

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
BOARD OF DIRECTORS  
Thursday, February 20, 2014  
10:00am - 1:30pm  
CSAC Conference Center, Sacramento

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**A G E N D A**

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Agenda times are approximate. Matters may be considered earlier than published time.

Presiding: John Gioia, President

10:00am - **PROCEDURAL ITEMS**

1. Roll Call Page 1
2. Approval of Minutes of November 21, 2013 Page 3

10:15am - **ACTION ITEMS**

3. Consideration of MAP 21 Reauthorization Priorities Page 7
  - *Kiana Buss, CSAC staff*
4. CSAC Agriculture, Environment & Natural Resources Cmte. Report Page 10
  - *Supervisor Linda Seifert, Committee Chair*
5. Consideration of State and Federal Legislative Priorities for 2014 Page 13
  - *DeAnn Baker & CSAC Advocacy staff*
6. Consideration of Position on Proposition 41 Page 25
  - *Faith Conley & Kiana Buss, CSAC staff*

11:15am - **INFORMATION ITEMS**

7. CSAC Finance Corporation Report Page 27
  - *Nancy Parrish, Finance Corp. Executive Director*
8. Report on State Prison Overcrowding Court Case Page 29
  - *Martin Hoshino, CDCR Undersecretary*
  - *Elizabeth Howard Espinosa, CSAC staff*
9. Realignment Allocation Committee Report Page 37
  - *David Twa, CAOAC President*
  - *Elizabeth Howard Espinosa, CSAC staff*
10. CSAC Litigation Coordination Program Report Page 40
  - *Jennifer Henning, County Counsel Assoc. Executive Director*
11. CSAC Corporate Partnership Report Page 49
  - *Jim Manker, CSAC staff*
12. Update on AB 60: Licenses for Undocumented Drivers Page 54
  - *Mike McGowan, Dep. Dir. of Strategic Planning & Policy, DMV*

12:00pm - **LUNCH**

13. Informational Reports without Presentation Page 55
  - ❖ Institute for Local Government (ILG) Update
  - ❖ CCS Partnership Update
14. Other Items

1:00pm - **ADJOURN**

# CALIFORNIA STATE ASSOCIATION OF COUNTIES

## Board of Directors

2014

| <u>Section</u> | <u>County</u>       | <u>Director</u>    |
|----------------|---------------------|--------------------|
| U              | Alameda County      | Keith Carson       |
| R              | Alpine County       | Terry Woodrow      |
| R              | Amador County       | Louis Boitano      |
| S              | Butte County        | Maureen Kirk       |
| R              | Calaveras County    | Merita Callaway    |
| R              | Colusa County       | Kim Dolbow Vann    |
| U              | Contra Costa County | Federal Glover     |
| R              | Del Norte County    | Michael Sullivan   |
| R              | El Dorado County    | Norma Santiago     |
| 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       | Max Rodriguez      |
| S              | Marin County        | Susan Adams        |
| 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         | Brad Wagenknecht   |
| R              | Nevada County       | Ed Scofield        |
| U              | Orange County       | John Moorlach      |
| S              | Placer County       | Jim Holmes         |
| R              | Plumas County       | Jon Kennedy        |
| U              | Riverside County    | John Tavaglione    |

|   |                             |                 |
|---|-----------------------------|-----------------|
| U | Sacramento County           | Susan Peters    |
| R | San Benito County           | Margie Barrios  |
| U | San Bernardino County       | Josie Gonzales  |
| U | San Diego County            | Greg Cox        |
| U | San Francisco City & County | Eric Mar        |
| 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 Pflueger   |
| S | Tulare County               | Steve Worthley  |
| R | Tuolumne County             | Evan Royce      |
| U | Ventura County              | Kathy Long      |
| S | Yolo County                 | Matt Rexroad    |
| R | Yuba County                 | Roger Abe       |

President: John Gioia, Contra Costa  
 First Vice President: Vito Chiesa, Stanislaus  
 Second Vice President: Richard Forster, Amador  
 Immed. Past President: David Finigan, Del Norte

SECTION: U=Urban S=Suburban R=Rural

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
 BOARD OF DIRECTORS  
 November 21, 2013  
 San Jose Convention Center, Santa Clara County, CA

M I N U T E S

Presiding: David Finigan, President

1. ROLL CALL

|              |                    |                 |                           |
|--------------|--------------------|-----------------|---------------------------|
| Alameda      | Keith Carson       | Placer          | absent                    |
| Alpine       | Terry Woodrow      | Plumas          | Jon Kennedy               |
| Amador       | Louis Boitano      | Riverside       | absent                    |
| Butte        | Maureen Kirk       | Sacramento      | Susan Peters              |
| Calaveras    | Merita Callaway    | San Benito      | Margie Barrios            |
| Colusa       | Kim Dolbow Vann    | San Bernardino  | Josie Gonzales            |
| Contra Costa | Gioia/Glover       | San Diego       | Greg Cox                  |
| Del Norte    | Finigan/Sullivan   | San Francisco   | absent                    |
| El Dorado    | Norma Santiago     | 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     | absent             | Santa Clara     | Ken Yeager                |
| Inyo         | Jeff Griffiths     | Santa Cruz      | Bruce McPherson           |
| Kern         | absent             | Shasta          | Leonard Moty              |
| Kings        | Doug Verboon       | Sierra          | Lee Adams                 |
| Lake         | Anthony Farrington | Siskiyou        | Ed Valenzuela             |
| Lassen       | Jim Chapman        | Solano          | absent                    |
| Los Angeles  | absent             | Sonoma          | Rabbitt                   |
| Madera       | Max Rodriguez      | Stanislaus      | Vito Chiesa               |
| Marin        | Susan Adams        | Sutter          | Stan Cleveland            |
| Mariposa     | John Carrier       | Tehama          | Robert Williams           |
| Mendocino    | Carre Brown        | Trinity         | Judy Pflueger             |
| Merced       | Hubert "Hub" Walsh | Tulare          | Steve Worthley            |
| Modoc        | Jim Wills          | Tuolumne        | Evan Royce                |
| Mono         | Larry Johnston     | Ventura         | Kathy Long                |
| Monterey     | Fernando Armenta   | Yolo            | McGowan/Rexroad           |
| Napa         | Brad Wagenknecht   | Yuba            | Roger Abe                 |
| Nevada       | Ed Scofield        |                 |                           |
| Orange       | John Moorlach      | Advisors:       | David Twa & James Fincher |

The presence of a quorum was noted.

2. APPROVAL OF MINUTES

The minutes of September 5, 2013 were approved as previously mailed.

3. CSAC EXECUTIVE DIRECTOR'S REPORT

Matt Cate announced that CSAC is in the process of drafting a new Strategic Plan which will focus on four areas: enhancing advocacy outcomes; increasing member services through outreach and communications; enhancing training and education opportunities for CSAC members; and increasing effectiveness in internal administration.

Two new CSAC staff members were introduced. They are Jean Jordan, Director of Operations & Member Services and Jim Manker, Director of Corporate Relations. Bill Goodwin and Charles McKee were thanked for their year of service as advisors to the CSAC Board and Executive Committee. David Twa and James Fincher were welcomed as the 2014 advisors.

4. ELECTION OF 2014 CSAC EXECUTIVE COMMITTEE

The following members were elected to the CSAC Executive Committee for 2014:

Urban Section

Federal Glover, Contra Costa  
Don Knabe, Los Angeles  
Kathy Long, Ventura  
John Moorlach, Orange  
John Tavaglione, Riverside  
Ken Yeager, Santa Clara  
Keith Carson, Alameda (alternate)

Suburban Section

Susan Adams, Marin  
Bruce Gibson, San Luis Obispo  
Henry Perea, Fresno  
Linda Seifert, Solano (alternate)

Rural Section

Virginia Bass, Humboldt  
Robert Williams, Tehama  
Kim Dolbow Vann, Colusa (alternate)

Advisors

David Twa, CAOAC Advisor, Contra Costa  
James Fincher, County Counsel Advisor, Merced

5. CSAC POLICY COMMITTEE REPORTS

*Administration of Justice.* Supervisor Federal Glover, Chair of the CSAC Administration of Justice committee, provided a report on the meeting held November 19. The meeting was well-attended and issues such as early education, juvenile justice and efforts to improve adult offender outcomes were discussed. Linda Penner, Chair of the Board of State and Community Corrections, addressed the policy committee about the achievements in implementing 2011 public safety realignment and the challenges ahead. There was a panel discussion on policy issues for at-risk youth and a panel discussion on state hospital capacity challenges.

*Agriculture & Natural Resources.* Supervisor Kim Vann, Chair of the CSAC Agriculture & Natural Resources committee, provided a report on the meeting held November 19. The committee received state updates from the CA Department of Conservation on Mining/SMARA Reform and farmland

conservation, and federal updates on Secure Rural Schools, PACE Program, Water Resources Development Act, PILT and the farm bill.

The policy committee brought forward one action item for consideration by the Board of Directors. The recommendation was to change the name of the committee to the **CSAC Agriculture, Environment and Natural Resources Policy Committee**.

Motion and second to approve the policy committee recommendation to change the name of the policy committee as noted above. Motion carried unanimously.

*Government Finance & Operations.* Supervisor Bruce Gibson, Chair of the Government Finance & Operations policy committee, presented a report from the meeting held on November 20. The committee brought forward one action item for the Board's consideration, which was a recommendation to take a 'neutral' position on SCA 3, a June 2014 ballot measure that would amend the California Constitution to enshrine provisions of both the California Public Records Act and the Brown Act within it and exclude from reimbursement those statutory changes to the Acts that constitute mandates. Details of the measure were contained in the briefing materials.

Following a lengthy discussion on provisions of the measure, a motion and second were made to take a 'neutral' position. The motion and second were subsequently withdrawn.

Motion and second to refer SCA 3 to the Executive Committee for consideration. Motion carried unanimously.

*Health & Human Services.* Supervisor Kathy Long, Chair of the Health & Human Services policy committee, provided a summary of the meeting held on November 19. The committee received reports on the Affordable Care Act, County Mental Health and Substance Use Disorder Services, Wellness Programs, and the Children's Movement of California.

*Housing, Land Use & Transportation.* Staff provided a summary of the meeting held November 20. The committee received reports on Tribal and Intergovernmental Affairs, the Strategic Growth Council, and a legislative update.

6. **PROPOSED GOVERNANCE POLICIES**

CSAC recently underwent its annual financial audit, and the audit report noted that CSAC has not adopted some of the policies that the IRS asks about on the Form 990 tax form. Therefore, staff is requesting that the Board of Directors adopt the following policies as contained in the briefing materials: a. Board of Directors Conflict of Interest Policy; b. Whistleblower Policy; c. Form 990 Review Policy; d. Executive Compensation Policy.

Motion and second to adopt the four abovementioned policies. Motion carried unanimously.

7. **CSAC WOMEN'S LEADERSHIP FORUM**

Supervisor Susan Adams presented a proposal to form the CSAC Women's Leadership Forum. The focus would be to welcome, mentor and support elected women supervisors and other women leaders who are affiliated with CSAC in engagement and empowerment to take on leadership roles within the organization and support them once they engage in these roles. There will be three divisional co-chairs, one representing rural (Supervisor Judy Morris, Trinity), one suburban (Supervisor Erin Hannigan, Solano) and one urban (Supervisor Kathy Long, Ventura). It was proposed that meetings occur at the CSAC Legislative and Annual Conferences each year, with at least one additional meeting for purposes of training, mentoring and support. A proposed work plan for 2013-2014 was contained in the briefing materials.

Motion and second to approve formation of the CSAC Women's Leadership Forum. Motion carried unanimously.

8. RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO CONDUCT CSAC BUSINESS  
Staff requested that the Board of Directors adopt the annual resolution authorizing the CSAC Executive Director and his designees on staff, to execute and approve bank and other documents as authorized by the Board of Directors or Executive Committee.

Motion and second to adopt the abovementioned resolution. Motion carried unanimously.

9. COUNTY ADMINISTRATIVE OFFICERS ASSOCIATION OF CALIFORNIA (CAOAC) REPORT  
CAOAC President David Twa provided an update on AB 109 allocation. The Realignment Allocation Committee (RAC), comprised of CAOs from urban, suburban and rural counties, has begun its work to develop a recommended approach for the long-term AB 109 allocation, effective beginning in 2014-15.

Principles guiding the committee's work include:

1. Formula driven by data – reliable; consistent; standardized; available on statewide basis; based on agreed-upon data definitions; statistically relevant driving factors.
2. Funding allocations – protect current funding levels to the greatest extent possible and adjust over time to avoid disproportional impacts; predictable and stable; defined by legislative intent; fair and equitable distribution; one size does not fit all; opportunity to revisit; mechanism to adjust for changing conditions.
3. Incentives – encourage use of defined evidence-based practices and achieved results over time; reward performance and efforts to improve justice system outcomes; encourage regionalized services that result in greater efficiencies and cost savings.
4. Other elements – maximize flexibility and local control; maximize communication between Department of Finance, RAC and CAOs; build services, program and facility capacity, including jails.

The CAOAC met earlier today to discuss the RAC's work and reiterated the need to protect current funding levels and look at growth to ensure equitable distribution. Regionalization of services was also encouraged.

10. YEAR OF THE CHILD SUMMARY  
President Finigan thanked the Board of Directors for embracing his declaration that 2013 was CSAC's "Year of the Child." During the year, he emphasized that all actions as an association and county leaders should be put in the context of how they impact children in our state. This was emphasized in meetings with legislators and the Governor as well as staff's advocacy efforts.
11. OTHER ITEMS  
Nancy Parrish, Executive Director of the CSAC Finance Corporation, announced two new programs being offered to counties through the Finance Corp. The first is a Medicare eligible retiree health exchange through Extend Health and the second is on-site county employee health clinics through MedCor.

Meeting adjourned.



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916.441.5507

February 6, 2014

To: CSAC Board of Directors

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

Re: **Draft CSAC MAP 21 Reauthorization Priorities – ACTION ITEM**

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**Recommendation.** Staff recommends that the Board of Directors approve CSAC's draft MAP 21 Reauthorization Priorities.

