

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
Thursday, April 19, 2012
10:00am - 1:00pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: Michael McGowan, President

- | | | |
|---------|--|-------------------|
| 10:00am | PROCEDURAL ITEMS | |
| 1. | Roll Call | Page 1 |
| 2. | Approval of Minutes of January 19, 2012 | Page 2 |
| 10:15am | ACTION ITEMS | |
| 3. | Consideration of Proposed CSAC Budget for FY 2012-13 <ul style="list-style-type: none">▪ <i>Paul McIntosh, CSAC Executive Director</i>▪ <i>Supervisor Terry Woodrow, CSAC Treasurer</i> | Page 6 |
| 4. | Consideration of Proposed Litigation Coordination Program Budget for FY 2012-13 <ul style="list-style-type: none">▪ <i>Jennifer Henning, County Counsel's Assoc. Executive Director</i>▪ <i>Paul McIntosh</i> | Page 10 |
| 5. | Proposed Annual Meeting Sites for 2015 & 2016 <ul style="list-style-type: none">▪ <i>David Liebler, CSAC staff</i> | Page 16 |
| 6. | Appointments to CSCDA <ul style="list-style-type: none">▪ <i>Paul McIntosh</i> | Page 18 |
| 11:15am | INFORMATION ITEMS | |
| 7. | Report on CSAC Intellectual Property Analysis <ul style="list-style-type: none">▪ <i>Paul McIntosh</i> | Page 19
& enc. |
| 8. | November 2012 Ballot Initiative Update <ul style="list-style-type: none">▪ <i>Paul McIntosh</i> | Page 21 |
| 9. | CSAC Legislative Report <ul style="list-style-type: none">Redevelopment Care Coordination InitiativeRealignment State BudgetPensions▪ <i>Jim Wiltshire & CSAC Legislative staff</i> | Page 41 |
| 12:00pm | LUNCH | |

12:30pm

INFORMATION ITEMS (cont.)

10.

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

CSAC Finance Corporation Report

CSAC Corporate Associates Program Report

CSAC Litigation Coordination Program

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11.

Other Items

1:00pm

ADJOURN

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2012

President:	Mike McGowan, Yolo
1 st Vice President:	David Finigan, Del Norte
2 nd Vice President:	John Gioia, Contra Costa
Immed. Past President:	John Tavaglione, Riverside

Urban Section

Keith Carson, Alameda
Federal Glover, Contra Costa
Don Knabe, Los Angeles
John Moorlach, Orange
Liz Kniss, Santa Clara
Kathy Long, Ventura
Greg Cox, San Diego (alternate)

Suburban Section

Valerie Brown, Sonoma
Joni Gray, Santa Barbara
Henry Perea, Fresno
Bruce Gibson, San Luis Obispo (alternate)

Rural Section

John Viegas, Glenn
Terry Woodrow, Alpine
Susan Cash, Inyo (alternate)

Advisors

Matthew Hymel, Marin County Administrator
Charles McKee, Monterey County Counsel

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

January 19, 2012
CSAC Conference Center, Sacramento

MINUTES

Presiding, Mike McGowan, President

1. ROLL CALL

Mike McGowan, President	Greg Cox, San Diego, alternate
David Finigan, 1 st Vice Pres.	Valerie Brown, Sonoma (audio)
John Gioia, 2 nd Vice Pres.	Joni Gray, Santa Barbara
Keith Carson, Alameda	John Viegas, Glenn
Federal Glover, Contra Costa	Terry Woodrow, Alpine
John Moorlach, Orange (audio)	Susan Cash, Inyo, alternate
Liz Kniss, Santa Clara	
Kathy Long, Ventura (audio)	

The presence of a quorum was noted.

2. INTRODUCTION OF NEW EXECUTIVE COMMITTEE MEMBERS

President McGowan introduced the new members who were elected to the Executive Committee for 2012. They were Supervisors Carson, Cash and Gibson. New advisors are Marin County Administrator Matthew Hymel and Monterey County Counsel Charles McKee.

3. APPROVAL OF MINUTES

The minutes of October 6, 2011 were approved as previously mailed.

4. REPORT ON GOVERNOR'S BUDGET FOR 2012-13

Ana Matosantos, Director of the Department of Finance, provided a report on the Governor's Budget for 2012-13, which was released on January 5. She indicated that the deficit has dropped from approximately \$20 billion to approximately \$5 billion. The budget contains significant program reductions and continues to focus on moving government closer to the people, improving government efficiency and paying down the state's debt. The budget also proposes a reorganization of state government including the elimination and consolidation of 48 boards, commissions, programs and departments. Ms. Matosantos noted that 15,000 positions have been eliminated in the last year and they are looking at cutting and additional 3000 positions this year, primarily in the Department of Corrections.

It was suggested that CSAC establish a health & human services working group to identify areas where flexibility can be achieved in spending categorical funds. Recommendations would then be forwarded to the Administration to assist in achieving necessary changes. In addition, the Officers requested that the Administration include CSAC when negotiations take place on pension reform, regulatory reform, redevelopment and program flexibility to offer assistance and provide advice as proposals are developed.

5. DISCUSSION OF BUDGET IMPACTS ON COUNTIES

Staff outlined specific program cuts to county programs as outlined in the briefing materials. It was noted that the CalWORKS program is slated to be cut by almost \$1 billion and substantial cuts are proposed for Medi-Cal and IHSS.

The Governor's budget also proposes "trigger" cuts totaling \$5.4 billion, if essential revenues are not raised through the passage of his November 2012 initiative. The majority of those cuts would be reductions to schools and community colleges. The remainder of the cuts would be to courts, CalFIRE and small cuts to various other state protection agencies.

Staff indicated that the Governor's budget plan proposes to reduce state spending on local government and school mandates, saving the General Fund \$828 million. In addition, the Governor proposes to repeal dozens of the roughly 50 mandates that have been suspended at least two years.

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

The CSAC Officers recommended the following appointments for 2012:

CSAC Treasurer: Terry Woodrow, Alpine

NACo Board of Directors: Keith Carson, Alameda and Liz Kniss, Santa Clara

NACo WIR: Brian Dahle, Lassen and David Finigan, Del Norte

Motion and second to approve Officer recommendations as listed above. Motion carried unanimously.

7. APPOINTMENT OF CSAC POLICY COMMITTEE CHAIRS AND VICE CHAIRS

The CSAC Officers recommended the following appointments for 2012 CSAC policy committee chairs and vice chairs:

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

Agriculture & Natural Resources - Richard Forster, Amador, Chair and Kimberly Dolbow Vann, Colusa, 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 - Efren Carrillo, Sonoma, Chair and Matt Rexroad, Yolo, Vice chair.

Motion and second to approve Officer recommendations for 2012 policy committee chairs and vice chairs as listed above. Motion carried unanimously.

8. STATE AND FEDERAL LEGISLATIVE PRIORITIES FOR 2012

Staff outlined proposed CSAC State Legislative Priorities for 2012 as contained in the briefing materials. It was pointed out that the section on Pension Reform should be updated. Staff indicated that CAOAC representatives have been meeting to develop

revised pension reform principles which will be considered by the Government Finance & Operations policy committee prior to Board consideration on February 23.

Staff outlined draft CSAC Federal Legislative Priorities for 2012 as contained in the briefing materials. There are eight federal issues of significance that CSAC's federal lobbyists will advocate for this year and fourteen issues that staff will monitor internally. The CSAC officers previously considered the federal priorities and added two issues for internal monitoring – FEMA Mapping and Pension Tier Changes: Conflict with IRS Requirements.

It was suggested that the FEMA Mapping language be strengthened to address the issue of increased costs to homeowners and developers caused by the decertification of levees. Staff was directed to add the federal legislation regarding borrowing deferred compensation funds to pay for health insurance to the internal monitoring section.

Motion and second to approve the 2012 CSAC State and Federal Legislative Priorities as amended and recommend adoption by the Board of Directors.
Motion carried unanimously.

9. CONSIDERATION OF POSITION ON GOVERNOR'S NOVEMBER 2012 BALLOT INITIATIVE

Staff distributed and reviewed the Attorney General's title and summary of the Governor's November ballot initiative which was released yesterday. The title, "*Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment*" is considered a very favorable one by CSAC staff and consultants. Staff indicated that two of the three other potential tax measures on the November ballot have been dropped.

A discussion ensued regarding the pros and cons of supporting the Governor's measure. Concerns were expressed about the tax increases contained in his measure. President McGowan urged Executive Committee members to support the Governor's initiative in order to maintain a positive relationship as we move forward with achieving constitutional protections for Realignment.

Motion and second to recommend that the CSAC Board of Directors support the Governor's November 2012 ballot initiative. Motion carried (8 in favor/5 opposed).

Staff was directed to compare Governor Wilson's 1991 tax initiative with Governor Brown's initiative.

10. UPDATE ON AB 109 ALLOCATION PROCESS

Staff reported that the current formula that dictates each county's share of AB 109 funds is set in statute and applies only for the nine-month implementation period in 2011-12. A new formula must be statutorily set for 2012-13 and subsequent years. The County Administrative Officers Association of California (CAOAC) established a Realignment Allocation Committee in 2011 composed of nine CAOs – three urban, three suburban and three rural. They have begun meeting to contemplate approaches for a Year two allocation formula. While no substantive decisions have been made to date, the committee is working toward a March 2012 deadline based on input given by the Administration. The committee is approaching this important policy discussion thoughtfully, with a goal of ensuring that the county-by-county distribution puts individual jurisdictions in the best position to successfully implement public safety realignment.

CSAC staff has been meeting regularly with sheriffs throughout the state regarding issues of concern such as lengthy sentences and discussing ways to make adjustments.

11. REPORT ON REDEVELOPMENT AGENCY STATUS

In December 2011, the California Supreme Court ruled to uphold the elimination of community redevelopment agencies. This decision requires that agencies are dissolved on February 1, 2012. Staff reported that a coalition of redevelopment advocates is currently attempting to seek legislative approval to extend that date. However, the Administration has indicated they are not interested in an extension.

County auditor-controllers are responsible for many duties associated with the dissolution for all redevelopment agencies. CSAC staff will be working with county counsels, auditor-controllers and others to help engage in the legislative dialogue that is forthcoming on this matter as well as providing additional information to counties regarding the dissolution process.

12. INFORMATION ITEMS

Staff announced that CSAC has hired John Samartzis as its new Director of Corporate Relations to oversee the Corporate Associates program. Samartzis previously held a similar position with the National Association of Counties (NACo).

Written reports on the CSAC Finance Corporation, CSAC Corporate Associates and Litigation Coordination programs were contained in the briefing materials.

Meeting adjourned.



April 19, 2012

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To: Executive Committee
California State Association of Counties

From: Terry Woodrow, Treasurer, California State Association of Counties
Paul McIntosh, Executive Director

RE: CSAC FY 2012-13 Budget

As Treasurer of CSAC, it is my pleasure to present the proposed budget for the 2012-13 fiscal year. In conjunction with the Executive Director and Finance Director, the attached revenue and spending plan for the upcoming year is hereby submitted for your approval.

The budget for the next fiscal year continues to reflect the impacts of the economic downturn nationwide and in California. For the fourth consecutive year, the budget does not propose any increase in the dues paid by our member counties, acknowledging the severe fiscal climate each of them endure.

The 2012-13 budget reflects a slight increase over the 2011-12 budget due to increases in personnel costs, communications and outside contracts. Significant savings have been realized through the refinancing of CSAC's properties where interest rates were significantly reduced without extending the term of the loans.

Revenues from the Finance Corporation are flat, demonstrating continued stress in the economy and business environment. CSAC has been successful in developing new business partners, such as Coast 2 Coast, but continues to deal with threats to established affiliations such as US Communities and Nationwide Retirement Solutions.

Since 2007, when the contributions from the CSAC Finance Corporation exceeded \$4 million, CSAC has weathered a drop in funding by nearly \$1 million, held dues without an increase, expanded programs and services to members, and maintained a \$2.8 million reserve. The budget, as presented will ensure that CSAC will continue to provide sound analysis and vigorously engage when county issues are at hand. These are critical times for California's counties and CSAC has answered the call.

