2010-11 State Budget
Week of October 11, 2010

October 12, 2010

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

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

RE: **Budget Action Bulletin #7**

Governor Arnold Schwarzenegger signed the 2010-11 state budget on the hundredth day of the fiscal year, Friday, October 8. In doing so, he used his line-item veto authority to reduce state expenditures by $963 million. This *Budget Action Bulletin* outlines the details of the new spending plan, as well as information on the line-item vetoes. The Governor has been overseas and has not yet acted on all of the trailer bills passed last week (find a list at the end of this Bulletin); CSAC will report on trailer bill action in a later publication.

2010-11 Budget Overview

Enacted Budget Solutions
(Dollars in millions)

	Solutions	% of Deficit
Expenditure Reductions	$8,387.9	43.6%
Federal Fund	5,403.2	28.0%
Other Solutions	5,483.2	28.4%
	$19,274.3	**100.0%**

General Fund Budget Summary
With All Budget Solutions
(Dollars in millions)

	2009-10	2010-11
Prior Year Balance	**-$5,375**	**-$4,804**
Revenues and Transfers	$86,920	$94,230
Total Resources Available	**$81,545**	**$89,426**
Non-Proposition 98 Expenditures	$50,572	$50,585
Proposition 98 Expenditures	$35,777	$35,967
Total Expenditures	**$86,349**	**$86,552**
Fund Balance	**$-4,804**	**$2,874**
Budget Reserves:		
Reserve for Liquidation of Encumbrances	$1,537	$1,537
Special Fund for Economic Uncertainties	-$6,341	$1,337

Budget Reform. Throughout this year's budget debate, the Governor repeatedly voiced his requirement that the deal include some kind of long-term budget reform. The form that has ended up taking is a strengthened reserve, a so-called "rainy day" fund. The proposal will go before voters as a constitutional amendment on the March 2012 presidential primary ballot. If approved, the new reserve would strengthen the current one in three ways.

First, the new reserve would be larger, topping out at 10 percent of General Fund (GF) revenue. To reach that goal, the state would have to deposit three percent of each year's revenue into the reserve unless they use funds from the reserve to close a deficit (see the next paragraph). Half of that three percent would instead pay for debt service and infrastructure; at first that debt would go to the Economic Recovery Bonds, then once those are paid down to reduction of debt and infrastructure spending. Currently, the requirement that the state deposit three percent in the reserve fund is so loose as to be next to meaningless. Under the new reserve the Governor could waive the deposits until 2013-14; if the measure passes in March 2012, the Governor would have already proposed a 2012-13 budget.

Second, use of the reserve fund would be restricted. The state could only use funds from the reserve to spend up to the previous year's spending plus inflation and population growth. They would not be allowed to use all the money at once, but up to 50 percent of the money in one year, half of what remained the next, and the rest in a third year if necessary. If the reserve reaches its cap of 10 percent, the required annual payments cease and any excess funding may pay for specific one-time purposes. The state may also use money from the fund to pay the costs of responding to a declared emergency, such as a natural disaster or war.

Note that, due to the above formula, once revenues have begun to recover from the lowest point of a significant drop (such as the ones over the last couple of years), use of the reserve would be severely restricted, and so the funds would enforce significant discipline during extraordinary shortfalls while also cushioning the blows. But during small, temporary dips in revenue, the formula would allow spending to remain essentially unchanged.

Third, in addition to the required three percent annual payments, the state would have to deposit any GF revenue that it collects above a calculation based on a regression of the previous twenty years of revenue into the reserve, after paying for the Proposition 98 obligation the new revenue requires. Once the reserve is full, revenues over the twenty-year trend could only pay for one-time expenses, of which budget debt is the highest priority.

Tax Package. As widely touted by the leaders who negotiated the deal, the budget agreement does not increase any tax rates (which is not quite the same as not raising taxes, though perhaps that's a distinction without a difference). There are several important changes to taxes in this budget agreement.

The budget anticipates $2.5 billion in additional revenues, almost $1.4 billion of which is from Legislative Analyst's revenue projections for 2009-10 and 2010-11 that are much more recent than the May projections used to previously define the deficit's size. Recent revenues seem to indicate that even these new projections may be low.

The budget agreement suspends corporate the Net Operating Loss tax benefit for two more years, 2010 and 2011; only corporations with income over $300,000 are subject to this benefit suspension, so over 90 percent of corporations are exempt. Also, the ability to carry back losses for two years is delayed until 2013, at which time 50 percent of losses may be carried back. That rises to 75 percent in 2014 and 100 percent in 2015. These provisions result in about $1.2 billion in GF revenue for the budget year.

Leaders agreed to ease up on corporations that underpay their tax liability by more than $1 million, penalties for which were recently toughened. This change, combined with restoring old "cost of performance" rules for certain multi-state tax apportionment, reduces state tax revenues by about $132 million.

The budget does not delay the Elective Single Sales Factor corporate tax cut. It does not include an oil severance tax, or the related state sales tax reduction. It does not include the effort to collect sales and use taxes from out-of-state retailers (sometimes called the "Amazon" provision).

ADMINISTRATION OF JUSTICE

Below we summarize the final justice-related budget actions of the Legislature and Governor, including discussion of vetoes where pertinent.

