

**CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE**

Thursday, May 24, 2007
10:00am - 3:00pm
Sheraton Grand Hotel, Sacramento

A G E N D A

Presiding: Frank Bigelow, President

10:00am PROCEDURAL ITEMS

1. Roll Call *Page 1*
2. Approval of Minutes of March 15, 2007 *Page 2*

10:15am ACTION ITEM

3. Eminent Domain Efforts/Campaign *Page 5*
 - *Steve Keil, Interim Executive Director*
 - *Jean Hurst, CSAC staff*

11:00am INFORMATION ITEMS

4. Report on May Revision of the Governor's Budget
 - *Steve Keil*
5. Corrections Reform Update *Page 16*
 - *Elizabeth Howard, CSAC staff*
6. CSAC Corporate Associates Report *Page 22*
 - *Norma Lammers, CSAC Interim Deputy Director*
7. Other Items

11:45am LUNCH

12:15pm CLOSED SESSION TO CONDUCT EXECUTIVE DIRECTOR INTERVIEWS

3:00pm ADJOURN

ROSTER

California State Association of Counties
Executive Committee
2007

President:	Frank Bigelow, Madera
1 st Vice President:	Richard Gordon, San Mateo
2 nd Vice President:	Gary Wyatt, Imperial
Immed. Past President:	Connie Conway, Tulare

Urban Section

Federal Glover, Contra Costa
Don Knabe, Los Angeles
John Tavaglione, Riverside
Roger Dickinson, Sacramento
Liz Kniss, Santa Clara
Kathy Long, Ventura
Greg Cox, San Diego (alternate)

Suburban Section

Joni Gray, Santa Barbara
Mike McGowan, Yolo
Mike Nelson, Merced
Valerie Brown, Sonoma (alternate)

Rural Section

Terry Woodrow, Alpine
Jeff Morris, Trinity
Tony Oliveira, Kings (alternate)

Advisors

Larry Combs, Sutter County Administrative Officer
Kathleen Bales-Lange, Tulare County Counsel

MINUTES OF MARCH 15, 2007

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
March 15, 2007
CSAC Conference Center, Sacramento

MINUTES

Presiding: Frank Bigelow, President

1. ROLL CALL

Frank Bigelow, President
Richard Gordon, 1st Vice President
Gary Wyatt, 2nd Vice President
Connie Conway, Immed. Past President – *via audio*
John Tavaglione, Riverside
Roger Dickinson, Sacramento
Liz Kniss, Santa Clara
Kathy Long, Ventura – *via audio*
Greg Cox, San Diego (alternate) – *via audio*
Joni Gray, Santa Barbara
Valerie Brown, Sonoma (alternate)
Terry Woodrow, Alpine
Jeff Morris, Trinity
Tony Oliveira, Kings (alternate)
Larry Combs, CAO advisor
Kathleen Bales-Lange, County Counsel advisor – *via audio*

2. APPROVAL OF MINUTES

The minutes of February 8, 2007 were approved as previously mailed.

3. PROPOSED CSAC BUDGET FOR 2008

Steve Keil presented the proposed CSAC Budget for FY 2008 as contained in the briefing materials. Some highlights/issues include:

- salaries are below budget due to some unfilled staff positions;
- revenues from Finance Corporation are at an all-time high (\$2.285 million);
- Corporate Associates revenues are down, but aggressive efforts are planned to elevate membership and sponsorships;
- meetings and magazine budgets took a loss, but magazine is slated for redesign and upgrades;
- \$50,000 for Legislative Counsel pilot project;
- Ransohoff building loan pay down of \$500,000.

A correction to the historical FY 2006 corporate sponsorships revenues and expenditures items was presented to the Executive Committee. Staff was directed to examine the corrections with the CSAC Treasurer, develop a written explanation and report back to the Executive Committee.

Motion and second to approve the proposed CSAC Budget for FY 2008 and direct staff to report back regarding the corrections for FY 2006.
Motion carried unanimously.

4. PROPOSED LITIGATION COORDINATION PROGRAM BUDGET FOR FY 2007-08

Kathleen Bales-Lange, Past President of the County Counsels' Association, presented the proposed Litigation Coordination Program budget for FY 2007-08 as contained in the briefing materials. The budget includes a reduction in certain office-related expenses such as communications and publications, and an increase in retirement, employee group insurance and salaries to better reflect the actual costs of the program.

Motion and second to approve Litigation Coordination program budget for FY 2007-08. Motion carried unanimously.

Staff was directed to add prior year budget figures for comparison purposes prior to consideration by the Board of Directors.

5. EMINENT DOMAIN REFORM PROPOSAL

CSAC staff has been participating in discussions with a broad range of stakeholders to develop an eminent domain reform measure to present to voters in 2008. The concept being developed by the coalition includes constitutional restrictions that prohibit owner-occupied residences from being taken by eminent domain for transfer to a private entity. The coalition has filed a ballot initiative with the Attorney General's office as an "insurance policy", offering a meaningful alternative to other measures that have already been filed or could be filed with the Attorney General. The coalition is working with Senate and Assembly leadership to secure an author and begin the legislative process.

Staff distributed a draft fact sheet and initiative language. No action was requested. This item will be brought to the Government Finance and Operations policy committee for a recommendation to the Board of Directors.

