955

Update
March 2010

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 importance of assessing program effectiveness according to specific performance indicators.

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.



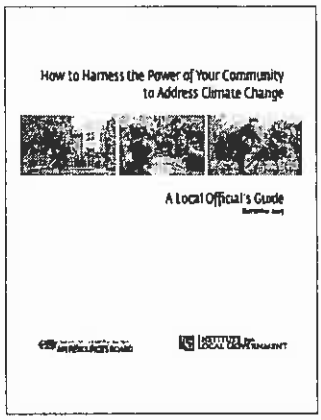
Resources Released Last Quarter

- **Local Government 101 and Land Use.** The latest in ILG's series of "Local Government 101" materials is back from the printer's : *Understanding the Basics of Land Use: Guide to Local Planning* and *Understanding the Basics of Land Use: Glossary of Land Use and Planning Terms.*

  Complimentary copies of these publications are being mailed to county and city planning directors in early February. Digital versions of these publications for personal use are also available without charge at

  - www.ca-ilg.org/planningguide (*Guide to Local Planning*)
  - www.ca-ilg.org/planningterms (*Glossary of Land Use and Planning Terms*)

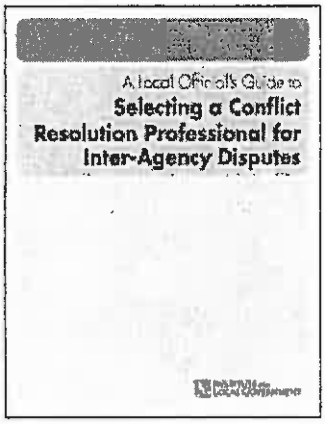
  Hardcopies are also available for sale for $10 each. Proceeds help fund the Institute's work in service to local officials (see pie chart on page 4 of our report).



- **Public Engagement and Greenhouse Gas Reductions.** Also completed in late January was *How to Harness the Power of Your Community to Address Climate Change: A Local Official's Guide.* ILG prepared this resource as part of its contract with the Air Resources Board to help local agencies with greenhouse reduction efforts.

- **Public Engagement in Budgeting:** Completed in January, *A Local Official's Guide to Public Engagement in Budgeting* describes county and city efforts to involve the public in local budgeting. It is being distributed to county administrative officers and finance directors, as well as to other local officials throughout the state. ICMA has expressed an interest in promoting it to a national audience as well.

- **Climate Change and Public Health.** Completed in December 2009, this short whitepaper explains the connection between public health and climate change. It benefited from review and suggestions from several county public health officers. It is available on the CCAN website at: http://www.ca-ilg.org/ClimateWhitepapers.



- **Intergovernmental Conflict Resolution.** *A Local Official's Guide to Selecting a Conflict Resolution Professional for Inter-Agency Disputes* (www.ca-ilg.org/mediatorselection) has been distributed to counties and cities statewide in California, as well as nationally through the National Association of Counties, the National League of Cities and the International Municipal Lawyers Association. This is the final pamphlet in the series that the Institute produced over the last year as part of its efforts to encourage local agencies to consider alternative dispute resolution for intergovernmental disputes. See generally www.ca-ilg.org/mediate.

Workshops and Conference Sessions

- **CSAC Institute.** We continue to help as we can with these sessions as follows:

Session	Consult on Topic Scope	Recruit Speaker(s)	Provide Materials
Water in California		*	
Financing California Counties			*
Fiduciary Responsibility	*		
Labor Relations	*	*	
New Media		*	*
Coalition Building			*
Effective Partnerships with CBOs	*	*	*
Managing Conflict			*
Public Engagement	*	*	*

- **Youth Engagement Presentation.** CGI staff delivered a session on youth engagement to SF Peninsula area teens attending the March 6th "YAC Attack 2010: Youth Leadership Conference" in Santa Clara. This is the annual gathering of more than 200 youth sponsored by Region 4 of the California Park and Recreation Society.

Website Usage

The Institute takes advantage of Google Analytics to understand how our new ILG website (www.ca-ilg.org) is being used. Although the information is imperfect, here's what we do know.

Over the last quarter, at least 9 California counties (Santa Clara, San Mateo, Ventura, Humboldt, Kern, Alameda, Santa Cruz, Sonoma and Sacramento) accessed the information on the Institute's website and stayed a respectable amount of time on the site (by Internet standards: 8:28 minutes average). During this period, the Institute's site had 14,588 visits with an average visit of 3.8 pages and an average time spent on the site of 4 minutes.

The analytics also suggest that state agencies are getting information from the ILG site. In fact, the State seems to be our most frequent visitor (1745 visits, 6 pages per visit, an average of just under 8 minutes per visit). We also were visited by the State Senate (27 visits, about 6 minutes and 6 pages per visit), Legislative Counsel, the Attorney General's office and a number of individual state agencies (CalTrans, Department of Water Resources, for example). Given that our site highlights the great things local agencies are doing, we hope this is a good sign.

