CSAC BOARD OF DIRECTORS

BRIEFING MATERIALS

Thursday, September 3, 2015

10:00 a.m. 1:30 p.m.

Meeting Location:

Capitol Event Center, Sacramento

1020 11th Street, Second Floor

California State

Association of Counties

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, September 3, 2015
10:00am – 1:30pm
Capitol Event Center, Sacramento

A G E N D A

Times for agenda items listed herein are approximate. Matters may be considered earlier than published time.
Presiding: Vito Chiesa, President

10:00am – *PROCEDURAL ITEMS*

1. Roll Call — Page 1

2. Approval of Minutes of May 28, 2015 — Page 3

10:10am – *SPECIAL PRESENTATIONS*

3. CSAC Corporate Partners Report — Page 7
   - *Luis Quinonez, CGI*
   - *Jim Manker, CSAC staff*

4. California Transportation Commission's Road Charge Effort — handout
   - *Will Kempton, CTC Executive Director*
   - *Jim Madaffer, CTC Commissioner*

10:45am – *ACTION ITEM*

5. Consideration of CSAC Strategic Plan: Vision, Mission & Values Statements — Page 16
   - *Graham Knaus, CSAC staff*

6. Fee to Trust Reform Legislation — Page 17
   - *Kiana Buss & Chris Lee, CSAC staff*

11:15am – *DISCUSSION ITEMS*

7. Transportation & Infrastructure Special Session — Page 41
   - *Kiana Buss, CSAC staff*

8. Proposition 218: Stormwater/Water Conservation Initiative — Page 55
   - *Matt Cate, CSAC Executive Director*
   - *Brandon Castillo, Bicker Castillo & Fairbanks*

12:00pm – *LUNCH*

12:30pm – *INFORMATION ITEMS*

9. CSAC Finance Corporation Update — handout
   - *Laura Labanieh, CSAC Finance Corp. Interim Executive Director*

10. Health Special Session Update — Page 57
    - *Farrah McDaid-Ting, CSAC staff*

11. Medicaid Waiver Update — Page 61
    - *Kelly Brooks Lindsey, Hurst, Brooks & Espinosa*

12. CSAC Operations & Member Services Update — Page 64
    - *Graham Knaus, CSAC staff*

13. Informational Reports without Presentation — Page 67
    - Institute for Local Government (ILG)
    - CSAC Litigation Coordination Program Update

1:30pm – *ADJOURN*

CALIFORNIA STATE ASSOCIATION OF COUNTIES

Board of Directors

2015

Section	County	Director
U	Alameda County	Keith Carson
R	Alpine County	Terry Woodrow
R	Amador County	Louis Boitano
S	Butte County	Maureen Kirk
R	Calaveras County	Michael Oliveira
R	Colusa County	Kim Dolbow Vann
U	Contra Costa County	Federal Glover
R	Del Norte County	David Finigan
R	El Dorado County	Ron Mikulaco
S	Fresno County	Henry Perea
R	Glenn County	John Viegas
R	Humboldt County	Virginia Bass
S	Imperial County	Ryan Kelley
R	Inyo County	Jeff Griffiths
S	Kern County	Leticia Perez
R	Kings County	Doug Verboon
R	Lake County	Anthony Farrington
R	Lassen County	Jim Chapman
U	Los Angeles County	Don Knabe
R	Madera County	Tom Wheeler
S	Marin County	Damon Connolly
R	Mariposa County	John Carrier
R	Mendocino County	Carre Brown
S	Merced County	Hubert "Hub" Walsh
R	Modoc County	Jim Wills
R	Mono County	Larry Johnston
S	Monterey County	Fernando Armenta
S	Napa County	Diane Dillon
R	Nevada County	Ed Scofield
U	Orange County	Lisa Bartlett
S	Placer County	Jim Holmes
R	Plumas County	Terry Swofford
U	Riverside County	John Benoit

U	Sacramento County	Susan Peters
R	San Benito County	Margie Barrios
U	San Bernardino County	James Ramos
U	San Diego County	Greg Cox
U	San Francisco City & County	vacant
S	San Joaquin County	Bob Elliott
S	San Luis Obispo County	Bruce Gibson
U	San Mateo County	Carole Groom
S	Santa Barbara County	Doreen Farr
U	Santa Clara County	Ken Yeager
S	Santa Cruz County	Bruce McPherson
S	Shasta County	Leonard Moty
R	Sierra County	Lee Adams
R	Siskiyou County	Ed Valenzuela
S	Solano County	Linda Seifert
S	Sonoma County	Efren Carrillo
S	Stanislaus County	Vito Chiesa
R	Sutter County	Larry Munger
R	Tehama County	Robert Williams
R	Trinity County	Judy Morris
S	Tulare County	Steve Worthley
R	Tuolumne County	Evan Royce
U	Ventura County	Kathy Long
S	Yolo County	Jim Provenza
R	Yuba County	Roger Abe

President: Vito Chiesa, Stanislaus
First Vice President: Richard Forster, Amador
Second Vice President: Dave Roberts, San Diego
Immed. Past President: John Gioia, Contra Costa

SECTION: U=Urban S=Suburban R=Rural

1/15

CALIFORNIA STATE ASSOCIATION OF COUNTIES
BOARD OF DIRECTORS
Thursday, May 28, 2015
Capitol Event Center, Sacramento

MINUTES

Presiding: Vito Chiesa, President

1. ROLL CALL

Alameda	Keith Carson	Placer	Jim Holmes
Alpine	Terry Woodrow	Plumas	Terry Swofford
Amador	Forster/Boitano	Riverside	John Benoit
Butte	Maureen Kirk	Sacramento	Susan Peters
Calaveras	absent	San Benito	Margie Barrios (audio)
Colusa	Kim Dolbow Vann	San Bernardino	James Ramos
Contra Costa	John Gioia	San Diego	Greg Cox
Del Norte	David Finigan	San Francisco	vacant
El Dorado	Ron Mikulaco	San Joaquin	Bob Elliott
Fresno	Henry Perea	San Luis Obispo	Bruce Gibson
Glenn	John Viegas	San Mateo	Carole Groom
Humboldt	Virginia Bass	Santa Barbara	Doreen Farr
Imperial	Ray Castillo	Santa Clara	Ken Yeager
Inyo	Jeff Griffiths	Santa Cruz	Bruce McPherson
Kern	Leticia Perez	Shasta	Leonard Moty
Kings	Doug Verboon	Sierra	Lee Adams
Lake	Anthony Farrington	Siskiyou	Ed Valenzuela
Lassen	absent	Solano	Linda Seifert
Los Angeles	absent	Sonoma	Susan Gorin
Madera	absent	Stanislaus	Vito Chiesa
Marin	Damon Connolly	Sutter	Larry Munger
Mariposa	absent	Tehama	Robert Williams
Mendocino	Carre Brown	Trinity	Judy Morris
Merced	Hubert "Hub" Walsh	Tulare	Steve Worthley
Modoc	Jim Wills	Tuolumne	Randy Hanvelt
Mono	Larry Johnston	Ventura	Kathy Long
Monterey	Fernando Armenta	Yolo	Jim Provenza
Napa	Diane Dillon	Yuba	Roger Abe
Nevada	Ed Scofield		
Orange	absent		

Advisors: Rick Haffey and Charles McKee

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

3. CSAC CORPORATE PARTNER REMARKS

Jim Holobaugh and Kevin Bibbler from Alliant Insurance Services addressed the Board regarding the services they provide to counties. They indicated that their specialty is group insurance programs and they are able to leverage grouping counties together for better rates, etc. Recently, they developed a new program called the "Master Rolling Owner Controlled Insurance Program (MROCIP), which provides a cost effective and efficient method of managing the liability and workers' compensation exposure associated with county construction projects.

Peter Rumble with California Clean Power discussed the "Community Choice" program, whereby cities and counties can partner with his company to implement their own customized local community choice aggregation (CCA) program. The benefit is that communities can locally control their energy needs, increase their use of renewable power, and bring electricity bill savings for residents and businesses.

4. GOVERNOR'S MAY REVISION OF THE 2015-16 STATE BUDGET

Michael Cohen, Director of Finance and Diane Cummins, Special Advisor to the Governor, outlined the Governor's May Revise. They indicated that the majority of state revenue will go towards school and rainy day fund obligations. However, the state budget contains additional money for repayment of pre-2004 state mandates, bringing the total to $765m.

5. CSAC REPORT ON GOVERNOR'S MAY REVISION

Staff noted that an analysis of the Governor's May Revision was previously sent to all counties. Some highlights include: $150m for Medi-Cal administration; $2.2b for drought-related programs; SB 678 incentive funding for offenders under mandatory supervision and post-release community supervision; an expansion of the Governor's amnesty program for court-ordered debt; and funding for PILT and county fairs.

It was noted that there is no specific funding proposal to address the significant needs facing transportation systems (local streets, roads and bridges) across California.

6. CSAC FINANCE CORPORATION REPORT

Nancy Parrish, Executive Director of the CSAC Finance Corporation, distributed handouts and outlined two new programs being offered through the CSAC Finance Corporation. OneExchange has two options, one for Medicare-eligible retirees and one for early retirees. The first one enables Medicate-eligible retirees to shop for the Medicare coverage that fits their needs and budget. Over 90 of the nation's health insurance carriers participate. The program for early retirees provides navigation, research and advisory services that help retirees find and enroll in individual insurance plans.

Ms. Parrish announced that she is leaving the CSAC Finance Corporation to pursue other opportunities.

7. CSAC POLICY COMMITTEE REPORTS

Housing, Land Use & Transportation. Staff provided a report from the policy committee meeting held earlier today. The committee received reports on affordable housing legislation, the Contra Costa Transportation Authority GoMentum Station, Tribal government issues, the Road User Charge Technical Advisory Committee, and Federal Transportation Reauthorization. No action items were brought forward to the Board of Directors for consideration.

Health & Human Services. Supervisor Ken Yeager, Chair of the CSAC Health & Human Services policy committee, provided a report from the meeting held earlier today. The committee received reports on California's group home system and services, and Medi-Cal waivers. No action items were brought forward to the Board of Directors for consideration.

Government Finance & Operations. Staff provided a report on the policy committee meeting held earlier today. The committee received updates on the State Budget, paid sick leave, Open Data implementation and options, and 2015 tax reform efforts. No action items were brought forward to the Board of Directors for consideration.

Agriculture, Environment & Natural Resources. Supervisor Diane Dillon, Chair of the CSAC Agriculture, Environment & natural Resources policy committee, presented a report from the meeting held earlier today. The committee received updates on the California drought, Groundwater Management Act implementation, and Sierra Nevada forests. No action items were brought forward for the Board of Directors for consideration.

Administration of Justice. Supervisor John Viegas, Chair of the CSAC Administration of Justice policy committee, presented a report from the meeting held yesterday. The committee received reports on local solutions for reducing the length of stay for "Incompetent to Stand Trial (IST), lowering county drug costs in the criminal justice system, trial court revenue distribution and a 2015-16 state budget and legislative update. No action items were brought forward to the Board of Directors for consideration.

8. PROPOSED CSAC BUDGET FOR FY 2015-16

Supervisor Judy Morris, CSAC Treasurer, presented the draft CSAC Budget for FY 2015-16, as contained in the briefing materials. She noted that the sale of CSAC's Ransohoff Building allowed CSAC to establish a healthy reserve. Other revenue highlights include: estimated Finance Corporation contribution of $3.5m; Corporate Associates revenue projected to be $480,000; and increase in revenues from CSAC Institute of $43,000 due to further expansion into Merced County. The CSAC Executive Committee approved the draft budget at its April meeting and recommended adoption by the Board of Directors.

Motion and second to adopt proposed CSAC Budget for FY 2015-16. Motion carried unanimously.

9. COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN RESOLUTION

Staff presented a draft resolution affirming CSAC's commitment to preventing commercial sexual exploitation of children (CSEC) in California counties and to work with all county partners to identify, protect and serve these vulnerable youth. CSEC is a pressing national, state, and local issue. The FBI estimates that 100,000 children in the United States are sold for sex each year. Three of the top 13 highest trafficking areas in the national are located in California: San Francisco, Los Angeles, and the San Diego metropolitan areas. CSAC actively supported a state budget augmentation last year to earmark more than $20m in funding for local prevention, intervention and direct services for CSEC youth.

Staff requested that the Board of Directors adopt the resolution contained in the briefing materials and approve the distribution of a county-specific resolution to all 58 counties.

Motion and second to adopt the CSEC resolution and authorize staff to distribute a county-specific resolution for adoption by individual counties. Motion carried unanimously.

10. POVERTY WORKING GROUP PLATFORM LANGUAGE

Supervisor Kathy Long, Co-chair of the CSAC Poverty Working Group, presented draft language developed by the working group, which was tasked with examining issues related to poverty that are in play in California today and steer the Association toward supporting, developing, or promoting achievable solutions at the county level. It was noted that poverty has a large impact on some of California's most vulnerable populations, including children. One-third of the 6 million impoverished Californians are children.

The CSAC Health & Human Services policy committee has approved the draft language and recommends adoption by the Board of Directors.

Motion and second to adopt poverty language and framework for inclusion in the CSAC County Platform. Motion carried unanimously.

11. CSAC STRATEGIC PLAN UPDATE

Staff reported that CSAC's strategic plan effort is underway. Based on prior discussions and guidance from the Board of Directors and Executive Committee, staff continues to develop a framework and timeline for the strategic plan. Staff is seeking additional Board input on the overarching purpose, goals and priorities of the association to inform the strategic plan and maximize the representation and education of counties and our strategic partners. Key pillars for the plan include: growing CSAC influence on federal and state policy priorities; enhanced communication to members, stakeholders, media and public; increased policy analysis and research on issues of importance to counties; focused education to provide critical tools and resources to counties through the CSAC Institute; and maintaining efficient internal operations of the association. Over the coming months, there will be continued discussions with the Board of Directors, Executive Committee and staff with a December 2015 target for completion.

12. MEDICAL MARIJUANA WORKING GROUP REPORT

Supervisors Lovelace and McPherson, Co-chairs of the CSAC Medical Marijuana Working Group, presented a report from the meeting held yesterday. The working group was established in 2010 for research and information sharing on this issue. CSAC's website contains information from the working group. Yesterday's meeting included updates on four bills currently being considered in the Legislature. The North Coast counties have created a Marijuana Policy Statement, which was developed during a regional summit that included the counties of Del Norte, Humboldt, Lake, Mendocino, Sonoma and Trinity. The policy statement was contained in the briefing materials.

13. INSTITUTE FOR LOCAL GOVERNMENT (ILG) REPORT

Steve Sanders, Program Director for the Institute for Local Government (ILG), provided an update on ILG activities. In early April, ILG hosted a "Cap and Trade Symposium" where local leaders discussed how they can partner to achieve the Governor's goals in communities throughout California. ILG has launched a survey on local government collaboration, which focuses on healthy eating/active living, safety and violence prevention, and to what extent local agencies approach the issues through collaboration or partnerships. On May 29, ILG will be hosting a joint leadership meeting for the officers of CSAC, League of California Cities, and the California Special Districts Association to share priorities and discuss current and emerging issues.

14. INFORMATION ITEMS

Dorothy Holzem was introduced as the newest CSAC staff member. She replaces Jean Hurst as the Revenue and Taxation legislative representative.

Reports on the CSAC Litigation Coordination Program, Corporate Partners and IRS Form 990 were contained in the briefing materials.

Meeting adjourned.

CGI

As a full-service systems integrator and managed services provider with 68,000 professionals worldwide, CGI delivers complex, multi-stakeholder IT programs with a collaborative approach that is based on shared values with our clients. Known for our high client satisfaction ratings, more than 100 federal agencies and 300 state and local governments – including California's – have partnered with CGI to integrate, streamline and modernize systems and business processes to reduce costs and better serve citizens. For more than 25 years, the partnership between California and CGI has led to innovative IT transformations in the most critical areas of the state's government including financial management, tax, revenue and collections, health and human services, enterprise resource planning and transportation. CGI's deep understanding of state policies, practices and systems enables us to address the state's critical challenges as well as predict trends to help deliver fast and responsive services to constituents. Our built-for-government IT solutions create operational efficiencies and effectiveness – all while reducing costs and maximizing revenue. With offices in Sacramento, Los Angeles, Oakland and San Diego, our California-based professionals live, work and volunteer in the communities they serve.

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CSAC PARTNERSHIP PROGRAM

CALIFORNIA Counties

CSAC Board of Directors Report – 9.3.15

1. **Partnership Program Update:** We have now grown to 65 partners and are still in a number of promising business conversations. We have added four (4) new Premier partners since our last report in May, and six (6) total in 2015. Here is how we currently stand:
    - 26 Premier Partners (New 2015: CA Clean Power, Election Systems & Software, Alliant, CGI, Anthem Blue Cross, and CSAC–EIA)
    - 7 Executive Partners (New 2015: California First, Molina Healthcare, and HdL Companies who just moved up from the Associate level)
    - 32 Associate Partners (New 2015: AARP, ESRI, Dewberry Architects, inContact,, Northrop Grumman Aerospace Systems, Ramsell)
    - **Total profit for 2014-2015 year: expecting just over $400,000**

2. **Regional Meetings:** These one day regional events are designed to bring together our members and leaders from regional counties, our CSAC Executive and Advocacy Team members and our Premier and Executive level partners. Panels and round table discussions help foster the sharing of information and creative solutions critical to excellent county governance.
    - We are considering one more CSAC Regional Meetings for 2015, in October. Location TBD.

