CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
Thursday, April 22, 2010
11:00am - 2:00pm
CSAC Conference Center, Sacramento

AGENDA

Presiding: Tony Oliveira, President

11:00am	PROCEDURAL ITEMS	
1.	Roll Call	Page 1
2.	Approval of Minutes of January 28 & February 18, 2010	Page 2
11:10am	ACTION ITEMS	
3.	Consideration of Proposed CSAC Budget for FY 2010-11 ▪ *Supervisor Susan Cash, CSAC Treasurer* ▪ *Paul McIntosh, CSAC Executive Director*	Page14
4.	Consideration of Proposed Litigation Coordination Program Budget for FY 2010-11 ▪ *Jennifer Henning, County Counsel's Assoc. Executive Director*	Page15
5.	Extension of Federal Affairs Services Contract ▪ *Paul McIntosh*	Page 22
12:00pm	LUNCH	
1:00pm	INFORMATION ITEMS	
6.	CSAC Reform Task Force Report ▪ *Supervisor Kathy Long, Task Force Chair*	Page 24
7.	CSAC Finance Corporation Report ▪ *Supervisor Joni Gray, Finance Corp. Board Member*	Page 28
8.	Legislative/State Budget Report ▪ *Jim Wiltshire, CSAC staff*	Page 33
9.	***The following items are contained in your briefing materials for your information, but no presentation is planned.***	
	CSAC Institute for Excellence in County Government	Page 36
	CSAC Corporate Associates Report	Page 38
	CSAC Litigation Coordination Program Update	Page 39
10.	Other Items	
2:00pm	ADJOURN	

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2010

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

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

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

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

Ex-Officio Members
Valerie Brown, NACo President and Sonoma County Supervisor
Susan Cash, CSAC Treasurer, Inyo 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

January 28, 2010
CSAC Conference Center, Sacramento, CA

MINUTES

Presiding: Tony Oliveira, President

1. INTRODUCTION OF NEW MEMBERS
President Oliveira introduced the following new members on the 2010 Executive Committee: Henry Perea, Steve Worthley, Lyle Turpin and Susan Mauriello.

2. ROLL CALL

Tony Oliveira, President
John Tavaglione, 1st Vice Pres.
Mike McGowan, 2nd Vice Pres.
Gary Wyatt, Immed. Past Pres.
Greg Cox, San Diego
Roger Dickinson, Sacramento
Federal Glover, Contra Costa
Liz Kniss, Santa Clara
Kathy Long, Ventura
Rich Gordon, San Mateo (alternate) audio
Susan Adams, Marin
Henry Perea, Fresno
Steve Worthley, Tulare
Joni Gray, Santa
Susan Adams, Marin
Henry Perea, Fresno
Steve Worthley, Tulare
Joni Gray, Santa Barbara (alternate)
Merita Callaway, Calaveras
Bob Williams, Tehama
Lyle Turpin, Mariposa (alternate)

Ex-Officio Members
Valerie Brown, Sonoma

Advisors
Susan Mauriello, CAOAC Pres.
Steven Woodside, Sonoma Co. Counsel

3. APPROVAL OF MINUTES
The minutes of October 8-9, 2009 were approved as previously mailed.

4. REPORT ON GOVERNOR'S BUDGET FOR 2010-11
Todd Jerue, Chief Deputy Director of the Department of Finance, presented a report on the Governor's proposed budget for 2010-11. He indicated that the Governor is proposing major reductions in several program areas. One of the largest is a $2.9 billion reduction to social service programs. Targeted programs include: IHSS, Medi-Cal, SSI/SSP, CalWORKS, and Healthy Families.

5. DISCUSSION OF BUDGET IMPACTS ON COUNTIES
Paul McIntosh presented a PowerPoint presentation regarding the Governor's proposed budget. He outlined the contributing factors to the current shortfall, proposed budget solutions, proposed expenditure reductions, anticipated federal funds, alternative funding, fund shifts and other revenues.

Staff announced that the Legislature is now in its 8th Special Session. The Senate is holding budget hearings this week and the Assembly will convene hearings next week. Three documents were presented to the Executive Committee for discussion and feedback. They were as follows:

Our View: California Counties Respond to Governor's Proposed Budget. This document provides an outline of CSAC concerns and recommended alternative approaches to addressing the state budget deficit. Topics addressed in this document are: maximize federal funds; avoid new mandates/suspend pipeline mandates; seek alternative transportation funding proposal; consider options to mitigate corrections cost shifts; improve the state-county partnership; preserve programs that prevent costs in other systems; right-size state government; eliminate program growth and funding restoration; eliminate/consolidate state programs and services; consider new revenue and modernize the state's tax structure; seek broad government reforms.

Options for County Fiscal Relief. This document builds on one that CSAC prepared at the request of the Legislative Analyst's office (LAO) last year. It includes options for county fiscal relief that the Legislature could enact to provide some additional resources to counties during difficult fiscal times.

Significant County Impacts: Governor's Proposed 2010-11 Budget. This document lists the most egregious budget proposals from a county perspective. It was developed in order to help CSAC focus advocacy efforts and to communicate the areas in which there is the greatest need for modification or alternative approaches.

A lengthy discussion ensued regarding the recommended alternative approaches to addressing the state budget deficit. Concerns were expressed about the "right-size state government" proposal, in that it may not be appropriate for CSAC to advocate reducing the state workforce. It was suggested that the proposals be more localized so that members can communicate them within their own counties. It was also suggested that pension reform be included as a topic in budget alternative discussions.

President Oliveira announced that he will convene a special meeting in February to continue the discussion on state budget strategy and alternatives.

6. APPOINTMENT OF CSAC TREASURER, NACo BOARD OF DIRECTORS AND WIR REPRESENTATIVES

The Officers recommended the following 2010 CSAC appointments:

Treasurer – Susan Cash, Inyo County
NACo Board of Directors – Frank Bigelow, Madera County; Greg Cox, San Diego County; Keith Carson, Alameda County

NACo Western Interstate Region (WIR) – David Finigan, Del Norte County

Motion and second to accept officer recommendations for the positions of Treasurer, NACo Board of Directors and NACo WIR. Motion carried unanimously.

7. APPOINTMENT OF CSAC POLICY COMMITTEE CHAIRS & VICE CHAIRS FOR 2010

The officers recommended the following list of CSAC policy committee chairs and vice chairs for 2010:

Administration of Justice – Federal Glover, Contra Costa, Chair and Merita Callaway, Calaveras, Vice-Chair

Agriculture & Natural Resources – John Vasquez, Solano, Chair and Richard Forster, Amador, Vice-Chair

Government Finance & Operations – Bruce Gibson, San Luis Obispo, Chair and John Moorlach, Orange, Vice-Chair

Health & Human Services – Liz Kniss, Santa Clara, Chair and Terry Woodrow, Alpine Vice-Chair

Housing, Land Use & Transportation – Paul Biane, San Bernardino, Chair and Efren Carrillo, Sonoma, Vice-Chair

Motion and second to approve the officer recommendations for 2010 CSAC policy committee chairs and vice-chairs. Motion carried unanimously.

8. STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2010

Staff presented proposed CSAC 2010 State and Federal legislative priorities as contained in the briefing materials. The primary State priority is to "Protect County Programs, Services and Systems" which includes the following principles: protect the health and safety of all Californians; seek budget solutions that address the structural deficit; promote programs and services that stimulate the economy and protect jobs; and engage in long-term reform conversations.

Federal priorities include: new authorization of Surface Transportation Law (SAFETEA-LU); Health Care Reform; State Criminal Alien Assistance Program (SCAAP); climate change/renewable energy; Native American affairs; Temporary Assistance for Needy Families (TANF) Reauthorization; Clean Water Act; and the extension of ARRA/support for Federal Jobs package. In addition, CSAC will provide internal monitoring on the following issues: fuels management; Community Development Block Grant (CDBG); telecommunications reform; foster care reform; homeland security; Byrne Grant funding; immigration reform; Cooperative Endangered Species Conservation Fund; and county payments/Secure Rural Schools Program.

It was requested that HR 211/S 211 be added to the internal monitoring section. This legislation will facilitate nationwide availability of 2-1-1 telephone service for

information and referral on health and human services, including volunteer services.

