

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

Thursday, January 28, 2010, 10:00am - 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: Tony Oliveira, President

10:00am PROCEDURAL ITEMS

1. Introduction of New Executive Committee Members
 - *President Oliveira*
 - *Paul McIntosh, CSAC Executive Director*

2. Roll Call *Page 1*

3. Approval of Minutes of October 8 - 9, 2009 *Page 2*

10:15am SPECIAL PRESENTATION

4. Report on Governor's Budget for 2010-11
 - *Representative from State Department of Finance*

10:45am DISCUSSION ITEM

5. Discussion of Budget Impacts on Counties *Page 6*
 - *Paul McIntosh*
 - *Jim Wiltshire, CSAC staff*

11:15am ACTION ITEMS

6. Appointment of CSAC Treasurer, NACo Board of Directors and Western Interstate Region Representatives *Page 26*
 - *President Oliveira*

7. Appointment of CSAC Policy Committee Chairs and Vice Chairs for 2010 *Page 27*

- *President Oliveira*

8. Consideration of State and Federal Legislative Priorities for 2010 *Page 28*

- *Jim Wiltshire & Karen Keene, CSAC staff*

9. Consideration of June 2010 Ballot Proposition: Two-Thirds Requirement For Local Public Electricity Providers *Page 37*

- *Karen Keene*

10. Appointment of Member to CSCDA *Page 39*

- *Paul McIntosh*

12:00pm LUNCH

12:30pm INFORMATION ITEMS

11. Court Facility Transfers Status Report *Page 40*

- *Elizabeth Howard, CSAC staff*

12. Update on Prison Overcrowding Litigation *Page 43*

- *Elizabeth Howard*

13. Report on November 2010 Ballot Initiatives *Page 47*

- *Jean Hurst, CSAC staff*

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

- ❖ Mid-Year CSAC Budget Report
- ❖ CSAC Finance Corporation Report
- ❖ CSAC Corporate Associates Report
- ❖ Litigation Coordination Program Report

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15. **Other Items**

1:30pm ADJOURN

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2010

President:	Tony Oliveira, Kings
1 st Vice President:	John Tavaglione, Riverside
2 nd 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

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

October 8 – 9, 2009
Newport Beach, Orange County, CA

MINUTES

Presiding: Gary Wyatt, President

1. ROLL CALL

Gary Wyatt, President
Tony Oliveira, 1st Vice Pres.
John Tavaglione, 2nd Vice Pres.
Richard Gordon, Immed. Past Pres.
Greg Cox, San Diego
Roger Dickinson, Sacramento
Federal Glover, Contra Costa
Liz Kniss, San Mateo
Paul Biane, San Bernardino (alternate)
Mike Nelson, Merced
Mike McGowan, Yolo (alternate)
Merita Callaway, Calaveras
Robert Williams, Tehama
Susan Cash, Inyo (alternate)

Ex-Officio Members

Valerie Brown, Sonoma
Joni Gray, Santa Barbara

Advisor

Steven Woodside, Sonoma
County Counsel

2. APPROVAL OF MINUTES

The minutes of August 20, 2009 were approved as previously mailed.

3. STATE BUDGET STRATEGY & REFORM ISSUES

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.

A lengthy discussion ensued regarding the "scorecard" component and how to best utilize it to obtain desired objectives. Supervisor Brown offered to chair an ad hoc committee to further refine the scorecard concept and bring recommendations back to the CSAC Board of Directors. Committee members will include: Supervisors Liz Kniss, Joni Gray, Susan Cash and Mike Reagan.

Staff will revise the proposed comprehensive strategy to present to the CSAC Board of Directors at the November 2009 meeting.

Staff outlined provisions of two potential ballot initiatives currently in circulation dealing with a Constitutional Convention. The measures have been filed by *Repair California*, a group backed by the Bay Area Council. The first measure would allow for a Convention to be called. It limits which parts of the Constitution the Convention can consider, prescribes how the Convention would be funded and run, and explains how delegates are selected.

The second measure actually calls the Convention. It designates the FPPC as the "Convention Commission" which funds the Convention, sets its rules and provides training to delegates. The results of the convention would be placed on a future ballot, possibly November 2012.

The Executive Committee discussed the selection of delegates in great detail. Supervisor Gordon and Steven Woodside were tasked with developing draft language that could be presented to the proponents of the measure as possible amendments to their measure.

California Forward is proposing two measures dealing with state government reform. The provisions were described in great detail during the August Executive Committee meeting.

The League of California Cities, along with some transportation groups, is continuing to move forward with a measure to protect local transportation revenues.

Staff was directed to: 1) attempt to negotiate with *Repair California* to include amendments to language pertaining to selection of delegates; 2) work with the State Budget Task Force to develop reform principles that would assist in determining which reform initiatives to support; and 3) invite representatives from *Repair California* and *California Forward* to make presentations during the CSAC annual conference and/or legislative conference.

The CCS Partnership Board of Directors will be meeting in October to consider the draft reform principles that were developed by the CCS Partnership Fiscal Reform Task Force. Those principles will also be brought to the CSAC Board of Directors in November for consideration.

4. DISTINGUISHED SERVICE & PRESIDENT'S AWARD NOMINEES
Staff presented a list of potential recipients for the CSAC Distinguished Service Award for consideration. The list included: Assembly Members Jim Beall, Wes Chesbro and Lois Wolk.

After much discussion it was determined that no Distinguished Service Award would be given this year. The Executive Committee recommended that President Wyatt choose Assembly Member Lois Wolk as the recipient of this year's President's Award.

5. CIRCLE OF SERVICE AWARD NOMINEES
Staff presented a list of potential recipients for the 2009 Circle of Service Award. The list included: Alpine County Supervisor Terry Woodrow, San Mateo Deputy County Manager Mary McMillan, CSAC Corporate Associates President Bob Fisher, Los Angeles County Deputy Public Works Director Pat DeChellis, the Contra Costa County Public Works Department, and the Santa Barbara County Public Works Department.

Motion and second to accept list of nominees as presented. Motion carried unanimously.

6. AUDITED FINANCIAL STATEMENTS FOR FY 2008-09
Staff presented the audited financial statements as prepared by John Waddell & Co., and noted that there were no substantial changes from the previous year. Rental income from the Ransohoff building continues to be good. The statements were reviewed by the CSAC Audit Committee prior to Executive Committee consideration.

Motion and second to accept audited financial statement for FY 2008-09. Motion carried unanimously.

7. QUARTERLY CSAC BUDGET REPORT
Staff distributed and outlined the 2009 first quarter budget report, as previously requested by the Executive Committee. It was noted that revenues and expenditures are tracking normally.

8. CSAC ACHIEVEMENT REPORT
Paul McIntosh outlined the 2009 CSAC Achievement Report which included significant state legislative accomplishments in the areas of administration of justice, agriculture and natural resources, employee relations and human services, government finance and operations, health and human services, and housing, land use and transportation. The report also included significant federal legislative achievements in the areas of Medicaid, the State Criminal Alien Assistance Program (SCAAP), and forest fuels management/fire preparedness. McIntosh noted that the CSAC Institute for Excellence in County Government has been very successful during its first year of operation. He also indicated that some challenges remain for CSAC such as the continuing state structural funding deficit, high turnover rate among county

executives, and effectively dealing with the various local government fiscal reform ballot measures currently in circulation.

9. STATE AND FEDERAL LEGISLATIVE REPORT

Staff reported that the Legislature will reconvene next week to consider legislation that that was held up at the end of session. Two bills that CSAC has requested the Legislature act on are: SB 65, which contains various provisions related to state cash management, includes language that accelerates the repayment of June, July, August and September gas tax revenues to cities and counties; and SB 67, the much-needed clean-up to the Proposition 1A suspension and securitization provisions approved in the July budget agreement.

Supervisor McGowan presented a Tribal Affairs Advocacy Contract proposal. The proposal would provide outside counsel and legal expertise specific to Federal Indian Gaming issues related to changes that may occur with the recent United States Supreme Court decision in *Carcieri v. Salazar*. This was pursuant to a recommendation from the County Counsel's Native American Affairs Committee.

Because of the Decision, the opportunity now exists to significantly affect changes to the fee to trust process that the Department of Interior has previously used. *Carcieri* has placed a hold on that process for tribes not recognized prior to 1934.

The cost of the contract with Washington, DC based Perkins Coie would be \$30,000. Supervisor McGowan urged CSAC to approve the contract, but acknowledged that further discussion was needed.

Staff was directed to meet with stakeholders to ensure the scope of the contract was not redundant with advocacy services already provided by Waterman & Associates before entering into a contract.

Supervisor Kniss, who chairs the NACo Subcommittee on Health Care Reform, reported on her recent trip to Washington, DC, to meet with Congressional members regarding health care reform legislation.

10. OTHER ITEMS

Supervisor Brown reported on her first few months as NACo president. She has traveled to state association meetings all over the country and had many unique experiences.

The Executive Committee adjourned to a closed session to conduct the Executive Director's performance evaluation.



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January 12, 2010

To: CSAC Executive Committee

From: Paul McIntosh, CSAC Executive Director

Re: **Impact of Governor's Proposed 2010-11 Budget on Counties**

Background. Attached please find for your review CSAC's Budget Action Bulletin #1, which outlines the Governor's Proposed 2010-11 State Budget, in particular, those proposals that impact counties. This summary is intended to provide information to counties to assist them in assessing the county impacts in the State Budget, in addition to focusing our advocacy efforts in Sacramento.

The Governor's Proposed 2010-11 State Budget focuses on addressing a cumulative \$19.9 billion deficit: \$6.6 billion for 2009-10 and \$12.3 billion in 2010-11 with a \$1 billion reserve. The Governor's approach to addressing the shortfall is to secure additional federal funding totaling \$6.9 billion. If this federal funding target is not met, the Governor proposed significant program eliminations and reductions, in addition to a number of revenue proposals. This "federal trigger," as it has come to be known, is a significant source of controversy; primarily, it is widely believed the assumptions about federal aid coming to the state are overly optimistic, but also that the trigger is an all or nothing approach, with severe consequences to the safety net, even if the trigger falls one dollar short. The Legislative Analyst's Office has called the Governor's chances of receiving these federal dollars "almost non-existent."

Recommendation. Staff will discuss in more detail components of the budget and its impact on counties. We will also discuss our advocacy strategy on budget issues, as we move into the Eighth Extraordinary Session.

Staff Contact. CSAC staff are available to assist you with all questions on the state budget. Please contact Jim Wiltshire (jwiltshire@counties.org or 916.327.7500 x545) for more information.



**Highlights of the Governor's Proposed 2010-11 State Budget
Week of January 4, 2010**

January 8, 2010

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

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

RE: **Budget Action Bulletin #1**

This morning, Governor Arnold Schwarzenegger released his proposed 2010-11 state budget, outlining a strategy to eliminate a combined \$19.9 billion deficit: \$6.6 billion in 2009-10 and \$12.3 billion in 2010-11. The \$19.9 billion deficit includes a \$1 billion reserve. The Governor again reiterated his focus on seeking additional federal funds to assist the state in weathering the economic downturn. In particular, the Governor has proposed a number of severe program cuts if the state does not receive \$6.9 billion in additional federal funds from Washington. This proposal is outlined in detail in the summary that follows.

Counties will be interested in the Governor's concern about the dysfunctional relationship between the state and federal governments. To quote the Governor's budget summary, reform is necessary to "address federal constraints on California's ability to effectively manage program costs within available resources..." and that California should "be reimbursed for money owed to the state." One wonders how the Governor views the similar relationship shared by the state and local governments.

The Governor declared a fiscal emergency today and called the Legislature into special session to address the state's fiscal crisis. The Legislature then has 45 days to "address the fiscal emergency." We understand that the Administration has submitted legislative language to the Legislature to address \$8.9 billion of the budget gap. The Department of Finance has indicated that delay in adoption of these proposals until the enactment of the 2010-11 budget would result in the loss of up to \$2.4 billion in budgetary solutions, thus requiring additional cuts in 2010-11. In particular, enactment of adjustments to Proposition 98 must take place prior to June 30, 2010.

This summary below outlines the various proposals contained in the Governor's budget. For a full summary of the Governor's proposal, visit the Department of Finance [website](#). Counties

should expect regular updates from CSAC on upcoming budget activities. Please don't hesitate to contact CSAC staff with your additional questions or concerns.

CLOSING THE BUDGET GAP

Shortfall in 2010-11 Governor's Budget

(dollars in billions)

Projected 2010-11 Deficit	-\$6.9
Revenue Decline	-\$3.4
Federal & State Court Litigation	-\$4.9
Erosions of Previous Solutions	-\$2.3
Population/Caseload Growth	-\$1.4
Rebuild Reserve	-\$1.0
Total Shortfall	-\$19.9

FEDERAL FUNDS TRIGGER: REDUCTIONS AND REVENUES

As mentioned previously, Governor Schwarzenegger has identified a number of areas in which the federal government has mandated or failed to fully fund programs for which the state must provide funding. According to the Governor's budget, federal mandates, including spending requirements, constraints on program reductions, and federal court decisions delaying reductions of services have contributed more than \$1.4 billion toward the current budget gap.

The state is demanding additional flexibility in managing certain program costs and additional federal reimbursement for certain programs. Details on these components are included in the relative subject matter areas later in this summary. These requests total \$6.9 million in new federal funding assumed in the Governor's budget proposal.

If the state fails to secure these additional funds by July 15, 2010, the Administration has developed a list of permanent reductions that will occur, totaling \$4.6 billion General Fund:

- Eliminate the California Work Opportunity and Responsibility to Kids (CalWORKs) Program (\$1.044 billion).
- Fund existing mental health services with Proposition 63 fund (\$847 million).
- Reduce Medi-Cal eligibility to the minimum allowed under current federal law and eliminate most remaining optional benefits (\$532 million).
- Reduce state employee salaries by an additional 5 percent (\$508 million).
- Eliminate the IHSS Program (\$495 million).
- Redirect additional county savings associated with CalWORKs and IHSS reductions (\$325 million).
- Eliminate non-court required inmate rehabilitation programs, implement banked parole for low-risk serious and violent offenders, expand crimes where convicted felons will serve time in local jails, and increase the number of parolees each agent will supervise (\$280 million).
- Eliminate the Healthy Families Program (\$126 million).
- Eliminate funding for enrollment growth at the University of California and the California State University (\$111.9 million).

- Eliminate various health services programs funded by Proposition 99 (\$115 million)
- Make an unallocated reduction to trial courts (\$100 million)
- Freeze the level of awards and income eligibility for Cal Grants (\$79 million)
- Eliminate funding for the Transitional Housing Placement for Foster Youth-Plus Program (\$36 million)

In addition to these reductions, the Governor proposes one-year revenue proposals totaling \$2.4 billion General Fund:

- Extend suspension of a business’s ability to reduce taxable income by applying net operating losses (NOL) from prior years to reduce current income (\$1.2 billion).
- Extend reduction in the credit for each dependent on the personal income tax from \$319 to \$102 (\$504 million).
- Delay use of business credits by unitary groups of corporations and instead retain current law which requires subsidiaries to have their own tax liability to use research and development and other credits (\$315 million).
- Delay the change to the single sales factor allocation method for multi-state corporate income and instead retain the double weighted sales, property, and payroll formula (\$300 million).
- Lower to 30 percent the first year phase-in of the ability of corporations to carry back losses two years to offset prior tax profits (\$20 million).

We understand that if only a portion of the assumed federal assistance is secured, there exists a priority list for the trigger reductions and revenues. We have not seen that list, but assume that this proposal does not represent an “all or nothing” proposal.

More detailed information on the various proposed reductions can be found in the subject matter areas later in this summary.

AN EDUCATION FOCUS

K-14 Education Funding. The Governor’s budget reflects his focus on education in that Proposition 98 funding guarantee is fully funded. However, total Proposition 98 expenditures for 2009-10 are projected to be lower than the budgeted amount by \$567.5 million or 1.2 percent lower. The 2010-11 proposed budget includes a Proposition 98 funding guarantee of \$50 billion.

The Administration has identified a significantly lower Proposition 98 funding level for 2008-09, resulting in the minimum funding level shifting to a “Test 1,” which does not create a maintenance factor, and drops the minimum guarantee to \$46.8 billion.

Recall that a significant component of the 2009-10 budget agreement was a “deal” on the amount of the maintenance factor for Proposition 98. The budget compromise indicates that even if no maintenance factor is determined for 2008-09, the state owes \$11.2 billion to Proposition 98 to be paid via a repayment schedule starting in 2010-11. The Administration is

proposing a means to ensure that the overappropriation for 2008-09, and the required repayment does not increase the 2009-10 and 2010-11 Proposition 98 guarantee. The Governor proposes a reduction to the Proposition 98 appropriation for 2008-09 and proposes a delay in the repayment of the maintenance factor to 2012-13.

Constitutional Amendment: Prioritizing Books over Bars. The Governor unveiled plans during his State of the State address to introduce a constitutional amendment to ensure that California reverses its practice of spending more on prisons than it does on higher education. To achieve this turnaround, the Governor proposes a constitutional requirement that no less than 10 percent of the state General Fund be allocated to fund higher education and no more than 7 percent of state funds will be allocated to support the prison system. Further, the state would begin redirecting state revenue from the prison system to higher education beginning in 2011-12, reaching the desired funding levels by 2014-15. To assist the state in reducing prison expenditures, the constitutional amendment would expand the authority for the California Department of Corrections and Rehabilitation (CDCR) to contract with private prison operations and service providers. The Governor’s proposed amendment would also prohibit the early release of state prison inmates. CSAC will continue to keep counties updated as work on the constitutional amendments develops.

STATE’S CASH SITUATION

The Governor’s budget does not include a great deal of information regarding the state’s proposed cash plan. However, the summary does indicate that the Governor’s budget anticipates that the state will have sufficient funds to repay the entire \$8.8 billion of RANs in May and June 2010, as scheduled. Still, the General Fund will have significant cash needs in March 2010.

Absent legislative action, the Administration does expect a cash shortfall in July 2010, which the Governor proposes to address through external financing mechanisms and additional payment deferrals. The Department of Finance will work with the State Controller’s Office and the State Treasurer’s Office to develop additional cash solutions that will be submitted to the Legislature for consideration in the special session.