We expect to get more sophisticated in interpreting this data with time and look forward to providing the CSAC Board with more information.

Other Contributions to CSAC Activities

***California County* Articles:**

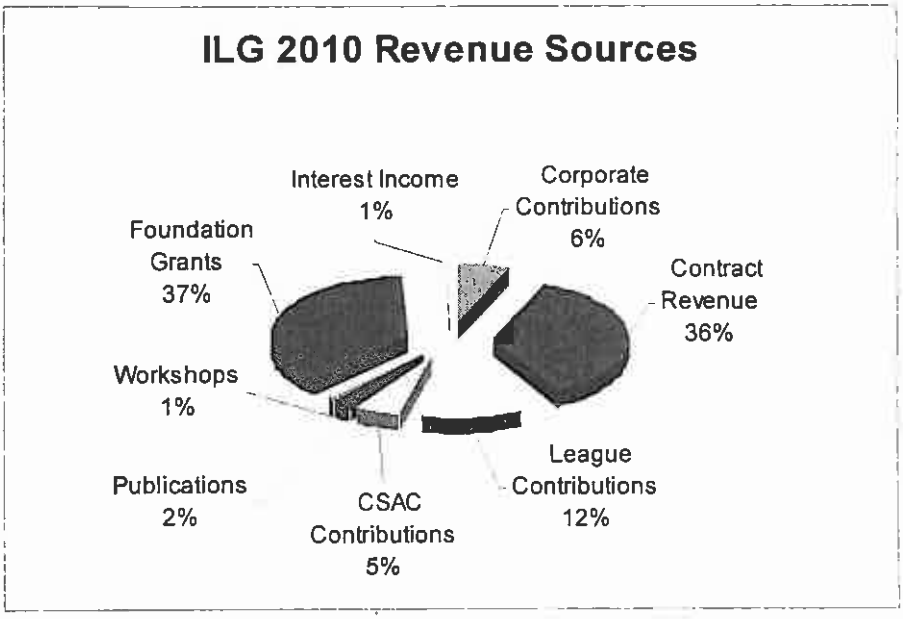
- **November/December:** The Institute's columns highlighted new public service ethics and other resources available to assist counties in their efforts.
- **January/February:** The Institute's column analyzed the opportunities for public engagement on corrections and re-entry issues (and the resources the Institute makes available to help).
- **March/April:** Dovetailing with the issue's environment theme, the Institute highlighted the resources available on greenhouse gas, sustainability and environmental protection from the Institute's website.

Fundraising

- **Collaborative Governance Initiative (Public Engagement):** The James Irvine Foundation made a significant three-year grant ($1.2 million) in support of the Institute's work in support of resources for local officials on inclusive public engagement.
- **Institute Partners Program:** The Institute is grateful to report that the following firms have renewed their status as ILG Partners for 2010: 1) Best, Best and Krieger, 2) Richards, Watson and Gershon, 3) Burke, Williams and Sorensen, 4) Aleshire and Wynder.

- **PUC/Investor-Owned Utilities Public Goods Funding:** The Institute will receive $1,037,000 over three years from the PUC's Public Goods Program funding to support the California Climate Action Network's recognition program, "The Beacon Award: Local Leadership towards Solving Climate Change." Formal launch of the Beacon Award is anticipated for spring 2010.

- **Leveraging League Resources:** A key Institute goal is to leverage League and CSAC support. Here is the anticipated mix of Institute revenues for 2010:



INSTITUTE PROJECT STAFF CONTACT INFORMATION
WE WELCOME YOUR THOUGHTS

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Terry Amsler, Director, Collaborative Governance Initiative • 916.658.8263 • tamsler@ca-ilg.org

Yvonne Hunter, Director, California Climate Action Network and Communities for Healthy Kids • 916.658.8242 • yhunter@ca-ilg.org

Steve Sanders, Director, Land Use and Healthy Communities • 916.658.8245 • ssanders@ca-ilg.org

Betsy Strauss, Director, Intergovernmental Conflict Resolution Project • 916.658.8208 • bstrauss@ca-ilg.org

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CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

March 10, 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 80 participants and current assets exceed $840 million.
- Erin Carthen has been hired as the new CalTRUST Client Services Specialist. Erin replaces the position previously held by Pam Dolk. Erin has been with Wells Fargo/Wells Capital Management for over 8 years.

