

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
Thursday, August 8, 2013
10:00am - 1:00pm
CSAC Conference Center, Sacramento, CA

A G E N D A

Presiding: David Finigan, President

10:00am PROCEDURAL ITEMS

1. Roll Call Page 1

2. Approval of Minutes of April 18, 2013 Meeting Page 2

10:10am SPECIAL PRESENTATION

3. Remarks by CSAC Premier Corporate Member Page 6
 - *Paul Mello, Hanson Bridgett, LLP*

10:20am ACTION ITEMS

4. Approval of Proposed Site for 2017 CSAC Annual Meeting Page 7
 - *David Liebler, CSAC staff*

5. Consideration of Policy Regarding CSAC Affiliates Page 8
 - *Matt Cate, CSAC Executive Director*

6. Consideration of Amended Policy Committee Operating Procedures Page 11
 - *Jim Wiltshire, CSAC staff*

7. Consideration of Policy Regarding Candidate Campaign Contributions Page 15
 - *Jim Wiltshire, CSAC Staff*

11:20am INFORMATION ITEMS

8. Affordable Care Act Update Page 16
 - *Farrah McDaid-Ting, CSAC staff*

9. National Association of Counties Report Page 18
 - *President Finigan*
 - *Matt Cate*

10. State Prison Overcrowding Litigation Update Page 20
 - *Elizabeth Howard-Espinosa, CSAC staff*

11. *The following items are contained in the briefing material for your information, but no presentation is planned:*
 - ❖ CSAC Litigation Coordination Program Update Page 22
 - ❖ CSAC Finance Corporation Update

12:00pm LUNCH

1:00pm ADJOURN

NOTE: The next CSAC Board of Directors meeting is September 5, CSAC Conference Center, Sacramento
The next CSAC Executive Committee meeting is October 9-11, Resort at Squaw Creek, Placer County

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE
2013

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

Urban Section

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

Suburban Section

Susan Adams, Marin
Henry Perea, Fresno
Bruce Gibson, San Luis Obispo
Vito Chiesa, Stanislaus (alternate)

Rural Section

Kim Dolbow Vann, Colusa
Robert Williams, Tehama
Louis Boitano, Amador (alternate)

Ex-Officio Member

Terry Woodrow, CSAC Treasurer, Alpine

Advisors

Bill Goodwin, CAOAC Advisor, Tehama
Charles McKee, County Counsel Advisor, Monterey

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

April 18, 2013
Hotel Maya, Long Beach, Los Angeles County

MINUTES

Presiding: David Finigan, President

1. ROLL CALL

David Finigan, Pres.	Susan Adams, Marin
John Gioia, 1 st Vice Pres. (audio)	Henry Perea, Fresno
Efren Carrillo, 2 nd Vice Pres. (audio)	Bruce Gibson, San Luis Obispo
Mike McGowan, Immed. Past Pres.	Vito Chiesa, Stanislaus
Keith Carson, Alameda	Louis Boitano, Amador, alternate (audio)
Federal Glover, Contra Costa	Terry Woodrow, CSAC Treasurer
Don Knabe, Los Angeles	Bill Goodwin, CAOAC Advisor (audio)
John Moorlach, Orange	Charles McKee, Co. Counsel Advisor (audio)
John Tavaglione, Riverside	
Kathy Long, Ventura	
Greg Cox, San Diego, alternate	

2. MINUTES OF JANUARY 17, 2013

The minutes of January 17, 2013 were approved as previously mailed.

3. EXECUTIVE DIRECTOR'S REPORT

Matt Cate provided an overview of the meeting agenda. He also indicated that staff has been very effective at the Capitol during this legislative session and communication efforts have been enhanced through press releases, letters to the editor, etc. He would like to further increase CSAC's effectiveness through efforts outlined in the proposed CSAC Budget.

4. PUBLIC SAFETY REALIGNMENT (AB109) IMPLEMENTATION

Staff provided an update on the implementation of AB 109, which transferred responsibility for various adult offender populations from the state to the counties, beginning 18 months ago. Some areas have been identified where more work is needed and one of the top priorities for CSAC and other stakeholders is how to deal with long-term offenders serving time in county jails, since the county jails were not designed to handle long-term offenders. There are several bills currently before the Legislature that would amend public safety realignment.

Additionally, in early 2011, the County Administrative Officers Association of California (CAOAC) named a 9-member Realignment Allocation Committee (RAC), at CSAC's request, to tackle the 58-county distribution of AB 109 and related funds. To date, the committee has recommended – and the Legislature approved – two temporary formulas that direct the allocation of funds for the first three years of implementation. Staff distributed a chart that reflects each county's expected allocation in 2012-13 and 2013-14.

The Department of Finance has requested a recommendation on a growth allocation methodology so the RAC is currently focusing on the distribution of estimated growth, which includes elements such as a guaranteed minimum for each county; establishment of appropriate minimum allocations for small counties; adjustments for variation between estimated and actual caseloads, and efforts to implement public safety realignment consistent with legislative intent. The RAC surveyed all 58 counties for input and is now developing a recommended approach.

Following the RAC's conclusion of its work associated with a recommended distribution of growth, it will begin devising a longer-term allocation formula that would apply beginning in 2014-15. To help in this effort, the RAC convened a Data Advisory Committee, comprised of representatives from at least 15 counties, to provide input on recommended elements for consideration in a long-term formula. The Advisory Committee is developing recommendations on elements for inclusion in a more permanent formula. These elements fall in three general categories: workload, performance and modifiers. The RAC is working toward a late Fall timeframe for recommending a longer-term funding formula.

Staff briefed the Executive Committee on a federal three-judge panel's order to achieve an overall reduction in state prison population to 137.5% of design capacity because of concerns with mental health services. The state has three weeks to come up with a plan to lower the prison population level. CSAC is concerned that these prisoners will be released to county jails and impede counties' efforts to successfully implement public safety realignment.

5. AFFORDABLE CARE ACT IMPLEMENTATION REPORT

Health reform implementation remains a high priority for the Legislature and the Brown Administration. CSAC anticipates implementation of the Affordable Care Act (ACA) and the Medi-Cal expansion to continue to be a hot topic heading into the May Revision and budget negotiations.

CSAC has been meeting frequently with the Administration to discuss the Medi-Cal optional expansion and the Administration continues to emphasize: Governor's interest in an affordable and sustainable Medi-Cal expansion; their interest in a realignment, including child care; their view that current 1991 health realignment funds are discretionary subventions and that the state does not pay counties twice for the same patients. To date, the Administration's position is far from CSAC's position.

CSAC has been meeting with CMSP counties, hospital counties and the 12 counties that neither own county hospitals nor are members of CMSP to assist them in thinking through the issues particular to that group of counties. In addition, a statewide communications strategy is being developed. It was noted that groups that will continue to be uninsured are undocumented immigrants and indigent income populations. CSAC continues to oppose any additional realignment of programs.

6. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REFORM

Staff reported that more than twenty legislative bills related to California Environmental Quality Act (CEQA) reform have been introduced in the Legislature this session, including a measure by Senate President Pro Tem Darrell Steinberg, SB 731, which is expected to be the lead legislative vehicle on the topic.

In order to weigh in on the numerous legislative proposals, CSAC has convened a working group comprised of county counsels, planning directors and public works directors, to draft a set of general principles and policy statements to guide CSAC's advocacy efforts. The group has met and developed a draft document outlining priorities for counties. A copy of the draft policy statement was contained in the briefing materials. This draft document is currently being circulated for comment to a number of groups and will then go through the CSAC Health & Human Services policy committee for review and approval prior to consideration by the CSAC Board of Directors in May.