3. **Looking Ahead:** Here are the things we are currently working on.
    - A new partner guide designed to help counties understand our partner's areas of expertise.
    - Study and interaction with county general services, procurement processes, in order to assist our corporate partners. We just met with the California General Services Association and plan to meet with CAPPO in January.
    - Annual meeting sponsorships, the innovation summit and exhibit hall logistics.
    - CSAC Corporate Program twitter page, please follow us!
    - New partnerships and idea sharing with other association partner programs

Thank you again for your support of our Partnership Program.

Respectfully submitted,

Jim

Jim Manker
CSAC Director of Corporate Relations

Premier Partners (as of 8.15.2015)

1. Alliant Insurance Services, Inc.
Nazie Arshi, Senior Vice President
1301 Dove St. Suite 200
Newport Beach, CA 92660
(949) 660-8110
narshi@alliant.com
www.alliant.com

2. Anthem Blue Cross
Michael Prosio, Regional Vice President, State Affairs
1121 L Street, Suite 500
Sacramento, CA 95814
(916) 403-0527
Michael.prosio@anthem.com
www.anthem.com

3. Argyle Security
Buddy Johns, President & CEO
12903 Delivery Drive
San Antonio, TX 78247
(210) 495-5245
bjohns@argylesecurity.com
www.isisecurity.com

4. Ascendian Healthcare Consulting
Jef S. Williams, Chief Operating Officer
2424 Professional Drive
Roseville, CA 95661
(916) 899-8894
jwilliams@ascendian.com
www.ascendian.com

5. California Clean Power
Peter Rumble, CEO
50 Santa Rosa Ave, Suite 420
Santa Rosa, CA 95405
(707) 623-9933
prumble@cacleanpower.com
www.cacleanpower.com

6. California Health & Wellness
Greg Buchert, President & CEO
1740 Creekside Oaks Drive, Suite 100
Sacramento, CA 95833
(916) 246-3701
gbuchert@cahealthwellness.com
www.cahealthwellness.com

7. California Statewide Communities Development Authority (CSCDA)
Mike LaPierre, Program Manager
2999 Oak Road, Suite 710
Walnut Creek, CA 94597
(925) 933-9229 x212
mlapierre@cacommunities.org
www.cacommunities.org

8. CGI
Luis Quinonez, Partner, Consultant
1215 K Street, #1000
Sacramento, CA 95814
(916) 830-1100
luis.quinonez@cgi.com
www.CGI.com

9. Coast2Coast Rx
Marty Dettelbach, Chief Marketing Officer
335 Felspar Way
Cary, NC 27518
(919) 465-0097
marty@c2crx.com
www.coast2coastrx.com

10. CSAC Excess Insurance Authority
Gina Dean, Chief Operating Officer
75 Iron Point Circle, Suite 200
Folsom, CA 95630
(916) 850-7300
gdean@csac-eia.org
www.csac-eia.org

11. Dell | Enterprise Solutions Group
Rob McCaffrey, Regional Sales Director
5480 Great America Parkway
Santa Clara, CA 95054
(916) 813-9514
Robert_McCaffrey@Dell.com
www.dell.com/networking

12. DLR Group
Dan Sandall, Business Development
1050 20th Street, Suite 250
Sacramento, CA 95811
(310) 804-7997
dsandall@dlrgroup.com
www.dlrgroup.com

13. Dominion Voting Systems
Steve Bennett, Regional Sales Manager
1201 18th Street, Suite 210
Denver, CO 80202
(909) 362-1715
steven.bennett@dominionvoting.com
www.dominionvoting.com

14. Election Systems & Software
Larry Tonelli, Regional Sales Manager
1714 Bilbao Drive
Santa Maria, CA 93454
(315) 559-1653
larry.tonelli@essvote.com
www.essvote.com

15. The Geo Group
Rachel Kienzler**,** Regional Director, Business Development - Western Region
3211 Jefferson St.
San Diego, CA 92110
(619) 204-8630
rkienzler@geogroup.com
www.geogroup.com

16. Hanson Bridgett LLP
Paul Mello, Partner
Samantha Wolff, Senior Counsel
425 Market Street, 26th Floor
San Francisco, CA 94105
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swolff@hansonbridgett.com
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17. HP
Cathy Varner, Director, State and Local Government
16550 West Bernardo Drive, Suite 225
San Diego, CA 92127
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www.hp.com

18. Kaiser Permanente
Kirk Kleinschmidt, Director, Government Relations
1950 Franklin St, 3rd Floor
Oakland, CA 94612
(510) 987-1247
kirk.p.kleinschmidt@kp.org
www.kp.org

19. Microsoft Corporation
Jonathan Noble, Government Affairs
1085 La Avenida
Mountain View, CA 94043
(408) 206-9333
jnoble@microsoft.com
www.microsoft.com/government

20. Nationwide Retirement Solutions
Rob Bilo, Regional Vice President
4962 Robert J Mathews Parkway, Suite 100
El Dorado Hills, CA 95762
(916) 939-2127
bilor@nationwide.com
www.nrsforu.com

21. Pacific Gas & Electric Company
Joe Wilson, Local Government Relations
350 Salem St.
Chico CA 95928
(530) 896-4289
J8WE@pge.com
www.pge.com

22. Renovate America, HERO Program
Mark Rodgers, Vice President Government Relations
15073 Avenue of Science #200
San Diego, CA 92128
(916) 998-0062
mrodgers@renovateamerica.com
www.heroprogram.com

23. Southern California Edison
Charley Wilson, Senior Policy Manager
2244 Walnut Grove Avenue
Rosemead, CA 91770
(949) 632-2074
Charles.Wilson@SCE.com
www.sce.com

24. Synoptek
Marc Moring II, Regional Manager
3200 Douglas Blvd. Suite 320
Roseville, CA 95661
(916) 402-1150
marc@synoptek.com
www.synoptek.com

25. U.S. Communities
Jason Angel, Program Manager - N. California, NV, HI, AK
2999 Oak Road, Suite 710
Walnut Creek, CA 94597
(415) 328-8109
jangel@uscommunities.org
www.uscommunities.org

26. Vanir Construction Management, Inc.
Bob Fletcher, Director of Business Development
4540 Duckhorn Drive, Suite 300
Sacramento, CA 95834
(916) 997-3195
bob.fletcher@vanir.com
www.vanir.com

Executive Partners

1. **CalforniaFIRST**
   Cliff Staton, Executive Vice President
   500 12th St., Suite 300
   Oakland, CA 94607
   510-451-7917
   cliff@renewfund.com
   www.renewfund.com

2. **HdL Companies**
   Andrew Nickerson, President
   1340 Valley Vista Drive
   Diamond Bar, CA 91765
   (909) 861-4335
   anickerson@hdlcompanies.com
   www.hdlcompanies.com

3. **Molina Healthcare**
   Yunkyung Kim, AVP Government Contracts
   200 Oceangate, Suite 100
   Long Beach, CA 90802
   (562) 491-7004
   Yunkyung.kim@molinahealthcare.com
   www.molinahealthcare.com

4. **Optum**
   Margaret Kelly, National VP, Government Education and Labor
   505 N Brand Blvd Ste 1200
   Glendale, CA 91203
   (818) 484-9188
   Margaret.kelly@optum.com
   www.optum.com

5. **Recology**
   Eric Potashner, Senior Director Strategic Affairs
   50 California Street, 24th Floor
   San Francisco, CA 94111-9796
   (415) 624-9885
   epotashner@recology.com
   www.recology.com

6. **UnitedHealthcare**
   Anthony Campbell, MHA, Sales Vice President -- Public Sector
   425 Market St., 14th Floor
   San Francisco, CA 94105
   (415) 778-3845
   anthony_d_campbell@uhc.com
   www.uhc.com

7. **Waterman & Associates**
   Joe Krahn, President
   900 Second St., NE Ste. 109
   Washington, DC 20002
   (202) 898-1444
   jk@wafed.com
   www.watermandc.com

Associate Partners

1. AARP
Christina Clem, Advisor, State Operations
1415 L St. Suite 960
Sacramento, CA 95814
(916) 556-2223
cclem@aarp.org
www.aarp.org/ca

2. AT&T
Mike Silacci, Regional Vice President
External Affairs – Greater Los Angeles Region
1150 South Olive Street, Suite 2803
Los Angeles, CA 90015
(213) 743-7010
ms9749@att.com
www.att.com

3. BI Incorporated
Matt Swando, National RSS Sales Manager
6265 Gunbarrel Avenue, Suite B
Boulder, CO 80301
(303) 218-1000
Matt.Swando@bi.com
www.bi.com

4. CGL Companies
Robert Glass, Executive Vice President
2485 Natomas Park Drive, Suite 300
Sacramento, CA 95833
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bglass@cglcompanies.com
www.cglcompanies.com

5. Comcast
Sue Vaccaro, Senior Director of Government Affairs - California Region
3155 Fulton Drive
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Sue_Vaccaro@cable.comcast.com
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6. Corrections Corporation of America
Brad Wiggins, Senior Director, Site Acquisition
10 Burton Hills Boulevard
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www.cca.com

7. Dewberry Architects, Inc.
Alan Korth, RA, LEED Associate Principal
1760 Creekside Oaks Drive, Suite 280
Sacramento, CA 95833
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akorth@dewberry.com
www.dewberry.com

8. Employee Relations Inc.
Bob Fisher, Vice President
431 North Brand Boulevard, Suite 308
Glendale, CA 91203
(818) 593-5555 x101
bfisher@erelations.com
www.erelations.com

9. Enterprise Holdings
Lisa Holmes, State of CA Contract Manager
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Lisa.m.holmes@ehi.com
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10. ESRI
Jan Cunningham, Account Manager
380 New York St
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11. HDR
Louise McGinnis, Western Region Director
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San Francisco, CA 94105-2907
(415) 546-4200
louise.mcginnis@hdrinc.com
www.hdrinc.com

12. Hospital Council of Northern & Central California
Brian L. Jensen, Regional Vice President
1215 K Street, Suite 730
Sacramento, CA 95814
(916) 552-7564
bjensen@hospitalcouncil.net
www.hospitalcouncil.net

13. Hospital Association of San Diego and Imperial Counties
Judith Yates, Vice-President & COO
5575 Ruffin Road, Suite 225
San Diego, CA 92123
(858) 614-0200
jyates@hasdic.org
www.hasdic.org

14. inContact
Pat Hansen, District Sales Manager
7730 S. Union Park Ave #500
Salt Lake, UT 84047
(916) 601-9319
Pat.hansen@inContact.com
www.inContact.com

15. Johnson & Johnson
Nancy Noe, Director, State Government Affairs
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August 19, 2015

To: CSAC Board of Directors

From: Matt Cate, Executive Director
Graham Knaus, Director of Operations and Member Services
DeAnn Baker, Director of Legislative Affairs

Re: CSAC Strategic Plan: Vision, Mission, and Values

Recommended Action: CSAC Board to approve the revised Vision, Mission, and Values.

Under the direction and leadership of the Executive Committee and Board, CSAC is working through a strategic planning process. A critical component of the process is to ensure the association's Vision and Mission statements are updated to align to current priorities and ways of doing business. To that end, the Executive Committee and Board have discussed the Vision and Mission of CSAC at their respective April 9, May 28, and August 6, 2015 meetings.

Based on the input of the Executive Committee and Board, staff will present revised Vision, Mission, and Value statements for Board consideration and approval. The revised statements attempt to more pointedly focus CSAC on core Vision and Mission to best advocate, educate, and support California counties. They also attempt to capture core association Values in how CSAC seeks to carry out its Vision and Mission. The Vision, Mission, and Values statements form the foundation for CSAC and will guide the continued development of the strategic plan through the Fall with a final plan targeted for Board consideration at its annual meeting December 3, 2015. We will distribute these statements to you at the September 3, 2015 meeting.

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August 19, 2015

To: CSAC Board of Directors

From: Joe Krahn, CSAC Federal Advocate
Kiana Buss, CSAC Legislative Representative
Chris Lee, CSAC Legislative Analyst

Re: Fee-to-Trust Reform Legislation – ACTION ITEM

Background. On July 28, U.S. Senate Committee on Indian Affairs (SCIA) Chairman John Barrasso (R-WY) introduced legislation that would overhaul the Department of the Interior's process for taking Indian fee land into trust. The bill includes a series of reforms spearheaded by CSAC, which has been at the forefront of fee-to-trust discussions on Capitol Hill and closely involved in the drafting of the Barrasso measure.

CSAC has written a letter of support for S. 1879 (attachment one). The association also is actively seeking several key adjustments to the legislation in an effort to further strengthen the bill.

Policy Considerations. Section 5 of the Indian Reorganization Act of 1934 (IRA) provides the Secretary of the Interior with authority to take land into trust for the benefit of Indian tribes. The Act does not, however, include any limits or standards relative to the exercise of that authority, which has effectively left all trust acquisition policies to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's administratively created fee-to-trust process has yielded significant controversy, serious conflicts between tribes and local governments – including litigation costly to all parties – and broad distrust of the fairness of the system. Despite glaring deficiencies in the trust acquisition process, many of which have been cited by the Government Accountability Office and a leading independent law review, Section 5 authority has never been amended by Congress.

Under BIA's current regulatory practices, county governments are afforded limited, and often late, notice of a pending trust land application. Additionally, the BIA does not accord local concerns adequate weight in the land-into-trust process, as counties are only invited to provide comments on two narrow issues – potential jurisdictional conflicts and the loss of tax revenues. Moreover, current law does not provide any incentive for Indian tribes to enter into enforceable mitigation agreements with counties to address the often significant off-reservation impacts associated with tribal development projects, including casinos.

While California's counties have long been dissatisfied with the fee-to-trust process, the U.S. Supreme Court's 2009 decision in Carcieri v. Salazar created an avenue for potential legislative reform. In Carcieri, the Court ruled that the Secretary of the Interior's trust acquisition authority was limited to those tribes that were "under federal jurisdiction" at the time of the enactment of the IRA.

Since the Carcieri decision, Indian tribes have called upon Congress to reverse the Court's action by passing legislation that would put all federally recognized tribes on equal footing relative to the opportunity to have land taken into trust. CSAC, while in agreement that Congress should address the inequity caused by the decision, has remained steadfast that any legislation restoring the Secretary's trust acquisition authority must be coupled with long-overdue reforms in the BIA's flawed fee-to-trust process.

The Interior Improvement Act

The Interior Improvement Act (S. 1879, attachment two) would transform the process whereby the federal government takes land into trust on behalf of Indian tribes. It is important to note that the bill would codify standards in federal statute, which CSAC believes is essential in light of the fact that the current trust acquisition process is administratively driven and subject to political influences and recurring changes.

Among other things, and consistent with CSAC's priorities for fee-to-trust reform (attachment three), S. 1879 would require the BIA to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. In turn, counties would be afforded an opportunity to review an application and comment on its entirety.

Moreover, the legislation would encourage tribes that are seeking trust land to enter into cooperative agreements with counties, the terms of which could relate to mitigation, changes in land use, dispute resolution, fees, etc. In cases in which tribes and counties have not entered into mitigation agreements, the bill would require the Secretary of the Interior to consider whether off-reservation impacts have been mitigated to the extent practicable.

CSAC has been a tireless advocate for legislative reforms that would encourage local mitigation agreements between tribes and counties. Furthermore, and in recognition that not all interaction between tribes and counties will yield intergovernmental cooperation, a central pillar of CSAC's reform principles is the need for a Secretarial determination that any off-reservation impacts stemming from tribal development have been sufficiently mitigated. CSAC staff is pleased that many of the provisions of the Interior Improvement Act are consistent with the association's policies for reforming the fee-to-trust process and closely mirrors CSAC's own comprehensive legislative proposal.

While a number of CSAC's key reforms are reflected in S. 1879, we believe that certain provisions of the legislation should be further strengthened and clarified. Accordingly, we have provided specific legislative recommendations to SCIA Chairman Barrasso and his staff.

Refinements Sought

As written, S. 1879 would require the Secretary to make a "Determination of Mitigation" describing whether economic impacts have been mitigated to the extent practicable; in turn, the Secretary would need to consider that determination in making a decision to approve or deny a trust application. The provisions, which would codify mitigation-related requirements that are wholly absent from BIA' regulations, are consistent with CSAC's goals regarding the mitigation of off-reservation impacts.

CSAC believes that the aforementioned language could be strengthened by explicitly requiring the Secretary to determine – prior to issuing a final decision to approve a trust land acquisition – that all reasonably anticipated off-reservation impacts associated with a tribal development project have been sufficiently mitigated. Likewise, CSAC believes that the term "mitigation" should be expressly defined in the legislation and that the definition of the term "economic impact" should be broadened to include environmental impacts.