California Communities

- The 2010 Tax and Revenue Anticipation Notes (TRANs) and Cash Flow Financing program is now open for enrollment. The program has been modified to include Reverse Repurchase Agreements as an alternate to TRANs. An update on the changes made to the TRANs program will be presented at our April meeting.
- Terri Schutten, Executive Director of the County Administrative Officers Association of California, and retired CAO of Sacramento County, is the newest Commissioner now serving on the California Statewide Communities Development Authority Board.

U.S. Communities

- Paul McIntosh and Laura Labanieh attended the U.S. Communities Supervisory Board meeting on February 10th. It was reported that though overall California purchases were down in the last year, California County purchases continued to grow.
- U.S. Communities has awarded a new contract for roofing supplies and related products and services to Garland/DBS Inc.

General Information

- On March 11, 2010 we hosted a workshop in conjunction with the CSAC Institute for Excellence in County Government. The workshop, "Fiduciary Responsibility – Managing the County Treasury" featured Mark Saladino, Chuck Lomeli, and Richard Winnie as faculty. There were over 30 county officials in attendance.
- We are continuing 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.

CSAC CALIFORNIA Counties CORPORATE ASSOCIATES PROGRAM

Memorandum

March 10, 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.

- The Corporate Associates Steering Committee held their annual planning meeting in January in San Diego County. The meeting agenda included the election of our 2010 program president: Kirk P. Kleinschmidt, Director of Government Relations-Northern California Region for Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals.

- Membership and sponsorship solicitation efforts for 2010 are underway, with current efforts geared towards California events at the NACo Legislative Conference this month in Washington, D.C., and the CSAC Legislative Conference in early June.

- We have already received 2010 membership commitments from more than 40 organizations, with a total income to-date of $103,500. New members so far this year include Siemens Building Technologies, at the Silver ($5,000) level.

- The Exhibit Hall for the CSAC 2010 Annual Meeting in Riverside County is already 15 percent committed for this year, with general registration opening later this month.

- We are continuing to distribute regular communications to all Corporate Associates members, including a monthly e-newsletter, *California County* magazine and Executive Director's Watch.

- Upcoming events:
  - Corporate Associates Business Meeting – June 2nd in Sacramento
  - Corporate Associates Golf Tournament – June 4th in 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.

County Counsels' Association of California

MEMORANDUM

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

From: **Jennifer Henning, Litigation Coordinator**

Date: **March 25, 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 November. If you have questions about any of these cases, please do not hesitate to contact me.

I. New Amicus Case Activity Since November, 2009

City of Arcadia v. State Water Resources Control Board
Pending in the Fourth Appellate District, Division Three (filed Jan. 23, 2010)(G041545)

Twenty cities in the Los Angeles area challenged the Water Board's 2004 Triennial Review of the Water Quality Control Plan for the Los Angeles Region. The plan included standards for stormwater and urban runoff that the cities alleged did not take into account the factors required to be considered under Water Code sections 13241 and 13000. Specifically, the cities argued that the Board considered potential future uses of the stormwater and urban runoff rather than probable future beneficial uses of the water, as is required by statute. As a result, the cities argued they faced unreasonable and unachievable Total Maximum Daily Loads (TMDLs). The trial court agreed and issued a writ of mandate requiring revision of the Water Quality Standards in the Basin Plan, though the court permitted the current TMDL's to remain in place until the new standards are developed. The Water Board appealed the trial court's ruling, and the cities cross-appealed the decision to leave the standards in place during the court-ordered review. CSAC will file a brief in support of the cities.

Building Industry Association v. County of Stanislaus
Pending in the Fifth District Court of Appeal (filed Aug. 15, 2008)(F058826)

This case is a challenge to the county's agricultural land mitigation program. The program includes a General Plan policy requiring a 1:1 ratio mitigation as a condition of approval for any change in the General Plan land use designation from agricultural to residential. The program's guidelines allow the mitigation requirement to be satisfied by either obtaining a mitigation easement

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over an equivalent area of comparable farmland, paying an in-lieu fee (for small conversions), or implementing another measure approved by the Board. The BIA successfully challenged the program in superior court. The court determined that the program violates Civil Code section 815.3's prohibition against the exaction of conservation easements and that there was no reasonable relationship between the mitigation requirement and the conversion to residential use since the program did not prevent the loss of the converted farmland. The county has appealed and CSAC will file a brief in support.

Brown v. Venoco
Pending in the Second Appellate District (filed Sept. 2, 2009)(B218607)

This case involves a pre-election challenge filed by the Carpinteria City Attorney to the Paredon Oil and Gas Initiative, which would have required adoption of a new specific plan, local coastal program and development agreement, and directed the city to issue all of the necessary permits to authorize an onshore and offshore oil and natural gas project. The Initiative supersedes any inconsistent city ordinances and regulations, and no environmental analysis would be conducted under CEQA. The City Attorney sought relief from preparing a title and summary arguing, among other things, that the Initiative was invalid because it: (a) concerns a non-negotiated development agreement for a specific project, which the electorate lacks the power to adopt; (b) would cause inconsistencies in the general plan; (c) utilizes the initiative process to circumvent the environmental review necessary for such projects under CEQA; and (d) intrudes on the City's essential government functions. The trial court ruled against the city on most claims, and the city has appealed. CSAC will file a brief focusing on the importance of the legislative / non-legislative distinction in determining the validity of initiative subject matter.