7. CSAC FINANCE CORPORATION REPORT

Nancy Parrish, Executive Director of the CSAC Finance Corp., outlined the agenda for the upcoming CSAC Finance Corp. Board of Directors meeting in Sonoma on April 25-26. A copy of the agenda was contained in the briefing materials. Immediate Past President Mike McGowan was recently chosen as the CSAC Executive Committee representative to serve on the Finance Corp. Board and will attend the meeting.

8. PROPOSED CSAC BUDGET FOR FY 2013-14

CSAC Treasurer Terry Woodrow and Matt Cate presented the draft CSAC budget for FY 2013-14, as contained in the briefing materials. The proposed budget contains a \$631,000 one-time dues increase, as well as a 2.5% annual increase to be voted on each year. Staff noted that in order for CSAC to achieve a higher level of effectiveness in Sacramento, additional county revenues are needed to support critical advocacy and legal staffing needs.

Additional revenues anticipated in the draft budget include: dues increase; Corporate Associates increase of \$182,000 in revenues; Finance Corp. contribution of \$3.3m; and an increase in rates charged for CSAC Institute courses. Some expenses include: \$75,000 for tenant improvements to the Ransohoff building; funding for CSAC county counsel legal support; two analyst/advocate position; reduction in travel budget; reduction in CSAC employee health benefit costs by eliminating a provider option; and CSAC staff will be asked to absorb an additional share of retirement contributions.

Concerns were raised regarding the 2.5% automatic increase and it was suggested that the provision be removed from the proposed budget.

Motion and second to approve the draft CSAC Budget without the 2.5% annual increase and recommend adoption by the Board of Directors. Motion carried unanimously.

Staff was directed to provide an annual recommendation regarding additional increases such as the 2.5% or Consumer Price Index (CPI).

9. PROPOSED LITIGATION COORDINATION BUDGET FOR FY 2013-14
Jennifer Henning, Executive Director of the County Counsels' Association, presented the draft Litigation Coordination Program budget as contained in the briefing materials. The proposed budget includes a 3% salary increase, per direction of the County Counsels Board of Directors, and an 11% fee increase to allow the program to continue to provide high quality coordination to counties and court representation to CSAC for the upcoming fiscal year.

Motion and second to approve the Litigation Coordination Program budget as presented and recommend adoption by the Board of Directors. Motion carried unanimously.

Meeting adjourned.



About Hanson Bridgett LLP

Established in 1958, Hanson Bridgett has more than 150 attorneys, with offices in San Francisco, the East Bay, Marin County, Sacramento and the Silicon Valley. Our practices encompass traditional areas of law such as general business and corporate law, litigation, estate planning and administration, as well as major practice groups that focus on public sector, labor and employment, employee benefits, sustainable business, health care, senior housing and care, construction and intellectual property law. These areas are supplemented by refined expertise in such specialized and diverse fields as real estate, tax, environmental, insurance recovery, product liability and transportation law. See more at www.hansonbridgett.com



July 25, 2013

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To: CSAC Executive Committee

From: Jim Wiltshire, Director, Outreach and Operations
David Liebler, Director, Public Affairs & Member Services
Patti Hughes, Meeting Planner

Re: Proposed Site for 2017 Annual Meeting

CSAC policy calls for annual meeting sites to be selected three to four years in advance. Today, we are recommending the Executive Committee approve the site of the 2017 Annual Meeting. Traditionally, CSAC has followed a north/south state rotation. Staff recommendations are based on: site availability, conference/hotel space requirements, cost, and past popularity/success of venue.

We believe that Sacramento County will be a strong site for our 2017 Annual Meeting.

The recommended meeting site will be the Sacramento Convention Center, located across the street from the Sheraton and Hyatt hotels. CSAC last held its Annual Meeting in Sacramento in 2001. By 2017, the new Kings arena should be built and we expect there to be significant improvements done along the K Street corridor. We are also receiving competitive room rates from both the Sheraton and Hyatt (\$149 a night).

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

- | | |
|--|-------------------------------------|
| 2016 Palm Springs, Riverside County | 2007 Oakland, Alameda County |
| 2015 Monterey, Monterey County | 2006 Anaheim, Orange County |
| 2014 Anaheim, Orange County | 2005 San Jose, Santa Clara County |
| 2013 San Jose, Santa Clara County | 2004 San Diego, San Diego County |
| 2012 Long Beach, Los Angeles County | 2003 Monterey, Monterey County |
| 2011 San Francisco City/County | 2002 Pasadena, Los Angeles County |
| 2010 Riverside, Riverside County | 2001 Sacramento, Sacramento County |
| 2009 Monterey, Monterey County | 2000 Ontario, San Bernardino County |
| 2008 San Diego, San Diego County | |

Recommended Action -- Approve staff recommendations to hold the 2017 CSAC Annual Meeting in Sacramento County.



July 24, 2013

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TO: CSAC Executive Committee
FROM: Matt Cate, CSAC Executive Director
DeAnn Baker, Director of Legislative Affairs
RE: CSAC Affiliates Policy

Currently the CSAC Policy and Procedure Manual contains a brief section regarding CSAC Affiliates. The current Manual was adopted by the CSAC Board of Directors on November 15, 2007. Since that time significant policy and budget discussions involving the State/County relationship have ensued with both the Executive and Legislative branches. These discussions directly involve many of the CSAC affiliates who's members typically remain responsible for implementation of new laws and associated service and infrastructure delivery associated with them. This is particularly true in the recent realignment debate over both public safety and health and human services.

CSAC affiliate organizations are very diverse and range from representing directly elected county officials to county department heads. The governance and staff support structure also varies significantly with some having significant governance structure with independent executive directors and lobbying staff to those with little to no organizational structure or independent staff. The draft Affiliate's Policy before you attempts to accommodate these differences and outlines the structure, role and appropriate relationship of the CSAC Affiliates to the CSAC Board of Directors and the CSAC organization as a whole.

We also included a recommendation to grant the CSAC Executive Director authority to modify an Affiliate membership to address instances where Affiliates take a legislative or regulatory position of statewide interest that is contrary to CSAC's adopted positions and policies.

Recommendation: Support inclusion of this revised Affiliates' policy in the CSAC Policy and Procedure Manual.

CSAC Affiliate Members

Draft 7-17-13

There are currently over 60 associations that represent county-government officials in California. The members of these associations represent a diverse group of elected and appointed county leaders who, in turn, represent the needs of various county service-delivery personnel and the services they provide. Some have formed independent associations or organizations and have found it necessary to acquire their own staff, while others have little to no formal structure or independent staff. The vast majority of affiliate organizations are made up of county officials who are appointed by the County Board of Supervisors and serve under the Board's direct authority and supervision. These associations are typically funded through membership dues, which are paid by the association members with county funds appropriated by the Board of Supervisors. Because the members of these associations work for the elected supervisors and are typically funded by the supervisors, they are defined as being "Affiliates" of CSAC. County associations made up of independently-elected officials or those appointed by the courts do not fit squarely within the definition of an affiliate organization and are therefore not intended to be bound by this policy. Those groups are valued partners and friends of CSAC, but do not necessarily have the same privileges and obligations of associations whose members work for the elected supervisors.