BUDGET AGGREGATES

Proposed Budget Solutions
(dollars in billions)

	2009-10	2010-11	Total	%
Expenditure Reductions	\$1,034	\$7,475	\$8,509	43%
Federal Funds	\$8	\$6,905	\$6,913	35%
Alternative Funding	\$150	\$3,736	\$3,886	20%
Fund Shifts & Other Revenues	\$0	\$572	\$572	3%
Total	\$1,192	\$18,688	\$19,880	100%

**2010-11 Governor's Budget
General Fund Budget Summary
With All Proposed Budget Solutions
(dollars in millions)**

	2009-10	2010-11
Prior Year Balance	-\$5,855	-\$3,863
Revenues and Transfers	\$88,084	\$89,322
Total Resources Available	\$82,229	\$85,459
Non-Proposition 98 Expenditures	\$51,432	\$46,811
Proposition 98 Expenditures	\$34,660	\$36,090
Total Expenditures	\$86,092	\$82,901
Fund Balance	-3,863	2,558
Reserve for Liquidation of Encumbrances	\$1,537	\$1,537
Special Fund for Economic Uncertainties	-\$5,400	\$1,021
Budget Stabilization Account	0	0
Total Available Reserve	-\$5,400	\$1,021

**General Fund Revenue Sources
(dollars in millions)**

	2009-10	Proposed 2010-11	Percent Change
Personal Income Tax	\$46,640	\$46,862	0.5%
Sales Tax	26,036	25,851	-0.7%
Corporation Tax	9,407	10,052	6.9%
Other Taxes	6,001	6,557	8.5%
Total	\$88,084	\$89,322	1.4%

**General Fund Expenditures by Agency
(dollars in millions)**

	2009-10	2010-11	Percent Change
K-12 Education & Higher Education	45,120	47,840	5.7%
Health and Human Services	25,045	21,000	-16.2%
Corrections	8,161	7,983	-2.2%
Other	7,766	6,078	-27.8%
Total	\$86,092	\$82,901	-3.7%

ADMINISTRATION OF JUSTICE

Trigger Cuts. As mentioned earlier in this summary, the Governor's proposed 2010-11 budget relies on the receipt of \$6.9 billion in federal reimbursements. Should the state not reach this level of reimbursement, a number of "trigger" cuts would go into effect. Among the assumed federal reimbursements is \$879.7 million in funds from the State Criminal Alien Assistance Program (SCAAP). Counties are well aware that the SCAAP programs consistently falls short in

reimbursing the actual costs of detaining undocumented criminals. In 2009, California received \$159 million in federal SCAPP reimbursement: \$46.6 million to local entities and \$112.5 million to the state. It is important to note that the Obama Administration reduced SCAAP funding in its most recent budget by 18 percent over the previous year.

In the area of criminal justice, trigger cuts totaling \$280 million would go into effect if the state does hit its target of \$6.9 billion in federal reimbursements. These cuts include the following:

- **Corrections (\$280 million):**
 - Revise sentencing laws to expand the number of crimes where convicted felons will be allowed to serve time in local jails, diverting a portion of would-be state prisoners to local county jails.
 - Eliminate non-court required inmate rehabilitation programs.
 - Implement banked parole for low-risk serious and violent offenders.
 - Increase parole agent caseloads.

- **Courts (\$100 million):**
 - Impose an unallocated reduction to the trial courts.

Local Public Safety Funds. Counties will recall that the Legislature dedicated a portion of the 0.5 percent Vehicle License Fee (VLF) increase approved in February 2009 and directed those revenues into a newly created Local Safety and Protection Account (LSPA) that supports local public safety programs previously funded through the state's General Fund. (Please see the [information sheet and FAQs](#) on the local public safety funding structure, published jointly by CSAC, the sheriffs' association, and the chief probation officers' association.)

The Governor's proposed 2010-11 budget leaves the LSPA intact. However, the Administration adjusted downward its estimate for local public safety funding expected to be apportioned into the LSPA in the current year. August 2009 estimates pegged the annual LSPA funding for 2009-10 at \$497 million; the Governor's proposed budget now puts that figure at \$416 million for the current year and \$442 million in 2010-11.

Counties may wish to refer to a chart published in the Administration of Justice section of CSAC's *Legislative Bulletin* published earlier today; that chart details Quarter 1 and Quarter 2 apportionments into public safety programs from the LSPA.

California Department of Corrections and Rehabilitation (CDCR). The Governor is proposing to reduce CDCR's budget by 12.7 percent or \$1.19 billion. The most significant cut is in the area of medical care, where the Governor proposes to reduce funding to the Federal Receiver's program by \$811 million. That savings would be achieved by bringing California's per-inmate medical costs (\$11,627) in line with that of inmates housed by the state of New York (\$5,757). The Governor outlines a number of measures that the Receiver can implement to achieve a reduction in per-inmate medical costs. Further, the Governor is proposing other reforms — through the passage of a constitutional amendment outlined more fully in the introductory section of this bulletin — to increase privatization of the state's prisons.

Other cuts to CDCR's budget would result from two reform efforts proposed by the Governor:

- **Modify sentencing practices.** By allowing offenders convicted of specified non-serious, nonviolent, non-sex felonies including drug possession to be incarcerated for up to one year in local jails, the state would achieve savings of \$291.6 million.
- **Reduce the age jurisdiction for juvenile offenders at the Division of Juvenile Justice (DJJ).** By reducing the age jurisdiction of DJJ from 25 to 21, the state would achieve \$41.3 million in savings in addition to \$6.7 million in Proposition 98 savings attributable to the population reduction that would result. Eligible juveniles who "age out" would be transferred from DJJ detention facilities to adult institutions. The state also proposes to reduce the use of time-adds to juvenile offenders sentences.

It is also notable that the budget proposal recognizes the extent to which the cuts to CDCR's budget in 2009-10 will far short of projections. Recall that the policy changes enacted last fall in SBX3 18, which were intended to produce \$1.2 billion in savings in the current year; actual savings have been well short of that mark.

Judicial Branch Issues. The Governor proposes to restore a one-time \$100 million reduction to the judicial branch, increase funding for employee retirement and health benefit costs (\$17.9 million), and delays for another year (resulting in a savings of \$17.4 million) the implementation of the Guardianship and Conservatorship Reform Act (AB 1363, Jones, 2006). Other budget items of note include:

- **Redirection of Redevelopment Revenues.** Redirects \$350 million in redevelopment agency revenues to the General Fund and offsets the state's obligation to the trial courts by a like amount.
- **Trial Court Facilities.** Increases funding by \$35 million to advance court construction/renovation efforts authorized in SB 1407 (Perata, Chapter 311, Statutes of 2008);
- **Automated Speed Enforcement Revenue.** Using red light violation systems, creates a new speed violation with expected revenues dedicated to the trial courts. Of the \$337.9 million in anticipated new revenue, the majority (\$296.9 million) would be dedicated to trial court operations. The remaining funds (\$41 million) would augment trial court security funding.

Department of Justice (DOJ) Forensic Laboratories. The 2010-11 proposed budget seeks to reduce support of DOJ forensic labs by \$45.1 million. That reduction would be offset by an increase to the existing penalty assessments for criminal offenses from \$1 to \$3. The proposal also would broaden the expenditure authority of the DNA Identification Fund to include DOJ crime lab operations.

AIDS Drug Assistance Program (ADAP). The Governor's budget proposes to eliminate funding (\$9.5 million) for ADAP services to inmates in county jails.

Offender Treatment Program. 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.

AGRICULTURE AND NATURAL RESOURCES

Williamson Act. The Governor's proposed 2010-11 budget includes \$1,000 for Williamson Act subventions. This is consistent with the Governor's previous reduction, which eliminated \$34.7 million for the program in the 2009-10 budget. CSAC will be having a meeting of the Agriculture & Natural Resources Policy Committee on January 27, 2010 in Sacramento to discuss, among other things, Williamson Act reform efforts, funding updates, and compatible use issues.

Emergency Response Initiative. The Governor's 2010-11 budget proposes an Emergency Response Initiative (ERI), as proposed in the 2009-10 budget. The Initiative would place a 4.8 percent surcharge on all residential and commercial property insurance statewide. The "fee" would fund a portion of the Department of Forestry and Fire Protection operations. Beginning in 2011-12, the ERI would provide funding for the state's emergency response efforts, including CAL Fire, CAL EMA, and assistance to local first response agencies in support of the state's mutual aid program.

CAL FIRE. The Governor's proposed 2010-11 budget for the California Department of Forestry and Fire Protection would reduce the amount of funding for emergency fire suppression expenditures by \$32.8 million to include a total of \$223 million. This reduction is based on the historical average of emergency firefighting costs over the past five years and additional federal reimbursements.

State Parks. The Governor's proposed budget includes a \$140 million shift from California State Parks budget. The proposed budget would backfill this amount with revenues generated from the proposed Tranquillon Ridge oil lease. This proposal, which was also included in last year's proposed budget and faced fierce opposition and would have to be approved by the California State Lands Commission or by the Legislature.

Beverage Container Recycling Program. The Governor's proposed budget includes funds for the repayment of loans to the General Fund from the Beverage Container Recycling Program (Bottle Bill). The proposed budget would increase the fund by \$54.8 million in 2009-10 and \$98.2 million in 2010-11. These loan repayments are part of a more comprehensive proposal to implement market-based programmatic and budgetary reforms to the program. These reforms would seek to incorporate the cost of recycling into the price paid by consumers and eliminate certain programs and subsidies.

FloodSAFE Program. The Governor's proposed budget includes \$210.8 million in Proposition 84 and 1E bond funds for critical levees in the Central Valley and Delta, as well as grants and subventions to help local governments and continue the development of the Central Valley Flood Protection Plan.

2009 Delta Water Legislation. The Governor's proposed budget includes \$49 million in Proposition 84 and 50 bond funds to implement various requirements of the 2009 Delta Water Legislation package, including re-activation of the California Water Commission, groundwater monitoring, and new water conservation activities.

GOVERNMENT FINANCE AND OPERATIONS

May Election Reimbursement. We are pleased to report that the Governor included in his budget a reimbursement for county costs associated with last May's special election, which was called to let the voters decide various budget measures. The state's share of the cost for that election was \$68.2 million and attempts to have that amount reimbursed last year were unsuccessful.

Mandates. Perhaps no surprise here, but the Governor's budget proposal continues to suspend all mandates suspended in the current fiscal year, which is most of them. When the state suspends mandates, counties have the option of funding the services at their own cost or not providing the service at all. The mandates that remain in effect deal with either elections, public safety, or property tax administration. These mandates receive a proposed funding increase of \$4 million over 2009-10 levels.

The Governor also proposes to defer this year's payment (\$95 million) for pre-2004 (pre-Proposition 1A) mandate reimbursements. The state had deferred mandate payments for several years prior to the passage of Proposition 1A, and had accrued a debt of more than a billion dollars. The provisions of Proposition 1A and state statute allow the state to repay that debt over a period of fifteen years, but the state has deferred these amortized payments for the last few years.

BOE Revenue Collection. The Governor proposes to increase funding for two programs at the State Board of Equalization. \$9.9 million is proposed to restore resources for their revenue collection activities, which will result in an additional \$90 million of revenue for the state's General Fund and a commensurate increase for local agencies.

\$4.4 million is proposed to fund 55 positions to expand tax enforcement at agricultural inspection stations from one station to four. The BOE has an agreement with the California Department of Food and Agriculture whereby that agency tells the BOE about commercial trucks that enter the state laden with taxable property such as construction equipment or building materials. BOE can then follow up on whether the material's recipients pay the applicable sales and use taxes. This program is estimated to raise \$23 million of state General Fund revenue, and a commensurate amount for local agencies.

Proposition 1A Interest. While it will not have any effect on local revenues, it is worth noting that the budget proposal includes \$90.8 million for interest payments on the Proposition 1A bonds sold last year.

Trailer Fee Revenue Backfill. The Governor proposes to eliminate \$11.8 million of funding that backfills weight-based fees assessed on commercial truck trailers. The non-Realignment share of this backfill has been eliminated for quite some time. The Administration made this same proposal for the 2008-09 budget, but the proposal was rejected then due to concerns that the funds are part of Realignment.

Redevelopment Property Tax Shift. Recall that last year's budget shifted \$1.7 billion from redevelopment agencies to schools in the current fiscal year and \$350 million from them in the coming fiscal year. Last year's shift allowed the state to move school property taxes to county offices of education, which in turn funded certain state programs. The Governor proposes that the \$350 million shift in 2010-11 offset trial court costs instead of school funding "to provide a better program cost comparison."

Reductions in State Employee Compensation. The Governor proposes to suspend the current three-days-per-month furlough of state employees resulting in a restoration of \$1.1 billion to state department budgets. This restoration will, however, be offset with \$1.6 billion in reductions as outlined below. The result will be a net additional reduction in 2010-11 of \$489.9 million.

- A five percent workforce reduction implemented through a cap on the state workforce for a savings of \$449.6 million.
- An across-the-board five percent pay reduction for a savings of \$529.6 million.
- A five percent increase in the employee contribution to retirement costs for a \$405.8 million reduction in employer costs paid by the state.
- A reduction of \$152.8 million in health care costs achieved by contracting for lower cost health care coverage for state employees. (The California Public Employees' Retirement System (PERS) currently negotiates health care coverage for state employees. The Governor's proposed reduction assumes that PERS negotiates lower rates or that the state negotiates directly with insurers at a savings.)
- Savings of \$98.1 million result from delaying pre-funding costs for retiree health and dental benefits.

HEALTH AND HUMAN SERVICES

The Governor's 2010-11 proposed budget suggests cuts to the state's General Fund health and human services expenditures by \$2.4 billion, or an 8 percent decrease from the revised 2009-10 budget year. For context, last year's budget reductions totaled \$1.025 billion, or a three percent reduction. The Governor states in his introduction to the Health and Human Services portion of the budget that he must seek deep cuts in safety net programs because of three factors: the continuing fiscal crisis, inadequate federal funding ratios, and litigation. Indeed, many of last year's budget solutions have yet to be implemented due to legal action.

The budget proposal also includes a major proposal to "trigger" severe health and human service cuts – including the wholesale elimination of the CalWORKs, Healthy Families, and IHSS programs – if the state is unable to secure additional federal funding. Please see the end of this

section for a full explanation of the proposed trigger cuts and a review of the state's federal funding assumptions.

The following items are proposed to take effect on July 1, 2010, unless otherwise stated.

MEDI-CAL

The Governor's proposed budget includes significant reductions in the Medi-Cal program.

Cost Containment Strategies. The Governor's proposed budget outlines a \$750 million General Fund reduction for the implementation of cost containment strategies. Such strategies would include limits on services and utilization controls, increase cost sharing through co-payment requirements and/or premiums, and other programmatic changes.

The Department of Health Care Services has not finalized the cost containment proposal and anticipates releasing additional details in the coming weeks.

Eliminate Full-Scope Medi-Cal for Certain Immigrants. The Governor's proposal would eliminate full-scope Medi-Cal benefits for adult Newly Qualified Immigrants, except for pregnant women. It would also eliminate full-scope benefits for Immigrants Permanently Residing Under Color of Law (PRUCOL), and some Amnesty Immigrants, for a total of about 250,000 people affected. Remaining services would include emergency services, pregnancy, long-term care and breast and cervical cancer treatment. These cuts are estimated to total \$118 million in 2010-11. The budget assumes that the proposal would take effect March 1 but savings would not be realized until June 2010 because of implementation timeframes.

Anti-Fraud Initiative. The Governor anticipates a \$26.4 million savings by implementing aggressive fraud enforcement in pharmacy, physician services, transportation, and medical equipment. This would be undertaken by the Department of Health Care Services.

Delay Provider Checkwrite. The Governor hopes to save \$55 million in the current year by deferring one weekly payment to institutional Medi-Cal providers, which include hospitals, clinics, and nursing homes.

Eliminate Optional Adult Day Health Care Benefits. The Governor proposes to eliminate the optional adult day health care benefit, effective March 1. This would save the state an estimated \$104 million, with the savings being realized by June of this year.

HEALTHY FAMILIES PROGRAM (HFP)

Reduce Eligibility. The Governor proposes to reduce HFP eligibility from 250 percent of the federal poverty level (FPL) to 200 percent. This will save an estimated \$10.5 million in the current budget year and \$63.9 million in 2010-11. The Governor wants this change to take effect on May 1 in order to achieve current year savings. Furthermore, the state scores a conforming \$3.9 million decrease in the California Children's Services (CCS) program for beneficiaries who were previously eligible under the Healthy Families Program.

Reduce Benefits. The Governor proposes to eliminate vision coverage under the HFP.

Increase Premiums. The Governor also proposes to increase premiums for families with incomes from 151 percent to 200 percent of the FPL. The premium increase include \$30 per child or \$90 maximum increase per family with three or more children (currently, these families pay \$16 per child or \$48 maximum). This proposal would not affect families with an income under 150 percent of the FPL.

The Governor scores a \$21.7 million savings from both the premium increase and the elimination of the HFP vision benefit (above). Both proposals would take effect on July 1.

ADDITIONAL HEALTH PROPOSALS

Substance Abuse Offender Treatment Program

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.

Proposition 99

The budget includes a proposal to use one-time Proposition 99 reserves to offset \$36 million in Medi-Cal costs.

IN-HOME SUPPORTIVE SERVICES (IHSS)

Elimination of Services Based on Functional Index. The Governor is again attempting to limit the provision of services to current and prospective IHSS recipients by eliminating all services for recipients with a Functional Index (FI) score of 4 or less, or 87 percent of the current recipient population. The 2009-10 budget includes IHSS service eliminations for those with a FI under 2 and is currently being litigated. There is currently an injunction in place preventing the state from implementing the service cuts.

Reduce State Participation in Wages. The Governor wants to reduce the state's participation in wages for IHSS workers down to the state minimum wage of \$8.00 per hour. The state's share of 60 cents per hour for benefits would be unchanged.

Together, the reduction of the state's wage participation and the elimination of services for those below a functional index of 4 would save the state an estimated \$77.9 million in 2009-10 and \$872.6 million in 2010-11. These estimates assume a current year implementation.