Bryan v McPherson
590 F.3d 767 (9th Cir. Dec. 28, 2009)(08-55622), *petition for rehearing en banc pending* (filed Jan. 11, 2010)

A City of Coronado police officer pulled plaintiff over for a seatbelt violation. Plaintiff was admittedly agitated, but did not verbally or physically threaten the officer or attempt to flee. While plaintiff was facing away from the officer, the officer used a taser on him, causing him to fall to the ground and sustain injuries. He brought this action for excessive force. The trial court denied the officer qualified immunity, finding it would have been clear to a reasonable officer that shooting plaintiff with the taser was unlawful. The Ninth Circuit affirmed. The court found the use of the taser under the facts was unreasonable. But the court went on to conclude that "[t]he physiological effects, the high levels of pain, and foreseeable risk of physical injury lead us to conclude that the [taser] and similar devices are a greater intrusion than other nonlethal methods of force we have confronted," and as such constitute an intermediate, significant level of force that must be justified by a strong government interest compelling the employment of such force. The city is seeking rehearing, and CSAC has filed a brief in support.

Children's Hospital & Research Center Oakland v. Workers' Compensation Appeals Board

Pending in the First District Court of Appeal (filed Feb. 11, 2010)(A127580)

In this case, a former hospital employee became infected with HIV and filed a workers' compensation claim asserting that she was exposed to the virus from children with whom she worked in a non-medical setting over the course of her 20-year career. She is seeking discovery from several hundred medical files to determine whether she did, in fact, work with HIV-infected children. Over the hospital's objections under Health and Safety Code section 129075 and the Privacy Clause of the California Constitution, the WCAB granted her limited discovery about the HIV status of these nonparty children, which could require disclosure of information about the HIV status of several dozen to several hundred children. The hospital has filed a writ petition in the First District, and CSAC will file a brief in support.

City and County of San Francisco v. Superior Court (Marcelino C.)

Request for Immediate Stay and Petition for Review in the California Supreme Court Denied (Jan. 13, 2010)(S179069)

Welfare and Institutions Code section 329 allows any person to request a social services agency to investigate allegations of abuse or neglect. Following the investigation, the social services worker can either initiate a petition (if the worker determines the minor meets the standards under W&I 300 (b) or (g)), or notify the requestor of the decision not to proceed. The requestor may seek review of the decision not to proceed in juvenile court. Under W&I 331, the court may either "affirm the decision of the social worker or order him or her to commence juvenile court proceedings." Here, Legal Services for Children made a request for an investigation of a 17 year old runaway from Guatemala. The agency determined that he did not meet the standards set forth in 300(b) or (g). But on appeal to the juvenile court, the court ordered the agency to take the minor into protective custody. The First District temporarily stayed the order, but ultimately denied the agency's writ petition. The agency sought an immediate stay and review in the California Supreme Court, which CSAC supported, by the stay was denied.

Conservatorship of Whitley

Unpublished Decision of the First Appellate District, 2009 Cal.App.Unpub.LEXIS 5983 (1st Dist. July 23, 2009)(A122896), *petition for review granted* (Oct. 22, 2009)(S175855)

This case raises the issue of what types of interest in a case can preclude a successful plaintiff from obtaining attorney fees under the private attorney general statute (Code of Civil Procedure 1021.5). Generally, fees under 1021.5 are granted when the financial burden imposed on plaintiff in litigating the matter is out of proportion to his or her personal interest in the litigation. In this matter, where a conservator was successful in blocking the Regional Center's attempt to transfer her conservator brother to another facility, there were no financial interests for the court to consider. But the First Appellate District denied attorney fees under 1021.5, finding that even personal, non-pecuniary interests can disqualify a plaintiff from eligibility for 1021.5 fees. The California Supreme Court has granted review to the following: May an award of attorney fees under the private

attorney general statute be denied because the prevailing party had a significant non-pecuniary personal interest in the outcome of the litigation? CSAC will file a brief in support of the Regional Center.