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

Attachments

California State Association of Counties
 Proposed Budget
 FY 12-13

	Actual FY 10-11	Budget FY 11-12	Projected FY 11-12	Budget FY 12-13
Revenues:				
Memberships Dues	2,799,506	2,799,506	2,799,506	2,799,506
Finance Corp Participation	3,000,000	3,300,000	3,300,000	3,300,000
Rental and Parking Income	945,988	900,698	882,170	907,118
Administrative Miscellaneous	517,501	474,000	490,341	471,000
CSAC Conferences	471,840	570,000	572,742	355,000
Outside Contracts	128,125	131,250	132,891	134,531
Campaign			307,515	
Corporate Associates	71,360	78,000	14,000	500,000
CSAC Institute	<u>76,209</u>	<u>70,000</u>	<u>70,000</u>	<u>82,500</u>
Total Revenues	8,010,529	8,323,454	8,569,164	8,549,655
Expenditures:				
Salaries/Benefits	4,398,622	4,823,433	4,783,659	5,722,095
Staff Outreach	114,265	130,000	130,000	130,000
Leadership Outreach	96,824	100,000	123,858	100,000
NACo Meetings & Travel	118,142	80,000	80,000	80,000
Public Affairs/Communications	64,898	57,500	49,403	92,349
CSAC Conferences	499,848	836,121	755,103	552,150
Facilities	966,641	1,060,219	917,986	831,060
Operations	815,862	954,363	1,298,338	1,027,860
Outside Contracts	273,585	251,250	242,442	254,531
Health Care Pool		125,000	90,000	
Campaign			307,515	
Corporate Associates	141,474	164,036	200,296	36,800
CSAC Institute	<u>264,165</u>	<u>231,500</u>	<u>214,165</u>	<u>244,150</u>
Total Expenditures	7,754,324	8,813,423	9,192,766	9,070,994
PROFIT/(LOSS)	256,204	(489,969)	(623,601)	(521,339)

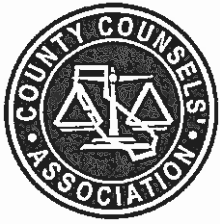
12/13 Budget

ACCOUNT EXPLANATIONS -
BUDGET YEAR 12-13

ACCT#	EXPLANATION
INCOME:	
MEMBERSHIP DUES	ANNUAL DUES FROM COUNTIES. NO INCREASE SCHEDULED THIS YEAR, FOR THE 4th YEAR IN A ROW.
FINANCE CORP PARTICIPATION	CSAC FINANCE CORPORATION CONTRIBUTIONS TO CSAC. CSAC MAY BRING OVER ALL FINANCE CORP FUNDS IN EXCESS OF THE REQUIRED RESERVE OF 50% OF THEIR OPERATING EXPENSE.
RENTAL & PARKING INCOME	RENTAL INCOME FOR 1100 K STREET AND 1029 K STREET. ANTICIPATED 30% VACANCY RATE WHICH APPEARS TO BE IN LINE WITH SACRAMENTO'S CURRENT OFFICE RENTAL MARKET. ALSO INCLUDES 53 PARKING SPACES FOR STAFF AND TO RENT, AND RENTAL FEES FOR CSAC CONFERENCE CENTER.
ADMINISTRATIVE MISCELLANEOUS	1) ADMINISTRATION FEES COLLECTED FROM CSAC AFFILIATES FOR PAYROLL AND BENEFIT SERVICES. 2) 15% OF TOTAL DUES COLLECTED FOR SB90 3) SALES FOR CSAC ROSTERS & LEGISLATIVE BULLETIN 4) PRINTING AND COPYING REVENUE GENERATED FROM THE CSAC PRINT SHOP. 5) INTEREST INCOME FROM CHECKING ACCTS AND CALTRUST ACCOUNTS. REDUCTION IN PROJECTED AND BUDGET YR DUE TO A DECLINE IN INTEREST RATES. 6) CONTRACT FOR COMP SERVICES WITH LA COUNTY 7) SALE OF DATABASE MAILING LIST, LABELS, SOFT DRINK COMMISSIONS AND FEES FROM JOB ADVERTISING ON CSAC WEBSITE
CSAC CONFERENCES	EXHIBITOR REGISTRATION AND GENERAL REGISTRATION FEES FOR CSAC ANNUAL CONFERENCE AND LEGISLATIVE CONFERENCE
OUTSIDE CONTRACTS	CEAC CONTRACT.
CORPORATE ASSOCIATES	CORPORATE ASSOCIATES MEMBERSHIP DUES AND SPONSOR REVENUES FOR CSAC CONFERENCES. **PROGRAM BUDGET HAS BEEN RESTRUCTURED TO REFLECT ACTUAL REVENUE GENERATED BY PROGRAM.
CSAC INSTITUTE	REGISTRATION REVENUE
EXPENSES:	
SALARIES/BENEFITS	1) SALARIES ASSUMES A MERIT INCREASE IN JANUARY '13. DOES NOT ASSUME ANY COLA'S. 2) RETIREMENT CURRENTLY AVERAGING 30% OF SALARIES. 3) BENEFITS TO INCLUDE HEALTH, DENTAL, VISION, EAP, LIFE AND WORKERS COMP. 4) PAYROLL TAX 5) AUTO ALLOWANCE 6) ANNUAL EMPLOYEE WORKSHOP
STAFF OUTREACH	INCLUDES ALL IN AND OUT-OF-TOWN BUSINESS EXPENSES FOR LEGISLATIVE AND ADMINISTRATIVE STAFF, AWARDS, PLAQUES FOR MEMBERS AND OTHER MISC EXPENSES FOR EMPLOYEES.
LEADERSHIP OUTREACH	ALL BUSINESS EXPENSES FOR CSAC BOARD OF DIRECTORS, EXECUTIVE COMMITTEE AND OFFICERS.

ACCOUNT EXPLANATIONS -
BUDGET YEAR 12-13

ACCT#	EXPLANATION
NACO MEETINGS & TRAVEL	ALL COSTS ASSOCIATED FOR ALL LEGISLATIVE, ADMINISTRATIVE STAFF AND BOARD MEMBERS TO ATTEND NACO SUPPORTED EVENTS.
PUBLIC AFFAIRS/COMMUNICATIONS	1) ALL COSTS ASSOCIATED WITH PRODUCING & DISTRIBUTING THE ROSTER 2) CHALLENGE AWARDS 3) LEGISLATIVE BULLETIN 4) WEB SITE 5) WRITTEN, AUDIO AND VIDEO COMMUNICATIONS
CSAC CONFERENCES	ALL COSTS ASSOCIATED WITH LEGISLATIVE AND ANNUAL CONFERENCE
FACILITIES	ALL COSTS ASSOCIATED WITH THE MAINTENANCE OF 1100 K STREET AND 1029 K STREET COSTS INCLUDE REPAIRS, UTILITIES, PHONES, INSURANCE, JANITORIAL DEBT SERVICE AND PROPERTY TAXES.
OPERATIONS	ALL COSTS ASSOCIATED WITH OPERATIONS SUCH AS 1) CELL PHONES 2) MEMBERSHIP FEES 3) OFFICE SUPPLIES 4) POSTAGE/DELIVERY 5) R&M AND PURCHASES OF COMPUTERS AND EQUIPMENT 6) CPA'S AND LEGAL CONSULTING 7) PROFESSIONAL SERVICES SUCH AS WATERMAN CONTRACT 8) COPIERS AND BUSINESS EQUIPMENT 9) CSAC'S RENT
OUTSIDE CONTRACTS	CEAC EXPENDITURES AND CONTRIBUTIONS TO CCSP AND ILG
CORPORATE ASSOCIATES	ALL COSTS ASSOCIATED WITH MANAGING CORPORATE ASSOCIATES PROGRAM
CSAC INSTITUTE	ALL COSTS ASSOCIATED WITH MANAGING AND IMPLEMENTING THE CSAC INSTITUTE
OTHER:	
RESERVES	PRUDENT RESERVES HAVE BEEN ESTABLISHED IN THE AMOUNT OF \$2.8 MILLION.
SALARY/BENEFITS	IT IS THE INTENT FOR CSAC TO DEVELOP A MIGRATION PLAN TO IMPLEMENT WHERE EMPLOYEES WOULD ULTIMATELY PAY 100% OF THEIR PORTION OF THEIR RETIREMENT CONTRIBUTIONS.



County Counsels' Association of California

BOARD OF DIRECTORS

Officers

President

Michael L. Rood
Imperial County

Vice-President

James N. Fincher
Merced County

Secretary-Treasurer

Jeanine B. Nadel
Mendocino County

Immediate Past President

Vacant

Historian (Nonvoting)

James A. Curtis
Sierra County

Directors

Pamela J. Walls
Riverside County
2010-2012

Thomas E. Montgomery

San Diego County
2010-2012

Charles J. McKee

Monterey County
2011-2013

Thomas R. Parker

Colusa County
2011-2013

EXECUTIVE DIRECTOR

Jennifer B. Henning

MEMORANDUM

To: Supervisor Mike McGowan, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: April 19, 2012

Re: 2012 – 2013 Litigation Coordination Budget

Recommended Action:

Recommend adoption of the 2012-2013 Litigation Coordination Program budget to the CSAC Board of Directors.¹

Reason for Recommendation:

There is no fee increase in the proposed budget, which projects absorbing any cost increases through a reduction in rent that was negotiated for the County Counsels' Association office space for the upcoming fiscal year. The Litigation Coordinator's salary is also held flat for the upcoming fiscal year. The proposed budget will permit the Litigation Coordination Program to continue its amicus and coordinated litigation work on behalf of counties at minimal cost to counties.

Background:

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

The Litigation Coordination Program is funded through a fee administered and collected directly by CSAC.² The fees are held in a separate fund and used to pay

¹ The County Counsels' Association's Board of Directors tentatively approved the budget on January 19, 2012, and will be considered for final approval on April 18, 2012.

Supervisor Mike McGowan, President, and
Members of the CSAC Executive Committee
April 19, 2012
Page 2 of 2

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.

The Program is able to operate in the 2012-2013 fiscal year without a fee increase based primarily on an office space rent reduction negotiated for the upcoming year, and a decision to hold the Litigation Coordinator's salary flat for the second straight year.

Conclusion

The proposed 2012-2013 Litigation budget is a responsible budget intended to ensure the program services continue with as little impact on county revenues as possible. I appreciate the opportunity to serve your counties by managing this important program, and thank you in advance for your continued support.

Attachments:

Proposed 2012-2013 Budget
Budget Comparison for Years 2011 to 2012
Current Dues Schedule

² The County Counsels' Association agreement with CSAC provides: "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."