PUBLIC SAFETY ISSUES

The public safety trailer bill (AB 1628) contains provisions to effectuate all of the following:

- **Transfer of Juvenile Parole Responsibility**. The budget shifts responsibility for community supervision of 707(b) offenders upon their release from a Division of Juvenile Justice (DJJ) facility from the state to county probation. Under this plan, county probation departments will be responsible for the entire continuum of community supervision for youthful offenders by January 2014. (State will retain responsibility for those juvenile parolees who are paroled prior to AB 1628's effective date until January 2014, at which time those juvenile parolees still on parole as of January 2014 will also transfer to local supervision.) The design of the juvenile parole supervision transfer will follow the SB 81 model, with the local court assuming jurisdiction. Funding to support the transfer of supervision responsibility will be redirected from state savings. Counties will receive allocations into a new Juvenile Reentry Fund to support the supervision of this new population. Allocations will be made on an average daily population basis, as follows: $15,000 per juvenile parolee for supervision and monitoring services and $115,000 per ward housed in a local juvenile facility following a violation of parole.

- **Funding for Local Youthful Offender Rehabilitative Facilities**. The budget commits additional lease revenue bonding authority for the construction or renovation of local juvenile rehabilitative facilities. The 2010-11 budget increases funding by $200 million for local juvenile rehabilitative facilities, bringing total funding for juvenile facilities to $300 million. (Counties will recall that SB 81 of 2007 made the initial commitment of $100 million for this purpose.)

- **County Jail Medicaid Waiver/CEED Projects**. The public safety trailer bill contains language that will allow counties operating a Coverage Expansion and Enrollment Demonstration (CEED) project to draw down federal funds for county jail inmates who receive medical attention outside the county jail; there are similar provisions for state jail inmates who receive medical services in a community hospital that also require action by the county. For further discussion

of this issue, please see the Health and Human Services section of this document.

- **Design Build for Local Detention Facilities.** The public safety trailer bill also includes provisions permitting local governments to use the design-build process for both the construction of adult and juvenile facilities, as authorized under the provisions of AB 900 (Solorio - Chapter 7, Statutes of 2007) and SB 81 (Senate Committee on Budget and Fiscal Reform - Chapter 175, Statutes of 2007), respectively.

JUDICIARY ISSUES

The judiciary trailer bill (SB 857) contains a vast array of provisions to carry out both budgetary and policy changes. As counties will recall, CSAC has been engaged over the last several months with the Judicial Council as well as court- and county-operated collections programs in an initiative to improve recovery of court-ordered debt. The provisions of a multi-element collections process improvement package were incorporated into the judiciary trailer bill. Other related items of interest – corrections to counties' ongoing authority to collect a surcharge and a provision to establish a parking penalty audit "safe harbor" provision (both jointly pursued by CSAC and the Judicial Council) as well as a provision relating to installment payments – are outlined below. Finally, a package of revenue enhancements to support the judicial branch was also included in the judiciary trailer bill. These provisions were negotiated among judiciary officials, Capitol budget and policy staff, and various court stakeholders. These items are all explained briefly below:

- **Collection of Court-Ordered Debt: Strategies to Improve Collection and Discharge Debt**. SB 1407 – the 2008 measure authored by Senate Preside pro Tempore Don Perata that authorized increases for a range of fees, penalties, and assessments to support the state's courthouse capital plan – codified a joint commitment between the Administrative Office of the Courts (AOC) and CSAC regarding improvements to court-ordered debt collection programs. The expression of this commitment in Penal Code Section 1463.010 reflects the courts' and counties' shared objective of strengthening and improving, where appropriate, existing collaborative collection efforts across the state.

  In response to this legislative directive, the AOC and CSAC convened meetings beginning last fall with a group of collection professionals – representing programs administered through both the counties and the court – to brainstorm ideas of mutual interest and benefit that would help achieve the objectives set forth in Penal Code Section 1463.010. The group reviewed dozens of potential

options for process improvement and provided valuable input and insights; those discussions produced a set of five elements that the AOC and CSAC moved forward through the budget process to enhance court and county collection efforts. One additional element was included, resulting in a joint package that will do all of the following:

- Strengthen existing authority and responsibility for a comprehensive collection program of delinquent court-order debt.
- Develop and implement an amnesty program for infractions.
- Clarify authority related to discharge of accountability.
- Authorize intercept on unclaimed cash property in cooperation with State Controller's Office.
- Clarify authority for enforcing court-ordered debt beyond the 10-year period applicable to civil judgments.
- Increase flexibility for initial payment for installment plans.

Language to carry out this multi-part initiative was drafted and negotiated by the joint court and county collections working group and was further vetted by other key county stakeholders. CSAC will be producing additional details on the collections package in the coming weeks.

- **Corrections to Government Code Section 76000 (e).** SB 1732, the Trial Court Facilities Act of 2002 (Escutia – Chapter 1082, Statutes of 2002), modified Government Code (GC) Section 76000, which governs the amount of surcharge that may be added to fines, penalties, and forfeitures imposed and collected by a court for criminal offenses, including non-parking offenses involving violations of the Vehicle Code or any local ordinances adopted pursuant to the Vehicle Code. The authorized use of the surcharge revenue is limited to support special funds, including Courthouse Construction Funds (CCF), Criminal Justice Facility Construction Funds (CJFCF), and Maddy Emergency Medical Service funds. It will be recalled that counties were authorized, and sometimes directed, to create and maintain these funds well before enactment of SB 1732.