Doe #1 v. Reed
586 F.3d 671 (9th Cir. Oct. 22, 2009)(09-35818), *cert. granted* (Jan. 15, 2010)(09-559)

The question raised in this case is whether individuals who sign referendum petitions are entitled to have their names kept private, or whether the petitions are public documents subject to disclosure under Washington State's public records act. The district court, applying strict scrutiny, granted a temporary restraining order preventing release of the referendum signatures, but the Ninth Circuit applied a lower level of scrutiny to conclude that the signatures should be released. The United State Supreme Court has agreed to review the following issue: Whether strict scrutiny should be applied to questions concerning a public records act and the propensity of such acts to disclose information protected by the First Amendment. CSAC will file a narrowly tailored brief in the Supreme Court urging the Court to issue an opinion limited to the facts of this case.

Franchise Tax Board v. Superior Court (Gonzales)
Previously published at: 177 Cal.App.4th 36 (1st Dist. Aug. 27, 2009)(A122723), *petition for review granted* (Dec. 12, 2009)(S176943)

This case is a Franchise Tax Board ("FTB") income tax refund action pursuant to Revenue and Taxation Code section 19382. The taxpayer requested a jury trial, which the trial court denied. But the First District, in a matter of first impression, found that there is a right to a jury trial in a tax refund action brought by the taxpayer pursuant to Article I, section 16 of the California Constitution. The court found that the determinative issue is whether the right to a jury trial attached to a tax refund action as an "historical" matter in 1850 common law. The court undertook an historical analysis of the common law of California in 1850 and concluded that a tax refund action is a "legal" rather than an "equitable" claim, notwithstanding cases holding that actions to recover taxes paid under protest are equitable in nature. The Supreme Court has granted review. CSAC will file a brief in support of the FTB emphasizing the costs associated with creating a new right to a jury trial for tax matters.

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 has found that a child protective services caseworker violates a minor's Fourth Amendment rights by interviewing the minor without a warrant at her school, in the presence of law enforcement, in response to reports that she may be the victim of sexual abuse. In the case, a social worker following up on reports of abuse went with a deputy sheriff to interview the minor at her school. Her mother subsequently brought this lawsuit alleging the warrantless interview violated the girl's Fourth Amendment rights. The Ninth Circuit agreed, holding that once the police have initiated a criminal investigation into alleged abuse in the home, responsible officials must provide procedural protections

appropriate to the criminal context. In this circumstance, that means that a warrant must be obtained before a minor can be interviewed at her school about suspected abuse. Defendants sought rehearing, which CSAC supported. Unfortunately, rehearing was denied.

Guzman v. County of Monterey
178 Cal.App.4th 983 (6th Dist. Oct. 28, 2009)(H030647), *petition for review denied* (Feb. 24, 2010)(S178397)

CSAC filed an amicus brief in this case last year in the Supreme Court, and the Court issued a favorable ruling finding that the duty to notify consumers about contaminated water rests with the operator of the water system and not the county. On remand, the court nevertheless found that the county had a mandatory duty to review water quality data reports, and could be held liable under Government Code section 815.6 for failing to do so. Monterey County sought Supreme Court review, which CSAC supported. Unfortunately, review was denied.

Los Angeles Unified School Dist. v. County of Los Angeles
181 Cal.App.4th 414 (2d Dist. Jan. 27, 2010)(B213703), *petition for rehearing denied* (Feb. 23, 2010)

The school district petitioned to compel defendants County of Los Angeles, City of Los Angeles, and numerous community redevelopment and other local agencies to increase its allocation of community redevelopment project mitigation payments (pass-through payments) under Health and Safety Code section 33607.5. The Second District agreed with the school district that the district's ERAF revenue should be included in calculating its percentage share of property taxes. As such, the court concluded that any property tax revenue deemed allocated to the ERAF under Revenue and Taxation Code sections 97.2(d)(5) and 97.3(d)(5) necessarily qualifies as property tax revenue to the school that received it. The court remanded to the trial court for further proceedings, including litigation over the issue of whether there is a right to reimbursement. The county sought rehearing, which was denied. CSAC is prepared to support a petition for Supreme Court review if the county decides to go forward.

Paland v. Brooktrails Township CSD Board of Directors
179 Cal.App.4th 1358 (1st Dist. Dec. 3, 2009)(A122630), *petition for review denied* (Feb. 10, 2010)(S178708)

The First Appellate District published an opinion earlier this year rejecting a challenge brought by a pro per litigant/customer to the CSD's water fees. He failed to pay water fees and the CSD padlocked his meter, but continued to charge minimum monthly service charges because he did not deactivate his account. He alleged the minimum monthly service charges were invalid under Prop. 218. The First District disagreed. The court first found the service to be "immediately available" because all the plaintiff had to do was pay his bill. It also found the minimum monthly service charges did not violate Prop. 218. Four taxpayer advocates filed requests for depublication of the case in the California Supreme Court. Instead of granting depublication, the Court granted review on

its own motion, vacated the decision, and remanded it for reconsideration in light of the requests for depublication. On remand, the court upheld its earlier decision, finding that "a minimum charge imposed on parcels with connections to a water district's utility systems for the basic cost of providing water or sewer service, regardless of actual use, is a charge for an immediately available property-related water or sewer service as defined in article XIII D, section 6, subdivision (b)(4), and consequently does not require ballot approval by affected owners." CSAC filed a brief in support of the district on remand. A petition for review was denied.