CSAC/County Counsels' Association
LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2012-2013 BUDGET

To Be Considered by Litigation Overview Committee on April 18, 2012
To Be Considered by County Counsels' Association Board of Directors on April 18, 2012
Approved by CSAC Executive Committee on _____
Adopted by CSAC Board of Directors on _____

INCOME:

Membership Dues	299,362.00
TOTAL INCOME.....	299,362.00

EXPENSES:

Salaries.....	\$158,005.00
Retirement.....	54,851.00
Employee Group Insurance.....	40,342.00
Payroll Tax.....	2,289.00
CSAC Administrative Fees.....	6,386.00
Staff Expense and Travel.....	1,000.00
Communications	1,200.00
On-Line Expense	2,200.00
Membership Fees.....	425.00
Office Supplies	400.00
Postage/Delivery	500.00
Printing - Commercial	2,000.00
Printing - In House.....	650.00
Leases - Property.....	24,500.00

TOTAL EXPENSES.....	294,748.00
Projected Revenue Over Expenses	4,614.00

LITIGATION COORDINATION PROGRAM
FISCAL YEAR 2012-2013 BUDGET

LITIGATION COORDINATION PROGRAM

Budget Comparison (2011-2013)

Prepared for Fiscal Year 2012-2013 Budget

	2010-11 Actual	2011-12 Budget	2011-12 Projected+	2012-13 Budget
INCOME:				
Membership Dues	\$285,098.00	\$299,362.00	\$299,362.00	\$299,362.00
Misc. Income	0.00	0.00	0.00	0.00
TOTAL INCOME:	285,098.00	299,362.00	299,362.00	299,362.00
EXPENSES:				
Salaries	157,242.40	157,268.00	157,692.55	158,005.00
Retirement	57,210.74	56,606.00	54,308.00	54,851.00
Employee Group Insurance	34,181.30	35,907.00	38,348.00	40,342.00
Staff Travel/ Training	344.89	1,000.00	677.57	1,000.00
Law Clerk	0.00	2,000.00	0.00	0.00
Communications	1,768.21	1,100.00	1,167.95	1,200.00
On-Line Expenses	2,193.84	3,044.00	2,112.00	2,200.00
Publications	1,403.47	0.00	1,337.74	0.00
Membership Fees	410.00	410.00	410.00	425.00
Office Supplies	190.00	450.00	288.00	400.00
Postage/Delivery	279.21	600.00	205.87	500.00
Printing- Commercial	3,727.00	1,000.00	1,534.12	2,000.00
Printing – In-House	407.67	800.00	439.58	650.00
Leases – Property	26,024.37	27,178.00	27,065.96	24,500.00
Payroll Tax	2,257.76	2,221.00	2,224.00	2,289.00
Admin Fees	6,272.30	6,611.00	6,296.00	6,386.00
TOTAL EXPENSES	294,420.60	296,195.00	294,107.14	294,748.00
Excess of Revenues Over/(Under) Expenditures	(9,322.60)	3,167.00	5,254.86	4,614.00

+ Based on Financial Statements through February 29, 2012

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

Approved by the Board of Directors of the County Counsels' Association on January 20, 2011.

Approved by the CSAC Executive Committee on May 5, 2011.

Approved by the CSAC Board of Directors on June 2, 2011.

(9 counties 1,000,000 or over)

Los Angeles	\$15,456
San Diego	
Orange	
Santa Clara	
San Bernardino	
Riverside	
Alameda	
Sacramento	
Contra Costa	

(7 counties 500,000 to 999,999)

Fresno	\$10,303
San Francisco	
Ventura	
San Mateo	
Kern	
San Joaquin	
Stanislaus	

(11 counties 200,000 to 499,99)

Sonoma	\$5,152
Santa Barbara	
Monterey	
Solano	
Tulare	
Santa Cruz	
Marin	
San Luis Obispo	
Placer	
Merced	
Butte	

(8 counties 100,000 to 199,999)
Shasta \$2,062
Yolo
El Dorado
Imperial
Humboldt
Napa
Kings
Madera

(8 counties 50,000 to 99,999)
Nevada \$1,030
Mendocino
Sutter
Yuba
Tehama
Lake
Tuolumne
San Benito

(12 counties 10,000 to 49,999)
Siskiyou \$517
Calaveras
Lassen
Amador
Del Norte
Glenn
Plumas
Colusa
Inyo
Mariposa
Trinity
Mono

(3 counties under 10,000)
Sierra \$175
Alpine
Modoc



California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814
(916) 327-7500

Date: March 16, 2012

To: CSAC Executive Committee

From: Paul McIntosh, Executive Director
David Liebler, Director of Public Affairs & Member Services
Patti Hughes, Meeting Planner

Re: Proposed Sites for 2015 & 2016 Annual Meetings

CSAC policy calls for annual meeting sites to be selected three to four years in advance. Today, we are recommending the Executive Committee approve sites for the 2015 and 2016 annual meetings. Traditionally, CSAC has followed a north/south state rotation. Staff recommendations are based on: 1) site availability, 2) conference/hotel space requirements, 3) cost, and 4) past popularity/success of venue. We believe the following sites will be strong venues for our upcoming conferences.

- 2015 – Monterey, Monterey County
- 2016 – Palm Springs, Riverside County

The proceeding page outlines the proposed meeting venues and host hotels, as well as cost specifics, for both years. We last held our meeting in Monterey County in 2009 – accordingly, it will be six years between visits. Conferences in Monterey have proven to be very well-attended and successful due to the location and hotel/convention center convenience. While we were in Riverside County in 2010, CSAC has not held an annual meeting in Palm Springs for approximately 20 years. The site location and proposed costs make this a very affordable and strong destination point.

Below you will find a listing of previous Annual Meetings sites, as well as our upcoming locations:

2014	Anaheim, Orange County	2006	Anaheim, Orange County
2013	San Jose, Santa Clara County	2005	San Jose, Santa Clara County
2012	Long Beach, Los Angeles County	2004	San Diego, San Diego County
2011	San Francisco City/County	2003	Monterey, Monterey County
2010	Riverside, Riverside County	2002	Pasadena, Los Angeles County
2009	Monterey, Monterey County	2001	Sacramento, Sacramento County
2008	San Diego, San Diego County	2000	Ontario, San Bernardino County
2007	Oakland, Alameda County		

Recommended Action -- Approve staff recommendations to hold the CSAC Annual Meetings in Monterey County (2015) and Riverside County (2016).

2015 CSAC Annual Meeting Site Proposals -- Monterey

<u>Date/Location</u>	<u>Venue</u>	<u>Room Rate</u>	<u>Meeting Space</u>	<u>Accessibility</u>	<u>Additional Concessions Offered</u>
11/30-12/4/2015 Monterey, CA	Monterey Marriott	\$175.00 \$119.00 Staff	Complimentary	3.74 miles from Monterey Airport 74.67 miles from San Jose Airport	* Complimentary Room for every (40) rooms reserved. * \$6.00 per room credit back to master account to off set the costs of the convention center * Staff room rate is \$119.00 up to 15 rooms/per night * Three suite upgrades at group rate * One Complimentary Presidential Suite

11/30-12/3/2015 Monterey Conf. Center \$26,000

11/30-12/4/2015 Portola Plaza
\$169.00
\$118.00 Staff Rate

* Complimentary Room for every (50) rooms reserved.
* Complimentary One Bedroom Suite
* Three Additional Studio Suites
* Staff room rate is \$118.00 up to 12 rooms per night

2016 CSAC Annual Meeting Site Proposals -- Palm Springs

<u>Date/Location</u>	<u>Venue</u>	<u>Room Rate</u>	<u>Meeting Space</u>	<u>Accessibility</u>	<u>Additional Concessions Offered</u>
11/27-12/2/2016 Palm Springs	Renaissance	\$94.00 Includes \$10 rebate	Complimentary	2.28 miles from Palm Springs Airport 27.27 miles from Onatrio Int'l Airport	CSAC will contract all hotel guestrooms
11/27-12/2/2016	Convention Center		\$24,250		* F&B Discount (Minimum of \$52,000) \$5,000 discount * \$10.00 Rebate with 1,200 room nights \$12,000 discount
11/27-12/2/2016	Hilton	\$94.00			



MEMORANDUM

April 5, 2012

1100 K Street
Suite 101
Sacramento
California
95814
Telephone:
916.327-7500
Facsimile:
916.441.5507

To: Executive Committee
California State Association of Counties

From: Paul McIntosh
Executive Director

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

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

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

There are currently four (4) former and current county officials representing CSAC on the CSCDA board. The terms of three (3) of those representatives are nearing their end and it is recommended that they be reappointed to two (2) year terms. It is recommended that Steve Keil (retired from Sacramento County), Larry Combs (retired from Merced County) and Terry Schutten, Executive Director of the County Administrative Officers Association of California, be reappointed.

Cc: Steve Keil
Larry Combs
Terry Schutten
James Hamill

MEMORANDUM



April 4, 2012

1100 K Street
 Suite 101
 Sacramento
 California
 95814

Telephone
 916.327-7500

Facsimile
 916.441.5507

To: Executive Committee
 California State Association of Counties

From: Paul McIntosh
 Executive Director

Re: **CSAC Intellectual Property**

Last fall, CSAC contracted with Consor to perform an analysis of the value of CSAC as an intellectual property; otherwise known as a "branding" study. Consor is a nationally-recognized firm specializing in intellectual asset management and has performed similar studies for Fortune 500 companies, the National Association of Counties, US Communities and others. That report for CSAC is enclosed for your information.

The report provides valuable insight into the business properties of CSAC and covered three key areas: the Corporate Associates Program; Affinity Partnerships; and the CSAC Excess Insurance Authority's continued use of CSAC's name. As a result of the reports recommendation, significant changes to the Corporate Associates program have already begun. Implementation of the other recommendations will take some time.

The next step in securing CSAC's intellectual property is to trademark protect CSAC's name and logo, including "CSAC", "California Counties", CSAC Institute for Excellence in County Government", and "CSAC Finance Corporation". CSAC is in the process of securing those trademarks.

Probably the biggest area of note from the report is the relationship, or lack thereof, between CSAC and the CSAC Excess Insurance Authority (EIA). The EIA was created in 1979 through a joint powers agreement "under the sponsorship of CSAC." The EIA is governed by a self-appointed board of directors, very similar to the CSAC Finance Corporation. The CSAC Finance Corporation has a strong linkage to CSAC. There are two county supervisors who sit on the Board of Directors, representing the CSAC Executive Committee as does the CSAC Executive Director. There is no such linkage with the EIA Board of Directors. Likewise, the CSAC Finance Corporation makes significant annual contribution to CSAC to supplement county dues and help in sustaining programs and services to California counties. No such contributions are received from the CSAC EIA.

The report finds that the CSAC EIA has benefitted considerably from the use of CSAC's name. Recently the Texas Association of Counties interviewed

insurance brokerage firms for a role in their pooled insurance programs. A company under contract to the CSAC EIA, Allianz, spoke frequently about their connection to CSAC, without attempting to distinguish between CSAC and the CSAC EIA. Their statements were such that the TAC Executive Director thought it necessary to call me and discuss their role in CSAC. In addition, there have been a number of incidents where the EIA has advocated on legislation from a position different than CSAC, causing questions and confusion on the part of legislators.

The report concludes that the CSAC EIA should pay an annual royalty to CSAC for the use of its name and, in return, CSAC could significantly assist in the marketing of EIA programs, to the benefit of both.

There is no action required of the CSAC Executive Committee on this report. It is provided for your information.

Attachment

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

TEMPORARY TAXES TO FUND EDUCATION. GUARANTEED LOCAL PUBLIC SAFETY FUNDING. INITIATIVE CONSTITUTIONAL AMENDMENT. Increases personal income tax on annual earnings over \$250,000 for seven years. Increases sales and use tax by ¼ cent for four years. Allocates temporary tax revenues 89 percent to K-12 schools and 11 percent to community colleges. Bars use of funds for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how funds are to be spent. Guarantees funding for public safety services realigned from state to local governments. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Increased state revenues over the next seven fiscal years. Estimates of the revenue increases vary—from \$6.8 billion to \$9 billion for 2012-13 and from \$5.4 billion to \$7.6 billion, on average, in the following five fiscal years, with lesser amounts in 2018-19. These revenues would be available to (1) pay for the state's school and community college funding requirements, as increased by this measure, and (2) address the state's budgetary problem by paying for other spending commitments. Limitation on the state's ability to make changes to the programs and revenues shifted to local governments in 2011, resulting in a more stable fiscal situation for local governments.**
(12-0009)

March 16, 2012

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional amendment related to the funding of local governments and schools and temporary taxes (A.G. File No. 12-0009).

BACKGROUND

State's Fiscal Situation

California's Recent Budget Problems. The General Fund is the state's core account that supports a variety of programs, including public schools, higher education, health, social services, and prisons. The General Fund has experienced chronic shortfalls in recent years due to trends in state spending and revenues. State budgetary problems since 2008-09 have been caused by a number of factors, including a severe economic recession that caused state revenues to decline sharply. To deal with the state's budgetary shortfalls, policymakers have reduced program expenditures, temporarily raised taxes, and taken a variety of other measures including various forms of borrowing from special funds and local governments.

Ongoing Budget Deficits Projected. The state's budget shortfalls are expected to continue over the next five years under current tax and expenditure policies. In November 2011, the Legislative Analyst's Office (LAO) estimated annual budget deficits of greater than \$5 billion through 2016-17, including a budget shortfall of roughly \$13 billion in 2012-13. In January 2012, the Department of Finance (DOF) estimated a budget shortfall of \$9.2 billion in 2012-13 and annual budget deficits of less than \$5 billion thereafter. These estimates will be updated in May 2012—based on updated information about state revenues and expenditures—when the Governor releases the May Revision to his proposed 2012-13 state budget.