**Background.** Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP 21), the federal surface transportation funding measure, is set to expire on September 30, 2014. Recall that Congress only provided for a two-year funding measure via MAP 21 rather than provide the more traditional five- or six-year authorization. This was done in large part to provide Congress more time to explore new revenue options while the economy recovered from the recession. MAP 21 also provided for a major overhaul of transportation programs, consolidating over 100 individual programs into five core programs and increasing the eligibility and flexibility for expenditure of funds within each program. Through CSAC's federal efforts, many of our 2008 federal priorities were implemented in MAP 21. Moreover, through our state implementation efforts, California's counties have remained whole in terms of access to federal funds since MAP 21's enactment. Several CSAC policy and fiscal priorities remain, however, and we hope to advance them during the next reauthorization.

Congress has already started informational hearings on the policy and fiscal issues under consideration for MAP 21 reauthorization. With sweeping programmatic and policy reforms already in place, it is the general consensus among transportation stakeholders that Congress will not enact significant policy changes. Instead, the most significant reauthorization issue is likely to be funding; specifically whether to increase revenues for transportation infrastructure through a gasoline excise tax increase (which has not been increased since 1993), indexing the current excise tax, a new user fee, or another mechanism. The Highway Trust Fund, which is facing a \$20 billion shortfall, will run out of money in September without additional congressional action.

**Policy Considerations.** CSAC staff, working closely with the County Engineers Association of California, has developed the attached draft MAP 21 Reauthorization Priorities for use in our federal advocacy efforts. The draft is consistent with existing CSAC policy, but shifts the major emphasis to addressing the insolvency of the Highway Trust Fund as the most immediate priority. Other existing policies included in the document call for increased funding for critical safety, maintenance and preservation programs, improved environmental stewardship, incentives to address climate change and rural sustainability, and improved project delivery and environmental streamlining.

**Action Requested.** Staff is requesting your action to approve the draft MAP 21 Reauthorization Priorities and advocate for new revenue to shore up the Highway Trust Fund, increased funding to programs critical to the maintenance, preservation, and safety of the county road system, and for continued improvements to project delivery and environmental stewardship and streamlining.

**Staff Contact.** Please contact Kiana Buss ([kbuss@counties.org](mailto:kbuss@counties.org) or (916) 327.7500 x566) or Chris Lee ([clee@counties.org](mailto:clee@counties.org) or (916) 327-7500 x521) for additional information.





California State Association of Counties

\*\*\*DRAFT\*\*\*

## CSAC PRIORITIES FOR MAP 21 REAUTHORIZATION

Pending Approval by CSAC Board of Directors

### MAP 21 Reauthorization Priority: Increase Federal Revenues for Transportation Infrastructure

Without immediate, bold action by Congress, the Highway Trust Fund will continue to face insolvency. Existing federal revenues continue to fall short of meeting the funding needs to bring our nation's surface transportation infrastructure into the next century. Our future economic prosperity, our commitment to progressive environmental stewardship, and our dedication to the health, safety, and welfare of the traveling public and all Americans demands a significant reinvestment into the transportation network. **CSAC urges Congress to enhance revenues for investment in our national transportation infrastructure.**

The California State Association of Counties (CSAC) – the unified voice of California's 58 counties – believes that until the funding issue is addressed, we will not make significant progress in improving our critical transportation infrastructure. California's counties and cities are facing an \$82 billion funding shortfall over the next ten-years for the maintenance and preservation of the local system, let alone other vital modal needs. On average, pavement conditions are "at risk" and without a surge of new revenue, 25-percent of California's local roads will be in failed condition by 2022. News article after news article discusses staggering figures about the condition of the nation's bridges – an estimated 8,000 bridges nationally are structurally deficient or fracture critical. In California, 950 bridges need replacement and over 1,800 are in need of rehabilitation.

The demands on our infrastructure are relentless – Californians log 300 million vehicle miles traveled annually, which is more than the current system was ever intended to accommodate. At the same time, our existing sources of revenue are declining due to necessary improvements in fuel economy and hybrid, electric, and alternative fuel vehicle technology. In order to address pressing environmental concerns, ranging from air quality and climate change to impacts on our water resources and energy demands, the nation must continue its work to advance technological improvements in fuel economy, alternative vehicles such as zero emissions vehicles, and reduce the amount people must drive to access work, school, home, services, and recreation. These challenges will only exacerbate our current funding dilemma.

CSAC's policy supports a variety of new revenues sources from increasing the federal gas tax to assessing a user fee that more accurately charges motorists for their use of the system than traditional revenues sources. Failing to address the severe funding issue within the next reauthorization effort will only negatively impact the condition of our system, our economy, our environment, and the overall quality of life for Americans. Increased revenue is our highest priority for MAP 21 reauthorization.

In addition to the preeminent priority of addressing the ongoing revenue shortfall, CSAC submits the following additional policy and programmatic priorities for consideration by Congress.

#### MAP 21 Reauthorization Priority: Restore the Highway Bridge Program

- Provide dedicated revenue for on-system highway bridge projects, either by creating a set-aside similar to the off-system highway bridge set-aside or restoring the Highway Bridge Program as a core program. Increase dedicated funding for preventative maintenance on, and replacement of, bridges. This is a critical safety issue.

#### MAP 21 Reauthorization Priority: Focus on Safety

- Increase funding for safety infrastructure projects on the existing transportation system.
- Programs/projects must be aimed at reducing the greatest number of fatalities regardless of ownership of the system.
- Ensure the rural road system, where fatality rates are the highest, retains dedicated funding.
- Promote and increase funding for bicycle and pedestrian safety projects and programs.

#### MAP 21 Reauthorization Priority: Fix-it-First

- Provide increased funding for maintenance and preservation of the existing system. Reinvesting in the system now prevents exponentially higher costs down the road.

#### MAP 21 Reauthorization Priority: Improve Environmental Stewardship & Address Climate Change

- Provide financial incentives to States that adopt and set greenhouse gas (GHG) emissions reductions targets and programs to accomplish those targets.
- Provide incentives in current programs and/or provide new funding sources for climate change neutral or friendly transportation projects and programs.
- Provide financial incentives for rural sustainability.
- Provide financial support for regional and countywide planning processes that integrate transportation and land use planning to reduce GHG emissions.
- Provide funding for retrofitting equipment and for alternate fuel infrastructure.

#### MAP 21 Reauthorization Priority: Streamlining Project Delivery & Environmental Review

- Approve a state-federal environmental reciprocity pilot program.
- Support streamlining of federal regulations to facilitate more expeditious project delivery.
- Ensure that federal project oversight is commensurate to the amount of federal funding.

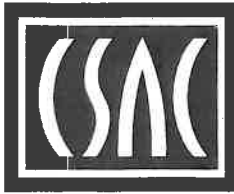
#### MAP 21 Reauthorization Priority: Increase Flexibility to Meet State, Regional, and Local Needs

- Maximize the use and flexibility of federal funds by not requiring minimum federal matches.
- Eliminate the need to program multiple phases for small projects.
- Eliminate need for TIP programming for air quality neutral projects.

#### CSAC MAP 21 Reauthorization Priority: Assistance for Data Collection

- Provide funding, training, tools, and uniform standards for the collection of roadway and traffic data specifically for the local and rural roadways.
- Provide assistance for data collection, and determining and quantifying GHG emissions, and other important data for addressing climate change in long-range transportation plans.

For more information regarding these priorities and principles, please contact:  
Joe Krahn, Waterman & Associates, (202) 898-1444  
Kiana Buss, California State Association of Counties, (916) 327-7500 ext. 566



## **Agriculture, Environment & Natural Resources Policy Committee**

**Thursday, February 13, 2014 • 1:00 – 2:30 p.m.**

**Via Conference Call Line: 1-800-867-2581; password: 7500511**

### **AGENDA**

Supervisor Linda Seifert, Solano County, Chair  
Supervisor Judy Morris, Trinity County, Vice-Chair

- |             |   |
|-------------|---|
| 1:00 p.m.   | <b>I. Welcome and Introductions</b><br><i>Supervisor Linda Seifert, Solano County, Chair</i>  |
| 1:05 – 1:35 | <b>II. ACTION ITEM: CSAC Medical Marijuana Policy</b><br><i>Supervisor Mark Lovelace, CSAC Medical Marijuana Working Group Co-Chair</i><br><i>Cara Martinson, CSAC Associate Legislative Representative</i> |
| 1:35- 1:55  | <b>III. Water Update</b><br><i>Karen Keene, CSAC Senior Legislative Representative</i>  |
| 1:55 - 2:15 | <b>IV. Update on CSAC Williamson Act Working Group Recommendations</b><br><i>Supervisor Kim Vann, CSAC WA Working Group Chair</i><br><i>Karen Keene, CSAC Senior Legislative Representative</i>             |
| 2:15- 2:30  | <b>V. Closing Comments &amp; Adjournment</b>  |



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February 9, 2014

To: CSAC Board of Directors  
From: Karen Keene, CSAC Senior Legislative Representative  
Cara Martinson, CSAC Associate Legislative Representative

Re: **Proposed Changes to the CSAC County Platform Related to Medical Marijuana**

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**Recommendation.** The CSAC Medical Marijuana Working Group (Working Group) met on January 29, 2014 and recommends for approval by the CSAC Agriculture, Environment & Natural Resources (AENR) Committee the attached draft policy statements on medical marijuana. The CSAC AENR Committee is scheduled to meet on February 13<sup>th</sup> to take up this item for action.

**Background.** Marijuana cultivation and the regulation of medical marijuana are issues that local governments have been forced to address. In the absence of comprehensive statewide policy, many jurisdictions have passed local measures meant to regulate marijuana dispensaries and cultivation, to varying degrees. In addition, the Legislature has introduced various bills related to medical marijuana, several of which would have impacted a local government's ability to pass local land use ordinances related to medical marijuana cultivation and dispensaries. As a result, CSAC leadership approved the development of a CSAC policy related to local control of medical marijuana operations. In addition, the proposed language addresses the environmental impacts of marijuana cultivation. This issue is not new to the Working Group. In 2012, the Working Group and the AENR Policy Committee expressed support for the inclusion of this language in CSAC's County Platform. The CSAC Board of Directors determined that the language needed further vetting and consequently the language was not included in the 2012 platform update. Given the Governor's budget proposal that would allocate funding to the State Water Resources Control Board (\$1.8 million) and the Department of Fish and Wildlife (\$1.5 million) to address environmental impacts associated with marijuana cultivation, it would be timely for the AENR to reconsider the 2012 language.

**Policy Considerations.** A new section is recommended for inclusion in the AENR Chapter related to local regulation of medical marijuana operations upon the next revision of the CSAC Platform. The intent of these policy statements would be to provide staff with additional guidance on how to respond to related legislative and budget proposals. The proposed language is attached to this memo. In addition, the Working Group discussed a separate paragraph intended to address the impacts of any statewide regulatory framework. The Working Group did not reach consensus on whether or not to include the language in the draft policy, but did refer the discussion to the full CSAC AENR Policy Committee for further debate. The draft language is also included in the attachment under "further discussion."

**Action Requested.** The Working Group recommends that the CSAC ANER Policy Committee approve the first section of the attached language and recommend a support position to the CSAC Board of Directors. Any changes to this recommendation or to the attached policy made by the AENR Policy Committee will be included in a supplemental memo to the Board.

**Contact.** For additional information, please contact Karen Keene, CSAC Senior Legislative Representative at 916-327-7500, ext. 511, or [kkeene@counties.org](mailto:kkeene@counties.org), or Cara Martinson, CSAC Associate Legislative Representative at 916-327-7500, 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org).



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**CSAC MEDICAL MARIJUANA POLICY**  
**\*\*DRAFT\*\***

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*As Approved by the CSAC Medical Marijuana Working Group 1/29/14*

Proposition 215 (Prop 215), the Compassionate Use Act of 1996, provides certain legal protections, including exemption from criminal prosecution, for qualified patients and caregivers that possess or cultivate marijuana. In conjunction with Prop 215, the Legislature passed the Medical Marijuana Program Act (MMPA, 2003), which extends certain legal protections to those that associate to collectively or cooperatively cultivate marijuana for medical purposes. Almost immediately following the passage of the ballot measure, local governments faced various uncertainties with implementation and regulation related to the legal and illegal usage of medical marijuana. Issues have risen regarding land use and zoning, environmental problems and public safety and law enforcement issues, to name a few. In the absence of comprehensive statewide regulatory program, many jurisdictions have passed local measures meant to regulate marijuana dispensaries and cultivation, to varying degrees.

CSAC believes that the constitutional police powers of counties to protect the health, safety, and general welfare of the public authorizes counties to take actions to address what an elected Board of Supervisors legislatively determines to be the negative secondary effects of medical marijuana dispensaries and cultivation. The proliferation of such dispensaries and cultivation has created a variety of problems in many areas of the State. Counties must be able to enact prohibitions or regulations in the face of threats to the public health, safety and general welfare. Such decisions represent legislative judgments made by locally elected legislative bodies about the wisdom and need for local control over a particularly vexing and unusual land use. Under well settled constitutional separation of powers principles, deference must be afforded to the legislative judgments made by locally elected officials, who are in the best position to evaluate local conditions, community needs, and the public welfare

In addition, the cultivation of marijuana is often accompanied by land use and operational activities such as clearing of land, grading, road-building, water withdrawals from streams and application of herbicides, pesticides and fertilizers. These activities are routinely regulated and enforced by Federal, State and local agencies when they are associated with industries such as timber, ranching or farming, so as to reduce their potential impacts on the environment. CSAC believes responsible agencies should be given clear guidance and adequate resources to regulate and enforce existing environmental laws when they are associated with the cultivation of marijuana. CSAC also supports a requirement that state agencies coordinate with local governments to ensure uniform application in enforcement efforts.

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**FOR FURTHER DISCUSSION-- AT CSAC AENR POLICY COMMITTEE**

Numerous bills have been introduced in the State Legislature in recent years to develop a State program for the regulation of medical marijuana dispensaries and cultivation, and it is anticipated that there will be additional such efforts in coming years. CSAC believes that any legislation to develop a statewide program for the regulation of medical marijuana dispensaries and cultivation must allow individual local governments the discretion to either adopt that program in full, to modify the program as they see fit or to opt out of the program completely.