CSAC also is urging the Committee to include language that would require the Secretary to undertake a thorough review process prior to any material change in use of trust land that would lead to significantly increased off-site impacts. CSAC's intent is not to tread on tribal sovereignty or unnecessarily impede efforts by tribes to initiate lateral/benign changes in trust-land. Rather, the association believes it should be the responsibility of the Department of the Interior to ensure that any significant impacts arising from a new development project are sufficiently mitigated.

There are several other refinements to S. 1879 that CSAC is seeking. Accordingly, we are continuing to work with SCIA staff and key members of the California congressional delegation to strengthen the bill.

Political Landscape

S. 1879 is the first comprehensive fee-to-trust reform bill introduced in Congress since the Supreme Court's Carcieri decision in 2009. All other previous and current Carcieri-related measures have been so-called "quick fix"/"clean fix" bills (written solely to restore the Secretary's trust acquisition authority). Incidentally, those particular pieces of legislation have garnered strong support from key members of Congress, including relevant committee leaders and members who champion the cause of Indian Country. Although clean fix advocates have advanced their bills to various stages of the legislative process, they have been ultimately unsuccessful in securing Senate passage.

Given the high level of support in Congress for a Carcieri clean fix, introduction of Chairman Barrasso's reform legislation is extremely significant and serves as a testament to the assertive and sustained lobbying efforts of CSAC. The association also has done considerable outreach to tribes and tribal organizations in an effort to build some level of consensus regarding the merits of fee-to-trust reform.

It should be noted that the National Congress of American Indians (NCAI) and the United South and Eastern Tribes (USET) – the nation's leading and highly influential tribal organizations – are likely to formally endorse the Barrasso bill. The notion that NCAI and USET would support a comprehensive fee-to-trust reform bill would have been unheard of in previous sessions of Congress given their rigid and persistent calls for a clean fix. The organizations' dramatic change of course regarding Carcieri would appear to reflect a recognition that tribes are unlikely to successfully advance a clean fix and that, after six years of legislative stalemate, the time for compromise has come.

On a related matter, the Vice Chairman of SCIA, Senator Jon Tester (D-MT), recently announced the withdrawal of his Carcieri clean fix legislation (S. 732). According to Vice Chairman Tester, the recent introduction of S. 1879 – which includes language restoring the Secretary's trust acquisition authority – warrants a further examination of the issue. Senator Tester's announcement represents another significant development in the evolution of the fee-to-trust reform discussion.

Outlook

Barring any unforeseen developments, S. 1879 is expected to be considered – and cleared – by SCIA in September. The outlook for Senate floor action, however, is much less certain.

In the upper chamber, 60 votes are generally needed to advance any legislation of consequence. Moreover, often times a handful of senators – or even a single senator – can block a bill from being considered on the floor. With several key members, including Senator Feinstein, expected to pursue amendments to the bill

(including potentially seeking controversial modifications to the Indian Gaming Regulatory Act (IGRA)), it may be challenging for Chairman Barrasso to advance S. 1879 without making certain concessions. Without question, Senator Barrasso and his supporters are facing a formidable challenge in attempting to strike a legislative balance that will be acceptable to all major stakeholders.

Finally, in the House, a companion fee-to-trust reform bill has not been introduced. While the House Natural Resources Committee has extensively examined Carcieri, including holding a recent hearing to shine light on the lack of trust acquisition standards in the IRA, it is unclear when, or if, the committee will act on a reform bill.

Action Requested. Staff requests that the Board of Directors reaffirm support of S.1879 and direct staff to seek amendments to the bill as outlined above and consistent with CSAC's adopted fee-to-trust reform proposal.

Staff Contact. Please contact Kiana Buss (kbuss@counties.org or 916/650.8185) or Chris Lee (clee@counties.org or 916/650.8180) for additional information.

LIST OF ATTACHMENTS

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July 28, 2015

The Honorable John Barrasso
Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

On behalf of the California State Association of Counties (CSAC), I am writing to thank you for introducing the *Interior Improvement Act* (S. 1879). CSAC is pleased to offer our strong support for this critically important piece of legislation, which, if enacted, would bring much-needed, long-overdue reforms to the Department of the Interior's fee-to-trust process.

As you know, the *Indian Reorganization Act of 1934* (IRA) provides the Secretary of the Interior with broad discretionary power to take land into trust for the benefit of Indian tribes, an authority that has not been amended by Congress since the IRA's enactment 81 years ago. The Act does not include any limits or standards relative to the exercise of the Secretary's trust acquisition authority, which has left all policies for taking land into trust to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's fee-to-trust process has created significant controversy, serious conflicts between tribes and local governments – including litigation costly to all parties – and broad distrust of the fairness of the system.

Under current BIA practices, county governments are afforded limited, and often late, notice of a pending trust land application. Additionally, the BIA does not accord local concerns adequate weight in the land-into-trust process, as counties are only invited to provide comments on two narrow issues – potential jurisdictional conflicts and the loss of tax revenues. Moreover, current law does not provide any incentive for Indian tribes to enter into enforceable mitigation agreements with counties to address the often significant off-reservation impacts associated with tribal development projects, including casinos.

Under your legislation, the BIA would be required to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. In turn, counties would be afforded an opportunity to review and comment on the application.

Furthermore, the bill would encourage tribes that are seeking trust land to enter into cooperative agreements with counties, the terms of which could relate to mitigation,

changes in land use, dispute resolution, fees, etc. In cases in which tribes and counties have not entered into mitigation agreements, the bill would require the Secretary of the Interior to consider whether off-reservation impacts have been sufficiently mitigated. We are pleased that many of the provisions of S. 1879 closely mirror CSAC's comprehensive fee-to-trust reform proposal.

In closing, CSAC continues to stand ready to work with you and the Committee to advance this important reform bill. We believe that a new fee-to-trust process, one that is founded on mutual respect and encourages local governments and tribes to work together on a government-to-government basis, is long overdue. CSAC believes that tribes and counties need a process that encourages cooperation and communication, provides a basis to expedite decisions, and reduces costs and frustration for all involved.

Thank you again for introducing the *Interior Improvement Act* and for including CSAC throughout the process of developing this legislation. Should you have any questions or if you need any additional information, please contact Joe Krahn, CSAC Federal Representative, Waterman and Associates at (202) 898-1444.

Sincerely,

Matt Cate
CSAC Executive Director

cc: Members of the Senate Committee on Indian Affairs
Senator Dianne Feinstein
Senator Barbara Boxer
Members of the House Committee on Natural Resources
California Congressional Delegation

114TH CONGRESS
1ST SESSION

S. _____

To improve processes in the Department of the Interior, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve processes in the Department of the Interior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interior Improvement Act".

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—The first sentence of section 19 of the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 479), is amended—

(1) by striking "The term" and inserting "Effective beginning on June 18, 1934, the term"; and

(2) by striking "any recognized Indian tribe now under Federal jurisdiction" and inserting "any federally recognized Indian tribe".

(b) RETROACTIVE PROTECTION.—To the extent a trust acquisition by the Secretary of the Interior pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et seq.), is subjected to a challenge based on whether an Indian tribe was federally recognized or under Federal jurisdiction on June 18, 1934, that acquisition is ratified and confirmed.

SEC. 3. LAND ACQUISITION APPLICATIONS.

The Act of June 18, 1934 (commonly known as the "Indian Reorganization Act"), is amended by inserting after section 5 (25 U.S.C. 465) the following:

"SEC. 5A. LAND ACQUISITION APPLICATIONS.

"(a) DEFINITIONS.—In this section:

"(1) APPLICANT.—The term 'applicant' means an Indian tribe or individual Indian (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) who submits an application under subsection (b).

"(2) APPLICATION.—The term 'application' means an application submitted to the Department

by an Indian tribe or individual Indian under subsection (b).

"(3) CONTIGUOUS.—The term 'contiguous'—

"(A) means 2 parcels of land having a common boundary, notwithstanding the existence of non-navigable waters or a public road or right-of-way; and

"(B) includes parcels that touch at a point.

"(4) CONTIGUOUS JURISDICTION.—The term 'contiguous jurisdiction' means any county, county equivalent, or Indian tribe with authority and control over the land contiguous to the land under consideration in an application.

"(5) COUNTY AND COUNTY EQUIVALENT.—The terms 'county' and 'county equivalent' mean the largest territorial division for local government within a State with the authority to enter into enforceable cooperative agreements with Indian tribes or individual Indians, as appropriate.

"(6) DEPARTMENT.—The term 'Department' means the Department of the Interior.

"(7) ECONOMIC IMPACT.—The term 'economic impact' means any anticipated costs associated with the development of or activity on the land under consideration in an application, including associated

costs to a contiguous jurisdiction for utilities, public works, public safety, roads, maintenance, and other public service costs.

"(8) FINAL DECISION.—The term 'final decision' means a decision that is final for the Department, as determined or defined by the Secretary.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(10) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—An Indian tribe or individual Indian seeking to have off-reservation fee or restricted land taken into trust for the benefit of that Indian tribe or individual Indian shall submit an application to the Secretary at such time, in such manner, and containing such information as this section and the Secretary require.

"(2) REQUIREMENTS.—The Secretary may approve complete applications described in paragraph (1) on a discretionary basis, subject to the condition that the application includes—

"(A) a written request for approval of a trust acquisition by the United States for the benefit of the applicant;

"(B) the legal name of the applicant, including, in the case of an applicant that is an Indian tribe, the tribal name of the applicant as the name appears in the list of recognized Indian tribes published by the Secretary in the Federal Register pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1);

"(C) a legal description of the land to be acquired;

"(D) a description of the need for the proposed acquisition of the property;

"(E) a description of the purpose for which the property is to be used;

"(F) a legal instrument to verify current ownership, such as a deed;

"(G) statutory authority for the proposed acquisition of the property;

"(H) a business plan for management of the land to be acquired, if the application is for business purposes;

"(I) the location of the land to be acquired relative to State and reservation boundaries; and

"(J) a copy of any cooperative agreement between the applicant and a contiguous jurisdiction.

"(3) FINAL DECISION.—After considering an application described in this subsection and in accordance with subsection (c) and any other applicable Federal law or regulation, a final decision to approve or deny the completed application shall be issued.

"(c) STATUTORY NOTICE AND COMMENT REQUIREMENTS.—

"(1) NOTICE AND COMMENT REQUIREMENTS FOR INITIAL APPLICATIONS.—

"(A) NOTICE.—

"(i) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives an initial application, the Secretary shall make that application, whether complete or incomplete, available to the public on the website of the Department, subject to applicable Federal privacy laws.

"(ii) ADDITIONAL NOTICE REQUIREMENT.—Not later than 30 days after the date on which the Secretary receives an initial application, the Secretary shall provide by certified mail notice of the application to contiguous jurisdictions.

"(B) COMMENT.—Each contiguous jurisdiction notified under subparagraph (A)(ii) shall have not fewer than 30 days, beginning on the date that the contiguous jurisdiction receives the notice, to comment on that initial application.

"(2) NOTICE REQUIREMENT FOR ANY APPLICATION UPDATE, MODIFICATION, OR WITHDRAWAL.—

"(A) IN GENERAL.—If at any time an application is updated, modified, or withdrawn, not later than 5 days after the date on which the Secretary receives notice of that update, modification, or withdrawal, the Secretary shall make that information available to the public on the website of the Department, subject to any applicable Federal privacy laws.

"(B) INCLUSION.—If an application has been updated or modified in any way, the notice described in subparagraph (A) shall include a

description of the changes made and the updated or modified application, whether complete or incomplete, available on the website of the Department, subject to any applicable Federal privacy laws.

"(3) NOTICE AND COMMENT REQUIREMENTS FOR COMPLETED APPLICATIONS.—

"(A) NOTICE.—

"(i) IN GENERAL.—Not later than 30 days after the date on which the Secretary receives a completed application, the Secretary shall make that application available to the public on the website of the Department, subject to any applicable Federal privacy laws.

"(ii) ADDITIONAL NOTICE REQUIREMENTS.—Not later than 30 days after the date on which the Secretary receives a completed application, the Secretary shall provide by certified mail notice of the application to contiguous jurisdictions.

"(iii) PUBLICATION IN FEDERAL REGISTER.—Not later than 5 days after the date on which the Secretary receives a completed application, the Secretary shall

publish in the Federal Register notice of the completed application.

"(B) COMMENT.—Contiguous jurisdictions shall have not fewer than 30 days, beginning on the date on which the contiguous jurisdiction receives notice under subparagraph (A)(ii), to comment on that completed application.

"(4) NOTICE OF DECISION.—

"(A) IN GENERAL.—Not later than 5 days after a final decision to approve or deny an application is issued, the Secretary shall issue a notice of decision and make the notice of decision available to the public on the website of the Department.

"(B) PUBLICATION IN FEDERAL REGISTER.—Not later than 5 days after a final decision to approve or deny an application is issued, the Secretary shall publish in the Federal Register the notice of decision described in subparagraph (A).

"(d) ENCOURAGING LOCAL COOPERATION.—

"(1) IN GENERAL.—The Secretary shall encourage, but may not require, applicants to enter into cooperative agreements with contiguous jurisdictions.

"(2) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—The Secretary shall give weight and preference to an application with a cooperative agreement described in paragraph (1).

"(B) TERMS OF AGREEMENT.—A cooperative agreement described in paragraph (1) may include terms relating to mitigation, changes in land use, dispute resolution, fees, and other terms determined by the parties to be appropriate.

"(C) SUBMISSION OF COOPERATIVE AGREEMENT.—

"(i) IN GENERAL.—If an applicant submits to the Secretary a cooperative agreement or multiple cooperative agreements executed between the applicant and contiguous jurisdictions, the Secretary shall issue a final decision to approve or deny a complete application not later than—

"(I) 60 days after the date of completion of the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) described in clause (ii); or

"(II) if that review process is not applicable, 30 days after the date on which a complete application is received by the Secretary.

"(ii) TIMELINE.—Completion of the review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) described in clause (i) may refer to—

"(I) the issuance of a categorical exclusion determination in accordance with section 6.204 of title 40, Code of Federal Regulations (or successor regulations);

"(II) an environmental assessment finding of no significant impact in accordance with section 6.206 of title 40, Code of Federal Regulations (or successor regulations); or

"(III) the issuance of a record of decision in accordance with section 6.208 of title 40, Code of Federal Regulations (or successor regulations).

"(iii) EFFECT OF FAILURE TO ISSUE TIMELY FINAL DECISION.—If the Secretary

fails to issue a final decision by the date described in clause (i), the application shall be—

"(I) deemed approved on an automatic basis; and

"(II) treated as a final decision.

"(D) COOPERATIVE AGREEMENT NOT SUBMITTED.—

"(i) IN GENERAL.—If an applicant does not submit to the Secretary a cooperative agreement executed between the applicant and contiguous jurisdictions, the Secretary shall issue a written determination of mitigation by the date that is not later than 30 days after a complete application is received by the Secretary, which shall—

"(I) describe whether any economic impacts on contiguous jurisdictions have been mitigated to the extent practicable; and

"(II) explain the basis of that determination.

"(ii) DETERMINATION OF MITIGATION.—The Secretary shall consider a de-

termination of mitigation in making a final decision to approve or deny an application, but that determination shall not halt or unduly delay the regular processing of an application.

"(iii) CONSIDERATIONS.—In making a determination of mitigation described in clause (i), the Secretary shall take into consideration—

"(I) the anticipated economic impact of approving an application on contiguous jurisdictions; and

"(II) whether the absence of a cooperative agreement is attributable to the failure of any contiguous jurisdiction to work in good faith to reach an agreement with the applicant.

"(iv) NOTICE.—The Secretary shall provide by certified mail a copy of the determination of mitigation described in clause (i) to the applicant and contiguous jurisdictions not less than 5 days after a determination of mitigation is issued.

"(v) GOOD FAITH PROTECTION.—Failure to submit a cooperative agreement

shall not prejudice an application if the Secretary determines that the failure to submit is attributable to the failure of any contiguous jurisdiction to work in good faith to reach an agreement.

"(3) RECIPROCAL NOTICE AND COMMENT.—The Secretary shall also encourage contiguous jurisdictions to engage in local cooperation through reciprocal notice and comment procedures, particularly with regard to changes in land use.

"(e) IMPLEMENTATION.—

"(1) CONSULTATION.—Not later than 60 days after the date of enactment of this section, the Secretary shall initiate consultation with Indian tribes regarding the implementation of this section.

"(2) SUMMARY.—Not later than 180 days after the date on which the consultation described in paragraph (1) is initiated, the Secretary shall issue a summary of the consultation and the summary shall be published in the Federal Register.

"(3) RULEMAKING.—Not later than 60 days after the date on which the summary described in paragraph (2) is published in the Federal Register, the Secretary shall, through a rulemaking under section 553 of title 5, United States Code, modify exist-

ing regulations, guidance, rules, and policy statements, as necessary to carry out this section.