CSAC Affiliate members play a significant role in statewide policy development and remain critical to the implementation of numerous legislative and regulatory program changes. Affiliates in good standing have the privilege of full participation in the CSAC policy committee process, which ultimately results in the adoption of CSAC's legislative platform. Affiliates not only provide technical assistance in the CSAC policy committee process, but are encouraged to influence policy development and identify impacts to county government. Early participation by Affiliates in the policy committee process informs decisions on public policy ultimately made by the CSAC Board of Directors. Affiliates have full access to CSAC advocacy staff and are encouraged to partner with CSAC to analyze legislation, discuss potential impacts, help set strategic goals and work together to influence the legislature and administration. This collaborative relationship between CSAC and Affiliate Associations is critical to ensure counties remain positioned to fight for the needs of our residents, from revenue to public safety to infrastructure to health and human services.

While almost all Affiliates have a long record of working collaboratively with CSAC, it is imperative that these relationships continue in a manner that acknowledges the responsibility of the elected boards of supervisors as the primary decision makers and advocates on behalf of California's 58 counties. Affiliates must retain a strong role in providing technical support regarding the impacts of legislative and budget actions on their ability to meet their obligations as public servants and they are critical allies in CSAC's lobbying efforts. However, when advocating on a statewide level, Affiliates must be careful to support the policy decisions and legislative positions taken by the CSAC Board of Directors. In particular, an Affiliate association must not publicly

advocate a position contrary to an established position of the CSAC Officers, Executive Committee or the Board of Directors. Should an Affiliate knowingly take a public position that contradicts the elected supervisors' position on a matter of statewide importance, the Executive Director shall have the authority to temporarily suspend that association's status as an Affiliate and may notify the Legislature and Administration as necessary to clarify that the association is not affiliated with CSAC and does not speak for the elected supervisors. Subsequently, the former affiliate association may seek to be readmitted as an Affiliate in good standing by applying to the Executive Committee and making an explanation of the circumstances.

CSAC Affiliate members are generally recognized through action by the CSAC Executive Committee or Board of Directors. Prospective Affiliate members must submit a written request for Affiliate status to the CSAC Executive Director. CSAC may request additional supporting materials for Board action, including but not limited to organization membership rosters, bylaws and policy platforms.

~end~



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DATE: July 24, 2013
TO: CSAC Executive Committee
FROM: Jim Wiltshire
Director of Operations and Outreach
RE: Operating Procedures for Policy Committees

Recommended Action:

Adopt attached changes to the Operating Procedures for Policy Committees.

Background:

The CSAC Policies and Procedures Manual was adopted in 2007. Staff recently met to discuss amendments to the current Operating Procedures for Policy Committees that more accurately reflect current practice. Proposed changes are noted in red and are primarily technical in nature.

Once all the adopted changes are approved by the Executive Committee and Board of Directors, staff will distribute the complete revision of the Policies and Procedures Manual early next year.

OPERATING PROCEDURES FOR POLICY COMMITTEES

These guidelines define the role and operational rules procedures for all policy committees of the California State Association of Counties.

ROLE

Policy Committees provide a smaller, focused, and more frequent setting for discussion and potential recommendations on matters of importance to California counties. Policy Committees are charged with reviewing the County Platform that guides CSAC policy positioning on issues and legislation and recommending amendments; reviewing legislation and ballot propositions, as needed; and serving as a forum for discussing issues within the policy arena, often helping clarify CSAC positions on legislation in the interim between Executive Committee and/or Board of Director meetings. Any changes to the platform and to existing policy through action of the Policy committee, however, must be forwarded to the Executive Committee and then to the Board of Directors for action at their next meeting(s).

COMPOSITION

There are five six policy committees within the California State Association of Counties, as currently established by the Executive Committee:

Administration of Justice
Agriculture and Natural Resources
~~Economic Development~~
Government Finance and Operations
Health and Human Services
Housing, Land Use and Transportation

Each policy committee may have a number of subcommittees and/or task forces that are responsible for policy development and recommendations to the full committee. The number and type of subcommittees vary according to the specific needs of each policy committee.

NUMBER OF MEETINGS

Each policy committee usually meets at least ~~three~~ two times per year at the CSAC Legislative Conference and at the Annual Meeting but may meet more often, at the call of the chair, as circumstances and issues may dictate as follows:

~~In January or February; at the CSAC spring legislative conference; and at the annual meeting. The first meeting is normally the organizational meeting at which time the committee establishes its priorities for the year, rules of order, work plan, its chapter of the CSAC Platform, etc. Subcommittees can begin their work in February and make recommendations at the legislative conference and annual meeting, as appropriate. Policy committees may meet more often, at the call of the chair, as circumstances and issues may dictate.~~

POLICY COMMITTEE CHAIR

Committee chairs and vice chairs, ~~and subcommittee chairs~~ are appointed annually by the CSAC ~~p~~President following the annual meeting in November and ratified by the Executive Committee. Although geographic distribution should play a role in the appointments, other factors such as policy area expertise, political expertise, leadership abilities, commitment to work, and ability to testify should be given weight in the selection. Committee chairs and/or vice chairs, accompanied by CSAC staff, make their reports and recommendations in person to the CSAC Executive Committee and the CSAC Board of Directors at their meetings held throughout the year.

POLICY COMMITTEE MEMBERSHIP

Since policy committees form the foundation for the CSAC policy development process, which guides CSAC staff action, active participation by supervisors is key to a strong and effective statewide association. Committee chairs and vice chairs are responsible for encouraging supervisors to become members who are knowledgeable in the specific policy area and who will actively participate in policy development and lobbying. CSAC encourages each county to assign ~~board of~~ supervisors from their county to serve on each of the ~~six~~ **five** policy committees. This is a practice that has proven effective at expanding participation in CSAC policy setting by those counties who use it.

Committee membership is open to all board of supervisor members. Supervisors may serve on more than one policy committee. New supervisors are encouraged to participate. ~~Policy committee membership rosters are updated after the CSAC annual conference.~~

AFFILIATE GROUP REPRESENTATION

The role of affiliate groups is to advise and recommend. Each affiliate group shall have one voting representative on each appropriate policy committee and that representative shall speak for the interests of his/her group. Affiliate groups have a vote on policy committees, subcommittees and task forces as outlined in the Policy Committee Voting Procedure (below). Affiliate groups are also actively involved with CSAC staff in the technical aspects of policy development, interpretation and implementation.

~~The Corporate Associates may have one non-voting liaison to each policy committee.~~

COUNTY ADMINISTRATIVE OFFICERS ASSOCIATION OF CALIFORNIA (CAOAC)

The CAOAC shall have one voting representative on each policy committee as outlined in the Policy Committee Voting Procedure (below).

CORPORATE ASSOCIATES

The Corporate Associates Program was created to foster a closer working relationship between business and local government. This program provides opportunities for private sector companies to join with public officials on topics of mutual interest. The Corporate Associates may have one non-voting liaison to each policy committee.

POLICY COMMITTEE VOTING PROCEDURE

Each member of a policy committee (supervisor, county administrator and affiliate group representative) shall have one vote on all policy committee actions. However, if a supervisor member of a policy committee requests a roll call vote on any action before the policy committee, only supervisor members of the policy committee shall vote on that action. Only one vote per county is allowed on a roll call vote.

CSAC LEGISLATIVE PLATFORM

Every two years, ~~at the start of a new two-year legislative session~~, prior to the CSAC annual meeting, ~~the policy committee chair and program legislative representative~~ **policy committees** will review the Legislative Platform in their policy area and ~~if necessary~~, prepare a written report of suggested changes, which is reviewed by the policy committee at the CSAC annual meeting ~~or a special meeting~~. In addition, any board of supervisors member may submit, through the policy committee, suggested changes to the platform in writing, not later than two weeks prior to the CSAC annual meeting, so that they may be reviewed by a policy committee at the annual meeting.