CALWORKS

The Governor proposes three reductions in the CalWORKs program:

- Reducing CalWORKs grants by 15.7 percent.
- Reducing child care provider reimbursements (no other detail was provided).
- Eliminating the Recent Noncitizen Entrants program, which provides benefits to legal immigrants who have been in the U.S. less than five years (24,000 people).

The Governor scores \$146.1 million in savings in the 2010-11 year if these cuts become effective in June. The Governor also notes that these cuts, if enacted, would also create a \$42.7 million savings in the Department of Developmental Services and \$18.3 million in the California Student Aid Commission.

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

Grant Reductions. The Governor wants to reduce SSI/SSP grants to individuals by \$15 per month (from \$845 to \$830), which would bring them down to the federal minimum. Individual grants were reduced down to the federal minimum last year.

Eliminate Immigrant Assistance. As proposed in previous years, the Governor wants to eliminate the Cash Assistance Program for Immigrants (CAPI).

These two proposals combined will save the state \$21.8 million in 2009-10 and \$285.1 million in 2010-11 if enacted by June 1.

ADDITIONAL HUMAN SERVICES PROPOSALS

California Food Assistance Program. The Governor, as he did in the 2009, proposes to eliminate the California Food Assistance Program (CFAP) effective June 1, for a savings of \$3.8 million in the current year and \$56.2 million in 2010-11.

First 5 (Proposition 10). The Governor proposes to place another ballot measure before voters in June 2010 to redirect \$550 million in First 5 funds to programs serving children. The proposal would shift 50 percent of the First 5 revenues directed to state and local accounts for programs (\$242 million in 2010-11) *and* a one-time sweep of state and local reserves (\$308 million). These funds would be redirected to programs administered by the Department of Developmental Services and Department of Social Services. Please note that a similar ballot measure failed in the May 2009 special election.

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. The state estimates the program reductions will create \$505.5 million in county savings. 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.

Mental Health Services Act (Proposition 63). 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. Specifically the Mental Health Services Act funds would be used to replace General Fund spending on portions of the EPSDT program and Mental Health Managed Care. Both the non-supplantation and the maintenance-of-effort provisions of Proposition 63 would be amended. Please note that a ballot measure to redirect Mental Health Services Act funds failed in the May 2009 special election.

HHS TRIGGER CUTS

The Governor's proposal to trigger a series of cuts and revenues if \$6.9 billion in new federal funds do not materialize by July 15, 2010 would impact a number of health and human services programs. The trigger cuts, which would be permanent, include the following proposals (for a complete list of the trigger cuts and revenues please see the opening summary of this document):

- **CalWORKs.** Eliminate the CalWORKs program for \$1.044 billion in savings.
- **Mental Health.** Replace \$847 million in existing General Fund spending on mental health services with Proposition 63 (Mental Health Services Act of 2004) funds.
- **Medi-Cal.** Reduce Medi-Cal eligibility to the minimum allowed under current federal law and eliminate most remaining optional benefits for adults for a savings of \$532 million. The eligibility cuts include: (1) rolling back the 1931(b) program to March 2000 levels, (2) reducing services for children and pregnant women to 133 percent of FPL, (3) reducing the Aged, Blind and Disabled program to SSI/SSP levels, (4) eliminating the Medically Needy Program, (5) eliminating the Breast and Cervical Cancer Treatment Program, (6) eliminating the Child Health Disability Program (CHDP) Gateway, (7) eliminating the Medically Indigent long term care program, and (8) eliminating the Family Planning program. Very few optional benefits would be available for adults with the exception of pharmacy services.
- **In-Home Supportive Services.** Eliminate the IHSS program for \$495 million in savings.
- **Healthy Families Program.** Eliminate the Healthy Families Program for \$126 million in savings.
- **Transitional Housing Placement for Foster Youth-Plus Program.** Eliminate state funding for the Transitional Housing Placement for Foster Youth-Plus Program for \$36 million in savings.
- **Health Programs.** Eliminate Proposition 99 funding for a number of health programs, for \$115 million in savings. Programs that will lose Proposition 99 funding include Access to Mothers and Infants, Major Risk Medical Insurance Program, Every Woman Counts, Expanded Access to Primary Care, and Asthma Control programs. The Health Education Account is not affected.
- **New County Share of Cost.** Because the various program eliminations will reduce county match obligations, the state is proposing to redirect \$325 million of this "savings" and to create a new county share of cost for Food Stamps Administration.

Please note that these cuts would go into effect if California is unable to secure \$6.9 billion in federal funds and are in addition to the cuts proposed for the current year and 2010-11 outlined above.

NEW FEDERAL FUND ASSUMPTIONS

The Governor's budget assumes that California will be able to secure more than \$5 billion in new federal funds for a number of health and human services programs, many of which received American Recovery and Reinvestment Act (ARRA) of 2009 federal stimulus funding. If these federal funds are not secured by July 15, 2010, the trigger cuts outlined above (along with other cuts and revenues detailed in this document) would go into effect. The new federal fund assumptions include:

- **Federal Health Costs.** The budget assumes \$1 billion in federal reimbursement for: (1) health costs for disabled individuals who were actually eligible for Medicare (\$700 million one-time), (2) recalculation the rate at which California pays for Medicare Part D drug coverage (\$75 million ongoing), and (3) applying the enhanced ARRA FMAP ratio to the Medicare Part D drug coverage payments (\$250 million). An additional \$43 million in ARRA enhanced Safety Net Care Pool funds are also available in 2010-11.
- **Federal Medical Assistance Percentage (FMAP).** The budget assumes \$1.8 billion in new federal funds as a result of the federal government increasing California's FMAP to 57 percent (currently it is at 50 percent). Fifty-seven percent would be consistent with the federal funding ratios provided to the 10 most populous states as well as the national average.

The budget also assumes that the federal government will extend the ARRA-enhanced FMAP through June 30, 2011. This would result in \$1.5 billion in additional federal funds.

- **Foster Care.** The budget assumes \$86.9 million in federal funds associated with extending federal financial participation to all state-only foster care cases.
- **CalWORKs.** The budget assumes that the federal government will extend the TANF Emergency Contingency Funding to California through 2010-11 and that California will receive \$538 million as a result.
- **Title IV-E.** The budget assumes that the federal government will extend the enhanced FMAP rate for California's Foster Care and Adoptions Assistance programs through 2010-11. This would result in \$26.8 million.
- **Child Support.** The budget assumes \$20.8 million in federal funding from federal permission for California to use incentive funds to match federal funds through June 30, 2011.
- **Early Start.** The budget assumes \$32.9 million in federal funding from ARRA-related augmentation of the federal Individuals with Disabilities Education Act, Part C grant.

California Health and Human Services Agency Secretary S. Kimberly Belshé will be convening meetings with stakeholders to discuss how to work together to secure these new federal funds.

HOUSING, LAND USE AND TRANSPORTATION

Eliminate Sales Tax and Increase Excise Tax on Gasoline. The Governor proposes to eliminate the sales tax on gasoline, proceeds of which fund Proposition 42, currently valued for 2010-11 at \$1.57 billion for Proposition 42 and \$879 million for the spillover account.

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) increase that falls short of being revenue neutral by approximately \$976 million, or the equivalent of a five-cent per gallon tax cut. Under the proposal, the total excise tax would increase to 28.8-cents per gallon, whereas the existing combined Proposition 42 and HUTA taxes currently equal 34-cents. The proposal does not affect the current distribution of the 18-cent HUTA.

The 10.8-cent excise tax increase would be allocated as follows:

- \$629 million for the State Transportation Improvement Program (STIP)
- \$629 million for local streets and roads
- \$603 million for the General Fund for transportation bond debt service

The summary of the Governor's budget proposal indicates that the excise tax distribution will be adjusted in the future to account for the growing debt service on the transportation bonds. It is unclear whether this would mean an annual increase in the gas tax equivalent to the growth in bond debt service as reported by Transportation California, or if the State would simply change the distribution formula and take the funds from either cities and counties and/or the STIP.

Considering that the existing HUTA formula is left intact combined with this replacement revenue, local streets and roads are estimated to receive \$1.72 billion in 2010-11 or \$858 million for counties.

There are several problems with this proposal. First, in a good economy, Proposition 42 has a growth potential of approximately five percent annually. Regardless of the economic condition of the State, the excise tax on gasoline is a declining revenue source due to increased vehicle efficiency and overall reduced consumption. The Governor's proposed swap of excise tax revenue for sales tax revenues associated with gasoline therefore reduces the growth potential for transportation funding in the state resulting in the reduction of job growth into the future.

Second, substantial constitutional protections afforded to Proposition 42 do not apply to the excise tax or HUTA. Proposition 42 revenues can only be borrowed twice in ten years and requires payback before borrowing again. Further, payback must occur within three years and with interest. Currently, the constitution allows the state to borrow HUTA with required payback within three fiscal years, but with no interest requirements and no restriction on consecutive or limited year borrowing.

The proposal also reduces the spillover for transit and eliminates the Proposition 42 share for transit without a replacement revenue source.

In addition to reducing the tax burden on Californians by nearly \$1 billion, the state also reduces the Proposition 98 guarantee for education as the excise tax revenues do not flow through the General Fund.

High-Speed Rail. The Governor's January proposal includes \$581.4 million in Safe, Reliable High-Speed Passenger Train Bond Act bond funding for project development and oversight. An additional \$375 million in American Recovery and Reinvestment Act funding will be appropriated for the same purpose.

Project Initiation Document (PIDs) Reimbursement. The proposed budget would shift the cost of developing PIDs for local projects to local agencies and save the State an estimated \$12.5 million in 2010-11.

Proposition 1C: Housing Bond of 2006. The Governor's proposed budget would appropriate \$131 million in Proposition 1C Housing Bond funds but does not specify to which programs.

Emergency Housing Assistance Fund. The budget proposes to transfer \$4.2 million to the General Fund from the Emergency Housing Assistance Fund in 2010-11.

STAY TUNED FOR THE NEXT BUDGET ACTION BULLETIN!

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

**2010-11 Governor's Budget
Proposed Funding
Commission on State Mandates
8885
\$ in 000s**

Title	Amount
Absentee Ballots	\$23,730
Absentee Ballots-Tabulation by Precinct	35
Allocation of Property Tax Revenue	611
Brendon Maguire Act	0
Crime Victim's Domestic Violence Incident Reports	169
Custody of Minors-Child Abduction and Recovery	14,910
Domestic Violence Arrests and Victims Assistance	1,365
Domestic Violence Arrest Policies	7,770
Domestic Violence Treatment Services	2,730
Fifteen-Day Close of Voter Registration	0
Health Benefits for Survivors of Peace Officers and Firefighters	1,050
In Home Supportive Services II	475
Medi-Cal Beneficiary Death Notices	18
Peace Officer Personnel Records: Unfounded Complaints and Discovery	744
Permanent Absent Voters	6,195
Rape Victim Counseling	390
Sexually Violent Predators	18,195
Threats Against Peace Officers	62
Unitary Countywide Tax Rates	271
Voter Registration Procedures	1,680
General Fund Total	\$80,400
Administrative License Suspension, Per Se funded from the Motor Vehicle Account (0044)	\$2,625
Pesticide Use Reports funded from the Pesticide Regulation Fund (0106)	91
Special Fund Total	\$2,716

2010-11 Governor's Budget

Suspended Mandates^{1/}
AIDS/Search Warrant (Ch. 1088, Stats.1988)
Animal Adoption (Ch. 752, Stats. 1998)
Binding Arbitration (Ch. 906, Stats. 2000)
California Fire Incident Report System (CFIRS)
Conservatorship: Developmentally Disabled Adults (Ch. 1304, Stats. 1980)
Coroners Costs (Ch. 498, Stats. 1977)
Developmentally Disabled Attorneys' Services (Ch. 694, Stats. 1975)
DNA Database & Amendment to Postmortem Examinations (Ch. 822, Stats. 2000)
False Reports of Police Misconduct (Ch.590, Stats. 1995)
Firearm Hearings for Discharged Inpatients
Judicial Proceedings (Ch. 644, Stats. 1980)
Local Recreational Background checks
Mentally Disordered Offenders' Extended Commitments Proceedings (Ch. 435, Stats.1991)
Mentally Disordered Sex Offenders' Recommitments (Ch. 1036, Stats. 1978)
Mentally Disordered Offenders: Treatment as a Condition of Parole (Ch. 1419, Stats. 1985)
Mentally Retarded Defendants Representation (Ch. 1253, Stats. 1980)
Not Guilty by Reason of Insanity (Ch.1114, Stats. 1979)
Pacific Beach Safety (Ch. 961, Stats.1992)
Perinatal Services (Ch. 1603, Stats. 1990)
Photographic Record of Evidence (Ch.875, Stats. 1985)
Post Conviction: DNA Court Proceedings
Postmortem Examinations (Ch. 284,Stats. 2000)
Senior Citizens Property Tax Deferral (Ch. 1242, Stats. 1977)
Stolen Vehicle Notification (Ch. 337, Stats.1990)
Expired or Deferred Mandates
POBOR (Employee rights not subject to Prop 1A, payments deferred)
Crime Victim Rights (Ch. 411, Stats. 1995, Repealed 2009 GG TBL)
Firefighter's Cancer Presumption (Ch.1568, Stats. 1982, Expired July 1, 2008)
Fire Safety Inspections of Care Facilities (Repealed 2009 GG TBL)
Police Officer's Cancer Presumption (Ch.1171, Stats. 1989, Expired July 1, 2008)
Racial Profiling: Law Enforcement (Ch. 624, Stats. 2000, Expired 2004)

1/ These mandates are proposed for suspension in addition to mandates suspended since the 2005-06 Budget Act.



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January 12, 2010

TO: Members, CSAC Executive Committee

FROM: Paul McIntosh, Executive Director

SUBJECT: Appointment of CSAC Treasurer, NACo Board of Directors and Western Interstate Region (WIR) Representatives

Each year, CSAC appoints a Treasurer, two members to the National Association of Counties (NACo) Board of Directors and two members to the NACo Western Interstate Region (WIR) Board of Directors. This year CSAC once again has an opportunity to appoint a third representative to the NACo Board of Directors because of our status as a 100% membership state. Following are Officer recommendations for 2010.

CSAC Treasurer

The Officers would like to recommend Susan Cash of Inyo County as CSAC Treasurer for 2010. Supervisor Cash has indicated her willingness to serve.

NACo Board of Directors

Your current representatives are Frank Bigelow, Madera County, Greg Cox, San Diego County, and Keith Carson, Alameda County. The Officers are recommending that these members continue to serve during 2010.

NACo Western Interstate Region (WIR)

Del Norte County Supervisor David Finigan currently serves as CSAC's representative. The Officers are recommending that he continue to serve during 2010.

Six years ago, California was provided an opportunity to appoint a second director to the WIR Board. CSAC and the Regional Council of Rural Counties (RCRC) agreed to appoint one each, with the appointing organization paying costs related to its appointee. Brian Dahle of Lassen County currently serves as the RCRC representative, and is also WIR Past President.

**CSAC POLICY COMMITTEE
CHAIRS AND VICE CHAIRS
2010**

(as proposed by CSAC Officers)

ADMINISTRATION OF JUSTICE

**Federal Glover, Contra Costa, Chair
Merita Callaway, Calaveras, Vice Chair**

AGRICULTURE AND NATURAL RESOURCES

**John Vasquez, Solano, Chair
Richard Forster, Amador, Vice Chair**

GOVERNMENT FINANCE & OPERATIONS

**Bruce Gibson, San Luis Obispo, Chair
John Moorlach, Orange, Vice Chair**

HEALTH & HUMAN SERVICES

**Liz Kniss, Santa Clara, Chair
Terry Woodrow, Alpine, Vice Chair**

HOUSING, LAND USE AND TRANSPORTATION

**Paul Biane, San Bernardino, Chair
Efren Carrillo, Sonoma, Vice Chair**



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January 6, 2010

TO: CSAC Executive Committee

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 seven issues for immediate advocacy. We recommend leaving the two remaining issues in reserve for emerging topics throughout the year.

The seven 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

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

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 with you next week.



California State Association of Counties

CSAC 2010 STATE ADVOCACY PRIORITY

DRAFT – Presented for Review to CSAC Executive Committee (January 2010)

CSAC State Advocacy Priority: Protecting County Programs, Services, and Systems

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 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.



CSAC 2010 FEDERAL ADVOCACY PRIORITIES

DRAFT – Presented for Review to CSAC Executive Committee (January 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 seven federal issues of significance to California's counties, with two issues left in reserve to accommodate emerging topics.

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

SAFETEA-LU, which expired in September 2009, is currently operating under an extension that will end on December 18. As of this writing, it appears as though Congress will renew the current extension through next spring, 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 in recent months, with additional legislative action expected in the coming weeks. If the Senate is able to clear its health reform bill, a House-Senate conference committee is expected to meet sometime in the New Year to iron out differences between the two chambers' bills.

For its part, California's counties are responsible for providing and/or financing health care to millions of uninsured individuals and persons receiving Medicaid (Medi-Cal) benefits.

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.

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 federal government and previous Administration placed additional administrative burdens on the program during the last reauthorization 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."

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.

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 recently 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)

Congress is slated to provide a significant increase in CDBG funding for FY 2010, reversing years of fighting the previous administration's proposal to eliminate it. Pending in an Appropriations conference committee, the Senate would increase CDBG's current \$3.9 billion level by \$445 million whereas the House would boost it by \$700 million.

CSAC has actively promoted full funding for 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, the second session of the 111th 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 final 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

President Obama's 2009 budget and the American Recovery and Reinvestment Act (ARRA) of 2009 both made significant new investments in the Byrne Memorial Justice Assistance Grant (JAG). CSAC strongly supported the Administration's work to prioritize Byrne funding in 2009, 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.



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January 13, 2010

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

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

Staff Recommendation: The CSAC Agriculture & Natural Resources Policy Committee will be taking a position on this measure at their January 27, 2010 meeting and will relay their recommendation to the CSAC Executive Committee. CSAC staff recommends an "oppose" position. This measure 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 proposed 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: The proposed initiative 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 proposed initiative, if an authorized local government entity seeks to start up electricity service, it must receive



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approval by two-thirds of the voters in the area proposed to be served. Also, if an existing publicly owned utility seeks to expand 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 proposed 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:
- City of Berkeley
- City of San Francisco
- San Francisco Local Agency Formation Commission
- Marin Energy Authority (representing 9 cities and the County of Marin)
- Town of Fairfax
- City of Roseville
- City of Redding
- City of Lodi
- City of Glendale

- Organizations:
- Sierra Club
- The Utility Reform Network
- Local Power Inc.
- Local Clean Energy Alliance
- Bay Localize



MEMORANDUM

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January 8, 2010

To: Members, CSAC Executive Committee

From: Paul McIntosh, Executive Director

Re: **California Statewide Community Development Authority (CSCDA) Appointment**

The California Statewide Communities Development Authority (CSCDA or California Communities) is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities.