**California State Association of Counties**

**CSAC 2014 STATE ADVOCACY PRIORITIES**

**\*\*\* DRAFT \*\*\* approved by CSAC Executive Committee – Jan. 2014**

*California counties are in the midst of dramatic change. Fundamental shifts of responsibilities in the public safety and health arenas, an erratic economic recovery, and growing demand for public services require flexible and efficient solutions that allow all counties the opportunity to succeed. CSAC is leading efforts to ensure that counties can effectively manage new responsibilities in an ever-changing environment. From working to protect existing revenues and avoiding new costs to encouraging innovation and collaborative problem solving, CSAC remains at the forefront of significant statewide issues, fighting for counties and the Californians we serve.*

*The 2014 CSAC State Legislative Priorities reflect an ongoing commitment to successful implementation of 2011 realignment and implementation of the Affordable Care Act, as well as a focus on retaining and securing financial resources for counties. Additionally, CSAC will advance county interests within a diverse array of key county issues.*

**CROSS-CUTTING PRIORITIES**

**Protecting Vital County Resources**

*Day-by-day, year over year, CSAC works to protect billions of dollars in financial resources that support locally delivered services. For 2014-15, CSAC has compiled priority funding areas that will serve as the focus of our advocacy efforts. While there are additional significant resources that require ongoing, permanent vigilance, the list below represents opportunities where CSAC will be leading the charge to protect existing resources and secure new or renewed funding for California counties.*

|  |        |
|--|--------|
| 2011 Realignment (proper distribution of funds)<br><i>Ensuring proper distribution of 2011 realignment, including \$1B AB 109 allocation and allocation of Mental Health funds</i>                           | \$6B   |
| AB 85/Affordable Care Act Implementation<br><i>Ensuring proper distribution of 1991 realignment funds, including retaining funds for public health and returning savings associated with indigent health</i> | \$1.3B |
| Water bond<br><i>Secure portion of funding for flood control, stormwater, etc.</i>   | \$6B   |
| Transportation initiative<br><i>Ensure historic share of transportation funding for counties for the local street and road system</i>  | \$3B   |
| Gas tax swap clean-up<br><i>Return portion of transportation tax swap revenue associated with off-highway vehicles being diverted to the General Fund to transportation projects</i>                         | \$128M |

|   |                    |
|---|--------------------|
| Cap and trade funds<br><i>Secure portion of funding for local government and transportation GHG reduction projects</i>                                    | \$0.5B - \$1B      |
| Williamson Act restoration<br><i>Includes restoration of Williamson Act subvention funds to counties</i>  | \$34M              |
| Medi-Cal Administration<br><i>Ensure adequate funding for county outreach, eligibility and enrollment functions</i>                                       | \$350M             |
| In-home Supportive Services (IHSS) Maintenance of Effort (MOE)<br><i>Monitor the mechanics of the 2012 IHSS MOE deal</i>                                  | \$1B               |
| Department of Fish and Game Payment In-Lieu of Taxes (PILT)<br><i>Includes payment of past due monies owed to counties since the late 1990s</i>           | \$17M              |
| Property tax allocation issues<br><i>Includes funding for counties with insufficient ERAF and resolving "stranded" supplemental property tax revenues</i> | \$5M               |
| Mandate backlog<br><i>Local agencies are owed funds from pre-2004 mandate reimbursements and suspended mandates</i>                                       | \$2B               |
| County Fairs<br><i>Restoration of State General Fund support for the network of county fairs</i>  | \$42M              |
| <b>TOTAL</b>  | <b>About \$20B</b> |

### Promoting Smart Prevention and Intervention Investments

Given counties' role in delivering vital services across a vast array of policy areas, CSAC will highlight the need for and value of investing in robust prevention and intervention programs to avoid more expensive criminal justice, health, and social services system interactions downstream. Areas of priority will include:

- Gang violence prevention
- Leveraging resources and opportunities presented by the Affordable Care Act (ACA) in the criminal justice system context to ensure improved health and offender outcomes
- Addressing the needs of the forensic population, with a view toward avoidance of criminal justice system involvement
- Highlighting the benefits of quality early education benefits in reducing crime and improving health
- Supporting reinvestment in the Mentally Ill Offender Crime Reduction Grant program
- Working to reduce human trafficking
- Exploring effective programs and services to address homelessness and veterans' issues

### ISSUE-AREA PRIORITIES

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#### Administration of Justice

**AB 109 Implementation.** CSAC will continue in a strong advocacy role to preserve counties' individual and collective ability to innovate locally and oppose efforts to limit county flexibility. We will continue to build and deploy a robust training and education program to support ongoing implementation efforts; provide technical support to the Realignment Allocation Committee with an eye toward securing a consensus approach to a long-term allocation formula; and serve as an ongoing technical resource for

counties across realigned programs. CSAC will engage on behalf of counties to design long-term solutions to ensure system stability and durable solutions, including: capacity needs and implications of long-term jail sentences; litigation avoidance; increased use of split sentencing, community corrections approaches, and other evidence-based solutions; maximizing criminal system opportunities in the context of ACA implementation; and designing balanced system incentives to ensure offenders receive the best and most economic placement in the corrections continuum.

**Court Security.** CSAC is engaging on behalf of counties on an issue that has emerged as a priority need in recent months. The realignment of the court security function – which shifted the financial responsibility for covering court security costs from the state trial court system to the counties while keeping intact the sheriffs’ responsibility to provide the service — did not include a mechanism to address increased costs or service levels necessitated by new court facility construction. CSAC will work with the California State Sheriffs’ Association, Department of Finance, and the Administrative Office of the Courts to quantify the problem and develop a solution to cover these “stranded” costs.

### **Agriculture, Environment and Natural Resources**

**Agriculture and Farmland Protection.** CSAC anticipates focusing on efforts to help advance farmland conservation and protection in California next year. Discussions are currently underway in the Legislature that would set forth minimum statewide mitigation requirement for projects that convert agricultural land to a permanent or long-term non-agricultural use, including residential, commercial, civic, industrial, infrastructure, or other similar land development projects. CSAC will continue to advocate for agricultural land protection policies that respect the unique characteristics of each county.

**Cap and Trade.** California’s Cap and Trade program is slated to generate billions of dollars in revenue that must be invested in programs and projects for the reduction of greenhouse gas emissions (GHG) statewide. In Fiscal Year 2014-15, it is anticipated that up to \$1 billion will be available to invest in GHG reducing programs. However, the Legislature and Governor have yet to agree upon the suite of investments. CSAC has two active proposals for the investment of cap and trade funds at the local level which would dedicate a portion of revenues to local competitive grant programs geared at GHG reducing investments in the local transportation network, energy efficiency, water resource conservation, and solid waste diversion, to name a few.

**Solid Waste – Advancing Waste to Energy Policies and Alternatives to Landfills.** Building off momentum achieved through SB 804 (Lara), the CSAC/ LA County co-sponsored measure on biomass and conversion technology that was approved by the Legislature in 2013 but ultimately vetoed by the Governor, CSAC will continue to work on legislative changes that would provide incentives and a permitting path for solid waste conversion technologies as an alternative to landfills. In addition to conversion technology, we also anticipate engaging in conversations related to the implementation of AB 341 (Chesbro, 2011), the statewide goal of diverting 75% of our solid waste from landfill disposal and the diversion of organic materials from landfills.

**Regulatory Issues – Water Board and Delta Issues.** CSAC continues to engage in the regulatory process on a number of different fronts with particular focus on proposed rulemakings before the State Water



Resources Control Board, California Environmental Protection Agency and various other regulatory agencies. At the State Water Board, CSAC focus will continue to center around storm water permit requirements, groundwater management and proposed state wetlands and trash policies. In addition, CSAC staff will remain engaged in the discussions surrounding the Delta using CSAC's policy as a foundation to advocate for county interests, including support for area of origin rights, affected counties' land use authority; special recognition of Delta legacy communities; flood and ecosystem protection and regional self-sufficiency.

**Flood Control.** CSAC continues to advocate for statutory and administrative solutions that would resolve outstanding implementation issues regarding the application of SB 5 (Machado, Chapter 364, Statutes of 2007) one of the six-bill 2007 flood protection package. SB 5 requires each city and county in the Sacramento-San Joaquin Valley to comprehensively address flood management and flood risk issues within their general plans and zoning ordinances following the adoption of the Central Valley Flood Protection Plan (CVFPP). Remaining implementation issues include unrealistic flood risk finding requirements for all types of discretionary permits, geographic scope of the SB 5 requirements, and the impact of requirements on infill development.

### **Government Finance and Operations**

**Employee Benefits/Pension Reform.** The Public Employees' Pension Reform Act (PEPRA) was supported by CSAC after months of negotiation between public employers, labor, the Legislature and the Administration; the intent was to provide fair benefits to public employees while retaining fiscal security for public employers. As such, CSAC staff will concentrate on preserving the original intent of PEPRA to ensure the ability of counties to negotiate benefits that are both fair to employees while ensuring the protection of county budgets, as well as responding to county concerns related to various legal challenges to PEPRA.

**Workers' Compensation Reform Implementation.** CSAC supported the workers' compensation system reform effort in 2012, after working with the Legislature and Administration to ensure the needs of employers were reflected in the resulting law signed by Governor Brown. CSAC will need to continue its work to ensure the original intent of that law is upheld both by the Legislature and in regulatory efforts at the Department of Industrial Relations.

**Public Records.** Efforts to embed the requirements of the Ralph M. Brown (Brown) Act and the California Public Records Act in the state Constitution are underway and expected to succeed. As such, it will be a priority for CSAC to ensure future amendments to the Acts do not place a heavy fiscal burden upon counties. If necessary, CSAC may wish to move forward with legislation requiring that legislation containing amendments to expand either of the Acts be subject to some type of fiscal review when moving through the legislative process.

**Vote Thresholds for Locally-Approved Taxes.** CSAC has long-supported greater revenue raising authority at the local level and will support legislative constitutional amendments to reduce vote thresholds for local taxes. The Legislature will likely consider a number of measures that reduce voter approval requirements for a variety of specific purposes; as such a change requires a constitutional

amendment, the challenge ahead is to determine the approach that has the best chance for voter support.

**Redevelopment Dissolution/Resurrection.** Counties remain critical players in the ongoing dissolution of community redevelopment agencies. CSAC is committed to assisting counties in their multiple roles as successor agency, oversight board participants, and tax administrators to ensure consistent and timely communication and coordination among the county, local stakeholders, and the state.

Legislators continue to have a strong interest in developing a new tool for local economic development. CSAC will work to ensure any new local economic development authority is available to counties and protects county revenues.

**Mandate Reform.** The current process for identifying reimbursable mandates and securing payments owed to local agencies for mandated programs and services is arcane and oftentimes biased against local agencies. Further, the state owes an estimated \$2 billion to local agencies for past due mandate reimbursements. CSAC will convene a task force to assist in identifying options for reforming the process by which new mandates are established and will also work to secure subventions for money the state owes to counties for current and past mandates.

## **Health and Human Services**

**Affordable Care Act Implementation.** CSAC will continue to engage the Brown Administration, the Legislature, Counties and county affiliates in the many facets of Affordable Care Act (ACA) implementation. Significant topics include devising and monitoring the integrity of the mechanics associated with the fiscal transaction of 1991 Health Realignment funds to the state and ensuring adequate funding for increased eligibility and enrollment functions at the local level.

**2011 Realignment Implementation.** Efforts to implement portions of the 2011 Realignment deal are also ongoing and 2014 promises to be yet another labor-intensive year as CSAC works with counties to determine stable county-by-county Mental Health funding and growth allocations and potentially significant changes to the Drug Medi-Cal program to ensure program integrity and outcomes. CSAC will also work to strengthen collaborations and leverage opportunities at the intersection of the health and human services and administration of justice policy areas.

**In Home Supportive Services Issues.** The In Home Supportive Services (IHSS) program continues to present challenges for counties as we work to implement the 2012 IHSS Maintenance of Effort (MOE) legislation and monitor the state's progress in erecting the Cal Medi-Connect (formerly known as the Duals Demonstration Project or Care Coordination Initiative [CCI]) and the impacts of that project on the transfer of collective bargaining for IHSS providers from counties to the state.

## **Housing, Land Use and Transportation**

**SB 375 Implementation.** In 2008, Senate President Pro Tempore Darrell Steinberg sponsored one of the most significant land use bills in recent history (SB 375, Chapter No. 728, Statutes of 2008). Implementation is in full swing with several urban regions having completed the process of adopting new regional plans, which include a Sustainable Communities Strategy (SCS) to guide future

transportation investments and growth. CSAC remains very engaged in these efforts as counties struggle to shape these plans at the regional level and seek the tools to ensure successful implementation (i.e. CEQA streamlining for infill, adequate transportation revenues, relief from the California Department of Housing and Community Development's default densities, etc.).

**Housing Element Reform.** Housing element law has resulted in one of the most contentious state-local relationships in existence. Staff is once again engaged in reform discussions with counties, legislative staff and the Housing and Community Development Department (HCD). HCD has significant authority to review local planning and zoning for regional housing needs required by state law but many counties experience frustration with the specific detailed level of review that is not required by law. We expect numerous bills to deal with county issues related to required density levels, HCD discretion, and the regional housing needs process.

**State and Federal Indian Gaming.** CSAC is the lead local government interest involved in Indian gaming and Tribal Compacts negotiated between the Governor and California's Native American tribes. With 60 casinos in 26 of our counties, mitigation of off-reservation impacts and other service costs, including public safety, remain a priority for CSAC. Further, CSAC remains proactive in seeking reforms to the federal fee-to-trust process, federal acknowledgement process, and other federal regulatory efforts to ensure counties have a meaningful voice. Staff is reactivating the CSAC Indian Gaming Working Group to update CSAC's existing policy to ensure we can effectively and proactively advocate on behalf of counties.



California State Association of Counties

## **CSAC 2014 FEDERAL ADVOCACY PRIORITIES**

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**\*\*\* DRAFT \*\*\* presented to Executive Committee – Jan. 2014**

*CSAC's contract for federal affairs services with Waterman and Associates provides for a nine-issue agenda. CSAC staff, in consultation with Waterman and Associates, developed the following list of federal issues of significance to California's counties. These nine issues will represent the association's top lobbying priorities for 2014, with CSAC staff and Waterman and Associates working together to identify other emerging topics that may necessitate action throughout the year.*

### **MAP-21 Reauthorization**

CSAC will promote a number of key surface transportation priorities as part of the upcoming reauthorization of MAP-21, which is set to expire on September 30, 2014. Among other things, the association strongly supports a dedicated federal funding stream for local bridges, both on- and off-system. Federal bridge program funds are used for critical repairs and replacements to ensure the safety of the traveling public. Additionally, CSAC will seek opportunities to further streamline the regulatory and project delivery processes; promote programs that increase safety on the existing transportation system; and, advocate for initiatives that protect previous and future investments via system maintenance and preservation.