Motion and second to approve CSAC Legislative Priorities for 2010 as amended and recommend adoption by the Board of Directors. Motion carried unanimously.

9. JUNE 2010 BALLOT PROPOSITIONS

New Two-thirds Requirement for Local Public Electricity Providers. This 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. The initiative is sponsored by Pacific Gas & Electric Company.

According to an analysis by the Legislative Analyst's Office (LAO), if an authorized local government entity seeks to start up electricity service, it must receive approval by two-thirds of the voters in the area proposed to be served. Also, if an existing publicly-owned utility seeks to expand its electricity delivery service into 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.

The CSAC Agriculture & Natural Resources policy committee considered the initiative and are recommending an "Oppose" position because it seeks to limit local government's ability to expand local energy programs.

Motion and second to accept the policy committee recommendation to "Oppose" proposed initiative. Motion carried unanimously.

This item will be presented to the CSAC Board of Directors in March for consideration.

10. APPOINTMENT OF MEMBER TO CSCDA

The California Statewide Communities Development Authority (CSCDA) is a joint powers authority sponsored by CSAC and the League of California Cities. There are currently four former and current county officials representing CSAC on the CSCDA board. Brent Wallace, one of the representatives, has submitted his resignation. It was recommended that Terry Schutten, retired Sacramento County Executive, be appointed to replace him.

Motion and second to appoint Terry Schutten to the CSCDA Board, replacing Brent Wallace. Motion carried unanimously.

11. COURT FACILITY TRANSFERS REPORT

Staff announced that the seven-year process to transfer court facility responsibility and/or ownership to the state has come to a successful conclusion. In 2002, the Trial Court Facilities Act provided 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. The measure

represented the final step in centralizing with the state responsibility and authority for court operations, court employees and court-related facilities.

Supervisors Greg Cox and John Tavaglione were acknowledged for their efforts in bringing the process to a successful conclusion.

12. UPDATE ON PRISON OVERCROWDING LITIGATION

Staff provided an update on current federal litigation involving overcrowding in the state prison system. The Governor's 2010-11 proposed budget contains a measure amending sentencing laws to redirect inmates from state prison to local jails and lowering the Division of Juvenile Justice (DJJ) age jurisdiction. This is part of an effort to achieve an additional $1.1 billion in program cuts. These proposed cuts are primarily motivated by two factors: 1) the state's $6.6 billion current year budget deficit 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 a federal three-judge panel on prison overcrowding. The 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 an update on the matter. Additional details were contained in the briefing materials.

13. REPORT ON NOVEMBER 2010 BALLOT INITIATIVES

President Oliveira appointed a Reform Task Force to assist staff in vetting issues associated with the various reform efforts, as well as any that may be forthcoming from the Legislature. The task force will be chaired by Kathy Long and Matt Rexroad will serve as vice-chair. Members include the following supervisors: John Benoit of Riverside, Bruce Gibson of San Luis Obispo, Ted Novelli of Amador, Mark Lovelace of Humboldt, Greg Cox of San Diego, Tom Tryon of Calaveras, and Tracey Quarne of Glenn. It was suggested that a Bay Area supervisor be asked to serve on the task force.

The task force will hold a meeting prior to the March 25 Board of Directors meeting.

Staff provided an update on the four major reform proposals sponsored by California Forward, Repair California, Californians to Protect Local Taxpayers & Vital Services, and CCS Partnership. A list of outstanding initiatives and deadlines for the November 2010 ballot were included in the briefing materials.

14. OTHER ITEMS

A mid-year budget report, CSAC Finance Corporation report, Corporate Associates report and Litigation Coordination program report were contained in the briefing materials, but no presentations were made.

Supervisor Cox announced that 2010 is the 65th anniversary of the end of World War II. A year-long campaign to raise public awareness is underway. A coalition of organizations and individuals is being formed to achieve three key objectives.

They are: 1) call on Congress to designate the second Sunday in August a national day of remembrance; 2) raise public awareness about the 65th anniversary on August 14, 2010 by encouraging communities to hold commemorative events marking the occasion; and 3) collect first-hand memories of those who experienced August 14, 1945. Supervisor Cox encouraged Executive Committee members to become involved in this effort.

Meeting adjourned.

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

SPECIAL MEETING
February 18, 2010
CSAC Conference Center, Sacramento, CA

MINUTES

Presiding: Tony Oliveira, President

1. ROLL CALL

Tony Oliveira, President
John Tavaglione, 1st Vice Pres.
Mike McGowan, 2nd Vice Pres.
Gary Wyatt, Immed. Past Pres.
Greg Cox, San Diego
Roger Dickinson, Sacramento
Liz Kniss, Santa Clara – audio
Kathy Long, Ventura
Richard Gordon, San Mateo (alternate)
Susan Adams, Marin – audio
Henry Perea, Fresno – audio
Merita Callaway, Calaveras
Robert Williams, Tehama
Lyle Turpin, Mariposa (alternate)

Ex-Officio Members
Valerie Brown, Sonoma - audio
Susan Cash, Inyo

Advisor
Susan Mauriello, CAOAC Pres. - audio

2. DISCUSSION OF BUDGET IMPACTS ON COUNTIES

Staff outlined CSAC summaries of the current Governor's Budget proposals being considered by the Legislature as contained in the briefing materials:

Transportation Funding Swap Means Significant Long-Term Losses to Transportation Funding. The Governor's proposed "transportation funding swap" would eliminate the sales tax on gasoline (Proposition 42) and the four core transit revenue streams and replace it with a 10.8 cent excise tax on gasoline (Highway User Tax Account or HUTA).

CSAC analysis indicates that the swap is not revenue neutral for future transportation investments. It removes any state obligation for funding transit by eliminating four core revenue streams with no replacement revenue. Further, while providing replacement revenues for highways and local streets and roads, the proposal exchanges sales taxes on fuels with an average growth rate of 4% annually for an excise tax with an average growth rate of 1% annually. When comparing what transportation would get under existing law over the next five years to the revenues generated under the swap scenario, transportation revenues would decline by an estimated $2.53 billion between 2010-11 and 2014-15.

Staff announced that the Senate Democrat's have proposed an alternative "transportation funding swap" which is now being considered. This proposal would still eliminate the sales tax on gasoline, including Proposition 42, but would provide additional revenues for highways, local streets and roads and transit above the Governor's "transportation swap." Further, while the Governor's proposal completely eliminates transit funding, this alternative would partially restore transit funding.

Legislative discussions and negotiations are ongoing. Staff will continue to advocate for retaining constitutional protections and revenues.

Recipe for Chaos: Shift of Responsibility for Felons to County Jails. The Governor is proposing to modify sentencing practices by allowing offenders convicted of specified non-serious, non-violent, non-sex felonies to be incarcerated for up to one year and one day in local jails. The state would achieve savings of $291 million as a result. Crimes eligible under this proposal include auto theft, check fraud, grand theft, drug possession, petty theft with a prior, possession for sale, receiving stolen property and theft with felony prior.

Currently, 32 county jails are operating under either a court- or self-imposed population cap. Further, approximately 200,000 county jail inmates are released early every year. The Governor's proposal to shift certain felons to county jails would further exacerbate overcrowding at the local level. While the state would benefit from cost savings and reduced prison populations, this proposal would greatly impact the county criminal justice systems.

Staff indicated that this proposal does not seem to be "gaining traction" in the Legislature and may not move forward this year. However, it is very likely it will return in the future. Staff will continue to explore reform and realignment options and develop coalitions.

County "Savings" Proposal Shifts Costs for Children's Programs. The Governor is proposing redirecting the county "savings" created by reductions to the CalWORKs and IHSS programs in the 2010-11 budget year. According to the Governor, these program reductions will create an estimated $505 million in county savings; in turn, the state would decrease state General Fund expenditures for certain children's programs and impose an increased county share of cost for Foster Care, Adoptions Assistance, and Child Welfare Services.

Governor's Proposals Could Shift $200 million in Costs to Counties as General Relief Cases Rise. The Governor is proposing to eliminate three immigrant assistance programs in 2010-11. They are: Cash Assistance Program for Immigrants (CAPI), California Food Assistance Program (CFAP), and CalWORKs for Legal Immigrants. It is estimated that counties will incur up to $200 million per year in additional costs if these program are eliminated, due

to an increase in General Relief cases for those previously served by those programs.