"(f) JUDICIAL REVIEW.—

"(1) IN GENERAL.—An applicant or contiguous jurisdiction may seek review of a final decision.

"(2) ADMINISTRATIVE REVIEW.—An applicant or contiguous jurisdiction may seek review in a United States district court only after exhausting all available administrative remedies.".

SEC. 4. EFFECT.

(a) OTHER LAND DETERMINATIONS.—Nothing in this Act (or an amendment made by this Act) impacts any other Federal Indian land determination.

(b) EFFECT ON OTHER LAWS.—Nothing in this Act (or the amendments made by this Act) affects—

(1) the application or effect of any Federal law other than the Act of June 18, 1934 (25 U.S.C. 461 et seq.); or

(2) any limitation on the authority of the Secretary of the Interior under any Federal law or regulation other than the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

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Section 5 of the Indian Reorganization Act, 25 U.S.C. § 465

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: Provided, that no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona, nor in New Mexico, in the event that legislation to define the exterior boundaries of the Navajo Indian Reservation in New Mexico, and for other purposes, or similar legislation, becomes law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

The Secretary may acquire land in trust pursuant to this section where the applicant has identified a specific use of the land and:

(a) the Indian tribe or individual Indian applicant has executed enforceable agreements with each jurisdictional local government addressing the impacts of the proposed trust acquisition; or

(b) in the absence of the agreements identified in subsection (a):

(1) the Indian tribe or individual Indian demonstrates, and the Secretary determines, that:

(A) the land will be used for non-economic purposes, including for religious, cultural, tribal housing, or governmental facilities, and the applicant lacks sufficient trust land for that purpose; or

(B) the land will be used for economic or gaming purposes and the applicant has not achieved economic self-sufficiency and lacks sufficient trust land for that purpose;

and

(2) the Secretary determines, after consulting with appropriate state and local officials, that the acquisition would not be detrimental to the surrounding community and that all significant jurisdictional conflicts and impacts, including increased costs of services, lost revenues, and environmental impacts, have been mitigated to the extent practicable.

(c) notice and a copy of any application, partial or complete, to have land acquired in trust shall be provided by the Secretary to the State and affected local government units within twenty (20) days of receipt of the application, or of any supplement to it. The Secretary shall provide affected local governmental units at least ninety (90) days to submit comments from receipt of notice and a copy of the complete application to have land acquired in trust.

(d) a material change in use of existing tribal trust land that significantly increases impacts, including gaming or gaming-related uses, shall require approval of the Secretary under this section, and satisfy the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., and, if applicable, the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.;

(1) the Secretary shall notify the State and affected local government units within twenty (20) days of any change in use in trust land initiated by an applicant under this subsection.

(2) as soon as practicable following any change in use in trust land initiated prior to review and approval under this section, the Secretary shall take steps to stop the new use, including suit in federal court, upon application by an affected local government;

(3) any person may file an action under 5 U.S.C. § 701 et seq. to compel the Secretary to enjoin any change in use in trust land initiated prior to review and approval under this section.

(e) notwithstanding any other provisions of law, the Secretary is authorized to include restrictions on use in the deed transferred to the United States to hold land in trust for the benefit of the Indian tribe or individual Indian and shall consider restricting use in cases involving significant jurisdictional and land use conflicts upon application of governments having jurisdiction over the land;

(f) any agreement executed pursuant to subsection (a) of this section shall be deemed approved by the Secretary and enforceable according to the terms of the agreement upon acquisition in trust of land by the Secretary;

(g) the Secretary shall promulgate regulations implementing these amendments within 365 days of enactment.

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August 19, 2015

To: CSAC Board of Directors

From: Kiana Buss, CSAC Legislative Representative
Chris Lee, CSAC Legislative Analyst

Re: Transportation and Infrastructure Special Session Update

Background. As you recall, the Governor called an extraordinary session on transportation and infrastructure development on June 16. Since that time, both houses of the Legislature have formed special session transportation and infrastructure development committees and held informational hearings on transportation funding needs, and introduced several new legislative proposals. A complete list of special session legislative proposals is attached (attachment one).

Today, the Senate Transportation and Infrastructure Development Committee for the First Extraordinary Session held the first substantive hearing on some of the bills introduced in that house. At the same time, the Governor, the Speaker of the Assembly, and the Assembly Special Session Transportation and Infrastructure Development Committee Chair, Assembly Member Jim Frazier, held a press conference in the Bay Area joined by representatives of local government, business, and labor, all calling for solutions to California's unfunded state and local transportation needs.

Policy Considerations. The most significant funding proposal yet to be introduced is SBX1 1 (Beall), which was passed by a party-line vote of the Senate Transportation and Infrastructure Development Committee today. SBX1 1 meets CSAC's key priorities for a transportation funding package and includes the following provisions:

1) A 12-cent gas tax increase and future adjustments for inflation;
2) A 22-cent diesel tax increase and future adjustments for inflation, with 12 cents allocated to trade corridor improvement projects;
3) Eliminate the complex rate-setting process for the price-based excise tax on gasoline and diesel (which replaced the former sales tax charged on these fuels) and instead set the rate at 17.3 cents and index the rate to inflation beginning in 2018;
4) Once a local jurisdiction has reached a pavement condition index of 85, it would be able to use funding raised by the bill for transportation purposes beyond what is identified in the bill;
5) A $100 registration fee on zero-emission vehicles and a $35 registration fee on other vehicles;
6) An additional $35 "Road Access Charge" applied to all vehicles.
7) Finally, unlike Senator Beall's regular session proposal, SB 16, the bill does not include a five-year sunset, thus constituting a permanent funding package.

Other bills supported by the Senate Transportation and Infrastructure Development Committee in today's hearing were:

1) SBX1 13 (Vidak), which would create the Office of the Transportation Inspector General within the California State Transportation Agency to ensure that Caltrans, the High Speed Rail Authority and other state agencies expending state transportation funds are operating efficiently, effectively and in compliance with applicable state and federal laws;

2) SBX1 12 (Runner), which, as amended, would make the California Transportation Commission an independent agency and give it additional powers to review and approve projects undertaken through Caltrans' State Highway Operations and Protection Program; and
3) The Committee also reacted favorably to SCAX1 1 (Huff), which would devote fuel revenues and certain vehicle-related fees to transportation purposes and prevent the state from borrowing against these funds for other purposes. CSAC took a "Support in Concept" position on this amendment and will work with the author to ensure that it doesn't unnecessarily limit potential future revenue options for other vital county programs.

CSAC also supported the introduced version of SBX1 11 (Berryhill), which would have extended to all local and state agencies an existing CEQA exemption for jurisdictions with fewer than 100,000 residents for road repair, rehabilitation and safety projects that are unlikely to impact natural or cultural resources and which are built within the existing right-of-way. CSAC worked on earlier legislation that created the existing exemption. The author pulled the bill from the hearing, and we expect to see an amended version of SBX1 11 in the near future, which we will analyze to determine whether CSAC can support it.

On the Assembly side, spot bills have been introduced by Transportation Chairman Jim Frazier, as well as bills by Assembly Members Alejo and Perea related to ending the truck weight fee transfer and public-private partnerships, respectively. CSAC has been meeting with the Speaker's office and understands that the Assembly will likely consider a broader package than the approximately $52-per-year road charge the Speaker proposed last winter. The Assembly Republican Caucus released a funding proposal on June 29, which relies entirely on redirecting existing revenue to transportation projects. As mentioned above, the Speaker's office is holding a series of transportation "road shows," including media events and listening sessions with state and local government leaders. CSAC has worked diligently to ensure that county priorities are featured in each of the planned events.

CSAC is also working to find points of consensus to bring both parties in both houses together in support of a comprehensive new transportation funding package. We have developed a list of priorities for any new transportation funding package based on existing and recently reaffirmed CSAC policy and an ask of $3 billion/year in additional funding for local streets and roads (priorities – attachment two; $3 billion funding scenario outcomes – attachment three; funding estimates by county – attachment four). This amount of funding would bring the average local road from a pavement condition of 66 ("at risk") to a score of 73 ("good"), whereas the amount of funding initially proposed by SB 16 would have simply maintained current average pavement conditions. The $3 billion/year ask also reduces the funding shortfall by $35 billion over ten years. This ask, as well as a handful of key principles for a funding package has been highlighted in CSAC's testimony before both special session transportation committees and in a letter to the Governor.

Action Requested. CSAC continues to work with a broad coalition of stakeholders including other local and regional governments, business, labor and transportation advocates to achieve new funding in 2015. This coalition is working with Bicker/Castillo/Fairbanks, a well-known and highly effective public affairs firm, on a grassroots, media relations and public affairs campaign. While no action is required of the Board of Directors at this time, we continue to ask individual counties to engage your delegation over the remaining weeks of the legislative session to impart the need for a comprehensive funding fix that includes county roads.

Staff Contact. Please contact Kiana Buss (kbuss@counties.org or 916/650.8185) or Chris Lee (clee@counties.org or 916/650.8180) for additional information.

LIST OF ATTACHMENTS

Transportation Special Session Bills
8/19/2015

ABX1 1 **(Alejo D) Transportation funding.**
Introduced: 6/23/2015
Status: 6/24/2015-From printer.
Location: 6/23/2015-A. PRINT
Summary: Current law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified. This bill, with respect to any loans made to the General Fund from specified transportation funds and accounts with a repayment date of January 1, 2019, or later, would require the loans to be repaid by December 31, 2018. This bill contains other related provisions and other current laws.

CSAC Position
Watch

ABX1 2 **(Perea D) Transportation projects: comprehensive development lease agreements.**
Introduced: 6/25/2015
Status: 6/26/2015-From printer.
Location: 6/25/2015-A. PRINT
Summary: Current law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. Current law provides that a lease agreement may not be entered into under these provisions on or after January 1, 2017. This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions.

CSAC Position
Watch

ABX1 3 **(Frazier D) Transportation funding.**
Introduced: 7/9/2015
Status: 7/10/2015-From printer.
Location: 7/9/2015-A. PRINT
Summary: Current law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to maintain and repair the state's highways, local roads, bridges, and other critical infrastructure.

CSAC Position
Watch

ABX1 4 **(Frazier D) Transportation funding.**
Introduced: 7/9/2015
Status: 7/10/2015-From printer.
Location: 7/9/2015-A. PRINT
Summary: Current law establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to improve the state's key trade corridors and support efforts by local governments to repair and improve local transportation infrastructure.

CSAC Position
Watch

ABX1 5 **(Hernández, Roger D) Income taxes: credits: low-income housing: farmworker housing assistance.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-A. PRINT
Summary: Would, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, modify the definition of applicable percentage relating to qualified low-income

buildings that are farmworker housing projects, as provided. The bill would authorize the California Tax Credit Allocation Committee to allocate that credit even if the taxpayer receives specified federal and state credits or only state credits. The bill would increase the amount the committee may allocate to farmworker housing projects from $500,000 to $25,000,000 per year.

CSAC Position
Watch

ABX1 6 **(Hernández, Roger D) Affordable Housing and Sustainable Communities Program.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-A. PRINT
Summary: Current law continuously appropriates 20% of the annual proceeds of the Greenhouse Gas Reduction Fund to the Affordable Housing and Sustainable Communities Program, administered by the Strategic Growth Council, to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development and that support other related and coordinated public policy objectives. This bill would require 20% of moneys available for allocation under the program to be allocated to eligible projects in rural areas, as defined.

CSAC Position
Watch

ABX1 7 **(Nazarian D) Public transit: funding.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-A. PRINT
Summary: Current law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation. This bill contains other current laws.

CSAC Position
Watch

ABX1 8 **(Chiu D) Diesel sales and use tax.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-A. PRINT
Summary: Would, effective July 1, 2016, increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. This bill contains other related provisions.

CSAC Position
Watch

SBX1 1 **(Beall D) Transportation funding.**
Introduced: 6/22/2015
Last Amend: 7/14/2015
Status: 8/6/2015-Set for hearing August 19.
Location: 7/14/2015-S. T. & I.D.
Summary: Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria to ensure efficient use of the funds available for the program. This bill contains other related provisions and other existing laws.

CSAC Position
Support

SBX1 2 **(Huff R) Greenhouse Gas Reduction Fund.**
Introduced: 6/30/2015
Status: 7/1/2015-From printer.
Location: 6/30/2015-S. T. & I.D.
Summary: Would provide that those annual proceeds shall be appropriated by the Legislature for transportation infrastructure, including public streets and highways, but excluding high-speed rail. This

bill contains other existing laws.

CSAC Position
Watch

SBX1 3 **(Vidak R) Transportation bonds: highway, street, and road projects.**
Introduced: 7/1/2015
Last Amend: 8/17/2015
Status: 8/19/2015-Action From T. & I.D.: Failed passage.
Location: 8/19/2015-S. T. & I.D.
Summary: Would provide that no further bonds shall be sold for high-speed rail purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, except as specifically provided with respect to an existing appropriation for high-speed rail purposes for early improvement projects in the Phase 1 blended system. The bill, subject to the above exception, would require redirection of the unspent proceeds from outstanding bonds issued and sold for other high-speed rail purposes prior to the effective date of these provisions, upon appropriation, for use in retiring the debt incurred from the issuance and sale of those outstanding bonds.

CSAC Position
Watch

SBX1 4 **(Beall D) Transportation funding.**
Introduced: 7/7/2015
Status: 7/8/2015-From printer. Read second time. Ordered to third reading.
Location: 7/8/2015-S. THIRD READING
Summary: Current law requires the Department of Transportation to improve and maintain the state's highways, and establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to maintain and repair the state's highways, local roads, bridges, and other critical transportation infrastructure.

CSAC Position
Pending

SBX1 5 **(Beall D) Transportation funding.**
Introduced: 7/7/2015
Status: 7/8/2015-From printer. Read second time. Ordered to third reading.
Location: 7/8/2015-S. THIRD READING
Summary: Current law establishes various programs to fund the development, construction, and repair of local roads, bridges, and other critical transportation infrastructure in the state. This bill would declare the intent of the Legislature to enact legislation to establish permanent, sustainable sources of transportation funding to improve the state's key trade corridors and support efforts by local governments to repair and improve local transportation infrastructure.

CSAC Position
Watch

SBX1 6 **(Runner R) Greenhouse Gas Reduction Fund: transportation expenditures.**
Introduced: 7/13/2015
Status: 7/14/2015-From printer.
Location: 7/13/2015-S. T. & I.D.
Summary: Would delete the continuous appropriations from the Greenhouse Gas Reduction Fund for the high-speed rail project, and would prohibit any of the proceeds from the fund from being used for that project. The bill would continuously appropriate the remaining 65% of annual proceeds of the fund to the California Transportation Commission for allocation to high-priority transportation projects, as determined by the commission, with 40% of those moneys to be allocated to state highway projects, 40% to local street and road projects divided equally between cities and counties, and 20% to public transit projects.

CSAC Position
Watch

SBX1 7 **(Allen D) Diesel sales and use tax.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-S. PRINT
Summary: Would, as of July 1, 2016, increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation. This bill contains other related provisions.

CSAC Position
Watch

SBX1 8 **(Hill D) Public transit: funding.**
Introduced: 7/16/2015
Status: 7/17/2015-From printer.
Location: 7/16/2015-S. PRINT
Summary: Current law requires all moneys, except for fines and penalties, collected by the State Air Resources Board from the auction or sale of allowances as part of a market-based compliance mechanism relative to reduction of greenhouse gas emissions to be deposited in the Greenhouse Gas Reduction Fund. This bill would instead continuously appropriate 20% of those annual proceeds to the Transit and Intercity Rail Capital Program, and 10% of those annual proceeds to the Low Carbon Transit Operations Program, thereby making an appropriation. This bill contains other current laws.

CSAC Position
Watch

SBX1 9 **(Moorlach R) Department of Transportation.**
Introduced: 7/16/2015
Status: 8/6/2015-Set for hearing August 19.
Location: 7/16/2015-S. T. & I.D.
Summary: Current law creates the Department of Transportation with various powers and duties relative to the state highway system and other transportation programs. This bill would prohibit the department from using any nonrecurring funds, including, but not limited to, loan repayments, bond funds, or grant funds, to pay the salaries or benefits of any permanent civil service position within the department. This bill contains other related provisions and other current laws.

CSAC Position
Watch

SBX1 10 **(Bates R) Regional transportation capital improvement funds.**
Introduced: 7/16/2015
Status: 8/17/2015-August 19 hearing postponed by committee.
Location: 7/16/2015-S. T. & I.D.
Summary: Current law requires funds available for regional projects to be programmed by the California Transportation Commission pursuant to the county shares formula, under which a certain amount of funding is available for programming in each county, based on population and miles of state highway. Current law specifies the various types of projects that may be funded with the regional share of funds to include state highways, local roads, transit, and others. This bill would revise the process for programming and allocating the 75% share of state and federal funds available for regional transportation improvement projects.