### **State Criminal Alien Assistance Program**

CSAC will continue to serve as a lead advocate in efforts to protect the SCAAP program, which is a key source of federal funding for 50 of California's counties. With regard to the appropriations process, CSAC will advocate for the highest possible SCAAP reimbursement level. On a related matter, the association will fight to prevent the continuance of statutory language that authorizes the U.S. Department of Justice to transfer up to 10 percent of SCAAP funding to other justice accounts.

In addition, CSAC will continue to advocate for a long-term reauthorization of SCAAP and will continue to seek several key programmatic changes to the program. The association has taken the lead role in securing important statutory changes to SCAAP in the House and Senate immigration reform bills, which are pending in Congress. Finally, CSAC will oppose any potential harmful administrative changes to SCAAP, including those aimed at eliminating payments to jurisdictions for the costs of incarcerating inmates whose immigration statuses are "unknown."

### **Native American Affairs/Fee-to-Trust Reform**

CSAC will continue to lead local government efforts in opposition to a so-called clean *Carciari* "fix," which would restore the Secretary of the Interior's authority to take land into trust for all tribes absent

January 2014

concomitant reforms in the Indian fee-to-trust process. CSAC also will continue to advocate for the association's comprehensive fee-to-trust package.

### **Secure Rural Schools Act Reauthorization**

CSAC will maintain efforts aimed at securing a multi-year reauthorization of the SRS program. In the absence of a long-term renewal, CSAC supports a short-term extension of the Act. The SRS program was extended for one-year (through fiscal year 2013) as part of the recently enacted *Helium Stewardship Act* (PL 113-40). Unless the program is reauthorized, final payments will be distributed to eligible jurisdictions between November 2013 and February 2014.

### **Clean Water Act Section 404 Permitting**

CSAC will continue to promote and build support for legislation (HR 1296) that would provide a permitting exemption for maintenance removal of sediment, debris, and vegetation from local flood control channels and basins. HR 1296, which CSAC helped to develop and build support for in the current legislative session, may see committee action late in 2013, with the potential for additional movement in 2014.

### **Remote Sales Tax Legislation**

CSAC supports federal legislation - the *Marketplace Fairness Act* (S 743; HR 684) - that would authorize state and local governments to require tax collection and remittance by remote sellers. The Senate approved S 743 in 2013, and the House is expected to act on its own measure in 2014.

Under current law, online retailers are exempt from collecting sales taxes in states where they have no physical presence, or "nexus." In these situations, the consumer is responsible for calculating the use tax and remitting the payment to the relevant jurisdictions, but compliance is low. As online sales continue to grow, local governments are losing billions of dollars in uncollected sales tax revenue.

### **Payments-in-lieu-of-Taxes**

CSAC will support efforts to convert the temporary nature of mandatory PILT spending into a permanent feature of the program. Pursuant to PL 110-343, all counties received 100 percent of authorized PILT payments in fiscal years 2008 through 2012. Prior to fiscal year 2008, PILT payments were subject to the annual appropriations process. As part of MAP-21, Congress approved an additional one-year PILT extension (through fiscal year 2013).

### **Property Assessed Clean Energy Program**

CSAC supports legislative and administrative remedies that would help restart stalled residential PACE programs. The Federal Housing Finance Agency (FHFA) issued a directive in 2010 that effectively shut down PACE programs in California and across the country. Bipartisan legislation (HR 2599) that would prevent FHFA from adopting policies that contravene established state and local PACE laws will likely be reintroduced in 2014. Such a measure would also establish best-practice underwriting standards.

## **Child Welfare Financing Reform**

CSAC supports legislation to reform the child welfare financing system, as well as provide additional resources to stabilize families and train and retain child welfare staff. CSAC supports additional programmatic flexibility, along with an updated foster care payment methodology.

## **CSAC INTERNAL MONITORING**

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*In addition, CSAC will continue to provide internal monitoring on a number of issues that are of significance to California's counties.*

## **U.S. Army Corps of Engineers' Levee Vegetation Removal Policy**

Congress is likely to approve a Water Resources Development Act (WRDA) reauthorization measure in the coming months that would require the Corps to undertake a comprehensive review of its levee vegetation removal policy. However, if Congress fails to act before the end of the year, CSAC will continue in 2014 to seek changes to the Corps' policy, which generally requires local flood control agencies to remove woody vegetation from levees in order to allow for easier inspections and to reduce any potential weakening of levees from root growth and overturned trees.

## **Health Reform Implementation**

CSAC will support continued federal funding for the Affordable Care Act, including measures supporting state and county administration of the law.

## **Pension Tier Changes - Conflict with IRS Requirements**

CSAC will continue to support legislation (HR 205) that would clarify the authority of local governments to propose and implement creative solutions to rising pension costs. At the same time, the association will urge the Internal Revenue Service (IRS) to remove regulatory barriers that prevent local governments from implementing their own local pension reforms.

## **Temporary Assistance for Needy Families Reauthorization**

CSAC will promote TANF reauthorization legislation that would restore state and county flexibility to tailor work and family stabilization activities to families' individual needs. The association also supports maintaining the focus on work activities under TANF, while recognizing that "work first" does not mean "work only."

## **Tax-Exempt Status of Municipal Bonds**

CSAC will oppose any proposal that seeks to limit or eliminate the tax treatment of municipal bonds. Under current law, investors are not required to pay federal income taxes on interest earned from most bonds issued by state and local governments. The tax exempt status of municipal bonds therefore provides counties with a cost-effective tool to finance public infrastructure projects and capital improvements.

### **National Flood Insurance Program (NFIP)**

CSAC supports the creation of a new agricultural flood hazard area under the National Flood Insurance Program (NFIP). Specifically, Congress should establish a FEMA flood zone for agriculturally-based communities to allow replacement or reinvestment development in historically agricultural floodplains. This program would not require expensive elevation of structures or dry flood proofing, but would still have requirements for wet flood proofing certain structures. Congress should instruct FEMA - for these special agricultural zones - to adjust the NFIP rate to be more actuarially structured in order to evaluate the actual flood risk based on levees providing historical protection, as opposed to assuming that no protection exists.

It should be noted that Congressman John Garamendi (D-CA) introduced such legislation - the *Flood Insurance for Farmers Act of 2012* (HR 4020) - in the 112th Congress. The congressman is expected to reintroduce the bill in the 113th Congress.

### **Farm Bill Reauthorization**

CSAC supports congressional efforts to reauthorize the federal Farm Bill, including provisions protecting funding for the Supplemental Nutrition Assistance Program (SNAP), rural development programs, and renewable energy development. The current Farm Bill, which provides subsidies and other aid to farmers nationwide, expired on September 30, 2012. Most programs authorized by the Act will continue to be funded through March 27, 2013 as part of the current Continuing Resolution (PL 112-175).

It should be noted that Congress recently convened a House and Senate conference committee, which is charged with reconciling differences between the two chambers' Farm Bill reauthorization bills (HR 2642/S 954).

### **Workforce Investment Act Reauthorization**

CSAC supports a reauthorization of the Workforce Investment Act (WIA) that maintains the leadership role of elected officials on local Workforce Investment Boards. Additionally, federal legislation should protect the current funding streams and percentage allotments for local areas and the populations they serve.

### **Community Development Block Grant**

CSAC will promote increased funding for the CDBG program to allow localities to continue to provide a wide variety of economic and community development activities, such as home rehabilitation loans, public works and infrastructure projects, and various youth-related services. CDBG funds have been targeted for cuts in recent budget cycles, making it increasingly challenging to maintain adequate funding for the block grant.

### **Eliminate Inmate Exception**

CSAC supports the elimination of the federal health benefits "inmate exception" for persons in county jails and detention centers who are in custody pending disposition of charges. Counties are prohibited from billing federal programs for the health services provided to jail inmates prior to adjudication.

### **Digital Goods and Services Tax Fairness Act**

CSAC will oppose legislation (S 1364) that would prohibit state and local governments from imposing taxes on digital goods and services that are taxable under current law. Digital goods and services are online purchases that are downloaded directly by consumers, including music downloads, movies, and newspaper subscriptions. House Judiciary Chairman Bob Goodlatte (R-VA) may seek to package such a proposal with remote sales tax legislation.

### **Byrne Grant Funding**

CSAC strongly supports prioritizing Byrne funding in the annual appropriations process and will work collaboratively with the California congressional delegation and others to secure and promote increased funding for the program and the positive local outcomes it helps achieve.

### **Federal Geothermal Royalties**

CSAC opposes any legislative effort that would discontinue geothermal royalty payments to county governments. The Geothermal Steam Act of 1970 specifies a formula for the distribution of geothermal revenues to federal, state, and county governments. Under the formula, the federal government retains 25 percent of the revenue, the States receive 50 percent, and county governments receive 25 percent. Several recent attempts have been made to permanently repeal the sharing of geothermal revenues with counties.

### **State's Water Crisis**

CSAC will monitor any legislative proposals to ensure consistency with the association's comprehensive policy direction on water. California's political leaders and various state and local water interests continue to pressure California's congressional delegation and the Obama administration to address the state's chronic water shortage. A wide range of proposals are being discussed that would address water transfers, endangered species laws, water quality and California Bay-Delta protections, to name a few.

### **Transient Occupancy Tax**

CSAC will work to ensure counties' continued authority to assess and collect transient occupancy taxes on the full rate paid by the consumer for all appropriate transient lodging, regardless of whether the consumer pays through a hotel or any other vendor.

### **Waters of the U.S.**

CSAC will continue to monitor congressional efforts to block EPA's administrative actions aimed at expanding regulatory authority over certain bodies of water. In 2011, the Obama administration announced that it was updating draft guidance on the scope of waters that would be regulated under the Clean Water Act (CWA). According to EPA, the number of waters identified as protected by the CWA



under revised “Waters of the U.S.” guidance will increase compared to current practice. The expansion of federal jurisdictional authority over state and local waters has elicited concern from state and local resource agencies, as well as federal lawmakers.

### **2-1-1 Statewide**

CSAC has actively supported both state and federal legislation to help build and fund a statewide 2-1-1 referral system. 2-1-1 is a free, easy-to-remember telephone number that connects people to essential community information and services. In 2009, over 1.6 million Californians called 2-1-1 to find needed community services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and senior care. 2-1-1 also plays an informational role during emergencies and disasters and relieves pressure on the 9-1-1 system at these critical times. The value of this service was evident during the 2007 San Diego wildfires when 2-1-1 call centers provided information and support to more than 130,000 callers in five days. Currently, just 27 of California’s 58 counties have 2-1-1 service covering 92 percent of the population. CSAC will continue to work at both the state and federal levels to promote the need for a comprehensive statewide 2-1-1 system.

### **Medical and Long-Term Care Premiums**

CSAC supports federal legislation to extend to all retirees the option to use tax free distribution from qualified retirement plans to pay for medical and long-term care premiums. In the Pension Protection Act of 2006, Congress granted specified public safety officers the ability to use up to \$3,000 per year of tax-free dollars from their qualified retirement plans to pay for medical and long-term care premiums. Extension of this benefit to all retirees who participate in a qualified retirement plan could encourage people to save more while lessening the burden on government budgets to cover rising health care costs.



February 6, 2014

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To: CSAC Board of Directors

From: Faith Conley, Legislative Representative, Employee Relations, Veterans Issues  
Kiana Buss, Legislative Representative, Housing, Land Use and Transportation

Re: **Proposition 41 – ACTION ITEM**

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**Recommendation.** CSAC staff recommends the CSAC Board of Directors reaffirm existing CSAC policy related to affordable housing and veterans affairs by adopting a position of “support” on Proposition 41, a June 2014 ballot measure that would enact the Veterans Housing and Homeless Prevention Bond Act of 2014.

**Background.**

**CalVet Home Loan Program.** The California Veteran Farm and Home Purchase Program (Home Loan Program), administered by the California Department of Veterans’ Affairs (CalVet), was established in 1921, and reauthorized in 1943 and 1974. Providing loans to veterans for single-family residences, it is funded primarily by tax-exempt general obligation bonds and is fully self-supporting, with principal and interest on the bonds and all administrative costs repaid from interest charged to veteran loan holders. California voters have approved 23 veterans bonds since 1943 to fund the program, the most recent of which was Proposition 12 (Veterans’ Bond Act of 2008) that authorized \$900 million in bonding authority. The CalVet Home Loan Program has experienced a sharp decline in activity in the last decade, with no issuance of bonds approved under Proposition 12 and over \$200 million in bond authority still existing from previously approved ballot measures.

**Homeless Veterans Issue.** The rate of homelessness among veterans has experienced major growth, especially in the last two decades. In fact, 15 percent to 20 percent of the country’s homeless population is identified as veterans, and California is home to roughly 25 percent of those identified. Currently, no California housing programs are directed at the homeless veteran population and funding from voter-approved Propositions 46 (Housing and Emergency Shelter Trust Fund Act of 2002) and 1C (Housing and Emergency Shelter Trust Fund Act of 2006) are nearly exhausted and it is unclear as to whether additional funds will be available for these programs.

**Assembly Bill 639.** Assembly Bill 639 (Chapter 727, Statutes of 2013), authored by Assembly Speaker John A. Pérez, placed a measure on the June 2014 ballot to establish the Veterans Housing and Homeless Prevention Bond Act of 2014 (Act). The act would restructure \$600 million of the \$900 million in bonds approved by the voters for the CalVet Home Loan Program through Proposition 12 in 2008 and use them to fund the acquisition, construction, rehabilitation, and preservation of multifamily supportive housing, affordable transitional housing, affordable rental housing, and related facilities for veterans and their families. The Act will focus on veterans that are at risk for homelessness or are homeless and in need of services such as mental health counseling, substance abuse treatment, job training, and/or struggling with unemployment, and would leave CalVet with \$530 million in bonds for its existing home loan program.