Sweeping Proposition 63 Funds for Two Years Would Gut Local Mental Health Services. The Governor is proposing to sweep Mental Health Services Act (MHSA) funds for two years, amounting to a $452 million take each year. He plans to use these MHSA funds to backfill the state funding in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program and Medi-Cal Mental Health Managed Care.

It was noted that this proposal comes at a time when the behavioral health needs are increasing due to the influx of Iraq and Afghanistan veterans, the stress of the economic crisis, and the elimination of funding for prevention and drug and alcohol treatment programs statewide.

Staff was directed to develop summary papers on Proposition 10 and the In-Home Support Services (IHSS) program.

Staff indicated that the Senate and Assembly are voting this week on various proposals to solve the current budget crisis, but are not expected to take action on major Health & Human Services proposals at this time.

CSAC Reform Task Force. Supervisor Kathy Long, Chair of the CSAC Reform Task Force provided a report on the task force meeting held yesterday. The task force was created to assist staff in vetting issues associated with the various reform efforts, as well as any that may be forthcoming from the Legislature.

It was reported that Repair California has suspended efforts to go forward with November 2010 ballot initiatives due to a lack of money. California Forward may be doing the same if they do not receive substantial contributions in the near future.

The task force discussed the League of Cities proposed initiative and are recommending that CSAC oppose the initiative.

> Motion and second to refer the League of Cities' initiative to the following CSAC policy committees: Government Finance & Operations, Administration of Justice, Housing, Land Use & Transportation, and Health & Human Services. Motion carried unanimously.

Following policy committee consideration, the item will be brought to the Board of Directors in June.

CSAC officers reported that a meeting was held earlier today with the officers of the League of Cities to discuss their initiative.

Cash Management. Staff reported that the Administration has been working with the State Controller's Office, State Treasurer's Office, the Legislative Analyst's Office and legislative staff on a proposed cash management plan to address current year and budget year cash shortfalls. The proposal includes significant deferrals to counties in the areas of social services, transportation, and Proposition 63. For all of these deferrals, the proposal includes a $1 billion cap in outstanding payments to local governments (counties and cities) in 2010-11. The deferrals would be limited to the 2010-11 fiscal year and small counties (those with a 50,000 or less population) and cities within those counties would be exempted from the deferrals.

Our View: California Counties Respond to the Governor's 2010-11 Budget. Staff presented a revised version of this document which was originally presented to the Executive Committee at its January 28 meeting. It is an outline of CSAC concerns and recommended alternative approaches to addressing the state budget deficit in the following areas:

- *Avoid New Mandates/Repeal Suspended Mandates/Suspend Pipeline Mandates*. The staff-recommended alternative was to hold bills that mandate new programs or higher levels of service on local governments. Either repeal suspended mandates or provide a time certain for suspension of such mandates. Consider suspending provisions of law that are subject of mandate claims currently before the Commission.

- *Seek Alternative Transportation Funding Proposal*. The staff-recommended alternative was to support an additional 5-cent fee on gasoline to assist the state in meeting its transportation debt service requirements to alleviate the need for the swap OR support a modification to the swap that includes a replacement revenue stream for transit in lieu of the 5-cent tax cut, along with an indexing of the gas tax and additional constitutional protections equivalent to Proposition 42 revenues. Counties continue to work with transportation stakeholders to develop creative means for financing the state's critical transportation needs.

- *Consider Options to Mitigate Corrections Cost Shifts*. The staff-recommended alternative is to advocate for extension of the temporary Vehicle License Fee (VLF) increase of 2% and dedicate the new increment (0.85%) to build service capacity in order to manage the increase in prisoners and parolees being handled on the local level.

  Concerns were expressed regarding the lack of a revenue stream nexus between the VLF and public safety. Further, it was suggested that CSAC advocate for funding of "evidence-based" programs, whereby counties could compete for additional funds if they have successful programs.

Motion and second to authorize staff to enter into conversations with other stakeholders (Sheriffs Assoc., District Attorneys Assoc., etc.) in order to gauge interest in exploring the option to increase the VLF for public safety purposes. Motion carried unanimously.

- *Save on Administration, Spend on Services.* The staff-recommended alternative was to encourage the state to consider measures to reduce the state workforce or scale back administrative costs to better match the levels of services now provided by state government.

  It was suggested that CSAC conduct a comparison of state administrative workforce increases to county administrative workforce increases before attempting to advocate that proposal. Further, it was suggested that CSAC focus on scenarios whereby if the state cuts a program, such as CalWORKs, then it should look at reducing the number of staff previously administering that program.

- *Eliminate Program Growth and Funding Restoration.* The staff recommended alternative was to ask the state to hold programs and services to base funding for another year, given the severity of the budget reductions currently on the table.

- *Maximize Federal Funds.* The staff-recommended alternative was to encourage the Legislature to focus on securing additional federal funds where possible and avoid action in the Special Session on any budget proposal that will negatively impact the ability of the state to secure additional federal flexibility or funding. CSAC will coordinate federal advocacy efforts with those of the Administration and Legislature.

- *Improve the State-County Relationship.* The staff-recommended alternative was to urge the Legislature to consider mitigations and other opportunities for local fiscal relief to allow counties to better manage the impacts.

- *Preserve Programs that Prevent Costs in Other Systems.* The staff-recommended alternative was to encourage the state to place a priority on funding programs that reduce or avoid out-year costs in other programs. Given the state's chronic structural imbalance, investment in programs that reduce costs in other systems makes sense for long-term state fiscal planning.

- *Eliminate/Consolidate State Programs and Services.* The staff-recommended alternative was to encourage the state to seek all opportunities to move programs outside the General Fund to fee-supported or grant-supported financing, and to consider elimination or consolidation of programs and services to fund priority programs.

- *Consider New Revenues and Modernize the State's Tax Structure.* The staff-recommended alternative was to encourage the Legislature to consider reasonable revenue reforms that stabilize the state's boom-and-bust revenue cycle and provide stable and adequate funding for public services.

- *Seek Broad Government Reforms.* The staff-recommended alternative was to encourage the state to adopt meaningful government reforms, including appropriate financial support of jointly administered programs, flexibility to allow locals to adopt services and operations to meet local needs, reasonable local revenue-raising authority, focused legislative oversight, open and public legislative hearings, thorough fiscal review of legislative proposals, sound budgeting practices, and rational limits on legislative terms.

- *Support Pension Reform.* CSAC approaches the concept of pension reform and ongoing local negotiations over pension benefits with the overarching goal of ensuring trust in public pension systems and empowering local elected officials to exercise sound fiduciary management. CSAC previously adopted a set of guiding principles that reflect local priorities and values. The principles were contained in the briefing materials.

  Staff reported that a coalition of labor unions is expected to sponsor legislation to address "pension spiking." Spiking is the practice of granting pay increases or maximizing opportunities to cash out vacation or other benefits for the purpose of increasing a retirement allowance beyond what it would have been otherwise. Details of the proposal are unknown at this time.

What Can Be Done Locally and With Your Legislative Delegation? Staff outlined a list of ideas for communicating with the public and Legislature to generate political pressure from the local level, as contained in the briefing materials.

Meeting adjourned.

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

April 5, 2010

TO: Members, CSAC Executive Committee

FROM: Paul McIntosh, Executive Director

SUBJECT: Proposed CSAC Budget for FY 2010 – 11

As you may know, the CSAC Budget is partially comprised of a contribution from the CSAC Finance Corporation. Due to the poor economy, Finance Corporation revenues are down this year in the areas of housing, non-profit financing and investment income.

The Finance Corporation Board of Directors will be meeting next week to discuss and adopt their budget. Once that action is taken, we can finalize the proposed CSAC Budget for FY 2010 – 11.

We will forward you the CSAC Budget materials no later than Friday, April 16. Please feel free to contact me if you have any questions or concerns.

County Counsels' Association of California

MEMORANDUM

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

From: **Jennifer Henning, Litigation Coordinator** JBH

Date: **April 22, 2010**

Re: **2010 – 2011 Litigation Coordination Budget**

Recommended Action:

Recommend adoption of the 2010-2011 Litigation Coordination Program budget to the CSAC Board of Directors.