6. HEALTH AND HUMAN SERVICES BUDGET UPDATE

Frank Mecca, Executive Director of the California Welfare Directors Association (CWDA), presented information regarding county human service program funding. CSAC, the Urban Counties Caucus and CWDA developed a fact sheet outlining the impacts from lack of program funding as well as a matrix which describes each program, monthly caseloads, and funding levels. Both documents were contained in the briefing materials.

7. NATIONAL ASSOCIATION OF COUNTIES (NACo) REPORT

Supervisor Valerie Brown, NACo 2nd Vice President, reported that NACo now has 2240 member counties, due in part to Supervisor Connie Conway's leadership as Chair of the NACo Membership Committee. CSAC's current representatives on the NACo Board of Directors are Supervisors Greg Cox, Keith Carson and Connie Conway. Supervisor Brown also discussed the need for a NACo subcommittee on Indian Gaming and has been working with NACo leadership to create that committee. It was suggested that corporate sponsors be contacted to host California hospitality suites during upcoming NACo conferences in order to allow for greater networking opportunities for CSAC members.

During NACo's Legislative Conference in Washington, DC, CSAC hosted a Congressional breakfast which was attended by Senator Barbara Boxer and Representatives Zoe Lofgren, George Radanovich, Gary Miller, Barbara Lee, Hilda Solis and Mike Honda. It was suggested that the Congressional breakfast be moved to Tuesday morning next year to allow for greater supervisor participation.

8. CSAC FINANCE CORPORATION UPDATE

The U.S. Communities pooled purchasing program continues to grow and sales in California grew 27.5% in 2006. This year, the Finance Corporation will be conducting four regional seminars on the purchasing program as well as the other finance and investment programs offered under the umbrella of the Finance Corporation. Seminar details will be provided at a later date.

9. LEGISLATIVE UPDATE

Staff reported that the State Department of Finance is continuing to convey to legislators that county revenues are growing rapidly due to Proposition 1A. CSAC developed a chart that reflects the actual growth in county general-purpose revenues in order to show that is not the case and will be utilizing this information in meetings with legislators and their staff.

Following up on a previous report regarding AB 397, legislation that would prohibit local agency organizations from funding campaigns, staff met with the author of the bill and he has agreed to withdraw the legislation. Assemblymember Adams had been under the mistaken impression that CSAC and the League of Cities were using public funds for initiative campaigns.

The Governor's Office recently announced that they are reformulating their Corrections Reform package. Details are not yet available, but staff will be bringing this item before the CSAC Administration of Justice policy committee and then to the full Board of Directors for action.

CSAC's Health Care Reform Task Force met earlier this week and is developing a document that will be considered by the Health and Human Services policy committee and then brought to the Board of Directors during the CSAC Legislative Conference.

10. OTHER ITEMS

Supervisor Connie Conway has been appointed to the Governor's Commission on Other Post Employment Benefits (OPEBs).

Three new staff members were introduced: Kelli Osborne, accounting specialist; Cara Martinson, Agriculture & Natural Resources analyst; and Rose Lamb, Administration of Justice analyst.

Meeting adjourned.

EMINENT DOMAIN EFFORTS/CAMPAIGN



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May 10, 2007

To: CSAC Executive Committee

From: Steve Keil, Interim Executive Director
Jean Kinney Hurst, Legislative Representative

Re: Expenditures for Eminent Domain Efforts/Campaign – ACTION ITEM

Recommended Action. Staff recommends that the Executive Committee approve the proposed expenditure plan for purposes of developing and securing legislative approval of an eminent domain reform proposal for a 2008 ballot.

Background. As you know, CSAC has been working with a broad range of stakeholders – taxpayer, homeowner, local government, business, environmental, legislators and other groups – with the hope of developing a responsible eminent domain measure that could be presented to voters in 2008. This coalition, which includes the League of California Cities, the California Redevelopment Association (CRA), and the California League of Conservation Voters, among others, has been working on a number of fronts to avoid another expensive defense of legitimate government regulation.

Since January, this coalition has been advised by a team of legal and political advisors, all of which were involved in the “No on Prop 90” campaign. Of course, such advice comes with a cost. The following proposal outlines a plan for CSAC’s participation in such costs through the end of the legislative session (August), based on an estimated budget:

Bicker, Castillo and Fairbanks Political consulting, coalition-building, and press relations (Represents 1/3 of monthly costs (January-August), shared with League, CRA, and CSAC.)	\$10,000/mo.	\$80,000 total
Nielsen-Merksamer Legal advising (Represents ½ of campaign-related monthly costs (April-August), shared with League.)	\$10,000/mo.	\$50,000 total
Winner and Mandabach Campaigns Campaign strategy and advising (Represents ½ of all costs, shared with League.)	\$25,000	
Contingency (Represents ½ of all costs, shared with League.)		\$25,000

CSAC has been jointly funding the activities of Bicker, Castillo and Fairbanks with the League and CRA since January. We will also split the cost of the Winner and Mandabach contract with the League for services in April and May. These activities are funded through the “Professional Services” line item in the 2006-07 CSAC budget. We expect costs through the end of the current fiscal year to be as budgeted, \$80,000.

For the 2007-08 fiscal year, CSAC again has funding available through the “Professional Services” line item in the budget for such activities. Given that we expect these activities to

essentially end in August, we estimate costs at approximately \$100,000. \$80,000 is currently budgeted for such expenditures. We anticipate that the remaining \$20,000 can be covered by cash reserves.

The expenditure plan for CSAC's participation in the eminent domain reform effort totals an estimated \$180,000.