Taxes and Revenues

The General Fund is supported primarily from income and sales taxes paid by individuals and businesses.

Income Tax. The personal income tax (PIT) is a tax on income earned in the state and is the state's largest revenue source. Tax rates range from 1 percent to 9.3 percent depending on a taxpayer's income. Higher tax rates are charged as income increases, such that the 1 percent of tax filers with the most income now pay around 40 percent of state income taxes. An additional 1 percent rate is levied on taxable incomes in excess of \$1 million with the proceeds dedicated to mental health services rather than the General Fund.

Sales Tax. California's sales and use tax (SUT) is levied on the final purchase price of tangible consumer goods, except for food and certain other items. The SUT rate consists of both a statewide rate and a local rate. The current statewide rate is 7.25 percent. Approximately half of the revenue derived from the statewide rate is deposited into the General Fund, while the remainder is allocated to local governments. Localities also have the option of imposing, with voter approval, add-on rates to raise revenues for cities, counties, or special districts. As a result, SUT rates in California differ by county and locality, with an average rate of about 8.1 percent.

State School Funding

In 1988, voters approved Proposition 98. Including later amendments, Proposition 98 establishes a guaranteed minimum annual funding level—commonly called the minimum guarantee—for K-14 education (consisting of K-12 schools and community colleges). The minimum guarantee is funded through a combination of state General Fund appropriations and local property tax revenues. With a two-thirds vote in any given year, the Legislature can suspend the Proposition 98 guarantee for one year and provide any level of K-14 funding it chooses.

Minimum Guarantee Often Affected by Changes in State Revenues. In many years, the calculation of the minimum guarantee is highly sensitive to changes in state General Fund revenues. In years when General Fund revenues grow by a large amount, the guarantee is likely to increase by a large amount. Conversely, in years when General Fund revenues decline by a large amount, the guarantee is likely to drop by a large amount. In these years, however, the state typically generates an associated "maintenance factor" obligation that requires the state to accelerate future growth in Proposition 98 funding when General Fund revenues revive. Another type of Proposition 98 obligation is known as "settle-up." A settle-up obligation is created when the state ends a fiscal year having appropriated less than the finalized calculation of the minimum guarantee. Typically, the state pays off settle-up obligations in installments over several years.

2011 Realignment Legislation

Shift of State Program Responsibilities. The state and local governments in California operate and fund various programs. These programs are funded through a combination of state, federal, and local funds. The specific responsibilities and costs assigned to state and local governments vary by program. As part of the 2011-12 state budget plan, the Legislature enacted a major shift—or "realignment"—of state program responsibilities and revenues to local governments. The realignment legislation shifts responsibility from the state to local governments (primarily counties) for several programs including court security, adult offenders and parolees, public safety grants, mental health services, substance abuse treatment, child welfare programs, and adult protective services. Implementation of this transfer began in 2011.

Dedication of Revenues to Cover Program Costs. To fund the realignment of these programs, the 2011-12 state budget dedicates a total of \$6.3 billion in revenues from three sources into a special fund for local governments. Specifically, the realignment plan directs 1.0625 cents of the statewide SUT rate to counties. Under prior law, equivalent revenues were deposited in the General Fund. In addition, the realignment plan redirects an estimated \$462 million from the 0.65 percent vehicle license fee (VLF) rate for local law enforcement programs. Under prior law, these VLF revenues were allocated to the Department of Motor Vehicles for administrative purposes and to cities and Orange County for general purposes. The budget also shifts \$763 million on a one-time basis in 2011-12 from the Mental Health Services Fund (established by Proposition 63 in November 2004) for support of the Early and Periodic Screening, Diagnosis, and Treatment Program and Mental Health Managed Care program.

Exclusion of Revenues From Proposition 98 Calculation. A budget-related law, Chapter 43, Statutes of 2011 (AB 114, Committee on Budget), stated that the 1.0625 cent SUT realignment revenues were to be excluded from the Proposition 98 calculation. This provision of Chapter 43, however, was made operative for 2011-12 and subsequent fiscal years contingent on the approval of a ballot measure by November 2012 that both (1) authorizes the exclusion of the 1.0625 cent sales tax revenues from the Proposition 98 calculation and (2) provides funding for school districts and community colleges in an amount equal to the reduction in the minimum guarantee due to the exclusion. If these conditions are not met, Chapter 43 creates a settle-up obligation for the lower Proposition 98 spending in 2011-12 to be paid over the next five fiscal years.

State-Reimbursable Mandates

State Required to Reimburse Local Governments for Certain Costs. The California Constitution generally requires the state to reimburse local governments when it “mandates” a new local program or higher level of service. In some cases, however, the state may impose requirements on local governments that increase local costs without being required to provide state reimbursements.

Open Meeting Act Mandate. The Ralph M. Brown Act (known as the Brown Act) requires all meetings of the legislative body of a local agency to be open and public. Certain provisions of the Brown Act—such as the requirement to prepare and post agendas for public meetings—are state-reimbursable mandates.

PROPOSAL

The measure amends the Constitution to permanently dedicate revenues to local governments to pay for the programs realigned in 2011 and temporarily increases state taxes.

2011 Realignment Legislation

Guarantees Ongoing Revenues to Local Governments for Realigned Programs. The measure requires the state to continue allocating SUT and VLF revenues to local governments to pay for the programs realigned in 2011. If portions of the SUT or VLF dedicated to realignment are reduced or eliminated, the state is required to provide alternative funding that is at least equal to the amount that would have been generated by the SUT and VLF for so long as the local governments are required to operate the realigned programs.

Constrains State's Ability to Impose Additional Requirements After 2012. Through September 2012, the measure allows the state to change the statutory or regulatory requirements related to the realigned programs. A local government would not be required to fulfill a statutory or regulatory requirement approved after September 2012 related to the realigned programs, however, unless the requirement (1) imposed no net additional costs to the local government or (2) the state provided additional funding sufficient to cover its costs.

Limits Local Governments From Seeking Additional Reimbursements. This measure specifies that the legislation creating 2011 realignment (as adopted through September 2012) would not be considered a state-reimbursable mandate. Therefore, local governments would not be eligible to seek reimbursement from the state for any costs related to implementing the legislation. Similarly, the measure specifies that any state regulation, executive order, or administrative directive necessary to implement realignment would not be a state-reimbursable mandate.

State and Local Governments Could Share Some Unanticipated Costs. The measure specifies that certain unanticipated costs related to realignment would be shared between the state and local governments. Specifically, the state would be required to fund at least half of any new local costs resulting from certain changes in federal statutes or regulations. The state also would be required to pay at least half of any new local costs resulting from federal court decisions or settlements related to realigned programs if (1) the state is a party in the proceeding, and (2) the state determines that the decision or settlement is not related to the failure of local agencies to perform their duties or obligations.

Open Meeting Act Mandate

The measure specifies that the Brown Act would no longer be considered a state-reimbursable mandate. Localities would still be required to follow the open meeting rules in the Brown Act but would not be eligible to seek reimbursement from the state for any associated costs.

Tax Rates

Increases Income Tax Rates on Higher Incomes for Seven Years. Under current law, the maximum marginal PIT rate is 9.3 percent, and it applies to taxable income in excess of \$48,209 for individuals; \$65,376 for heads of household; and \$96,058 for joint filers. This measure temporarily increases PIT rates for higher incomes by creating three additional tax brackets with rates above 9.3 percent. Specifically, this measure imposes:

- A 10.3 percent tax rate on income between \$250,000 and \$300,000 for individuals; \$340,000 and \$408,000 for heads of household; and \$500,000 and \$600,000 for joint filers.
- An 11.3 percent tax rate on income between \$300,000 and \$500,000 for individuals; \$408,000 and \$680,000 for heads of household; and \$600,000 and \$1 million for joint filers.
- A 12.3 percent tax rate on income in excess of \$500,000 for individuals; \$680,000 for heads of household; and \$1 million for joint filers.

These tax rates would affect roughly 1 percent of California PIT filers due to the high income threshold. The tax rates would be in effect for seven years—starting in the 2012 tax year and ending at the conclusion of the 2018 tax year. (The additional 1 percent rate for mental health services would still apply to income in excess of \$1 million.)

Increases SUT Rate for Four Years. This measure temporarily increases the state SUT rate by 0.25 percent. The higher tax rate would be in effect for four years—from January 1, 2013 through the end of 2016. Under the measure, the average SUT rate in the state would increase to around 8.4 percent.

State School Funding

Permanently Removes Realigned Sales Tax Revenues From Proposition 98 Calculation. The measure amends the Constitution to explicitly exclude the 1.0625 cent sales tax revenues directed to realignment programs from the Proposition 98 calculation.

New Tax Revenues Deposited Into New Account for Schools and Community Colleges. The measure requires that the additional tax revenues generated by the temporary increases in PIT and SUT rates be deposited into a newly created Education Protection Account (EPA). Appropriations from the account could be used for any educational purpose and would count towards meeting the Proposition 98 minimum guarantee. Of the monies deposited into the account, 89 percent would be provided to schools and 11 percent would be provided to community colleges. The EPA funds for schools would be distributed the same way as existing general purpose per-pupil funding, except that no school district is to receive less than \$200 in EPA funds per pupil. Similarly, the EPA funds for community colleges would be distributed the same way as existing general purpose per-student funding, except that no community college district is to receive less than \$100 in EPA funds per full-time equivalent student.

FISCAL EFFECTS

Realignment Programs

Provides More Certainty to Local Governments. This measure would change the state's authority over the 2011 realignment. After September 2012, the state could not impose new requirements to 2011 realignment resulting in increased costs without providing sufficient funding. Also, the state would share certain new costs related to federal law or court cases. Consequently, the measure reduces the financial uncertainty and risk for local governments under realignment. Any impact would depend on how the state would have acted in the future absent the measure, as well as what, if any, actions are taken by the federal government or courts.

Limits State's Ability to Change 2011 Realignment. With regard to the state, the measure would have the related impact of restricting the state's ability to make changes resulting in new costs to local governments in the 2011 realignment without providing additional funding to local governments. The state could also bear additional costs associated with new federal laws or court cases beyond the funds provided by 2011 realignment.

State Revenues

Significant Volatility of PIT Revenues Possible. Most of the income reported by California's upper-income filers is related in some way to their capital investments, rather than wages and salary-type income. In 2008, for example, only about 37 percent of the income reported by PIT filers reporting over \$500,000 of income consisted of wages and salaries. The rest consisted of capital gains (generated from sales of assets, such as stocks and homes), income from these filers' interests in partnerships and "S" corporations, dividends, interest, rent, and other capital income. While upper-income filers' wage and salary income is volatile to some extent (due to the cyclical nature of bonuses, among other things), their capital income is *highly* volatile from one year to the next. For example, the current mental health tax on income over \$1 million generated about \$734 million in 2009-10 but has raised as much as \$1.6 billion in previous years. Given this volatility, estimates of the revenues to be raised by this initiative will change between now and the November 2012 election, as well as in subsequent years.

Revenue Estimates. The volatility described above makes it difficult to forecast this measure's state revenue gains from high-income taxpayers. As a result, the estimates from our two offices of this measure's annual revenue increases vary. For the 2012-13 budget, the LAO currently forecasts this measure would generate \$6.8 billion of additional revenues, and DOF forecasts \$9 billion of additional revenues. (This essentially reflects six months of SUT receipts in 2013 and 18 months of PIT receipts from all of tax year 2012 and half of tax year 2013.) In the following five fiscal years, the LAO currently forecasts an average annual increase in state revenues of \$5.4 billion, and DOF currently forecasts an average annual increase in state revenues of \$7.6 billion. In 2018-19, the measure's PIT increase would be in effect for only six months of the fiscal year before expiring and generate lesser amounts of state revenue.