  SB 1732 added subdivision (e) to GC Section 76000, to address the amount of surcharge that could be collected for a "local courthouse construction fund established by Section 76100 as of January 1, 1998 when the money in the fund is transferred to the state under Section 70402" (i.e., after a county transfers all of its trial court facilities to the state). The limitation contained in subdivision (e) was not intended to affect or limit the amount of surcharge that can be collected to support other local funds such as CJFCF or any purpose other than local CCF.

CSAC undertook an extensive research and survey process this spring to identify any errors and make needed corrections to Section 76000(e). Based on counties' responses, dollar amounts for approximately a dozen counties were updated in the chart to correctly reflect those counties' individual authorities.

- **Parking Penalty Audit Provision.** Prior to 2008, GC Section 70372(b) required an additional penalty of $1.50 on parking offenses for state courthouse construction. At the same time, Section 70375 allowed the penalty required in 70372 to be reduced by the amount collected for the local courthouse construction fund, authorized pursuant to Section 76100 (an "offset" provision). In 2007, the public safety omnibus bill (SB 425, Margett), amended Section 70375(b) to provide clarification on an unrelated matter. In so doing, the legislation inadvertently eliminated the so-called "offset" provision. The change to 70375 in SB 425, which became effective January 1, 2008, made mandatory the collection and remittance of a $1.50 parking penalty, regardless of amounts collected for deposit into the local courthouse construction fund pursuant to GC Section 76100.

Counties were informed of the change and were instructed to: 1) ensure they are complying with the requirements of Section 70372(b), and, 2) account for the elimination of the offset previously authorized under Section 70375. It is apparent from state remittance information that most entities overlooked the change codified in SB 425; records indicate that three counties remitted the $1.50 appropriately in 2009, pursuant to the change to Section 70375.

In recognition of the fact that the impact of these statutory changes was overlooked, CSAC – in collaboration with the Judicial Council – proposed that, for audit purposes, counties not be penalized for the failure to remit the $1.50 in parking penalty revenue, once the "offset" provision was eliminated if the funds were instead directed to a local courthouse construction fund and expended on allowable purposes as identified by statute. The provision adopted in the state budget applies only to the first year following enactment of SB 425 – that is, for the calendar year 2008.

- **Court Funding Package.** The judiciary trailer bill also includes a package of fund transfers, fee increases, and other surcharges to fund court operations in 2010-11 and to avoid court closures. It is important to note that the judiciary trailer bill ***does not include*** a $40 administrative fee tied to individual automated traffic enforcement citations, which had been proposed in earlier versions of the judiciary trailer bill. Among the notable items that were included are:

- A $20 court security fee increase.
- A new $3 parking fee surcharge.
- A transfer of funds from the State Courthouse Construction Fund, which is not expected to affect projects in the pipeline.

Other Items of Interest

The budget ***does not extend*** the Vehicle License Fee (VLF) increase dedicated to local public safety programs; the current VLF rate of 1.15 percent – 0.15 percent of which is dedicated to the Local Safety and Protection Account (LSPA) – is set to revert to 0.65 percent on June 30, 2011. Counties recall that revenue in the LSPA is statutorily dedicated to a range of local programs, including the Citizens' Option for Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA), the rural and small county sheriffs' local assistance programs, booking fee "replacement" revenue, and a range of other local assistance programs. It will be critical for the Legislature to take action on the VLF extension early in 2011, both to provide continuity for programs and – for one very significant practical reason – to avoid a situation in which the Department of Motor Vehicles (if it appears that the extension is at risk of lapsing) is forced to reprogram its systems to reflect a return to the 0.65 percent rate. CSAC is on record supporting the VLF extension, which we regard as an absolutely critical funding source for both front-line enforcement and prevention activities at the local level.

The 2010-11 budget ***does not include*** a shift of state prison inmates to county responsibility. The budget bill, SB 870, does, however, attribute an unallocated reduction of $200 million to the California Department of Corrections and Rehabilitation (CDCR). It also assumes savings of just over $800 million to the federal prison healthcare receiver, some of which will be achieved by the implementation of SB 1399 (Leno – Chapter 405, Statutes of 2010), the medical parole measure.

The budget bill, SB 870, delays payment of $50 million for counties expenses incurred in 2010-11 for housing parole violators. However, it does include funding of $80 million to reimburse counties for back payments owed for previous budget years.

The Governor's vetoes include action to the California Emergency Management Agency (CalEMA, Budget Item 0690), rejecting legislative efforts to redirect Byrne-JAG local assistance funding. The Governor's veto of the legislative changes to the allocation methodology retains the 2010-11 grants as they had been previously awarded.

AGRICULTURE AND NATURAL RESOURCES

Two budget trailer bills that include provisions affecting agriculture and natural resources are currently awaiting action by the Governor: SB 863, which includes

changes to the Williamson Act and SB 855, the Resources/Environmental Protection budget trailer bill.