**Policy Considerations.** The CSAC platform allows for Association support of strategies at local, state and federal levels to increase service delivery to veterans and to support the identification and generation of financing resources for affordable housing as well as the promotion of a full range of housing in all communities. As such, CSAC worked closely with Assembly Speaker Pérez's office in support of AB 639 with the intent of future collaboration between local government stakeholders and the Legislature on issues surrounding the needs of veterans in our communities as well as the overarching policy issue of chronic homelessness in California. As CSAC prepares to internally address the creation of policy to guide the Association in its work with other stakeholders, the Legislature and federal government in the areas of homelessness and veterans' affairs, a position of "support" on Proposition 41 would further efforts in our dedication to ensuring our continued involvement in the policymaking process on these matters.

**Action Requested.** Staff recommends the CSAC Board of Directors reaffirm existing CSAC policy related to affordable housing and veterans affairs by adopting a position of "support" on Proposition 41.

**Staff Contact.** Please contact Faith Conley ([fconley@counties.org](mailto:fconley@counties.org) or 916/650-8117) or Kiana Buss ([kbuss@counties.org](mailto:kbuss@counties.org) or 916/650-8180) for more information.



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
FINANCE CORPORATION

February 20, 2014

**To:** CSAC Board of Directors  
**From:** Nancy Parrish, Executive Director, CSAC Finance Corporation  
**RE:** Finance Corporation Program Update

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Last year the CSAC Finance Corporation continued to grow our existing programs and expand our offerings to include two new program partners; Medcor and ExtendHealth, a Towers Watson Company. As a result of the participation of all 58 counties in our programs, the CSAC Finance Corporation was able to provide CSAC not only with the budgeted \$3.3 million contribution this year but also an additional \$250,000 to support CSAC's advocacy efforts.

Our new program with Medcor provides onsite health clinics for county employees. This program is designed to reduce healthcare costs and improve employee health outcomes by providing onsite employee health clinics with customized services tailored to the needs of your workforce. With the Onsite Employee Health Clinic Program, the potential for savings is significant in general health, increased productivity, and workers compensation.

Our new program with ExtendHealth, a Towers Watson Company, offers your Medicare eligible retirees a wide array of health plans to choose from at significantly lower costs than they currently pay to participate in your group plan. This program recognizes the mounting pressure on California counties to maximize the value of tax dollars while meeting commitments to retirees by providing a means to remove the burden of retiree healthcare administration and offer retirees more healthcare options.

The CalTRUST investment pool continues to grow and has added over 15 local agency participants over the last year and assets are now in excess of \$1.7 Billion. The CalTRUST Education Program provides webinars on topics such as Economic Forecast and Net Asset Value Fundamentals to all interested public agency participants.

The California Statewide Communities Development Authority (CSCDA) continues to benefit California counties by financing public housing and healthcare facilities throughout the state. In 2013 CSCDA launched a New Markets Tax Credits Program after receiving a \$35 million allocation from the federal government. Three projects have successfully closed under this program including:

- The Alliance for College-Ready Public Schools to finance a 24,000 SF charter school building to house its high achievement educations programming for students (Los Angeles County)
- The Shasta Community Health Center to fund an expansion project for their main medical facility (Shasta County)
- The East Bay Asian Local Development Corporation to stabilize and enhance the historic Swan's Marketplace (Alameda County)

This year CSCDA will expand the Sustainable Energy Bond Program which is a self-funding building infrastructure investment tool that enables counties to make sustainable improvements to facilities and produce guaranteed reductions in energy costs without impacting capital budgets. Sustainable Energy Bond Program Benefits include guaranteed savings on energy and water; no up-front capital and all construction costs are covered through the bond and participants own all improvements and benefits.

Our U.S. Communities purchasing program continues to thrive with over 30 contracts leveraging the buying power of over 90,000 governmental agencies across the nation. This no-cost program is available to all counties, cities, special districts, and non-profits and offers the lowest local government pricing on all contract items. New and refreshed contracts added last year include Acro, Cintas, Tradition Energy consulting and management services, Ricoh Americas multifunction products and document services, and Graybar electrical services. U.S. Communities offers one of the quickest and easiest ways to start seeing immediate budget savings.

Coast2Coast Rx's prescription drug card continues to be successful among California counties. Currently the Coast2Coast Rx Card is endorsed in 26 California counties. This program requires minimal effort on the part of the county to reach out to residents with prescription drug, lab, and other medical savings. In 2013, the 26 California counties using the Coast2Coast Rx Card have received over \$560,000 in revenue back to their county.

Our deferred compensation program through Nationwide Retirement Solutions (NRS) continues to improve on the ways they reach out to county employees and help plan for retirement. Currently used by 28 California counties, Nationwide offers online interactive retirement planners and in-person retirement consultations to help make sense of the daunting world of retirement planning. Last year Nationwide successfully responded to a rebid by San Diego County which retains over \$1 billion in assets in the program. Additionally, the Orange County Transit Authority exercised their option to renew their contract with Nationwide. In collaboration with NRS we are developing educational materials this year for county employees as they approach retirement to help educate them on ways they can maximize their retirement funds.

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February 10, 2014

TO: CSAC Board of Directors

From: Elizabeth Howard Espinosa  
CSAC Administration of Justice Staff

**RE: Prison Overcrowding and Final Federal Court Action**

---

This morning, the federal three-judge court presiding over the decades-long litigation in the state's prison overcrowding case issued its final ruling more than four years after the court initially imposed a population reduction. The court granted the state's request for an additional two-year extension to meet the court's August 2009 order to bring the prison population down to 137.5% of design capacity – to about 110,000 inmates.

The specific elements of the February 10 order are as follows:

- Extends the timeframe for the state to come in compliance with the 137.5% benchmark to **February 28, 2016**, with the three interim benchmarks.
- Maintains the court's jurisdiction during the extension period and caps the current number of prison inmates housed in out-of-state facilities at approximately 8,900;
- Implements elements of the state's previously outlined plan to achieve compliance:
  - Grant *prospective* credit earning enhancements for non-violent second strike offenders and minimum custody inmates;
  - Establish a *new* parole suitability screening process through the Board of Parole Hearings for non-violent second strikers who have served at least half their sentence;
  - Expand medical parole and implement an elderly parole program for specified inmates;
  - Activate new reentry hubs and expand community reentry programs; and
  - Expand alternative custody for female inmates.
- Requires monthly reports from the state on measures being taken.
- Appoints a compliance officer with specified duties specifically tied to identifying and ordering release of lower-risk inmates only if the state were to miss a benchmark during the next two years. The compliance officer – who must be jointly recommended to the court by the plaintiffs and defendants – shall retain his or her powers until it is "firmly established" that the state's achievement of the 137.5% population benchmark is durable.
- Directs the state to identify categories of prisoners least likely to reoffend or who might otherwise be candidates for early release. The list will not be reviewed by the court or the compliance officer unless the state fails to make progress toward meeting the population reduction benchmark, as specified in the order.

The order also assumes the defendants (the state) will abide by its previous commitment not to appeal the order or any subsequent order necessary to carry out implementation of the state's compliance plan. Further, it reaffirms the expectation that the state will fulfill its commitment to develop comprehensive, sustainable, and long-term population reduction reforms, which could include the establishment of a sentencing commission. Today's court

action effectively endorses both the state's plans as previously outlined to the court as well as the assumptions upon which the Governor's 2014-15 budget proposal were built. A copy of the court's order is attached.

**Staff contact.** For questions about this matter, please contact Elizabeth Howard Espinosa at [eespinosa@counties.org](mailto:eespinosa@counties.org) or 916-650-8131.

Attachment

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IN THE UNITED STATES DISTRICT COURTS  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
AND THE NORTHERN DISTRICT OF CALIFORNIA  
UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES  
PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

RALPH COLEMAN, et al.,  
Plaintiffs,  
v.  
EDMUND G. BROWN JR., et al.,  
Defendants.

NO. 2:90-cv-0520 LKK DAD (PC)  
**THREE-JUDGE COURT**

MARCIANO PLATA, et al.,  
Plaintiffs,  
v.  
EDMUND G. BROWN JR., et al.,  
Defendants.

NO. C01-1351 TEH  
**THREE-JUDGE COURT**  
**ORDER GRANTING IN PART  
AND DENYING IN PART  
DEFENDANTS' REQUEST FOR  
EXTENSION OF DECEMBER 31,  
2013 DEADLINE**

WHEREAS the Court has read and considered the parties' filings in response to this Court's January 13, 2014 Order;

WHEREAS defendants have represented that, in conformance with the terms of this order, they will develop comprehensive and sustainable prison population-reduction reforms and will consider the establishment of a commission to recommend reforms of state penal and sentencing laws;



1           WHEREAS defendants have represented that they will not appeal or support an  
2 appeal of this order, any subsequent order necessary to implement this order, or any order  
3 issued by the Compliance Officer to be appointed in conformance herewith that is consistent  
4 with the duties of the Compliance Officer as specified in this order, and will not move or  
5 support a motion to terminate the relief contained in this order until at least two years after  
6 the date of this order and such time as it is firmly established that compliance with the  
7 137.5% design capacity benchmark is durable;

8           WHEREAS this order is issued in reliance on defendants' representations; and

9           WHEREAS the Court finds that the order below is narrowly tailored to the  
10 constitutional violations identified by the *Plata* and *Coleman* courts, extends no further than  
11 necessary to remedy those violations, and is the least intrusive possible remedy.

12           IT IS HEREBY ORDERED that:

13           1.       The Court GRANTS defendants' request for an extension of time, but only to  
14 February 28, 2016, to comply with this Court's June 30, 2011 Order to reduce California's  
15 prison population to 137.5% design capacity.

16           2.       The deadline to achieve the ordered reduction in the in-state adult institution  
17 population to 137.5% design capacity is extended to **February 28, 2016**. Defendants will  
18 meet the following interim and final population reduction benchmarks:

19                   (a)     143% of design bed capacity by **June 30, 2014**;

20                   (b)     141.5% of design bed capacity by **February 28, 2015**; and

21                   (c)     137.5% of design bed capacity by **February 28, 2016**.

22           3.       During the extension period, and as long as this Court maintains jurisdiction,  
23 defendants shall not increase the current population level of approximately 8,900 inmates  
24 housed in out-of-state facilities. Defendants shall also explore ways to attempt to reduce the  
25 number of inmates housed in out-of-state facilities to the extent feasible.

26           4.       The Court acknowledges that defendants intend to comply with this order in  
27 part through a combination of contracting for additional in-state capacity in county jails,  
28 community correctional facilities, and a private prison, and through newly enacted programs

1 including the development of additional measures regarding reforms to state penal and  
2 sentencing laws designed to reduce the prison population. Defendants shall also immediately  
3 implement the following measures:

4 (a) Increase credits prospectively for non-violent second-strike offenders  
5 and minimum custody inmates. Non-violent second-strikers will be eligible to earn good  
6 time credits at 33.3% and will be eligible to earn milestone credits for completing  
7 rehabilitative programs. Minimum custody inmates will be eligible to earn 2-for-1 good time  
8 credits to the extent such credits do not deplete participation in fire camps where inmates also  
9 earn 2-for-1 good time credits;

10 (b) Create and implement a new parole determination process through  
11 which non-violent second-strikers will be eligible for parole consideration by the Board of  
12 Parole Hearings once they have served 50% of their sentence;

13 (c) Parole certain inmates serving indeterminate sentences who have  
14 already been granted parole by the Board of Parole Hearings but have future parole dates;

15 (d) In consultation with the Receiver's office, finalize and implement an  
16 expanded parole process for medically incapacitated inmates;

17 (e) Finalize and implement a new parole process whereby inmates who are  
18 60 years of age or older and have served a minimum of twenty-five years of their sentence  
19 will be referred to the Board of Parole Hearings to determine suitability for parole;

20 (f) Activate new reentry hubs at a total of 13 designated prisons to be  
21 operational within one year from the date of this order;

22 (g) Pursue expansion of pilot reentry programs with additional counties and  
23 local communities; and

24 (h) Implement an expanded alternative custody program for female inmates.

25 5. Defendants will report to this Court monthly on the status of measures being  
26 taken to reduce the prison population, and on the current in-state and out-of-state adult prison  
27 populations. The first report shall be submitted on the 15th of the month following the date  
28 of this order and shall continue until further order of the Court.

1           6.       The Court will appoint a Compliance Officer for the purpose of bringing  
2 defendants into compliance with any missed benchmark by ordering inmate releases. If  
3 compliance with any benchmark is not achieved within a 30-day period following the  
4 expiration of any missed benchmark, the Compliance Officer shall, within seven days, direct  
5 the release of the number of inmates necessary to achieve compliance with the missed  
6 benchmark and the measures to be followed in selecting the prisoners to be released. The  
7 authority of the Compliance Officer shall extend no further than ordering defendants to  
8 release inmates necessary to ensure defendants' compliance with any missed benchmark.

9           (a)       In selecting inmates for release, the Compliance Officer shall consider  
10 public safety by minimizing any risk of violent re-offense. The Compliance Officer shall not  
11 be authorized to order the release of condemned inmates or inmates serving a term of life  
12 without the possibility of parole.

13           (b)       The Compliance Officer shall have access to all necessary CDCR data  
14 and personnel regarding the California prison population, including population projections,  
15 risk assessments, recidivism data, statistical data, and prisoner files, and shall receive  
16 administrative support from CDCR to the extent needed to carry out the Compliance  
17 Officer's duties. In addition, the Compliance Officer may engage the services of a part-time  
18 assistant and/or a part-time secretary upon a showing of good cause within the discretion of  
19 this Court at a rate of pay to be approved by this Court should the parties disagree. If the  
20 Compliance Officer finds good cause to question the accuracy of any data presented to him  
21 or her, the Compliance Officer shall have the authority to verify the accuracy of such data.

22           (c)       The Compliance Officer shall be compensated for all work or services  
23 necessary to ensure compliance with a benchmark, should a benchmark be missed, and all  
24 work or services necessary to verify the accuracy of any data presented to him or her by the  
25 CDCR, should the Compliance Officer find good cause to question the accuracy of such data.  
26 Defendants shall reasonably compensate the Compliance Officer on an hourly basis and for  
27 reasonable expenses, and the provisions of 18 U.S.C. § 3626(f) shall not apply.