Reason for Recommendation:

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

Background:

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

1100 K Street, Suite 101, Sacramento, CA 95814 (916) 327-7535 FAX (916) 443-8867

The Litigation Coordination Program is funded through a fee administered and collected directly by CSAC.[1] The fees are held in a separate fund and used to pay for costs of the program, including 80% of Litigation Coordinator's salary, a portion of the County Counsels' Association's office space, and other expenses.

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

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

I am keenly aware that this is a universally difficult budget year throughout the State. However, in past budget years, this program has not received fee increases sufficient to keep up with the costs of running the program.[2] In addition, the demands on the program continue to grow. If the program is not fully funded, we will have to make cuts in our services at a time when our ability to respond with sound legal advice and coordinated litigation if necessary is most critical.

Conclusion

The proposed 2010-2011 Litigation budget is a responsible budget intended to ensure the program services continue with as little impact on county revenues as

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[1] The County Counsels' Association agreement with CSAC provides: "The Association shall submit a litigation program budget to the CSAC Board of Directors on or before April 1 of each year for the fiscal year commencing July 1 through June 30. The CSAC Board of Directors shall annually adopt a program budget and assess fees from its member counties consistent with the budget. Invoices shall be sent to the counties each year in time to allow inclusion of the fee in the counties' budget process."

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

possible. I remain dedicated to this Program and to providing the highest quality legal representation to CSAC in the courts. I appreciate your support of the Litigation Coordination Program, and ask that you recommend approval of the proposed Fiscal Year 2010-2011 Litigation budget to the CSAC Board of Directors.

Attachments:

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

CSAC/County Counsels' Association

LITIGATION COORDINATION PROGRAM

FISCAL YEAR 2010-2011 BUDGET

Approved by Litigation Overview Committee on January 14, 2010

Adopted by County Counsels' Association Board of Directors on January 21, 2010

Approved by CSAC Executive Committee on _____, 2010

Adopted by CSAC Board of Directors on _____, 2010

INCOME:

Membership Dues	285,098.00
TOTAL INCOME	285,098.00

EXPENSES:

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

LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2010-2011 BUDGET

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

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

* Transferred from County Counsels' Association reserves

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

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

(9 counties 1,000,000 or over)		
Los Angeles	**$14,720**	**(current 2009-2010 fee: $14,432)**
San Diego		
Orange		
Santa Clara		
San Bernardino		
Riverside		
Alameda		
Sacramento		
Contra Costa		
(7 counties 500,000 to 999,999)		
Fresno	**$9,813**	**(current 2009-2010 fee: $9,621)**
San Francisco		
Ventura		
San Mateo		
Kern		
San Joaquin		
Stanislaus		
(11 counties 200,000 to 499,99)		
Sonoma	**$4,907**	**(current 2009-2010 fee: $4,811)**
Santa Barbara		
Monterey		
Solano		
Tulare		
Santa Cruz		
Marin		
San Luis Obispo		
Placer		
Merced		
Butte		

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

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

MEMORANDUM

April 1, 2010

To: Executive Committee
California State Association of Counties

From: Paul McIntosh
Executive Director

Re: **Federal Advocacy Contract**

The current agreement with Waterman and Associates expires on December 31, 2010. It is recommended that the option to renew the contract for another four year period be exercised.

Waterman and Associates has been the federal advocate for CSAC since September 1996 and their performance has been excellent. For the past two years, activity in Washington DC has been especially intense and Waterman and Associates has been particularly effective in helping to secure approval of issues directly benefiting California counties. Furthermore, CSAC staff has an excellent and close working relationship with the staff at Waterman and Associates. While the contract is large (in excess of $200,000 per year) little to no benefit can be seen in bidding or searching for a different firm. Any marginal dollar savings, which is speculative, would easily be erased by loss of productivity and activity with a known contractor.

Recommendation
Authorize the extension of the contract with Waterman and Associates for a period of four (4) years. Contract amounts will increase 5% per year during the renewal.

Attachment

AMENDMENT TO FEDERAL AFFAIRS SERVICES CONTRACT

THIS AMENDMENT is made this ____ day of April, 2010, by and between the California State Association of Counties (hereinafter referred to as "CSAC") and Waterman & Associates – Government Relations, Inc. (hereinafter referred to as "W&A").

WHEREAS, CSAC and W&A did enter into a contract for federal affairs services dated November 28, 2006 (hereinafter referred to as the "Contract") for a period of four years, beginning on January 1, 2007 and expiring on December 31, 2010 (hereinafter referred to as the "Initial Term") and,

WHEREAS, CSAC and W&A now desire to exercise the option to renew the Contract prior to expiration pursuant to Section III, Duration in order to extend the term for a period of four (4) years commencing January 1, 2011 and ending December 31, 2014, pursuant to upon the terms and conditions set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby stipulated, the parties agree as follows:

1. Section III. DURATION OF THE AGREEMENT of the Contract is amended to extend the term of the contract for a period of four (4) years, commencing January 1, 2011 and ending December 31, 2014.
2. Section IV. CONSIDERATION of the Contract is amended so that the monthly payments amount shall be as follows:

Year	Monthly Payment
2011	$17,920
2012	$18,820
2013	$19,760
2014	$20,750

3. All other terms and conditions of the Contract not specifically amended by this Amendment are hereby ratified and affirmed.

Paul McIntosh, Executive Director

California State Association of Counties

Ronald Waterman, President

Waterman & Associates – Government Relations, Inc

Diana L. Waterman, Vice President

Waterman & Associates – Government Relations, Inc.

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

April 6, 2010

To: CSAC Executive Committee

From: Paul McIntosh, Executive Director

Re: **Reform Task Force Update**

Recommendation. This item is for your review and discussion. The CSAC Reform Task Force submits the attached memo describing the League of California Cities' initiative and its potential impacts on counties for your review.

Background. The CSAC Reform Task Force met on March 31 to discuss next steps with regards to the various reform proposals under consideration at this time. Chaired by Ventura County Supervisor Kathy Long, the Task Force discussed the draft memo outlining the League measure and directed staff to make a number of changes and submit it to the CSAC Officers and Executive Committee for review. The intent is to share this memo broadly with county supervisors prior to the policy discussion at the CSAC Board of Directors meeting in June.

The Reform Task Force also requested that staff convene a briefing call prior to the meetings of the CSAC policy committees on the measure. Staff will invite supervisors to participate in a briefing, as well as review of the white paper, in order to ensure that supervisors are well-informed prior to policy committee discussion. The intent is to provide an objective analysis of the measure and to answer any questions that may come up.

The Reform Task Force also discussed recent legislative activities involving the *California Forward* reform proposals, which are contained in SCA 19 (DeSaulnier) and ACA 4 (Feuer, Bass, and John Perez).

Action Requested. There is no action requested at this time. Please recall, however, that the CSAC Administration of Justice, Government Finance and Operations, Health and Human Services, and Housing, Land Use, and Transportation Policy Committees will be discussing the League of California Cities' initiative. The measure will be considered by the CSAC Board of Directors at its meeting on June 3.

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

TO: CSAC Officers and Executive Committee

FROM: Supervisor Kathy Long, Chair, and Members, CSAC Reform Task Force

RE: Possible Effects on Counties of the Local Taxpayers, Public Safety and Transportation Protection Act of 2010

Background: The League of California Cities, along with their partners — primarily the California Alliance for Jobs, which represents heavy construction companies and union workers — is working to qualify a ballot initiative for the November 2010 statewide ballot. The initiative would more thoroughly secure certain revenue streams that partly or completely flow to local agencies, mostly related to redevelopment, transportation, and transit. Specifically, the measure:

- Prohibits the suspension of Proposition 1A (2004).
- Prohibits property tax transfers to pay for new local mandates.
- Prohibits paying for new local mandates by reallocating 0.65 percent VLF rate.
- Specifies that all net revenues from state excise taxes on motor vehicle fuels, or any successor tax, be deposited in the Highway Users Tax Account (HUTA), which is declared a trust fund to be used solely for public transit infrastructure and for streets and roads costs.
- Requires 2/3 legislative vote to modify the allocation of HUTA from June 30, 2009 formulas.
- Prohibits borrowing, deferring, delaying, or otherwise inhibiting HUTA allocation to locals; for the Legislature to modify the formulas, the California Transportation Commission (CTC) must hold at least four public hearings, publish a report of the hearings, and wait 90 days.
- Limits HUTA use for bonds to 1/4 of state revenues for state bonds and 1/4 of revenues for local bonds.
- Restores traditional (pre-2001) Public Transportation Account (PTA) allocations and declares it a trust fund.
- Prohibits any allocation of Bradley-Burns sales tax to local transportation funds from being reduced below 2008 allocation percentage.
- Requires Proposition 42 sales tax on gas, or any successor tax (such as the new gas excise tax) to go quarterly to a Transportation Investment Fund, which is declared a trust fund, and allocates revenues according to formula; modifying formulas requires the same CTC process as described above for HUTA modifications.
- Protects redevelopment property taxes from state redirection.