CSAC Position
Watch

SBX1 11 **(Berryhill R) California Environmental Quality Act: exemption: roadway improvement.**
Introduced: 7/16/2015
Status: 8/17/2015-August 19 set for first hearing canceled at the request of author.
Location: 7/16/2015-S. T. & I.D.
Summary: CEQA, until January 1, 2016, exempts a project or an activity to repair, maintain, or make minor alterations to an existing roadway, as defined, other than a state roadway, if the project or activity is carried out by a city or county with a population of less than 100,000 persons to improve public safety and meets other specified requirements. This bill would extend the above-referenced exemption until January 1, 2025, and delete the limitation of the exemption to projects or activities in cities and counties with a population of less than 100,000 persons.

CSAC Position
Support

SBX1 12 **(Runner R) California Transportation Commission.**
Introduced: 7/16/2015
Status: 8/6/2015-Set for hearing August 19.
Location: 7/16/2015-S. T. & I.D.
Summary: Would exclude the California Transportation Commission from the Transportation Agency, establish it as an entity in state government, and require it to act in an independent oversight role. The bill would also make conforming changes. This bill contains other related provisions and other existing laws.

CSAC Position
Watch

SBX1 13 **(Vidak R) Office of the Transportation Inspector General.**
Introduced: 7/16/2015
Status: 8/19/2015-Action From T. & I.D.: Do pass as amended.To APPR..
Location: 8/19/2015-S. APPR.
Summary: Would create the Office of the Transportation Inspector General in state government as an independent office that would not be a subdivision of any other government entity, to ensure that all state agencies expending state transportation funds are operating efficiently, effectively, and in compliance with federal and state laws. The bill would provide for the Governor to appoint the Transportation Inspector General for a 6-year term, subject to confirmation by the Senate, and would provide that the Transportation Inspector General may not be removed from office during the term except for good cause.

CSAC Position
Watch

SBX1 14 **(Cannella R) Transportation projects: comprehensive development lease agreements.**
Introduced: 7/16/2015
Status: 8/17/2015-August 19 set for first hearing canceled at the request of author.
Location: 7/16/2015-S. T. & I.D.
Summary: Current law authorizes the Department of Transportation and regional transportation agencies, as defined, to enter into comprehensive development lease agreements with public and private entities, or consortia of those entities, for certain transportation projects that may charge certain users of those projects tolls and user fees, subject to various terms and requirements. This bill would extend this authorization indefinitely and would include within the definition of "regional transportation agency" the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions.

CSAC Position
Watch

SCAX1 1 **(Huff R) Motor vehicle fees and taxes: restriction on expenditures.**
Introduced: 6/19/2015
Status: 8/6/2015-Set for hearing August 19.
Location: 7/8/2015-S. T. & I.D.
Summary: Would prohibit the Legislature from borrowing revenues from fees and taxes imposed by the state on vehicles or their use or operation, and from using those revenues other than as specifically permitted by Article XIX. The measure would also prohibit those revenues from being pledged or used for the payment of principal and interest on bonds or other indebtedness. This bill contains other related provisions and other existing laws.

CSAC Position
Support in
Concept

Total Measures: 23
Total Tracking Forms: 38

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CSAC Priorities for a Comprehensive Transportation Funding Package

Requirements

1. **Make a robust investment in transportation infrastructure.** Any solution must provide an investment large enough to demonstrate tangible benefits to taxpayers and the traveling public. Recent focus group efforts and polling conducted by the California Alliance for Jobs and Transportation California suggests that voters support new taxes of up to $5 billion a year, as long as there are accountability provisions and assurances that funds will be dedicated to transportation purposes.

2. **Focus on maintenance of existing transportation infrastructure.** Counties, and voters polled on transportation issues, support provisions requiring new revenues to be invested into the existing transportation system, including local streets and roads and state highways.

3. **Equitable revenue sharing between systems.** Cities, counties and the state are all facing tremendous funding shortfalls for road and highway maintenance. County Supervisors feel very strongly that revenues for road maintenance must be shared equally, in order to support a comprehensive road and highway network.

4. **Direct subventions.** Counties have historically received gas and sales tax revenues via direct subventions for the investment in local roads. Counties base maintenance programs on information from required pavement management systems to ensure cost effective investments. Plans are typically adopted in county budgets and counties report detailed information on how the monies are spent on an annual basis to the State Controller. In short, local investments of these formula funds are transparent, accountable and effective.

5. **Repay all existing transportation loans and return OHV related tax swap revenues.** We must repay all existing transportation fund loans and end diversions of off-highway vehicle funding related to the transportation tax swap before increasing taxes or fees for transportation as a precondition for raising additional revenues.

6. **Constitutional guarantees.** Time and time again (Proposition 42, 2002; Proposition 1A, 2006), voters have overwhelmingly supported dedicating and constitutionally-protecting transportation dollars for transportation purposes. The results of recent focus group and polling efforts confirm that voters fear that increased revenues will be diverted and therefore want to include protections against using new transportation revenue for other purposes.

7. **Fix the annual price-based excise tax adjustment.** While the former sales tax revenues naturally adjusted to real-time changes in the price of gasoline, the new excise rate is only adjusted annually. When there are significant fluctuations in gas prices during a single year, the excise rate must be raised or lowered in one large adjustment, which can create budgeting and planning problems for local agencies and Caltrans. This problem has real costs when rates are adjusted too far downward

based on current prices, as inflation and increases in construction costs make funds available today more valuable than a true-up in future years. A fix to this process could be to incorporate historical price data into the rate setting calculation or simply eliminating the BOE adjustment and indexing the rate to inflation.

Flexible Options

1. **Provide Prop 1B like transparency and accountability.** Likely voter support increases when accountability and transparency measures are added to any transportation funding package. CSAC could support additional accountability and transparency measures in the form of Prop 1B like reporting, which included submitting project lists to the Department of Finance and additional year end reporting.

2. **Use truck weight fees for transportation projects**. As a part of the 2010 transportation tax swap, transportation stakeholders, including CSAC, agreed to provide the state with approximately $1 billion in tax swap revenue, now in the form of truck weight fees, for general obligation debt service related to transportation bonds. Some decision-makers and stakeholders would like to see truck weight fees used for new transportation projects rather than bond debt service. CSAC could support such a shift as long as the package provides a backfill to ensure there is not a state general fund impact.

3. **Increase taxes/fees across a broad base of options.** Potential voters support spreading any potential tax or fee increases across a range of options rather than generating revenue from just one source. CSAC supports a broad based approach or other approaches that can achieve a 2/3rds vote of the legislature and the Governor's approval.

4. **Incentivize and reward self-help counties.** The existing 20 self-help counties generate approximately $3.9 billion a year for investment into the state highway system, local streets and roads, transit and other local priorities. Another 15 counties are actively considering measures that could generate up to another $300 million a year annually. CSAC supports providing an incentive for additional communities to tax themselves at the local level for a variety of transportation purposes and rewarding those who have already made this decision at the ballot box.

5. **Cap and Trade.** A significant portion of the revenues generated by California's cap and trade program are attributable to the cap on fuels. Accordingly, revenues generates from fuels should be reinvested back into transportation programs and projects that reduce greenhouse gas emissions.

New Local Streets and Roads Funding
Estimated Annual Allocations of $3 Billion/Year to Cities and Counties (50% Each)

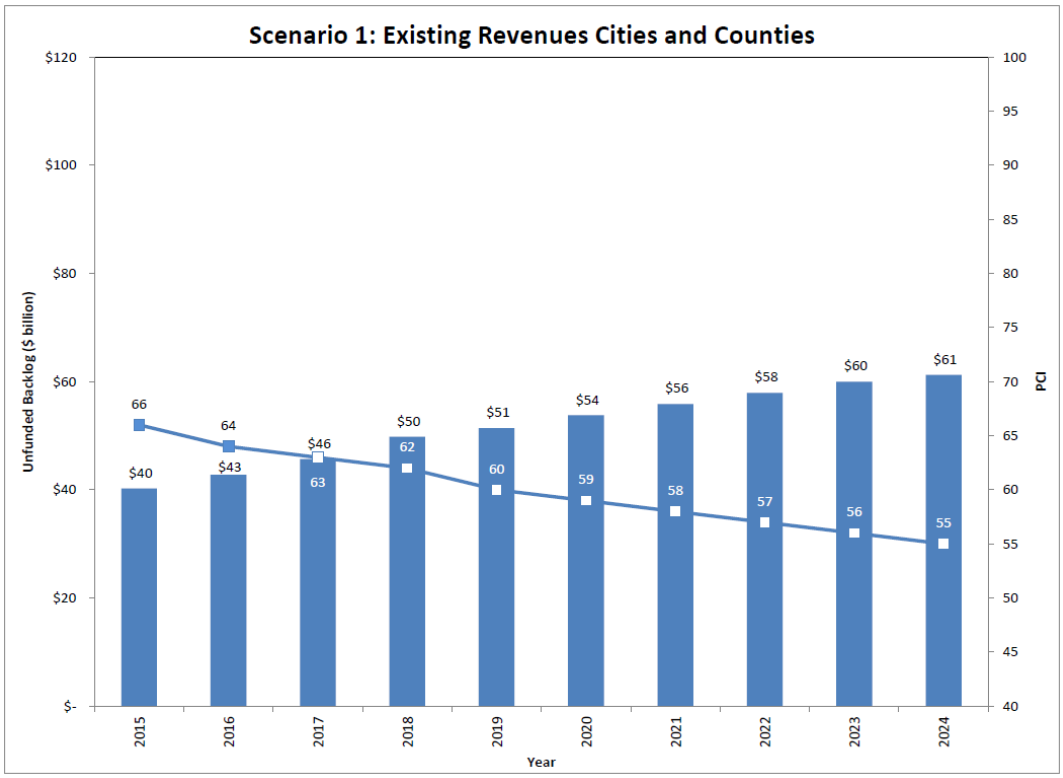
County	NO. OF REGISTERED VEHICLES (11/30/14)	MAINTAINED MILEAGE (11/30/14)	Annual Funding	10-Year Funding
Alameda	1,260,613	470.76	$ 47,985,035.77	$ 479,850,357.67
Alpine	3,544	134.96	$ 901,012.20	$ 9,010,121.96
Amador	53,484	410.63	$ 4,275,415.57	$ 42,754,155.74
Butte	220,438	1,300.00	$ 15,371,644.47	$ 153,716,444.69
Calaveras	71,194	689.64	$ 6,511,135.82	$ 65,111,358.15
Colusa	28,180	713.24	$ 5,101,194.57	$ 51,011,945.69
Contra Costa	928,778	659.84	$ 37,148,149.98	$ 371,481,499.78
Del Norte	25,780	300.88	$ 2,651,003.10	$ 26,510,031.04
El Dorado	211,539	1,079.31	$ 13,786,787.02	$ 137,867,870.24
Fresno	731,518	3,515.79	$ 46,434,346.43	$ 464,343,464.31
Glenn	35,384	861.85	$ 6,211,941.22	$ 62,119,412.24
Humboldt	145,533	1,206.81	$ 12,146,518.09	$ 121,465,180.94
Imperial	168,003	2,567.86	$ 20,756,346.18	$ 207,563,461.84
Inyo	27,413	1,133.49	$ 7,482,846.44	$ 74,828,464.36
Kern	700,445	3,331.91	$ 44,263,934.16	$ 442,639,341.64
Kings	105,858	944.09	$ 9,215,114.27	$ 92,151,142.69
Lake	83,796	615.58	$ 6,539,279.59	$ 65,392,795.88
Lassen	35,943	881.04	$ 6,342,035.01	$ 63,420,350.09
Los Angeles	7,414,236	3,186.50	$ 284,616,586.05	$ 2,846,165,860.55
Madera	129,919	1,511.39	$ 13,331,694.29	$ 133,316,942.90
Marin	233,788	419.36	$ 10,802,704.52	$ 108,027,045.23
Mariposa	27,549	560.50	$ 4,202,899.97	$ 42,028,999.66
Mendocino	109,617	1,014.19	$ 9,752,021.28	$ 97,520,212.78
Merced	207,137	1,756.37	$ 17,510,093.29	$ 175,100,932.91
Modoc	13,409	985.27	$ 6,130,052.34	$ 61,300,523.41
Mono	17,038	684.42	$ 4,535,710.26	$ 45,357,102.65
Monterey	355,157	1,242.60	$ 19,882,228.19	$ 198,822,281.86
Napa	137,660	446.40	$ 7,504,416.51	$ 75,044,165.12
Nevada	123,917	562.19	$ 7,674,512.83	$ 76,745,128.35
Orange	2,549,270	320.30	$ 93,416,199.65	$ 934,161,996.48
Placer	386,049	1,045.00	$ 19,859,192.95	$ 198,591,929.51
Plumas	32,116	679.49	$ 5,049,109.74	$ 50,491,097.41
Riverside	1,758,296	2,197.83	$ 75,764,734.04	$ 757,647,340.38
Sacramento	1,212,653	2,202.02	$ 56,187,072.93	$ 561,870,729.28
San Benito	57,556	383.63	$ 4,266,912.75	$ 42,669,127.53
San Bernardino	1,651,511	2,553.56	$ 73,967,915.11	$ 739,679,151.12
San Diego	2,687,292	1,938.71	$ 107,652,509.48	$ 1,076,525,094.79
San Francisco*	476,588	930.75	$ 22,456,744.96	$ 224,567,449.65
San Joaquin	585,976	1,651.49	$ 30,518,252.01	$ 305,182,520.14
San Luis Obispo	287,017	1,336.25	$ 17,971,242.44	$ 179,712,424.42
San Mateo	685,420	315.45	$ 26,431,440.10	$ 264,314,401.03
Santa Barbara	372,063	873.29	$ 18,372,382.22	$ 183,723,822.17

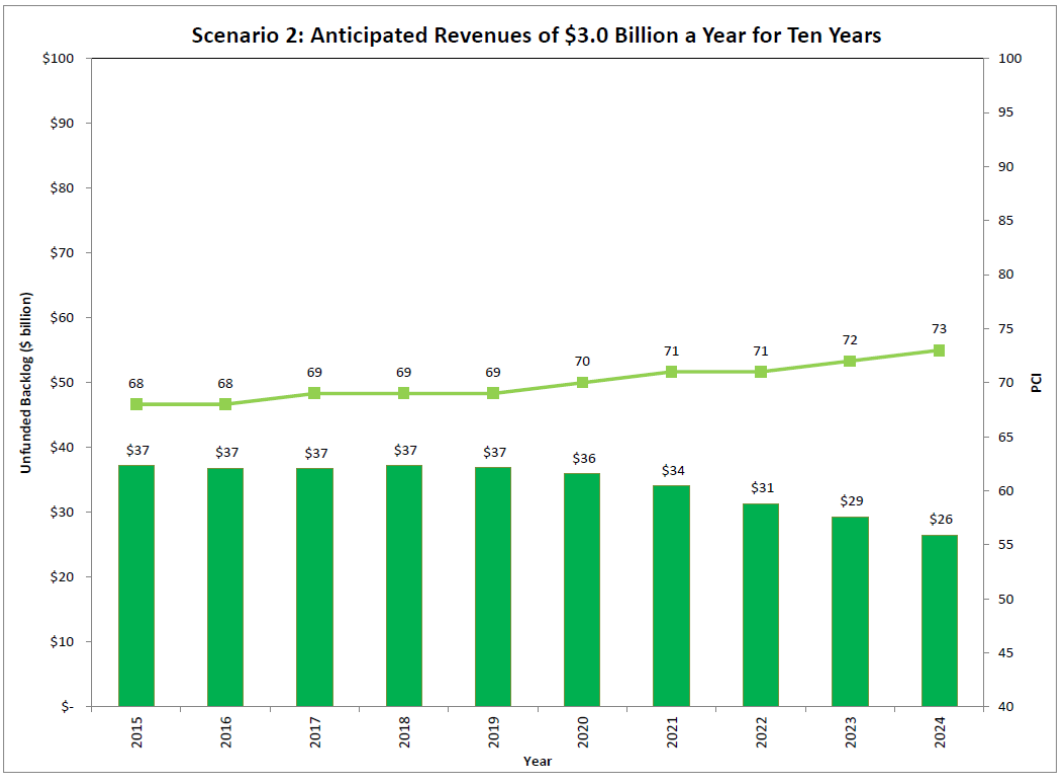
New Local Streets and Roads Funding
Estimated Annual Allocations of $3 Billion/Year to Cities and Counties (50% Each)