28

1           7.       The Compliance Officer shall retain all powers, access to information, and  
2 compensation granted under this order after the final 137.5% benchmark is reached and until  
3 it is firmly established that defendants' compliance with the 137.5% benchmark is durable.  
4 During this period after compliance with the final benchmark and before such compliance is  
5 durable, if two of defendants' monthly reports, consecutive, report a prison population above  
6 137.5% design capacity, the Compliance Officer shall, within seven days, direct the release  
7 of the number of inmates necessary to bring the prison population to 137.5% design capacity.

8           8.       The parties shall meet and confer to attempt to make a joint recommendation to  
9 the Court regarding the selection of the Compliance Officer and an appropriate hourly rate of  
10 compensation, which may be subject to increase annually. If the parties are not able to agree,  
11 they may each recommend up to two candidates for the Court's consideration and a proposed  
12 hourly rate. The parties shall file their recommendations, including a description of any  
13 recommended candidate's qualifications and an explanation of any proposed hourly rate,  
14 within 30 days of the date of this order. The selection of the Compliance Officer and  
15 compensation rate rests solely within the Court's discretion, and the Court will not be limited  
16 to the parties' recommendations, whether separate or joint.

17           9.       To the extent that any state statutory, constitutional, or regulatory provisions,  
18 except the California Public Resources Code, impede the implementation of this order or  
19 defendants' ability to achieve the population reduction benchmarks, all such laws and  
20 regulations are waived. Although the Court does not issue a general waiver of the Public  
21 Resources Code, defendants may request waivers, as the need arises, of these statutory  
22 provisions that are tailored to specific projects.


23           10.      This Court shall maintain jurisdiction over this matter for as long as is  
24 necessary to ensure that defendants' compliance with the 137.5% final benchmark is durable,  
25 and such durability is firmly established.

26           11.      Defendants shall, within 60 days of the date of this order, file with the  
27 Compliance Officer under seal, the categories of prisoners who are least likely to reoffend or  
28 who might otherwise be candidates for early release (the "Low Risk List") that this Court

1 previously ordered them to create. The Low Risk List shall not be viewed by the  
2 Compliance Officer unless and until he or she is ordered to do so by this Court. Similarly,  
3 this Court will not inspect the list unless circumstances so warrant. Defendants shall file an  
4 amended list every 60 days, should changes to the list become appropriate.

5  
6 **IT IS SO ORDERED.**


7  
8 Dated: 02/10/14

  
\_\_\_\_\_  
STEPHEN REINHARDT  
UNITED STATES CIRCUIT JUDGE  
NINTH CIRCUIT COURT OF APPEALS

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12 Dated: 02/10/14

  
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LAWRENCE K. KARLTON  
SENIOR UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF CALIFORNIA

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THELTON E. HENDERSON  
SENIOR UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF CALIFORNIA

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February 4, 2014

TO: CSAC Board of Directors

From: Elizabeth Howard Espinosa  
CSAC Administration of Justice Staff

RE: **Update on the Realignment Allocation Committee**

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This memo provides an informational update on the work of the Realignment Allocation Committee. As was detailed in a presentation to the Board at its November 2013 meeting, the committee is presently focused on developing an AB 109 allocation formula that would become effective July 1, 2014. Attached for reference is the committee's work plan and general principles guiding its work.

In early January, the RAC held an in-person meeting to evaluate more closely the Public Policy Institute of California's (PPIC) report and recommendation on a longer-term AB 109 allocation formula. (The full report and technical appendix are available online at [ppic.org](http://ppic.org).) That meeting was an opportunity to delve into more specific detail directly with PPIC researchers about their assumptions and recommendations.

The RAC has begun to meet more frequently via conference call and will convene in person on February 13 to continue its work; additional in-person gatherings are expected in the coming months. The committee continues to sift through data options and has yet to model potential approaches.

I would also note that the Governor's January budget is important with respect to the work of the RAC. First, the extensive public safety section discusses the work underway to determine a longer-term distribution formula. In that section, the narrative draws directly from principles (attached) the RAC provided to the Department of Finance based on CAOAC input. Secondly, the proposed budget updates revenue estimates for 2011 Realignment (see attached chart). Recall that the growth estimates for 2012-13 fluctuated significantly over last year – going from an estimate of \$77 million in the January 2012-13 budget to a projected \$45 million in the May Revision and back up to over \$86 million in the actual amount distributed in October. The RAC urges counties to use caution regarding assumptions about future undistributed growth levels. Should there be positive 2013-14 growth, it will be distributed in October 2014.

One of the key issues before the RAC is how best to manage the drop-off in programmatic funding in 2014-15 associated with the state's population modeling, which anticipates a decrease in the locally supervised population. The RAC and CSAC staff remain committed to providing regular updates to the CSAC Board of Directors and to the County Administrative Officers Association of California (CAOAC) during the RAC's deliberative process.

**Staff contact.** For questions about this matter, please contact Elizabeth Howard Espinosa at [eespinosa@counties.org](mailto:eespinosa@counties.org) or 916-650-8131.

## **Long-term Allocation Framework (11-21-2013)**

### **Realignment Allocation Committee with input from CAOAC**

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The Realignment Allocation Committee has begun its works to develop a recommended approach for the long-term AB 109 allocation, effective beginning in 2014-15. The committee will determine:

- The specific elements to be included and the weighting of such factors;
- Whether and how those factors may change within the period in which the formula is in effect;
- The duration of the proposed allocation formula;
- How to manage the step down in programmatic funding in 2014-15 tied to the natural drop-off in the locally supervised population;
- The short- and long-term role of growth during the period in which the formula is in effect; and
- How to appropriately balance the workload associated with the implementation of public safety realignment, other factors affecting counties' efforts, and appropriate incentives to encourage use of programs that have been shown to reduce recidivism and improve offender outcomes.

Principles guiding the committee's work:

- 1- Formula driven by data
  - a. Reliable
  - b. Consistent
  - c. Standardized
  - d. Available on a statewide basis
  - e. Based upon agreed-upon data definitions
  - f. Statistically relevant driving factors
- 2- Funding allocations
  - a. Protect current funding levels to the greatest extent possible / adjust over time to avoid disproportional impacts
  - b. Predictable and stable
  - c. Defined by legislative intent
  - d. Fair and equitable distribution
  - e. One size does not fit all / need to recognize counties' different circumstances
  - f. Opportunity to revisit
  - g. Mechanism to adjust for changing conditions (above baseline)
- 3- Incentives
  - a. Encourage use of defined evidence-based practices and achieved results over time
  - b. Reward performance and efforts to improve justice system outcomes, such as reduced recidivism
  - c. Encourage regionalized services that result in greater efficiencies and cost savings
- 4- Other elements
  - a. Maximize flexibility and local control
  - b. Maximize communication between Department of Finance, RAC, and CAOs
  - c. Build services, program and facility capacity, including jails

**2011 Realignment Revenue Estimates  
Governor's Proposed 2014-15 Budget (January 2014)\***

\* Revenue estimates will be updated in Governor's 2014-15 May Revision.

**5196 2011 State-Local Realignment**

**2011 Realignment Estimate**

|   | (\$ millions)    |                   |                  |                   |                  |                   |
|---|------------------|-------------------|------------------|-------------------|------------------|-------------------|
|   | 2012-13          | 2012-13<br>Growth | 2013-14          | 2013-14<br>Growth | 2014-15          | 2014-15<br>Growth |
| <b>Law Enforcement Services</b>                               | <b>\$1,942.6</b> |                   | <b>\$2,124.3</b> |                   | <b>\$2,075.4</b> |                   |
| Trial Court Security Subaccount                               | 496.4            | 11.8              | 508.0            | 8.6               | 516.6            | 21.3              |
| Enhancing Law Enforcement Activities Subaccount <sup>1</sup>  | 489.9            | -                 | 489.9            | -                 | 489.9            | 7.2               |
| Community Corrections Subaccount <sup>2</sup>                 | 842.9            | 86.7              | 998.9            | 64.3              | 934.1            | 159.8             |
| District Attorney and Public Defender Subaccount <sup>2</sup> | 14.6             | 5.8               | 17.1             | 4.3               | 15.8             | 10.7              |
| Juvenile Justice Subaccount                                   | 98.8             | 11.8              | 110.4            | 8.6               | 119.0            | 21.3              |
| Youthful Offender Block Grant Special Account                 | (93.4)           | (11.0)            | (104.3)          | (8.1)             | (112.4)          | (20.1)            |
| Juvenile Reentry Grant Special Account                        | (5.5)            | (0.6)             | (6.1)            | (0.5)             | (6.6)            | (1.2)             |
| <b>Growth, Law Enforcement Services</b>                       | <b>115.7</b>     | <b>115.7</b>      | <b>85.8</b>      | <b>85.8</b>       | <b>220.8</b>     | <b>220.3</b>      |
| <b>Mental Health<sup>3</sup></b>                              | <b>1,120.6</b>   | <b>10.7</b>       | <b>1,120.6</b>   | <b>8.0</b>        | <b>1,120.6</b>   | <b>19.8</b>       |
| <b>Support Services</b>                                       | <b>2,604.9</b>   |                   | <b>2,829.3</b>   |                   | <b>2,998.1</b>   |                   |
| Protective Services Subaccount                                | 1,640.4          | 176.2             | 1,837.0          | 98.5              | 1,850.8          | 191.8             |
| Behavioral Health Subaccount <sup>4</sup>                     | 984.5            | 27.9              | 992.3            | 52.8              | 1,045.3          | 184.3             |
| Women and Children's Residential Treatment Services           | (5.1)            | -                 | (5.1)            | -                 | (5.1)            | -                 |
| <b>Growth, Support Services</b>                               | <b>214.8</b>     | <b>214.8</b>      | <b>159.3</b>     | <b>159.3</b>      | <b>395.9</b>     | <b>395.9</b>      |
| <b>Account Total and Growth</b>                               | <b>\$5,998.6</b> |                   | <b>\$6,318.3</b> |                   | <b>\$6,608.3</b> |                   |
| <b>Revenue</b>  |                  |                   |                  |                   |                  |                   |
| 1.0825% Sales Tax   | 5,516.6          |                   | 5,880.5          |                   | 6,311.2          |                   |
| Motor Vehicle License Fee                                     | 482.0            |                   | 438.8            |                   | 497.1            |                   |
| <b>Revenue Total</b>  | <b>\$5,998.6</b> |                   | <b>\$6,318.3</b> |                   | <b>\$6,608.3</b> |                   |

This chart reflects estimates of the 2011 Realignment subaccount and growth allocations based on current revenue forecasts and in accordance with the formulas outlined in Chapter 40, Statutes of 2012 (SB 1020).

<sup>1</sup> Allocation is capped at \$489.9 million. 2014-15 growth will not add to subsequent fiscal year's subaccount base allocations.

<sup>2</sup> 2012-13 and 2013-14 growth is not added to subsequent fiscal year's subaccount base allocations.

<sup>3</sup> Growth does not add to base.

<sup>4</sup> The Early and Periodic Screening, Diagnosis, and Treatment and Drug Medi-Cal programs within the Behavioral Health Subaccount do not yet have a permanent base.





# County Counselors' Association of California

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## EXECUTIVE DIRECTOR

Jennifer B. Henning

## MEMORANDUM

**To: Supervisor John Gioia, President, and  
Members of the CSAC Board of Directors**

**From: Jennifer Henning, Litigation Coordinator**

**Date: February 20, 2014**

**Re: Litigation Coordination Program Update**

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This memorandum will provide you with information on the Litigation Coordination Program's new case activities since September 2013.<sup>1</sup>

### ***B.H. v. County of San Bernardino***

Unpublished Opinion of the Fourth Appellate District, Division Two, 2013 Cal.App.Unpub.LEXIS 5293, *petition for review granted* (Nov. 13, 2013)(S213066)

B.H. was two years old when he came home from a visit with his father with bruises on his face and body. A sheriff's deputy examined the child after the injuries were reported to the Sheriff's Department. She determined there was an ongoing custody dispute and concluded there was no need for further investigation. One month later, B.H. received a head injury while in his father's care, which left him permanently disabled. B.H.'s mother filed this action alleging violations of the Child Abuse and Neglect Reporting Act (CANRA) because the Sheriff's deputy did not cross-report minor's injuries to the Department of Children and Family Services (DCFS). The trial court dismissed the case. The Fourth District affirmed, concluding that the mandatory reporting statute does not create a general mandatory duty to take further action where child abuse is not suspected. However, the California Supreme Court has granted review. CSAC will file a brief in support of San Bernardino County.

### ***Capistrano Taxpayers Assn v. City of San Juan Capistrano***

Pending in the Fourth District Court of Appeal, Division Three (filed Sept. 12, 2013)(G048969)

The plaintiff in this case challenged the City of San Juan Capistrano's water rates, which consisted of four tiers of rates depending on levels of consumption. The city also supplies recycled water to certain customers, and it recovers the cost of that supply in two ways: through a separate rate paid by the

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<sup>1</sup> At the November, 2013 Board of Directors meeting, the Board received the Litigation Coordination Program Annual Report in lieu of this update.

February 6, 2014

city's few, initial recycled water customers, and through a functionalized cost imposed on all customer classes to reflect that recycled water sales displace demands for potable supplies, thus making those supplies available and cheaper for all customers. Thus, a portion of the cost of recycled water production is considered a supply cost and melded into the charge levied for water generally provided throughout the city. The trial court invalidated the water rates because: (1) there was an insufficient record evidence that rates in the upper three tiers are proportional to the cost of providing service at those volumes; and (2) because not all customers consume recycled water, the court found the functionalized cost for this water to impose a charge for service that is not "actually used by, or immediately available to" most customers. CSAC will file a brief in support of the city.

***California Building Industry Assn v. City of San Jose***

Previously published at: 216 Cal.App.4th 1373 (6th Dist. June 6, 2013)(H038563), *petition for review granted* (Sept. 11, 2013)(S212072)

The City of San Jose adopted an inclusionary housing requirement, which called for residential developments of 20 or more units to set aside 15 percent for purchase at a below-market rate to households earning no more than 110 percent of the area median income. The inclusionary housing requirement could also be satisfied by constructing affordable housing on a different site at specified percentages. The trial court enjoined the ordinance "unless and until the City of San Jose provides a legally sufficient evidentiary showing to demonstrate justification and reasonable relationships between such Inclusionary Housing Ordinance exactions and impacts caused by new residential development." The Sixth District reversed, concluding that since the ordinance is an exercise of the city's police power, it "is CBIA's burden to establish the facial invalidity of the [ordinance], not the City's to prove that it survives the challenge." The California Supreme Court has granted review to the following issue: What standard of judicial review applies to a facial constitutional challenge to inclusionary housing ordinances that require set asides or in-lieu fees as a condition of approving a development permit? CSAC will file a brief in support of the City of San Jose.