California Communities' mission is to provide local governments and private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

There are currently four former and current county officials representing CSAC on the CSCDA board. Brent Wallace, one of those representatives, has submitted his resignation. It is recommended that Terry Schutten, retired County Executive from Sacramento County, and current Executive Director of the County Administrative Officers Association of California (CAOAC) be appointed to replace Brent on the board.

cc: Terry Schutten
James Hamill



January 12, 2010

TO: CSAC Executive Committee

FROM: Elizabeth Howard Espinosa, Legislative Representative
Administration of Justice Policy Committee

RE: **Conclusion of Court Facility Transfers**

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Recommendation. This item, which updates the Executive Committee on the court facility transfer process, is informational only; no action is required.

Background. In this year of otherwise relatively gloomy news, it is a pleasure to report that the seven-year process to transfer court facility responsibility and/or ownership to the state has come to a successful conclusion.

By way of brief background, SB 1732 (Escutia), the Trial Court Facilities Act of 2002, set out a framework and procedures for transferring responsibility and, in some instances, title for trial court facilities from the counties to the state through negotiated transfer agreements. CSAC jointly sponsored SB 1732 with the Judicial Council. The measure represented the third and final step in centralizing with the state responsibility and authority for court operations, court employees, and court-related facilities. Counties believe that important and valid policy reasons exist for successfully concluding the historic trial court funding and operational reforms that were begun under the Trial Court Funding Act of 1997 (AB 233, Escutia and Pringle).

When SB 1732 was enacted in 2002, it embodied the consensus recommendations of the Task Force on Court Facilities, including its overarching recommendation that responsibility for trial court facilities be transferred from the counties to the state. While provisions in SB 1732 envisioned that transfers would be concluded before June 30, 2007, an array of challenges and transactional complexities impeded the successful execution of transfer agreements within the time frame originally anticipated. In April 2008, CSAC and the Judicial Council succeeded in getting a reauthorization measure enacted (AB 1491, Jones) for court facility transfers. That bill, in primary part, extended the facility transfer process through December 31, 2009.

Transfer Progress following 2008 Legislative Reauthorization. With the necessary authority to continue the court facility transfer process beyond the initial June 2007 transfer deadline and incentive milestones in place, counties and the Administrative Office of the Courts (AOC) dedicated significant resources in the second half of 2008 and throughout 2009 to the transfer process. Since the enactment of AB 1491 in April 2008, progress in the court facility transfer process has been nothing short of extraordinary.

In what can only be described as a remarkable achievement, transfer agreements **for all 532 eligible court facilities** in California's 58 counties were executed before the December 31, 2009 deadline. The final transfer – for the Glenn County Superior Courthouse – was approved on December 29, 2009. (A list¹ of the completed transfers is available on the Judicial Council's website.)

To give a sense of the magnitude of this effort over the 20 months, it should be recalled that the first facility to transfer — the Larson Justice Center in Riverside County — was executed in April 2005. When the initial transfer period had lapsed in June 2007, only 114 buildings had transferred across the state. Between April 2008 (when the reauthorization bill was enacted) and the end of the transfer period (December 31, 2009), 418 additional transfer agreements were executed. The collection of court facility transfers — most of which were executed as individual agreements — represented the largest scale intergovernmental set of real estate transactions ever.

The final transfer in Glenn County caps a remarkable, multiyear achievement, which required significant resources and dedication on the part of local courts, counties and the Judicial Council. All who have been involved in the court facility transfer process over the last seven years are deserving of a significant commendation and should be recognized for their part in executing a historic effort aimed at improving the administration of justice in California.

As for policy benefits, counties now will enjoy fiscal relief related to the transfers, in that they will be relieved responsibility and liability for facilities that house a state-controlled system — the trial courts of California. The state courts also will benefit by gaining better control of the facilities they occupy.

Acknowledgements. In particular, CSAC would like to recognize the efforts of Riverside County Supervisor and CSAC Second Vice President John Tavaglione. Supervisor Tavaglione deeply appreciated the significance and policy value behind the court facility transfer process for counties around the state. He assisted greatly in advocating for counties' best interests as CSAC and the AOC negotiated with the Legislature in developing the structure and provisions of the 2008 reauthorization bill. Supervisor Tavaglione also served as the county representative on the Court Facilities Dispute Resolution Committee (CFDRC), a three-member body that heard and recommended action on a range of disputes that arose between counties and the AOC in the transfer process.

The Executive Committee also should be aware that San Diego County Supervisor and Past CSAC President Greg Cox also helped advance the court facility process through his personal involvement at a number of junctures. Supervisor Cox represented counties' interests in negotiations of SB 10 (Dunn,

¹ http://www.courtinfo.ca.gov/programs/occm/documents/transfers_to_date.pdf

2006), which authorized the transfer of facilities with seismic conditions. This measure went a long way toward clearing a major practical impediment in the overall transfer process. Additionally, Supervisor Cox stepped in as an alternate member of the CFDRRC.

And we would be remiss if we did not mention the tireless efforts of former CSAC legislative advocate, Rubin Lopez, who worked over more than a decade to bring major reforms to the court system in California.

CSAC also commends the efforts of the other individuals – too numerous to mention here – who helped bring this process to successful conclusion. This extraordinary accomplishment was built on the contributions of many in our counties, the local courts, the AOC, the Legislature and the Administration.

The Judicial Council will acknowledge the successful conclusion of the court facility transfer program with a brief ceremony at its January 21 meeting in San Francisco.

Staff Contacts. Should you have questions regarding this issue, please contact Elizabeth Howard Espinosa at 916/650-8131 or ehoward@counties.org.

January 12, 2010



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TO: CSAC Executive Committee

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

RE: **State Prison Overcrowding Litigation – INFORMATIONAL ITEM**

Recommendation. This item, which updates the Executive Committee on litigation in the federal courts involving overcrowding in the state prison system, is informational only; no action is required.

Background. In the world of California corrections, various legal and budgetary pressures are at play. The Governor recently released his 2010-11 budget proposal, which contemplates further reforming California's adult and juvenile corrections programs through such measures as amending sentencing laws to redirect inmates from state prison to local jails and lowering the Division of Juvenile Justice (DJJ) age jurisdiction – all as part of an effort to achieve an additional \$1.1 billion reduction to the California Department of Corrections and Rehabilitation's (CDCR) budget¹.

These proposed cuts are primarily motivated by two factors: 1) the state's \$6.6 billion budget deficit in the current year and a \$12.3 billion deficit in the 2010-11 budget year and 2) the ongoing litigation in two cases (*Coleman* regarding medical issues and *Plata* regarding mental health services) currently before the federal three-judge panel on prison overcrowding. The federal panel continues to work toward reducing the state's prison population in an effort to address inadequacies in the state prison system's medical and mental health delivery systems. Due to an expected decision in mid-January by the U.S. Supreme Court on the state's appeal regarding the three-judge panel's authority and jurisdiction, CSAC thought it pertinent and timely to provide members an update on the matter.

The *Coleman* and *Plata* Matters: A Long and Winding Road. As members will recall, judges in two prison overcrowding cases before the federal court separately ordered in late July 2007 the creation of a three-judge panel to review prison overcrowding and directed orders to reduce overcrowding that must then be implemented by the state. Among the options available to the three-judge panel under federal statute — the Prison Litigation Reform Act (PLRA) — are orders "including a temporary restraining order or preliminary injunctive relief,

¹ This reduction is on top of a \$1.2 billion unallocated reduction to CDCR's budget implemented in the current budget year. The state passed SBX3 18 (Ducheny) in the 2009 legislative year in an effort to achieve a portion of the \$1.2 billion reduction. Many of the measures contained within the corrections legislation were passed to address the budget shortfall but also in an effort to address prison overcrowding which is one of the cost-drivers affecting CDCR's budget.

that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or non-admission of prisoners to prison.”

In November 2008, the court issued a final ruling to bifurcate the trial after the state, plaintiffs and interveners — who include individual counties, sheriffs, district attorneys, and probation chiefs, among others — failed to reach a settlement. The issue addressed in Phase 1 was whether crowding in the state prisons had caused the unconstitutional level of medical and mental health care provided to state prisoners. Phase 2 focused on the remedy and impacts to local communities should any state prisoners be released early as a result of the three-judge panel's ruling.

On February 9, 2009, the federal three-judge panel on prison overcrowding issued a tentative ruling for Phases 1 and 2, indicating that it intended “to give the parties notice of the likely nature of that opinion, and to allow them to plan accordingly.” Specifically, the panel found that prison overcrowding was the primary cause for the state’s failure to deliver a constitutional level of medical and mental health care in the prison system. In fact, the court cites Governor Schwarzenegger's statement in his 2006 Emergency Declaration that California prisons were severely overcrowded and posed a substantial threat to prison staff and inmates alike. In its February ruling, the panel directed the state to develop a plan to reduce the prison population to 120 or 145 percent of the prison’s design capacity over a two- to three-year period. According to the California Department of Corrections and Rehabilitation (CDCR), this population cap would result in release order of approximately 37,000 to 58,000 state prison inmates.

The court gave parties a short period of time from the date of the tentative ruling to determine whether they wanted the court to appoint prior settlement referees to assist the parties in a second round of settlement negotiations. (Counties will recall that settlement discussions in the spring and early summer of 2008 failed to produce an agreement.) Although local entities involved in the case indicated a willingness to pursue a negotiated settlement, the state responded to the court on February 25, 2009 declining the offer to renew negotiations, stating that they would not be “fruitful” and expressed their preference that the three-judge panel “enter a final order that can be appealed to the United States Supreme Court.”

On August 4, 2009, the federal three-judge panel issued its final ruling, which ordered the state to submit a state prison population reduction plan within 45 days that would reduce the state’s prison population to 137.5 percent of its prison design capacity — amounting to a reduction of approximately 40,000 inmates. The plan was to be submitted to the panel by September 18. Further, the court made clear in its order that the state could not appeal the ruling to the U.S. Supreme Court until it had submitted a prison population reduction plan to the federal three-judge panel.

Recent Events. In September, the state appealed to the three-judge panel on prison overcrowding challenging the court's limitation on its right to appeal to the U.S. Supreme Court prior to the state producing a prison population reduction plan. The federal panel denied the appeal the same week it was filed. Later that week, the state filed an appeal directly to the U.S. Supreme Court, but the high court also rejected the state's motion. The state ultimately complied with the three-judge panel's final ruling and submitted its plan to the court on September 18.

On October 21, the federal three-judge panel issued a ruling rejecting the state's prison population reduction plan submitted on September 18. The court cited several reasons for rejecting the plan; primary among them was the state's failure to reduce the prison population to 137.5 percent of the state prison system's design capacity within two years. The state's plan only reduces the prison population to 166 percent of design capacity. Further, the court was troubled that the state did not provide target dates for implementation of its various proposals and population reduction estimates at the six, 12, 18 and 24 month implementation periods. The court gave the state three weeks (until November 11) to submit a new plan addressing these concerns as well as others cited within their order. The state submitted the plan by the court's deadline in an effort to address the deficiencies cited by the three-judge panel. The federal court has yet to rule on the revised prison reduction plan submitted by the state.

Pending Action by the U.S. Supreme Court. It is important to note that while the state was abiding by the orders of the three-judge panel, it continued on a parallel track its appeal to the U.S. Supreme Court. Pursuant to the provisions of the PLRA, all appeals go directly to the U.S. Supreme Court. The state is challenging the federal three-judge panel's authority to order the state to reduce its prison population², primarily on the basis of a state's rights argument. The state filed its most recent appeal to the U.S. Supreme Court in mid-December. The court is expected to determine whether it will take the state's case on January 15. If the U.S. Supreme Court decides to hear the case, it is anticipated that oral arguments will be heard in the spring and that the case will be decided by the end of the court's spring session. If the U.S. Supreme Court takes up the case, it is assumed that it will put the pending action of the federal three-judge panel on hold. If the U.S. Supreme Court declines to hear the state's appeal, then it is the understanding of CSAC staff that the federal three-judge panel will proceed with its work, and the state will be left with no choice but to comply with the panel's orders.

² This appeal differs from the state's first appeal to the U.S. Supreme Court regarding the federal three-judge panel's order for the state to submit a prison reduction plan in that the state is appealing to the U.S. Supreme Court regarding the federal three-judge panel's overarching authority in the case and its legal authority to order the state to reduce its state prison population. The state believes that the federal three-judge panel is negating California's sovereignty and violating states' rights.

CSAC will continue to update counties regarding the activities of the U.S. Supreme Court, federal three-judge panel and the Administration as new developments unfold. We understand that shedding of prison population will have reverberations in our communities, regardless of whether it comes as a result of a federal court ruling or legislative direction.

In the meantime, Executive Committee members are invited to participate in bi-weekly corrections forum conference calls held on alternating Thursdays at 9 a.m. In those calls, CSAC Administration of Justice staff provides updates on the prison overcrowding litigation issue as well as a range of other corrections fiscal and policy issues. Should any member wish to participate, please contact either Elizabeth Howard Espinosa or Rosemary Lamb.

Staff Contacts. Please feel free to contact either Elizabeth Howard Espinosa (916/650-8131; ehoward@counties.org) or Rosemary Lamb (916/650-8116; rlamb@counties.org) with any questions on this matter.



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January 12, 2010

To: CSAC Executive Committee

From: Paul McIntosh, CSAC Executive Director

Re: **November 2010 Ballot Initiatives Update**

Background. Attached please find information regarding the three major reform initiatives in preparation for the November 2010 General Election. We have provided the titles and summaries, in addition to the fiscal analyses from the Legislative Analyst's Office. We have also provided you with a list of outstanding ballot measures and an outline of the deadlines for initiative approval for the November 2010 ballot.

CSAC President Tony Oliveira has appointed a Reform Task Force to help staff vet issues associated with these reform efforts, as well as any put forward by the Legislature. The Task Force includes the following members:

Supervisor Kathy Long, Chair	Ventura County
Supervisor Matt Rexroad, Vice Chair	Yolo County
Supervisor John Benoit	Riverside County
Supervisor John Moorlach	Orange County
Supervisor Bruce Gibson	San Luis Obispo County
Supervisor Ted Novelli	Amador County
Supervisor Mark Lovelace	Humboldt County
Supervisor Greg Cox	San Diego County

We anticipate a meeting of the Task Force to convene prior to the CSAC Board of Directors meeting on March 25, 2010.

Additionally, Governor Schwarzenegger did strongly endorse the "Best Practices Budget Accountability Act" proposal by *California Forward* in his recent State of the State Address. He urged the Legislature to adopt the components of that proposal and send them to the voters for consideration on the November ballot.

Recommendation. This item is for your information only. Staff will be available to discuss the current status of the various reform measures at your meeting.

Staff Contact. Please contact Jean Kinney Hurst (jhurst@counties.org or (916) 327-7500 x515) or Geoffrey Neill (gneill@counties.org or (916) 327-7500 x567) for additional information.

Initiative Deadlines for November 2010 Election

Sept 25, 2009	Submit initiative to AG (suggested date, not required)
Nov 17, 2009	Deadline for AG to issue Title & Summary with LAO's fiscal analysis (if filed by Sept 25)
Feb 26, 2010	Last day to file signatures with county election offices (if less than 110% of required signatures)
April 16, 2010	Last day to file signatures with county election offices (if at least 110% of required signatures)
June 24, 2010	Last day for Secretary of State to determine whether measure qualifies for November ballot
Nov 2, 2010	Election Day

The Legislature can place a measure on the ballot far later than initiative proponents can, as late as a month and a half before an election – in this case mid-September – without causing significant disruption to the process.

The current initiative signature requirements are:
Initiative Statute: 433,971
Constitutional Amendment: 694,354

Outstanding Initiatives

Prepared by CSAC staff. Current as of January 12, 2010.

More information about all of the measures below, including title and summary (when available) and the measures' language, is available at www.sos.ca.gov/elections/elections_i.htm (general information), <http://ag.ca.gov/initiatives/activeindex.php?active=A> (titles and summaries), and www.lao.ca.gov/laoapp/ballot_source/Initiatives.aspx (full fiscal analyses).

Qualified for June 8, 2010, Primary Election Ballot

- Property tax: new construction exclusion: seismic retrofitting.
- Political Reform Act of 1974: California Fair Elections Act of 2008.
- Elections: open primaries.
- New Two-Thirds Requirement for Local Public Electricity Providers.

Qualified for November 2, 2010 Primary Election Ballot.

- Safe, Clean, and Reliable Drinking Water Supply Act of 2010.

Pending Signature Verification

- Allows Auto Insurance Companies to Base Their Prices in Part on a Driver's History of Insurance Coverage.