Williamson Act. SB 863 contains clean-up language to AB 2530 (Chapter 391, Statutes of 2010) and a $10 million appropriation for Williamson Act subventions. The bill also includes language pertaining to two redevelopment issues which are summarized in the Government Finance and Operation section of this *Budget Action Bulletin*.

As previously reported, AB 2530 authorizes a county to revise the term of Williamson Act contracts with landowners and allow for a reassessment of the property in any fiscal year in which payments from the state to the county as reimbursement for reduced property tax revenue are less than half of the actual amount of reduced property tax revenue. SB 863 reenacts that law, adds an urgency clause, and makes various clarifying changes regarding its implementation by counties. One such change specifies that a county's determination regarding forgone revenues shall be based on the higher of the county's share of the general property tax or 20 percent. The bill also clarifies that in any subsequent year during the reduced term of contract in which increased revenue is not realized by the county, two or three additional years would be added to the contract on the next anniversary date to restore the contract to its full original term of 10 -year or 20-year contract, respectively.

SB 863 would also:

- Clarify that for purposes of recording the new revised contracts, the landowner's name as well as the assessor parcel number shall be recorded, or alternatively the same information could be recorded for those parcels that are not affected.

- Specify that the additional assessed value due to the revised contract terms shall be equal to 10 percent of the difference between specified restricted values and the factored base year value or the value established due to a decline in market value.

- Provide that landowners may choose not renew their contract at any time, but a landowner who withdraws prior to the effective date shall be subject to term modification and additional assessed value.

- Provide that a county may adopt amendments to its uniform rules to facilitate implementation of this subdivision during fiscal year 2010-11, and thereafter as necessary.

- Allow the 90-day notice requirement to landowners relative to the revised contract terms can be shortened to 60 days provided that notices of non-renewal of contacts can be received until February 1, 2011.

- Allow a county to use the primary owner of record from the assessment roll for purposes of identifying landowners entitled to receive notice of the revised contract terms.

Resources/Environmental Protection Trailer Bill (SB 855)

Items of note within the Resources/Environmental Protection Trailer Bill (SB 855) include:

- New reporting requirements for the Department of Forestry and Fire Protection regarding ways to improve fire and panic safety with respect to green building standards, Emergency Fund Expenditures and Schedule A contracts, and fire prevention activities.

- Requirements for the Department of Resources Recycling and Recovery's quarterly report to the Legislature on the condition of the Beverage Container Recycling Fund.

- An extension of the sunset dates for the State Energy Conservation Assistance Account and the Local Jurisdiction Energy Assistance Account, until January 1, 2013 and January 1, 2016, respectively.

- Increased fees for the construction of a thermal power plants or electric transmission lines. The bill also deletes the existing site application fee exemption for renewable generation, and requires a report to the Legislature by July 1, 2012 on the impact of these changes.

- Requirements affecting the new Waste Discharge Requirement fee by the State Water Resources Control Board on operating solid waste landfills. Specifically, SB 855 would require the State Water Resources Control Board (Water Board) by March 1, 2011 to analyze and report on the costs of regulating active landfills, and also requires the Water Board to begin billing the permitees in the second half of the 2010-2011 fiscal year.

- Re-appropriation of $522 million in Proposition 1E and Proposition 84 funds to better align the funding with existing law regarding flood control project eligibility, link to storm water-flood funding and appropriate of integrated regional water management funds.

- Language that clarifies the intent of AB 1085 (Chapter 384, Statutes of 2009), which requires the Air Resources Board to publish specified information before the comment period for any regulation proposed for adoption.

GOVERNMENT FINANCE AND OPERATIONS

Cash Management. AB 1624 contains modifications to the state's cash management plan. Given the delay in enacting a state budget, the State Controller will need some weeks to prepare for the issuance of Revenue Anticipation Notes (RANs) to assist the state in meeting its cash needs over the next few months. AB 1624 authorizes additional deferred payments to K-14 schools and the California State Teachers' Retirement Fund of $5.5 billion to assist in bridging the cash shortfall between now and then. Of importance to counties, however, is language that authorizes the State Controller to continue delaying payments to counties for the CalWORKS program and county administration payments associated with the CalWORKS program. This means that, much like what occurred in early 2009, the State Controller can delay payments to counties at any time to ensure that the state has sufficient cash to make its priority payments. We understand there is a potential for delayed payments in October, at least. CSAC will be communicating with the State Controller's Office to determine the extent of any payment delays that may occur and will share that information with counties as soon as it is available. The Governor signed AB 1624 when he approved the budget on October 8.

The State Controller has released the September cash report. Receipts for the month were above the Governor's May Revision estimates by $1.1 billion, or 15.3 percent. Corporate taxes were up $378.7 million (46.1 percent), and sales taxes came in $60 million above (2.9 percent) estimates. Personal income tax revenues came in above estimates by $732.9 million (22 percent). The State Controller attributes the increase to accelerated revenues due to recent changes to the tax deadlines, rather than a sign of significant upturn in the economy.

Since July 1, the state owes $8.3 billion in outstanding payments to small businesses, community clinics, and local governments that have gone without payment due to the lack of a state budget. After accounting for September's cash receipts and expenditures, the state's available cash to make all payments dips to just $3.5 billion at the end of October, creating a need for at least $4.8 billion in this month alone.