Proposition 98

The measure affects the Proposition 98 calculations. In the near term, the effect of the temporary tax increases would more than offset the state savings generated by the exclusion of the realignment SUT revenues. The change in the minimum guarantee, however, would depend on a number of factors, including the amount of revenue raised by the measure, year-to-year growth in General Fund revenues, and the way in which Proposition 98 maintenance factor obligations are paid. By excluding the realignment SUT revenues from the Proposition 98 calculations beginning in 2011-12, the state would no longer have a 2011-12 settle-up obligation. As a result, the state would not need to pay hundreds of millions of dollars annually from 2012-13 through 2016-17.

State Budget

Deposits New Revenues in the EPA. The new PIT and SUT revenues would be deposited in the EPA. The measure dedicates EPA funds for spending on schools and community colleges and counts them towards the Proposition 98 minimum guarantee.

New Revenues Available to Balance State Budget. As described above, the measure would increase the Proposition 98 minimum guarantee in the near term. At the same time, the measure would put new tax revenue into the EPA, which would be available for meeting the state's Proposition 98 obligation. The EPA funds would be sufficient to fund the increase in the

minimum guarantee as well as pay part of the minimum guarantee currently funded from the General Fund, thereby freeing up General Fund monies to help balance the state budget.

Long-Term Budget Effect Uncertain. The measure's tax increases are temporary. Depending on future budget decisions and the state of the economy, the loss of these additional tax revenues could create additional budget pressure when the proposed tax increases expire.

Summary of Fiscal Effect

This measure would have the following major fiscal effects:

- Increased state revenues over the next seven fiscal years. Estimates of the revenue increases vary—from \$6.8 billion to \$9 billion for 2012-13 and from \$5.4 billion to \$7.6 billion, on average, in the following five fiscal years, with lesser amounts in 2018-19.
- These revenues would be available to (1) pay for the state's school and community college funding requirements, as increased by this measure, and (2) address the state's budgetary problem by paying for other spending commitments.
- Limitation on the state's ability to make changes to the programs and revenues shifted to local governments in 2011, resulting in a more stable fiscal situation for local governments.

Sincerely,

Mac Taylor
Legislative Analyst

Ana J. Matosantos
Director of Finance

March 14, 2012

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

RECEIVED
MAR 14 2012

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson

Re: *The Schools and Local Public Safety Protection Act of 2012 - ver. 3*

Dear Ms. Johansson:

In accordance with the requirements of Elections Code section 9001(a), I request that the Attorney General prepare a circulating title and summary for a measure entitled "The Schools and Local Public Safety Protection Act of 2012." The text of the measure, a check for \$200.00, and the certifications required by Elections Code sections 9001(b) and 9608 are enclosed.

This initiative is substantively identical to The Schools and Local Public Safety Protection Act of 2012 (ver. 2), AG number 12-0001, except that (1) the sales and use tax increase is only $\frac{1}{4}$ cent; (2) the income tax rate for the top two brackets is raised by an additional .5 and 1.0 percent, respectively; and (3) the income tax rate increases remain in effect through the end of the 2018 tax year.

Please direct all correspondence and inquiries regarding this measure to:

Karen Getman
Thomas A. Willis
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,



Thomas A. Willis

Enclosures
(00166767)

THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012

Sec. 1. Title.

This measure shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2012."

Sec. 2. Findings.

(a) Over the past 4 years alone, California has had to cut more than \$56 billion from education, police and fire protection, healthcare and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California's seniors, middle-class, working families, children, college students and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California's tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale – those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the Constitution the 1/4 cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

Sec. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class, working families, children and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

Sec. 4: Section 36 is added to Article XIII of the California Constitution, to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012 except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b)(1) Except as provided in (d), commencing in fiscal year 2011-2012 and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c)(1) Funds deposited in the Local Revenue Fund 2011, are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city

and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4)(A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5)(A) For programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E) inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided

by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e)(1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section as specified in subdivision (f).

(2)(A) Before June 30, 2013, and before June 30th of each year thereafter through 2018, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012-13 fiscal year.

(B) During the last ten days of the quarter of each of the first three quarters of each fiscal year from 2013-14 through 2018-19, the Controller shall transfer into the Education Protection Account one fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years 2012-13 through 2020-21, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012-13 through 2018-19, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June through 2021, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon the enactment of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c) and (d) of Section 84751 of the Education Code, as that section read upon enactment of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon enactment of this section, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558, paragraphs (1) through (7) of subdivision (h) of Section 42238, and Section 47635 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, which are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon enactment of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of

Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, Governor or any agency of state government.

(6) A community college district, county office of education, school district, and charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes" and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f)(1)(A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased

from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall cease to be operative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over two hundred and fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000) the tax rate is 10.3 percent of the excess over two hundred and fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000) the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eight thousand dollars (\$408,000) the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000) the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this provision shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) and Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall cease to be operative on December 1, 2019.

(g)(1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

Sec. 5. Effective Date.

Subdivision (b) of Section 36 of Article XIII, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall take effect the day after the election in which it is approved by a majority of the voters voting on the measure provided.

Sec. 6. Conflicting Measures.

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

Sec. 7.

This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.



April 4, 2012

TO: CSAC Executive Committee

FROM: Paul McIntosh
Executive Director

RE: Update on Redevelopment
INFORMATION ONLY

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Background. This memo provides an update on bills that would affect the unwinding of redevelopment agencies and a new structure for redevelopment going forward. Recall that the Legislature passed ABX1 26 and ABX1 27 in 2011 to threaten redevelopment agencies with dissolution so they would choose to help ease the state's budget deficit. However, the California Supreme Court struck down ABX1 27 as unconstitutional, leaving only the bill that dissolved the agencies. Counties, cities, and the redevelopment successor agencies created by ABX1 26 have been hurriedly complying with the provisions of that bill, unwinding the complex financial affairs of redevelopment.

The Legislature, as anticipated, has introduced a number of bills related to redevelopment. The most important of these bills affect three areas: cleanup of ABX1 26, affordable housing, and a new construct for redevelopment.

Cleanup. ABX1 26 was written quickly amidst budget discussions last year, and many in the Legislature did not expect its provisions to be used. The Supreme Court's ruling changed that, and as local agencies try to carry out the law, some ambiguity has been discovered. The vehicle for cleanup is AB 1585, by Speaker John Pérez. This bill contains a wide variety of changes (including affordable housing, as discussed below), many sought by supporters and sponsors of redevelopment.

There is much both to like and be wary of in AB 1585, and counties have taken positions on both sides of the bill, in large part due to the greater importance they place on one or another of these provisions. CSAC has submitted comments (attached). Despite the many issues the bill deals with, there remain important issues that neither AB 1585 nor current law contemplate, such as what happens when a successor agency is unable to meet its obligations.

The Governor has not indicated how receptive he might be to AB 1585, but the initial proposal to dissolve redevelopment agencies was his as he attempted to redirect their funding for what he called core government purposes. AB 1585 has passed the Assembly and awaits committee referral in the Senate. It is an urgency measure that requires a 2/3 vote.

Affordable Housing. Current law, as implemented by ABX1 26, disperses former redevelopment agencies' affordable housing assets to taxing entities. AB

1585 and SB 654, by Senate President Pro Tem Darrell Steinberg, would instead retain those assets and provide for continued affordable housing activities either by the sponsoring agency, another local agency, or the California Department of Housing and Community Development. This provision is widely supported by local government and of course housing advocates, who are worried about much of their funding disappearing at once (redevelopment and Proposition 1C).

AB 1585 contains many other provisions besides, as discussed above, whereas SB 654 has only this and one other provision that is also widely supported. SB 654 had its urgency stripped because it was unable to achieve a 2/3 vote in the Senate. Also, the Pro Tem is also carrying bills that would reestablish redevelopment. For both of these reasons, it is more likely that the Speaker's bill will be the one on this issue that moves forward.

A New Construct. Senate President Pro Tem Darrell Steinberg has introduced two bills that would reestablish redevelopment, SB 1151 and SB 1156. The bills are not yet in final form, but broadly speaking they would authorize the creation of JPAs between a city and a county to carry out redevelopment-like purposes within the territorial jurisdictions of former redevelopment agencies. Counties would be allowed to carry out these purposes on their own within former county-only RDAs. They would also require the creation of a long-range asset management plan to manage the disposition of former redevelopment agencies' property, subject to Department of Finance oversight.

The bill as currently drafted places an extraordinary emphasis on using the new program to fund a narrow set of activities related to SB 375 infill development. CSAC has informally submitted comments, which seem to have been well-received, suggesting the purposes be broadened substantially to allow a wide range projects, such as transitional housing for offender populations and those with mental health needs, health and safety related public infrastructure for rural and disadvantaged communities, and infrastructure investments to support countywide services such as child care facilities, health clinics, and day reporting centers. We have also raised concerns about the extraordinary role the Department of Finance would play in overseeing these local affairs.

Other elements of the bills worth noting: the school share of property taxes will need to be mitigated in most cases, and the new construct explicitly does away with blight as a condition of redevelopment.

Counties have long argued that redevelopment should be a cooperative affair where the use of tax increment is involved. This arrangement will do away with the unilateral redistribution of county property taxes to cities.

Staff Contacts. For questions on these issues, please contact Jim Wiltshire (jwiltshire@counties.org or 916/327-7500 ext. 545).

Attachment

April 4, 2012

Speaker John A. Pérez
California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

Re: **AB 1585 (Pérez) – Redevelopment**
As amended on March 21, 2011 – COMMENTS

Dear Speaker Pérez:

On behalf of the California State Association of Counties (CSAC), I am writing to provide you our comments on AB 1585, your bill related to redevelopment.

AB 1585 is a wide-ranging bill affecting many different aspects of redevelopment, affordable housing, and local finance. Some provisions of the bill benefit counties, some not. Individual counties have taken positions on both sides of the bill, in part because of the greater importance they each place on one or another of these provisions. The purpose of this letter is to provide a statewide context for the spectrum of positions counties have taken. This letter is not intended to supersede or substitute for comments counties have submitted, nor should the exclusion of issues from this letter be taken to mean that we think they are meritless.

Counties strongly support the local retention of affordable housing assets for the purposes of providing affordable housing. It is also necessary to allow the use of affordable housing funds to pay affordable housing staff. We do have some concern about the provision of AB 1585 transferring the funds to the state, first because they are by nature local revenues to be used for local purposes, and second because, as the bill currently reads, the funds would not be required to be returned to the county from which they came once transferred to the state. The disposition of these funds should be decided by local agencies and they should be used in the areas contemplated by current law wherever possible.

AB 1585 would require the use of ongoing property tax revenue indefinitely to pay for employees that work for whichever agency takes over responsibility for the affordable housing functions of the former redevelopment agency. This provision

will result in property taxes that would otherwise go to schools, counties, special districts, and cities instead going to pay for employees of a wholly separate agency, possibly even including the California Department of Housing and Community Development. We believe that these employees should be paid by the affordable housing funds on deposit or new revenue dedicated to affordable housing, not out of other agencies' property taxes.

We support expanding the definition of enforceable obligations to include loans from sponsoring agencies made within two years of the creation of a project area. This makes sense because of the way those project areas were financed; tax increment financing takes time to build. However, including other types of sponsoring agency "loan agreements" that current law does not already allow could cause unintended problems. As one example, some sponsoring agencies structured agreements for future services they would provide to their redevelopment agency to look like loans. These services are now no longer needed, and the law should not obligate ongoing payments for them to be paid out of property taxes.

Initial reports indicate that the annual obligations of at least some successor agencies, possibly many of them, will exceed their available resources. Expanding the definition of enforceable obligations so broadly can only make this problem worse. Furthermore, the bill as drafted removes discretion of the oversight boards. Oversight boards appropriately give the local community, broadly defined, discretion in the unwinding of these affairs.

We do appreciate the authority for ROPS to look forward farther ahead than six months to include debt service and similar future obligations.

However, this also brings up an important issue that is not fully addressed in current law or any pending legislation. What happens when a successor agency, for any reason, is simply unable to meet its obligations? None of the apparent options are desirable. AB 1585 does allow a successor agency, with oversight board approval, to some financing options for addressing these shortfalls, but what about cases where the shortfall is such that even this provision proves inadequate? Furthermore, allowing successor agencies to issue new bonds for what are, in some cases, ongoing costs of operations raises the fiscal issue of appropriate uses of debt and the policy issue of whether successor agencies should undertake new projects, acting essentially like redevelopment agencies. Both of these issues are troublesome.