Pending Raw Count of Signatures

- None at this time

Initiatives and Referenda in Circulation as of Jan. 12 (substantially similar duplicate measures not listed)

- Allows Insurance Companies to Increase or Decrease the Cost of Auto Insurance Based on a Driver's Coverage History.
- Changes Constitution to Allow Voter to Call a Constitutional Convention with an Initiative.
- Calls a Convention to Draft New State Constitution.
- Changes California Law to Legalize, Regulate, and Tax Marijuana.
- Repeals Recent Legislation That Would Allow Businesses to Carry Back Losses, Share Tax Credits, and Use a Sales-Based Income Calculation.
- Wealth Tax.
- Changes California Law to Legalize Marijuana and Allow It to Be Regulated and Taxed.
- Changes California Law to Legalize, Regulate, and Tax Marijuana.
- Eliminates the Law Allowing Married Couples to Divorce. (Annulment still OK)
- Redistricting of Congressional Districts.
- Reduces Legislative Session and Pay by at Least 50%.
- Requires Public Schools to Offer Christmas Music.
- Limits on Certain Insurance Practices and Costs.
- Reinstates Right of Same-Sex Couples to Marry.
- Changes Legislative Vote Requirement to Pass a Budget or Raise Taxes from Two-Thirds to a Simple Majority.
- Creates Special Constitutional Rule for Speech Based on the Bible.
- Changes California Law to Legalize Marijuana and Release Non-Violent Marijuana Offenders from Jail.
- Limits on Legislators' Terms in Office.
- Eliminates State Income and Property Taxes for All Residents 55 Years Old and Older.
- Prohibits Public Funding of Schools Through Taxes.
- Prohibits Public Schools from Establishing Educational Curriculum.
- Changes Laws Governing Ballot Measures.
- Criminalizes False Statements About Legislative Acts, Elections, or Government Employees.
- Changes Constitutional Definition of a Person to Include Fertilized Human Eggs.
- Limits on Insurance Company Practices.
- Changes Voter Approval Requirement for Local Bonds and Taxes to 55% from Two-Thirds so Long as Accountability Requirements are Met.
- Makes Illegal the Use of Public Employee Wage Deductions for Political Activities.
- Imposes Political Contribution Restrictions on Public Employee Labor Organizations.
- Denial of Public Benefits for Persons Who Cannot Verify Lawful Presence. Eliminates Benefits for Certain Children in CalWORKS Program.

- Prohibits Voting By Those Who Fail to Provide Government-Issued Identification. Adds Additional Absentee Voting Requirements.
- Requires Waiting Period and Parental Notification Before Terminating Pregnancy of Female Under 18.
- Changes Legislative Vote Requirement to Pass a Budget from Two-Thirds to a Simple Majority. Retains Two-Thirds Vote Requirement for Taxes.
- Requires Parental Notification Before Terminating Pregnancy of Female Under 18.
- Repeals Recent Legislation That Would Allow Businesses to Carry Back Losses, Share Tax Credits, and Use a Sales-Based Income Calculation to Lower Taxable Income.
- Prohibits the State from Taking Funds Used for Transportation or Local Government Projects and Services.
- Changes California's Income and Property Tax Laws.
- PROHIBITS THE STATE FROM TAKING FUNDS USED FOR TRANSPORTATION OR LOCAL GOVERNMENT PROJECTS AND SERVICES.
- IMPOSES ADDITIONAL TAX ON CIGARETTES FOR CANCER RESEARCH.
- CHANGES VOTER APPROVAL REQUIREMENT FOR LOCAL EDUCATION SPECIAL TAXES TO 55% FROM TWO-THIRDS SO LONG AS ACCOUNTABILITY REQUIREMENTS MET.
- PROHIBITS LEGISLATORS FROM VOTING ON LEGISLATION THAT FINANCIALLY AFFECTS CONTRIBUTORS.
- ESTABLISHES \$18 ANNUAL VEHICLE LICENSE SURCHARGE TO HELP FUND STATE PARKS AND WILDLIFE PROGRAMS AND GRANTS FREE ADMISSION TO ALL STATE PARKS TO SURCHARGED VEHICLES. INITIATIVE STATUTE.
- REQUIRES ASSESSMENT OF MOST COMMERCIAL PROPERTY AT LEAST ONCE EVERY THREE YEARS AND INCREASES HOMEOWNERS' TAX EXEMPTION.
- PROVIDES ADDITIONAL SCHOOL FUNDING BY INCREASING COMMERCIAL PROPERTY TAXES. INCREASES HOMEOWNERS' TAX EXEMPTION.
- PROHIBITS STATE FROM TAXING COMMUNITY HOSPITALS TO OBTAIN FEDERAL FUNDS FOR MEDICAL UNLESS CERTAIN REQUIREMENTS ARE MET.

Initiatives Pending at AG's Office as of Jan. 12 (substantially similar duplicate measures not listed)

- The Best Practices Budget Accountability Act - *California Forward's* measure to change state budget practices.
- New Public Employees Benefits Reform Act - New public pension reform initiative.
- Foster Child Opportunity Scholarship Act – Provides some money to foster kids for private schools; includes accountability measures.
- California Against Slavery Act to Strengthen Human Trafficking Law – Self-explanatory; increases civil and criminal penalties, changes evidence rules, etc.
- Corporate Political Accountability Act – Requires shareholder approval prior to making political expenditures.
- Taxpayer Protection Act of 2010 – Requires voter approval of state tax increases and changes definitions of fees and special taxes.
- Government Spending Limit Act of 2010 – Strengthens spending limit based on Gann initiative and requires funds over that limit to pay down debt, increase the reserve, spend on education, or refund to taxpayers.
- California Jobs Initiative – Would prohibit implementation of AB 32 until state unemployment falls below 5.5% for four consecutive quarters.
- The McCauley-Rosen Wealth Tax and Oceans Preservation Act – Imposes new taxes on the most wealth and uses the money to buy controlling shares in specific major oil, finance, and car corporations, and to restore Hetch Hetchy.
- Increased Lottery Funding for Schools and Lottery Public Accountability Act of 2010 – Attempts to increase revenue generated for schools by the lottery.
- Ask Us First Taxpayer Protection Act of 2010 – Requires majority voter approval of state tax increases.
- Financial Accountability in Redistricting Act – Amends the recently-enacted redistricting law to make it more accountable.
- The Renew California Act of 2010 – Rewrites the Constitution in whole.

Major Reform Proposals

Name	California Forward	Repair California	Californians to Protect Local Taxpayers & Vital Services	CCS Partnership
Website	www.caforward.org	www.repaircalifornia.org	www.savelocalservices.com	www.ccspartnership.org
Who they are	Bi-partisan, foundation funded, public-interest group initiated	The Bay Area Council (a business-funded group), their partners and supporters	Primarily League of Cities, CA Alliance for Jobs, and CA Transit Assn	CSAC, League of Cities, CSBA
What they want	<ul style="list-style-type: none"> - Filed two initiatives that do the following - State that "the proceeds of any tax or assessment levied or imposed" by a local agency "belong exclusively to the entity that enacted [it]" - Protect redevelopment property taxes from state redirection - Remove authority to suspend Prop. 42 - Require new statutes and initiatives that expand programs and increase state costs by \$25 million to provide sufficient new revenue or specific savings (doesn't apply to GO bonds, one-time expenditures, restored cuts, or growth from work load increases) - Authorize Gov to reduce or eliminate any budget appropriation up to amount necessary to restore budget balance if the Legislature fails to address a fiscal emergency within 45 days of a Gov's proclamation (Prop. 58); Legislature can overturn all or some cuts with 2/3 vote - Require Governor's proposed budgets to include: <ul style="list-style-type: none"> - Proposals for budget year and following yr - Projection of anticipated expenditures and revenues for the 3 years after that (5 total) - Performance standards for state agencies and programs 	<ul style="list-style-type: none"> - Pursuing two initiatives: <ul style="list-style-type: none"> - Allow citizens to call a Convention - Call a Convention - Convention would convene by 6/3/11 and conclude by 3/1/12 or 7/1/12 - Vote on proposals by 11/6/12 - Appoints FPPC as administrator - Funds Convention with \$1.75/CA resident from state's General Fund (\$65-70 million) - 3 types of delegates <ul style="list-style-type: none"> - 4 from Indian Tribe - 240 from Assembly districts (3/district), jury pool-style - ~250 delegates chosen jointly by counties, cities, & schools, by population - Delegate qualifications: <ul style="list-style-type: none"> - Citizen, resident, 18 y.o., non-felon - County delegates cannot since 2005 have been: - Elected or appointed 	<ul style="list-style-type: none"> - Protects from any kind of diversion all taxes "imposed or levied" by a local government for that government's purposes - Prohibits suspension of Prop. 1A - Prohibits property tax transfers to pay for new local mandates - Prohibits paying for new local mandates by allocating 0.65 percent VLF rate to others besides cities, counties, and the Local Revenue Fund - Specifies that all net revenues from state taxes on motor vehicle fuels be deposited in HUTA, which is declared a trust fund to be used solely for public transit infrastructure and for streets and roads costs - Requires 2/3 legislative vote to reallocate HUTA from 6/30/9 levels - Any HUTA allocation to 	<ul style="list-style-type: none"> 545 local officials voted at the CCS Summit to support the following reforms: <ul style="list-style-type: none"> <i>Protect Local Revenue</i> (the overwhelming favorite) <i>Reform Term Limits</i> (a distant second) <i>Change Requirements for Approval of Local Taxes</i> <i>Require New Funding Sources for Statewide Ballot Measures that Impose New Obligations</i>

Name	<i>California Forward</i>	Repair California	Californians to Protect Local Taxpayers & Vital Services	CCS Partnership
	<ul style="list-style-type: none"> - 5-year capital plan - Require updated revenue and spending projections on May 15 and Oct 15 - Require each house to refer budget bills to a joint committee by May 1 and conference report back to each house by June 20 - Require budget passage by June 25, or legislators forfeit salary and reimbursement until budget is passed - Lower threshold for budget bill appropriations to majority; retains 2/3 for all other appropriations and strengthens 2/3 requirement for taxes - Require "nonrecurring revenue" to be spent on one-time expenditures - Require legislative oversight of every program run by the state or by a local agency on behalf of the state at least every 10 years, to result in bills that improve or end programs - Implement performance-oriented budgeting based on state agencies' missions and performance metrics - Authorize "Countywide Strategic Action Plan" <ul style="list-style-type: none"> - Initiation requires majority of BOS - Adoption allows BOS to ask for sales tax hike by majority vote (up to 1 cent) - Must contain: declaration of goals and outcomes, inventory and assessment of existing public programs, improvement plan including progress measurement and annual reporting, resource allocation plan, a school element determined by school districts, a city element determined by each city - Schools get half of any tax increase 	<p>government officials</p> <ul style="list-style-type: none"> - State or local lobbyists - State employees - Formally involved with a party or candidate committee - Convention may propose a revision or series of separate amendments, as well as necessary statutory changes - May not raise taxes, change frequency of property assessment, change definition of "change in ownership," or affect marriage or abortion rights, gambling or casinos, affirmative action, freedom of the press, freedom of religion, or the death penalty - Limits Convention to: <ul style="list-style-type: none"> - Government Effectiveness (performance review) - Elections and Influence (initiatives, candidates, campaign finance, term limits, "legislative responsiveness") - Spending and Budgeting (budget process and term, vote threshold, accountability, efficiency) - Governance (state-local relationship, structure of state government) 	<p>locals may not be borrowed, deferred, delayed, etc</p> <ul style="list-style-type: none"> - Limits HUTA use for bonds to 1/4 of revenues plus 1/4 of any local allocation - Restores traditional (pre-2001) Public Transit Account allocations and declares it a trust fund - Prohibits any allocation of Bradley-Burns sales tax to local transportation funds from being reduced below 2008 allocation percentage - Requires Prop. 42 sales tax on gas to go quarterly to a Transportation Investment Fund (declared a trust fund) - Protects redevelopment property taxes from state redirection 	

Date: December 16, 2009
Initiative 09-0064

League Measure

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**PROHIBITS THE STATE FROM TAKING FUNDS USED FOR TRANSPORTATION
OR LOCAL GOVERNMENT PROJECTS AND SERVICES. INITIATIVE**

CONSTITUTIONAL AMENDMENT. Prohibits the State from shifting, taking, borrowing, or restricting the use of tax revenues dedicated by law to fund local government services, community redevelopment projects, or transportation projects and services. Prohibits the State from delaying the distribution of tax revenues for these purposes even when the Governor deems it necessary due to a severe state fiscal hardship. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state revenues. (09-0064.)

Constitutional Convention #1

Date: December 22, 2009
Initiative 09-0066

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

ALLOWS VOTERS TO PLACE QUESTION OF CALLING A CONSTITUTIONAL CONVENTION ON THE BALLOT. INITIATIVE CONSTITUTIONAL AMENDMENT.

Amends the Constitution to permit voters to place on the ballot the question of whether to call a convention to revise the state Constitution. Permits any ballot measure calling a convention to specify the parts of the Constitution that the convention can or cannot revise. Requires any ballot measure calling a convention to specify the process for selection of convention delegates. Repeals requirement that convention delegates be elected by voters. Permits voters to call a convention no more than once every ten years. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: No direct fiscal impact, as any effect would depend on whether and how voters used the power to call and accept the recommendations of a constitutional convention in the future. Potentially major fiscal changes in state and local governments could result. (09-0066.)

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CALLS A LIMITED CONVENTION TO PROPOSE CHANGES TO STATE

CONSTITUTION. INITIATIVE STATUTE. Calls convention to propose changes to state

Constitution related to government, state spending and budgeting, elections and lobbying.

Provides that proposed changes to constitution or laws become effective only after approved by voters in statewide election. Forbids changes to taxes or fees, marriage, abortion, gambling, affirmative action, freedom of the press or religion, immigration rights, and the death penalty.

Establishes rules for selecting convention delegates to reflect a diverse range of citizens.

Requires selection of delegates and conduct of convention to be open and public. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local

government: One-time increase of state government spending up to \$95 million to administer a

constitutional convention. Potentially major changes in state and local governments if voters

approve the convention's recommendations, including higher or lower revenues or greater or less spending on particular public programs. (09-0067.)

December 4, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative related primarily to state authority over local government resources (A.G. File No. 09-0064) and below is our revised analysis of the initiative's fiscal effects.

BACKGROUND

Local governments receive resources from various sources, including funding from state tax revenues that are then given to local governments, as well as from locally imposed taxes and fees.

Transportation Funding

State transportation resources are derived from several major sources including excise taxes and sales taxes on gasoline and diesel fuels that are deposited into various state transportation accounts. In general, as described below, the revenues from these taxes are required to be used for specified transportation purposes, including distribution to local governments. Current law generally allows these funds to be loaned temporarily on a cash flow basis between the state's various transportation accounts in order to pay monthly obligations, such as Caltrans' payroll and payments to construction contractors. While fuel tax revenues generally can be used only for transportation purposes, the California Constitution allows, under certain circumstances, for these revenues to be loaned for up to three years to the state's General Fund for non-transportation purposes.

State Excise Tax on Gasoline and Diesel Fuel

The state currently charges an excise tax of 18 cents per gallon of gasoline and diesel fuel sold in California, commonly known as the "gas tax." In 2008-09, this tax generated roughly \$3 billion in revenues. The Constitution requires that revenues from the gas tax

be used only for transportation purposes, mainly to fund highway and road repairs or improvements. Current law requires that these revenues be deposited into the state's Highway Users Tax Account (HUTA) and be allocated by formulas. Specifically, two-thirds of gas tax revenues in the HUTA are allocated to the state, mainly for Caltrans to maintain and repair the state's highways. The other one-third of the revenues is given to cities and counties for local street and road maintenance and improvement. The Legislature currently can amend this allocation through passage of a bill signed by the Governor.

State Sales Tax on Gasoline and Diesel Fuel

The state currently charges a sales tax on the purchase of gasoline and diesel fuel. State law requires that almost all of these sales tax revenues be used for transportation purposes. These purposes include local street and road improvements, projects that expand capacity on the state's highway and transit systems, planning, and transit and rail operations. A portion of the sales tax on gasoline and diesel fuel is deposited into the Public Transportation Account (PTA) for the specific purposes discussed below, with the rest of the revenues deposited into the General Fund.

PTA Funding. Current law requires that funds in the PTA be used only for transportation planning and mass transportation purposes. Funds in the PTA are statutorily allocated by formula to local transit operators and the state for mass transportation purposes. The Legislature currently can amend this formula through the passage of a bill signed by the Governor—subject to certain limitations as interpreted by the courts.

Proposition 42 (2002) Transfer. The Constitution requires that the gasoline sales tax revenues deposited into the General Fund be transferred to the Transportation Investment Fund (TIF). These funds have been counted as tax revenues for purposes of calculating the minimum amount of K-14 education funding required under Proposition 98. Over the past five years, these revenues have averaged roughly \$1.4 billion per year. Under certain conditions, the Constitution allows this transfer to be suspended. Suspended amounts, however, must be repaid with interest within three years. The Legislature currently can change the allocation of TIF resources through the passage of a bill signed by the Governor.

Other Local Government Revenues

Property Tax

The Constitution establishes a 1 percent maximum property tax rate on real property and directs counties to collect these tax revenues and allocate them to local governments according to law. While the Legislature may modify property tax allocation laws, the Legislature generally may not do so if it would decrease the total countywide share of property taxes allocated to cities, counties, and special districts. An exception to this

provision is known as a “Proposition 1A (2004) suspension,” after the measure that established this procedure.

Proposition 1A (2004) Suspension. No more than twice in ten years, during a severe state fiscal hardship, the Legislature may modify property tax allocation laws to decrease for one year the percentage of property taxes allocated to cities, counties, and special districts. The Legislature must repay each local government’s reduced property taxes, with interest, within three years. In 2009, the Legislature enacted a Proposition 1A (2004) suspension, shifting 8 percent of every city, county, and special district’s 2008-09 property taxes to educational agencies—a total of \$1.9 billion in shifted revenue. The state must repay each local government by June 30, 2013.

Tax Increment

The Constitution and other statutes authorize city and county redevelopment agencies to create “project areas” in blighted, urban areas. After a redevelopment agency creates a project area, it receives all the growth in property tax revenues (called “tax increment”) generated in the area. Other local agencies serving the project area continue to receive the amount of property taxes they received before the agency created the project area.

To partially mitigate the fiscal effect of redevelopment on other local agencies, state law requires most redevelopment agencies to “pass through” a portion of their tax increment to other agencies serving the project area. In addition to these ongoing pass-through obligations, the state periodically has required redevelopment agencies to make payments to schools. Current law, for example, requires redevelopment agencies to contribute to schools \$1.7 billion in May 2010 and \$350 million in May 2011. These payments to schools offset a commensurate amount of required state spending. Redevelopment agencies currently are challenging in court the state’s constitutional authority to require these payments.

Mandates and VLF

State-Reimbursable Mandates. The Constitution generally requires the state to reimburse local governments when the state “mandates” a new local program or higher level of service. In general, the state reimburses local governments for mandates through appropriations in the annual budget act.