The Controller's website includes a chart showing the cash problem that follows enactment of the budget, a breakdown of the budget's payment deferrals, and a page of frequently asked questions and answers.

Mandate Securitization. SB 866 contains the authorization for cities, counties, and special districts to securitize future payments associated with pre-2004 mandate reimbursements. Structured much like the Proposition 1A securitization of 2009, a joint powers authority with 250 or more local agencies is authorized to issue bonds consisting of local agencies' mandate claim receivables. A county, city, or special district may opt to sell their receivables (those funds anticipated to be received by the local agency in repayments from the state) to the authority. The authority is authorized to charge a fee to the local agency, but fees may be paid from bond proceeds or mandate receivables. The State Controller has 120 days from the enactment of SB 866 to provide local agencies and the authority with a list of each agency's mandate reimbursement amounts. These amounts approach $1 billion, with counties owed the bulk (about 80 percent) of funds.

SB 866 outlines the payment schedule for mandate receivables. Receivables will be paid in December and June of each year, beginning in December 2011 and ending in June 2021. The State will also pay interest on the amounts at a rate of 2 percent, beginning January 1, 2011.

SB 866 also makes clear that securitizing these receivables does not limit the right of the State Controller to audit mandate claims nor does it limit the right of local agencies to file incorrect reduction claims.

SB 866 passed the Senate and Assembly and is awaiting action by the Governor.

Mandates. The budget continues to suspend all previously suspended mandates. The Budget Conference Committee had recommended also suspending the Brown Act mandate, which reimburses counties and other local agencies for parts of the Brown Act dealing with drafting and distributing agendas. This suspension was eliminated from the budget and the Brown Act mandate is funded in the 2010-11 budget.

The budget does suspend the Mandate Reimbursement Mandate, which reimburses counties and other local agencies for the costs of jumping through the statutory hoops the state requires as a condition of fulfilling its constitutional obligation to pay for mandates. Generally, when a mandate is suspended its provisions become "optional," so the suspension of this mandate raises a number of very interesting questions. Is the Commission on State Mandates process for establishing reimbursement for new mandates, which regularly takes seven or more years, now optional? If so, can counties go straight to court to claim mandates? The costs locals incur when the Controller's Office audits a mandate claim are paid for through the mandate reimbursement process; are audits now "optional"? If so, can counties simply invoice the state for their costs related to established mandates? CSAC is talking with a group of county counsels to determine the answers to these questions and more.

Further legal questions are raised by the Governor vetoing funding for two additional mandates and declaring them to therefore be "suspended". One of these two mandates, dealing with handicapped and disabled students (more commonly referred to as AB 3632), is detailed in the Health & Human Services section of this document. The other deals with background checks for local recreation employees and volunteers. The California Constitution seems to clearly give the Legislature, and the Legislature only, the authority to suspend mandates by not funding them in the Budget Act. Therefore, are these mandates actually suspended? Are counties allowed to stop performing them? Again, CSAC is conducting extensive discussions with county counsels about these issues.

Election Reimbursement. The budget reimburses counties for the cost of conducting the May 19, 2009 special election. This totals $68.228 million.

Commercial Trailer VLF. The budget eliminates the backfill to counties for revenue lost when the state changed the way it assesses commercial truck trailers' VLF. This amounts to $11.9 million, and has traditionally been part of Realignment funding.

Redevelopment. SB 863, in addition to containing language and an appropriation regarding the Williamson Act, includes language related to two redevelopment issues. The first authorizes redevelopment agencies that failed to make their statutorily required contribution to ERAF to pay that amount over a period of time and eliminates penalties associated with failure to pay in a timely manner. The second, and more controversial matter, allows the City of San Diego's Centre City Redevelopment Agency to increase its debt cap in order to assist in the siting of a new professional football stadium.

Transient Occupancy Taxes (TOT). As we have reported previously, SB 848 (Hollingsworth) was a late addition to the budget package that would have authorized online travel companies to remit TOT on the wholesale rate of the hotel instead of on the rate paid by the consumer. This issue is being litigated in California and nationwide. Cities and counties sounded the alarm on this bill early in the budget debate, pointing out that SB 848 had absolutely nothing to do with the state budget. Gratefully, SB 848 failed to garner the necessary 2/3 vote in the Assembly and never made it to the Senate Floor.

Employee Relations

- **State Employees.** The budget package includes SB X6 22 (Hollingsworth), a bill to set pension benefits for newly hired state employees at levels that were in place

for employees prior to 1999. In addition, all future state employees would have their pension benefits calculated based on their highest average annual pay over any consecutive three years of employment, rather than the one-year period applicable for some current state employees. These requirements do not affect pension benefits for current state employees and retirees.

- **New CalPERS Reporting Requirements.** SB 867 by Senator Hollingsworth is a budget trailer bill that requires the Board of Administration of the California Public Employees' Retirement System (CalPERS) to provide the Legislature, the Governor, and the State Treasurer with a report detailing the investment return assumptions, discount rates, and amortization periods used each time employer contribution rates are adopted, including those rates adopted for counties contracting with CalPERS.