The committee shall review all suggested changes to the platform at the annual meeting corresponding to the two-year State legislative session and make recommendations in writing to the CSAC Board of Directors at their first meeting of the calendar year. The Board of Directors shall review the draft changes and submit any proposed changes to the policy committee for their review at their next meeting, usually at the CSAC

legislative conference. The Board of Directors shall review the policy committee recommendations and adopt the revised Legislative Platform at their meeting during the legislative conference.

The legislative platform is intended to guide CSAC legislative efforts during the term of a legislative session. However, the platform is a living document and may be amended by the Board of Directors by actions taken in response to immediate policy issues.

TASK FORCES

In the case of special issues, a policy committee chair may request the CSAC President to appoint task forces or special purpose committees to make recommendations on policy. In such cases, the President acting on recommendations from a particular policy chair may create such a committee with a timeframe for the sunset of the committee established at the time of task force creation.

CSAC POLICY DECISION PROCESS

The diverse interests and constituencies of CSAC's members require a formal process for the consideration of policies that will carry the support or opposition of the organization. Policy proposals may generate from several sources:

1. The CSAC President may appoint a task force, which may recommend a proposed policy to a policy committee;
2. A caucus, county, or regional association may recommend a proposed policy to a policy committee; or
3. A member supervisor or CSAC staff may recommend a proposed policy to a policy committee.

Such recommendations for policy shall be considered resolutions. In the case of options (1) and (2), the policy committee shall consider the proposed policy and shall make a recommendation on the proposed policy to the Executive Committee, which may decide whether to forward a recommendation to the Board of Directors for final action. In the case of option (3), the policy committee is not required to take action or make a recommendation and may choose to not forward the item. If it does recommend a change in policy through support or opposition, however, it must be forwarded upward to take effect. If the proposed policy receives an affirmative vote of the Board of Directors, as defined in the constitution, it becomes CSAC policy. An exception to the policy development procedure ~~displayed~~ described above would exist where a policy committee convenes during the course of a meeting in which the Board of Directors also meets. Under those circumstances, the action of a policy committee may be referred directly to the Board of Directors for its consideration, without the recommendation of the Executive Committee.

The aforementioned policy development process is preferred to ensure a full vetting of issues by the general membership. However, there may be some instances where policy generated by a member of the Board of Directors or CSAC staff may proceed directly to the Board of Directors for their consideration.



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DATE: July 24, 2013
TO: CSAC Executive Committee
FROM: Jim Wiltshire
Director of Operations and Outreach
RE: Staff Campaign Contributions Policy

Recommended Action:

Adopt the following Staff Campaign Contribution Policy:

Staff Campaign Contribution Policy

CSAC Staff has the right to voluntarily contribute their time or money to any political campaign. However, in order to avoid the appearance that such contributions are compulsory, County Supervisors are discouraged from directly soliciting contributions from CSAC staff for all elections.

July 25, 2013



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To: CSAC Executive Committee

From: DeAnn Baker, CSAC Legislative Coordinator
Farrah McDaid Ting, Associate Legislative Representative
Jean Hurst, Senior Legislative Representative

RE: **AB 85 and County Role in Affordable Care Act (ACA) Implementation**

Overview: The Legislature passed and the Governor signed AB 85 into law in June. This measure outlines the county role in the implementation of the Affordable Care Act (ACA) in California.

CSAC played a lead role in the negotiating and crafting of AB 85, which includes the following provisions:

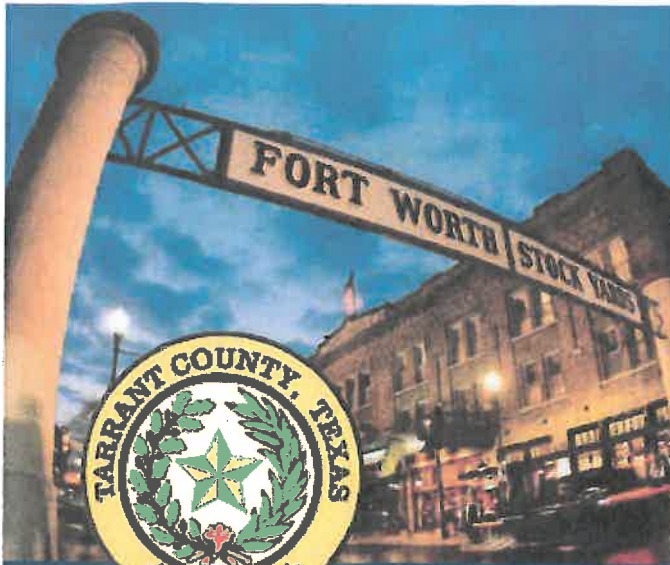
- Counties have a choice of methods to determine savings by December 4, 2013, via resolution by each Board of Supervisors. Counties may choose a 60/40 calculation of savings (60% of 1991 health realignment funds and 60% of maintenance of effort [MOE] related to health realignment would go to the state). The measure includes caps for counties with high MOEs – 14.6% for non-hospital counties and 25.9% for hospital counties. The second option is a cost/revenue-based formula developed mainly for counties with public hospitals, but is available to all non-County Medical Services Program (CMSP) counties.
- Includes provisions to assist county hospitals, including assignment of Medi-Cal patients to county providers and cost-based payment of Medi-Cal rates.
- Creates a County Health Funding Resolution Committee, comprised of CSAC, Department of Health Care Services and Department of Finance, to hear: 1) cost/revenue formula disputes associated with the calculation of the historic percent of realignment spent on indigent care, 2) a county petition to change its selection of the 60/40 to the cost/revenue formula, and 3) a county petition to use an alternative cost calculation due to extraordinary circumstances related to the health care marketplace, provider or provider contracts.
- Specifies the \$300 million withholding from the health realignment account in 2013-14 will be done via a schedule developed by DOF in consultation with CSAC.

- Includes a true-up process for the cost/revenue formula and parts of the 60/40 formula.
- Includes language to allow any county with cash flow issues related to health programs to work with DOF and CSAC on implementing procedures to address these issues.
- Includes Legislative intent to review the formulas if the federal government enacts federal immigration reform. Also requires DHCS to provide the Legislature with a report on the impacts on county health expenditures to assist with its review.

Update: CSAC is now engaged with the Department of Finance, the State Controller's Office, the Department of Health Care Services, the Department of Social Services, the Health and Human Services Agency, as well as a number of related CSAC affiliate organizations, on issues related to the implementation of AB 85.

While these discussions have been mostly fruitful, there are several components to the discussions and AB 85 as written where CSAC is seeking more information from the Department of Finance, including how the true-up mechanism applies to the \$300 million payments in 2013-14 and potential changes to the overall 1991 Realignment structure.

CSAC staff will provide an update on these and other ongoing issues – both resolved and not – to the Executive Committee on August 8.



WELCOME TO FORT WORTH, TEXAS!

Fort Worth is the one of the largest cities in Texas and the 16th-largest city in the United States. Much of the flavor and attitudes that are the histories of Tarrant County live on to this day. The frontier has changed, but not the pioneering spirit.

Tarrant County is now home to a diverse spectrum of businesses and lifestyles. Cattle and agriculture, as well as aerospace companies and defense contractors, play a major role in the economic foundation of the County. Tarrant County's western heritage sits side by side with its internationally renowned Cultural District. It's a destination shaped by a commitment to its downtown revitalization and urban renewal; a dedication to its world-renowned cultural arts district; rich pride in its Western heritage and a loyalty to its major-league sports and family attractions.



CONFERENCE SCHEDULE

Schedule is subject to change. All events will take place at the Fort Worth Convention Center unless otherwise noted.