***City of Perris v. Stamper***

Previously published at: 218 Cal.App.4th 1104 (4th Dist. Div. 2 Aug. 9, 2013)(E053395), *petition for review granted* (Nov. 13, 2013)(S213468)

This case involves appraisal of land that the city plans to acquire from defendants for a road widening project. The city appraised the property as undevelopable agricultural land, reasoning that since the city would not approve any development on the property unless the owners dedicated the portion needed for the road widening to the city, the land could be used for nothing but agriculture. The owners countered that the dedication requirement should not be considered, and the land should be valued at its highest and best use as light industrial property in calculating what is owed them. The trial court bifurcated the issues, and first determined that the dedication requirement was reasonable, after which the parties settled on the value. The landowner appealed the trial court's ruling on the dedication requirement, and the Fourth District reversed, concluding the issues surrounding the dedication requirement are essential to the determination of "just compensation" and

February 6, 2014

therefore must be decided by a jury. The California Supreme Court has granted review. CSAC will file a brief in support of the city.

***County of Los Angeles v. Superior Court (Kennebrew)***

222 Cal.App.4th 434 (2d Dist. Dec. 19, 2013)(B249494), *petition for rehearing denied* (Jan. 17, 2014)

Kennebrew shot and killed a man he thought was stealing from him. He was found incompetent to stand trial due to his dementia and was committed to Patton State Hospital. At the end of his three year commitment, Kennebrew's doctors determined he still suffered from dementia, and that he posed a risk of danger to others requiring placement in a structured environment. The trial court referred Kennebrew's case to the Los Angeles County Office of the Public Guardian for investigation for a possible "Murphy" conservatorship (Welf. & Instit. Code, § 5008(h)(1)(B)). The Public Guardian informed the court that it would not petition for conservatorship since dementia is not recognized as a recoverable mental health illness and, therefore, does not meet the criteria for mental health conservatorships, though the Public Guardian would consider a probate conservatorship, which is appropriate for patients with dementia. The trial court disagreed and ordered the Public Guardian to file a Murphy conservatorship petition. On appeal, Los Angeles County argued that the Public Guardian has sole discretion to decide whether to file a petition for conservatorship, and that dementia is not a qualifying diagnosis for a conservatorship under the Act. The Second District denied the writ, concluding that the court can order the Public Guardian to act, and that a Murphy conservatorship may be ordered for a patient with dementia, even if he has no other qualifying mental illnesses. Los Angeles County is seeking Supreme Court review, and CSAC will file a letter in support.

***Dane v. City of Santa Rosa***

Pending in the First Appellate District (filed Apr. 12, 2013)(A138355)

Even though the city never impounded her vehicle, plaintiff filed this taxpayer suit under Code of Civil Procedure section 526a, challenging the City of Santa Rosa's vehicle impoundment procedures. She claimed taxpayer standing to bring the action under section 526a because she pays sales taxes, gasoline taxes and water and sewage fees in the city. The city demurred, arguing that plaintiff lacks standing because no vehicle was impounded and no justiciable controversy exists. Further, the plaintiff pays no assessed ad valorem property taxes in the city so she has no taxpayer standing under section 526a. The trial court ruled in favor of the city, but plaintiff appealed. CSAC filed a brief in support of the City of Santa Rosa.

***Department of Finance v. Commission on State Mandates***

Previously published at: 220 Cal.App.4th 740 (2d Dist. Oct. 16, 2013)(B237153), *petition for review granted* (Jan. 29, 2014)(S214855)

The County of Los Angeles filed a test claim with the Commission on State Mandates related to certain conditions contained in a municipal stormwater sewer permit issued by the California Regional Water Quality Control Board. Specifically, the county alleged that four requirements of the permit (to install trash receptacles at transit stops and to conduct inspections of commercial, industrial, and construction sites) constituted unfunded state mandates subject to reimbursement under the California Constitution, article

February 6, 2014

XIII B, section 6 because those provisions were additional state requirements not found in the governing federal statutes and regulations. The Commission largely found in the county's favor. The Department of Finance filed a petition for writ of mandate in the trial court, which granted the writ on the basis that the permit provisions implemented the directive of the federal statutes and regulations and thus were not subject to state subvention. The Second District affirmed, concluding that the broad mandate in federal law to "reduce pollutants to the maximum extent practicable" encompassed the specific four requirements of the Permit, and therefore the Permit conditions were not reimbursable mandates. The county's petition for review, which CSAC supported, was granted.

***Friends of the College of San Mateo Gardens v. San Mateo County Community College District***

Unpublished Opinion of the First Appellate District, 2014 Cal.App.Unpub.LEXIS 6950 (1st Dist. Sept. 26, 2013)(A135892), *petition for review granted* (Jan. 15, 2014)(S214061)

The San Mateo Community College District decided to demolish a building complex and gardens on its campus rather than renovate them. For purposes of CEQA compliance, the District analyzed the proposed demolition in an addendum to an existing mitigated negative declaration, which was prepared for a large campus facility project. Plaintiff brought this action alleging that the demolition was a new project that required a new EIR, rather than an amendment to an existing project. In an unpublished opinion, the Court of Appeal held that as a matter of law, the demolition is a "new project altogether," not subject to an addendum. Therefore, the court found it requires additional environmental review as a separate, new project rather than a modification to the facilities project. The California Supreme Court granted review. CSAC will file a brief urging the Court to use deference to a local agency's determination of a project.

***George v. Morris***

724 F.3d 1191 (9th Cir. July 30, 2013)(11-55956), *cert. petition pending* (filed Dec. 16, 2013)(13-731)

The question in this case is whether a reviewing court can review the record as a whole to determine whether a law enforcement officer involved in a shooting is entitled to qualified immunity, or whether a court must base its decision on the facts alleged by plaintiff, even if the record as a whole dispute plaintiff's account. In the case, sheriff deputies were dispatched to a domestic dispute involving a gun. When they arrived, the wife informed the officers that her husband was on the patio with a loaded gun. Officers found him on the porch with a gun in one hand and his walker in the other. At some point, they fired shots and he later died from his wounds. The wife then brought this action, raising an unreasonable seizure claim on behalf of her husband. The trial court denied qualified immunity to the officers, and the Ninth Circuit Court of Appeals affirmed, concluding that they must take all facts in the light most favorable to the plaintiff, and may not examine that record as a whole. Santa Barbara County's petition for rehearing, which CSAC supported earlier this year, was denied. The County is now seeking review in the United States Supreme Court, and CSAC will file a brief in support.

February 6, 2014

***Hampton v. County of San Diego***

Previously published at: 218 Cal.App.4th 286 (4th Dist. Div. 1 July 26, 2013)(D061509), *petition for review granted* (Oct. 23, 2013)(S213132)

Plaintiffs sued San Diego County after sustaining injuries in a vehicle accident. They alleged that the road was defectively designed because there was an insufficient sight line that prevented plaintiff from seeing oncoming traffic. The trial court found the County was protected by design immunity. On appeal, plaintiff argued that where there is evidence the design at issue violated the public entity's own standards, the public entity cannot establish design immunity, except under specific circumstances not present here. The Court of Appeal affirmed the ruling in favor of the County, but the California Supreme Court has granted review. CSAC will file a brief in support of the County.

***In re A.A. (Los Angeles County Dept of Children and Family Services v. J.A.)***

221 Cal.App.4th 725 (2d Dist. Oct. 29, 2013)(B240896), *ordered published* (Nov. 21, 2013), *petition for review pending* (filed Dec. 24, 2013)(S215467)

In *In re I.J.* (2013) 56 Cal.4th 766, the California Supreme Court held that a father's sexual abuse of his daughter may support a determination that his sons are juvenile court dependents, even if there is no evidence the father sexually abused or otherwise mistreated the boys and they were unaware of their sister's abuse. The present case presents similar facts—jurisdiction was asserted over two boys following their father's sexual abuse of an unrelated nine year old girl. The Second District initially held that the abuse did not constitute sufficient evidence to conclude father's male children were also at risk of sexual abuse. The Supreme Court ordered the Second District to reconsider its decision, but the Second District again concluded jurisdiction was not warranted. It distinguished *In re I.J.* by finding that the abuse here was not as prolonged (one year versus three years) and not as severe (no disrobing or penetration). Los Angeles County is seeking Supreme Court review, and CSAC has filed a letter in support.

***In re A.G. (Los Angeles County Dept of Children and Family Services v. C.G.)***

220 Cal.App.4th 675 (2d Dist., Oct. 22, 2013)(B248092), *request to depublish denied* (Jan. 15, 2014)(S215032)

Los Angeles County sought juvenile dependency jurisdiction over two minor children alleging that the children's mother was mentally ill and was incapable of caring for them. A family court proceeding was also pending. On appeal, the question before for the court was whether the juvenile court should have sustained a petition that only related to the mother's incapacities where the father has always been, and is, capable of caring for them. The court concluded that the juvenile court erred in sustaining the petition and by entering an order for custody and visitation of the children. The court further stated that the juvenile court should have dismissed the petition, staying the order until the father obtained an award of custody through the family court proceeding. The juvenile court's decision was reversed and remanded to the family court for a hearing on the custody and visitation issue. CSAC's depublishation request was denied.

February 6, 2014

***Meddock v. County of Yolo***

220 Cal.App.4th 170 (3d Dist. Sept. 10, 2013)(C070262), *ordered published* (Oct. 3, 2013)

Plaintiff was in a county-owned parking lot in a county park when a tree within the county park, but not in the parking lot, fell on plaintiff, causing injuries. He sued the county for dangerous condition of public property. Both the trial court and the Court of Appeal ruled in favor of the county, concluding that the statutory immunity for natural condition of unimproved public property applies. In an unpublished opinion, the court rejected plaintiff's argument that since he was on an improved portion of the park, the natural conditions immunity should not apply. Instead, the court found that the statutory immunity extends to an injury "caused" by a natural condition on unimproved property, even if the injury ultimately occurred on improved property. The court also found that the county had no duty to warn, and similarly, there was no liability for creating a "hidden trap" with decaying trees adjacent to improved public property. CSAC's request for publication was granted.

***No Toxic Air, Inc. v. Santa Clara County***

Pending in the Sixth District Court of Appeal (filed Apr. 24, 2013)(H039547)

A major limestone and aggregate mine has operated for many years in Santa Clara County. The county administers the Surface Mine and Reclamation Act (SMARA) within its jurisdiction. Though the plant was in existence when neighbors moved in its proximity, they attempted to use SMARA to compel the county to close the plant. In addressing one of the SMARA issues raised by plaintiffs, the Board of Supervisors had to decide whether a county use permit was required for major areas of the current quarry operations, or whether the quarry operator had a vested right to operate in all existing areas of the quarry. The county conducted a vested rights proceeding and the Board of Supervisors determined that the operator had a vested right to conduct all of its existing quarry operations. The county subsequently approved a reclamation plan for the quarry. Plaintiffs then filed this action and argued that the Board of Supervisors' decision was subject to independent review by the court. The trial court disagreed, concluding that the Board's decision need only be supported by substantial evidence, and that using that standard, the Board's action was proper. On appeal, CSAC filed a brief in support of Santa Clara County.

***Orange Citizens for Parks and Recreation v. Superior Court***

Previously published at: 217 Cal.App.4th 1005 (4th Dist. Div. 3 July 10, 2013)(G047013), *petition for review granted* (Oct. 30, 2013)(S212800)

In 2007, a developer sought to develop a residential project with one-acre lots. The City of Orange approved the project. The approval included an amendment to the city's general plan to change the existing designation of the property from "Open Space" to "Other Open Space & Low Density." In response to petitioning activity by its citizens, the city held a referendum on the General Plan Amendment, and voters defeated the measure, thereby nullifying the General Plan Amendment. After the General Plan Amendment was defeated, the city took the position that the Amendment was not really necessary for the project to move forward, since the general plan has always allowed low density residential development on the property. Plaintiffs filed this action to stop the development, but the trial court ruled in favor of the city, concluding that the city council was owed deference in its interpretation of its own general plan. The California Supreme Court has granted

February 6, 2014

review. CSAC will file a brief urging deference to a Board's interpretation of its own general plan.

***Parker Shattuck Neighbors v. Berkeley City Council***

222 Cal.App.4th 768 (1st Dist. Nov. 7, 2013)(A136873), *ordered published* (Dec. 4, 2013)

CSAC successfully requested publication of this CEQA challenge to a proposed mixed-use commercial and residential project approved by the City of Berkeley. Plaintiff contend that the city violated CEQA by approving the project without an EIR, when an EIR was required because pre-existing contamination on the site poses health risks to the project's construction workers and future residents. The First District affirmed a trial court judgment in favor of the City. The court concluded that plaintiff failed to identify substantial evidence supporting a fair argument that potential health risks to workers and future residents might constitute a significant environmental impact, noting that the mere existence of toxic soil contamination at a project site, without any accompanying disturbance or other physical change, is not, in itself, a significant impact requiring CEQA review and mitigation. The court also found that a property's listing on the Cortese list of contaminated sites does not, by itself, trigger the need for an EIR. Finally, the court concluded that expert testimony, without more, does not create a fair argument of potential health risks.

***Pharmaceutical Research & Manufacturers of America v. County of Alameda***

Pending in the Ninth Circuit Court of Appeals (filed Sept. 19, 2013)(13-16833)

Alameda County adopted a "Safe Drug Disposal" ordinance, which requires producers of prescription drugs to fund or operate "take back" programs in the county if their drugs are sold there. Specifically, the manufacturers of prescription drugs must operate and finance "a product stewardship plan that provides for the collection, transportation, and disposal of unwanted prescription drugs." Retailers are exempt, and the cost of the program may not be passed through to consumers. Producers are also required to reimburse the county for the costs incurred in administering the ordinance. Plaintiff, a trade association representing manufactures and distributors of pharmaceutical products, challenged the ordinance under the Commerce Clause. The district court upheld the ordinance, noting that it applies to producers who elect to sell their products in Alameda County, regardless of where the producers are based or the product originates. Thus, the ordinance does not target producers based on their location (which would be prohibited), but rather based of the nature of the product they sell in the county. CSAC will file a brief in support of the County.