Additionally, we have been asked to forgive \$9,935 in CSAC expenditures billed to the "No on Prop 90" campaign account.

Coalition costs have also been borne by our partners, including additional forgiveness of expenditures to the "No on Prop 90" campaign account, funds for additional legal expenses, and polling. Specifically, CRA will continue to fund the bulk of Nielsen-Merksamer legal costs (an estimated \$320,000) and a share of the Bicker, Castillo and Fairbanks cost, as well as forgiving \$16,559 in expenditures billed to the "No on Prop 90" campaign account. In addition to the League's contributions outlined above, it will forgive \$145,441 in expenses billed to the "No on Prop 90" campaign account.

Public and Non-Public Funds. It is important to remember that many activities that may be associated with our effort may not be funded with public funds. CSAC and our vendors carefully monitor activities and expenditures to ensure that campaign-related costs are billed to the campaign account and paid for with non-public funds. Costs associated with securing the title and summary and fiscal analysis for a ballot measure, signature-gathering, and the like must be funded through non-public funds.

Alternatively, our efforts at developing both a ballot measure and a legislative measure, Capitol lobbying, and coalition-building around a specific legislative proposal may be funded with public funds and paid directly by the associations.

While it is clearly our preference to move a bill through the legislative process and avoid a costly campaign, we must be mindful that a ballot measure campaign may be the only option and prepare for such an eventuality. Of course, such an effort must be funded with non-public funds.

It is also important to consider that this is only the initial step in the process. After the conclusion of the legislative session, our coalition will still have a ballot measure to get passed. Estimating the costs involved in such an effort is difficult, as there are a number of considerations to take into account. Certainly, a measure placed on the ballot by the Legislature that has the support of a broad coalition and "occupies the field" will likely be far less expensive than a measure that requires signature-gathering and is put to voters at the same time as a more draconian alternative. Also, costs will vary depending on the ballot on which our measure appears. Presidential and state politics will play a significant role in determining turnout, advertising costs, and fundraising success. There are many scenarios available to us and we want to ensure now that the Executive Committee is prepared for what may come in 2008.

Policy Considerations. Eminent domain reform has been on the forefront of CSAC's legislative agenda for many months. Even before the initial filing of what would become Proposition 90 in 2006, CSAC has been engaged with a broad coalition, determined to address voters' concerns about eminent domain abuses, while maintaining counties' authority to address community priorities and needs through appropriate regulation. Our

efforts to date have been successful: Proposition 90 did not meet voters' approval and, so far, we have been able to avoid a ballot box showdown with a "Son of Prop 90" measure. Staff recommends our continued financial participation in the coalition efforts, not only to ensure the ultimate success of an eminent domain reform measure, but also to ensure that counties have an equal seat at the table with our coalition partners when negotiating through the process.

The Executive Committee must also consider the fiscal implications of such a plan. Funds dedicated to this process could certainly be used for another purpose. However, staff suggests that the proposed expenditure plan is far less costly than fighting another measure, as we did in the "No on Prop 90" campaign last fall.

Action Requested. Staff is requesting your approval of the proposed plan for expenditures for purposes of developing and securing passage of an eminent reform proposal for a 2008 ballot. If there are any changes to this expenditure plan, staff will bring those changes to the Executive Committee for approval. Additionally, staff will return to the Executive Committee with an expenditure plan once a measure is set for the 2008 ballot.

Staff Contact. Please contact Jean Kinney Hurst (jhurst@counties.org or (916) 327-7500 x515) or Steve Keil (skeil@counties.org or (916) 327-7500 x521) for additional information.



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May 10, 2007

To: CSAC Executive Committee

From: Steve Keil, Interim Executive Director
Jean Kinney Hurst, Legislative Representative

Re: Eminent Domain Reform Effort Update – INFORMATIONAL ITEM

Recommended Action. This is an item for your information. No action is required.

Background. The Executive Committee will recall CSAC's ongoing involvement in the coalition to advocate for a reasonable and practical eminent domain reform measure to go before the voters in 2008. Our efforts continue to be focused on securing a legislative measure that offers appropriate protections for homeowners and small business owners.

As you are also aware, the coalition, which includes the League of California Cities, the California Redevelopment Association, and the California League of Conservation Voters, has also been working with the Howard Jarvis Taxpayers' Association to work toward a joint effort in the Legislature. However, the coalition has also filed a measure with the Attorney General to ensure that an available vehicle is available, should we need to go forward with a signature-gathering effort. That measure received title and summary and is certified for signature-gathering.

The Howard Jarvis Taxpayers Association, along with the California Farm Bureau Federation and the California Alliance to Protect Private Property Rights, had also filed numerous measures with the Attorney General's office. The most current measure had received title and summary and was certified for signature gathering on April 20. The title and summary received was very similar to that of Proposition 90, indicating to voters that, not only did the measure contain eminent domain restrictions and a strict prohibition on rent control, but included compensation for property owners as a result of basic government regulation that impacts owner's property values, commonly referred to as "regulatory takings."

However, on May 1, HJTA and its partners withdrew its prior measure and filed a new measure with the Attorney General. This new measure contains eminent domain restrictions and a prohibition on rent control, but attempts to eliminate provisions that deal with regulatory takings. While the compensation provisions are clearly not in the new measure, it is less clear how the measure deals with certain regulatory actions. (See Section 19 (b)(3).) Our legal advisors are currently working on an analysis of the measure, so we have a full understanding of its impact. We've attached the new language for your review.