Friday, July 19

7:30 a.m. – 5:00 p.m.
Registration

8:00 a.m. – 5:00 p.m.
Steering Committee, Subcommittee and Affiliate Meetings

All delegates are welcome to attend any NACo Steering or Sub-Committee meeting.

8:30 a.m. – 5:00 p.m.
Tech-Innovations Summit
Advance registration required.

3:00 p.m. – 4:00 p.m.
New Member Orientation/ First Time Conference Attendees Reception

4:00 p.m. – 5:30 p.m.
Marketplace Reception
Open to all Exhibitors and Attendees! Stroll the Marketplace aisles and get an advance look at the suppliers showcasing their products and services.

Saturday, July 20

7:30 a.m. – 5:00 p.m.
Registration

8:00 a.m. – 2:00 p.m.
Steering Committee, Subcommittee and Affiliate Meetings

All delegates are welcome to attend any NACo Steering or Sub-Committee meeting.

9:00 a.m. – 3:00 p.m.
Marketplace Open --Extended Hours!

Includes Marketplace Lunch

1:00 p.m. – 3:00 p.m.
Leadership Educational Sessions

3:15 p.m. – 5:00 p.m.
Opening General Session

5:30 p.m. – 6:30 p.m.
Policy Coordinating Committee

Sunday, July 21

7:30 a.m. – 4:00 p.m.
Registration

8:00 a.m. – 8:50 a.m.
Early Bird Educational Sessions

Get an early start to your day with some coffee and stimulating education!

8:30 a.m. – 12:30 p.m.
Marketplace Open --Extended Hours!

Includes Continental Breakfast

9:00 a.m. – 12:00 Noon
Concurrent Educational Sessions

Educational sessions will be developed based on the following:

Healthy Counties, Smart Justice, County Resiliency, Leadership & Management, Cyber for Counties, Green Government, Counties Work, Jobs & the Economy.



9:00 a.m. – 12:00 Noon
Solutions for Shale Impacted Counties

Hydraulic fracturing, also known as fracking, is a process used by the natural gas industry to extract natural gas. While the process has garnered environmental concerns over water and air pollution, fracturing also has the potential to create jobs, boost local economies, and provide energy security for years to come.

Can environmental concerns be balanced with energy needs? Where are the risks and the opportunities for counties?

Come learn more about federal and state actions, environmental concerns, industry efforts and county experiences.

12:30 p.m. – 2:30 p.m.
Annual Luncheon Program

This is the first Annual Luncheon Program of the County Solutions and Marketplace! You won't want to miss it!

Advance registration and an additional \$15 fee required.

2:45 p.m. – 4:00 p.m.
Concurrent Educational Sessions

Educational sessions will be developed based on the following:

Healthy Counties, Smart Justice, County Resiliency, Leadership & Management, Cyber for Counties, Green Government, Counties Work, Jobs & the Economy.

4:15 p.m. – 5:45 p.m.
NACo Board of Directors Meeting

Evening Open

Monday, July 22

8:00 a.m. – 5:00 p.m.
Registration

8:00 a.m. – 9:00 a.m.
NACo Regional Meetings

9:00 a.m. – 10:15 a.m.
Concurrent Educational Sessions

Educational sessions will be developed based on the following:

Healthy Counties, Smart Justice, County Resiliency, Leadership & Management, Cyber for Counties, Green Government, Counties Work, Jobs & the Economy.

10:30 a.m. – 12:00 Noon
Election of Officers and Business Meeting

12:30 p.m. – 1:00 p.m.
New NACo Board of Directors Organizational Meeting

1:00 p.m. – 2:00 p.m.
Wrap-Up Educational Sessions

2:15 p.m. – 4:30 p.m.
Closing General Session

6:30 p.m. – 11:00 p.m.
Conference Celebration Event

Billy Bob's Texas
Fort Worth Stockyards

CONFERENCE CELEBRATION EVENT

Monday, July 22, 2013 • 6:30pm – 11:00 pm

Dust off your hat and polish your boots! It's time for a night at Billy Bob's Texas, The World's Largest Honky Tonk!

Billy Bob's has been a Fort Worth institution since 1981. It has hosted the biggest stars in the music industry, from Willie Nelson to ZZ Top. Even Ray Charles and Bob Hope performed at Billy Bob's. One night at Billy Bob's and you'll see why it's been voted Country Music Club of the Year 12 times!

You'll have plenty to do and see in over 100,000 square feet in the World's Largest Honky Tonk. We're planning some great entertainment for this event to compliment the 30 individual bar stations, a Texas size dance floor for everyone to enjoy, and Live Pro Bull Riding... we're talking real bulls – not mechanical!

We'll be serving up real Texas Smoked Bar-B-Q beef brisket, ribs and sausage with all the trimmings, along with an ample supply of Mexican dishes and other delicacies.

Y'all come and join us! Celebrate the inauguration of NACo's newly elected President and the tradition of western culture in the Fort Worth Stockyards.

Last but not least, we'll have a live performance by Pat Green. He's simultaneously a Grammy-nominated hit maker with an outsider reputation, a Texas inspiration and a mainstream country artist who can rock arena and stadium stages with the likes of Keith Urban and Kenny Chesney.





July 24, 2013

To: CSAC Executive Committee

FROM: Elizabeth Howard Espinosa
Administration of Justice Policy Committee Staff

RE: Update on State Prison Overcrowding Litigation

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

This informational memo is to provide you with an update on the ongoing litigation in the *Plata* and *Coleman* cases involving challenges to the state’s delivery of health and mental health care in the prison system. A federal three-judge court previously found that the overcrowded conditions in the state’s prisons were the primary cause of an unconstitutional level of care and directed the state to reduce prison overcrowding to a specified level (see below). The state continues to assert that it has substantially driven down the prison population over the last several years – largely with counties’ assistance through the implementation of AB 109 – and to such a degree that additional steps to reduce inmate numbers are no longer necessary.

The display below depicts the court-ordered targets. While the court granted the state an additional six months (to December 31, 2013) to meet the court-ordered population target of 137.5% of design capacity, it has refused to loosen the final population goal. In its most recent order of June 20, the court firmly directed the state to take immediate steps – which could include the release of state prisoners – to achieve the final target; the state requested a stay to the U.S. Supreme Court.

Court-Ordered Targets

for CDCR Inmate Population Reduction



***Percent of design capacity**

Design capacity is the number of inmates a prison can house based on one inmate per cell, single-level bunks in dormitories, and no beds in spaces not designed for housing. The current design capacity of CDCR’s 33 adult facilities is 79,858.

On July 12, CSAC – through the County Counsels’ Association – submitted an amicus brief¹ with the U.S. Supreme Court in support of the state’s request for a stay on the federal three-judge court’s June 20 order. The Chief Probation Officers of California (CPOC) joined in our amicus filing requesting the stay, and individual counties as well as other public safety groups (sheriffs and police chiefs) made similar filings. At this point, we are awaiting the Supreme Court’s decision. Clearly, the implications of that decision and the steps that follow are extremely significant for counties and our communities. We remain in close communication with the Brown Administration on these issues.

We should have more information on the status of the case, the disposition of the request for a stay on the court order, and related issues by the August 8 Executive Committee meeting. We will provide an update at that time.

Please recall that given Matt Cate’s involvement as a plaintiff in this litigation during his time as corrections secretary, he is strictly prohibited from any involvement in related discussions or decisions. For these reasons, please contact me directly (916-650-8131 or eespinosa@counties.org) with any questions.

Extensive details, including a timeline of recent events and links to the state’s filings throughout the history of this case, are available here:
http://www.cdcr.ca.gov/News/3_judge_panel_decision.html.