County	NO. OF REGISTERED VEHICLES (11/30/14)	MAINTAINED MILEAGE (11/30/14)	Annual Funding	10-Year Funding
Santa Clara	1,534,825	633.68	$ 58,769,815.22	$ 587,698,152.19
Santa Cruz	243,113	599.74	$ 12,171,776.77	$ 121,717,767.74
Shasta	206,592	1,191.19	$ 14,250,455.67	$ 142,504,556.74
Sierra	5,495	391.34	$ 2,440,872.98	$ 24,408,729.84
Siskiyou	63,625	1,360.91	$ 10,087,477.90	$ 100,874,778.98
Solano	374,096	585.25	$ 16,794,142.49	$ 167,941,424.88
Sonoma	489,736	1,382.75	$ 25,520,295.48	$ 255,202,954.79
Stanislaus	447,256	1,512.78	$ 24,739,678.64	$ 247,396,786.38
Sutter	93,565	757.78	$ 7,705,424.12	$ 77,054,241.21
Tehama	71,733	1,089.25	$ 8,821,379.62	$ 88,213,796.18
Trinity	20,221	692.30	$ 4,695,230.77	$ 46,952,307.67
Tulare	355,633	3,037.75	$ 30,190,548.46	$ 301,905,484.63
Tuolumne	73,695	608.08	$ 6,133,415.28	$ 61,334,152.85
Ventura	742,363	541.87	$ 29,775,079.31	$ 297,750,793.08
Yolo	179,580	756.95	$ 10,790,669.14	$ 107,906,691.39
Yuba	65,903	656.90	$ 6,133,370.32	$ 61,333,703.18
COUNTY TOTALS	**31,316,108**	**65,413.16**	**$ 1,500,000,000.00**	**$ 15,000,000,000.00**
SF City Share	N/A	N/A	$ 39,195,000.00	$ 391,950,000.00

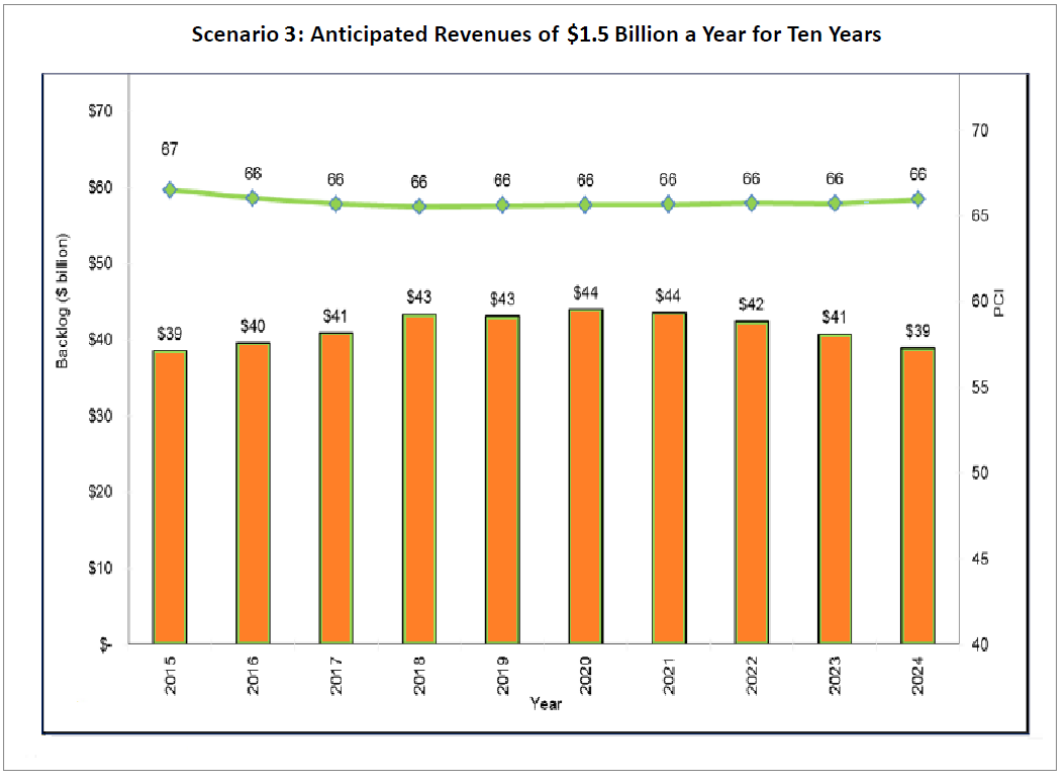
**county share only*

Local Streets and Roads Pavement Conditions Under Different New Funding Levels





Local Streets and Roads Pavement Conditions Under Different New Funding Levels



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August 18, 2015

TO: CSAC Board of Directors

FROM: Matt Cate, Executive Director
DeAnn Baker, Director of Legislative Services
Karen Keene, CSAC Senior Legislative Representative

RE: Stormwater/Water Conservation Initiative Status

Last year, a coalition of statewide organizations came together to develop a Constitutional Amendment and ballot measure to fund stormwater services. Currently, the California Constitution (Proposition 218) requires stormwater agencies to receive 2/3 voter approval to establish or increase "rates" to fund capital and operational needs. Water districts and wastewater districts are able to fund their services with a different public involvement process. The ballot measure would establish a process to raise revenue for stormwater services similar to the process used by water districts and wastewater districts. In the context of this legislative effort, "stormwater" includes four elements: groundwater recharge through infiltration of stormwater; stormwater quality required by state permits, local drainage improvements operated by cities and counties, and regional flood protection facilities often operated by flood control districts.

In February 2015, Assembly Member Richard Gordon introduced AB 1362 as a companion measure to the eventual introduction of a Constitutional Amendment. AB 1362 provided a definition of the term "Stormwater". The definition covered all of the services contemplated in the four elements of stormwater outlined above. AB 1362 is a two-year bill.

In April 2015, the Appellate Court found that the City of San Juan Capistrano violated Proposition 218 when it established "conservation rates" for customers of their water system. The City had a tiered rate structure that charged customers who used more water a higher rate to encourage conservation. The Court found this violated Proposition 218's requirement that a water charge not exceed the actual cost of providing the service. Meanwhile, in an effort to address the ongoing drought, the State issued a statewide mandate to reduce water usage by 25%. Adoption of conservation rates is a key strategy to encourage reduced water consumption, and there is a desire to eliminate any hurdles for water districts to adopt them.

There has also been an interest by various agencies and entities to allow utilities to charge a "lifeline rate", which imposes a small charge to most water users in order to offer reduced rates to low income customers.

Given the impetus of the drought and the *San Juan Capistrano* case, the coalition has expanded its efforts to provide funding flexibility for stormwater services, and to include conservation rates and lifeline rates, all three of which would require a constitutional amendment. This new legislative scope requires a different overarching approach which is being led by a subset of the larger coalition which includes the executive directors and legislative staff from CSAC, the League of California Cities (the League), the Association of California Water Agencies (ACWA) and the California Water Foundation (CWF). This

smaller coalition contracted with Fairbank, Maslin, Maullin, Metz & Associates, a marketing research firm, to conduct a survey of California voters to assess voter receptivity to amendments to Proposition 218 that would: eliminate the current vote requirement to implement local stormwater fee increases, permit local government to implement tiered water pricing, and allow fee increases to fund “lifelines” pricing for qualifying low-income households.

While the survey results demonstrated that voters are concerned about the problem of stormwater and the potential for contaminating critical water supplies, the results showed considerable opposition to eliminating Propositions 218’s 2/3 vote requirement to raise fees for stormwater capture and treatment. On a more positive note, the results showed a strong desire to fund projects that treat and capture stormwater to protect water quality and increase water supplies. The survey also found voters support permitting local government to implement tiered water pricing to promote conservation and increase water rates for high-use customers, and allowing fee increases to fund “lifelines” pricing.

Given the results of the survey, CSAC, the League, ACWA and CWF are now considering an alternative method of funding water and sewer services, including stormwater and flood protection, that would not involve a direct challenge of Proposition 218. While it is still being fine-tuned by the organizations’ legal team, the proposal would involve amendments to Article X of California Constitution (water). Under the new proposal, a local agency would be able to assess a fee or charge to provide water or sewer services, with sewer service defined to include stormwater and flood protection. Fees/charges could not exceed the reasonable cost of providing services, though reasonable cost includes managing the resource (i.e., conservation rates) and the ability to provide discounted rates for low income customers. The fees/charges would also be subject to audit requirements and a written protest procedure, and can be reduced or repealed by initiative.

In addition, the four organizations have decided to move forward with submitting the proposed Article X amendment to the Attorney General for Title and Summary. This will involve meeting with the Attorney General to ensure favorable wording of the Title and Summary. If we are successful in obtaining a positive Title and Summary, we will do more polling to determine public support. A decision to move forward with a ballot measure via the legislative process will likely not occur until early next year and will be highly dependent upon the results of the polling. Lastly, the four organizations will also continue their dialog with the Administration

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August 17, 2015

To: CSAC Board of Directors

From: DeAnn Baker, Director of Legislative Affairs
Farrah McDaid Ting, Legislative Representative
Michelle Gibbons, Legislative Analyst

Re: Second Extraordinary Session on Health Care

Background. Governor Brown opened a second extraordinary special session on health care financing issues on June 16 as part of the 2015-16 budget agreement with Legislative Leaders. The Governor also declared a first extraordinary special session on Transportation issues. Hence, the Health Care Special Session is known as the second extraordinary session. For the purposes of this memo, CSAC will refer to the second extraordinary session as the "health special session."

The Governor's declaration (attached) explains the goals for the special session: "to consider and act upon legislation necessary to enact permanent and sustainable funding from a new managed care organization tax and/or alternative fund sources…"

The Governor is seeking at least $1.1 billion in funding to stabilize the state's General Fund costs for Medi-Cal, but, in conjunction with Legislative Leaders, has also signaled the need for funding for additional priorities, including:

- Funding the 7 percent restoration of In-Home Supportive Services hours beyond the 2015-16 fiscal year ($266 million)
- Providing funding for Medi-Cal Fee-For-Service provider rate increases (estimated to cost $250 million annually)
- Providing funding for developmental disability community provider rate increases and services ($100 million to provide a 10 percent rate increase)

The top priority for the Governor and the Legislature is to authorize a new Managed Care Organization (MCO) tax to provide at least the first $1.1 billion in funding to the state for Medi-Cal costs. The current MCO tax expires June 30, 2016 and the Brown Administration has proposed a new, flat MCO tax on all health plans providing Medi-Cal services (link attached).

Any funds raised by a new MCO tax above the $1.1 billion could be used for the additional priorities, which total roughly $616 million.

Special Session Process and Legislation. Both houses of the Legislature organized new committees for the health special session:

Senate
Appropriations, chaired by Senator Ricardo Lara
Public Health and Developmental Services, chaired by Senator Ed Hernandez
Rules, chaired by Senate President pro Tempore Kevin de León

Assembly
Finance, chaired by Assembly Member Shirley Weber
Public Health and Developmental Services, chaired by Assembly Member Rob Bonta
Rules, chaired by Assembly Member Rich Gordon

Both the Senate and Assembly's Public Health and Developmental Services Committees met for overview hearings prior to the recess, and the Legislature reconvened on Monday, August 17 and subsequently held four special session hearings that week. The Senate held an informational hearing on the MCO tax and potential options, and then heard the raft of tobacco bills, two of which CSAC supported (SBX2 5 and SBX2 7). The Assembly held informational hearings on community developmental services funding and ideas for funding the Medi-Cal program, including information on the Assembly MCO tax proposal, ABX2 4.

At the time of this writing, six identical bills on tobacco issues have been introduced in each house, as well as measures on the Senate side to enact a "right to die" law and limit the use of fetal tissue in research.

MCO Tax
ABX2 4 (Levine) would institute a $7.88 monthly flat tax for each plan enrollee for 45 managed care organizations which cover 21 million Californians, of which 9 million are Medi-Cal patients. The Author has stated that it will raise at least the $1.1 billion needed to fund existing obligations as well as up to $1.9 billion to provide funding for the additional stated priorities above (the IHSS 7 percent restorations, Medi-Cal provider rate increases, and disability services rate increases).

As of this writing, the Administration has not yet formally introduced their MCO tax proposal in the extraordinary session. However, the measure that has been in print since March would impose the new tax on most MCOs, not just those licensed for Medi-Cal Managed Care. It proposes a tiered tax structure based on enrollment size: For example, according to the Legislative Analyst's Office, a MCO with 1 million taxable member months would pay $3.50 per unit for the first 125,000 member months, $25.25 per unit for the next 150,000 member months, and $13.75 per unit for the remaining 725,000 member months, resulting in a total payment of $14.2 million. A link to the text of the Administration's MCO proposal is included at the end of this document.

Tobacco Legislation

The six-bill package of tobacco legislation is sponsored by Save Lives California, a coalition comprised of SEIU, CMA, CHA, American Cancer Society, American Lung Association, some health plans and the Dentists (CDA). The coalition's goal is to raise the tax on tobacco by $2 by 2016 to raise $1.5 billion annually for unspecified health spending.

SBX2 9 (McGuire)/ ABX2 10 (Bloom) would allow counties to levy taxes on tobacco distributers. Implementation at the county level would be subject to the usual rules for the adoption of local taxes (two-thirds local vote).

SBX2 7 (Hernandez)/ ABX2 8 (Wood) increase the age of sale for tobacco products to 21. The CSAC HHS Policy Committee adopted a support position on Hernandez's SB 151, which was identical to these special session bills. SB 151 died in the Assembly Governmental Organizations Committee last month due to strong opposition from the tobacco industry.

SBX2 5 (Leno)/ ABX2 6 (Cooper) would add e-cigarettes to existing tobacco products definitions. The CSAC HHS Policy Committee also adopted a support position on Leno's SB 140, which was identical to these specials session bills. SB 140 also died in the Assembly Governmental Organizations Committee after committee members added hostile amendments to the bill, forcing author Senator Leno to abandon the bill.

SBX2 10 (Beall) / ABX2 11(Nazarian) would establish an annual Board of Equalization (BOE) tobacco licensing fee program. Funds would be used for existing tobacco control programs.

SBX2 8 (Liu)/ ABX2 9 (Thurmond and Nazarian) would require all schools to be tobacco free.

SBX2 6 (Monning)/ ABX2 7 (Stone) would close loopholes in smoke-free workplace laws, including hotel lobbies, small businesses, break rooms, and tobacco retailers.

County Impacts of Special Session. The MCO tax issue is of importance to counties because the current MCO tax provides critical implementation funding for the Coordinated Care Initiative (CCI). The continuation of the CCI is tied to the county In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) and the eventual plan to transition collective bargaining for IHSS workers from each county to the state, which was negotiated between the Administration and CSAC in 2012. If the CCI is unsuccessful, or MCO funding for the CCI is not continued, the county IHSS MOE could possibly cease as well.

It is worth noting that the Governor's proclamation calling for the special session does not mention continued funding for the CCI.

CSAC will support the two of the introduced tobacco bills, SBX2 5 (Leno)/ ABX2 6 (Cooper) and SBX2 7 (Hernandez)/ ABX2 8 (Wood), both of which the CSAC Health and Human Services Policy Committee voted to support during the regular session.

CSAC presented SBX2 9 (McGuire)/ ABX2 10 (Bloom) to the HHS Policy Committee and the CSAC Executive Committee. Both Committees agreed that pursuing a tobacco tax at the local level would be difficult given the industry and did not recommend that CSAC formally weigh in.

Staff Contacts

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Michelle Gibbons can be reached at (916) 327-7500 Ext. 524 or mgibbons@counties.org

Resources

CSAC has created as Special Session page to gather all materials and resources related to the 2015 special sessions on transportation and health: http://www.counties.org/special-sessions

Legislative Analyst's Office: The MCO Tax: A Flat Versus Tiered Structure (August 18, 2015): http://www.lao.ca.gov/handouts/health/2015/MCO-Tax-081815.pdf

CSAC Explanation of MCO Tax and CCI Issues (January 2015): http://www.counties.org/sites/main/files/file-attachments/mco_and_cci_and_the_ihss_moe_june_2015.pdf

The IHSS MOE: Frequently Asked Questions: http://www.counties.org/sites/main/files/file-attachments/ihss_labor_faq_oct_15_final.pdf

Governor's Proclamation for Extraordinary Session: http://gov.ca.gov/docs/6.16.15_Health_Care_Special_Session.pdf

Draft Administration Language on MCO Tax (March 2015): http://www.dof.ca.gov/budgeting/trailer_bill_language/health_and_human_services/documents/647DHCSManagedCareOrganizationTaxTBL_000.pdf

Assembly MCO Tax Proposal (ABX2 4): http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_0001-0050/abx2_4_bill_20150716_introduced.pdf

HURST+BROOKS+ESPINOSA

August 19, 2015

TO: Matt Cate, CSAC Executive Director

FROM: Kelly Brooks-Lindsey, Partner

Re: Medicaid Section 1115 Waiver Renewal: Medi-Cal 2020 Update

California is in the midst of negotiating a renewal to its existing "Bridge to Reform" Medicaid Section 1115 Waiver. The Department of Health Care Services (DHCS) submitted the waiver renewal, dubbed Medi-Cal 2020, to the Centers for Medicare and Medicaid Services (CMS) on March 27, 2015. The negotiations between DHCS and CMS began in earnest earlier this summer.