Broadening the definition of what are acceptable costs attributed to administration also could strain budgets.

AB 1585 would amend the statute describing how special district appointees should have been chosen, but the special district representatives for oversight boards have now already been appointed. We worry changing this statute would only throw doubt on the selection and the validity of any decisions oversight boards have already made.

Finally, while current law provides that oversight boards "cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid," no similar provision seems to dissolve successor agencies or provide for any of their remaining assets, records, and employees. The California Law Revision Commission raises this issue and others worth consideration; their review of redevelopment law so far has been meticulous.

If you have any questions about these comments, please contact me at 916/327-7500 ext. 545. We appreciate the work you have done to amend these laws to benefit communities throughout the state, and look forward to working with you to further that goal.

Thank you.

Sincerely,

Jim Wiltshire
Deputy Director

Cc: Governor Edward G. Brown
Senate President pro Tem Darrel Steinberg
Members, California State Assembly
Members, California State Senate
Riverside County
Los Angeles County
San Bernardino County
Santa Clara County
Monterey County
Sonoma County
Solano County



March 27, 2012

TO: CSAC Executive Committee

FROM: Paul McIntosh
Executive Director

RE: Update on 2011 Realignment: Fiscal Matters
INFORMATION ONLY

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Background. This memo provides an update on various aspects of 2011 Realignment implementation. Recall that AB 118, the 2011 budget trailer bill that set out a fiscal and account structure to support and direct the transfer of funding and responsibility of more than \$5 billion of law enforcement and health and human services responsibilities to counties, is effective for the 2011-12 fiscal year only. The Governor's proposed 2012-13 budget set out a framework for an overarching realignment fiscal structure for the budget year and beyond.

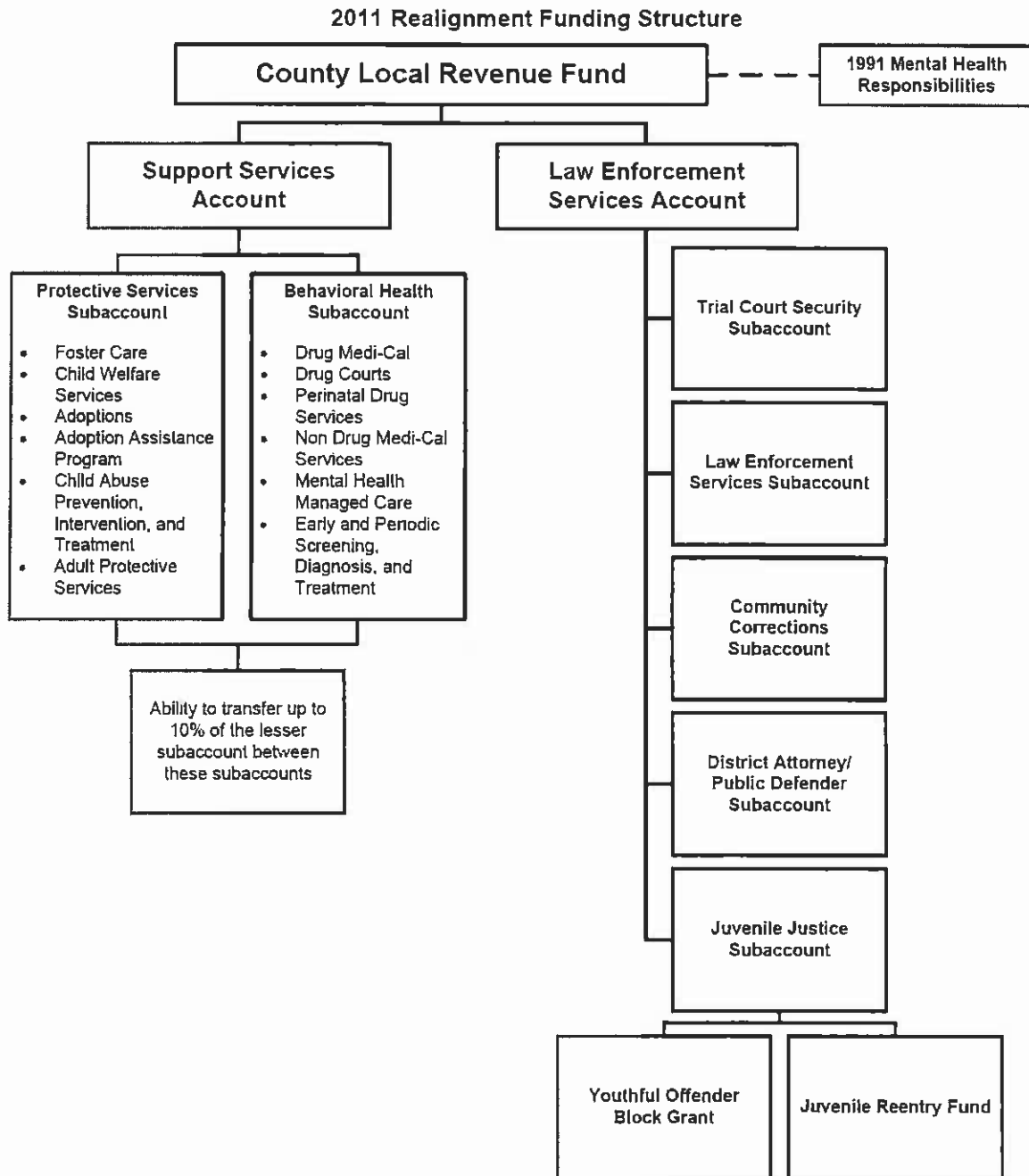
Fiscal Structure. Given that the 2011 Realignment fiscal structure is in place for one fiscal year only, an act of the Legislature is required to codify a number of important policies, including, among other issues:

- Structure of an interaction between accounts and subaccounts
- Flexibility of spending within and between accounts and subaccounts
- Distribution of unallocated growth

Allocation of funds on a program-by-program basis to the 58 counties would likely be specified in a separate schedule (rather than statute), with the exception of AB 109.

The Department of Finance has been working to draft trailer bill to capture the conceptual framework of a more permanent Realignment funding structure (displayed on the following page). That task has proven to be challenging, given the complex interactions among the accounts and the technical details of drafting statute. CSAC has been providing technical input into the trailer bill drafting. At the time of this writing, a draft of the statutory language is not yet available. An April timeframe is perhaps the soonest it would be available. In the meantime, staff has attempted to capture the key structural elements in a plain-language outline, provided in outline format at the end of this memo.

Governor's 2012-13 Proposed Budget



AB 109 Allocation. As previously communicated to the Executive Committee, a nine-member CAO committee – three CAOs each from the rural, suburban, and urban caucuses – has been meeting since late last year to develop a formula to distribute the second year of funding to support counties' responsibilities associated with the shift of adult offender populations to counties' jurisdictions.

At the time of this writing, the CAO committee continues to meet and discuss options for designing a distribution methodology for the estimated \$842.9 million available to counties in 2012-13 for AB 109 programmatic responsibilities. In addition, the committee is charged with determining how best to allocate a much smaller funding amount (an estimated \$14.6 million) associated with district attorney and public defender responsibilities associated with revocation hearings for the new population. Given the significance of this funding and the fact that the AB 109 shift of offender population responsibilities represent the only significant "new" set of duties transferred to counties in 2011, it is likely that the county-by-county distribution will be specified in statute.

While the CAO committee has yet to settle on a formula or methodology for Year 2, the members have arrived at certain conclusions and/or coalesced around certain principles:

1. For planning purposes, every county can rely on receiving at least twice its dollar allocation from 2011-12;
2. It is simply too early to rely on counties' programmatic experience in the first six months of implementing AB 109. However, it is possible – if not likely – that measurement of counties' actual workload may be a factor incorporated into a future formula.
3. The methodology arrived at for 2012-13 likely will ***not be a permanent*** funding formula. More data and experience are needed before casting a long-term distribution algorithm.

Staff Contacts. For questions on law enforcement related matters, please contact Elizabeth Howard Espinosa (eespinosa@counties.org or 916/327-7500 ext. 537); for health and human services related matters, please contact Kelly Brooks-Lindsey (kbrooks@counties.org or 916/327-7500 ext. 531).

Attachment

2011 Realignment Fiscal Structure Outline **** DRAFT ****

REFERENCE: Governor's Proposed 2012-13 Budget document (see Realignment chapter, beginning on page 71 and chart on page 77)

Account Structure

State Level

- Create the two new accounts, Support Services and Law Enforcement
- Within the two new accounts, create the separate subaccounts consistent with Administration's proposal. The Support Services Account would contain the Protective Services Subaccount and the Behavioral Health Subaccount.

The Protective Services Subaccount includes:

1. Foster Care
2. Child Welfare Services
3. Adoptions
4. Adoptions Assistance
5. Child Abuse Prevention, Intervention, and Treatment
6. Adult Protective Services

The Behavioral Health Subaccount includes:

1. Drug Medi-Cal
2. Drug Courts
3. Perinatal Drug Services
4. Non Drug Medi-Cal Services
5. Mental Health Managed Care
6. EPSDT

The Law Enforcement Services Account would contain:

1. the Trial Court Security Subaccount,
2. the Law Enforcement Services Subaccount (which needs to be renamed "the Public Safety Subventions Subaccount" to avoid confusion with the main account),
3. the Community Corrections Subaccount,
4. the District Attorney/Public Defender Subaccount, and
5. the Juvenile Justice Subaccount (which also contains the Youthful Offender Block Grant Special Account and the Juvenile Reentry Fund Special Account).

- The existing separate public safety program accounts established in AB 118 for 2011-12 can be used as the subaccounts for the Law Enforcement Services Account.
- Add EPSDT and Mental Health Managed Care to the Behavioral Health Subaccount of the Support Services Account in 2012-13.
- Maintain the 1991 Mental Health Responsibilities as a separate account.
- Eliminate the state reserve account on 12/31/12 to allow for all claims to come in for 2011-12.

- Eliminate the existing Unallocated Account on 12/31/12 to enable the State to recoup its 2011-12 costs.
- Establish separate growth accounts at the state level, one for VLF growth and one for sales tax growth.
- The Sales Tax Growth Account would include two subaccounts, the Support Services Growth Account and the Law Enforcement Services Growth Account.

County Level

- Create two corresponding accounts at the county level: Support Services and Law Enforcement.
- The local Law Enforcement Account would contain the same subaccounts that exist at the state level.
- The local Support Services Account would contain the two subaccounts: Protective Services and Behavioral Health.
- There would be no separate growth accounts at the county level.
- Counties would have maximum flexibility to spend funds on any program within the Protective Services Subaccount and within the Behavioral Health Subaccount.

Transferability

State Level

- No transferability.

County Level

- There would be no transferability between the two big accounts (support services and law enforcement).
- Allow limited transferability between the Protective Services Subaccount and the Behavioral Health Subaccount in the Support Services Account – an amount up to 10 percent of the lesser subaccount can be transferred from either account to the other.
- Transfers would be effective for one year only and would not affect the future base of any program or subaccount.
- Counties would have maximum flexibility to spend funds on any program within the Protective Services Subaccount and within the Behavioral Health Subaccount.

Base

- Establish a base year in statute (which will differ by program/account)
- $CY \text{ Base} + CY \text{ growth} = \text{new base (BY)}$
- When revenues are not sufficient to fund the base, create an automatic restoration of base from next year's growth.

Growth

State Level

- Growth funds would be the amount of realignment revenues above the amount needed to fund each account's prior year base.
- Distribute growth funds to each account on a proportionate basis (approximately 65/35 – Supportive Services/Law Enforcement).

- Establish separate growth accounts at the state level, one for VLF growth and one for sales tax growth.
- The Sales Tax Growth Account would include two subaccounts, the Support Services Growth Account and the Law Enforcement Services Growth Account.
- The VLF Growth Account would be wholly attributable to the Public Safety Subventions Account.

County Level

- Counties would have the discretion to distribute growth funds to any program within each subaccount on the HHS side.