¹ Available on the CSAC website: http://www.csac.counties.org/sites/main/files/file-attachments/coleman_plata_us_sup_ct_stay_amicus.pdf



County Counselors' Association of California

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EXECUTIVE DIRECTOR
Jennifer B. Henning

MEMORANDUM

To: Supervisor David Finigan, President, and
Members of the CSAC Executive Committee

From: Jennifer Henning, Litigation Coordinator

Date: August 8, 2013

Re: Litigation Coordination Program Update

This memorandum will provide you with information on the Litigation Coordination Program's activities since your last regular meeting in April 2013.

I. New Case Activity Since Last Executive Committee Meeting

A.D. v. State of California Highway Patrol

712 F.3d 446 (9th Cir. Apr. 3, 2013)(09-16460), *petition for rehearing denied* (May 13, 2013)

Defendant CHP Officer Markgraf pursued a stolen car driven (without headlights) by Karen Eklund at speeds exceeding 100 m.p.h. She eventually turned onto a dead-end street, and Markgraf stopped his vehicle broadside to the stolen car and approached on foot with gun drawn. Officer Markgraf unsuccessfully tried to get Eklund to surrender, but she merely yelled obscenities and rammed the CHP vehicle three times. About 25 seconds after the first ramming, Markgraf opened fire, killing Eklund. Eklund's children brought this action alleging Officer Markgraf used unconstitutional deadly force. The trial judge denied qualified immunity motions before and after the jury's verdict, and the jury returned a verdict for plaintiffs against Officer Markgraf. The Ninth Circuit affirmed, agreeing that the facts supported a reasonable inference that Officer Markgraf acted with the purpose to harm Eklund that was unrelated to a legitimate law enforcement objective. CSAC supported the State's effort to seek rehearing, but rehearing was denied.

City of Clovis v. County of Fresno

Pending in the Fifth Appellate District (filed May 21, 2010)(F060148)

A number of cities filed this action against Fresno County challenging the method used by the county to calculate the property tax administration fee (PTAF) charged to the cities. The case was stayed after the Supreme Court granted review of the PTAF case filed in Los Angeles County (*City of Alhambra v. County of Los Angeles*). After the Supreme Court decided Alhambra in the cities' favor, the parties in this case agreed that Alhambra was dispositive of the

PTAF dispute's merits, and that the only remaining issue related to the trial court's order of pre- and post-judgment interest. On that issue, Fresno County has taken the position endorsed by the County Counsels' Association's Ad Hoc PTAF Committee that the judgment related to a misallocation of property taxes is not an action for "damages" that can result in prejudgment interest. Similarly, such action is not a "money judgment" that can support post-judgment interest. The cities responded by arguing that the County had waived the issue on appeal, but that if the court wanted to decide the merits, interest was proper because the order was for a reallocation of a fee and not a tax. CSAC filed a brief in support of Fresno County.

City of Monterey v. Carrnshimba

215 Cal.App.4th 1068 (6th Dist. Mar. 27, 2013)(H036475), *ordered published* (Apr. 25, 2016)

Defendant opened a medical marijuana dispensary in the City of Monterey. The city refused to issue a business license for the operation and demanded that it cease and desist since dispensary operations are not a permitted use under the zoning code. Shortly thereafter the city enacted a moratorium expressly banning dispensaries. The city then secured a permanent injunction prohibiting the dispensary's operation as a public nuisance, effective for the duration of the moratorium. The defendant appealed, arguing the moratorium could not be applied retroactively. He also challenged the city's position that the pre-moratorium dispensary operation was a public nuisance. In an unpublished opinion, the Court of Appeal concluded the controversy was moot because the injunction had since expired and the defendant had vacated the property. The court nevertheless ruled on the merits, concluding that "the case presents important issues of substantial and continuing public interest." The court went on to conclude that the dispensary operation was an impermissible use under the pre-moratorium code and therefore constituted a public nuisance per se. Further, once the moratorium passed, the defendant had no vested rights in the illegal use, so the continued operation of the dispensary remained a public nuisance. CSAC's publication request was granted.

Cordova v. City of Los Angeles

Previously published at: 212 Cal.App.4th 243 (2d Dist. Dec. 20, 2012)(B236195), *petition for review granted* (Mar. 20, 2013)(S208130)

Plaintiffs sued the city after their three children were killed in a car accident. They claim that the city's design of the roadway, with trees in a center median, violated roadway design principles and maintenance that call for a clear zone. The Second District affirmed a ruling in favor of defendants. The court found that there was no evidence that the roadway design was the cause of the criminal neglect of the driver who caused the accident. The court noted that there was nothing about the road design that would cause a person driving at or near the speed limit to suddenly veer into the trees, and that plaintiffs did not allege that the trees obscured the view, or caused people to drive at unsafe speeds such that they might veer into the trees. As such, summary judgment was properly granted. The California Supreme Court has granted review to the following issue: May a government entity be liable where it is alleged that a dangerous condition of public

property existed and caused the injury plaintiffs suffered in an accident, but did not cause the third party conduct that led to the accident? CSAC has filed a brief in support of the City of Los Angeles.

CREED-21 v. San Diego Association of Governments

Pending in the Fourth District Court of Appeal, Division One (filed Jan. 15, 2013)(D063288)

The San Diego Regional Association of Governments (SANDAG) was the first region in the state to adopt a regional planning blueprint under the guidelines of SB 375, which is intended to integrate transportation, housing and land use to create more sustainable communities. The planning blueprint, called the 2050 RTP (Regional Transportation Plan), was adopted on a 17-1 vote after a two year public process. Plaintiff then filed this CEQA challenge to the plan. The Attorney General intervened, alleging a failure to properly consider greenhouse gas issues and a failure to consider alternative transportation options. The San Diego County Superior Court set aside the EIR. The court found that the EIR was impermissibly dismissive of an Executive Order signed by Governor Schwarzenegger (EO S-03-05) in 2005, which sets three target dates for progressive reductions in emissions. The court rejected SANDAG's argument that EO S-03-05 only set a goal, and that the required reduction targets, set by the Air Resources Board pursuant to AB 32 and SB 375, would be met. Instead the court found that SANDAG's approach amounted to "kick[ing] the can down the road" by attempting to defer mitigation requirements to local jurisdictions. CSAC will file a brief in support of SANDAG.

Edgerly v. City and County of San Francisco

713 F.3d 976 (9th Cir. Apr. 10, 2013)(11-15655)

This case concerns when an officer may effectuate a custodial arrest under the State's "cite and release" laws. There is no dispute that if a person is cited for a misdemeanor, an officer can arrest the person if certain circumstances are present (i.e., the safety of the officer is threatened, the offense is likely to continue, etc.). The Ninth Circuit Court of Appeals found, however, that if a person is cited for an infraction, the laws permitting an arrest for the safety of the officer, etc., do not apply. CSAC is supporting San Francisco's petition for rehearing.

Goldstein v. County of Los Angeles

715 F.3d 750 (9th Cir. May 8, 2013)(10-56787), *petition for rehearing en banc denied* (July 2, 2013)

Plaintiff was convicted of murder and served 24 years based largely upon the perjured testimony of an unreliable jailhouse informant. He brought a section 1983 action against Los Angeles County (the city of Long Beach has since settled out of the case), alleging that the District Attorney's Office failed to create any system for the deputy district attorneys handling criminal cases to access information pertaining to the benefits provided to jailhouse informants, and failed to train deputy district attorneys to disseminate that information. The Ninth Circuit held: "California district attorneys acted as local

policymakers when adopting and implementing internal policies and procedures related to the use of jailhouse informants, and, thus, a county could be held liable for those actions under § 1983.” The opinion is in direct conflict with the California Supreme Court, which found in 1998 that “the district attorney represents the state, not the county, when preparing to prosecute and when prosecuting crimes, and when establishing policy and training employees in these areas.” (Pitts v. County of Kern (1998) 17 Cal.4th 340.) CSAC supported LA County’s petition for rehearing, but rehearing was denied.