Qualified Patients Assoc. v. City of Anaheim
Pending in the Fourth Appellate District, Division Three (filed Mar. 19, 2008)(G040077)

In 2007, the City of Anaheim adopted an ordinance prohibiting marijuana dispensaries within the city since "federal and state laws prohibiting the possession, sale and distribution of marijuana would preclude the opening of medical marijuana dispensaries sanctioned by the City of Anaheim." Patients filed this challenge, and the trial court upheld the ordinance. The case was appealed, and was argued and submitted on September 23, 2009. However, on December 21, on the court's own motion, submission was vacated and the court ordered further briefing on whether the language of certain Health and Safety Code sections reflects a legislative intent to preempt local government action in regulating medical marijuana activity as a nuisance. CSAC filed a brief in support of the city.

Quon v. Arch Wireless Operating Co.
529 F.3d 892 (9th Cir. June 18, 2008)(07-55282), petition for rehearing en banc denied (Jan. 27, 2009), *petition for certiorari granted* (Dec. 14, 2009)(08-1332)

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

Sequoia Park Associates v. County of Sonoma
176 Cal.App.4th 1270 (1st Dist. Aug. 21, 2009)(A120049), *petition for review denied* (Dec. 2, 2009)(S176718)
This case involves the question of whether Government Code section 66427.5, which was adopted in the 1990's to help facilitate conversions of mobilehome parks to resident ownership, preempts local regulations over such conversions. Section 66427.5 releases the

park from local rent control in the event of a conversion to resident ownership. The county adopted an ordinance with an application process for the approval of such conversions. Plaintiff challenged the county's conversion ordinance on grounds of state preemption. The trial court upheld the validity of the ordinance in all respects. The First District reversed, concluding that the county's ordinance is both expressly and impliedly preempted by section 66427.5. The county sought Supreme Court review, which CSAC supported, but review was denied.

Sonoma County Water Coalition v. Sonoma County Water Agency
Pending in the First District Court of Appeal (filed Apr. 10, 2009)(A124556)

The Sonoma County Superior Court has struck down the Sonoma County Water Agency's 2005 Urban Water Management Plan adopted pursuant to the Urban Water Management Planning Act (Water Code §§ 10610 et seq.). Specifically, the court found that "[u]nder the plan, while the *volume* of available water may be adequate to meet future demands, the *availability* of that water has not been adequately addressed." The court was also concerned about relying on rights to water flows that the Agency does not yet possess, the failure to coordinate with relevant agencies, the failure to consider the impact of recycled groundwater on the availability of water supply in the future, and a lack of specificity of demand management measures intended to address water shortfalls. The Agency has appealed arguing that the trial court imposed requirements that are not in the Act. The Agency also argues that the court used the wrong standard of review in re-evaluating the complex environmental, engineering, biological and water supply issues, rather than deferring to the Agency's judgment absent evidence of abuse of discretion. CSAC filed a brief in support of the county.

Tichinin v. City of Morgan Hill
177 Cal.App.4th 1049 (6th Dist. Sept. 21, 2009)(H031019), *petition for review denied* (Jan. 13, 2010)(S177501)

A rumor circulated in the City of Morgan Hill that the city manager and the city attorney were having an affair. When the city attorney opposed a construction project of a client of attorney Bruce Tichinin, the client authorized Tichinin to hire a private investigator to see if the alleged affair was true and was having an impact on the city attorney's actions. The city subsequently discovered the surveillance and adopted a resolution condemning Tichinin's actions. Tichinin filed this 1983 litigation, but the trial court dismissed the action. The Sixth District reversed. The court found that the lawsuit was indeed filed to challenge protected speech of the City Council, but the court ultimately concluded that hiring a private investigator is conduct protected by the right to free speech since it is an information-gathering activity. The resolution condemning Tichinin and publicly reprimanding him was likely to deter private investigations of city officials. Thus Tichinin's allegations sufficiently supported a prima facie showing of success on the merits and the trial court erred in striking the claim. CSAC filed letters supporting review or depublication, but both were denied.