As a result of this action, there is no possibility that there will be an eminent domain/regulatory takings measure on the February 2008 ballot. The time required

for title and summary and fiscal analysis, plus signature-gathering and signature verification, would indicate that the earliest possibility that this measure or one like it could be certified would be for the June 2008 ballot.

On the legislative front, the coalition (which includes the HJTA) is pressing forward with a legislative measure on eminent domain reform. There have been a number of positive conversations with legislative leadership; however, it has been difficult, given the ambitious agendas of the Administration and Legislature, to become a priority. Our primary effort continues to be to secure an author, get a bill introduced and passed, and to put forward a responsible, meaningful measure that we hope voters will endorse. We hope to have an update on these activities for you at your meeting on May 24.

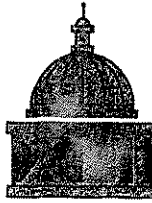
Policy Considerations. Certainly, this process has not been an easy one. However, it serves as a good reminder that ballot measure strategy is a long-term effort, and requires a commitment beyond the initial language development or signature-gathering process. Staff expects that there will be at least one eminent domain measure on a statewide ballot in 2008 – either an opponent's or ours or both.

For better or worse, policy-making is occurring at the ballot box and, in order to ensure counties' voice is heard during that process, CSAC is committing staff time and resources to participate at the preliminary stages. However, once a measure reaches a ballot, our efforts must also include private fundraising. This informational update serves as a friendly reminder that we are in the initial stages of the process and there is a long, labor-intensive road ahead.

Action Requested. There is no action requested at this time. This memo is provided for informational purposes only.

Staff Contact. Please contact Jean Kinney Hurst (jhurst@counties.org or (916) 327-7500 x515) or Steve Keil (skeil@counties.org or (916) 327-7500 x521) for additional information.

HOWARD JARVIS
TAXPAYERS
ASSOCIATION



HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairwoman
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

May 1, 2007

Ms. Patricia Galvan, Initiative Coordinator
Attorney General's Office
1515 K Street, 6th Floor
Sacramento, CA 95814

RECEIVED

MAY - 3 2007

Re: California Property Owners and Farmland Protection Act

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Galvan:

By this letter, we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the California Property Owners and Farmland Protection Act, a copy of which is attached. The undersigned are the proponents of this measure. **We also hereby withdraw Initiative No. 07-0003.** Although our previous initiative and the attached proposal both deal with eminent domain and property rights, there are substantial differences between the two.

Any correspondence regarding this initiative should be directed to Howard Jarvis Taxpayers Association, 921 Eleventh Street, Suite 1201, Sacramento, CA 95814 (916) 444-9950. The proponents' resident addresses are attached to this letter.

Enclosed is the required \$200 filing fee as well as the certification as required by Elections Code Section 18650.

Thank you for your cooperation.

Sincerely,

Doug Mosebar
President, California Farm
Bureau Federation

Sincerely,

Jon Coupal
President Howard
Jarvis Taxpayers
Association

Sincerely,

Jim Nielsen
Chairman, Cal.
Alliance to Protect
Private Property
Rights

SECTION 1. STATEMENT OF FINDINGS

(a) Our state Constitution, while granting government the power of eminent domain, also provides that the people have an inalienable right to own, possess, and protect private property. It further provides that no person may be deprived of property without due process of law, and that private property may not be taken or damaged by eminent domain except for public use and only after just compensation has been paid to the property owner.

(b) Notwithstanding these clear constitutional guarantees, the courts have not protected the people's rights from being violated by state and local governments through the exercise of their power of eminent domain.

(c) For example, the U.S. Supreme Court, in *Kelo v. City of New London*, held that the government may use eminent domain to take property from its owner for the purpose of transferring it to a private developer. In other cases, the courts have allowed the government to set the price an owner can charge to sell or rent his or her property, and have allowed the government to take property for the purpose of seizing the income or business assets of the property.

(d) Farmland is especially vulnerable to these types of eminent domain abuses.

SECTION 2. STATEMENT OF PURPOSE

(a) State and local governments may use eminent domain to take private property only for public uses, such as roads, parks, and public facilities.

(b) State and local governments may not use their power to take or damage property for the benefit of any private person or entity.

(c) State and local governments may not take private property by eminent domain to put it to the same use as that made by the private owner.

(d) When state or local governments use eminent domain to take or damage private property for public uses, the owner shall receive just compensation for what has been taken or damaged.

(e) Therefore, the people of the state of California hereby enact the "California Property Owners and Farmland Protection Act."

SECTION 3. AMENDMENT TO CALIFORNIA CONSTITUTION

Section 19 of Article I of the California Constitution is amended to read:

SEC. 19(a) Private property may be taken or damaged only for a stated public use and when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation. Private property may not be taken or damaged for private use.

(b) For purposes of this section:

(1) "Taken" includes transferring the ownership, occupancy, or use of property from a private owner to a public agency or to any person or entity other than a public agency, or limiting the price a private owner may charge another person to purchase, occupy or use his or her real property.

(2) "Public use" means use and ownership by a public agency or a regulated public utility for the public use stated at the time of the taking, including public facilities, public transportation, and public utilities, except that nothing herein prohibits leasing limited space for private uses incidental to the stated public use; nor is the exercise of eminent domain prohibited to restore utilities or access to a public road for any private property which is cut off from utilities or access to a public road as a result of a taking for public use as otherwise defined herein.