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April 3, 2012

TO: CSAC Executive Committee

FROM: Paul McIntosh, Executive Director
 Kelly Brooks-Lindsey, CSAC Legislative Representative

Re: Governor's Coordinate Care Initiative

The Governor's January budget contains a number of major policy changes within the Medi-Cal program aimed at improving care coordination, particularly for people on both Medi-Cal and Medicare.

- **Dual Eligible Demonstration Projects:** Existing law allows up to 4 demonstration sites to improve care coordination for individuals receiving both Medi-Cal and Medicare – known as dual eligibles. The Administration is proposing to expand the number of demonstration sites to 10. Projects are to begin January 1, 2013. The Duals Demonstration Project would expand the managed care benefits to include the In-Home Supportive Services (IHSS) program, as well as Multipurpose Senior Services Programs (MSSP), Community-Based Adult Services, and skilled nursing facility services.

The following is the list of the applications for the Dual Demonstration by county:

County	Managed Care Type	Application(s)
Alameda	Two-Plan Model	Alameda Alliance for Health Anthem Blue Cross
Contra Costa	Two-Plan Model	Contra Costa Health Plan
Los Angeles	Two-Plan Model	L.A. Care SCAN Health Plan Health Net
Orange	County Organized Health System	CalOptima
Riverside	Two-Plan Model	Inland Empire Health Plan Molina Healthcare SCAN Health Plan
Sacramento	Geographic Managed Care	Molina Healthcare
San Bernardino	Two-Plan Model	Inland Empire Health Plan Molina Healthcare SCAN Health Plan
San Diego	Geographic Managed Care	Care 1st Community Health Group Health Net Molina Healthcare SCAN Health Plan
San Mateo	County Organized Health System	Health Plan of San Mateo
Santa Clara	Two-Plan Model	Anthem Blue Cross Santa Clara Health Plan

On April 4, the Administration announced selection of the 4 sites authorized in current law – Los Angeles, Orange, San Diego and San Mateo.

As envisioned by the Governor, an additional 20 counties would have duals demonstration projects begin in 2014. The project would then be expanded to all counties in 2015.

- **Managed Care Expansion:** The Administration is also proposing to expand managed care to the 28 counties currently without a Medi-Cal managed care plan beginning in June 2013.
- **Long Term Care Services and Supports:** The Administration is proposing to enroll all Medi-Cal beneficiaries (regardless of whether they are in a duals project) into managed care. The Administration is also proposing to make IHSS a managed care benefit, phasing the implementation to align it with the phase-in of the Duals Demonstration Project.

COUNTY PERSPECTIVE

CSAC sent a joint letter with CWDA, CAPA, Western Center, AARP, Disability Rights California and other consumer groups outlining our concerns with the Administration's aggressive timeframe and the overall proposal.

CSAC is not opposed to the demonstration projects – we understand the importance of better coordinating and integrating care. However, expanding the duals project before getting data, outcomes and evaluation on the demonstration project is premature. Moving IHSS into managed care presupposes the outcome of the pilots. The LAO also released a report in February outlining a number of concerns, which mirror ours.

FINANCING

The Administration is proposing that the county share of IHSS be used to fund the capitated rates for the health plans. The Administration wants Department of Finance to negotiate a Maintenance of Effort (MOE) level for each county. The MOE would be based on how the IHSS program would have grown (caseload and utilization) absent the demonstration. The MOE would change if there are changes other than caseload and utilization changes (i.e. wages and/or benefits changes).

Additionally, the Administration has expressed interest in using county behavioral health dollars to fund the capitated rate. At this point, that appears to be an option that would be negotiated locally between county mental health and the health plans. However, there is not a lot of detail about how behavioral health will be addressed in the projects – other than behavioral health is part of the demonstration.

POLITICS

In addition to the complicated policy and fiscal discussions, there is also an interesting political dynamic swirling around the Coordinated Care Initiative. The unions have linked their top priorities – one statewide public authority for purposes of collective bargaining and a career ladder with tiered wages for IHSS providers – to the discussion around the duals demonstration projects and the expansion of IHSS into managed care. Senator President Pro Tempore Steinberg and Speaker Pérez have committed to authoring bills addressing the unions' interests.

In initial conversations with the unions, they are proposing to realign IHSS back to the state to accomplish the movement from 56 public authorities to one. However, they have not detailed which programs would be realigned to counties (possibilities include child care and CalWORKs). CSAC has made it clear to the unions and legislative staff that any realignment of new programs in 2012 is problematic.

CSAC expects significant policy and budget focus on the Administration's Coordinated Care Initiative in the coming weeks. Staff will keep the Executive Committee updated on any new developments in this complicated situation.



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

April 19, 2012

To: CSAC Executive Committee
From: Nancy Parrish, Executive Director, CSAC Finance Corporation
RE: Finance Corporation Program Update
INFORMATION ITEM

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

CalTRUST

- CalTRUST currently has assets of approximately \$1 Billion.
- The next meeting of the CalTRUST Board of Trustees will be held April 27, 2012.

California Communities (CSCDA)

- The CSCDA Tax & Revenue Anticipation Notes (TRANs) program is open for the 2012 TRANs season. Please contact us if you would like additional information on the TRANs program for your county.
- We will be working with counties who received AB900 allocations and have match and over-match amounts that need to be financed. If your county received an allocation and would like to discuss financing options please contact us.
- CSCDA program staff continues to work with the State Auditor on the audit initiated by the JLAC at the urging of the State Treasurer. Despite CSCDA's complete cooperation with the audit, the Treasurer continues to wage a public campaign against CSCDA. His office initiated an article in the March 30th Bond Buyer regarding proposed legislation designed to limit the activities of JPA's such as CSCDA.

U.S. Communities

- Applied Industrial Technologies has joined many other U.S. Communities supplier partners to offer their products through the U.S. Communities Marketplace, offering industrial components and supplies, including bearings, power transmission products, material conveyance, hydraulic and pneumatic components, hoses, fittings, adapters, rubber items, and other related products.
- The revenue loss we have experienced from the loss of the Office Depot contract last year appears to have bottomed out and we expect to begin to see our revenue increase again next fiscal year. However, there continue to be pressures on this program from the weak economy and increasing numbers of competitors so this growth is projected to be slow and gradual.

Nationwide Retirement Solutions

- NACo is reportedly close to signing a successor agreement with Nationwide that includes in a 50% reduction in revenue over the next five years. This will result in an approximately \$250,000 annual loss to the Finance Corporation.

Coast2CoastRx

- Our discount prescription drug card program with Coast2CoastRx is launching with great success and we have 19 counties currently participating.
- Coast2Coast continued to expand in March with San Bernardino County formally implementing the program. Riverside County is expected to approve the switch from NACo's Caremark program in April and Los Angeles County considering adopting the program.

General Information & New Programs

- The next meeting of the CSAC Finance Corporation Board of Directors will be held April 26th and 27th, 2012. As the CSAC Finance Corporation is in a growth period, many new programs will be explored including the following:
 1. Medicare coordination.
 2. On-Site health clinics for county employees.
 3. Healthcare and workers' compensation cost management solutions.
 4. Text messaging outreach program
- We continue to meet with individual counties and their department heads to present our programs and benefits. Please let us know if you would like a meeting set with your county's department heads.

If you have any questions regarding these or any other CSAC Finance Corporation programs please do not hesitate to contact us via phone, 916.650.8120, or via email, nparrish@counties.org; Laura Labanieh Campbell at 916.650.8186 or llabanieh@counties.org.

Memorandum

To: CSAC Executive Committee

From: Nancy Parrish, Executive Director, CSAC Finance Corporation
John Samartzis, Director of Corporate Relations

Re: Corporate and Sponsorship Programs

Date: April 19, 2012

CSAC's Corporate and Sponsorship Programs have been completely redesigned in an effort to foster public/private relationships and increase revenue to support CSAC. With input from the branding study produced by Consor, we have eliminated the previous multi-level membership offering, increased the number of sponsorship opportunities and hired John Samartzis as our Director of Corporate Relations. The new programs and John were introduced to our corporate members at their retreat held in early February. We also improved the agenda for that event and invited key county leaders from throughout county government to speak to the group.

John has begun working with all of our previous members and sponsors and is introducing CSAC and our offering to the many companies with whom he has relationships. He is currently working with representatives from Xerox, Google, Cisco and IBM to join as Premier Members.

We expect to take this program from one that has operated at a deficit to one that is extremely profitable within 18 months.



County Counselors' Association of California

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EXECUTIVE DIRECTOR
Jennifer B. Henning

MEMORANDUM

To: Supervisor Mike McGowan, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: April 19, 2012

Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's activities since your last regular meeting in January.

I. New Case Activity Since Last Executive Committee Meeting

Avenida San Juan Partnership v. City of San Clemente

201 Cal.App.4th 1256 (4th Dist. Div. 3 Dec. 14, 2011)(G043479), *petition for review denied* (Mar. 24, 2012)(S199533)

The city imposed an "RVL" or "residential, very low" set of land use restrictions on an undeveloped parcel in the middle of a residential tract otherwise zoned "Residential, Low (RL) Density Zone." The trial court concluded the restrictions amounted to spot zoning, which constituted a compensable taking. It gave the city the choice of lifting the RVL restriction or paying \$1.3 million in compensation. The Fourth District affirmed in part, concluding that the city's refusal to lift the imposition of the RVL restriction on this particular parcel was arbitrary and capricious, and constituted a taking. CSAC requested that the decision be depublished, and also supported Supreme Court review, arguing that the court erred in permitting a takings award for an invalid ordinance, rather than simply issuing an order invalidating the ordinance and awarding any proper damages. Unfortunately, both requests were denied on March 24.

Berkeley Hillside Preservation v. City of Berkeley

203 Cal.App.4th 656 (1st Dist. Feb. 15, 2012)(A131254), *petition for review pending* (filed Mar. 26, 2012)(S201116)

The city approved a permit for a single-family home, concluding the project was exempt from CEQA under the in-fill and single-family residence exemptions. Plaintiffs challenged the city's action, arguing that the categorical exemptions should not apply to the project, and thus CEQA review was required. The First Appellate District agreed with plaintiffs, and held that "a categorical exemption does not apply where there is any reasonable possibility that the

Supervisor Mike McGowan, President, and
Members of the CSAC Executive Committee
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proposed activity may have a significant effect on the environment.” CSAC will file a letter in support of Supreme Court review.

Citizen’s Association of Sunset Beach v. Orange County LAFCo

Pending in the Fourth Appellate District, Division Three (filed Oct. 5, 2011)(G045878)

Huntington Beach initiated annexation of Sunset Beach pursuant to the “Island Annexation” procedures of the Cortese-Knox-Hertzberg Act (Act). Citizen’s Association of Sunset Beach requested that the Orange County LAFCo condition its annexation approval on an election on whether Huntington Beach’s existing taxes should be paid by Sunset Beach residents when that community became a part of the City and received its services. The LAFCo refused because the Act does not permit such conditions, but rather requires LAFCo approval of island annexation if statutory criteria are met. The LAFCo subsequently approved the annexation, and plaintiff filed this action seeking to avoid either the annexation or payment of Huntington Beach municipal taxes. The trial court upheld the annexation. On appeal, the Howard Jarvis Tax Payers Association has associated as co-counsel of record for the appeal. CSAC will file a brief in support of the LAFCo to support counties that need to address unincorporated islands within their county limits.

Citizens for Open and Public Participation v. City of Montebello

Unpublished Opinion of the Second Appellate District, 2011 Cal.App.Unpub.LEXIS 9976 (2d Dist. Dec. 30, 2011)(B232700), *request for publication pending* (filed Fed. 3, 2012)(S199867)

The Second District recently issued an unpublished opinion on an issue of ongoing interest to counties—the Brown Act’s real property negotiations provision. In the decision, the court rejects the argument that the Brown Act’s exemption for real property negotiations is strictly limited to price and terms of payment. Instead, the court concludes that a discussion of relocations costs, sales, and environmental issues can be construed as part of the price and terms of payment, such that discussion of those issues in closed session does not violate the Brown Act. CSAC has requested that the opinion be published.