  Additionally, SB 867 requires the report to include calculations using specified alternative assumptions and lower discount rates. Counties should be aware that the alternative calculations will apply to contracting employers and will likely demonstrate higher unfunded liabilities. The bill requires the State Treasurer to report to the Legislature on the reasonableness of the CalPERS assumptions and the effect on future state budgets, it does not require the State Treasurer to opine on the impact on local budgets.

HEALTH AND HUMAN SERVICES

While the budget sent to Governor Schwarzenegger staves off a number of draconian cuts to health and human services programs, the Governor used his line item veto authority to make significant reductions to health and human services programs. The major HHS provisions are in SB 853 (health trailer bill), AB 1612 (human services trailer bill), SB 208 (Medicaid Section 1115 Waiver), AB 342 (Medicaid Section 1115 Waiver), and AB 1628 (corrections trailer bill, includes Medicaid Section 1115 Waiver provisions). The following summarizes the major budget provisions affecting HHS, including the vetoes.

Alcohol and Drug Programs. The Governor eliminated the $18 million included in the 2010-11 state budget for the Offender Treatment Program. With this action, all funding for Proposition 36-related services have been eliminated from the state budget. Due to the loss of all Proposition 36 funding, California will not meet its federal Maintenance of Effort (MOE) requirements for federal substance abuse funding, and approximately $100 million in federal funds could be jeopardized. California received a waiver from the federal government in 2009-10 from federal MOE requirements. It is unclear whether the federal government will be willing to grant another waiver for 2010-11.

CalWORKs. The budget sent to the Governor does not include CalWORKs grant cuts or further cuts to the CalWORKs Single Allocation beyond the existing $375 million cut. However, the Governor vetoed $365.9 million from CalWORKs when he signed the budget. He instructed the Department of Social Services to request a corresponding advance of Temporary Assistance for Needy Families (TANF) block grant funds from the quarter ending June 30, 2011. The action is intended to provide one-time GF relief without impacting the program.

Child Care. The budget proposal includes a $48 million reduction in child care, which is achieved through a change in license-exempt rates and a reduction in administrative funds. The Department of Finance further explained before the Budget Conference Committee this afternoon that the savings come from: 1) a reduction in the reimbursement rate limits for licensed-exempt providers from 90 percent of the ceilings for licensed family child care homes to 80 percent, and 2) a reduction from to 19.5 to 17 percent for administration. These provisions are included in AB 1610, the education trailer bill.

When the Governor signed the budget, he also vetoed $256 million from CalWORKs Stage 3 child care. This reduction leaves $128.8 million in federal funds to support Stage 3 child care services through October 2010 – effectively eliminating Stage 3 child care for the rest of the year.

Child Welfare Services. The Governor vetoed the $80 million GF restoration to the Child Welfare Services program. The Legislature restored this funding to the 2010-11 budget after the Governor vetoed it when he signed the 2009-10 budget.

In Home Supportive Services (IHSS). The 2010-11 budget includes a $300 million reduction in GF spending to IHSS, but cuts to the program comprise only a small portion of that figure. The majority of the savings are achieved by the imposition of a new IHSS provider fee, which is estimated to bring in $190 million in additional federal funding to the program. The budget assumes a full fiscal year of revenues associated with the provider fee. AB 1612 directs the state to request the Centers for Medicare and Medicaid Services (CMS) to allow retroactive enactment back to July 1, 2010. The provider fee will commence once CMS approval is secured. Providers will receive an extra paycheck that reflects the deduction of the fee then a repayment of the same amount, resulting in a paycheck of $0.

The budget also includes an across-the-board reduction in hours for IHSS of 3.6 percent ($35 million) and assumes additional caseload savings based on actual caseload numbers from 2009-10 ($75 million). The 3.6 percent reduction is an across-the-board cut to authorized consumer hours and is effective 90 days following the Governor's

signature of AB 1612. There are no carve-outs or exceptions; consumers retain their current rights to appeal. The 3.6 percent cut will sunset on June 30, 2012.

The Governor did not include additional IHSS vetoes when he signed the budget.

AB 1612 includes additional IHSS provisions, including:

- Expanding the list of crimes that disqualify an individual from being an IHSS provider (effective 90 days after the bill is signed). The legislation also includes an appeal process and an exemption process. The use of the expanded list of disqualifying crimes is prospective – meaning that any provider who has been determined eligible for payment is not subject to a new clearance based on the expanded list of crimes. Consumers who have a provider who is terminated due to a disqualifying crime will receive a notice from the county.

- No longer requiring multiple criminal background checks. If a provider has cleared a Department of Justice (DOJ) criminal background check, the county may not require a second criminal background check for any provider who has been enrolled.

- Suspending until July 1, 2012 the service reductions and reduction in the state participation in wages that were part of the 2009-10 state budget.

The budget also contains $10 million GF for county integrity activities. The budget does not repeal consumer fingerprinting or repeal fingerprinting on timesheets.

Aging Programs. The Governor vetoed the $6.4 million the Legislature provided to restore funding for aging and nutrition programs. Please recall this was a legislative restoration of 2009-10 Governor's vetoes.