DHCS and CMS put together a schedule for regular discussions about specific waiver topics. The following is an outline of the joint plan for discussions over the summer and fall:

Month	Topics
July	▪ Public Safety Net Global payments for the remaining uninsured ▪ Managed care transformation incentive program ▪ Accountability measures, including metrics for measuring achievements during the five-year waiver
August	▪ Financing, including budget neutrality ▪ Federal/state shared savings concept ▪ Public hospital transformation incentives (aka Delivery System Reform Incentive Payment successor)
September	▪ Fee-for-service proposal (dental and maternity care) ▪ Housing ▪ Whole Person Care

FINANCING ISSUES

It is unclear how quickly some of the major financing questions will be settled; many of the financing issues will impact the policy portions of the waiver. It's important to keep in mind that California's existing Medicaid Section 1115 Waiver expires on October 31, 2015. California is seeking $17 billion over the next five years, which is $7 billion more than California received under the existing waiver. DHCS is anticipating further detail and comment from CMS on the financing proposals in mid to late August. The outcome of the financing discussions will affect the remainder of the negotiations.

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***Shared Savings*.** California is proposing to test a new investment strategy with the federal government by initiating a federal-state shared savings model. CMS continues to raise doubts about its authority to approve the federal-state shared savings component. California's shared savings proposal would be precedent-setting and allow other states the opportunity to make similar requests in 1115 waiver submissions. Many stakeholders are pessimistic about this proposal ultimately being included in the final waiver agreed to by the state and federal governments.

If the federal-shared savings proposal is not approved, approximately $5 billion in policy initiatives under the state's waiver submission will need a source of non-federal match. The state did not commit any state General Fund to the current $10 billion waiver, and $2 billion of the current waiver directly benefits the state General Fund. If some of those policy initiatives continue to be included in the waiver, the state will need to identify a source of match.

Budget Neutrality. CMS also indicated to California that they are developing a national policy on budget neutrality that includes the concept of rebasing away from the use of fee-for-service (FFS) assumptions. Part of the budget neutrality calculation requires states to calculate their costs without the waiver and then to update those costs with the waiver. The difference between the "without" waiver and "with" waiver costs is the basis for budget neutrality. States use the budget neutrality calculation to inform how they approach CMS in asking for additional federal funds. California is proposing to continue to calculate budget neutrality by using a comparison of FFS costs with managed care costs, which is how the state calculates budget neutrality in the existing waiver.

While CMS has indicated that moving away from FFS is their policy goal, it is not clear what that may mean for California's waiver proposal. CMS is still developing policy on budget neutrality and it is unknown whether the policy will be drafted for purposes of the budget neutrality calculation discussion slated to occur with California in August. CMS has assured the state that it is not their intention to zero out California's waiver savings. California is not aware of CMS raising the new policy with other states in waiver negotiations.

PENDING MANAGED CARE REGULATIONS & WAIVER IMPACTS

CMS is proposing new managed care regulations that will impact California's Medi-Cal program and may have serious implications for the waiver renewal. Public comments were due to CMS on July 27. The proposed regulations could be finalized anytime between December 2015 and summer of 2016.

California, like other states, has traditionally used the flexibility of supplemental payments to support its core Medicaid programs. The proposed regulation would fundamentally change how payments are made to Medi-Cal providers – destabilizing the delivery system and interrupting plans and providers, particularly public safety net providers.

First, the draft regulations prohibit the state from directing health plan payments. If interpreted broadly (as it is written), the proposal would impact the hospital fee, intergovernmental transfers and other supplemental payments, amounting to over $2 billion in California. Second, CMS is seeking to have actuaries certify to a specific rate – not a rate range, as is the practice today. The regulations would prohibit providers, like counties and fire districts, from paying above the lower bound since there would no longer be a range. This is another mechanism by which public systems have supplemented their rates.

The annual financial impact of the proposed managed care regulation on California's public hospitals alone is estimated to be between $750 million and $1 billion. The managed care regulation would severely limit, if not eliminate, potential benefits from a waiver renewal.

POLICY ISSUES

DHCS has said very little publicly about the policy issues being raised by CMS in the negotiations. Many of the policy proposals are being discussed in September. Below is additional detail about the only policy issues that DHCS has shared significant information publicly.

Public Safety Net Global Payments for the Remaining Uninsured. DHCS and CMS had detailed discussions about the public safety net global payments for the remaining uninsured in July. Recall that the Brown Administration is proposing to transform California's public safety net for the remaining uninsured by unifying the Disproportionate Share Hospital (DSH) and Safety Net Care Pool (SNCP) funding streams into a global payment system. DHCS believes they achieved the following outcomes in the global payments conversation: 1) CMS understands and is interested in the proposal and 2) DHCS has satisfactorily addressed CMS's questions. CMS has indicated they are developing a new federal policy on uncompensated care pools based on what was recently agreed to with the state of Florida. The pending federal policy likely impacts the global payments for the uninsured because the state is proposing to continue the use of SNCP revenue. It is unclear whether and how California's proposal may align with CMS's new national policy.

FEDERAL & STATE NEXT STEPS

CMS remains very engaged, and DHCS indicates CMS is committed to completing the waiver by November 1, 2015. When the CSAC Board of Directors meet on September 3, 60 days will remain until the existing waiver expires.

Once more is known about the CMS financing discussions with California, counties may need to engage on a federal and state communications and outreach strategy. Outreach may include members of the California's federal delegation and members of the California State Legislature – likely with the goal of influencing key officials in CMS and the White House.

Once negotiations conclude on the financing and major policy proposals, CMS will create the Special Terms and Conditions (STCs), the legal document governing the waiver. State implementation cannot begin until the STCs are complete. The state and federal governments are focused on completing negotiations in order to begin implementation in November 2015.

The Legislature remains interested in working with the Brown Administration to enact statutory changes necessary to implement a new waiver. However, timing remains a challenge. Currently, there is not enough detail from the state/federal negotiations to develop a statutory framework. AB 72 by Assembly Member Rob Bonta and SB 36 by Senator Ed Hernandez continue to work their way through the legislative process as spot bills. Substantive amendments to the bills are anticipated in late August or early September once more is known about waiver negotiations. If sufficient information is not available prior to the Legislature's departure on September 11, additional legislation could be contemplated in January 2016 when the houses reconvene for the second year of the 2015-16 session.

Hurst Brooks Espinosa will continue to provide regular policy and political updates to counties on Medi-Cal 2020 Waiver renewal details as they become available. For additional questions, please contact Kelly Brooks-Lindsey at kbl@hbeadvocacy.com or 916.272.0011.

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August 19, 2015

To: CSAC Board of Directors

From: Matt Cate, Executive Director
Graham Knaus, Director of Operations and Member Services

Re: CSAC Operations and Member Services Update

This memorandum highlights a number of key activities and initiatives occurring within CSAC operations and member services.

Fiscal Operations
CSAC had a strong fiscal year in 2014-15. As we approach the completion of fiscal year end, CSAC will close the year with a healthy fund balance. This comes following significant work over the last couple of years and is a direct result of the Leadership of the Board, Treasurer Judy Morris, prior Treasurer Kim Dolbow Vann, and the CSAC Revenue and Capital Advisory Group Committee. (Roster attached). Current fiscal status includes:

- Short-term balance – balanced budget with appropriate margin to ensure association priorities can be met.
- Sustainability – Implementation of a strong Operating Reserve policy that includes a 6- month reserve target that has been met.
- Internal Controls – Completion of a fiscal risk assessment and adoption of accounting procedures to ensure transparency and to best preserve the resources.

Under the direction of Treasurer Morris, CSAC staff continue to work with the external auditor to further strengthen the association's fiscal infrastructure and accountability. This effort is intended to provide the Board with maximum confidence and flexibility in CSAC's fiscal operations.

CSAC staff are also partnering with the CAOAC on developing a fiscal health diagnostic tool to assess County fiscal strengths and weaknesses and highlight areas of consideration to improve long term stability. When completed, the fiscal tool is intended to be available to all counties.

Member Services and Communications
Planning is underway for the December 1-4, 2015 Annual Conference in Monterey County. The theme this year is #CountiesLead to focus on the critical role and leadership California counties provide at the state and federal level. Early registration has begun and there will be a great lineup of workshops, speakers, and meetings on key County issues and priorities.

As part of our efforts, CSAC advocacy and communications staff continue to visit and meet with Supervisors, CAO/CEOs, and county staff in your counties to provide timely issue updates and to hear how we can best meet your needs. This includes board presentations, regional meetings, as well as communications support during a fire or other disaster. It also provides a great opportunity to hear from members about current and potential future priorities and ways to further enhance responsiveness and emerging communication opportunities through traditional and social media platforms.

CSAC Institute
The CSAC Institute has been a great success since its inception eight years ago. The breadth and depth of classes continues to grow, providing opportunities for supervisors, CAO/CEOs, Department heads, and senior county staff to learn from experts. It also provides a forum for networking among peers on priority issues. Under the leadership of the Institute Board and Dean Bill Chiat, the Institute successfully expanded to offer satellite courses in San Diego County last year. That satellite continues and we are excited to announce an additional satellite in Merced County beginning this month. Plans are underway for a Bay Area satellite next year. The Institute is also beginning an Emerging Issues Series this month to provide a forum for discussion of challenges and potential solutions on emerging issues such as protecting children in our community, fostering collaborative mental health and public safety services, and long-term impacts of the drought.

CSAC Challenge Awards
A panel of 15 judges will meet September 2 to select the 2015 CSAC Challenge and Merit Awards. These awards are presented annually to spotlight the most innovative, cost-effective programs developed by California Counties. The judging panel consisted of current and former county supervisors and administrators, affiliate and foundation representatives, and corporate partners.

This year CSAC received 254 entries – the most entered since 2008. Challenge and Merit Awards are presented in four population categories. The judging panel also selected a top program across all categories to receive the "California Counties Innovation Award."

Counties will be notified regarding the 2015 Challenge and Merit Award-winning programs in mid-September. CSAC staff will then begin setting up presentations at Boards of Supervisors meetings to present the Challenge Awards in person.

Staff Contacts: Please contact Matt Cate (mcate@counties.org or (916)327-7500 x506) or Graham Knaus (gknaus@counties.org or (916) 327-7500 x545) for additional information.

Attachment: CSAC Revenue and Capital Advisory Group Committee

CSAC Revenue & Capital Advisory Group

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INSTITUTE FOR LOCAL GOVERNMENT℠
Promoting Good Government at the Local Level

Update on Activities

August 2015

The Institute for Local Government (ILG) is the research and education affiliate of the California State Association of Counties, League of California Cities and the California Special Districts Association. ILG promotes good government at the local level with practical, impartial and easy-to-use resources for California communities. Our resources on ethics and transparency, local government basics, public engagement, sustainable communities and collaboration and partnerships are available at www.ca-ilg.org.

Highlights

- On May 29th, ILG hosted a joint leadership meeting for the Executive Committee officers of the League of California Cities, the California State Association of Counties and the California Special Districts Association. This event allowed each organization to share their priorities and discuss the current and emerging issues impacting cities, counties and special districts.
- In November, ILG will facilitate a course for the CSAC Institute "Intergovernmental Relations: Building Leaders and Resources Across Jurisdictions."
- ILG participated in judging CSAC's Challenge Awards.
- ILG has created new resources on public engagement, recycling facilities, mental health and more (see links below).

ILG Launches Recycling Resource Center

As California residents and businesses recycle more, local governments are looking to build additional recycling infrastructure projects and expand existing programs. Through a contact with CalRecycle, ILG has developed a recycling resource center which includes resources, webinars and case stories to help local governments finance and site recycling projects and programs in their community. Topics include: anaerobic digestion, permitting requirements and CEQA compliance, among others. The resource center can be accessed here: www.ca-ilg.org/recycling-resource-center.

Supervisor Buddy Mendes and other Local Leaders Kick-Off Lunch at the Library Programs

On June 15th the Summer Meal Coalition (a new ILG program) hosted a kick-off with Fowler Library in Fresno for the lunch at the library program. The event helped increase awareness of programs like this across the state. It was attended by Assemblymember Henry Perea's office, Fresno County Supervisor Buddy Mendes, Mayor Pro Tem Daniel Parra, Fresno County Library Director Laurel Prysiazny, and Fowler Unified School District Superintendent Eric Cederquist along with other school board and council members. The well attended event attracted more than 200 families, provided free summer meals for 80 children (an 800% increase from last year), and distributed more than 9,000 pounds of free, fresh, local produce to families in just three hours. Other libraries across the state are also reporting significant increases in participation over the previous year (e.g., Kern County fed 225 kids by Day 3) and newly participating libraries are achieving immediate results, such as Ontario, whose summer meal program attracted 215 children on Day 4. To find out more about summer meals and lunch at the library programs visit www.summermealcoalition.org.

Healthy and Vibrant Communities Project

The Institute for Local Government received a grant from Kaiser Permanente in December 2014. The grant enables ILG to work in the areas of collaboration and partnerships aimed at positively impacting healthy eating-active living, safety and violence-prevention. The Institute is conducting a survey of local officials to assess interest in and the opportunities to examine potential locations ripe for technical assistance. Additionally, the project will allow the Institute to update the Stretching Community Dollars Guidebook, a signature piece of work from the CCS Partnership. The new version of the document will be used in trainings and ILG's direct work with local governments in 2016.

Healthy and Vibrant Communities Survey Ready for Your Input
Elected officials and staff of local agencies have a unique and important role in the development, resilience and success of their communities. Through collaborations and partnerships, municipal governments can focus on comprehensive approaches that work across jurisdictional boundaries to increase community health, safety and well-being. This survey is intended to help ILG understand the perceptions, needs and motivations for resolving key community health issues of healthy eating/active living, safety and violence prevention, and to what extent local agencies and community-based organizations are approaching the issues through collaborations or partnerships. If you have not had a chance to do so, please take the survey now!
http://cacities.az1.qualtrics.com/jfe/form/SV_6RkS3att0a2AlQF

New Articles and Resources

- *Meeting California's Climate Challenge: Proceedings from the 2015 Climate Leadership Symposium* – highlights the thoughts and observations of the symposium's panelists on a variety of topics, illustrating the diverse perspectives and experiences that leaders from state and local government bring to the challenge (www.ca-ilg.org/climatesymposium).

- *Partnering for Prosperity* – provides an overview of the event ILG led as part of our technical assistance project in Merced *(*www.westerncity.com/Western-City/May-2015/Partnering-for-Prosperity/).
- *Converting Waste to Energy: How to Make it Happen in Your Community* – discusses the process of anaerobic digestion, the benefits of and financing options to citing a facility in your community and tips for implementation (www.ca-ilg.org/post/anaerobic-digestion).
- *Advancing Climate Action, Sustainability and Community Well-Being* – highlights the Cap and Trade Symposium ILG hosted in April (www.westerncity.com/Western-City/July-2015/Advancing-Climate-Action-Sustainability-and-Community-Well-Being/).
- *Local Leaders Address Mental Health Challenges: Cities, Schools and Community-Based Organziations Collaborate to Support Students* – highlights the Community Health Awareness Council and their efforts to address mental health challenges in their community (www.ca-ilg.org/post/partnering-positive-mental-health-outcomes).
- *Recycling Roadmap* - provides a brief overview of the typical steps to plan, site and finance a public or private facility to process and reuse recycled materials (www.ca-ilg.org/post/recycling-roadmap).

Recent Workshops and Trainings

- In June, the Sustainability Team presented on Cap and Trade at the workshop "Greenhouse Gas Reduction Programs: Funding Opportunities for the San Joaquin Valley" in Merced.
- In August, the Sustainability Team presented at the Southern California Association of Governments' workshop "California Gold: Bringing Cap and Trade Dollars to Southern California."
- *League Housing Community and Economic Development Policy Committee* - the Sustainability team presented to the policy committee in June to discuss ILG's cap and trade resources and gauge city technical assistance needs to apply for funding through the Greenhouse Gas Reduction Fund.
- *Mayors and Councilmembers Executive Forum* – ILG organized an all day workshop "Where There is a Will There is a Way: Local Governments Working Together to Address Today's Vexing Challenges" at the Mayors and Councilmembers Executive Forum in June. The first half of the workshop focused on developing cross-jurisdictional relationships and collaborative partnerships to enhance regional governance. The afternoon focused on building civility when faced with inter-personal and/or inter-organizational conflict. ILG organized two additional conference sessions for the Forum "Meeting the Sustainability Challenge: California Cities Lead the Way" and "Municipal Communication Strategies that Engage Residents."
- Staff met with the City of Palo Alto in June to kick off a new Ethics Training project. ILG will be working with the city to create a customized interactive training for all city employees on their new Code of Ethics.
- *Statewide Energy Efficiency Collaborative Forum* - the sustainability team attended the Annual Statewide Energy Efficiency Forum on June 18th in Sacramento. The forum features updates from key state agencies and highlights innovative local energy and climate change programs and resources. ILG moderated a session on "Tools for Implementing, Monitoring and Reporting on Climate Action."

- ILG convened a group of public engagement practitioners to participate in both a focus group and workshop. The purpose was to understand the strengths of the program and programmatic areas the program might pursue. This was the first of four focus groups conducted this year, the others will focus on city, counties and special districts.

Board of Directors

- The ILG Board met on August 20-21st in San Diego to hear program updates and discuss Board goals and ILG's relationship with our parent organizations.
- The final Board meeting for 2015 will be Friday November 13th.