Vehicle License Fee (VLF). State law imposes a 1.15 percent VLF on the depreciated value of cars and trucks. The Department of Motor Vehicles (DMV) collects the VLF at the time of vehicle registration. The 1.15 percent rate includes a temporary 0.5 percent rate and a base 0.65 percent rate. The Constitution identifies three broad uses for revenues from the base VLF rate: offsetting DMV’s collection costs, supporting the Local Revenue Fund (used for certain county health and social service programs), and distributing to cities and counties.

Using Base VLF Revenues to Offset State Mandate Costs. The Legislature has broad authority to modify base VLF allocation statutes, including shifting revenues to local governments to offset their costs to implement a state mandate. In 1991-92, for example, the state (1) modified the VLF depreciation schedule to generate higher revenues and (2) changed VLF allocation statutes to distribute the new revenues to counties responsible for new health and social services mandates. Because the increased VLF revenues offset the counties' costs to implement the mandates, the state was not required to appropriate mandate reimbursements to counties in the annual budget.

Other Local Revenues

The Constitution authorizes local governments to impose local taxes for local purposes. Over the years, local governments have imposed a wide range of local taxes, including Bradley-Burns sales, business license, utility users, and transaction and use taxes. The Constitution generally does not authorize the state to use or reallocate revenues raised under these taxes.

PROPOSAL

This measure amends the Constitution to constrain the state's authority to redirect or make changes to state and local resources and their allocation after October 21, 2009. Under the measure, the State Controller would reimburse affected local governments or accounts within 30 days if the state were found to have violated any of its provisions. Funds for these reimbursements, including interest, would be continuously appropriated from the state General Fund and do not require legislative approval. Any statute enacted between October 21, 2009 and the effective date of this measure that would have been prohibited under this measure would be repealed.

Transportation Funding

Prohibits Borrowing or Redirection of Certain Transportation Resources. The measure prohibits gasoline and diesel excise tax revenues, gasoline sales tax revenues, and funds deposited into the PTA from being loaned temporarily, or permanently, to the General Fund, or any other state fund. This eliminates the state's ability to borrow transportation funds for non-transportation purposes. The measure also eliminates Caltrans' ability to make temporary loans between various transportation accounts to manage cash flow—such as to pay staff and to fund the construction of projects.

Requires Gasoline Sales Tax to Be Deposited Directly Into the TIF. The measure requires the revenues from the sales tax on gasoline to be deposited directly into the TIF, instead of first flowing through the General Fund. (It is not clear if this change would affect calculations related to K-14 education described above.) Unlike current law, this transfer could not be suspended.

Requires Waiting Period to Amend Allocations. The measure requires any bill amending the allocation of either gas tax revenues in the HUTA or gasoline sales tax revenues in the TIF to remain in its final form for at least 12 days prior to passage in either house of the Legislature.

Specifies Allocation of PTA Funds in Constitution. The measure specifies in the Constitution the portion of PTA funds that would be made available for various programs. Under the measure, about one-half of all PTA funding would be given to local transit agencies for operational support. These allocations could not be changed without a vote of the people.

Other Local Government Revenues

Property Tax. The measure eliminates the state's authority to shift property taxes from cities, counties, and special districts to schools during a severe state fiscal hardship. Under the measure, the state would continue to be responsible for the repaying of local governments for the 2009 Proposition 1A (2004) suspension, but could not shift property tax revenues to schools again.

Tax Increment. Under the measure, the Legislature could not enact laws after October 21, 2009 that require redevelopment agencies to shift funds to schools or other agencies beyond any amounts required by statutes in existence on January 1, 2008. The effect of the measure's provisions regarding the \$2 billion 2009-10 and 2010-11 redevelopment shifts (enacted before October 21, 2009) is not clear. While the measure does not contain provisions directly repealing these payments, it declares these laws to be illegal under existing constitutional provisions. It is possible that this declaration could affect the outcome of the pending litigation regarding these payments.

VLF. The measure eliminates the Legislature's authority to reallocate VLF revenues to offset state mandate costs. This provision would not affect the 1991-92 VLF changes that reimburse local governments for health and social services costs.

Other Local Revenues. The measure specifies that the Legislature may not reallocate, borrow, or use revenues raised from locally imposed taxes.

FISCAL EFFECTS

This measure does not affect the total amount of state and local government revenues. Instead, it relates primarily to state authority over local government resources. While some elements of this measure would be subject to future interpretation by the courts, its overall effect is to constrain the state's ongoing authority to redirect or make changes to state and local resources and their allocation, beginning October 21, 2009. The measure would have significant immediate and long-term fiscal impacts on state and local governments, as described below.

Higher and More Stable Resources for Non-Education Local Governments

Long-Term Effect. Given the number and magnitude of past state actions affecting local tax revenues and resources, this measure's restrictions on state authority to enact such measures in the future would have potentially major beneficial fiscal effects on non-education local governments. For example, the state could not enact measures that require redevelopment agencies to pass through more revenues to schools. Similarly, the state could not suspend payments to local transit agencies to pay state costs. In these cases, this measure would result in non-education local government resources being more stable—and higher—than otherwise would be the case. The magnitude of increased local resources is unknown and would depend on future actions by the state. Given past actions by the state, however, this increase in local resources could be billions of dollars in some years. These increased local resources could result in higher spending on local programs or decreased local fees or taxes.

Near-Term Effect. Given past state actions during times of state fiscal difficulty, it is possible that this measure would invalidate some inconsistent state laws enacted between October 21, 2009 and the effective date of this measure. While the nature and terms of these state laws is not known, any such repeal likely would result in higher and/or more stable revenues to cities, counties, special districts, and redevelopment agencies (non-educations local governments) than otherwise would be the case. In addition, as noted above, the measure's fiscal effect on pending litigation regarding \$2 billion of redevelopment funds is not clear.

Lower Resources for State Programs

In general, as we discuss below, the measure's effect on state finances would be the opposite of its effect on local finances. That is, this measure would result in *decreased* resources being available for state programs than otherwise would be the case.

Resources Available for State Budgetary Purposes. Under the measure, the state could not: (1) use redevelopment or other local funds to support education, (2) borrow or redirect fuel or property tax revenues as part of a state budget solution, or (3) reallocate VLF revenues to offset state mandate reimbursement obligations. As a result, the state would need to take alternative actions to balance the state budget in some years—such as increasing taxes or decreasing spending on state programs. Given current and previous actions by the state, we estimate that this decrease in state fiscal authority could reduce state resources by billions of dollars in some future years.

Transportation Project Resources. By eliminating Caltrans' authority to make temporary cash loans between the state's various transportation accounts, this measure would likely result in slower spending on construction projects, particularly in the near term. This is because Caltrans would need to accumulate a large enough balance in each account (potentially, in total affecting several hundred million dollars) to meet its monthly cash flow needs.

Summary of Fiscal Effects

The measure would have the following major fiscal effects:

- Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state revenues.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance

Convention #1

December 7, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional amendment related to the ability of the voters to call for a state constitutional convention (A.G. File No. 09-0066).

Background

State Law Distinguishes Between Constitutional Revisions and Amendments. California law distinguishes between *amendments* and *revisions* to the State Constitution. A constitutional revision generally is broader in scope than an amendment. A revision, for example, may substantially alter the basic governmental framework of the state. Constitutional amendments may be placed before the voters either by a vote of the Legislature or by an initiative petition signed by a requisite number of voters. Proposed revisions, by contrast, may be placed before voters after either a vote of the Legislature, or, as described below, a constitutional convention.

Calling a Constitutional Convention. The Constitution provides that only the Legislature, with a two-thirds vote of each house, may submit to voters the question of whether to call a constitutional convention. If a majority of voters approve such a proposal, the Legislature must provide for the convention within six months. The Constitution, however, specifies that delegates to a convention must be elected from districts as nearly equal in population as may be practicable. The Constitution does not specify how and under what circumstances the convention's proposals subsequently must be placed before voters. Further, the Constitution does not specify what subjects a convention may address.

Proposal

Grants Electorate the Ability to Call a Constitutional Convention. The proposed measure allows voters to call a constitutional convention through a statutory initiative measure no more than once every ten years.

Changes Possible Terms and Conditions of a Convention. The proposed measure removes language from the Constitution requiring delegates to be elected from districts nearly equal in population. Instead, this measure requires those calling for a constitutional convention to specify a “fair method” for selecting delegates. In addition, the proposal would allow the callers of a constitutional convention to limit the subject matter that may be considered in such a convention.

Fiscal Effect

This measure would have no direct fiscal impact, as any effect would depend on future actions by voters regarding an initiative calling for a constitutional convention. Providing the authority to voters to propose such an initiative, however, would make it more likely that there would be such a convention in the future. In such cases, there would be costs of convening a constitutional convention. In addition, the resulting recommendations of a constitutional convention, if approved by the voters, could change the structure of state and local governments substantially. This could result in higher or lower state and local taxes and other revenues. It could also result in more or less state and local spending on particular public programs. The fiscal effects resulting from a convention would depend on a number of factors—including the decisions of the convention itself, the response of voters to the convention’s recommendations, and the actions of future elected state officials.

Fiscal Summary. This measure would have the following fiscal effect:

- No direct fiscal impact, as any effect would depend on whether and how voters used the power to call and accept the recommendations of a constitutional convention in the future. Potentially major fiscal changes in state and local governments could result.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance

Convention #2



December 7, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to the calling of a state constitutional convention (A.G. File No. 09-0067).

Background

State Law Distinguishes Between Constitutional Revisions and Amendments. California law distinguishes between *amendments* and *revisions* to the State Constitution. A constitutional revision generally is broader in scope than an amendment. A revision, for example, may substantially alter the basic governmental framework of the state. Constitutional amendments may be placed before the voters either by a vote of the Legislature or by an initiative petition signed by a requisite number of voters. Proposed revisions, by contrast, may be placed before voters after either a vote of the Legislature, or, as described below, a constitutional convention.

Calling a Constitutional Convention. The Constitution provides that only the Legislature, with a two-thirds vote of each house, may submit to voters the question of whether to call a constitutional convention. If a majority of voters approve such a proposal, the Legislature must provide for the convention within six months. The Constitution does not specify how and under what circumstances the convention's proposals subsequently must be placed before voters. Further, the Constitution does not specify what subjects a convention may address. In addition, the Constitution specifies that delegates to a convention must be elected from districts as nearly equal in population as may be practicable.

Proposal

Proposal Calls a State Constitutional Convention. As described above, an initiative measure such as this one currently cannot call a constitutional convention. Consistent with the authority that would be granted under a separate proposed initiative constitutional amendment (A.G. File No. 09-0066), however, this measure calls for a convention to revise or amend the Constitution.

Convention Commission and Convention Clerk Would Oversee Convention Process. This measure creates a five-member Constitutional Convention Commission (“convention commission”), which is charged with the administration of the convention, selection of the convention clerk, oversight of the delegate selection processes, and the provision of training and information for delegates, among other duties. The convention commission consists of members of the Fair Political Practices Commission. The convention clerk is charged with preparing and revising a budget to fund the convention; providing a two-day workshop for delegates on convention rules, ethics, U.S. Voting Rights Act requirements, and other relevant information; preparing rules of procedure; serving as temporary chair until delegates select a chair; maintaining the convention’s official Web site, and otherwise overseeing the administration of the convention.

Delegates Selected at Random by Assembly District, by Local Officials, and by Indian Tribe. The convention’s 466 delegates would be selected in three ways:

- Three “assembly district” delegates to be chosen at random from each of the state’s 80 assembly districts.
- Based on current populations, 222 county delegates to be chosen by local government committees and city councils.
- Four delegates chosen by California’s federally recognized Indian Tribes.

To select assembly district delegates, the State Auditor would select at random the names of 400 residents in each Assembly district, compiling names by self-nomination or using any database that the Auditor deems appropriate (which may include voter registration, taxpayers lists, and telephone directories). Once the Auditor sends letters of invitation and instructions, the 400 selected individuals could choose whether to participate and respond to the letter. From the pool of respondents, the State Auditor would select 50 people in each Assembly district to receive a second invitation to attend a two-day session conducted by the convention commission. At the two-day session, those attending from each assembly district would elect three delegates and two alternates from among themselves.

County delegates would be selected at the county level. There would be one county delegate for every 175,000 persons residing in each county. There would be at least one delegate in every county. County delegates would be chosen by a county delegate selection committee made up of two members of the county's board of supervisors, two members representing cities within the county, and one person representing governing boards of the county's school districts. The selection committee would choose its delegates and alternate delegates from a pool of individuals who apply. In cities with more than 1,000,000 people, the city council would be able to appoint delegates and alternate delegates for their share of the county's delegate allocation using a similar public application process as the county committees (with the rest of the county's allocation to be chosen by the county selection committee). Currently, cities affected by these provisions are Los Angeles, San Diego, and San Jose.

Indian tribes in each of the four federal judicial districts of the state would meet to select one delegate and two alternate delegates to represent them.

Scope of Convention. This measure specifies what areas that the convention may consider when revising or amending the Constitution. These are:

- Government effectiveness—such as methods for periodically reviewing state departments to assess their performance.
- Elections and the reduction of “special interest influence”—such as considering changes to initiative and referendum processes, election of state officeholders, campaign finance, term limits, and ways to change the Legislature.
- Spending and budgeting—such as the state budget process and related requirements, voting thresholds for the state budget, and spending requirements.
- Governance—such as the relationship between state and local governments and the structure of legislative and executive branches of government.

Further, the measure prohibits any revision or amendment from the convention that imposes or reduces any taxes or fees, sets the frequency at which real property is assessed, or defines “change in ownership” as it relates to any tax or fee. The convention also would prohibit revisions or amendments related to marriage or abortion rights, gambling or casinos, affirmative action, freedom of the press, freedom of religion, immigration rights, or the death penalty.

Convention Procedures. The measure proposes broad outlines for procedures and rules of the convention. The convention commission would determine the time and location of the convention, to start no later than June 3, 2011. The measure further outlines some rules (such as majority approval to adopt proposals), procedures, and schedule of the convention, and ways in which those rules, procedures, and schedule may be altered by delegates. The measure further stipulates that all sessions—including committee or subcommittee sessions—of the convention would be made open to the public. The convention would have to adjourn on or before July 1, 2012.

Payment of Various Convention Expenses. The measure outlines various costs that the state would pay for the holding of the convention. During the time the convention is in session, delegates would be paid a rate equal to the lowest-paid members of the Legislature (\$95,291 annually, effective in December 2009). The measure provides that at least \$1.75 per California resident—currently about \$67 million—and no more than \$95 million would be paid from the state’s General Fund to cover convention costs. The measure authorizes the state’s Department of Finance to adjust the funds provided for convention expenses for inflation.

Voters Must Approve Convention’s Recommendations. In order to take effect, the state’s voters must approve the convention’s revisions and amendment recommendations no later than November 6, 2012.

Fiscal Effect

\$95 Million Maximum Cost for State. This measure would affect the finances of state government directly as a result of expenses required under this measure concerning a constitutional convention, the selection and training of delegates, and the compensation of delegates. One-time state expenses would not exceed \$95 million, as stated in the measure.

Possible Effects if Voters Approve Convention’s Recommendations. The outcome of the convention, if approved by the voters, could change the structure of state and local governments substantially. This indirectly could result in higher or lower revenues for state or local governments. It could also result in more or less state and local spending on particular public programs. For instance, this could be the case if the convention proposed lowering the vote threshold for new taxes or a major realignment of state-local functions. The fiscal effects resulting from the convention would depend on a number of factors—including the decisions of the convention itself, the response of voters to the convention’s recommendations, and the actions of future elected state officials.

Fiscal Summary. This measure would have the following major fiscal effects:

- One-time increase of state government spending up to \$95 million to administer a constitutional convention.
- Potentially major changes in state and local governments if voters approve the convention's recommendations, including higher or lower revenues or greater or less spending on particular public programs.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance

CA Fwd - Local



December 23, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory initiative related to local government revenue raising and the use of various state and local resources (A.G. File No. 09-0071, Amdt. #1-S).

BACKGROUND

Sales Tax

Currently, local governments (cities and counties) receive a portion of the existing 8.25 percent sales and use tax revenues. (Of this rate, 1 percent is temporary and will expire at the end of 2010-11.) In addition, local agencies may impose a higher sales tax rate in their communities, subject to the approval of their local voters. The Constitution's voter approval threshold depends on how the tax proceeds would be used. Specifically, if the local government would use the tax proceeds for:

- Special or designated purposes, the tax requires approval by two-thirds of local voters.
- General purposes, the tax requires approval by a majority of local voters.

The Constitution allows cities and counties to share sales tax revenues with other cities and counties if the sharing agreement is approved by a majority of local voters or two-thirds of the affected governing bodies.

Property Tax

The Constitution establishes a 1 percent maximum base property tax rate on real property and directs counties to collect these tax revenues and allocate them to local governments (cities, counties, special districts, redevelopment agencies, schools, and community colleges) according to law. While the Legislature may modify property tax

allocation laws, the Legislature generally may not do so if it would decrease the total countywide share of property taxes allocated to cities, counties, and special districts. An exception to this provision is known as a “Proposition 1A (2004) suspension,” after the measure that established this procedure.

Proposition 1A (2004) Suspension. No more than twice in ten years, during a severe state fiscal hardship, the Legislature may reduce city, county, and special district property taxes—and increase school property taxes. Within three years, the Legislature must repay city, county, and special districts for their reduced property tax revenues. In 2009, the Legislature enacted a Proposition 1A suspension, shifting 8 percent of every city, county, and special district’s 2008-09 property taxes to educational agencies—for a total of \$1.9 billion in shifted revenue. The state must repay each local government by June 30, 2013.

Tax Increment

City and county redevelopment agencies may create “project areas” in blighted, urban areas. After a redevelopment agency creates a project area, it receives all the growth in property tax revenues (called the “tax increment”) generated in the area. Other local agencies serving the project area continue to receive the amount of property taxes they received before the agency created the project area.

To partially mitigate the fiscal effect of redevelopment on other local agencies, state law requires most redevelopment agencies to “pass through” a portion of their tax increment to other agencies serving the project area. In addition to these ongoing pass-through obligations, the state periodically has required redevelopment agencies to make payments to schools. Current law, for example, requires redevelopment agencies to contribute to schools \$1.7 billion in 2009-10 and \$350 million in 2010-11.