Mental Health. The Governor line item vetoed all $132.9 million of funding to reimburse counties for their unreimbursed costs from 2004-05 through 2008-09 for complying with the AB 3632 mandate (Handicapped and Disable Students I and II, and Seriously Emotionally Disturbed Pupils: Out of State Mental Health Services). In doing so, he also declared that the mandate on counties for the 2010-11 fiscal year is suspended.

The Governor's action three months into the current fiscal year leaves many unanswered questions for counties, schools, community-based providers, parents and students related to this special education program. CSAC is working with the County Counsels Association and the California Mental Health Directors Association (CMHDA) to examine the policy and legal issues created by this action and will provide additional information to counties.

State Hospitals. The budget caps the rates paid to community hospitals for medical care for state hospital patients. This is provision is included in SB 853.

Medi-Cal. The Medi-Cal provisions are contained in SB 853, the health trailer bill.

County Administration. The budget reduces funding for county administration of Medi-Cal, including $21 million ($10.8 million GF) to reflect suspension of the 2010-11 COLA and $42 million ($26 million GF) in growth. In addition, the Governor vetoed another $44 million ($22 million GF) of the growth funding made available by the Legislature. This results in $107 million ($58.8 million GF) in cuts to county administration and counties essentially will receive no funding for caseload growth in 2010-11.

SB 853 also establishes a process for developing a new methodology for the state Department of Health Care Services (DHCS) to annually establish the rates paid to counties for eligibility services in order to increase clarity and transparency in this process.

Hospital Rates. The budget freezes the rates paid to private hospitals beginning July 1, 2010, retroactive to January 1, 2010, and continuing until the date on which the Medicaid Management Information System converts to processing claims according to the new rate setting methodology established in the bill. The bill establishes a process for the implementation of a new rate setting methodology which utilizes Diagnosis-Related Groups.

Medicare Part B. The budget discontinues Medi-Cal coverage of Medicare Part B premiums for elderly and disabled beneficiaries who have a Medi-Cal share-of-cost of less than $500. The 2008 Budget trailer bill (AB 1183) eliminated Medi-Cal coverage of this premium for beneficiaries with a Medi-Cal share-of-cost of over $500.

Benefits. The budget eliminates acetaminophen products, with the exception of children's Tylenol, as a Medi-Cal benefit.

Family PACT. The budget implements provisions of federal health care reform which allow for the Family PACT program to be implemented through a State Plan Amendment rather than through a Medicaid Waiver. These provisions also expand the list of benefits that qualify for federal funds based on a 9-1 federal-state match, resulting in the receipt of increased federal funds for the same services. The Governor had proposed to eliminate the program entirely.

Radiology Services. The budget reduces Medi-Cal rates for radiology services to 80 percent of federal Medicare rates, effective October 1, 2010.

Managed Care. The budget reassigns the responsibility for negotiating Medi-Cal Geographic Managed Care rates from the California Medical Assistance Commission to the DHCS.

Continuous Eligibility. SB 853 clarifies that continuous annual eligibility will remain in effect indefinitely.

Waiver Reporting. The budget requires the DHCS to provide the fiscal committees of the Legislature with updates, in March and October of each year, on all of California's Medi-Cal waivers.

Adult Day Health Care. The budget continues the Adult Day Health Care program, which the Governor had proposed eliminating.

California Children's Services (CCS) Program. SB 853 requires the DHCS to seek private support to develop studies of the California Children's Services (CCS) Program, to be provided to the Legislature and stakeholders by March 2011, addressing: systems analysis of core business processes and practices, provider certification and enrollment processes, medical eligibility processing, oversight and monitoring of quality of care, best practices for case management, and advanced information technology tools.

Medicaid Section 1115 Waiver. The state legislation that provides a statutory framework for California's Medicaid Section 1115 Waiver is contained in three separate measures – AB 342 (Pérez), AB 1628 (Blumenfield), and SB 208 (Steinberg). California's next five-year Medicaid Section 1115 Waiver is still being negotiated between the state and federal governments. Once the waiver is finalized, additional clean-up legislation may be necessary. Of course, that will likely have to wait until 2011. Additionally, DHCS will be issuing further clarification through all county letters and provider bulletins.

- **AB 342** contains the framework for the coverage initiatives, now renamed the CEED projects.

- **AB 1628**, the corrections trailer bill, contains additional requirements on CEED projects. The language in AB 1628 requires counties that submit an application for a CEED project to agree to include prison inmates in their CEED project for inpatient hospital services. Essentially, prison inmates who leave the grounds of the prison for an inpatient stay at a community hospital would become eligible for Medi-Cal or a CEED project. In addition, counties will be able to seek federal reimbursement for the care of adult inmates incarcerated in county correctional facilities for expenditures incurred for inpatient services in community hospitals if the county determines the inmates to be eligible for Medi-Cal or the local CEED projects.

- **SB 208** contains the bulk of the remaining waiver provisions, including mandatory enrollment of seniors and persons with disabilities into Medi-Cal Managed Care and additional hospital financing provisions.

For additional detail on the Medicaid Waiver provisions, please see this summary developed by CSAC staff.

State Positions. In his proposed 2010 Budget, the Governor requested 56 new positions at DHCS for purposes of implementing the new Section 1115 Medicaid Waiver. Subsequently, the budget includes a total of 39 positions, which includes 13 at the DHCS.