(3) "Private use" means:

(i) transfer of ownership, occupancy or use of private property or associated property rights to any person or entity other than a public agency or a regulated public utility;

(ii) transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner; or

(iii) regulation of the ownership, occupancy or use of privately owned real property or associated property rights in order to transfer an economic benefit to one or more private persons at the expense of the property owner.

(4) "Public agency" means the state, special district, county, city, city and county, including a charter city or county, and any other local or regional governmental entity, municipal corporation, public agency-owned utility or utility district, or the electorate of any public agency.

(5) "Just compensation" means:

(i) for property or associated property rights taken, its fair market value;

(ii) for property or associated property rights damaged, the value fixed by a jury, or by the court if a jury is waived;

(iii) an award of reasonable costs and attorney fees from the public agency if the property owner obtains a judgment for more than the amount offered by a public agency as defined herein; and

(iv) any additional actual and necessary amounts to compensate the property owner for temporary business losses, relocation expenses, business reestablishment costs, other actual and reasonable expenses incurred and other expenses deemed compensable by the Legislature.

(6) "Prompt release" means that the property owner can have immediate possession of the money deposited by the condemnor without prejudicing his or her right to challenge the determination of fair market value or his or her right to challenge the taking as being for a private use.

(7) "Owner" includes a lessee whose property rights are taken or damaged.

(8) "Regulated public utility" means any public utility as described in Article XII, section 3 that is regulated by the California Public Utilities Commission and is not owned or operated by a public agency. Regulated public utilities are private property owners for purposes of this article.

(c) In any action by a property owner challenging a taking or damaging of his or her property, the court shall consider all relevant evidence and exercise its independent judgment, not limited to the administrative record and without deference to the findings of the public agency. The property owner shall be entitled to an award of reasonable costs and attorney fees from the public agency if the court finds that the agency's actions are not in compliance with this section. In addition to other legal and equitable remedies that may be available, an owner whose property is taken or damaged for private use may bring an action for an injunction, a writ of mandate, or a declaration invalidating the action of the public agency.

(d) Nothing in this section prohibits a public agency or regulated public utility from entering into an agreement with a private property owner for the voluntary sale of property not subject to eminent domain, or a stipulation regarding the payment of just compensation.

(e) If property is acquired by a public agency through eminent domain, then before the agency may put the property to a use substantially different from the stated public use, or convey the property to another person or unaffiliated agency, the condemning agency must make a good faith effort to locate the private owner from whom the property was taken, and make a written offer to sell the property to him at the price which the agency paid for the property, increased only by the fair market value of any improvements, fixtures, or appurtenances added by the public agency, and reduced by the value attributable to any removal, destruction or waste of improvements, fixtures or appurtenances that had been acquired with the property. If property is repurchased by the former owner under this subdivision, it shall be taxed based on its pre-condemnation enrolled value, increased or decreased only as allowed herein, plus any inflationary adjustments authorized by subdivision (b) of Section 2 of Article XIII A. The right to repurchase shall apply only to the owner from which the property was taken, and does not apply to heirs or successors of the owner or, if the owner was not a natural person, to an entity which ceases to legally exist.

(f) Nothing in this section prohibits a public agency from exercising its power of eminent domain to abate public nuisances or criminal activity;

(g) Nothing in this section shall be construed to prohibit or impair voluntary agreements between a property owner and a public agency to develop or rehabilitate affordable housing.

(h) Nothing in this section prohibits the California Public Utilities Commission from regulating public utility rates.

(i) Nothing in this section shall restrict the powers of the Governor to take or damage private property in connection with his or her powers under a declared state of emergency.

SECTION 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment to this section may be made except by a vote of the people pursuant to Article II or Article XVIII.

SECTION 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 6. EFFECTIVE DATE

The provisions of this Act shall become effective on the day following the election ("effective date"); except that any statute, charter provision, ordinance, or regulation by a public agency enacted prior to January 1, 2007, that limits the price a rental property owner may charge a tenant to occupy a residential rental unit ("unit") or mobile home space ("space") may remain in effect as to such unit or space after the effective date for so long as, but only so long as, at least one of the tenants of such unit or space as of the effective date ("qualified tenant") continues to live in such unit or space as his or her principal place of residence. At such time as a unit or space no longer is used by any qualified tenant as his or her principal place of residence because, as to such unit or space, he or she has: (a) voluntarily vacated; (b) assigned, sublet, sold or transferred his or her tenancy rights either voluntarily or by court order; (c) abandoned; (d) died; or he or she has (e) been evicted pursuant to paragraph (2), (3), (4) or (5) of Section 1161 of the Code of Civil Procedure or Section 798.56 of the Civil Code as in effect on January 1, 2007; then, and in such event, the provisions of this Act shall be effective immediately as to such unit or space.

CORRECTIONS REFORM UPDATE

May 8, 2007

To: CSAC Executive Committee

From: Steve Keil, CSAC Interim Director
Elizabeth Howard, Legislative Representative

Re: Update on Corrections Reform

This informational memo provides an update on the recently enacted adult corrections reform package, as well as the status of negotiations on the juvenile justice realignment proposal contained in the Governor's 2007–08 budget.