The coalition's efforts seem to be proceeding apace, and indications are that they will gather the required number of signatures by the mid-April deadline.

This measure has its source in several recent legislative events. As the state's fiscal situation has continued to deteriorate, the Governor and Legislature have invented more

ways to use local revenues to help solve their budget deficits, including, relevant to this measure, suspending the recently voter-approved Proposition 1A, proposing to eliminate the local share of HUTA, shifting transit money to the state's General Fund, shifting redevelopment money to the state's General Fund, and significantly and repeatedly delaying various payments to local agencies. Unsurprisingly, these actions have led to growing anger among local officials. They have also led to lawsuits challenging the legality of the redevelopment and transit shifts.

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

For counties, though, the picture is somewhat murkier, and the Reform Task Force has asked staff to outline the possible negative effects on counties should the initiative win passage in November.

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

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

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

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

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

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

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

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

The CSAC Executive Committee has referred this measure to four policy committees for their consideration and recommendation to the Board of Directors: Government Finance & Operations; Housing, Land Use and Transportation; Administration of Justice; and Health and Human Services.

Pros:
- Strengthens protection of transportation funds.
- Strengthens protection of redevelopment funds.
- Prohibits suspension of Prop. 1A.

Cons:
- Locking some areas of budget leads to deeper cuts elsewhere, program or responsibility shifts, or larger tax increases.
- Deeper cuts and program shifts will almost certainly fall on counties.
- Permanently prioritizes transportation and redevelopment over other budget issues.

NOTICE OF REGULAR MEETING AND AGENDA

NOTICE

Notice is hereby given that a regular meeting of the Board of Trustees of CalTRUST will be held on April 14, 2010 at 8:00 a.m., at La Playa Hotel, Camino Real and 8th Avenue, Carmel, California, 93921

Public Comment *– In accordance with Government Code Section 54954.3, any member of the public may address the Board concerning any matter on the agenda before the Board acts on it and on any other matter during the public comment period at the conclusion of the agenda.*

To participate via teleconference please dial 1-800-867-2581, Access Code: 7338439

AGENDA

Wednesday, April 14, 2010
Location: La Playa Hotel
7:30 a.m. Breakfast – Carmel Room

PROCEDURAL ITEMS
8:00 a.m. Presiding: Charles Lomeli, President

1. **Roll Call**

_____ Lomeli, Charles *(President)*
_____ Duncan, Glenn *(Vice President)*
_____ Pollacek, William *(Treasurer)*
_____ Boitano, Robert
_____ Ciapponi, Dave
_____ Colville, John
_____ Kent, Don
_____ McAllister, Dan

ACTION ITEMS

2. **Approval of the Minutes of the Fall Meeting of the Board of Trustees from September 16, 2009**
Charles Lomeli
..... **Tab 2**

3. **Election of Officers, Board of Directors and Resolution to Conduct Business /Delegation of Duties for FY 2010-2011**
Charles Lomeli
..... **Tab 3**

4. **Discussion RE: Custodial Services Agreement**
Lyle Defenbaugh & Janette Dziadon
..... Tab 4

5. **Discussion RE: RFP for Independent Auditors**
Charles Lomeli & Bill Pollacek
..... Tab 5

INFORMATION ITEMS

6. **Investment, Market & Portfolio Strategy, Update & Review**
Janette Dziadon, Michael Rodgers, Jeff Weaver & Tony Melville
- Interest Rate & Economic Overview
- Sweep Account Discussion & Recommendation

..... Tab 6

7. **Heritage Money Market Fund**
Dave Sylvester
..... Tab 7

8. **Client Update & Marketing**
Lyle Defenbaugh
..... Tab 8

9. **Profit/ Loss**
Kelli Osborne
..... Tab 9

10. **CalTRUST Website**
Laura Labanieh
..... Tab 10

11. **CalTRUST in the Future**
Charles Lomeli
- Plan for the Education Program and Cash Management Manual
- National Program
- Other issues

12. **Future Meetings**
Laura Li
- 2010 Fall Meeting, September 15, 2010 @ La Valencia Hotel, La Jolla, CA
- 2011 Annual Meeting, April 27, 2011 @ La Playa Hotel, Carmel, CA
- 2011 Fall Meeting, September 14, 2011 @ La Valencia Hotel, La Jolla, CA

13. **Public Comment**
Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.

14. **Adjourn**

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the Agency provide a disability-related modification or accommodation in order to participate in any public meeting of the Agency. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the Agency. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence to the Agency office, at least 48 hours before a public Agency meeting.

CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

NOTICE OF REGULAR MEETING AND AGENDA

NOTICE

Notice is hereby given that a regular meeting of the Board of Directors of the CSAC Finance Corporation will be held on April 15-16, 2010 at 8:00 a.m., at La Playa Hotel, Camino Real and 8th Avenue, Carmel, CA.

Public Comment *– In accordance with Government Code Section 54954.3, any member of the public may address the Board concerning any matter on the agenda before the Board acts on it and on any other matter during the public comment period at the conclusion of the agenda.*

AGENDA

Thursday, April 15
Location: La Playa Hotel
7:30 a.m. **Breakfast - *Carmel Room***

PROCEDURAL ITEMS
8:00 a.m.

1. Roll Call

   _____ Tom Ford, ***President***
   _____ Les Brown, ***Treasurer***
   _____ Greg Cox
   _____ Henry Gardner
   _____ Joni Gray
   _____ Michael D. Johnson
   _____ Paul McIntosh
   _____ Pat O'Connell
   _____ Larry Spikes
   _____ Mark Saladino

   _____Tom Sweet, *Executive Director*
   _____Richard E. Winnie, *Legal Counsel*
   _____ Laura Li, *Secretary*

2. **Welcome and Introductions**
   Tom Ford, President
   ..... **Tab 2**

3. **Approval of the Minutes from the Previous Board Meetings as follows:**
   Tom Ford

   - Special Board Teleconference of January 25, 2010
   - Fall Board Meeting of September 17-18, 2009

   ..... **Tab 3**

4. **Election of Board & Officers for FY 2010-2011**
   Tom Ford

   - Appointment of Board of Directors
   - Election of Officers
   - Approval of Resolution to Conduct Business/Delegation of Duties

   ..... **Tab 4**

5. **CLOSED SESSION**

- Personnel Evaluation: Executive Director (Government Code §54957)

INFORMATION ITEMS

6. **CalTRUST Program**
Chuck Lomeli, Lyle Defenbaugh, Mike Rodgers

- Status of Program
- Performance Information
- CalTRUST Education Program

..... **Tab 6**

7. **California Communities Programs Update**
Overview by Program Managers for California Communities, followed by comments from our business partners for each of the programs when relevant.
California Communities programs to be discussed include:

- Private Activity Programs
  - Multi-Family Affordable Housing
  - Nonprofit Public Benefit Financing
  - Industrial Development Bonds
  - Exempt Facility / Solid Waste
  - Small Issue Public Benefit Program
- Public Agency Programs
  - Pension Obligation Bonds (POB)
  - Tax & Revenue Anticipation Notes (TRANs)
  - Tobacco
  - Statewide Community Infrastructure Program (SCIP)
  - Total Road Improvement Programs (TRIP)
- California Communities Community Benefit Report as of December 31, 2009

..... **Tab 7**

8. **U.S. Communities Program Update**
Kevin Juhring

..... **Tab 8**

9. **NACo FSC Programs Update**
Nancy Parrish

10. **Nationwide Retirement Solutions Program Update**
Linda Barber, Jim Keeler

..... **Tab 10**

11. **Public Comment**
Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.