Littlefield v. County Humboldt

Unpublished Opinion of the First Appellate District, 2013 Cal.App.Unpub.LEXIS 4646 (1st Dist. June 28, 2013)(A135628)

Humboldt County Sheriff Deputies seized and destroyed approximately 1,500 pounds of marijuana under cultivation in a remote area of the County. Four plaintiffs, each of whom had written physician recommendations for 2 ounces of medical marijuana per day, brought this action against the County for conversion and violation of their constitutional and statutory rights to be free from unreasonable search and seizure, and deprivation of property without due process. In an unpublished opinion, the Court of Appeal affirmed a trial court ruling in favor of the County. The court concluded that the sheriff deputies had probable cause for the seizure, that the County lawfully destroyed the cannabis, and that plaintiffs failed to proffer admissible evidence that their possession was lawful. Specifically, the court found that while the law may allow possession of a reasonable amount of marijuana with a doctor’s recommendation, that reasonable amount is not without reasonable limits, including consideration of quantity. Here, because the quantity was so far beyond what could have been reasonable for use by four individuals, the officers, using a reasonable person standard, had probable cause to seize the plants. CSAC is seeking publication.

Lockaway Storage v. County of Alameda

216 Cal.App.4th 161 (1st Dist. May 9, 2013)(A130874), *petition for review pending* (filed June 19, 2013)(S211470)

In November 2000, voters adopted “Measure D,” which limited development, including new storage facilities, in part of the county. The Measure exempted existing development, and also stated that it would not apply if doing so would deprive a landowner of his or her constitutional rights. Prior to adoption of Measure D, plaintiff purchased a parcel that was subject to a conditional use permit allowing a storage facility. The CUP expired before the project was constructed, but the owner applied for a grading permit and alleged that the county assured it that the work already taken toward the grading and building permits constituted implementing the CUP prior to its expiration. Ultimately, however, the county determined that Measure D prohibited the project and refused to issue building permits. This takings and due process case followed. The First District concluded, among other things, that the county was liable for a temporary taking based upon errors the court found the county made in its application of Measure D. In reaching that conclusion, the court essentially held that *Landgate v. California Coastal Commission* (1998) 17 Cal.4th 1006 [development delay resulting from a regulatory taking error due to

a “bona fide” legal dispute does not constitute a temporary taking] is no longer good law following the United States Supreme Court’s holding in *Lingle v. Chevron* (2005) 544 U.S. 528. CSAC has filed a letter supporting Alameda County’s petition for Supreme Court review.

II. Amicus Cases Decided Since Last Executive Committee Meeting

In addition to the new amicus cases already decided, which are discussed above, the following amicus cases have been decided the Board’s last meeting in April through Jun 30, 2013:

City of Los Angeles v. Superior Court (Engineers & Architects Association)

56 Cal.4th 1086 (June 20, 2013)(S192828), *petition for rehearing pending* (filed June 26, 2013)

Outcome: Negative

To address a budget deficit, the city council approved an ordinance directing the mayor to adopt a plan to furlough city civilian employees for up to 26 days per fiscal year. After the mayor adopted such a plan, many employees filed grievances challenging the furloughs. The grievances were denied and the employees requested arbitration. The city refused to arbitrate. The union filed a petition to compel arbitration, which the trial court granted. But the Second District granted the city’s writ petition. The Supreme Court granted review to consider whether a charter city may arbitrate disputes over collectively bargained wage and hour provisions without unlawfully delegating to the arbitrator its discretionary budgeting and salary-setting authority, and whether, under the MOUs at issue here, the city has a contractual duty to arbitrate the employee furloughs dispute. The Court reversed the Second District’s decision to grant the city’s writ petition, holding “first, that arbitration of the dispute at issue here does not constitute an unlawful delegation of discretionary authority to the arbitrator and, second, that the city is contractually obligated to arbitrate the employee furloughs dispute.” CSAC filed an amicus brief in support of the city. A petition for rehearing is pending.

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

56 Cal.4th 729 (May 6, 2013)(S198638)

Outcome: Positive

The City of Riverside’s zoning code prohibits medical marijuana dispensaries, and also states that any use prohibited by state and/or federal law is strictly prohibited. Any violation of Riverside’s municipal code is deemed a public nuisance. In 2009, defendant opened a medical marijuana dispensary as a nonprofit collaborative association of patient members who collectively cultivate medical marijuana and redistribute it to each other. After defendant did not respond to a letter advising it of the zoning code violation, the city filed this public nuisance abatement action, requesting injunctive relief. The trial court granted the injunction, and the Fourth District affirmed. The Supreme Court granted review, and also affirmed: “We have consistently maintained that the CUA and the MMP are but incremental steps toward freer access to medical marijuana, and the scope of these

statutes is limited and circumscribed. They merely declare that the conduct they describe cannot lead to arrest or conviction, or be abated as a nuisance, as violations of enumerated provisions of the Health and Safety Code. Nothing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical marijuana will not be permitted to operate within its borders. We must therefore reject defendants' preemption argument, and must affirm the judgment of the Court of Appeal." CSAC filed a brief urging the Court to uphold local control.

Corenbaum v. Lampkin

215 Cal.App.4th 1308 (2d Dist. Apr. 30, 2013)(B236227)

Outcome: Positive

Plaintiff was injured by defendant, a drunk driver who conceded fault for the accident. After the jury's verdict in favor of plaintiff was final, the California Supreme Court decided *Howell v. Hamilton Meats & Provisions* (2011) 52 Cal.4th 541, which held that for past medical damages, a plaintiff was not entitled to the full amount billed for medical treatment, but only the amount accepted by the medical providers as payment in full. But *Howell* expressly reserved the issue as to whether the full amount billed for medical treatment is admissible on other issues, such as noneconomic damages or future medical expenses. Based on *Howell*, defendant appealed the verdict. The Second District held "that evidence of the full amounts billed for plaintiffs' medical care was not relevant to the amount of damages for past medical services, damages for their future medical care or noneconomic damages." CSAC filed an amicus brief in this case in response to the court's request.

Ford v. City of Yakima

706 F.3d 1188 (9th Cir. Feb. 8, 2012)(11-35319), *petition for rehearing denied* (May 28, 2013)

Outcome: Negative

A police officer initiated a traffic stop of a vehicle that Ford was operating because of a violation of the City's noise ordinance. Ford began yelling at the officer. Thereafter the officer made several statements to his partner and to Ford to the effect that Ford's complaint and protestations may convince the officer to make a custodial arrest rather than citing and releasing Ford for the noise violation. Ford was tried and found not guilty of the noise violation. He then filed this Section 1983 action against the city and the officers alleging that in electing to arrest and book him, the officers retaliated against Ford for exercising his First Amendment right to freedom of speech. The district court granted summary judgment to the city and officers, concluding that the officers did not retaliate against Ford in violation of the First Amendment because they had probable cause to arrest Ford for violating the city noise ordinance. The court also found the under the totality of the circumstances, a jury could not conclude that Ford would not have been arrested but for the exercise of his First Amendment rights

On appeal, Ford did not contest that the officer had probable cause to detain him for the noise violation and that the officer had the authority under the applicable state law to

cite and release Ford or make a custodial arrest and book him. Nevertheless, the Ninth Circuit found that an officer violates the First Amendment if he makes a decision to book an arrestee (rather than cite and release) in retaliation for the arrestee's exercise, after the moment of arrest, of First Amendment rights, even if the arrest is supported by probable cause and the booking decision is authorized under state law. Moreover, according to the majority, this right was clearly established as of 2007 so the officer was not entitled to a qualified immunity. The city's rehearing petition, which CSAC supported, was denied.