Adult Corrections. On May 3, Governor Arnold Schwarzenegger signed into law AB 900 (Solorio), the Public Safety and Offender Rehabilitation Services Act of 2007. This measure represents the Administration and Legislature's consensus effort to address overcrowding and recidivism issues in the state and local adult corrections systems. Agreement on the adult corrections reform package came together swiftly in late April, and certainly is seen as an effort to address population pressures and poor parolee outcomes but — perhaps more critically — to head off federal court action.¹ Counties are well aware that federal court involvement in the prison system could have quite serious local implications, given that the court would have essentially unlimited options in its power to keep state detention facility overcrowding under control, including the possible imposition of a prison population cap and the potential of a federal receivership.

In the briefest of terms, AB 900 provides infrastructure funding in two phases over a period of seven years for 16,000 infill beds in existing prisons, 16,000 beds in re-entry facilities, 8,000 state medical beds, and 13,000 local jail beds. The build-out of beds in Phase II is conditioned upon meeting specified milestone related to both infrastructure and rehabilitative achievements. The measure also gives the state the authority to transfer up to 8,000 inmates to out-of-state facilities. (A more detailed summary of the measure's provisions is attached.)

The adult corrections reform measure differs in several notable ways from the corrections proposal unveiled in the Governor's January budget. First, it eliminates the proposal to require counties to house state inmates for certain crimes for up to three years in local facilities, which would have been very problematic from the county perspective. Further, the measure does not include the initiative proposed in the Governor's January budget that would have provided \$50 million in 2007–08 and \$100 million in subsequent years to support targeted adult probation services. Further, two of the more controversial elements of the Governor's reform plan as initially outlined were not incorporated into AB 900: a sentencing commission structure and significant changes to the parole system. It is possible that these elements left out of AB 900 will be given

¹ In December 2006, U.S. District Judge Lawrence Karlton gave the State of California six months to demonstrate that the Department of Corrections and Rehabilitation (CDCR) is taking necessary steps to address overcrowding in the state prison system. (A hearing before the federal court is scheduled for June 4.) The state correctional facilities currently are housing about 172,000 inmates, a number estimated to be 70 percent over capacity. Judge Karlton's December decision delaying the creation of a three-judge panel that would make recommendations to address overcrowding (including, potentially, the imposition of a population cap that could trigger early release of prisoners) was apparently related to improvements the judge had seen in the state's efforts to address overcrowding problems.

further consideration in a larger budget context. AB 900 addresses the adult corrections system only; the Governor's juvenile justice realignment proposal, discussed further in detail below, is still on the table and will proceed on a separate track as part of the budget process.

The passage of AB 900 establishes a framework for a major capital investment in both state and local beds, sets up expectations for a significant rehabilitative programming efforts, and creates potential new relationships between state and local governments regarding shared delivery of corrections programs. AB 900 is notably vague in a number of areas, particular as it relates to the governance, programming responsibility, and funding of re-entry facilities and mental health day treatment centers. The reform package puts a strong emphasis on programming and rehabilitation efforts for the prison population, although those services are not clearly defined. Counties that opt to site either a re-entry facility or mental health day treatment center for parolees would receive priority consideration related to local jail bed funding, but the mechanics of that linkage are not yet defined. While the measure was perhaps expressly drafted in such a way to allow for innovation and the potential for shared governance models, counties will need to be very mindful of the short- and long-term expectations connected to the operation of a re-entry facility and the service demands that will be required to meet the needs of the population.

In the near-term, CSAC, in partnership with Urban Counties Caucus and the Regional Council of Rural Counties, will be actively engaging with the Governor, Legislature, Department of Corrections and Rehabilitation (CDCR), and all interested parties as we move forward to put the elements of this historic legislation in place. While CSAC conceptually supports the overall effort to address the dire overcrowding and recidivism problems present in the state corrections system and in many of our local jail systems, we would argue that investment in the front-end of the justice system — an element notably absent from AB 900 — remains an important priority and need to assure comprehensive reform. Further, our preliminary analysis of the measure has identified several outstanding questions that bear further discussion:

- Clarification regarding governance and service delivery/staffing responsibilities for re-entry facilities;
- Sufficiency of mitigation provisions;
- Linkage between jail construction funding and siting incentives;
- Clarification on timing of county jail construction;
- Broad county (supervisor or county administrative/executive officer) representation on the California Rehabilitation Oversight Board (Penal Code Section 6140);
- Joint state/local enterprise to develop service capacity to assure continuum of care.

We will provide regular updates on implementation efforts as these activities get further underway. We are aware that the Corrections Standards Authority — the state entity charged with administering the local jail bond program — is already marshaling resources to form an Executive Steering Committee (ESC) that will have authority over the competitive bidding program for jail bed construction. We understand that three county representatives (supervisor or CAO), in addition to

participation from sheriff and probation departments, will be asked to join the ESC. On a separate track, the CDCR is developing new staffing assignments to steer the AB 900 implementation effort.

Juvenile Justice Realignment. As noted above, the passage of AB 900 certainly sets a roadmap for a significant first phase of adult corrections reform. It is important to bear in mind that the Governor's January budget also contained a proposal that contemplates a shift of certain juvenile offenders to county control and supervision beginning July 1, 2007. This realignment would allow the state juvenile detention system — the Department of Juvenile Justice (DJJ, formerly known as the California Youth Authority) — to focus its resources and services on the most serious male juvenile offenders in the state. Under the Governor's plan, the DJJ would no longer house female offenders in its institutions and would stop intake of certain low-level, non-violent male offenders. To fund the new local programming and housing responsibilities for a shift of about 1,100 youthful offenders, the budget plans to allocate to counties on a block-grant basis \$53 million for 2007–08. The proposed distribution methodology in the Governor's budget is to fund counties on a \$94,000 per-ward rate, based on each jurisdiction's ten-year commitment rate to the DJJ. In addition, the budget proposes \$400 million in infrastructure investment for up to 5,000 juvenile beds in county-run facilities. The state, it should be noted, has released a request for proposals seeking a contractual arrangement with a county, non-profit, or private entity to provide housing and programming options for the youthful female offenders.