II. Amicus Cases Decided Since November, 2009

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:

Bull v. City and County of San Francisco
--- F.3d---, 2010 U.S.App.LEXIS 2684 (9th Cir. Feb. 9, 2010)(05-17080)(en banc)
Outcome: Positive

The Ninth Circuit, sitting en banc, has concluded that a blanket policy of strip searching without reasonable suspicion of all individuals arrested and classified for housing in the general jail population does not violate the arrestees' clearly established constitutional rights. The court noted that it was ruling on the facial constitutionality of the policy, and not considering any allegations that the policy was not scrupulously followed. But as to the policy, the court found it was not meaningfully different from the policy considered by the U.S. Supreme Court in *Bell v. Wolfish* (1979) 441 U.S. 520, which upheld strip searches of pre-trial detainees after contact visits. CSAC filed a brief in support of en banc review.

Chavez v. City of Los Angeles
47 Cal.4th 970 (Jan. 14, 2010)(S162313)
Outcome: Positive

After five years of litigating a statutory retaliation action against the city, plaintiff was awarded $11,500 in damages. He then requested $871,000 in attorney fees under the fee provisions of the Fair Employment and Housing Act (Gov. Code § 12965(b)). The California Supreme Court found that a trial court has discretion in denying attorney fees where the damages award shows minimal success on the merits: Code of Civil Procedure "1033(a), interpreted according to its plain meaning, gives a trial court discretion to deny attorney fees to a plaintiff who prevails on a FEHA claim but recovers an amount that could have been recovered in a limited civil case. In exercising that discretion, however, the trial court must give due consideration to the policies and objectives of the FEHA in general and of its attorney fee provision in particular. Here, we further conclude that, in light of plaintiff's minimal success and grossly inflated attorney fee request, the trial court did not abuse its discretion in denying attorney fees." CSAC filed a brief in support of the city.

Committee for Green Foothills v. Santa Clara County Board of Supervisors
48 Cal.4th 32 (Feb. 11, 2010)(S163680)
Outcome: Positive

As mitigation for a development on the Stanford University campus, the university was to provide two public trails on land identified on the countywide trails master plan, for which an EIR had already been certified. The Board certified a trails agreement between the university and the county. The agreement approved a specific alignment for one trail and gave the university a specified time to develop a specified alignment for the other. As to the unspecified trail, the Board determined that since it was not approving any specific trail improvements as part of the agreement, no CEQA review was required. A Notice of

Determination was properly filed. Over five months later, plaintiffs challenged approval of the agreement on CEQA grounds. Despite the 30-day statute of limitations, the Sixth District concluded that plaintiff might be able to allege that a 180-day statute of limitations applies when a lead agency files an erroneous notice of determination. The California Supreme Court unanimously reversed, holding that the filing of an NOD triggers a 30-day statute of limitations for all CEQA challenges to the decision announced in the notice. CSAC filed a brief in support of Santa Clara County.

Conservatorship of John L.
--- Cal.4th ---, 2010 Cal.LEXIS 1667 (Feb. 25, 2010)(S157151)
Outcome: Positive

The Supreme Court has found that at a hearing to establish an LPS conservatorship, appointed counsel may communicate a proposed conservatee's waiver of his or her right to be present, and an effective waiver will be inferred by virtue of counsel's authority to act on his or her client's behalf with the client's consent. The Court noted the undisputed fact that conservatee told his appointed attorney he was not contesting the proposed conservatorship and did not wish to appear at the hearing. The Court found its conclusion to be consistent with decisions generally recognizing that, even though certain rights implicated in civil proceedings are substantial, they may be waived by an attorney with the client's express consent. CSAC filed a brief in support of San Diego County.

Lexin v. Superior Court
47 Cal.4th 1050 (Jan. 25, 2010)(S157341)
Outcome: Positive

The defendants in this action, six former pension board members, filed a writ petition challenging a Superior Court ruling that there was sufficient evidence to bind them over for trial on Government Code section 1090 charges. The charges stem from deliberations and actions taken by the Board members regarding a "trigger" in an employer contribution contract, which would quickly bring additional funding through accelerated payments into the retirement system when the system's funding ratio falls below the trigger percentage. The San Diego County Superior Court found that the Board members' interest in the government pension at issue in this case is not within the scope of the "salary" exemption under Government Code sections 1090 and 1091.5, and is therefore subject to the Section 1090 prohibition. On appeal, the Fourth District determined that pension benefits are within the definition of "salary" for the purposes of the exception provided by Section 1091.5(a)(9). But the court went on to find that the exception was not applicable because the increased pension benefits "directly impacted" petitioners' departments or employing units. The fact that the benefit extended to every single city department and/or employing unit did not negate the direct impact.