Friday, April 16
7:30 a.m. **Breakfast - *Carmel Room***

ACTION ITEMS
8:00 a.m.

12. **Appointment of Committee(s) for 2010-11**
Laura Li

..... **Tab 12**

13. Approval of Budget for FY 2010-11
Les Brown & Kelli Osborne
..... Tab 13

14. **Issuers Mutual Bond Assurance Company**
Paul McIntosh
..... Tab 14

15. **Finance Corp. Goals & Activities for 2010—2011**
Staff

- Status of Goals for 2009-10
- County Participation Matrix
- Proposed Goals for 2010-11

..... Tab 15

16. **Locations and Dates for Future Meetings**
Laura Li

- 2010 Fall Meeting, September 16-17, 2010 @ La Valencia Hotel, La Jolla, CA
- 2011 Annual Meeting, April 28-29, 2011 @ La Playa Hotel, Carmel, CA
- 2011 Fall Meeting, September 15-16, 2011 @ La Valencia Hotel, La Jolla, CA

17. **Public Comment**
Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.

18. **Adjourn**

A person with a qualifying disability under the Americans with Disabilities Act of 1990 may request the Agency provide a disability-related modification or accommodation in order to participate in any public meeting of the Agency. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the Agency. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, facsimile, or written correspondence to the Agency office, at least 48 hours before a public Agency meeting.

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

April 6, 2010

To: CSAC Executive Committee

From: Kelly Brooks, CSAC Legislative Representative
Farrah McDaid Ting, CSAC Senior Legislative Analyst

Re: California's Next Section 1115 Medicaid Waiver

Background. California's current Section 1115 Medicaid Waiver – which funds hospitals and indigent care – expires on August 31, 2010. The State of California began work on the next Medicaid demonstration waiver last fall.

Section 1115 of the Social Security Act provides the Secretary of Health and Human Services broad authority to authorize experimental, pilot, or demonstration projects likely to assist in promoting the objectives of the Medicaid statute. Flexibility under Section 1115 is sufficiently broad to allow states to test substantially new ideas of policy merit. These projects are intended to demonstrate and evaluate a policy or approach has not been demonstrated on a widespread basis.

Projects are generally approved to operate for a five-year period, and states may submit renewal requests to continue the project for additional periods of time. Demonstrations must be "budget neutral" over the life of the project, meaning they cannot be expected to cost the Federal government more than it would cost without the waiver.

The California Department of Health Care Services (DHCS) released concept papers in October and December 2009, formed a Stakeholder Advisory Committee, and four technical work groups to gather input on developing a detailed proposal.

The DHCS is in discussions with the Centers for Medicare and Medicaid Services (CMS) on the details of California's next waiver. CMS will draft the terms and conditions, the legal document governing the waiver. State staff are working on a more detailed paper that will further flesh out the ideas under discussion in the workgroups. The DHCS expects to send a more detailed proposal CMS in late April or early May. It is not clear at this point if the detailed proposal will be released to stakeholders for review and comment before it is sent to CMS.

Policy Considerations. The following is summary of the issues raised in the Statewide Advisory Group and technical workgroups to date.

New Federal Funding
The DHCS has technical consultants working on calculations of budget neutrality for purposes of arguing for more federal funds. The technical work around budget neutrality will not be made public. DHCS is hoping to begin discussions with the CMS this month about how to calculate budget neutrality for California. The final

number will help determine how much in new federal funds are available through the waiver. During this process CMS will pose questions to the state and DHCS will respond.

Dual Eligibles
'Dual eligibles' refer to individuals eligible for both Medi-Cal and Medicare (sometimes also called Medi-Medis). Originally, DHCS tabled discussions on the dual eligibles. The State released a concept paper in early March and has had initial discussion with CMS about the boldest idea in their concept paper, which they are calling the "State as Integrated Entity."

Under the "State as Integrated Entity" concept, the Medi-Cal program would receive an agreed upon amount of Medicare funding for dual eligibles that choose this option, and the State would assume responsibility for the Medicare benefit. In essence the State would manage the Medi-Cal and Medicare funds and services for individuals who so choose. CMS has not given any state approval to do this.

The DHCS will convene a fifth workgroup in April to discuss this population and the concept paper in further detail.

Seniors and Persons with Disabilities (SPDs)
The State released a summary document dated March 3 that offers two options for improving care coordination: 1) enrolling SPDs into existing managed care plans, and 2) giving managed care counties (excluding those with a County Organized Health System) the option to establish an additional organized care delivery model.

Existing Managed Care Plans
Under this model, the State will take actions in new plan contractual requirements and financial and enrollment incentives so that existing Medi-Cal managed care plans in counties with public hospitals integrate public hospitals into their networks. Managed care plans will also be required to establish similar arrangements with private Disproportionate Share Hospitals (DSH) and Federally Qualified Health Centers (FQHCs). The State is also interested in mitigating state General Fund pressures.

Alternative Model
Under this model, counties with existing managed care plans, would have the option to establish an alternative organized care delivery model. The goal of the alternative model is to improve outcomes and increase cost control. County development of the alternative would occur as the State is preparing to initiate mandatory enrollment in Year 1 (September 1, 2010 - August 31, 2011) of the next waiver. The alternative organization would be required to contract with State and must be cost neutral to the State General Fund.

Counties that would have the *option* to establish an alternative organized care delivery model:

Alameda	Contra Costa	Fresno*
Kern	Kings*	Los Angeles
Madera*	Riverside	Sacramento
San Bernardino	San Diego	San Francisco
San Joaquin	Santa Clara	Stanislaus
Tulare		

* *Fresno, Kings and Madera are establishing a tri-county two-plan model that is set to be operational on October 1, 2010. Presumably, they would be eligible to establish an alternative care model.*

Coverage Initiatives
The current waiver includes $180 million a year for three years for Health Care Coverage Initiative pilot programs. The pilot programs, currently in 10 counties, serve low-income uninsured adults not otherwise eligible for Medi-Cal. Since the technical workgroup began discussing whether and how to expand the Coverage Initiatives, federal health reform became law. By 2014, states will receive 100 percent federal match for expanding their Medicaid programs to low-income uninsured adults up to 133 percent of the federal poverty level (FPL) not currently eligible for Medicaid.

The workgroup has begun to discuss how California can use the Coverage Initiatives as a bridge to the larger Medicaid expansion in 2014.

Behavioral Health
The technical work group is looking at pilots to test strategies to integrate primary care to behavioral health services in Medi-Cal. The pilots would likely build on the Coverage Initiatives. State representatives have been explicit that the non-federal match for the behavioral health pilot(s) would have to come from sources other than the state General Fund, which implies that it would come from counties.

California Children's Services (CCS)
The technical workgroup is exploring four different models for establishing a pilot program.

Financing
Please note that there have been no public discussions with stakeholders about the details of financing any of the proposals from the technical workgroups. It remains unclear how questions about financing will be addressed through this workgroup process or the Statewide Advisory Committee. The State will not commit any additional General Fund to match any new federal funds; counties appear the likely source of match to draw down any new federal dollars.

CSAC INSTITUTE
FOR EXCELLENCE IN
COUNTY GOVERNMENT

LEARN . GROW . ACHIEVE

CSAC Institute Update
Executive Committee
April 2010

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

Enrollment Update

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

Institute and the CSAC Legislative Conference

In conjunction with the CSAC Legislative Conference, the Institute will be holding a course titled *Realignment 101: How Did We Get It? Where Did it Go?* The course will be held in two parts – Thursday afternoon, June 3, and Friday morning, June 4. Interested parties can register for the course when they register for the Conference. We are anticipating a good turnout for this class.
We also anticipate holding our second "graduation ceremony" during the Legislative Conference as a number of individuals are nearing the level of credits needed to receive their credentials.