County Counsels' Association of California

MEMORANDUM

To: **Supervisor Vito Chiesa, President, and Members of the CSAC Board of Directors**

From: **Jennifer Henning, Litigation Coordinator**

Date: **September 3, 2015**

Re: **Litigation Coordination Program Update**

This memorandum will provide you with information on the Litigation Coordination Program's new case activities since your last Board meeting in May, 2015. Briefs filed on CSAC's behalf are available at: http://www.counties.org/csac-litigation-coordination-program.

Capistrano Taxpayers Assn v. City San Juan Capistrano
235 Cal.App.4th 1493 (4th Dist. Div. 3 Apr. 20, 2015)(G048969), *request for depublication denied* (July 22, 2015)(S226906)

Plaintiff challenged the City of San Juan Capistrano's water rates as violating Proposition 218. The rates consisted of four increasing block tiers based on consumption designed in part to encourage water conservation and discourage waste. The trial court invalidated the water rates, and the Fourth District affirmed. The court did not reject per se tiered water rates as inherently unconstitutional under Proposition 218. But the court did find that a tiered rate is unconstitutional if it is unsupported by an actual cost of service calculation for each tier. Here, no such record existed, so the rates were invalidated. Similarly, the court found permissible the practice of charging the costs of future capital projects and the costs of various water sources to all ratepayers, even when those ratepayers do not directly use those projects or water sources. But the court determined that those costs can be assessed only if the project or water source is quantifiably attributable to the water service provided to the ratepayers. CSAC's request for depublication was denied.

Citizens for Fair REU Rates v. City of Redding
Previously published at: 233 Cal.App.4th 402 (3d Dist. Jan. 20, 2015)(C071906), *petition for review granted* (Apr. 29, 2015)(S224779)

The Supreme Court has agreed to review a challenge to a utility charge in the City of Redding. The city charged the Redding Electric Utility (REU) a Payment in Lieu of Taxes (PILOT) that is calculated to roughly match the 1% property tax that would apply to the utility's assets if it were in private hands. The charge was first imposed in 1998, and has been imposed virtually unchanged ever

since. Plaintiffs allege that this a "tax" that violates Prop. 26. The Third District agreed, but the Supreme Court granted review to the following: (1) Is a payment in lieu of taxes (PILOT) transferred from the city utility to the city general fund a "tax" under Proposition 26 (Cal. Const., art. XIII C, § 1, subd. (1)(e))? (2) Does the exception for "reasonable costs to the local government of providing the service or product" apply to the PILOT (Cal. Const., art. XIII C, § 1, subd. (1)(e)(2))? (3) Does the PILOT predate Proposition 26? CSAC will file a brief addressing issues #1 and #3.

County of Los Angeles Board of Supervisors v. Superior Court (ACLU)
Previously published at: 235 Cal.App.4th 1154 (2d Dist. Apr. 13, 2015)(B257230), *petition for review granted* (July 8, 2015)(S226645)

The ACLU made a Public Records Act request for county documents related to litigation raising allegations of excessive force against prison inmates. The county declined to provide outside counsel attorney billing statements for any such lawsuit that is open and pending, arguing that those records are protected under the attorney-client privilege, and not subject to disclosure. The Second District Court of Appeal ruled in favor of the county: "Both the CPRA and the attorney-client privilege advance public policies of the highest order: the CPRA fosters transparency in government, and the attorney-client privilege enhances the effectiveness of our legal system. In the instant matter, these two interests collide. We conclude that, because the CPRA expressly exempts attorney-client privileged communications from the CPRA's reach, the tension must here be resolved in favor of the privilege." Unfortunately, the Supreme Court has granted review to consider whether invoices for legal services are within the scope of the attorney-client privilege. CSAC will file a brief in support of Los Angeles County.

County of Los Angeles v. Williamsburg National Ins. Co.
235 Cal.App.4th 944 (2d Dist. Apr. 3, 2015)(B251811), *petition for review denied* (July 15, 2015)(S226440)

This case involves the application of an extension of time before forfeiture of a bail bond under Penal Code sections 1305 and 1305.4. In the case, the court served notice of forfeiture to the Surety on July 23, 2012. Under section 1305, a surety has 185 days to return the criminal defendant to court. On February 1, 2013, the trial court granted the Surety's motion to extend the time to July, 20, 2013. The Surety filed a motion for a second extension on July 22, 2013. Under section 1305.4, an extension may be granted to a time period of up to 180 days. The question is whether the 180-day extension begins to run when the extension order was granted or when the original 185-day period expired. The trial court denied the Surety's motion for a second extension without an opportunity for the Surety for oral argument, and the trial court entered summary judgment. The Surety appealed, and the Court of Appeal remanded the case to the trial court, ordering the court to vacate summary judgment, and, if it grants the motion for extension, to provide a maximum of nine days for the extension period. CSAC supported Los Angeles County's petition for review, but the petition was denied.

County of San Bernardino v. PERB (San Bernardino County Public Attorneys Assoc.)
Pending in the Fourth Appellate District (filed June 10, 2015)(E063736)

The County Public Attorneys Association's began compelling Deputy Public Defenders to be represented by Deputy District Attorneys in performance-related investigations by the Public Defender. Both the District Attorney and the Public Defender objected to this practice and adopted a policy prohibiting it. The Association filed an unfair practice charge with PERB, alleging the county was violating the right to representation of union members. PERB agreed with the District Attorney and Public Defender that requiring a DA to represent a PD in a misconduct interview would be improper. But rather than concluding that the Deputy Public Defender would be obligated to find a valid representative, PERB concluded that the Public Defender was obligated to "exercise the option" of foregoing the interview. Thus, the Public Defender is essentially prohibited from interviewing her deputies in disciplinary investigations. San Bernardino County has filed a writ petition, and CSAC will file a brief in support.

Delaware Tetra Technologies v. County of San Bernardino
Pending in the Fourth Appellate District (filed Oct. 15, 2014)(G050858)

This matter involves the Cadiz Valley Water Conservation, Storage and Recovery Project, which is intended to manage groundwater in an untapped aquifer in eastern San Bernardino County. The first part of the Project involves a public/private partnership that would allow for a withdrawal of water from the basin for residential and industrial use in Southern California, and the second part would import water into the basin for storage and use in dry years. The county entered into an agreement with the Santa Margarita Water District (SMWD) in which the parties agreed that SMWD would serve as the lead agency for the Project and the county would be a responsible agency, analyzing the Project under the county's groundwater management ordinance. Ultimately, SMWD approved an EIR for the Groundwater Monitoring, Mitigation and Management Plan, and the county approved the plan under the county's ordinance. The county and SMWD prevailed in all six lawsuits in the trial court filed against the Project. On appeal, CSAC will file a brief on: (1) whether SMWD was the proper lead agency; (2) whether an MOU designating an agency as a lead agency is a project requiring CEQA review.

Douglas v. Office of Administrative Hearings
Pending in the Ninth Circuit Court of Appeals (filed Feb. 13, 2015)(15-15261)

The California Children's Services Program (CCS) provides services to disabled children. CCS is responsible for those services that are deemed "medically necessary," with the funding shared between the State and counties. Those services required to meet educational needs that are not medically necessary are the fiscal responsibility of the schools. Nevertheless, Administrative Law Judges have recently been issuing orders, including the one in this case, requiring CCS to provide services beyond those that are medically necessary. A series of appeals are pending. This case out of Santa Clara County is one of those appeals. This appeal was originally filed in state court, but was removed to federal court. The district court found in favor of the CCS. CSAC has filed a brief arguing that the county's funding obligation is limited to services that are medically necessary.

Estill v. County of Shasta
Pending in the Third District Court of Appeal (filed Oct. 9, 2014)(C077513)

Plaintiff, a county correctional officer, was terminated in January 2010 for communicating with a prison inmate in violation of the county's non-fraternization policy. She filed a claim with the county in February 2012, alleging defamation based on rumors of romantic relationships with inmates that she alleged were the result of her supervisors releasing information about the investigation leading up to her dismissal. In her claim, she listed the date that she became aware of the incident as September 9, 2011. The county denied the claim. In September 2012, she filed a complaint for defamation, intentional infliction of emotional distress, and other claims. During deposition testimony, it became clear that plaintiff was aware of the alleged unauthorized disclosure of information as far back as 2009. The county therefore moved to dismiss the action for failure to timely file a claim under the Government Claims Act. The court ultimately denied the motion, recognizing that the county was in a "quagmire" because it had to accept as true the date of accrual on the claim, but as the statute is written, the county waived its right to deny the claim as untimely filed by not asserting timeliness as a reason for denying the claim. CSAC will file a brief in support of Shasta County on appeal.

Hirst v. City of Oceanside
--- Cal.App.4th ---, 2015 Cal.App.LEXIS 389 (4th Dist. Div. 1 May 8, 2015)(D064549), *petition for review pending* (filed June 12, 2015)(S227054)

Plaintiff is employed as a phlobotomist by a non-public company, and performed blood draw services on contract for the city's police department. While working at the department, she was sexually harassed by a city police officer. When the harassment was eventually reported to the city, the police officer was terminated. Plaintiff then brought this lawsuit against the city under Fair Employment and Housing Act (FEHA), arguing that the city was liable for the officer's harassing conduct either because the officer served as plaintiff's supervisor, or because the city knew or should have known about the harassment and failed to take immediate corrective action. A jury found in plaintiff's favor and she was awarded $1.1 million. The Court of Appeal upheld the verdict, concluding that even though she was not an employee of the city, she was entitled to recover under FEHA and the city is strictly liable. CSAC has filed a letter in support of the city's petition for review.

Jacks v. City of Santa Barbara
Previously published at: 234 Cal.App.4th 925 (2d Dist. Feb. 26, 2015)(B253474), *petition for review granted* (June 10, 2015)(S225589)

This case challenges a "surcharge" on electric utility bills collected by a power company pursuant to a franchise agreement and remitted to the city for general revenue purposes. Plaintiff alleged that the charge is a tax, and is therefore unlawful because it was never placed before the voters for approval. The city defended the charge by arguing it is part of the franchise fee paid by Southern California Edison and, as such, is not a tax. The trial court agreed that the charge was part of a franchise fee and not a tax under Prop. 218, but the Court of Appeal reversed. Looking at the primary purpose of the surcharge, the court held that the charge is a tax under Prop. 218 and is subject to voter approval. The court noted that the franchise fee is intended to compensate the city for allowing the utility a right of way to purvey electricity, but the surcharge serves no such purpose and is, in

effect, a utility user tax imposed to generate revenue for general purposes of the city. The Supreme Court has granted review, and CSAC will file a brief in support of the city.

People v. United States Fire Insurance Co.
Pending in the Fifth District Court of Appeal (filed Nov. 10, 2014)(F070771)

This case involves the application of an extension of time before forfeiture of a bail bond under Penal Code sections 1305 and 1305.4. In the case, the court served notice of forfeiture to the surety on August 28, 2013. Under section 1305, the surety has 185 days, until March 1, 2014, to return the criminal defendant to court. On March 25, 2014, the court granted the surety's motion to extend the time by 180 days, as allowed by section 1305.4. The question is whether the 180-day extension begins to run on March 25 when the matter was heard, or on March 1 when the original 185-day period expired. The trial court concluded the extension begins from the earlier date, and therefore entered summary judgment on the bond on September 3, 2014, having concluded the extension expired on August 28, 2014 (180 days after March 1). The surety has appealed, arguing that it had 24 additional days left available under Penal Code section 1304.5 and had an additional extension motion for those 24 days pending, and thus summary judgment was entered prematurely. CSAC filed a brief in support of Tulare County in the Court of Appeal.

Prasad v. Santa Clara Dept of Social Services
Pending in the Ninth Circuit Court of Appeal (filed Feb. 11, 2015)(15-15256)

The Child Welfare Services / Case Management System (CWS/CMS Database) is an investigatory tool where information about individuals who have been the subject of a child abuse or neglect complaint is maintained, and can be accessed by social workers in any county in future investigations. A separate database, the California's Child Abuse Central Index (CACI), is maintained by the Department of Justice for substantiated child abuse reports. The CACI allows for a due process hearing if an individual believes their name should be removed from the CACI, but no similar hearing is provided for the CWS/CMS Database. Plaintiff brought this action alleging that although he had a full hearing for his CACI listing, he was also entitled to a separate hearing for his CWS/CMS Database listing. The federal district court dismissed his action, noting that he received due process for the substantiated child abuse allegation that is listed in CACI, and he did not identify any other stigmatizing information in the CWS/CMS that raises independent due process concerns not addressed at his earlier hearing. Plaintiff appealed, and CSAC has filed a brief in support of Santa Clara County.

California Recording Fee Litigation (3 Cases)

Petitioner has sued nine counties throughout California since 2008 and has sent letters of intent to sue many more. Specifically, petitioner is seeking a writ of mandate in each case directing the county to reduce the fees charged by the county clerk recorder's office for official record copy documents. This fee is governed by Government Code section 27366 which states: "The fee for any copy of any other record or paper on file in the office of the recorder, when the copy is made by the recorder, shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied." Stanislaus, Sacramento and Yolo counties have all prevailed on the merits and

petitioner is appealing all three rulings. CSAC will file briefs in support of the counties in all three cases.

The Mishewal Wappo Tribe of Alexander Valley v. Salazar
Pending in the Ninth Circuit Court of Appeals (filed May 15, 2015)(15-15993)

In the early 1900's, the Secretary of the Interior purchased two parcels in Sonoma County, now known as the Alexander Valley Rancheria, for the benefit of California Indians who wished to live there. In 1935, the Wappo voted to organize as a tribe under the Indian Reorganization Act, and by 1940, 44 of the 49 residents of the Rancheria were members of the Wappo Tribe. In 1958, Congress enacted the California Rancheria Act, which called for the distribution of lands and assets previously designated as rancherias or reservations. Under that Act, the Rancheria land and assets were distributed between two families and the Rancheria terminated in 1961. In 2009, the Wappo Tribe filed this action seeking federal recognition as a Tribe, and asking that the Secretary take land into trust for the Tribe. The district court granted the Secretary's motion for summary judgment, concluding that a six year statute of limitations applies, and therefore the Tribe should have filed its action no later than 1967 - - six years after the 1960 publication of the termination and distribution order of the Rancheria. The Wappo Tribe has appealed. CSAC will file a brief in in the Ninth Circuit on the statute of limitations issue.

Williams & Fickett v. County of Fresno
Previously published at: 232 Cal.App.4th 1250 15 (5th Dist. Jan. 9, 2015)(F068652), *petition for review granted* (Apr. 22, 2015)(S224476)

This case involves the rule that when a taxpayer requests a property tax adjustment, he must ordinarily first make the request of the county board of equalization or assessment appeals board (AAB) before going to court. Here, plaintiff wanted to challenge an assessment on the basis that while it owned the property at one time, the property has since either been sold or traded. The trial court found that the Rev. & Tax. § 5142(c) requires that a taxpayer, in the absence of a stipulation, must still file with the AAB even though the issue is one of ownership and not valuation. But the Fifth District reversed, concluding that a person who alleges non-ownership of taxed personal property does not have to exhaust the AAB remedy. Instead, the taxpayer may file a complaint directly with the superior court and the action is governed by a four-year limitations period. The Supreme Court has granted review, and CSAC will file a brief in support of Fresno County.

2015
CSAC Calendar of Events

January
14 CSAC Executive Committee Orientation Dinner, Sacramento
6:30pm Reception, 7:15pm Dinner, Esquire Grill, 13th & K Streets, Sacramento, CA 95814
15 CSAC Executive Committee, Sacramento
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

February
11-13 CSAC Premier Partner Forum, San Diego County
19 CSAC Board of Directors Meeting, Sacramento
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814
21-25 NACo Legislative Conference, Washington, D.C.

April
8 CSAC Executive Committee Dinner, Avalon, Los Angeles County
6:00pm, Steve's Steakhouse, 417 Crescent Avenue, Avalon, CA 90704
9 CSAC Executive Committee Meeting, Avalon, Los Angeles County
10:00am – 1:30pm, Pavilion Hotel, Avalon, Catalina Island

May
20-22 WIR Conference, Kauai County
27-28 CSAC Legislative Conference, Sacramento
28 CSAC Board of Directors Meeting, Sacramento
12:00pm – 3:00pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

July
10-13 NACo Annual Conference, Mecklenburg County/Charlotte, North Carolina

August
6 CSAC Executive Committee Meeting, Sacramento
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814
19 RCRC Board Meeting, Sacramento

September
3 CSAC Board of Directors Meeting, Sacramento
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814
23-25 RCRC Annual Meeting, El Dorado County

October
7-9 CSAC Executive Committee Retreat, San Luis Obispo
Cambria Pines Lodge, 2905 Burton Drive, Cambria, CA 93428

December
1-4 CSAC 121st Annual Meeting, Monterey
3 CSAC Board of Directors Meeting, Monterey
2:00pm – 4:00pm, Monterey Conference Center, One Portola Plaza, Monterey, CA 93940
9 RCRC Board Meeting, Sacramento
16-18 CSAC Officers' Retreat, Napa County