City of Lake Forest v. Evergreen Holistic Collective

203 Cal.App.4th 1413 (4th Dist. Div. 3 Feb. 29, 2012)(G043909)

The city filed this nuisance complaint against a medical marijuana collective, arguing that because the city’s zoning does not permit dispensaries, the collective’s dispensary operation constituted a nuisance per se. The trial court agreed that the city could abate the dispensary as a nuisance because it is not a permitted use under the zoning code. The Fourth District reversed and remanded, concluding that a complete ban is preempted by State law, and local governments must, at a minimum, allow dispensaries at sites where medical marijuana is “collectively or cooperatively cultivated.” CSAC will file a letter in support of the city’s petition for review.

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Los Angeles Unified School District v Garcia

669 F.3d 956 (9th Cir. Jan. 20, 2012)(10-55879)

Question Certified to the California Supreme Court (Mar. 28, 2012)(S199639)

The Ninth Circuit has certified the following question to the California Supreme Court: Does California Education Code § 56041 — which provides generally that for qualifying children ages eighteen to twenty-two, the school district where the child’s parent resides is responsible for providing special education services — apply to children who are incarcerated in county jails? The case involves a 21 year old who has received special education services since second grade. He continued to receive services while incarcerated in a juvenile detention facility, but services ceased when he turned 18 and was moved to an adult detention facility. He brought this action under the IDEA, alleging he is being denied a free and appropriate education. The Ninth Circuit noted no controlling precedent exists on this issue, and interpretation of this Education Code provision will control the outcome of the case. CSAC will file a brief in the Supreme Court making clear that these costs are not the responsibility of counties.

Pack v. Superior Court (City of Long Beach)

City of Riverside v. Inland Empire Patient’s Health and Wellness Center

People v. G3 Holistic

All Cases Pending in the California Supreme Court

The California Supreme Court has granted review in three cases that will allow the Court to address whether federal and/or state law preempts local ordinances governing medical marijuana dispensaries. In *Pack*, the appellate court concluded that federal law preempted a local marijuana dispensary licensing ordinance. The *Riverside* and *G3 Holistic* cases both upheld local ordinances banning medical marijuana dispensaries against claims of state law preemption. CSAC will file briefs in all three cases in support of local police powers.

NetJet Large Aircraft v. Guillory

Citationshares Management v. Holland

Pending in the Fourth Appellate District, Division Three (filed Mar. 21, 2011)(G044970)

These consolidated cases appeal a trial court ruling striking down legislation designed to capture escaped assessments on “fractionally owned aircraft.” Under fractionally owned aircraft programs, plaintiffs sell fractional ownership in their aircraft fleets, which permits the owners to use a certain number of hours of aircraft time, but does not guarantee use of a particular aircraft at a particular time. Before 2007, these fractionally owned aircraft escaped property tax assessment. In 2007, the Legislature passed SB 87 on a 2/3 vote (Rev. & Tax Code, §§ 1160-1162), which directed Assessors to assess the management companies for the taxes due on these fractionally owned aircraft. Plaintiffs, which manage fleets of fractionally owned aircraft, sued the Orange and Santa Barbara County Assessors challenging SB 87. The trial court held that SB 87 is unconstitutional because of its retroactive application, and because it imposes the tax on managers who do not own, possess, or control the aircraft. The Assessors have appealed, and CSAC has filed a brief in support.

People v. Gonzalez

Pending in the Fifth Appellate District (filed Oct. 6, 2011)(F063445)

Among the duties of the County Counsel's Office is to prosecute cases in which a bail agent seeks to vacate the forfeiture of bail money after a criminal defendant fails to appear. The Penal Code permits the County Counsel to recover "costs" in successfully opposing motions to vacate a forfeiture. In this case, the Fresno County Counsel's office was successful in its summary judgment motion on a bail bond forfeiture, and the summary judgment was upheld in an unpublished opinion on appeal. County Counsel moved for attorney fees, but the trial court denied the fees, concluding that attorney fees do not qualify as "costs" under the Penal Code. Fresno County has appealed, and CSAC will file a brief in support.

II. Amicus Cases Decided Since Last Executive Committee Meeting

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

Brown v. County of Los Angeles

203 Cal.App.4th 1529 (2d Dist. Mar. 1, 2012)(B229993)

Outcome: Positive

Plaintiff was employed as a Clinical Psychologist for Los Angeles County, a position that requires either a license to practice as a psychologist or a valid State-issued waiver from the license requirement. She was granted a five-year waiver, but during those five years, she failed the psychologist licensing exam and did not obtain the required license. She also filed several complaints alleging unsafe working conditions and a hostile work environment, among other things. When her waiver expired, she was removed from her responsibilities. The State denied her request for a wavier extension, and she was ultimately terminated for failing to meet the minimum standards for her position, though she was informed that she could apply for other positions that did not require a license. She brought this action alleging she was terminated in retaliation for her complaints. The county sought summary judgment. The court denied the motion, concluding that the plaintiff was licensed under Business and Professions Code section 2910 as a matter of law. Since the court would not permit the county to introduce any evidence about her failure to obtain a license, the county received an adverse jury verdict and appealed. The Second District reversed, concluding that plaintiff "did not come within the plain language of Business and Professions Code section 2910. The trial court erred as a matter of law by concluding that [plaintiff] was 'licensed' because she came within the exemption accorded by that statute and abused its discretion by excluding evidence that [plaintiff] failed to obtain a license." CSAC filed a brief in support of the county.

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Comite De Jornaleros De Redondo Beach v. City of Redondo Beach

657 F.3d 936 (9th Cir. Sept. 16, 2011)(06-55750)(en banc), *petition for cert. denied* (Feb. 21, 2012)(11-760)

Outcome: Negative

Plaintiffs brought a First Amendment challenge to an ordinance prohibiting the act of standing on a street or highway and soliciting employment, business, or contributions from the occupants of an automobile. The district court permanently enjoined the ordinance. A panel of the Ninth Circuit originally reversed, concluding that the ordinance is a valid time, place, or manner restriction. But the court granted en banc review and issued a new opinion, this time concluding that the ordinance is a facially unconstitutional restriction on speech. Specifically, the court concluded that the ordinance is “not narrowly tailored because it regulates significantly more speech than is necessary to achieve the city’s purpose of improving traffic safety and traffic flow at two major Redondo Beach intersections, and the city could have achieved these goals through less restrictive measures, such as the enforcement of existing traffic laws and regulations.” Two concurring opinions were filed. In addition, Chief Judge Kozinski, joined by Judge Bea, dissented, calling the opinion “folly.” Concluding that the ordinance is a valid time, place and manner restriction, an obviously frustrated Judge Kozinski stated, “The majority is demonstrably, egregiously, recklessly wrong. If I could dissent twice, I would.” The city’s petition for certiorari to the United States Supreme Court, which CSAC supported, was denied.

Hrdlicka v. Reniff

631 F.3d 1044 (9th Cir. Jan. 31, 2011)(09-15768), *petition for cert. denied* (filed Feb. 21, 2012)(11-651)

Case Type: Amicus

Outcome: Negative

Plaintiffs are a magazine called Crime, Justice & America and its owner. Plaintiffs asked the Butte County Sheriff to distribute unsolicited copies of the magazine to inmates in the county jail. The Sheriff refused, and plaintiffs brought this action in federal district court alleging a violation of the First Amendment. The county sought summary judgment arguing the First Amendment does not provide plaintiffs with a right to access inmates with unsolicited copies of CJA, or alternatively, that the Sheriff’s refusal to distribute the publication is rationally related to legitimate penological interests. The district court granted summary judgment in favor of the county, finding that there were legitimate reasons for restricting unsolicited distribution of publications. Based on that finding, the court declined to address the constitutional issue. On appeal, the Ninth Circuit reversed and remanded. The court first found that both the magazine publisher and the inmate recipients have a First Amendment right to receive unsolicited publications. The court went on to find, however, that jail authorities cannot be required to distribute unsolicited communications irrespective of the burdens such distribution might place upon them. The court went on to balance these competing interests, but unlike the district court, the Ninth Circuit concluded that on the record, defendants were not entitled to summary judgment.

Supervisor Mike McGowan, President, and
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April 19, 2012
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Rehearing was denied, and Butte County's petition for certiorari to the United States Supreme Court, which CSAC supported, was also denied.

Jaramillo v. County of Orange

200 Cal.App.4th 811 (4th Dist., Div. 3 Nov. 8, 2011)(G043142), *petition for review/depublishing denied* (Feb. 22, 2012)(S198559)

Outcome: Negative

When plaintiff, a former Assistant Sheriff, was hired, he signed waivers acknowledging that he was at-will, that he served at the pleasure of the Sheriff, and that he could be terminated without notice, cause, or right of appeal. Some years later, Orange County dismissed plaintiff on the basis that he was an at-will employee. He was not provided notice or hearing, or any POBR process. Some time after his termination, he pled no contest to a number of felony offenses involving tax fraud. The Assistant Sheriff brought this action, and the trial court found in his favor, awarding backpay from the date of his termination to the date of his fraud conviction. The county appealed, and the Fourth District affirmed. The court concluded: (1) having violated POBR by denying the required administrative hearing, the county could not rely on a subsequent conviction to void backpay owed; (2) Plaintiff was protected by the whistleblower statutes after complaining about egregious conduct of the Sheriff; and (3) the “waivers” signed by Plaintiff were blanket waivers that did not effectively waive his POBR rights. As to this point, the court noted that “[i]f these waivers were enforced, the protections afforded high-ranking peace officers by POBRA could be easily circumvented.” CSAC filed letters in support of depublishing and review, but both were denied.

Calendar of Events

2012

January

- 5 CSAC Special Board of Directors Meeting, Sacramento County
- 19 CSAC Executive Committee Meeting, Sacramento County

February

- 1-3 CSAC Corporate Associates Retreat, Orange County
- 23 CSAC Board of Directors Meeting, Sacramento County

March

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

April

- 19 CSAC Executive Committee Meeting, Sacramento County
- 26-27 CSAC Finance Corporation Meeting, Monterey County

May

- 16-18 NACo Western Interstate Region Conference, Santa Fe County, New Mexico
- 30-31 CSAC Legislative Conference, Sacramento County
- 31 CSAC Board of Directors Meeting, Sacramento County

July

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

August

- 2 CSAC Executive Committee Meeting, Los Angeles County

September

- 6 CSAC Board of Directors Meeting, Sacramento County
- 13-14 CSAC Finance Corporation Meeting, San Diego County

October

- 3-5 CALAFCO Annual Conference, Monterey County
- 10-12 CSAC Executive Committee Retreat, Orange County
- 17-20 NACo National Council of County Association Executives Annual Fall Meeting

November

- 27-30 CSAC 118th Annual Meeting, Long Beach, Los Angeles County
- 29 CSAC Board of Directors Meeting, Long Beach, Los Angeles County

December

- 12-14 CSAC Officers Retreat, Site TBD

2013

January

- 17 CSAC Executive Board Meeting, Sacramento County

February

- 21 CSAC Board of Directors Meeting, Sacramento County

March

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

April

18 CSAC Executive Committee Meeting, Sacramento or Los Angeles

May

22-24 NACo Western Interstate Region Conference, Flagstaff, Arizona

29-30 CSAC Legislative Conference, Sacramento County

30 CSAC Board of Directors Meeting, Sacramento County

July

19-23 NACo Annual Conference, Tarrant County, Ft. Worth, Texas

August

8 CSAC Executive Committee Meeting, Sacramento or Los Angeles

September

5 CSAC Board of Directors Meeting, Sacramento

10-13 CSAC Finance Corporation Fall Meeting

October

9 -11 CSAC Executive Committee Retreat, Site TBD

November

19-22 CSAC 119th Annual Meeting, San Jose, Santa Clara County

21 CSAC Board of Directors Meeting, San Jose, Santa Clara County

December

4-6 CSAC Officers Retreat, Napa County

2014

March

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

May

28-29 CSAC Legislative Conference, Sacramento County

July

11-15 NACo Annual Conference, New Orleans Parish, New Orleans, LA

November

18-21 CSAC 120th Annual Meeting, Anaheim, Orange County