Continue to Spread the Word

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

Low Cost * Professional Development for California Counties

2010 WINTER/SPRING COURSE SCHEDULE

CSAC INSTITUTE FOR EXCELLENCE IN COUNTY GOVERNMENT

APRIL

310 County Health Care Systems - The Responsibilities and Resources

Heath care and public health services are among the most critical county services and among the most complex to understand. What are the mandated responsibilities for counties? What are the sources of funding? How are services provided? What are the consequences of state and county program reductions? These are among the questions explored in this policy-makers course on county public health services. Participants use case studies to look at a range of strategies and consider opportunities for sorting out heath care priorities when resources are so severely limited.

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

150 Local Governance in California

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

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

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

Most of us have experienced decision-making as a one-step process—*just do it*! There is much more, however, to leadership in effective problem solving and decision-making. This best practice course examines how values and past experience guides one in perceiving facts when engaged in decision making and ways to apply problem solving and decision making techniques. The course introduces a step-by-step approach to problem solving and introduces participants to some handy problem solving and decision making tools.

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

MAY

361 Effective Partnerships with County-Funded CBO's

Many counties fund and rely on community-based organizations (CBOs) to provide a range of county services. The success and effectiveness of the services delivered depends on the nature of the relationship between the county and the CBO. Find out in this course on how to select, establish and maintain effective relationships with CBOs, indicators of success or problems, and how to get a relationship with a CBO back on solid ground.

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

MAY (continued)

360 Managing Conflict (even hostility) and Disagreement in Comfort

Conflicts and disagreements are a fact of life in counties. They can contribute to better outcomes or can lead to an escalating situation. Transform the most difficult circumstances into a satisfying experience for all involved. This course helps County Supervisors and executives identify constructive approaches to positively managing conflict whether from the dais, in a meeting, or one-on-one. Participants develop tools to quickly analyze and respond to difficult situations and create practical, positive outcomes.

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

303 County Mental Health Obligations, Services and Funding

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

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

JUNE

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

What is realignment, where did it come from and how does it work? This course provides the context of realignment with an examination of the history and rationale for establishing it and why certain programs were included or added over the years. Participants examine the mechanics and what county programs it funds today. The course explores the current funding issues, what the future holds and potential impacts of federal health reform.

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

114 Public Engagement: Involving the Community in Decision Making

Explores practical tips to maximize the effectiveness of public forums, hearings, town halls, and other forms of community engagement. Participants examine techniques that help the public take into account the hard choices and trade-offs in decisions, and how to demonstrate that public ideas and recommendations are taken seriously.

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

To register for classes please visit: **www.csacinstitute.org**

LEARN . GROW . ACHIEVE

CSAC CALIFORNIA Counties CORPORATE ASSOCIATES PROGRAM

Memorandum

April 6, 2010

To: CSAC Executive Committee

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

Re: Corporate Associates Program Updates
INFORMATION ITEM

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

- Membership and sponsorship solicitation efforts for 2010 are underway, with current efforts geared towards the CSAC Legislative Conference in June, and CSAC Annual Meeting in November.

- As of April 5th, we have received 2010 membership commitments from 49 organizations, with a total income to-date of $128,500. We are trending similar to last year at this time, when we had 45 paid members and an income of $135,000.

- We have seven new program members so far this year, including Siemens Building Technologies, at the Silver ($5,000) level.

- CSAC is in the process of scheduling in-person meetings with corporate members, to discuss CSAC events/activities and ensure the program is continuing to meet their organization's needs.

- The Exhibit Hall for the CSAC 2010 Annual Meeting in Riverside County is more than 25 percent committed for this year.

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

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

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

County Counsels' Association of California

MEMORANDUM

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

From: **Jennifer Henning, Litigation Coordinator**

Date: **April 22, 2010**

Re: **Litigation Coordination Program Update**

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

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

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

This case involves a pre-election challenge filed by the Carpinteria City Attorney to the Paredon Oil and Gas Initiative, which would have required adoption of a new specific plan, local coastal program and development agreement, and directed the city to issue all of the necessary permits to authorize

an onshore and offshore oil and natural gas project. The Initiative supersedes any inconsistent city ordinances and regulations, and no environmental analysis would be conducted under CEQA. The City Attorney sought relief from preparing a title and summary arguing, among other things, that the Initiative was invalid because it: (a) concerns a non-negotiated development agreement for a specific project, which the electorate lacks the power to adopt; (b) would cause inconsistencies in the general plan; (c) utilizes the initiative process to circumvent the environmental review necessary for such projects under CEQA; and (d) intrudes on the City's essential government functions. The trial court ruled against the city on most claims, and the city has appealed. CSAC will file a brief focused on that fact that non-legislative matters need to be left within the purview of the governmental agency.

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

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

County of Butte v. Federal Energy Regulatory Commission
Pending in the Ninth Circuit Court of Appeals (filed Jan. 15, 2010)(10-70140)

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

arguing that it is unrealistic for FERC to assume that the State will reimbursement the county for services without being ordered to do so.

County of Los Angeles v. Humphries
547 F.3d 1117 (9th Cir. Nov. 5, 2008)(05-56467), cert. granted (Feb. 22, 2010)(09-350)

Plaintiffs were accused by their rebellious child of child abuse. They were listed on the Child Abuse Central Index, even after the charges were found to be false and the criminal charges dropped. They sued the State and LA County, along with individual county employees. The Ninth Circuit found that plaintiffs could establish a due process violation. The court went on to find, however, that the individual county defendants were entitled to immunity. It remanded to the trial court for a determination of LA County's liability resulting from county policy. Despite no finding of county liability, the court issued an unpublished order granting interim attorney fees to the plaintiffs. The U.S. Supreme Court has granted review to the following issue: Whether interim attorney fees may be awarded for a constitutional violation without determining if the constitutional violation was the result of a policy or custom adopted by a municipality. CSAC will file a brief in support of the county.

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

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

Los Angeles Unified School Dist. v. County of Los Angeles
181 Cal.App.4th 414 (2d Dist. Jan. 27, 2010)(B213703), *petition for review pending* (filed Mar. 2, 2010)(S180790)

The school district petitioned to compel defendants County of Los Angeles, City of Los Angeles, and numerous community redevelopment and other local agencies to increase its allocation of community redevelopment project mitigation payments (pass-through payments) under Health and Safety Code section 33607.5. The Second District agreed with the school district that the district's ERAF revenue should be included in calculating its percentage share of property taxes. As such, the court concluded that any property tax revenue deemed allocated to the ERAF under Revenue and Taxation Code sections 97.2(d)(5) and 97.3(d)(5) necessarily qualifies as property tax revenue to the school that received it. The court remanded to the trial court for further proceedings, including

litigation over the issue of whether there is a right to reimbursement. The county has petitioned for Supreme Court review, and CSAC has filed a letter in support.

Priceline, Inc. v. City of Anaheim
180 Cal.App.4th 1130 (4th Dist. Div. 3 Jan. 5, 2010)(G041338), *petition for depublication pending* (filed Mar. 3, 2010)(S180695)

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

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

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

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

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

Court narrowly rejected rehearing the case, but the United States Supreme Court granted certiorari and will hear the case. CSAC has filed a brief in support of the city.

II. Amicus Cases Decided Since Last Executive Committee Meeting

Bamonte v. City of Mesa, Arizona
--- F.3d ---, 2010 U.S.App.LEXIS 6188 (9th Cir. Mar. 25, 2010)(08-16206)
Outcome: Positive
This case raises the issue of whether the donning and doffing of police uniforms and protective gear is compensable under the Fair Labor Standards Act. The district court ruled in favor of the city, finding that the donning and doffing of police uniforms and protective gear was not compensable as neither the law, the police department, nor the nature of police work required officers to change at work. The Ninth Circuit affirmed. CSAC filed a brief in support of the city.

Bull v. City and County of San Francisco
595 F.3d 694 (9th Cir. Feb. 9, 2010)(05-17080)(en banc)
Outcome: Positive
The Ninth Circuit, sitting en banc, has concluded that a blanket policy of strip searching without reasonable suspicion of all individuals arrested and classified for housing in the general jail population does not violate the arrestees' clearly established constitutional rights. The court noted that it was ruling on the facial constitutionality of the policy, and not considering any allegations that the policy was not scrupulously followed. But as to the policy, the court found it was not meaningfully different from the policy considered by the U.S. Supreme Court in *Bell v. Wolfish* (1979) 441 U.S. 520, which upheld strip searches of pre-trial detainees after contact visits. CSAC filed a brief in support of en banc review.