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

56 Cal.4th 766 (May 9, 2013)(S204622)

Outcome: Positive

This case addresses an issue that has divided the Courts of Appeal: whether the siblings of a sexual abuse victim who have not themselves been subject to abuse may nevertheless come under the jurisdiction of the juvenile court. The Court of Appeal concluded that aberrant sexual behavior by a parent places the other siblings who remain in the home at risk, rejecting contrary positions taken in other cases, including *In re Rubisela E.* (2000) 85 Cal.App.4th 177, *In re Maria R.* (2010) 185 Cal.App.4th 48), and *In re Alexis S.* (2012) 205 Cal.App.4th 48. The California Supreme Court granted review and affirmed, concluding 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 before this proceeding began. CSAC filed a brief in support of Los Angeles County.

McWilliams v. City of Long Beach

56 Cal.4th 613 (Apr. 30, 2013)(S202037)

Outcome: Negative

The plaintiff brought a class action against the City of Long Beach, challenging the city's telephone users tax (TUT) and seeking refunds. The trial court dismissed the complaint, but the Court of Appeal reversed. The court considered whether the plaintiff was entitled to file the required pre-lawsuit claim on behalf of the class, or whether each member of the class was required to file an individual claim. Citing *Ardon v. City of Los Angeles*, the court held that the plaintiff may file a class claim for a TUT refund. The Supreme Court granted review and affirmed, concluding that a local ordinance is not an "applicable governing claims statute" within the meaning of the Government Claims Act for purposes of barring class action claims for tax refunds. CSAC filed a brief in support of the City of Long Beach.

MHC Financing Limited Partners v. City of San Rafael

714 F.3d 1118 (9th Cir. Apr. 17, 2013)(09-16447), *petition for rehearing denied* (June 3, 2013)

Outcome: Positive

This case is a takings challenge to the City of San Rafael's mobilehome ordinance. The ordinance as enacted in 1989 permitted park owners to annually increase rents by no more than a graduated percentage of the CPI. In 1993, the ordinance was amended to

include a vacancy control provision preventing park owners from raising rents when a resident transfers his or her home to a third party. The ordinance was then challenged as a taking by plaintiff's predecessor in interest, but was upheld by the Ninth Circuit. In 1999, the city amended the ordinance again to alter the formula for allowable rent increases, replacing the graduated percentage of the CPI (as established by the 1989 Ordinance) with a flat rate of 75% of CPI. Plaintiff then brought this action alleging the amendments were a taking. The district court found in favor of plaintiff, concluding that the amendments made it certain that mobilehome pad rents would fall progressively further behind market rents. The Ninth Circuit reversed, concluding that the ordinance does not constitute a taking using the economic impact and investment-backed expectations standards. The court also held that because the ordinance was rationally related to a conceivable public purpose, the ordinance did not amount to a private taking, nor did it run afoul of substantive due process. CSAC filed a brief in support of the City of San Rafael.

Silicon Valley Taxpayers Association v. Garner
216 Cal.App.4th 402 (6th Dist. May 16, 2013)(H038971)
Outcome: Positive

In August 2012, the Santa Clara County Board of Supervisors voted to place a sales tax measure on the November ballot. Because all supervisorial seats were filled at the June election, there were no candidates for members of the Board of Supervisors on the November ballot. The Silicon Valley Taxpayers Association (SVTA) filed a writ petition in the superior court (a simultaneous petition in the Sixth District was summarily denied) arguing that placement of the tax measure on the November ballot violated Prop. 218 in the absence of a run-off election since Prop. 218 states that elections for general taxes must be consolidated "with a regularly scheduled general election for members of the governing body of the local government. . . ." The trial court ruled in favor of the county, and SVTA appealed. The Sixth District affirmed. It found that Prop. 218 is unambiguous, and "does not contemplate the counterintuitive notion that a regularly scheduled election can simultaneously be 'not regularly scheduled' in the event a contingency occurs to make the election unnecessary." Therefore the court construed "Proposition 218 in harmony with the election scheme. A regularly scheduled general election for members of County's Board of Supervisors is an election that is fixed to occur during the statewide primary and general elections. Plaintiffs' interpretation of Proposition 218 changes the meaning of 'regularly scheduled' to actually scheduled." CSAC filed a brief in support of Santa Clara County.



CALIFORNIA STATE ASSOCIATION OF COUNTIES
FINANCE CORPORATION

August 8, 2013

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

The CalTRUST Board of Trustees and the CSAC Finance Corporation held their Annual Meetings in April. Below are some highlights from those meetings.

- Wells Capital Management reported that CalTRUST assets are currently at \$1.7 billion which is an increase of \$500 million from December of last year and closing in on our goal of \$2 billion by the end of this calendar year.
- The CSAC Finance Corporation Board approved an agreement with Extend Health for a Medicare Eligible Retiree Healthcare Program and we will be launching it late this summer.
- Nationwide Retirement Solutions announced that they have come to agreement with NACo on the Deferred Compensation program sponsored by the CSAC Finance Corporation and will restore the previously planned cuts to our revenue
- The CSCDA Commission has come to an agreement with the State Treasurer to hire an Executive Director, rebid for administrative services and renegotiate the way revenues are distributed to the CSAC Finance Corporation and the League of California Cities in exchange for tabling AB 1059 which would have prohibited the Commission from using private sector contractors.
- Our U.S. Communities Cooperative Purchasing program is expected to see growth in 2013 having finally recovered from the loss of the Office Depot contract in 2010.
- CSAC Finance Corporation reserves at the end of 2012-13 were higher than expected due to increases in revenues and reductions in expenses. As a result the Finance Corporation Board approved an additional allocation to CSAC of \$250,000. This brought the total contribution from the Finance Corporation to CSAC for 2012-13 to \$3,550,000.

2013 CSAC Executive Committee Calendar of Events

January

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

February

- 21 CSAC Board of Directors Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

March

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

April

- 18 CSAC Executive Committee Meeting, Los Angeles County
10:00am – 1:30pm, Maya Hotel, 700 Queensway Drive, Long Beach, CA 90802
- 25-26 CSAC Finance Corporation Meeting, Sonoma County

May

- 22-24 NACo Western Interstate Region Conference, Flagstaff, Arizona
- 29-30 CSAC Legislative Conference, Sacramento County
- 30 CSAC Board of Directors Meeting, Sacramento County
12:00pm – 3:00pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

July

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

August

- 8 CSAC Executive Committee Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814

September

- 5 CSAC Board of Directors Meeting, Sacramento County
10:00am – 1:30pm, CSAC Conference Center, 1020 11th Street, 2nd Floor, Sacramento, CA 95814
- 12-13 CSAC Finance Corporation Meeting, Santa Barbara County

October

- 9-11 CSAC Executive Committee Retreat
10:00am – 1:30pm, Resort at Squaw Creek, 400 Squaw Creek Road, Olympic Valley, CA 96146
- 21-25 NACo National Council of County Association Executives Annual Fall Meeting

November

- 19-22 CSAC 119th Annual Meeting, San Jose, Santa Clara County
- 21 CSAC Board of Directors Meeting, San Jose, Santa Clara County
2:00pm – 4:00pm, San Jose Marriott, 301 South Market Street · San Jose, California 95113

December

- 4-6 CSAC Officers Retreat, Napa County