Counties have been working to analyze the anticipated impacts of the proposed realignment. As has been discussed by both the Board of Directors and Administration of Justice policy committee, CSAC approaches this population shift from the perspective that it must ultimately be fiscally and operationally feasible in its application. While counties share the view that it is beneficial to keep youthful offenders close to their communities and families, we are working to reconcile the proposal as we understand it with a number of practical issues outlined below:

Funding: Counties general assessment is that the \$94,000 per-ward allocation is insufficient to support the programming and placement needs of this population. (Several larger, urban counties have indicated the annual per-ward cost exceeds \$130,000.) We continue our analysis to identify a more appropriate amount, but have provided the Legislature with following observations.

- Given that the overall numbers are relatively small, a single statewide rate may ultimately be unworkable. The state may wish to consider a base rate, with "tiers" to address differences among counties' capacities and resources.
- Funding must be permanent and grow adequately to offset inflationary factors. Therefore, the transfer funding mechanism must contain an escalator to address growth in out-year costs, as well as a reversion trigger if funding stops or decreases.
- The allocation methodology should contain an extraordinary exception provision to address, for example, unanticipated population increases or unexpected surge in juvenile crime in a particular location.
- Further analysis of the proposed block grant allocation methodology — based on historical commitment rates over 10 years — is required.

Placement:

- Counties must have a continued option of placing female offenders in a state facility for the most serious offenses.
- The non-WIC 707(b) population now referred to DJJ often is high-need, and counties generally make these state commitments only as a “placement-of-last-resort” — when no other program or housing alternative at the local level exists. Housing options and service capacity to meet the needs of this population locally vary from county to county, especially given the profile and age (often over 18) of these offenders. A state commitment of resources to develop placement options — likely regional facilities to address smaller county needs — must accompany this proposal. For these reasons, CSAC is very supportive of the Governor’s proposal to invest \$400 million in juvenile facility infrastructure at the local level.

Services: Counties and the state must be mindful that this proposal — taken in conjunction with existing system pressures and any new service expectations that accompany recent reforms to the adult correctional system — will likely overwhelm the service capacity at the local level. Specialized treatment services that are not now widely available are likely the first to be overtaxed. The state and counties must, perhaps on a separate track, engage in a joint enterprise to begin developing the pipeline of professionals — probation, social service, mental health, alcohol and drug treatment, and others — who will be called upon to provide critical programming and treatment services to address the needs of the juvenile population.

Contractual arrangement: The state may wish to consider using a contractual agreement with individual counties to set out expectations, roles and responsibilities for the population shift; an approach that would offer the twin benefit of assuring the state a guaranteed level of service and assuring counties a commitment of funding. We believe a contract approach would be compatible with a block grant distribution scheme.

Discussions on the proposed population shift among key legislative budget and policy staff and members continue in earnest, and there appears to be extensive support among state policy makers and juvenile justice advocates for pursuing the realignment. CSAC has been working collaboratively with RCRC, UCC, and the County Administrative Officers Association of California to arrive at the necessary terms or conditions that would be necessary for counties to enter in to such an enterprise. It is imperative that all counties continue to evaluate the potential fiscal and operational impact of this proposal.

Ongoing Efforts. CSAC staff meets regularly with an Executive Steering Committee on Corrections Reform — a group of county supervisors and CAOs convened to give policy guidance on a broad range of corrections issues — and will consult frequently with this group in the coming weeks and months.

Adult Corrections – Statutory Framework for Reform
Summary of Key Provisions of AB 900 (Chapter 7, Statutes of 2007)

Phase I – \$3.6 billion in lease revenue bonds; 24,000 state beds

- 12,000 infill beds for existing prisons Of the 12,000 infill beds in Phase I, approximately 7,500 beds are specified for 10 designated prisons; they are intended to replace “bad” beds (those currently in dayrooms, gymnasiums, and programming space).
- 6,000 re-entry beds Re-entry facilities would be placed in communities and include a rigorous programming component to assist inmates close to parole or parole violators with a more successful re-integration into society. These will be secure facilities of up to 500 beds each, located primarily in urban areas. Language defining the governance and operation of these facilities is very broad.
- 6,000 medical beds The use of these state beds (e.g., mental health or long-term care) would be determined by the federal court Receiver over the prison health system.

Phase II – \$2.5 billion in lease revenue bonds; 16,000 state beds

- 4,000 additional infill beds
- 10,000 additional re-entry beds
- 2,000 additional medical beds

Commencement of Phase II construction would occur only if certain condition or benchmarks are met, as follows:

- Half of the Phase I beds are constructed or sited.
- Drug treatment slots are filled.
- California Rehabilitation Oversight Board is appointed and operational.
- Inmates are being appropriately assessed and placed into rehabilitation programs.
- There is increased inmate participation in educational programs.
- Mental health day treatment facilities are open and operational.
- A prison-to-employment plan is completed.
- Vacancies in rehabilitation and treatment personnel are filled.
- CDCR management issues are addressed.

The Phase II lease revenue bond authority would expire in 2014.