Chavez v. City of Los Angeles
47 Cal.4th 970 (Jan. 14, 2010)(S162313)
Outcome: Positive
After five years of litigating a statutory retaliation action against the city, plaintiff was awarded $11,500 in damages. He then requested $871,000 in attorney fees under the fee provisions of the Fair Employment and Housing Act (Gov. Code § 12965(b)). The California Supreme Court found that a trial court has discretion in denying attorney fees where the damages award shows minimal success on the merits: Code of Civil Procedure "1033(a), interpreted according to its plain meaning, gives a trial court discretion to deny attorney fees to a plaintiff who prevails on a FEHA claim but recovers an amount that could have been recovered in a limited civil case. In exercising that discretion, however, the trial court must give due consideration to the policies and objectives of the FEHA in general and of its attorney fee provision in particular. Here, we further conclude that, in light of plaintiff's minimal success and grossly inflated attorney fee request, the trial court

did not abuse its discretion in denying attorney fees." CSAC filed a brief in support of the city.

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

As mitigation for a development on the Stanford University campus, the university was to provide two public trails on land identified on the countywide trails master plan, for which an EIR had already been certified. The Board certified a trails agreement between the university and the county. The agreement approved a specific alignment for one trail and gave the university a specified time to develop a specified alignment for the other. As to the unspecified trail, the Board determined that since it was not approving any specific trail improvements as part of the agreement, no CEQA review was required. A Notice of Determination was properly filed. Over five months later, plaintiffs challenged approval of the agreement on CEQA grounds. Despite the 30-day statute of limitations, the Sixth District concluded that plaintiff might be able to allege that a 180-day statute of limitations applies when a lead agency files an erroneous notice of determination. The California Supreme Court unanimously reversed, holding that the filing of an NOD triggers a 30-day statute of limitations for all CEQA challenges to the decision announced in the notice. CSAC filed a brief in support of Santa Clara County.

Conservatorship of John L.
48 Cal.4th 131 (Feb. 25, 2010)(S157151)
Outcome: Positive

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

County of Sacramento v. Public Employment Relations Board
Writ Petition Summarily Denied by Third Appellate District (Mar. 12, 2010)(C062484)
Outcome: Negative

Sacramento County received an adverse decision from the Public Employment Relations Board that it has appealed to the Third DCA. At issue is whether the county is required to meet and confer prior to making changes to eligibility requirements for retiree health benefits. Prior to June 2007, the county provided a subsidy for retirees to participate in the County's Retiree Health Insurance Program. In December 2006 recognized employee organizations were informed that the CEO was recommending to the Board of Supervisors that it discontinue the retiree health subsidy for all retirees retired on or after

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

Dillingham-Ray Wilson v. City of Los Angeles
--- Cal.App.4th ---, 2010 Cal.App.LEXIS 350 (2d Dist. Mar. 18, 2010)(B192900)
Outcome: Negative

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

Grotenhuis v. County of Santa Barbara
--- Cal.App.4th ---, 2010 Cal.App.LEXIS 337 (2d Dist. Mar. 15, 2010)(B212264)
Outcome: Positive

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

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

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

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

The Ninth Circuit has found that a child protective services caseworker violated the constitutional rights of two minor girls who were interviewed at their school in connection with a sexual abuse investigation. After an arrest was made in connection with sexual abuse of another minor, there was a concern that the two minors involved in this case may have also been abused. The social worker went with a deputy sheriff to interview the girls at their school, and sometime later the mother brought this lawsuit arguing the interview violated the girls' Fourth Amendment rights. The Ninth Circuit agreed, holding that plaintiff stated a claim for a Fourth Amendment violation: "[W]e hold, as we did in *Calabretta*, that 'the general law of search warrants applie[s] to child abuse investigations.' *Calabretta*, 189 F.3d at 814. 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. At least where there is, as here, direct involvement of law enforcement in an in-school seizure and interrogation of a suspected child abuse victim, we simply cannot say, as a matter of law, that she was seized for some 'special need, beyond the normal need for law enforcement.' *Ferguson*, 532 U.S. at 74 n.7. In short, applying the traditional Fourth Amendment requirements, the decision to seize and interrogate [the girls] in the absence of a warrant, a court order, exigent circumstances, or parental consent was unconstitutional." The court did, however, find defendants were entitled to qualified immunity from damages. Defendants sought en banc review, which CSAC supported, but review was denied.

International Society for Krishna Consciousness of California v. City of Los Angeles
--- Cal.4th ---, 2010 Cal.LEXIS 2063 (Mar. 25, 2010)(S164272)
Outcome: Positive

In this case, the Ninth Circuit reviewed an administrative code provision that prohibits persons from soliciting and immediately receiving funds at LAX. In order to resolve the case, the Ninth Circuit certified to the California Supreme Court, and the Court agreed to hear, the following questions: 1) Is Los Angeles International Airport a public

forum under the Liberty of Speech Clause of the California Constitution? 2) If so, does the ordinance at issue violate the California Constitution? The Court concluded "whether or not Los Angeles International Airport is a public forum for free expression under the California Constitution, the ordinance is valid as a reasonable time, place, and manner restriction of expressive rights to the extent that it prohibits soliciting the immediate receipt of funds. Accordingly, we do not determine whether Los Angeles International Airport is a public forum under the liberty of speech clause of the California Constitution, because the resolution of that question could not determine the outcome of the present matter." CSAC filed a brief in support of the city.

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

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

The Supreme Court reversed. "[T]he trustees of the City's retirement system board were not burdened by a conflict of the sort section 1090 prohibits: a division in the loyalties of public servants between the public interests of their constituents and private opportunities for their own personal financial gain. Rather, by intentional legislative design, many of the board's trustees were members of the retirement system and thus had interests in common with the membership as a whole. That the Lexin defendants were financially interested in the agreement here --- like thousands of their fellow retirement system members --- was a consequence of this fact. The public services exception to section 1090 --- section 1091.5(a)(3) --- recognizes that financial interests shared with one's constituency do not present the dangers the state's conflict of interest laws were designed to eradicate." The Court went on to find that one of the trustees who had personalized benefits (not available to other members of the retirement system) presented a genuine conflict problem that does not fall under any statutory exception. CSAC filed an amicus brief in this case.

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

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

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

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, his client authorized him 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 granted the city's anti-SLAPP motion. The Sixth District reversed. The court found that hiring a private investigator is conduct protected by the right to free speech since it is an information-gathering activity. The resolution condemning Tichinin and publicly reprimanding him was likely to deter private investigations of city officials. Thus Tichinin's allegations sufficiently supported a prima facie showing of success on the merits and the trial court erred in striking the claim. CSAC submitted letters in support of review and depublication, but both were denied.

United Farm Workers of America v. Administrator, Environmental Protection Agency
592 F.3d 1080 (9th Cir. Jan. 26, 2010)(08-35528)
Outcome: Negative
The Federal Insecticide, Fungicide & Rodenticide Act requires all pesticides registered with the EPA before 1984 to go through a reregistration process. This case is a challenge to the EPA's decision to reregister a pesticide known as AZM for certain applications. The statutory scheme provides different appeal mechanisms depending on whether the EPA held a "public hearing" prior to issuing its decision. Where a public hearing is held, an

appeal can only be made by a party to the proceeding, and must be made within 60 days directly in a Court of Appeal. Where there is no public hearing, any person adversely impacted by the decision can appeal to the district court within normal statutory timelines, generally 6 years. For the AZM reconsideration, the EPA took public comments on the proposal but held no adjudicative proceedings. Plaintiffs challenged the action in district court, but the court dismissed finding the "public hearing" element had been satisfied and any appeal should have been raised within 60 days in a Court of Appeal. This appeal followed. The Ninth Circuit affirmed, finding "[t]he plain meaning of 'hearing' is satisfied by the process the EPA provided the manufacturers, the growers, the environmental groups, and the Farm Workers. To conclude that there was 'no hearing' would fly in the face of the process." Circuit Judge Pregerson dissented, concluding that the words "public hearing" refer to a quasi-judicial process, not the mere solicitation of written comments from the public. CSAC filed a brief in this case supporting more public input through a formal public hearing.