Transportation Funding

The state currently charges a sales tax on the purchase of gasoline. These sales tax revenues are required to be used for specified transportation purposes, including local street and road improvements, projects that expand capacity on the state’s highway and transit systems, and transit and rail operations. A portion of these revenues is deposited into the Public Transportation Account, with the rest of the revenues going to the General Fund.

The Constitution requires that the gasoline sales tax revenues deposited into the General Fund be transferred to the Transportation Investment Fund (TIF). Over the past five years, this transfer has averaged roughly \$1.4 billion per year. Of these revenues, 20 percent are dedicated to mass transportation purposes, and 40 percent are allocated to the state’s transportation capital improvement program. The other 40 percent are given to cities and counties for local street and road maintenance and improvement. Under certain conditions, the Constitution allows this transfer to be suspended up to

two times over a ten-year period. Suspended amounts, however, must be repaid with interest within three years.

Proposition 98

Adopted by the voters in 1988 and amended in 1990, Proposition 98 establishes a set of formulas that are used to annually calculate a minimum funding level for K-12 school districts and the community colleges. This funding level is met using state General Fund dollars and local property tax revenues.

PROPOSAL

This measure amends the Constitution to (1) authorize county voters to approve—by a majority vote—new sales taxes under certain conditions and (2) constrain the state’s authority to redirect certain state and local resources. We discuss these changes below.

Majority Approval of Sales Tax Measures

Under the measure, a majority of county voters could impose a higher local sales tax rate of up to one cent, based on a county-approved “countywide strategic action plan” as defined by the measure. (Figure 1 summarizes the required elements of this plan.) The new sales tax revenues would be allocated to cities and the county pursuant to the plan. Cities and the county, in turn, would be required to shift to school districts an amount of revenues equal to one-half of the revenues they receive under the new sales tax. Cities and counties could shift any tax revenues to schools to meet this obligation—sales, property, or other local tax. The additional school revenues would be allocated to districts within the county based on enrollment and would not count for purposes of calculating the state’s minimum funding requirement under Proposition 98.

Under the measure, the sales tax would end in ten years, unless (1) a majority of county voters approved a continuation of the tax or (2) a majority of the county governing board agreed to dissolve or amend the countywide strategic action plan earlier.

Limitations on State Authority to Redirect Resources

Property Tax. The measure eliminates the state’s authority to shift property taxes from cities, counties, and special districts to schools during a severe state fiscal hardship. Under the measure, the state would maintain responsibility for repaying local governments for the 2009 Proposition 1A (2004) suspension, but could not borrow local funds by shifting property tax revenues to schools in the future.

<p>Figure 1 Countywide Strategic Action Plan</p>
<ul style="list-style-type: none"> • Identify Community Goals and Outcomes. Plan must identify community goals and desired outcomes and indicate how progress towards these would be measured and reported. • Align Resources With Goals. Plan must identify how the sales tax revenues, if approved, would be allocated among cities and the county in furtherance of the goals of the plan. • Initiate Plan Development and Approval. A majority of the members of the County Board of Supervisors must vote to initiate development of the plan and adopt the completed plan. • Provide Resources for Schools. Plan must identify a source of local tax revenues to reallocate to school districts if the sales tax is approved. The amount of revenue reallocation must equal one-half the revenues raised under the higher sales tax rate proposed in the plan. Schools would receive revenues based on enrollment. • Include City and School Documents. Cities and schools must include documents indicating their plans for addressing the needs of their communities. These documents become part of the countywide plan and are not subject to county modification.

Prohibits Borrowing or Redirection of Gasoline Sales Tax Revenues. The measure prohibits suspending the transfer of gasoline sales tax revenues from the General Fund to the TIF. This eliminates the state’s ability to borrow these funds for non-transportation purposes.

Other Local Revenues. Under the measure, the Legislature could not enact new laws that require redevelopment agencies to use tax increment funds to make payments to schools or other agencies. The measure also specifies that the Legislature may not reallocate, borrow, or use revenues from any locally imposed tax.

FISCAL EFFECTS

Under this measure, (1) cities, counties, and schools would have higher and more stable revenues and (2) state revenues would be lower in some years than otherwise would be the case. We discuss these fiscal effects below.

Higher and More Stable Resources for Local Governments

This measure would make it easier for voters to approve some countywide sales taxes to support city, county, and school programs, compared to the existing two-thirds vote requirement for special taxes. As a result, counties probably would propose more of these measures and voters probably would approve more of them.

California's 2004 election illustrates the potential effect of setting a majority vote threshold for new sales taxes. During that year, local governments proposed 48 sales tax increases for special purposes. Voters approved one-third of them. If the voter approval threshold for these taxes had been 50 percent, over half of these taxes would have been approved. While some of the failed tax measures that earned more than 50 percent approval involved small sums, some were large. For example, the Los Angeles County half-cent sales tax failed because it was approved by only 60 percent of local voters. Had the measure passed, it would have raised about \$600 million annually.

The fiscal effect of this measure's provisions—authorizing majority vote approval for sales taxes to implement specific countywide plans—would depend on future local government and voter decisions. If voters in every county approved the maximum sales tax increase, local government revenues would increase by over \$5 billion—including over \$2.5 billion for schools. Alternatively, if the state's ten most populous counties each approved a one-quarter cent increase, local government revenues would increase by about \$1 billion—including \$500 million for schools.

Given (1) the wide range of services provided by cities, counties, and schools and (2) recent election experience in which taxes were not imposed because they did not receive approval by two-thirds of the voters, we expect this measure would result in major increases in local taxes and spending over time, probably exceeding \$1 billion annually.

More Stable Local Revenues. Given the number and magnitude of past state actions affecting local tax revenues and resources, this measure's restrictions on state authority to enact such measures in the future would have potentially major beneficial fiscal effects on noneducation local governments. For example, the state could not enact measures that require redevelopment agencies to pass through more revenues to schools. Similarly, the state could not borrow or redirect gasoline sales tax revenues as part of a state budget solution. In these cases, this measure would result in noneducation local government resources being more stable—and higher—than otherwise would be the case. The magnitude of increased local resources associated with these provisions is unknown and would depend on future actions by the state. Given past actions by the state, however, this increase in local resources could be billions of dollars in some years. These increased local resources could result in higher spending on local programs or decreased local fees or taxes.

Lower Resources for State Programs

Under the measure, the state could not: (1) use redevelopment or other local funds to support education or (2) borrow or redirect property tax or gasoline sales tax revenues as part of a state budget solution. As a result, the state would need to take alternative actions to balance the state budget in some years—such as increasing taxes or decreasing spending on state programs. Given current and previous actions by the state, we esti-

mate that this decrease in state fiscal authority could reduce state resources by billions of dollars in some future years.

Summary of Fiscal Effects

The measure would have the following major fiscal effects:

- Major increases—probably over \$1 billion—in annual city, county, and school revenues and spending, depending on local voter approval of future tax proposals.
- Significant constraints on state authority over city, county, special district, and redevelopment agency funds. As a result, higher and more stable local government resources, potentially affecting billions of dollars in some years. Commensurate reductions in state resources, resulting in major decreases in state spending and/or increases in state revenues.

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance

CA Fwd - State



December 22, 2009

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory amendment related to the budget process (A.G. File No. 09-0070, Amdt. #1-S).

BACKGROUND

The State Budget Process

The State Constitution gives the Legislature power to appropriate state funds and make midyear adjustments to those appropriations. The annual state budget act is the Legislature's primary method of authorizing expenses for a particular fiscal year. The Constitution requires that (1) the Governor propose a balanced budget by January 10 for the next fiscal year (beginning July 1) and (2) the Legislature pass the annual budget act by June 15. The Governor may then either sign or veto the budget bill. The Governor may also reduce or eliminate specific appropriations items using his or her "line-item veto" power. The Legislature may override a veto with a two-thirds (67 percent) vote in each house. Once the budget has been approved by the Legislature and the Governor, the Governor has only limited authority to reduce spending during the year without legislative approval.

Two-Thirds Vote Requirement for Passing the State Budget. The Constitution requires a two-thirds vote of each house of the Legislature for the passage of General Fund appropriations (except appropriations for public schools), urgency measures, and bills that change state taxes for the purpose of increasing state revenues. Certain budget actions (for example, a decision by the Legislature and the Governor to change the types of services that the state provides) require changing state law. Such changes in law often are included in "trailer bills" that accompany passage of the budget each year. In

order for these trailer bills to take effect immediately rather than, as with most other bills, on January 1, they must be passed by a two-thirds vote of each house.

Late Budgets. When a fiscal year begins without a state budget, most expenses do not have authorization to continue. Over time, however, a number of court decisions and interpretations of the Constitution by the State Controller and other officials have expanded the types of payments that may continue to be made when a state budget has not been passed. For example, state employee salaries currently continue to be made in this scenario with several notable exceptions—such as the salaries of the Governor, other elected state officials, Members of the Legislature, and their appointed staff, who receive no salaries after July 1 until a budget is passed. Any salary payments which are withheld from these officials then are paid upon passage of the budget.

Budgeting and Reserve Requirements

Spending Limitations. The Constitution has two main provisions related to the state's overall level of spending:

- *Spending Limit.* There is a limit on the amount of tax revenues that the state can spend each year. In recent years, however, the limit has been well above the state's level of spending and has not been a factor in budgeting decisions.
- *Balanced Budget.* In March 2004, the state's voters passed Proposition 58. Among other changes, the measure requires that the Legislature pass a balanced budget each year.

Outside of these requirements, the Legislature and Governor generally are able to decide how much General Fund money to spend in a given year. In some years, the Legislature and the Governor have used "one-time revenues"—tax and other revenues not likely to be collected in future years—to expand state budget commitments. (It was not always clear at the time if the revenues were one-time in nature.) This is one reason why the state now faces a recurring annual budget deficit.

Rules for State's Rainy Day Reserve Funds. When the state passes its annual budget, it estimates the amount of revenues that it expects to receive in the upcoming year. The state may set aside a portion of these revenues into one of two rainy day reserve funds. Any money in these reserves can pay for unexpected expenses, cover drops in tax receipts, or be saved for future years. The two funds are:

- *Special Fund for Economic Uncertainties (SFEU).* The SFEU is the state's traditional reserve fund. Any unexpected monies received during a year by the General Fund (the state's main operating account—available for the state to use for any purpose) are automatically deposited into the SFEU. Funds can be spent for any purpose with approval by the Legislature.

- ***Budget Stabilization Account (BSA).*** Proposition 58 created the BSA. Each year, 3 percent of estimated General Fund state revenues are transferred into the BSA. The Governor, however, can stop the transfer in any year by issuing an executive order, as he has done in some recent years when the state has faced severe fiscal problems. In addition, the annual transfers are not made once the balance of the BSA reaches a specified “target”—the higher amount of \$8 billion or 5 percent of revenues (currently about \$4.5 billion). By passing a law, the state can transfer funds out of the BSA and use the funds for any purpose.

Fiscal Emergencies. Proposition 58 also allows the Governor to declare a fiscal emergency if he or she determines after the budget has been enacted that the state is facing substantial revenue shortfalls or spending overruns. In such cases, the Governor must propose legislation to address the fiscal emergency, and call the Legislature into special session. If the Legislature fails to pass and send to the Governor legislation to address the budget problem within 45 days, it would be prohibited from (1) acting on any other bills or (2) adjourning until such legislation is passed.

Requirements for Budget and Infrastructure Planning. State law provides that state departments should develop budgets that define their programs’ objectives and budget for those objectives each year. The Governor is required to submit to the Legislature a five-year infrastructure plan each year.

PROPOSAL

This measure makes significant changes to the state’s budget process.

Changes in Vote Thresholds for State Budget and Taxes

Majority Vote May Pass Budget Bill and Related Legislation. Under this measure, appropriations made in the budget bill, amendments to the budget bill, and budget trailer bills may be passed by a majority vote in each house.

Expands Two-Thirds Vote Requirement to More Revenue Actions. The measure amends the Constitution to provide explicitly that all measures that impose a new tax for the purpose of increasing state revenues must be approved by two-thirds of the Members of each house of the Legislature. The measure also provides that a fee “that replaces revenue that in the same or the prior fiscal year was generated by a tax” requires a two-thirds vote. These provisions would expand somewhat the existing constitutional two-thirds vote requirements related to state taxes.

Governor Given Power to Reduce Spending and Other Budget Duties

New Expenditure Reduction Authority for the Governor. The proposed measure provides that if the Legislature has not sent bills to the Governor addressing a fiscal emergency by the 45th day following the issuance of the fiscal emergency proclamation, the Governor may reduce or eliminate any existing appropriation contained in the

budget act for that fiscal year that is not otherwise required by the Constitution or federal law. The total amount reduced cannot exceed the amount necessary to balance the budget. The Legislature may override all or part of the reductions by a two-thirds vote of each house.

Additional Information Required in Governor's Budget Proposals. Under this measure, in addition to submitting a balanced budget proposal and a five-year infrastructure plan to the Legislature in January, the Governor would have to submit performance standards for state agencies and programs, projections of nonrecurring state revenues, and state projections of anticipated expenditures and revenues for the next five fiscal years. The Governor's recommendations for expenditure reductions or additional revenues would have to include an estimate of the "long-term impact" the proposals would have on the California economy.

New Requirements for One-Time State Revenues

Definitions of "Nonrecurring" State Revenues. This measure establishes distinctions between recurring and nonrecurring state revenues. In general, nonrecurring revenue is defined as proceeds of taxes received by the state's General Fund in a fiscal year that exceed the amount that the state expected to receive in that fiscal year and that are *not* expected to be received in future fiscal years. Our two offices—the Legislative Analyst and the Director of Finance—would produce a joint estimate of the amount of nonrecurring revenue deposited in the General Fund by May 31 each year. A portion of the excess revenues would be deducted from the May 31 calculation of nonrecurring revenues, if necessary, to allow the state to meet its annual minimum funding guarantee for schools and community colleges.

Use of Nonrecurring Revenues. The Legislature may then only use nonrecurring revenue for one-time expenditures. One-time expenditures include the following:

- Transfers to what the measure describes as the "Budget Stabilization Fund." (We assume this provision would be interpreted to allow transfer to the BSA established by Proposition 58.)
- Spending on one-time infrastructure or other capital outlay projects.
- Spending to retire outstanding state bond debt.
- One-time tax relief.
- Paying down unfunded liabilities for retired state employees' health and dental benefits.
- Spending necessary to meet specified outstanding payments to schools and community colleges.

Requirements to Identify Funds to Pay for Program Expansions

The proposed measure contains several provisions to constrain the state's ability to create or expand state programs—particularly those that would result in a net increase in state costs or net decrease in state revenues of more than \$25 million. With certain exceptions described in the measure, lawmakers would have to identify additional revenues or reductions in existing expenditures to cover any such net change in state costs or revenues. The Legislative Analyst would be required to analyze bills and constitutional amendments and determine whether the \$25 million threshold (or related thresholds described in the measure) is applicable.

Performance Standards for State Programs

This measure amends the Constitution to require the Legislature to establish a process to review the performance of state programs at least once every ten years. State departments would be required to develop and maintain data that track the outcomes of their programs and propose law changes to improve those outcomes.

Late Budgets Would Result in Legislators Forfeiting Pay

This measure would extend the Legislature's deadline for passing the annual budget by ten days—from June 15 to June 25. In any year when the budget is not passed by the Legislature by the deadline, this initiative proposal would prohibit Members of the Legislature from collecting a portion of their annual salary or reimbursements for travel or living expenses. This prohibition would last for the period from midnight on June 25 until the day that the budget bill is presented to the Governor. Lost salaries and expenses could not be paid retroactively.

FISCAL EFFECT

This measure likely would result in both *direct* fiscal effects for the state (additional spending and/or savings) as well as *indirect* changes to state and local government budgets.

Direct Fiscal Effects

Additional Spending. New state spending would likely be needed to develop and use new performance standards, analyze the fiscal implication of legislation, and implement other budget process requirements resulting from the measure. In particular, new information technology expenditures could result to address these new requirements. These costs could total in the tens of millions of dollars annually.

Reduced Spending. In years when the budget bill is not passed by June 25, legislators would forfeit any salary or reimbursement for living and travel expenses. In any year that the Legislature does not pass a bill by June 25, the measure could reduce state costs by around \$50,000 per day until the passage of a budget.

Indirect Fiscal Effects

Indirect fiscal effects of this measure—while impossible to estimate precisely—could be much more significant than the direct fiscal effects described above. This measure makes significant changes to the way the state budgets its finances, considers legislation, and monitors the outcomes of its programs. These changes may result in a number of indirect fiscal effects, including:

- *Making It Easier for the Legislature to Pass a Budget.* By reducing the voting requirement from two-thirds to a majority, this measure would make it easier for the Legislature and the Governor to agree on a state budget in some years. In some cases, this could affect the content of the budget. For instance, spending priorities in a given budget could be different. The extent of the impacts would depend on a number of factors—including the state's financial circumstances and the composition of future Legislatures.
- *Giving the Governor Midyear Authority to Reduce Spending.* In some years, this measure would allow the Governor to reduce spending below the level that might result under existing constitutional provisions. This could result in some programs' share of total spending rising and others falling.
- *Restricting Use of One-Time State Revenues.* The measure, by dedicating one-time revenues to specified one-time expenses, could make it harder for the state to make new ongoing state spending commitments in some years. The measure, therefore, could increase spending on a variety of one-time activities—such as repaying budgetary borrowing and debt, infrastructure projects, and temporary tax relief. Over time, this could reduce the size of some ongoing state-funded programs.
- *Requiring Identification of Funding for Certain Program Expansions.* This measure could make creating or significantly expanding programs more difficult because it requires identification of funding sources for some such efforts. This could result in less state spending on ongoing programs in future years.
- *Requiring New Efforts to Maintain Program Outcomes.* The measure's requirements for new data concerning program outcomes could result in different spending decisions by future Legislatures. These requirements could result in greater or less state spending on particular programs.

Taken together, these changes have different fiscal effects, some of which may offset each other. On balance, however, the indirect effects of the measure could result in smaller annual state spending for ongoing programs and greater spending for one-time expenditures in years when the state collects more taxes than expected. In addition, the share of state spending dedicated to each program could change. The magnitude of

these changes, however, is impossible to estimate and would depend on future actions of the Legislature, the Governor, and voters.