Local jail beds – \$1.2 billion in lease revenue bonds + 25 percent local match

- 13,000 local jail beds: 8,000 to be built in Phase I and 5,000 in Phase II.
- Phase II construction of local beds commences only if at least 4,000 local beds and 2,000 re-entry beds from Phase I have been built.
- Local match of 25 percent is required (Government Code Section 15820.907(a)), with a waiver process for counties with a population of less than 200,000.

- Unspecified mechanism to give preference for a portion of local jail bed funding to counties that (1) assist in the siting of state re-entry facilities or mental health day treatment and crisis care centers and (2) provide a continuum of care to parolees for mental health and substance abuse needs (Section 15820.907(b) and (c)).
- Jail bond program administered through the Corrections Standards Authority.

Rehabilitative Elements

- Expanded substance abuse treatment to treat a minimum of 4,000 additional inmates in in-custody programs.
- State-provided aftercare services are required for parolees who participate in in-custody drug treatment programs.
- CDCR to develop and implement a comprehensive, interdisciplinary assessment of inmates.
- CDCR to obtain day treatment and contract for crisis care services for parolees with mental health problems and “shall work with counties to obtain day treatment and crisis care services for parolees with the goal of extending services upon completion of the offender’s period of parole, if needed” (Penal Code Section 3073).
- CDCR to develop an inmate treatment and prison-to-employment plan to address education and rehabilitation programs.
- Establishment of the California Rehabilitation Oversight Board, an 11-member body to examine mental health, substance abuse, educational, and employment programs for inmates and parolees (Penal Code Section 6141).
- \$50 million state general fund investment in rehabilitation and treatment of prison inmates and parolees, which can be expended for “staffing, contracts, and other services for rehabilitation and treatment services that include academic and vocational services, substance abuse treatment, and mental health treatment.”

Mitigation/Elements of Local Interest

- Mitigation for construction of state beds pursuant to existing Penal Code Section 7005.5.
- Appropriation of \$300 million in state general funds for capital outlay for renovation, improvement, and expansion of existing state prison facilities.
- Concurrence of local government regarding siting of re-entry facility, giving local jurisdiction the authority to identify the location.
- Standard environmental reviews required.

Out-of-state Transfers

- Gives CDCR authority through 2011 to transfer up to 8,000 state inmates in out-of-state facilities.
- Specifies that inmates with serious medical or mental health issues are exempt from out-of-state transfers.

CSAC CORPORATE ASSOCIATES REPORT

May 24, 2007

TO: CSAC Executive Committee

FROM: Norma Lammers, Deputy Executive Director, CSAC
C. Brent Wallace, Interim Manager, CSAC Corporate Associates
Katrina Thompson, Affiliate Relations Specialist

**Re: Corporate Associates Programs and Projects List –
INFORMATION ITEM**

As you may already know, retired Tuolumne County Administrative Officer Brent Wallace has agreed to assist with the CSAC Corporate Associates program through the end of 2007. Brent will retain his duties as Executive Director for the County Administrators Association, which is a part time position, and adjust his hours to provide support to the Corporate Associates program during a time of transition for CSAC staff.

We are all fully engaged in providing services to the Associates currently in the program and implementing a process to contact former members and seek out new members.

Brent and Katrina have developed the attached Programs and Projects list for your information. The list is not a complete list of all the activity conducted daily, but a summary of the major activities that they are attempting to complete within a specific timeline. They anticipate adding to this list and, in some cases, dropping some items off if they do not work and adding other items as other priorities are established.

We have two requests of the Executive Committee, and all Supervisors, with regard to the attached list. 1.) If you see items on the list that are of concern to you, or if there are items that you would like to add to the list, we would encourage your comments and suggestions. 2.) Brent, Katrina and Norma would welcome any opportunity to meet with, or call, any potential Corporate Associates member in your respective counties. We obviously want to grow the membership and need as many contacts as you may be able to provide.

We are available to respond to your questions and comments and referrals.

CORPORATE ASSOCIATES PROGRAM

STAFF PROGRAMS AND PROJECTS LIST – 2007

<u>Program/Project</u>	<u>Anticipated Completion Date/Outcome</u>
1. Personal follow-up contact to all former members	On-going effort that will be completed by June 15/Seek renewal of membership
2. Contact prospective members	Ongoing/New memberships
3. Corp. Associates Lapel Pins	May 30/Distribute pins
4. Begin Corp. Associates E-Newsletter	June/Distribute first issue
5. Create testimonials for use in CSAC publications	Fall 2007/publish
6. Enhance website to include descriptions of each company	Fall 2007/Completed list of company descriptions on the CSAC website
7. Establish better coordination of Corp. Associates program with County Administrative Officers	Ongoing/Coordinated and cooperative events and activities
8. Clean up and create new data base for program	Summer 2007/One data base for all members
9. Work with Corp. Associates Steering Committee members to evaluate program improvements made since 1/07 and assess additional changes/improvements needed	Fall 2007/Implement improvements
10. Present concept and proposal to the Steering Committee for additional programs/sessions that could be added to the CSAC annual conference	Fall 2007/Implement programs at conference
11. Consider additional or new methods for the recognition of the Corp. Associate members during CSAC scheduled events.	Ongoing/Implementation

The following specific activities are already in process or completed:

- The 5th Annual Bocce Ball Tournament – June 13, 2007
- Created recruitment, membership renewal and welcome “How to make your membership work for you” packets