Healthy Families Program. The budget fully funds the Healthy Families Program.

Immigrant Programs. The state budget funds the Cash Assistance Program for Immigrants (CAPI), the California Food Assistance Program (CFAP), and continues to provide Medi-Cal coverage. The Governor had proposed eliminating these programs.

Public Health

AIDS Programs. The Governor deleted the $52.1 million restoration to the Office of AIDS Please recall this was a legislative restoration of 2009-10 Governor's vetoes and thus does not change current funding levels for this program.

The Governor also vetoed $7.6 million of AIDS Drug Assistance Program (ADAP) funding to local entities. It was our understanding that the $9.5 million ADAP cut for county jail inmates had been included in the budget agreement, so it is unclear what this additional veto includes.

Maternal and Child Health Programs. The Governor eliminated $5 million to Maternal and Child Health programs (Black Infant Health and Adolescent Family Life Program). Please recall this was a legislative restoration of 2009-10 Governor's vetoes and thus does not change current funding levels for this program.

Clinic Funding. The Governor also eliminated the $10 million restoration the Legislature made to various clinic grants (Seasonal & Migratory, American Indian, Rural Health and Expanded Access to Primary Care).

Prostate Cancer. The Governor also eliminated a $1 million legislative augmentation to the Prostate Cancer Treatment Program.

Immunizations. The budget includes an $18 million General Fund reduction for immunizations. This was part of the package sent to the Governor, not an additional veto.

Realignment. The 2010-11 budget does not contain any proposals to further realign any health and human services programs.

HOUSING, LAND USE AND TRANSPORTATION

Transportation Funding. The Legislature failed to pass the budget transportation trailer bill (SB 854/AB 1614) last week while wrapping up the 2010-11 state budget debate. Unfortunately, passage of this measure was held up over other nonrelated, controversial provisions. The trailer bill language included two critical clean-up measures for counties.

First, the language would have provided cities and counties with a one-year extension on the use-it-or-lose-it requirement for Proposition 1B Local Streets and Roads (LSR) funds. As originally passed in 2006, Prop 1B requires local agencies to expend LSR monies within three years after the fiscal year in which it was appropriated. However, the state has deferred transportation payments to cities and counties every year in which there was also a Prop 1B LSR payment. In implementing these deferrals, the state authorized local agencies to backfill the transportation deferrals with Prop 1B funds to be repaid when the state repaid the deferrals. As such, cities and counties need an additional year in which to dedicate Prop 1B funds to Prop 1B projects and meet the use-it-or-lose-it requirement.

Second, the language would have clarified that Proposition 42 provisions do not apply to the new Highway Users Tax Account (HUTA) (Streets and Highways Section 2103) funds per the transportation tax swap that was adopted in March 2010. The language is necessary to clarify and codify the Legislature's intent for these new HUTA revenues because the State Controller has opined that Prop 42 provisions do apply to the new HUTA. The specific provisions of interest include project eligibility, maintenance of effort and use-it-or-lost-it requirement all contained in Revenue and Taxation Code Section 7104.

CSAC has already begun working with legislative leaders, key staff, and the State Controller to bring resolution to these two issues.

Indian Gaming: Special Distribution Fund. SB 856 (Committee on Budget & Fiscal Review), the general government budget trailer bill, restores the $30 million Special Distribution Fund appropriation from the 2007-08 state budget that was vetoed by the Governor. These funds are for the purpose of local grants for the mitigation of casino

impacts. The method for determining the allocation amounts to individual tribal casino accounts shall be in accordance with the 2006-07 methodology.

The Governor has yet to take action on this measure but is not anticipated that he will veto any of the trailer bills.

BUDGET TRAILER BILL LIST

Bill #	Topic	Vote	
SB 870	Budget Bill	2/3	Passed
SB 848	Transient Occupancy Taxes	2/3	Failed
AB 1610	Education	2/3	Passed
AB 1612	Human Services	2/3	Passed
SB 851	Proposition 98 Suspension	2/3	Passed
SB 853	Health	2/3	Passed
SB 854	Transportation	2/3	Failed
SB 855	Resources	2/3	Passed
SB 856	General Government	2/3	Passed
SB 857	Judicial	2/3	Passed
SB 858	Revenues	2/3	Passed
AB 1614	Transportation	2/3	Failed
AB 1619	Elections (Budget Reform)	2/3	Passed
AB 1620	Public Works Board	2/3	Passed
AB 1621	FI$CAL	2/3	Passed
AB 1624	Cash Management	2/3	Passed
SB 863	Williamson Act/RDA	2/3	Passed
SB 865	MOU for SEIU Bargaining Units	2/3	Passed
SB 866	Mandate Securitization	2/3	Passed
SB 867	CalPERS Transparency	2/3	Passed
AB 1628	Public Safety	2/3	Passed
AB 1629	DDS Bay Area Housing	2/3	Passed
AB 1631	Pension Reform	2/3	Failed
AB 1632	Small Business	2/3	Passed
ACA 4	Budget Reform	2/3	Passed
SBX6 22	Secretary of Volunteerism/Pension Reform	Majority	Passed

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