Summary of Fiscal Effect

This measure would have the following major fiscal effects:

- Direct increases in state spending—potentially tens of millions of dollars per year—to administer new budgeting process requirements.
- Potentially significant, but unknown, indirect fiscal effects for the state. Over time, these could include lower annual spending for ongoing state-funded programs and higher one-time expenditures (such as for infrastructure projects, debt reduction, or temporary tax relief).

Sincerely,

Mac Taylor
Legislative Analyst

Michael C. Genest
Director of Finance

FY 09-10

	Actual Jul-Dec '09	Estimate Jan-Jun '10	Projected FY 09-10	Budget FY 09-10
Revenues:				
Membership Dues	2,799,506		2,799,506	2,799,506
Finance Corp Participation	1,325,000	2,271,339	3,596,339	3,596,339
Rental and Parking Income	442,969	509,437	952,406	957,381
Administrative Miscellaneous	289,505	230,400	519,905	499,600
CSAC Conferences	418,408	79,335	497,743	534,000
Outside Contracts	62,500	62,500	125,000	125,000
Corporate Associates	20,100	69,900	90,000	90,000
Magazine	45,746	50,300	96,046	138,000
CSAC Institute	31,325	23,675	55,000	55,000
Total Revenues	5,435,059	3,296,886	8,731,945	8,794,826
Expenditures:				
Salaries/Benefits	1,996,635	2,381,429	4,378,064	4,602,005
Staff Outreach	61,564	85,000	146,564	147,000
Leadership Outreach	60,338	35,000	95,338	100,000
NACo Meetings & Travel	87,107	12,000	99,107	100,000
Public Affairs/Communications	102,310	113,152	215,462	238,000
CSAC Conferences	445,150	280,715	725,865	771,599
Facilities	525,588	639,256	1,164,844	1,069,500
Operations	400,477	602,279	1,002,755	985,116
Outside Contracts	252,878	178,023	430,902	435,000
Corporate Associates	56,986	82,637	139,623	157,826
CSAC Institute	85,060	158,200	243,260	243,500
Total Expenditures	4,074,092	4,567,691	8,641,783	8,849,546
PROFIT/(LOSS)			90,162	(54,720)



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

January 12, 2010

To: CSAC Executive Committee

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 80 participants and current assets exceed **\$1 Billion**; a new record high since CalTRUST's inception.
- The CalTRUST website and newsletter will soon have an updated look.

California Communities

- California Communities is moving forward with a pilot of their AB 811 renewable energy financing program known as California FIRST. A launch of the pilot program's legal process is scheduled for January 2010 with 14 counties slated to participate. The program will soon be extended to all interested counties either late spring or early summer 2010.
- We are studying the feasibility of continuing a Tax & Revenue Anticipation Notes (TRANS) program for 2010.
- Pension Obligation Bonds are expected to return this year with an increased usage.

U.S. Communities

- Achieving the 100% purchasing threshold for all California Counties was a U.S. Communities program milestone in 2009.
- There are over 25 suppliers available through the U.S. Communities contract to offer counties savings on a variety of items.

General Information

- Following his retirement from Riverside County, Paul McDonnell is no longer an active member of the CSAC Finance Corporation Board of Directors.
- We are excited to be working with the CSAC Institute to offer the workshop, "Fiduciary Responsibility: Managing the County Treasury", on March 11, 2010.
- 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 Corporate Associates Contacts:

Bob Fisher, Corporate Associates President • (800) 716-7773 • bfisher@relations.com

Paul McIntosh, CSAC Executive Director • (916) 327-7500 ext. 506 • pmcintosh@counties.org

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WELCOME TO OUR NEW CORPORATE ASSOCIATES PROGRAM MEMBERS

The Corporate Associates would like to extend a warm welcome to several new companies that have joined the program for 2010. They are: Cerner Corporation, CPM, Kit Wall Productions, and Library Systems & Services. Welcome aboard, and we look forward to working with you in 2010 and beyond!

UPDATE ON CSAC POLICY COMMITTEE MEETINGS

CSAC's Agriculture and Natural Resources Policy Committee will meet on Wednesday, January 27, 2010, from 1:00 to 4:00 p.m. The meeting will be held in the First Floor Conference Room at the CSAC offices. For additional information on this upcoming meeting, please contact Cara Martinson, Legislative Analyst, at (916) 327-7500 ext. 504 or cmartinson@counties.org. Additionally, the Health and Human Services Policy Committee met in Sacramento on Thursday, January 7. If you would like to receive additional information on that meeting, please contact Farrah McDaid Ting, Legislative Analyst, at (916) 327-7500 ext. 559 or fmcdaid@counties.org.

CSAC EXPANDS ITS PRESENCE ON THE WEB

In an effort to help increase the presence of CSAC and California counties online, improve communications with our members and other audiences, and promote the use of our Web site, CSAC now has a page listing on Wikipedia, in addition to being active users of Facebook and Twitter. To find CSAC on [Wikipedia](#), a free online encyclopedia that anyone can edit, simply visit the site and type in "CSAC" in the search box. To become a fan of CSAC on [Facebook](#), the popular social networking site, search for "California Counties" in the search box, and then click on "Become a Fan" when you reach the CSAC page. Fans will receive regular status updates on important CSAC activities, events, announcements, links and more. To connect with CSAC on [Twitter](#), users can search for "CSAC_Counties," become a follower, and see short blurbs on up-to-the-minute topics like the State Budget. While accounts are required for full access to Facebook and Twitter, registration for both sites is free.

WINTER-SPRING 2010 SCHEDULE NOW AVAILABLE FOR CSAC INSTITUTE

The Winter-Spring 2010 course schedule is now available for the CSAC Institute for Excellence in County Government. The new schedule offers 18 classes, including a series of courses on health and mental health services, as well as a special course on Realignment that will be held in conjunction with the CSAC Legislative Conference in early June. The schedule also includes three courses that will be offered in Oakland. For more information, and to view the complete course schedule, visit www.csacinstitute.org.

REGISTRATION STILL AVAILABLE FOR 2010 NACO LEGISLATIVE CONFERENCE

Registration is still available for the National Association of Counties (NACo) 2010 Legislative Conference, being held March 6-10 at the Marriott Wardman Park Hotel in Washington, D.C. The theme of this year's conference is "Finding Solutions for Tough Times," and the keynote speaker at the opening session will be Joe Klein, columnist for *TIME Magazine*. For more information on the conference, and to register online, [click here](#). Also, if you are planning to attend the conference, please let us know so we can be sure to include you in the CSAC events.

ASK CSAC'S LEGISLATIVE ADVOCATES

Do you have questions about current or pending legislation that affects California counties? CSAC's Legislative Advocates are here to help! If you would like to reach a member of the CSAC legislative staff, please contact Lindsay Pangburn at lpangburn@counties.org, and she will put you in touch with the appropriate member of our staff. You may also access a listing of CSAC Legislative staff members, including email addresses and phone numbers, by [clicking here](#).

UPCOMING 2010 EVENTS

January

19-21 Corporate Associates Steering Committee Meeting – San Diego County
28 CSAC Executive Committee Meeting – Sacramento County

March

6-10 NACo Legislative Conference – Washington, D.C.
25 CSAC Board of Directors Meeting – Sacramento County

April

22 CSAC Executive Committee Meeting – Sacramento County

May

22-25 NACo Pre-WIR Event – Maricopa County (Scottsdale), Arizona
26-28 NACo Western Interstate Region (WIR) Conference – Yellowstone County (Billings), Montana

June

2-3 CSAC Legislative Conference – Sacramento County

To view the complete 2010 CSAC Calendar of Events, please [click here](#).



County Counsels' Association of California

BOARD OF DIRECTORS

MEMORANDUM

To: Supervisor Tony Oliveira, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: January 28, 2010

Re: Litigation Coordination Program Update

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EXECUTIVE DIRECTOR
Jennifer B. Henning

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

I. New Case Activity Since Last Executive Committee Meeting

City of Alhambra v. County of Los Angeles

Pending in the Second Appellate District (filed Aug. 17, 2009)(B218347)

This case involves the dispute between cities and counties over the property tax administration fee (PTAF). As you know, a number of cities filed an action against LA County challenging the method used by the county (the County Auditors Association's SB 1096 Guidelines) to calculate the PTAF charged to cities. The trial court found in favor of the county, concluding that when read in the context of the entire statutory scheme, the county's calculation of the PTAF does not violate the Revenue and Taxation Code. The cities have appealed, and CSAC will file a brief in support of LA County.

Ardon v. City of Los Angeles

Previously published at: 174 Cal.App.4th 369 (2d Dist. May 28, 2009)(B201035), *petition for review granted* (Sept. 9, 2009)(S174507)

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

or her own claim prior to the filing of a class action suit? CSAC will file a brief in support of the city.

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 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.

Bravo v. County of Tulare

Pending in the Fifth Appellate District

Plaintiff sued the county for serious injuries he sustained at age seven months while in foster care. The complaint alleges that county social workers were made aware of bruises on the child on three occasions, but that they negligently failed to remove him from the foster home. He ended up in the emergency room where he was diagnosed with Shaken Baby Syndrome. (The foster father is facing criminal charges.) The trial court dismissed the case, finding the placement of the minor, the extent of the supervision of the placement, and the failure to remove the minor from the home were all actions protected by discretionary immunity. The trial court also found that the social workers' knowledge of the bruises, under the facts provided, was not sufficient to trigger the mandatory reporting/investigation requirements. The minor has appealed, and CSAC will file a brief in support of Tulare County.

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

Request for Immediate Stay and Petition for Review Pending in the California Supreme Court

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 is now seeking an immediate stay and review in the California Supreme Court, and CSAC has filed a letter in support.

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 be filing an amicus brief in support of the Regional Center.

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, and CSAC will file a brief in support of the FTB.

Greene v. Camreta

--- F.3d ---, 2009 U.S.App.LEXIS 26891 (9th Cir. Dec. 10, 2009)(06-35333)

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 are seeking rehearing, and CSAC will file a brief in support.

Guggenheim v. City of Goleta

Pending in the Second Appellate District (filed Jan. 14, 2008)(B204919)

This is a facial takings challenge to a mobilehome rent control ordinance. In relevant part, the ordinance limits any increases in mobile home rents on an annual basis to 75 percent of the increase in the local Consumer Price Index. The federal Ninth Circuit Court of Appeals invalidated the ordinance as an unconstitutional regulatory taking. In so doing, it made several important and novel legal pronouncements, including that plaintiffs did not have to first seek relief in state court (as required since 1985 under relevant U.S. Supreme Court decisions), and that it is permissible to admit evidence on the ordinance's economic impact on the individual property owner even though the owner's claim is that the mere enactment of the ordinance is unconstitutional. Ultimately, the court concluded the ordinance was an impermissible transfer of wealth from the park owners to the mobilehome tenants. The court remanded to the trial court for a determination of just compensation. The city will file for en banc review and has requested amicus support.

Guzman v. County of Monterey

178 Cal.App.4th 983 (6th Dist. Oct. 28, 2009)(H030647), *petition for review pending* (filed Dec. 3, 2009)(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 is again seeking Supreme Court review, and CSAC has filed a letter in support.

MHC Financing Limited Partners v. City of San Rafael

Pending in the Ninth Circuit Court of Appeals (filed July 10, 2009)(09-16447)

This case is a takings challenge to the City of San Rafael's mobilehome ordinance. The ordinance as enacted in 1989 permitted park owners to annually increase rents by no more than a graduated percentage of the CPI. The ordinance was challenged as a taking in 1993, but was upheld by the Ninth Circuit. In 1999, the city amended the ordinance to alter the formula for allowable rent increases. Plaintiff then brought this action alleging the amendments were a taking. The district court found in favor of plaintiff, concluding that the amendments made it certain that mobilehome pad rents would fall progressively further behind market rents. The court found that when plaintiff purchased the park in 1994, it had

a reasonable expectation that it would be provided a reasonable return on its property value, and the 1999 amendments frustrated those expectations by increasing dramatically the burden of the ordinance on plaintiff. The city has appealed, and CSAC will file a brief in support.

Mammoth Lakes Land Acquisition v. Town of Mammoth Lakes

Pending in the Third District Court of Appeal (filed June 27, 2008)(C059239)

Town had FAA funding agreements for airport improvements, which pre-dated a development agreement (DA) with plaintiff developer. The FAA agreements contained “grant assurances” requiring town to comply with all rules and regulations of the FAA. The DA also expressly required both parties to comply with rules and regulations of the FAA. The FAA objected to an informal development plan for a condo/hotel project at the airport claiming that it violated the grant assurances. A town assistant manager wrote an email to developer saying that the city could not proceed with the proposed development until the FAA objections were resolved. Town supported developer against the FAA, and eventually got the FAA to withdraw its objections. But developer sued, claiming that the town entered into two mutually inconsistent contracts—the DA and the FAA funding agreements—and chose to honor the FAA agreements and repudiate the DA. The trial court effectively directed the jury to find town anticipatorily breached the DA by complying with the FAA agreements. The jury awarded developer \$30 million in damages, and the court awarded \$2.6 million dollars in attorney fees. The town appealed, and CSAC will file a brief in support.

Retired Employees Assoc. of Orange County v. County of Orange

Pending in the Ninth Circuit Court of Appeal (filed July 1, 2009)(09-56026)

Since approximately 1966, the County has provided health care benefits to its retired employees. In 1985, the County began pooling the retirees with active employees in the rate-setting process, which allowed retirees to pay lower premiums and receive greater coverage than they otherwise would. Over time, the County found its employee health plans were underfunded. So effective January 1, 2008, the Board approved a resolution to “split the pool,” which created different premium pools for active and retired employees, resulting in significantly higher health insurance premiums for the retirees. The retirees sued in federal court, alleging breach of contract and due process claims, as well as a violation of the California Pension Protection Act of 1992. The district court ruled in favor of the County. The court found the resolutions creating the joint pool did not explicitly provide that the retirees are entitled to the pooling benefit for their lifetimes. And the court rejected the retirees’ argument that the pooling benefit was an implied term of the MOU between the parties; case law requires such contractual obligations regarding public pensions base their findings on explicit language in statutes or legislative enactments. The retirees have appealed, and CSAC has filed a brief in support of the county.

County of Sacramento v. Public Employment Relations Bd

Pending in the Third Appellate District (filed July 29, 2009)(C062484)

This case raises the issue of whether a county is required to meet and confer prior to making changes to eligibility requirements for retiree health benefits. Prior to June 2007, the county provided a subsidy for retirees to participate in the County's Retiree Health Insurance Program. In December 2006 recognized employee organizations were informed that the CEO was recommending to the Board of Supervisors that it discontinue the retiree health subsidy for all retirees retired on or after January 1, 2008, and for certain previously retired annuitants. The county initially offered to meet and confer on the issue with the employee organizations, but later withdrew that offer. In June 2007, the Board adopted its Retiree Medical and Dental Insurance Program for 2008. The policy provides that participants who retired on or before May 31, 2007, will continue to receive the subsidy, but the subsidy is eliminated for all participants who retire after May 31, 2007. The unions filed an unfair labor practice charge with PERB alleging the county was required to meet and confer prior to making the policy changes. PERB affirmed an administrative law judge decision that there was a duty to meet and confer. The county is appealing to the Third District Court of Appeal, and CSAC will file a brief in support.

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 will file a brief in support of the Agency.

Tichinin v. City of Morgan Hill

177 Cal.App.4th 1049 (6th Dist. Sept. 21, 2009)(H031019), *petition for review pending* (filed Oct. 30, 2009)(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. The city is seeking Supreme Court review, and CSAC has filed a letter in support.

II. Amicus Cases Decided Since Last Executive Committee Meeting

Paland v. Brooktrails Township CSD Board of Directors

179 Cal.App.4th 1358 (1st Dist. Dec. 3, 2009)(A122630)

Outcome: Positive

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 affirmed its earlier conclusion, 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.

Priceline.com, Inc. v. City of Anaheim

--- Cal.App.4th ---, 2010 Cal.App.LEXIS 3 (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 that *People ex rel. Clancy v. Superior Court* (1985) 39 Cal.3d 740, does not bar contingency fee lawyers from assisting government lawyers as cocounsel in ordinary civil litigation. CSAC filed a brief in support of the city.

Sunset Sky ranch Pilots Assoc. v. County of Sacramento

--- Cal.4th ---, 2009 Cal.LEXIS 13169 (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. On appeal, the Third District reversed holding in relevant part 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, finding that the Court of Appeal 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).)”

Calendar of Events

2010

January

- 13-14 RCRC Board Meeting, Sacramento County
- 28 CSAC Executive Committee Meeting, Sacramento County

March

- 6-10 NACo Legislative Conference, Washington, D.C.
- 24 RCRC Board Meeting, Sacramento County
- 25 CSAC Board of Directors Meeting, Sacramento County

April

- 21 RCRC Board Meeting, Sacramento County
- 22 CSAC Executive Committee Meeting, Sacramento County

June

- 2-3 CSAC Legislative Conference, Sacramento County
- 3 CSAC Board of Directors Meeting, Sacramento County
- 16-17 RCRC Board Meeting, Location TBD

July

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

August

- 18 RCRC Board Meeting, Sacramento County
- 19 CSAC Executive Committee Meeting, Location TBD

September

- 9 CSAC Board of Directors Meeting, Sacramento County
- 22-24 RCRC Annual Meeting, Napa County

October

- 6-8 CSAC Executive Committee Retreat, Location TBD

November

- 16-19 CSAC 116th Annual Meeting, Riverside County

December

- 15 RCRC Board Meeting, Sacramento County

2011

January

- 20 CSAC Executive Committee Meeting, Sacramento County

March

- 5-9 NACo Legislative Conference, Washington, D.C.
- 24 CSAC Board of Directors Meeting, Sacramento County

May

- 5 CSAC Executive Committee Meeting, Sacramento County

June

- 3 CSAC Board of Directors Meeting, Sacramento County

July

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

August

- 11 CSAC Executive Committee Meeting, Location TBD

September

- 15 CSAC Board of Directors Meeting, Sacramento County

October

- 5-7 CSAC Executive Committee Retreat, Orange County

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

November

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

December

- 1 CSAC Board of Directors Meeting, San Francisco City & County

- 14-16 CSAC Officers Retreat, Location TBD

2012

March

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

July

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

October

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

2013

March

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

2014

March

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