***Save the Plastic Bag Coalition v. City and County of San Francisco***

222 Cal.App.4th 863 (1st Dist. Dec. 10, 2013)(A137056), *ordered published* (Jan. 3, 2014)

San Francisco adopted an ordinance in 2007 requiring use of compostable plastic, recyclable paper and/or reusable checkout bags by large supermarkets and retail pharmacies located within the City. The ordinance was expanded in 2012 to apply the restrictions to all retailers and food establishments in the City, require stores to charge customers for checkout bags, and institute a community outreach program to encourage reusable bag use. The City determined that the 2012 ordinance was a regulatory action that would protect natural resources and the environment generally and was, therefore,

February 6, 2014

categorically exempt from further CEQA. Plaintiff challenged the ordinance, arguing that it violated CEQA and was preempted by the Retail Food Code. The trial court upheld the ordinance, and in an unpublished opinion, the First District affirmed. The court found that the City properly applied the CEQA exemptions. The court also found that the ordinance is not preempted by the Retail Food Code because it does not establish health or sanitation standards for retail food establishments, but rather regulates the use of single-use checkout bags in its jurisdiction. CSAC's publication request was granted.

***San Bernardino County Public Attorneys Assn v. County of San Bernardino***

Pending in San Bernardino Superior Court (filed May 3, 2013)(CIVDS1304516)

For some years, San Bernardino County, which is a 37 Act retirement system county, had in place an ordinance providing that the County would pay (or "pick-up") a portion of the employee contribution toward retirement benefits (in addition to paying the employer's contribution). In April, the County, having failed to reach agreement on an MOU with the Public Attorneys Association, adopted a resolution imposing certain terms and conditions, including elimination of the county pick-up of the employee contribution toward retirement benefits. The Association then filed a writ petition, alleging that Government Code section 31631 (added by AB 340 (PEPRA)) only permits elimination of a county pick-up through a negotiated MOU, and may not be unilaterally imposed. The County argues in response that PEPRA did not change existing law allowing counties to impose elimination of the offset/pick-up of the employee contribution toward retirement post-impasse as part of its last, best and final offer. The superior court initially granted the petition for writ of mandate, but one week later it rescinded its order and requested supplemental briefing specifically addressing the issue. The court then issued a new tentative order reversing course and upholding the County's actions. CSAC filed a brief in support of the County.

***South County Citizens v. County of Nevada***

221 Cal.App.4th 316 (3d Dist. Oct. 8, 2013)(C067764), *ordered published* (Nov. 6, 2013)

Plaintiff brought this CEQA challenge to the county's approval of a commercial development. Plaintiff alleged that after staff had recommended a revised version of the project, the county was required to recirculate the EIR. Both the trial court and the Third District disagreed. In an unpublished opinion, the Court of Appeal concluded instead that a petitioner cannot force recirculation under CEQA Guidelines section 15088.5(a)(3) unless it affirmatively shows an absence of substantial evidence in the record on four specific issues: "it must be feasible; it must be considerably different from other alternatives previously analyzed; it must clearly lessen the significant environmental impacts of the proposed project; and the project's proponents must decline to adopt it." CSAC's publication request was granted.

***Vagin v. City of Fresno***

Pending in the Fifth District Court of Appeal (filed Dec. 23, 2013)(F068569)

The City of Fresno adopted a capital improvement program (CIP) to deal with water quality and supply issues. The City had relied exclusively on groundwater, which began to show signs of contamination and overdraft. This required the City to begin drawing on its surface water rights, and to develop a mechanism for processing that water. To fund the



February 6, 2014

CIP, the City developed a new rate structure after complying with Proposition 218 requirements. Petitioners then proposed an initiative to repeal the new water rates. The City Attorney refused to issue a title and summary for the measure, concluding it was facially invalid since it would set rates too low to find a safe and adequate water supply, and to fulfill bond covenants and other legal obligations. The City Attorney sought a declaratory judgment, and at the same time Petitioner brought this action seeking to compel the City Attorney to issue a title and summary. The trial court heard Petitioner's action first, and ruled in Petitioner's favor, concluding that the validity of the measure should be determined after the election. The City appealed, and CSAC will file a brief in support.

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**FOR IMMEDIATE RELEASE**  
**October 3, 2013**

## DMV Prepares to Implement AB 60 Testing, Licensing, and Insurance Requirements for Undocumented Drivers

**SACRAMENTO** – DMV today announced that it will begin the process of implementing AB 60 (Alejo)—the new law requiring DMV to issue driver licenses to undocumented persons—by drafting new regulations and preparing field offices to process new applications. The new law becomes operative by January 1, 2015.

"This law will improve public safety for all Californians by helping ensure that undocumented persons pass a written and driving test and obtain proof of insurance and a license before driving their vehicles in California," said DMV Chief Deputy Director Jean Shiomoto. "Thanks to AB 60, we believe more drivers will be safer on California roads."

To implement the new law, DMV will adopt regulations that will detail how applicants can prove identity and California residency. In drafting the regulations, DMV will follow rules set forth by the Office of Administrative Law (OAL). In general, this process will involve public notice of draft regulations, a public comment period, and a final decision by OAL. DMV will immediately begin this regulatory process by consulting with stakeholders and drafting proposed regulations.

DMV will also propose a design for the license; however the design must be reviewed by the U.S. Department of Homeland Security for compliance with federal law. DMV's proposal will look similar to current licenses while complying with the new law by, for example, having the abbreviation "DP" for driving privilege, rather than "DL" for driver license. The new law explicitly prohibits discrimination based on this license. The new law also explicitly prohibits using the license for criminal investigation, arrest or detention based on immigration status.

In addition to drafting new regulations and designing the license, DMV will also begin preparing to process the additional applications. DMV currently processes approximately 27 million transactions per year in its offices, including about 10 million driver license related transactions. DMV also processes more than 12 million online transactions a year, such as renewing vehicle registrations and driver licenses, change of address, and notice of release of liability. DMV estimates that roughly 1.4 million undocumented persons could apply for driver licenses over the next three years once the program is implemented.

DMV encourages future applicants for a driver's license, to prepare for the written exam by studying the California Driver Handbook available on the DMV webpage at [www.dmv.ca.gov](http://www.dmv.ca.gov). The website also features sample tests that could be useful for the applicants. The California Driver Handbook is available in **10 languages** at all DMV field offices: English, Armenian, Chinese, Farsi, Korean, Punjabi, Russian, Spanish, Tagalog, and Vietnamese.

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# INSTITUTE FOR LOCAL GOVERNMENT<sup>SM</sup>

## Update on Activities

February 2014

### BOARD OF DIRECTORS

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California State Association of Counties Liaison and First District Supervisor, San Diego

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Southern California Liaison

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Assistant to the City Manager

City of El Cajon

## Looking Ahead for the Year

2014 promises to be an exciting and transformative year for the 501(c)(3) affiliate that the League shares with the California State Association of Counties.

The Institute's mission is promoting good government at the local level with impartial, practical and easy-to-use materials.

## People Updates

The year starts with the addition of a new manager for the Institute's public engagement program, Sarah Rubin, as well as a new communications coordinator, Melissa Kuehne. Both bring wonderful backgrounds to their respective positions. The Institute is in the process of recruiting for a director, as JoAnne Speers transitions out of her work to pursue a new career direction in teaching at the university level.

CSAC Past President and San Diego County Supervisor Greg Cox represents the CSAC board on the Institute's board and is the new board chair. The county administrators association has a representative on the board and a seat is reserved for the CSAC executive director or his alternate.

In addition, at its December meeting, the Institute board voted to amend its bylaws so that both the Municipal Management Association of *Northern California* and the Municipal Management Association of *Southern California* have liaison seats on the ILG board. The ILG board and staff are excited about this development because each group represents an important set of constituencies for ILG's resources.

## ILG Program Areas

- Local Government Basics
- Sustainability
- Public Engagement
- Collaborations and Partnerships
- Ethics and Transparency

*Promoting Good Government at the Local Level*



## ILG Multi-Year Goals, Strategies and Success Indicators

In December, the Institute board of directors set the following multi-year goals for the Institute's work. The board also established measurable success indicators by which we can track our progress towards meeting these goals.

The Institute welcomes the CSAC board's suggestions and help with achieving these goals.

### **Goal 1: Continue to add to and update ILG resources in ways that respond to the information and resource needs of local officials on key priority topics**

Our *strategies* to achieve this goal will center on:

- Implementing contract and grant work programs
- Supporting CSAC and the League strategic goals and member service objectives
- Continuing to build the Institute's library of practical resources for local officials, with an emphasis on
  - Understanding and responding to the existing and emerging information needs of local agency officials in ILG program areas
  - Providing information that serves those new to public service and the next generation of local agency leaders
  - Providing resources that promote transparency, public trust, inclusive processes and information flows designed to reach younger and diverse residents
  - Producing resources that reflect ILG's brand (trusted, impartial, practical and easy to use)

We will *measure our progress* through number of new resources (target 12; 3 so far), continued League and CSAC support, through financial contributions and invitations to participate in meetings, workshops and other activities and the degree to which we meet or exceed contract and grant deliverables.

### **Goal 2: Increase the familiarity with and use of ILG resources by ILG's target audience and others**

Our *strategies* to achieve this goal will center on:

- Continuing outreach to community leadership programs as well as colleges and universities
- Continued use of social media platforms to reach key audiences
- Regular use of local agency association communications channels
- Participate in meetings and conferences of local agency associations and others related to target audiences

**Have ILG Resources or Educational Activities Made a Difference for Your County?**

***ILG's Board and Funders Want to Know***

Please share examples with ILG Board liaison: Greg Cox,  
greg.cox@sdcounty.ca.gov.

**Institute for Local Government Report**  
February 2014

- Disseminating of ILG resources to ILG board members' colleagues and networks
- Expanded use of social media to reach key target audience segments

We will *measure our progress* through visits to ILG website and downloads of ILG materials (target increase of 10 percent each year). The board set a goal for itself of having at least one story to report on how he/she connected relevant audiences with ILG resources.

**Goal 3: Assessing and documenting the impact of ILG resources, programs and efforts**

Our *strategies* to achieve this goal will center on:

- Collect success stories about impact of ILG efforts and how ILG resources are being used by different groups, including
  - Examples of how ILG resources have materially helped local officials (elected and staff) do their work in service to their communities
  - Examples of how state agencies and others use ILG resources
- Continued collection and analysis of evaluations of ILG-organized programs at local agency association conferences, division meetings, webinars, and other venues

We will *measure our progress* by whether we can identify one significant story per ILG board meeting about how local officials, local agencies, associations, state agencies or others have used and benefitted from ILG resources.

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**WE WELCOME YOUR THOUGHTS**

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### New Resources Since Last Board Meeting

#### Local Government Basics:

1. Publication of an updated version of *Understanding the Basics of County and City Revenues* ([www.ca-ilg.org/RevenueBasics](http://www.ca-ilg.org/RevenueBasics)); updated Spanish language version forthcoming
2. Videos to complement publication on *Financial Management for Elected Officials* ([www.ca-ilg.org/budgeting-finance](http://www.ca-ilg.org/budgeting-finance))
3. Additional videos on how to chair a meeting, civility and other topics (featuring Mayor Santa Clara County Supervisor Joe Simitian and other local officials); see [www.ca-ilg.org/chairing-meeting](http://www.ca-ilg.org/chairing-meeting); [www.ca-ilg.org/civility](http://www.ca-ilg.org/civility))

#### Public Engagement:

1. Public engagement and budgeting ([www.ca-ilg.org/engaging-public-budgeting](http://www.ca-ilg.org/engaging-public-budgeting)) + session at recent local agency chief executive conference
2. Public engagement and economic development (<http://www.ca-ilg.org/engaging-public-economic-development>)

#### Sustainability:

1. New resource on sustainable economic development in circulation for peer review (<http://www.ca-ilg.org/SustainableED>) and session on same topic at city managers/county administrators meeting
2. Updated and expanded web content providing local officials with an inventory of metropolitan planning organizations involved in regional planning activities, including public participation efforts around sustainable communities strategies and associated planning documents [www.ca-ilg.org/metropolitan-planning-organizations-375-updates](http://www.ca-ilg.org/metropolitan-planning-organizations-375-updates)

#### Ethics:

1. Articles on new Fair Political Practices Commission travel/gift regulations ([www.ca-ilg.org/TravelRelatedGiftExceptions](http://www.ca-ilg.org/TravelRelatedGiftExceptions)) and a piece on the perils of intra-agency romances is being posted to [www.ca-ilg.org/analyzing-public-service-dilemmas](http://www.ca-ilg.org/analyzing-public-service-dilemmas) shortly
2. New case story and supporting materials for college and university public administration students on the Bell whistleblower: [www.ca-ilg.org/BellWhistleblowerCaseStudy](http://www.ca-ilg.org/BellWhistleblowerCaseStudy)



*Note: The Cities-Counties-Schools Partnership is dedicated to improving the conditions of children, families and communities at the local level by promoting and encouraging coordination, integration and increased efficiency of local services and joint facilities use among cities, counties and schools in all California communities.*

The partnership is a collaborative effort among the League, the California State Association of Counties and the California School Boards Association. The Institute for Local Government staffs the Partnership.

- **The Community Schools Partnerships Toolkit Has Launched.** CCS Partnership has launched an online toolkit to help local officials explore opportunities to create customized partnerships, or community schools, in service to a community's children and families. The first phase of the online toolkit is now available for input and suggestions at [www.ccspartnership.org/resources/community-schools-partnerships](http://www.ccspartnership.org/resources/community-schools-partnerships).

Community schools partnerships are strategies and programs to improve outcomes for children, families and the greater community through enhanced access to services and support from non-profits, businesses, social service organizations and government agencies. CCS is grateful to Kaiser Permanente, United Way of the Bay Area and the Stuart Foundation for their support of this effort, as well as of course CSAC, the League of California Cities and the California Schools Boards Association.

- **CCS Board Meeting.** The next CCS board meeting is May 2. In addition to general administrative matters, the key focus of the meeting will be funding of programs for children.