The Supreme Court reversed. "[T]he trustees of the City's retirement system board were not burdened by a conflict of the sort section 1090 prohibits: a division in the loyalties of public servants between the public interests of their constituents and private opportunities for their own personal financial gain. Rather, by intentional legislative design, many of the board's trustees were members of the retirement system and thus had

interests in common with the membership as a whole. That the Lexin defendants were financially interested in the agreement here --- like thousands of their fellow retirement system members --- was a consequence of this fact. The public services exception to section 1090 --- section 1091.5(a)(3) --- recognizes that financial interests shared with one's constituency do not present the dangers the state's conflict of interest laws were designed to eradicate." The Court went on to find that one of the trustees who had personalized benefits (not available to other members of the retirement system) presented a genuine conflict problem that does not fall under any statutory exception. CSAC filed an amicus brief in this case.

Priceline.com, Inc. v. City of Anaheim
180 Cal.App.4th 1130 (4th Dist. Div. 3 Jan. 5, 2010)(G041338)
Outcome: Positive

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 there is no bar to use of contingency fee lawyers to assist government lawyers as co-counsel in ordinary civil litigation. CSAC filed a brief in support of the city.

Steinhart v. County of Los Angeles
47 Cal.4th 1298 (Feb. 4, 2010)(S158007)
Outcome: Positive

This is a Prop. 13 case involving reassessment of property. Plaintiff acquired a life estate interest in real property upon the death of her sister. The county treated this as change in ownership and reassessed the property. Plaintiff sought a refund of taxes, and when that was denied she filed this action. The trial court found in the county's favor, concluding in part that a transfer of a life estate to a non-spouse third party is a change in ownership under Revenue and Taxation Code section 60. Plaintiff appealed and the Second District reversed. The court concluded that conveyance of a life estate is not substantially equal to the value of the fee interest, and therefore no change of ownership occurs for Prop. 13 purposes. But the Supreme Court unanimously reversed. The Court first found that plaintiff had to apply for assessment reduction even though her claim presents a pure question of law, and that the county was not estopped from relying on plaintiff's failure to exhaust her remedies. The Court also concluded that under these facts, there was a change in ownership within the meaning of article XIII A, section 2, subdivision (a). CSAC filed a brief in support of the county.

Sunset Skyranch Pilots Assoc. v. County of Sacramento
47 Cal.4th 902 (Dec. 28, 2009)(S165861)
Outcome: Positive

A private airport within the county was operating as a non-conforming use. In 1989, the county refused to renew its business license because of the non-conforming

situation, and required the airport to obtain a conditional use permit. In an earlier unpublished decision, the appellate court upheld the CUP requirement. The airport subsequently applied for a 10-year CUP, and was granted a 5-year CUP in 1999. In 2004, the airport sought to renew its CUP. Ultimately, the Board of Supervisors voted not to renew the CUP. No CEQA document was prepared on the basis that a denial is not a project under CEQA. The trial court ruled in favor of the county, but the appellate court found that denial of the CUP renewal would result in the closure of the airport, and that such closure was a project under CEQA triggering CEQA review. The Supreme Court unanimously reversed in an 8-page opinion. "The Court of Appeal erred because it misconstrued the nature of the project at issue. Declining to renew the conditional use permit was not a public project under CEQA, because the county did not 'directly undertake[]' to close the airport. (§ 21065, subd. (a).) Instead, it decided not to reauthorize a private activity that required 'the issuance . . . of a . . . permit.' (§ 21065, subd. (c).) The airport operation was the 'project' in question, and projects rejected by a public agency are specifically exempted from CEQA requirements. (§ 21080, subd. (b)(5).)" CSAC filed a brief in support of the county.

United Farm Workers of America v. Administrator, Environmental Protection Agency
592 F.3d 1080 (9th Cir. Jan. 26, 2010)(08-35528)
Outcome: Negative

The Federal Insecticide, Fungicide & Rodenticide Act requires all pesticides registered with the EPA before 1984 to go through a reregistration process. This case is a challenge to the EPA's decision to reregister a pesticide known as AZM for certain applications. The statutory scheme provides different appeal mechanisms depending on whether the EPA held a "public hearing" prior to issuing its decision. Where a public hearing is held, an appeal can only be made by a party to the proceeding, and must be made within 60 days directly in a Court of Appeal. Where there is no public hearing, any person adversely impacted by the decision can appeal to the district court within normal statutory timelines, generally 6 years. For the AZM reconsideration, the EPA took public comments on the proposal but held no adjudicative proceedings. Plaintiffs challenged the action in district court, but the court dismissed finding the "public hearing" element had been satisfied and any appeal should have been raised within 60 days in a Court of Appeal. This appeal followed. The Ninth Circuit affirmed, finding "[t]he plain meaning of 'hearing' is satisfied by the process the EPA provided the manufacturers, the growers, the environmental groups, and the Farm Workers. To conclude that there was 'no hearing' would fly in the face of the process." Circuit Judge Pregerson dissented, concluding that the words "public hearing" refer to a quasi-judicial process, not the mere solicitation of written comments from the public. CSAC filed a brief in this case supporting more public input through a formal public hearing.